NEW YORK STATE
DEPARTMENT OF FINANCIAL SERVICES
ONE STATE STREET PLAZA
NEW YORK, NEW YORK 10004

----------X

In the Matter of the Applications of

YVON ALEXIS,

Applicant.

AMENDED NOTICE OF HEARING

VIDEOCONFERENCE HEARING

Docket No. 2021-0003-L
2021-0011A
Event Number: 161 977 8745
Event Password: Y6MyVqFEN42

----------X

TO THE APPLICANT:

PLEASE TAKE NOTICE THAT, pursuant to your request, a Hearing will be conducted by the New York State Department of Financial Services ("Department"), on the 29th day of December, 2021, at 10:00 a.m., to review the determinations denying your application for a license to act as an agent pursuant to Section 2103(a) of the New York Insurance Law ("Insurance Law") and denying your application for written consent to engage in the business of insurance pursuant to 18 U.S.C. section 1033. The Hearing will be held via videoconference, via Webex. **The Event Number for this Hearing is 161 977 8745, and the Event Password is Y6MyVqFEN42**

Pursuant to the First Amendment to Part 2 of Title 23 of the Official Compilation of Codes, Rules and Regulations of the State of New York (23 NYCRR §2.19), you may object to having the Hearing conducted via videoconference by sending a written notice of the objection to the hearing officer by first class mail or overnight mail to Videoconference Coordinator, Office of General Counsel, New York State Department of Financial Services, One State Street, New York, NY 10004, or via electronic mail to VideoHearings@dfs.ny.gov. The written notice of objection must be received at least five business days before the date set for the hearing. A copy of 23 NYCRR §2.19 is attached to this Notice.

You are instructed to go to the Department's website, at https://www.dfs.ny.gov/reports_and_publications/public_hearings to learn how the hearing will be conducted and what you will need to do in order to appear at your Videoconference Hearing. **At least 48 hours prior to your hearing, you will need to**

conduct a test to ensure that you can connect to the Videoconference Hearing. Instructions for testing can be found at
https://www.dfs.ny.gov/reports_and_publications/public_hearings**. If you wish to introduce any documents at the Hearing, you must email them at least 24 hours prior to the start of the Hearing to VideoHearings@dfs.ny.gov, and include a brief description of each document and your Event Number. You may also request disclosure of the evidence that the Department will introduce at the Hearing by sending an email to VideoHearings@dfs.ny.gov. Include your name, the date of the Hearing, and your Event Number. The documents will be sent to you via email no later than 7 days prior to the Hearing.**

If you have any questions with regard to connecting or are unable to connect to your Videoconference Hearing, call the Department Help Desk at 212-709-7777 or email ServiceDesk@dfs.ny.gov.

The denial of your application should be upheld on the grounds that you have demonstrated untrustworthiness to act as an insurance agent based on the following:

1. While you were previously licensed as an insurance broker by the New York State Insurance Department, you demonstrated untrustworthiness and/or incompetence within the meaning of Section 2110 of the Insurance Law in that:

(a) on or about September 10, 2001, you issued an insurance premium transmittal check in the amount of $141.00 that was dishonored by the bank upon which drawn;

(b) during the period July 1, 2001 through December 31, 2001, you commingled funds in your premium account by paying personal and business expenses using premium funds; and

(c) during an indeterminate period, you conducted an insurance business under the name “Elysian Travel Agency, Inc.”, an entity not known to or licensed by the Insurance Department.

As a consequence of the foregoing conduct, on July 25, 2002, pursuant to Stipulation S02-0087-N, a monetary penalty in the amount of seven hundred fifty dollars was imposed on you by the Superintendent of Insurance of New York State.

2. While you were previously licensed as an insurance broker by the New York State Insurance Department, you demonstrated untrustworthiness to act as an insurance broker, within the meaning of Section 2110(a)(4)(C) of the Insurance Law, in that:

(a) during May and June 2004, you issued three insurance premium checks, totaling $2,711.00, which were dishonored by the bank upon which they were drawn;

(b) during the approximate period June 2004 to August 2004, you commingled insurance premiums with your personal and business expenses in one bank account used to conduct insurance business, in violation of Section 2120(a) of the Insurance Law;

(c) during the approximate period May 2004 through August 2004, you conducted insurance business in the unlicensed name of Elysian Travel Agency Inc., in violation of Section 2102 of the Insurance Law;

(d) by engaging in the conduct as set forth in paragraphs 2(a) through 2(c) above, you violated the agreement you entered into with the New York State Insurance Department in Stipulation S02-0087-N, referenced in paragraph 1 above, in which you agreed to take all necessary steps to prevent recurrence of similar violations; and

(e) in 2004, you submitted insurance applications to the New York Automobile Insurance Plan containing addresses which were not those of the applicants.

