



OFFICE OF INSURANCE REGULATION

KEVIN M. MCCARTY
COMMISSIONER

IN THE MATTER OF:

**MORRIS C. SEARS,
D/B/A ABBA BONDING**

ABBA BONDING, INC.

ABBA BONDING, LLC.



CASE NO.: 93092-07

FINAL ORDER TO CEASE AND DESIST

THIS MATTER came on before the undersigned Insurance Commissioner of the State of Florida for consideration and final agency action, who having considered the record in this case and being fully advised of the premises, finds and orders as follows:

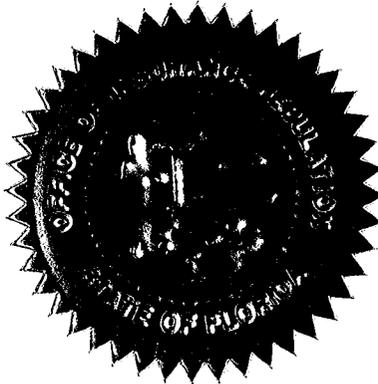
1. On April 8, 2010, an Order to Cease and Desist was issued by the Office of Insurance Regulation (hereinafter "Office") notifying Morris C. Sears (hereinafter referred to as "Sears"), d/b/a Abba Bonding, Abba Bonding, Inc., Abba Bonding, LLC (hereinafter referred to as "Abba Bonding") that they were transacting unauthorized and unlicensed surety insurance business in the state of Florida.
2. The Order to Cease and Desist was sent to Sears and Abba Bonding by U.S. Certified Mail. There has been no request for a proceeding to challenge or contest the action taken by the Office.
3. The Office has jurisdiction over Sears and Abba Bonding for purposes of this action.

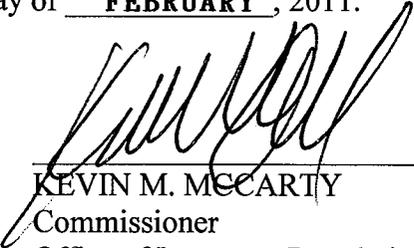
IT IS HEREBY ORDERED:

4. The findings of fact and conclusions of law contained in the April 8, 2010, Order to Cease and Desist, are hereby **ADOPTED** and **INCORPORATED** into this Final Order to Cease and Desist.

5. Sears and Abba Bonding, whether acting in the State of Florida as a surety or otherwise engaging in surety insurance business, either directly or indirectly through named or unnamed persons, successor companies, entities or agents, shall forthwith **CEASE AND DESIST** from engaging in surety insurance business in the State of Florida or with Florida consumers, including individuals, businesses, and state or local government agencies. However, regardless of the ongoing prohibition against engaging in surety insurance business, Sears and Abba Bonding shall pay any and all valid claims or otherwise fully service any and all surety bonds executed in the State of Florida or issued to any Florida consumer.

DONE AND ORDERED this 22ND day of FEBRUARY, 2011.





KEVIN M. MCCARTY
Commissioner
Office of Insurance Regulation

NOTICE OF RIGHTS

Any party to these proceedings adversely affected by this Order is entitled to seek review of this Order pursuant to Section 120.68, Florida Statutes, and Rule 9.110, Fla. R. App. P. Review proceedings must be instituted by filing a petition or notice of appeal with the General Counsel, for the OFFICE of Insurance Regulation, acting as the Agency Clerk, at 612 Larson Building, Tallahassee, Florida, 32399 and filing a copy of the same with the appropriate District Court of Appeal within thirty (30) days of rendition of this Order.

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the foregoing Final Order to Cease and Desist has been furnished this 22ND day of FEBRUARY 2011 by certified mail to:

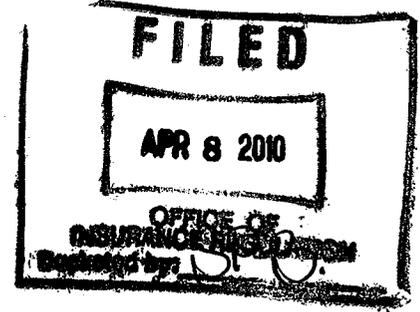
Morris C. Sears
d/b/a Abba Bonding
Abba Bonding, Inc.
Abba Bonding, LLC.
6123 Hilltop Drive
Pensacola, FL 32504



Sharlee Hobbs Edwards
Assistant General Counsel
Florida Bar Number: 0030382
Office of Insurance Regulation
Division of Legal Services
200 East Gaines Street
Tallahassee, Florida 32399
Telephone: (850) 413-4188
Facsimile: (850) 922-2543



OFFICE OF INSURANCE REGULATION



KEVIN M. McCARTY
COMMISSIONER

IN THE MATTER OF:

MORRIS C. SEARS,
D/B/A ABBA BONDING

CASE NO.: 93092-07

ABBA BONDING, INC.

