



FILED

OCT 28 2014

OFFICE OF
INSURANCE REGULATION

Docketed by:

OFFICE OF INSURANCE REGULATION

KEVIN M. MCCARTY
COMMISSIONER

IN THE MATTER OF:

CASE NO.: 157295-14

Newport Insurance Company, Inc. /

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 August 28, 2014, an Order to Cease and Desist (hereinafter the "Order") was issued by the OFFICE OF INSURANCE REGULATION (hereinafter "OFFICE") notifying NEWPORT INSURANCE COMPANY, INC. (hereinafter "NEWPORT") that it was engaging in the unauthorized business of a surety in the State of Florida, in violation of the Florida Insurance Code.
2. Service of the Order was made by U.S. Certified Mail to NEWPORT's last known address.
4. There has been no request for a proceeding to challenge or contest the action taken by the Office.
5. The Office has jurisdiction over NEWPORT for purposes of this action.

IT IS HEREBY ORDERED:

6. The findings of fact and conclusions of law contained in the August 28, 2014 Order are hereby **ADOPTED** and **INCORPORATED** into this Final Order to Cease and Desist.

7. NEWPORT, whether acting in the State of Florida as a surety, or otherwise engaging in surety business, either directly or indirectly through named or unnamed persons, successor companies, entities or agents, shall forthwith **CEASE AND DESIST** from engaging in surety 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 business in the State of Florida, NEWPORT shall pay any and all valid claims or otherwise fully service any and all agreements executed in the State of Florida or issued to any Florida consumer.

DONE AND ORDERED this 28th day of October, 2014.




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 sent by Certified Mail this 29th day of October, 2014, to:

Newport Insurance Company
109 Federal Road Suite 109
Danbury, CT 06811

Leo Rush
Newport Insurance Company
25 Old Lawrence Road
Pelham, NH 03076

for Anoush Arakelian Brangacci #5126
Monica T. Ross
Fla. Bar No.: 0056988
Assistant General Counsel
Office of Insurance Regulation
200 East Gaines Street
Tallahassee, Florida 32399-4206
Telephone: 850-413-4159
Fax: 850-922-2543



OFFICE OF INSURANCE REGULATION

KEVIN M. McCARTY
COMMISSIONER

FILED

AUG 28 2014

OFFICE OF
INSURANCE REGULATION
Docketed by: SPB

IN THE MATTER OF:

Newport Insurance Company, Inc.

CASE NO.: 157295-14

ORDER TO CEASE AND DESIST

TO:

Newport Insurance Company, Inc.
109 Federal Road Suite 109
Danbury, CT 06811

YOU ARE HEREBY NOTIFIED that pursuant to the Florida Insurance Code, including Sections 624.307 and 624.317, Florida Statutes, the State of Florida, Office of Insurance Regulation (hereinafter "OFFICE"), has caused an investigation to be made of the insurance-related activities of NEWPORT INSURANCE COMPANY, INC. (hereinafter "NEWPORT") The OFFICE has information that the aforementioned company has transacted surety insurance business in the state of Florida, without holding a certificate of authority. Accordingly, the OFFICE intends to enter an Order requiring NEWPORT to cease and desist from engaging in the business of insurance in the state of Florida. 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 parties and the subject matter herein.
2. NEWPORT's business address is 109 Federal Street, Suite 109, Danbury, Connecticut 06811.

3. NEWPORT is not registered with the Florida Secretary of State.
4. NEWPORT has never been granted a certificate of authority or license to transact insurance as a surety, or in any other capacity, in the state of Florida.
5. On information and belief, Leo Rush is the owner and/or administrator of NEWPORT.
6. The OFFICE has received information that NEWPORT has issued performance and payment bonds to a Florida consumer for a private construction project to be performed in Hollywood, Florida.
7. 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.
8. 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. [Emphasis added.]
9. 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.
10. 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.
11. 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.

12. 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.

13. 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.

14. Section 624.606, Florida Statutes, defines “surety insurance” to include:

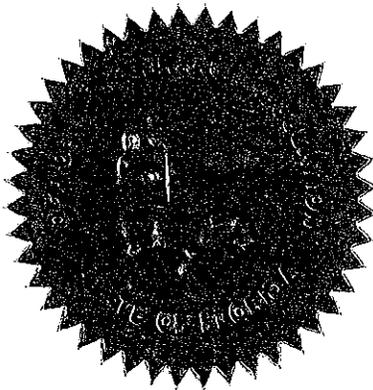
- (a) A contract bond, including a bid, payment, or maintenance bond, or a performance bond, which guarantees the execution of a contract other than a contract of indebtedness or other monetary obligation;
- (b) An indemnity bond for the benefit of a public body, railroad, or charitable organization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

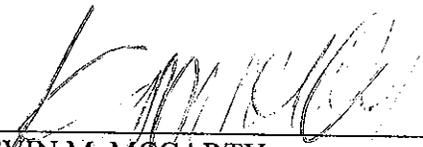
15. Despite the absence of a certificate of authority or any other authorization to transact surety insurance business in Florida or to act as an insurer, NEWPORT has engaged in the unauthorized business of a surety in this state.

16. NEWPORT is not subject to any exception (State or Federal) to the requirements of the Florida Insurance Code, including the exceptions outlined in Section 624.402, Florida Statutes.

WHEREFORE, because NEWPORT has been transacting surety insurance in the state of Florida without a certificate of authority, it is in violation of Section 624.401, Florida Statutes, thus entitling the OFFICE to issue an Order to Cease and Desist.

DONE AND ORDERED this 28TH day of AUGUST, 2014.





KEVIN M. MCCARTY
Commissioner
Office of Insurance Regulation

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.

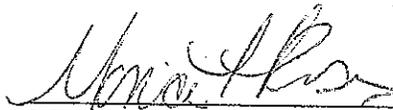
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Order to Cease and Desist has been furnished this 28TH day of AUGUST 20 14 by certified mail to:

Newport Insurance Company
109 Federal Road Suite 109
Danbury, CT 06811

Leo Rush
Newport Insurance Company
25 Old Lawrence Road
Pelham, NH 03076

Victor R. Biancardi Jr., Esquire
382 Stillwater Avenue
Stamford, CT 06902



Monica T. Ross
Assistant General Counsel
Florida Bar Number: 0056988
Office of Insurance Regulation
Division of Legal Services
200 East Gaines Street
Tallahassee, Florida 32399
Telephone: (850) 413-4159
Facsimile: (850) 922-2543