As a consequence of the conduct set forth in paragraphs 2(a) through 2(e) above, all licenses issued to you were revoked, by order of the Superintendent of Insurance of New York State, dated September 21, 2006, on Docket No. 2004-0164-C.

3. On or about January 13, 2015, you submitted an application for licensure as a general lines agent to the Florida Department of Financial Services, and on such application, you made a material misstatement in that you answered “no” to the question which asked if you had ever pled guilty to a felony, when in fact you had previously pled guilty to a felony. Consequently, pursuant to a Consent Order effective July 8, 2015, the Chief Financial Officer of the State of Florida assessed a fine against you in the amount of five hundred dollars, and placed you on probation for a period of one year.

4. On October 7, 2019, you submitted an application to the Department for a license to act as an agent pursuant to Section 2103(a) of the Insurance Law, and in such application, you falsely answered in the negative to Question 2, which asked “Have you ever been convicted of a felony, had a judgment withheld or deferred, or are you currently charged with committing a felony?” The answer was false in that on October 29, 1991, in the United States District Court for the Eastern District of Virginia, you were convicted, upon plea of guilty, of Conspiracy to Deceive a Licensed Firearms Dealer, a Felony, in violation of Title 18, United States Code, Section 371.

5. On October 7, 2019, you submitted an application to the Department for a license to act as an agent pursuant to Section 2103(a) of the Insurance Law, and in such application, you falsely answered in the negative to Question 4, which asked “Have you ever been named or involved as a party in an administrative proceeding including FINRA sanction or arbitration proceeding regarding any professional or occupational license or registration?”. The answer was false in that you were named and involved in administrative proceedings as set forth in paragraphs 1, 2 and 3 above.

6. On or about November 15, 2019, your application for a nonresident producer license with the Commissioner of the Indiana Department of Insurance was denied, due to the revocation of your license in New York referenced in paragraph 2 above, your failure to disclose the New York license revocation in the Indiana application, and your failure to disclose the Florida Consent order referenced in paragraph 3 above.

7. On or about April 17, 2020, the Insurance Commissioner of the State of California revoked your license to act as an accident and health agent, based on the denial of your license application by the State of Indiana referenced in paragraph 6 above.

8. After your conviction, as set forth in paragraph 4 above, of Conspiracy to Deceive a Licensed Firearms Dealer, a criminal felony involving dishonesty or a breach of trust, you engaged in the business of insurance without the written consent of an insurance regulatory official required by Title 18, United States Code, Section 1033(e)(2).

9. Such other and further evidence relevant to your qualifications and fitness for the license sought as may be presented at the hearing.

PLEASE TAKE FURTHER NOTICE that the Hearing is being held pursuant to Sections 304-a, 305, and 306 of the Financial Services Law and that notice thereof is being given to you in accordance with Section 304 of the Financial Services Law. Your attention is directed to a statement in plain language, attached hereto, entitled "Summary of Hearing Procedures," summarizing the provisions of Title 23, Part 2 of the Official Compilation of Codes, Rules and Regulations of the State of New York (23 NYCRR 2). This statement contains important information concerning your rights and the Department's hearing procedures and should be read carefully. A copy of 23 NYCRR §2.19 is attached hereto; a copy of the balance of 23 NYCRR 2 will be furnished upon request. Should you fail to appear at the Department's Virtual Hearing Center at the time fixed for the online virtual hearing, or any adjourned date thereof, your request for a hearing will be deemed withdrawn, and the denial of your applications will be upheld.