ABBA BONDING, LLC

ORDER TO CEASE AND DESIST

TO:

MORRIS C. SEARS
D/B/A ABBA BONDING
1334 Ridgewood Drive
Lillian, Alabama 36549

Additional addresses for MORRIS C. SEARS

P.O. Box 149
Lillian, Alabama 36549

34146 Ickler Avenue
Lillian, Alabama 36549

YOU ARE HEREBY NOTIFIED that pursuant to the Florida Insurance Code, including Sections 624.307, 624.317, 624.401, 624.606, 626.901, 626.909, 626.9561, Florida Statutes, the State of Florida, Office of Insurance Regulation (hereinafter referred to as the "OFFICE") has caused an investigation to be made of the insurance-related activities of Morris C. Sears (hereinafter referred to as "SEARS"), d/b/a Abba Bonding (hereinafter referred to as "ABBA BONDING"). The Office of Insurance Regulation has information that the aforementioned

company and individual have transacted surety insurance business, in and/or from the State of Florida. Accordingly, the OFFICE intends to enter a Final Order requiring the above-referenced parties to cease and desist from engaging in the business of insurance in the state of Florida, as set forth in Sections 624.4211, 626.910, and 626.9521, Florida Statutes. As a result of its investigation and as grounds for entry of this Order, the OFFICE hereby finds and alleges as follows:

1. The OFFICE has jurisdiction over the subject matter and parties to, this proceeding, pursuant to Sections 120.569, 624.307, 624.310, 624.317, 626.901, 626.902, 626.906, 626.907, 626.909, 626.910, 626.9561, and 626.9571, Florida Statutes.

2. ABBA BONDING is a foreign corporation that has never been authorized to engage in the business of insurance in Florida. ABBA BONDING has never obtained a certificate of authority to transact any type of insurance business in Florida, whether as a surety or in any other capacity.

3. SEARS has never been authorized to engage in the business of insurance in Florida. SEARS has never obtained a certificate of authority to transact any type of insurance business in Florida, whether as a surety or in any other capacity.

4. ABBA BONDING and SEARS transacted surety insurance in Florida without being authorized and without having a Certificate of Authority to do so.

5. ABBA BONDING became a registered corporation with the State of Alabama on July 22, 2004 with its principal place of business in Montgomery, Alabama. Records maintained by the Alabama Secretary of State indicate that ABBA BONDING's nature of business is fidelity guarantee surety bonding. The registered agent for ABBA BONDING is listed as Murfee Gerwin

and the directors are listed as Morris C. Sears and JoAnn Sears. ABBA BONDING dissolved their Alabama incorporation on August 7, 2007.

6. ABBA BONDING is not a registered corporation with the Florida Secretary of State.

7. Morris C. Sears has been appointed the Attorney-In-Fact in Florida for ABBA BONDING.

8. ABBA BONDING maintained a website, www.abbabonding.com, where they solicit surety insurance in the State of Florida.

9. The OFFICE sent SEARS and ABBA BONDING a correspondence inquiring about their transaction of unauthorized surety insurance business in the State of Florida. ABBA BONDING was asked to provide information and documents pertaining to their authority to transact surety insurance business in the State of Florida.

10. SEARS responded by mail on behalf of himself and ABBA BONDING to the Office's correspondence. SEARS maintained that they were authorized to transact surety insurance in Florida under 48 CFR 28.203 and are not subject to the requirements of the Florida Insurance Code.

11. SEARS and ABBA BONDING are not subject to any state of federal exceptions to the requirements of the Florida Insurance Code, including exceptions in Section 624.402, Florida Statutes, for licensure to transact insurance in the State of Florida.

