



THE TREASURER OF THE STATE OF FLORIDA
DEPARTMENT OF INSURANCE

TOM GALLAGHER

IN THE MATTER OF:

INTERNATIONAL FIDELITY &
SURETY, LIMITED, and
INTERNATIONAL CONSULTANTS
& MANAGEMENT, LIMITED, and
FUTURE FIRST FINANCIAL
GROUP, INC.

CASE NO. 42368-01-CO

IMMEDIATE FINAL ORDER TO CEASE AND DESIST

TO: International Fidelity & Surety, Limited
KPMG House
Rue Pasteur
Port Vila, Vanuatu

P.O. Box 1214
Port Vila, Vanuatu

International Consultants and Management, Limited
KPMG House
Rue Pasteur
Port Vila, Vanuatu

ICM Group, Inc.
100 Pearl Street
14th Street
Hartford, Connecticut 06103

Future First Financial Group, Inc.
814 Highway A1A, Suite 300
Ponte Vedre Beach, Fla. 32082

YOU ARE HEREBY NOTIFIED that pursuant to the provisions of the Florida Insurance Code the Treasurer and Insurance Commissioner of the State of Florida has caused an investigation to be made of your insurance-related activities in this state, and as a result thereof finds:

1. The Treasurer and Insurance Commissioner, as head of the Department of Insurance (Department), has jurisdiction over the subject matter and over the parties hereto pursuant to Chapters 120, 624, and 626, Florida Statutes.

2. INTERNATIONAL FIDELITY & SURETY, LIMITED (IF&S), headquartered in the South Pacific island nation of Vanuatu, is not currently licensed, nor has it ever been licensed or authorized to transact insurance in this state. However, it is nonetheless currently transacting insurance through a Florida corporation, to wit; FUTURE FIRST FINANCIAL GROUP, INC.(FFFG).

3. INTERNATIONAL CONSULTANTS & MANAGEMENT, LIMITED, (IC&M) is the holding company for IF&S. It is not currently licensed, nor has it ever been licensed or authorized to transact insurance in this state.

4. FFFG is a Florida licensed viatical settlement provider, is located in Florida, and is engaged in the viatical settlement provider business and senior settlement business with residents of Florida and other states. Those businesses include not only the purchase of life insurance policies, but the selling of interests in the death benefits of those policies to third party investors. Viatical settlement providers such as FFFG customarily use a trust designated by the licensed provider entity to assume the responsibility for monitoring the maturity of the policies and processing death benefit proceeds to individual investors.

5. FFFG has announced and advertised through its website, in Florida and other states, its partnership with IF&S and IC&M in conjunction with FFFG's sale of interests in Life Settlement agreements (senior settlement agreements). [See attached exemplar.] In that "partnership" IF&S and IC&M provide insurance to the Fidelity Trust in conjunction with FFFG's "Bonded Life Settlement Programs", which insurance is being provided without a subsisting Certificate of Authority as required by Section 624.401, Fla. Stat.

6. That insurance purportedly protects an investor's principal investment by guaranteeing payment of principal and interest in the event that the insured lives more than 90 days past a projected life expectancy. Any investor who wishes to so insure his or her investment may do so by investing in the bonded program rather than into the non-bonded program. (The bonded program is advertised to provide a lower, but bonded, return on the investment. The non-bonded program is advertised to provide a higher, but non-bonded, return on the investment.)

7. The bonded program is widely advertised by FFFG to attract investors who might not choose to invest in a non-bonded program. The bond agreement is purportedly between IF&S and The Fidelity Trust or any other successor trust selected by FFFG to assume responsibility for paying death benefit proceeds to the investors. The individual investor is not a party to the bond agreement, but is denominated therein as an "indirect beneficiary", or third party beneficiary. The bonded program provided to the Fidelity Trust is underwritten by IF&S, and is sold directly to the investor by FFFG. Although FFFG represents that it does not offer this program to Florida residents, FFFG, the Fidelity Trust, and its trustee are all located in the State of Florida, and the

bonded program is offered to residents of other states from the Florida situs of FFFG.

8. Neither IF&S nor IC&M possess any surety or other insurance licensure authorizing it to provide insurance to any natural or other person in Florida. Neither is licensed by the U.S. Department of the Treasury, nor is either listed in the National Association of Insurance Commissioners' quarterly list of alien re-insurers. Likewise, neither the Fidelity Trust nor FFFG possess any such surety or other insurance license, or any insurance agent license.