Dated: New York, NY
December 1, 2021

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

By: Michael S. Formichelli

Michael S. Formichelli
Associate Attorney
(212) 480-5250

BY CERTIFIED MAIL AND REGULAR MAIL:

Yvon Alexis
[redacted]

COPY TO: [redacted].com

NEW YORK STATE
DEPARTMENT OF FINANCIAL SERVICES
ONE STATE STREET
NEW YORK, NEW YORK 10004

SUMMARY OF HEARING PROCEDURES

(Summary of Hearing Procedures for Adjudicatory Proceedings Before the Department of Financial Services as Set Forth in Title 23, Part 2 of the Official Compilation of Codes, Rules and Regulations of the State of New York (23 NYCRR 2) , and as Required by Section 301(3) of the State Administrative Procedure Act)

1. The Hearing will be conducted and administered in compliance with the State Administrative Procedure Act and the Financial Services Law, and will be held before an impartial hearing officer who will make a Report of findings, conclusions, and recommendations to the Superintendent or the Superintendent's designee.

2. You must be ready, and prepared with your evidence, to present your case on the hearing date.

3. You may be represented by an attorney at the hearing.

4 Interpreter services shall be available for deaf persons, upon advance request, at no charge. Such request should be made as soon as possible by contacting the Department attorney who signed the Citation/Notice of Hearing.

5. You may file a written answer to the Citation/Notice of Hearing. If you do so, it should be delivered at least two days before the hearing date to the Department attorney who signed the Citation/Notice of Hearing. You will have a full opportunity at the hearing to dispute or explain any charges made against you in the Citation/Notice of Hearing whether or not you file an answer.

6. You may present evidence and have witnesses testify at the hearing. If you believe a Witness will not appear voluntarily and you do not have an attorney representing you, you may request the hearing officer to furnish you with a subpoena to compel the witness' attendance. If the hearing officer issues the subpoena, the service of the subpoena upon the witness and payment of all required fees is your responsibility.

7. You may request a hearing officer's report and an opportunity to comment on it in writing before the Superintendent acts on the report. The request must be made to the hearing officer on the record prior to close of the hearing.

8. Prior to the commencement, a hearing may be postponed upon your request upon a written application to the Department official who issued the Citation/Notice of Hearing. The application may be granted upon a showing of good cause at the discretion of the Department official who issued the Citation/Notice of Hearing.

9. A hearing in progress may be adjourned by the hearing officer at your request for good cause shown or upon consent of all parties. If you request that a hearing in progress be adjourned for good cause shown, you must present documentary evidence as the hearing officer deems appropriate. The factors to be considered in determining good cause shown include but are not limited to the illness of a party, witness,

or attorney, the temporary absence of a witness, the opportunity to obtain an attorney, the actual engagement of an attorney in a court proceeding, and the number and nature of previous requests for adjournment.

10. If you do not appear at a hearing requested upon the denial of an application for a license, your request will be deemed withdrawn.

11. If you do not appear or are not represented at the hearing on a Citation, the hearing will take place as scheduled and a decision on the charges will be made. The decision may result in the revocation or suspension of your licenses and the denial of any pending applications, and such other action as may be permitted by law, including the imposition of monetary fines.

12. If you do not appear at a hearing, the hearing may be reopened upon a written application, if you satisfy the hearing officer that there are valid reasons for your failure to appear or your failure to request an adjournment or postponement and you have a meritorious case. If you do appear at the hearing, the hearing may be reopened on written request to the hearing officer if you can show newly discovered evidence or other compelling reason for such reopening. The application to reopen must be made within one hundred and twenty (120) days from the effective date of the Superintendent's or the Superintendent's designee's decision.

13. Once a decision is made against you, you may, if you wish, take an appeal to the courts. This appeal must be made within four months from the date the decision was effective. It should be emphasized that your right to take an appeal is not connected in any way with your right to reopen the hearing as described in paragraph 12 and an application to reopen does not extend your time to take an appeal to the courts.

NEW YORK STATE
DEPARTMENT OF FINANCIAL SERVICES
FIRST AMENDMENT TO 23 NYCRR 2

RULES GOVERNING THE PROCEDURES FOR ADJUDICATORY PROCEEDINGS BEFORE THE DEPARTMENT OF FINANCIAL SERVICES

I, Adrienne A. Harris, Acting Superintendent of Financial Services of the State of New York, pursuant to the authority granted by Sections 102, 201, 202, 302 and 305 of the Financial Services Law and Section 301 of the State Administrative Procedure Act, do hereby promulgate the First Amendment to Part 2 of Title 23 of the Official Compilation of Codes, Rules and Regulations of the State of New York, to take effect upon the filing of the Notice of Emergency Adoption with the Secretary of State, to read as follows:

(ALL MATTER IS NEW)

Section 2.19 is added to read as follows:

§ 2.19 Hearings conducted by videoconference.