12. SEARS and ABBA BONDING sold the following bonds to Triple P Construction to insure and protect the obligee, Shree Goyam Hotel, LLC:

- A. A performance bond in the amount of \$2,943,845.00 was issued on July 28, 2006 for the construction on Country Inn & Suites located at 235 Raspberry Road, Crestview, Florida.
- B. A payment bond in the amount of \$2,943,845.00 was issued on July 28, 2006 for the construction on Country Inn & Suites located at 235 Raspberry Road, Crestview, Florida.
- C. A bond in the amount of \$176,573.00 was issued on April 5, 2007 for the construction on La Quinta Inn located at 3 Miracle Strip Parkway, Fort Walton Beach, Florida.
- D. A bond in the amount of \$75,184.64 was issued on August 28, 2007 for the construction on Ramada Inn located at 4306 West Highway 98, Panama City, Florida.

13. SEARS and ABBA BONDING sold the following bonds to SACO Construction Systems, Inc. to insure and protect the obligee, Cabana Cay:

- A. A payment bond in the amount of \$717,726.92 was issued on September 1, 2006 for the construction on Cabana Cay Building A located at 17188 Front Beach Road, Panama City Beach, Florida.
- B. A performance bond in the amount of \$717,726.92 was issued on September 1, 2006 for the construction on Cabana Cay Building A located at 17188 Front Beach Road, Panama City Beach, Florida.
- C. A payment bond in the amount of \$717,726.92 was issued on December 7, 2006 for the construction on Cabana Cay Building B located at 17188 Front Beach Road, Panama City Beach, Florida.

D. A performance bond in the amount of \$717,726.92 was issued on December 7, 2006 for the construction on Cabana Cay Building B located at 17188 Front Beach Road, Panama City Beach, Florida.

14. SEARS and ABBA BONDING sold the following bonds to STEC Construction, Inc. to insure and protect the obligee, Escambia School District:

A. A performance bond in the amount of \$478,000.00 was issued on August 5, 2004, for the construction on the Cordova Park Elementary School Art and Music Suite located at 2250 Semur Road, Pensacola, Florida.

B. A payment bond in the amount of \$478,000.00 was issued on August 5, 2004, for the construction on the Cordova Park Elementary School Art and Music Suite located at 2250 Semur Road, Pensacola, Florida.

15. SEARS and ABBA BONDING sold these bonds in violation of the Florida Insurance Code, including Sections 624.401 and 626.901, Florida Statutes. SEARS represented that he was duly authorized to issue surety bonds in Florida.

16. The Alabama Department of Insurance issued a Cease and Desist Order to ABBA BONDING and its reinsurance company, American Preferred. The Alabama Department of Insurance ordered ABBA BONDING to cease and desist from engaging in any insurance transactions in, or operating from offices located in, the State of Alabama, including conducting insurance transactions, the solicitation, negotiation, sale, or effectuation of insurance contracts, the collection of premiums, or in any other manner engaging in the business of insurance.

17. The California Department of Insurance issued a Cease and Desist Order to Morris C. Sears, Jo Ann L. Sears, Murfee Gerwin, ABBA Bonds, ABBA Bonding, ABBA Bonding, Inc., and ABBA Bonding, LLC. The aforementioned individuals and business entities

were ordered to cease and desist from the transaction of insurance in the State of California, through any means, and in any way advertising the availability of performance bonds, financial bonds, surety bonds, bid bonds, funds control, mobilization loans, and construction recovery.

18. The Colorado Division of Insurance issued an Ex Parte Emergency Order to Cease and Desist the Unauthorized and Unlawful Transaction of the Business of Insurance. This Order was issued to Abba Bonding, Abba Bonding, Inc., Abba Bonding, LLC, Morris C. Sears, Jo Ann Sears, R. Wade Lee, Ken Adams, Matt Cavender, Jennifer Foster, James E. Wilson, Murfee Gerwin, Dwight Green, Mary Robinson, Brad Robinson, Gary Heibult, and other unknown individuals. The aforementioned individuals and business entities were ordered to immediately cease and desist from transacting surety or insurance business in the State of Colorado; cease and desist from using the Abba Bonding website to solicit surety and insurance business in Colorado; and cease and desist from entering into any contracts for bonds or writing any bonds pertaining to any private or government construction projects in Colorado.

19. ABBA BONDING has entered into a Chapter 7 bankruptcy proceeding in the United States Bankruptcy Court for the Southern District of Alabama, Case No. 09-11053.

