


LAWRENCE G. WASDEN  
Attorney General

JOHN C. KEENAN  
Deputy Attorney General  
Idaho Department of Insurance  
700 W. State Street  
P.O. Box 83720  
Boise, Idaho 83720-0043  
Telephone No. (208) 334-4283  
Facsimile No. (208) 334-4298  
I.S.B. No. 3873

FILED   
NOV 14 2014  
Department of Insurance  
State of Idaho

*Attorneys for Idaho Department of Insurance*

**BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE**

**STATE OF IDAHO**

In the Matter of:

**Z VENTURES, LLC**, an Idaho limited liability corporation, doing business as **ALLEGIANT COMMERCIAL FINANCE**; and **DAVID ZANECKI**, individually;

**Respondents.**

Docket No. 18-2956-14

**ORDER TO CEASE AND DESIST**

The State of Idaho, Department of Insurance (Department), pursuant to title 41, Idaho Code (the Idaho Insurance Code), and in particular Idaho Code § 41-213(1)(a), hereby alleges the following facts that constitute the basis for the issuance of an order requiring Z VENTURES, LLC, an Idaho limited liability company doing business as ALLEGIANT COMMERCIAL FINANCE, and DAVID ZANECKI, individually and as managing member of Z Ventures, LLC, to immediately cease and desist from violating the Idaho Insurance Code by transacting surety

insurance in the state of Idaho without maintaining a certificate of authority as required by Idaho law.

The above-named Respondents have not in the past and presently do not carry a certificate of authority as granted under title 41, Idaho Code, to transact the line of surety insurance in this state.

### **FINDINGS OF FACT**

1. That, on December 12, 2013, David Zanecki, acting on behalf of Allegiant Commercial Finance issued a letter of intent confirming that Allegiant Commercial Finance would be issuing a performance bond for the total sum of \$62,000.00 on behalf of Total Maintenance Solutions for a project with the City of Meridian in conjunction with Beniton Construction as general contractor.

2. That, on or about March 1, 2014, David Zanecki, on behalf of Allegiant Commercial Finance, as surety, executed a Performance Bond with Total Maintenance Solutions, LLC, of Garden City, Idaho, as principal, and City of Meridian, an Idaho municipal corporation, as owner, in the total bond amount \$62,000.00.

3. That, on or about March 1, 2014, David Zanecki, on behalf of Allegiant Commercial Finance, as surety, executed a Payment Bond with Total Maintenance Solutions, LLC, of Garden City, Idaho, as principal, in the total bond amount of \$62,000.00.

### **CONCLUSIONS OF LAW AND VIOLATIONS**

4. The allegations set forth in paragraphs 1 through 3 above are fully incorporated herein by this reference.

5. Idaho Code § 41-305(1) provides that no person shall transact insurance in Idaho, either directly or indirectly, without a “subsisting certificate of authority” issued by the Director of the Idaho Department of Insurance (Director).

6. Idaho Code § 41-112 defines “transacting insurance” to include: (1) solicitation and inducement; (2) preliminary negotiations; (3) effectuation of a contract of insurance; and (4) transaction of matters subsequent to effectuation of a contract of insurance and arising out of it. Such section also provides that “[m]ailing or otherwise delivering any written solicitation to any person in [Idaho] by an insurer or any person acting on behalf of the insurer for fee or compensation” constitutes “transacting insurance” in Idaho.

7. Idaho Code § 41-507 defines the line of surety insurance as follows, in pertinent part:

**41-507. “Surety insurance” defined.** “Surety insurance” includes: . . . Insurance guaranteeing the performance of contracts, other than insurance policies, and guaranteeing and executing bonds, undertakings, and contracts of suretyship.

8. Based on the foregoing findings of fact and the law of the state of Idaho set forth above, the Director hereby finds that the Respondents have violated the law.

9. Idaho Code § 41-213(1)(a) authorizes the Director to issue an order requiring a person to cease and desist from engaging in any act or practice constituting a violation of the Idaho Insurance Code.

10. Idaho Code § 67-5247 provides that an agency may act through an emergency proceeding in a situation involving an immediate danger to the public health, safety, or welfare requiring immediate agency action.

**ORDER**

**THE DIRECTOR OF THE IDAHO DEPARTMENT OF INSURANCE**, having reviewed the foregoing, good cause being shown, and the protection of the public justifying the entry of this Order and that it be effective immediately,

**NOW, THEREFORE**, the Director **HEREBY FINDS** that the Respondents have violated the Idaho Insurance Code by transacting surety insurance in Idaho while failing to hold the required certificate of authority authorizing them to do so.

Based on the foregoing, and pursuant to Idaho Code § 41-213(1)(a), **IT IS HEREBY ORDERED** that the Respondents and their agents and employees immediately **CEASE AND DESIST** from transacting surety insurance or any other kind of insurance in the state of Idaho.

This **ORDER TO CEASE AND DESIST** is effective upon issuance.

**IT IS SO ORDERED.**

DATED this 14<sup>th</sup> day of November, 2014.

STATE OF IDAHO  
DEPARTMENT OF INSURANCE

  
\_\_\_\_\_  
WILLIAM W. DEAL, Director

### **NOTIFICATION OF RIGHTS**

This Order constitutes a final order of the Director. Any party may file a motion for reconsideration of this final order within fourteen (14) days of the service date of this order. The Director will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. *See*, Idaho Code § 67-5246(4).

Pursuant to Idaho Code §§ 67-5270 and 67-5272, any party aggrieved by this final order may appeal it by filing a petition for judicial review in the district court of the county in which: (1) the hearing was held; or (2) the final agency action was taken; or (3) the aggrieved party resides or operates its principal place of business in Idaho; or (4) the real property or personal property that was the subject of the agency decision is located. An appeal must be filed within twenty-eight (28) days of: (a) the service date of this final order; or (b) an order denying a petition for reconsideration; or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. *See*, Idaho Code § 67-5273. The filing of a petition for judicial review does not itself stay the effectiveness or enforcement of the order under appeal.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that, on this 14th day of November, 2014, I caused a true and correct copy of the foregoing ORDER TO CEASE AND DESIST to be served upon the following by the designated means:

David Zanecki  
Z Ventures, LLC and  
Allegiant Commercial Finance  
909 W Two Rivers Ln  
Eagle, Idaho 83616

- first class mail
- certified mail
- hand delivery
- via facsimile
- via email

Z Ventures, LLC  
336 East River Quarry Dr  
Eagle, Idaho 83616

- first class mail
- certified mail
- hand delivery
- via facsimile
- via email

John C. Keenan  
Deputy Attorney General  
Idaho Department of Insurance  
700 W. State Street, 3<sup>rd</sup> Floor  
P.O. Box 83720  
Boise, ID 83720-0043

- first class mail
- certified mail
- hand delivery
- via facsimile

  
\_\_\_\_\_  
Teresa Jones