(a) At the discretion of the Department official who issued the notice of action or proposed action, a hearing held pursuant to this Part may be conducted by videoconference. When a hearing is conducted by videoconference, none of the parties nor the hearing officer need to be physically present at the same location.

(b) All provisions of this Part that are not inconsistent with the specific provisions of this section shall apply to hearings conducted by videoconference. For purposes of § 2.14(b) of this Part, the term *hearing room* shall mean videoconference when a hearing is conducted by videoconference.

(c) A respondent or applicant may object to conducting the hearing by videoconference by sending a written notice of the objection to the hearing officer by first class mail, overnight mail or electronic mail to an address or email address designated by the Department and posted on the Department's website. The written notice of objection must be received by the hearing officer at least five business days before the time set for the hearing.

(d) In the event that the hearing officer receives a timely written objection to conducting the hearing by videoconference in accordance with subdivision (c) of this section, the hearing officer may determine that the hearing shall not be conducted by videoconference and shall be conducted with the respondent or applicant and the hearing officer physically present at the same location, when in the judgment of the hearing officer:

(1) the respondent's or applicant's due process rights would best be served by conducting a hearing in-person; or

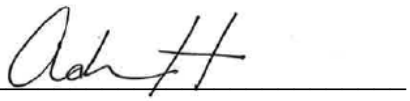
(2) there are circumstances presented by the respondent or applicant that make proceeding with the hearing by videoconference fundamentally unfair or impractical.

Statement of the Reasons for the Emergency Measure
First Amendment to 23 NYCRR 2

COVID-19 has spread to hundreds of millions of people worldwide, with more than 2.4 million confirmed cases, and over 54,000 deaths, in New York State since February 2020. According to the Centers for Disease Control and Prevention ("CDC"), the Delta variant of SARS-CoV-2, the virus that causes COVID-19, is the predominant variant of the virus in the United States. The Delta variant is a more transmissible and contagious form of the virus, may cause more severe symptoms, and appears to be behind the recent increase in cases and hospitalizations across the nation, including this state. Given the public health implications related to COVID-19, it is essential that the Department of Financial Services ("Department") promulgate regulations that implement protective measures, whenever possible, to help stop its spread.

This amendment adds a new section 2.19 to 23 NYCRR Part 2, specifying that the Department may conduct administrative hearings by videoconference at the Department's discretion. This is being done so that the parties and hearing officers do not have to be physically present at the same location during hearings. A hearing officer will determine, upon a timely objection filed by a party, if a hearing held by videoconference would either impinge upon the party's due process rights, or would be fundamentally unfair or impractical, according to section 2.19(d) of the regulation.

The Department is taking special precautions during this unprecedented health crisis to minimize the spread of COVID-19 by, among other things, reducing the number of individuals who may enter the Department's offices at any given time. Therefore, conducting an administrative hearing by videoconference protects the safety of those participating in, or witnessing the hearing, by avoiding personal contact in a way that will help limit the spread of COVID-19. It is thus imperative that this amendment be promulgated on an emergency basis for the public's general welfare and the preservation of public health.



Adrienne A. Harris
Acting Superintendent of Financial Services

Dated: September 27, 2021

NEW YORK STATE OF OPPORTUNITY.
Department of Financial Services

KATHY HOCHUL
Governor

ADRIENNE A. HARRIS
Acting Superintendent

CERTIFICATION

I, Adrienne A. Harris, Acting Superintendent of Financial Services, do hereby certify that the foregoing is the First Amendment to Part 2 of Title 23 of the Official Compilation of Codes, Rules and Regulations of the State of New York, entitled "Rules Governing the Procedures for Adjudicatory Proceedings Before the Department of Financial Services", signed by me on September 27, 2021, pursuant to the authority granted by Sections 102, 201, 202, 302 and 305 of the Financial Services Law and Section 301 of the State Administrative Procedure Act to take effect upon the filing of the Notice of Emergency Adoption with the Secretary of State of New York.

Pursuant to Section 202(6) of the State Administrative Procedure Act, this amendment is being promulgated as an emergency measure for the preservation of the general welfare and public health. A statement of the specific reasons for the finding of the need for emergency action is attached.

Adrienne A. Harris
Acting Superintendent of Financial Services

Date: September 27, 2021