20. Section 624.02, Florida Statutes, provides, in pertinent part:

“Insurance” is a contract whereby one undertakes to indemnify another or pay or allow a specified amount or a determinable benefit upon determinable contingencies.

21. Section 624.03, Florida Statutes, states, in pertinent part:

“Insurer” includes every person engaged as indemnitor, surety, or contractor in the business of entering into contracts of insurance or of annuity.

22. Section 624.04, Florida Statutes, provides, in pertinent part:

“Person” includes an individual, insurer, company, association, organization, Lloyds, society, reciprocal insurer or interinsurance

exchange, partnership, syndicate, business trust, corporation, agent, general agent, broker, service representative, adjuster, and every legal entity.

23. Section 624.09, Florida Statutes, provides, in pertinent part:

- (1) An “authorized” insurer is one duly authorized by a subsisting certificate of authority issued by the office to transact insurance in this state.
- (2) An “unauthorized” insurer is one not so authorized.

24. Section 624.10, Florida Statutes, provides, in pertinent part:

“Transact” with respect to insurance includes any of the following, in addition to other applicable provisions of the code:

- (1) Solicitation or inducement.
- (2) Preliminary negotiations.
- (3) Effectuation of a contract of insurance.
- (4) Transaction of matters subsequent to the effectuation of a contract of insurance and arising out of it.

25. Section 624.11, Florida Statutes, provides, in pertinent part:

No person shall transact insurance in this state, or relative to a subject of insurance resident, located, or to be performed in this state, without complying with the applicable provisions of this code.

26. Section 624.401(1), Florida Statutes, provides, in pertinent part:

No person shall act as an insurer, and no insurer or its agents, attorneys, subscribers, or representatives shall directly or indirectly transact insurance in this state except as authorized by a subsisting certificate of authority issued to the insurer by the office, except as to such transactions as are expressly otherwise provided for in this code.

26. Section 624.606, Florida Statutes, defines surety insurance to include:

- (a) A contract bond, including a bid, payment, or maintenance bond, or a performance bond, which guarantees the execution of a contract other than a contract of indebtedness or other monetary obligation;
- (b) An indemnity bond for the benefit of a public body, railroad, or charitable organization or a lost security or utility payment bond;

- (c) Becoming surety on, or guaranteeing the performance of, any lawful contract where the bond is guaranteeing the execution of a contract other than a contract of indebtedness or other monetary obligation;
- (d) Becoming surety on, or guaranteeing the performance of, bonds and undertakings required or permitted in a judicial proceeding or otherwise allowed by law, including surety bonds accepted by states and municipal authorities in lieu of deposits as security for the performance of insurance contracts.

27. Section 626.901(1), Florida Statutes provides:

(1) No person shall, from offices or by personnel or facilities located in this state, or in any other state or country, directly or indirectly act as agent for, or otherwise represent or aid on behalf of another, any insurer not then authorized to transact such insurance in this state in:

- (a) The solicitation, negotiation, procurement, or effectuation of insurance or annuity contracts, or renewals thereof;
- (b) The dissemination of information as to coverage or rates;
- (c) The forwarding of applications;
- (d) The delivery of policies or contracts;
- (e) The inspection of risks;
- (f) The fixing of rates;
- (g) The investigation or adjustment of claims or losses; or
- (h) The collection or forwarding of premiums;

or any other manner represent or assist such an insurer in the transaction of insurance with respect to subjects of insurance resident, located, or to be performed in this state. If the property or risk is located in another state, then, subject to the provisions of subsection (4), insurance may only be written with or placed in an insurer authorized to do such business in such state or in an insurer with which a licensed insurance broker of such state may lawfully place such insurance.

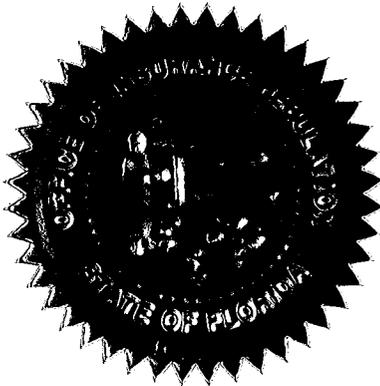
28. Despite the absence of any certificate of authority or any other authorization to transact insurance business in Florida or to act as an insurer pursuant to Section 624.401, Florida Statutes, SEARS and ABBA BONDING have engaged in the unlicensed, unauthorized, and therefore, illegal business of insurance in this state. The illegal business transacted by the aforementioned parties involves subjects of insurance located in Florida and/or expressly to be performed in Florida at the time of issuance, in