9. Section 624.401, Fla. Stat., provides that no person shall act as an insurer, nor shall any insurer or its agents, attorneys, subscribers, or representatives directly or indirectly transact insurance in this state, without the prescribed license, and further provides that any person who does so commits a felony of the third degree.

10. Section 626.112, Fla. Stat., provides that no person shall act as an insurance agent, advertise or hold himself or herself out as an insurance agent, unless duly licensed and appointed.

11. Section 626.901(1), Fla. Stat., provides that 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 in 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 any other 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.

12. As an unlicensed insurer that has not satisfied the statutory requirements to obtain a Certificate of Authority, IF&S and IC&M present a grave and immediate risk of financial harm to any Florida entities that purchase the insurance coverage in question from IF&S. Specifically, without a determination by the Department that the insurer meets the statutory capital, surplus, operational, and other requirements, the particularized harm resulting from its operation in or from Florida include:

A. The potential inability of IF&S to meet its financial obligations to Florida entities to whom it has directly issued insurance products, and residents of others states indirectly covered by those products, caused in whole or in part by insufficient capital, surplus, and reserves, by charging inadequate or otherwise actuarially unsound rates or premiums, and by enterprise management that is unlicensed, untrained, and unskilled in insurance operations.

B. The issuance of policies or contracts on forms that have not been approved by the Department and which therefore do not contain the safeguards and disclosures for the benefit of the public that are required by the Florida Insurance Code.

13. None of the Respondents herein, nor any of the circumstances involved in their transaction of insurance as alleged are within the ambit of any exception to the licensure requirements of the Florida Insurance Code.

14. In State ex rel. Kennedy v. Knott, 166 Fla. 835 (Fla. 1936), the Florida Supreme Court found "that the business of insurance so directly affects the public that it is generally considered to be affected with a public interest, and, being so, is subject to the regulation and control by the Legislature, which includes the power to license and regulate the agents through whom such business is conducted". *Id.* at 837. The Court further held that "it would be difficult to find a business that more vitally affects the public interest... *Id.*

15. In Natelson vs. Department of Insurance, 454 So. 2d 31 (Fla. 1st DCA, 1984), the court stated that the business of insurance is "greatly affected by the public trust". *Id.* at 31. Indeed, insurance contracts are characterized by the law as *uberrimae fidei contracts*, and as such are agreements "of utmost good faith".

16. Based upon the foregoing, and pursuant to Section 120.60(6), Fla. Stat., the Treasurer and Insurance Commissioner finds that the continued unlicensed transaction of insurance by IC&M and IF&S with the Fidelity Trust, and the unlicensed sale of that unlicensed product to investors by FFFG constitutes a grave, imminent and immediate threat to the public health, safety, and welfare. The Treasurer and Insurance

Commissioner further finds that the remedies set forth below, including the cessation of unlicensed insurance transactions by the IF&S, IC&M and FFFG, are necessary to protect the public's interest in procuring desired insurance through lawful means and from duly licensed and regulated entities, and are fair under the circumstances set forth above.

IT IS THEREFORE ORDERED:

a. That IC&M and IF&S shall immediately discontinue providing the above described insurance product to the Fidelity Trust or any other such trust designated by FFFG;

b. That FFFG shall immediately cease and desist from further unlicensed sale to investors of the insured product described above;

c. That FFFG shall immediately cease and desist from any further advertising of that insured product;

d. That FFFG shall immediately inform all existing purchasers of that insurance product that the sale of that product was unlawful, and shall allow those purchasers to elect either a refund of all monies paid to FFFG to date or a transfer of those monies to the non-bonded program, which election shall be immediately honored by FFFG;

e. That FFFG shall pay in full all valid claims made under the insurance product sold; and

f. That all ordered restrictions shall continue in force and effect until proper licensure under and pursuant to the Florida Insurance Code is secured by the affected parties.

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, ACTING AS THE AGENCY CLERK, AT 612 LARSON BUILDING, TALLAHASSEE, FLORIDA, AND A COPY OF THE SAME WITH THE APPROPRIATE DISTRICT COURT OF APPEAL WITHIN THIRTY (30) DAYS OF RENDITION OF THIS ORDER.

DONE AND ORDERED this 28th day of June 2001.





KEVIN McCARTY
Deputy Insurance Commissioner