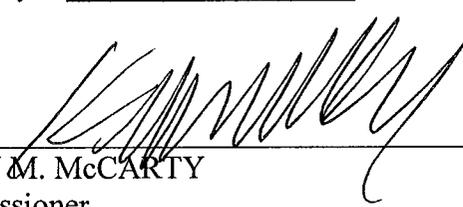
violation of the Florida Insurance Code, including Sections 624.401, 626.901, 626.9581, Florida Statutes.

29. The failure to adhere to one or more of the above terms and conditions of this Order shall constitute a violation of a lawful order of the OFFICE, and shall be subject to such administrative action as the Commissioner of the Office of Insurance Regulation may deem appropriate.

WHEREFORE, pursuant to the Florida Insurance Code and other applicable statutes, the OFFICE finds that because SEARS and ABBA BONDING have transacted business of insurance without proper licensure, the OFFICE intends to enter a Final Order to Cease and Desist, pursuant to Chapter 626, Florida Statutes.

DONE AND ORDERED this 8TH day of APRIL 2010.

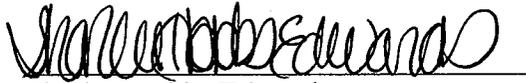




KEVIN M. McCARTY
Commissioner
Office of Insurance Regulation

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing ORDER has been furnished by U.S. Certified Mail to MORRIS C. SEARS, D/B/A, ABBA BONDING, P.O. Box 149, Lillian, Alabama 36549, this 9th day of April 2010.



Sharlee Hobbs Edwards
Assistant General Counsel
Office of Insurance Regulation
612 Larson Building
200 East Gaines Street
Tallahassee, Florida 32399-4206
(850) 413-4188

NOTICE OF RIGHTS

Pursuant to Sections 120.569 and 120.57, Florida Statutes and Rule Chapter 28-106, Florida Administrative Code (F.A.C.), you may have a right to request a proceeding to contest this action by the Office of Insurance Regulation (hereinafter the "Office"). You may request a proceeding by filing a Petition. Your Petition for a proceeding must be in writing and must be filed with the General Counsel acting as the Agency Clerk, Office of Insurance Regulation. If served by U.S. Mail the Petition should be addressed to the Florida Office of Insurance Regulation at 612 Larson Building, Tallahassee, Florida 32399-4206. If Express Mail or hand-delivery is utilized, the Petition should be delivered to 612 Larson Building, 200 East Gaines Street, Tallahassee, Florida 32399-0300. The written Petition must be received by, and filed in the Office no later than 5:00 p.m. on the twenty-first (21) day after your receipt of this notice. Unless your Petition challenging this action is received by the Office within twenty-one (21) days from the date of the receipt of this notice, the right to a proceeding shall be deemed waived. Mailing the response on the twenty-first day will not preserve your right to a hearing.

If a proceeding is requested and there is no dispute of material fact the provisions of Section 120.57(2), Florida Statutes may apply. In this regard you may submit oral or written evidence in opposition to the action taken by this agency or a written statement challenging the grounds upon which the agency has relied. While a hearing is normally not required in the absence of a dispute of fact, if you feel that a hearing is necessary one may be conducted in Tallahassee, Florida or by telephonic conference call upon your request.

If you dispute material facts which are the basis for this agency's action you may request a formal adversarial proceeding pursuant to Sections 120.569 and 120.57(1), Florida Statutes. If you request this type of proceeding, the request must comply with all of the requirements of Rule Chapter 28-106.2015, F.A.C., including but not limited to:

- a) A statement requesting an administrative hearing identifying those material facts that are in dispute. If there are none, the petition must so state; and
- b) A statement of when the respondent received notice of the agency's action.

These proceedings are held before a State Administrative Law Judge of the Division of Administrative Hearings. Unless the majority of witnesses are located elsewhere, the Office will request that the hearing be conducted in Tallahassee.

In some instances, you may have additional statutory rights than the ones described herein.

Failure to follow the procedure outlined with regard to your response to this notice may result in the request being denied. Any request for administrative proceeding received prior to the date of this notice shall be deemed abandoned unless timely renewed in compliance with the guidelines as set out above.