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

- X

In the Matter of the Applications
and/or Licenses of

AMENDED CITATION

VIDEOCONFERENCE HEARING

DARCIA EAD,

Respondent.

Docket No. 2022-0001-C
Event Number: 161 086 4600
Event Password: mGYe9AzkW34

- X

TO THE ABOVE-NAMED RESPONDENT:

PLEASE TAKE NOTICE THAT you are cited to appear on the 18th day of July, 2023, at 10:00 AM to show cause why all licenses issued to you by the New York State Department of Financial Services ("Department") should not be suspended or revoked, and why all pending applications for licensure or renewal thereof should not be denied, or a monetary penalty imposed, by reason of the charge(s) and specification(s) hereinafter set forth. The Hearing will be held via videoconference, via Webex. **The Event Number for this Hearing is 161 086 4600, and the Event Password is mGYe9AzkW34.**

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 Citation.

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 in your request your name, the date of the Hearing, and your Event Number.**

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.

CHARGE I

RESPONDENT HAS DEMONSTRATED UNTRUSTWORTHINESS AND/OR INCOMPETENCE TO ACT AS AN INSURANCE PRODUCER WITHIN THE MEANING OF SECTION 2110(a)(4) OF THE INSURANCE LAW.

Specification A

1. Respondent failed to pay personal state income tax due to the New York State Department of Taxation and Finance ("DTF") for the periods ending on or about December 31, 2009, December 31, 2010, December 31, 2011, December 31, 2012, and December 31, 2013.

2. As a result of the foregoing, tax warrants were filed against Respondent in the office of the clerk of Kings County, New York by the DTF on or about May 14, 2013, and in the office of the clerk of Albany County on or about May 19, 2015, and June 5, 2018.

3. As of March 8, 2023, Respondent had an arrearage in taxes due to New York State pursuant to Article 22 and Article 30 of the New York Tax Law, for personal income taxes, in the amount of approximately $40,732.43, which includes interest and penalties.

Specification B

4. Respondent provided materially incorrect and untrue information within the meaning of Section 2110(a)(2) of the Insurance Law on Respondent's renewal application for an agent's license pursuant to Section 2103(a) of the Insurance Law, submitted to the Department on or about September 26, 2014, by failing to answer in the affirmative in response to Question 5, which asked "Since execution and filing of

last application, have you been notified by any jurisdiction to which you are applying of any delinquent tax obligation that is not the subject of a repayment agreement?"

Specification C

5. Respondent provided materially incorrect and untrue information within the meaning of Section 2110(a)(2) of the Insurance Law on Respondent's renewal application for an agent's license pursuant to Section 2103(a) of the Insurance Law, submitted to the Department on or about September 26, 2018, by failing to answer in the affirmative in response to Question 7, which asked "Have you been notified by any jurisdiction to which you are applying of any delinquent tax obligation that is not the subject of a repayment agreement?"

Specification D

6. Respondent provided materially incorrect and untrue information within the meaning of Section 2110(a)(2) of the Insurance Law on Respondent's renewal application for an agent's license pursuant to Section 2103(a) of the Insurance Law, submitted to the Department on or about September 26, 2022, by failing to answer in the affirmative in response to Question 7, which asked "Have you been notified by any jurisdiction to which you are applying of any delinquent tax obligation that is not the subject of a repayment agreement?"

Specification E

7. On or about January 5, 2021, January 28, 2021, February 24, 2021, March 15, 2021, May 5, 2021, June 30, 2021, September 13, 2021, and October 12, 2021, the Department sent investigatory letters to Respondent directing that she submit to the Department information and documentation relating to the aforementioned matters. Respondent failed to timely respond and/or provide complete and meaningful response to the Department's letters, thereby hampering and impeding the Department's investigation.

CHARGE II

RESPONDENT FAILED TO PAY STATE INCOME TAX WITHIN THE MEANING OF SECTION 2110(a)(14) OF THE INSURANCE LAW.

8. The allegations set forth in paragraphs 1, 2, and 3 of this Citation are repeated and realleged as if fully set forth herein.

CHARGE III

RESPONDENT PROVIDED MATERIALLY INCORRECT, MATERIALLY MISLEADING, MATERIALLY INCOMPLETE AND/OR MATERIALLY UNTRUE INFORMATION IN LICENSE APPLICATIONS WITHIN THE MEANING OF SECTION 2110(a)(2) OF THE INSURANCE LAW.

9. The allegations set forth in paragraphs 4, 5, and 6 of this Citation are repeated and realleged as if fully set forth herein.

PLEASE TAKE FURTHER NOTICE THAT:

(A) According to the records of the Department, Respondent Darcia Ead is licensed as an agent pursuant to Section 2103(a) of the Insurance Law.

(B) This Citation is issued pursuant to Section 2110 of the Insurance Law and Sections 304-a, 305 and 306 of the Financial Services Law, and notice of this hearing is given to Respondent in accordance with Section 304 of the Financial Services Law.

(C) Respondent's 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.

(D) Should Respondent fail to appear at the time and place fixed for the hearing or any adjourned date thereof, the hearing will proceed as scheduled and the disciplinary action, if any, may result in the imposition of a monetary penalty or in the suspension or revocation of any licenses and/or the denial of all pending applications for licenses or renewal thereof.

Dated: New York, NY
June 7, 2023

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

By: Jessica Masullo
Jessica Masullo
Senior Attorney
(212) 709-3532

CERTIFIED & REGULAR MAIL

DARCIA EAD
[redacted]

DARCIA EAD
[redacted]

COPY TO:

[redacted]@GMAIL.COM

[redacted]@US.AFLAC.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, 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 publication of the Notice of Adoption in the State Register, to read as follows:

(ALL MATTER IS NEW)

Section 2.19 is added to read as follows:

§ 2.19 Hearings conducted by videoconference.

(a) A hearing shall be conducted by videoconference, unless a hearing officer determines at the hearing officer's discretion, or upon a finding of good cause based upon an application submitted in accordance with subdivision (b) of this section, to conduct a hearing where all or some of the parties, witnesses, and the hearing officer are physically present at the same location. When a hearing is conducted by videoconference, the parties, witnesses, and the hearing officer do not need to be physically present at the same location.

(b) A party may object to a hearing being conducted 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 designated by the Department and posted on the Department's website. The written notice of objection must be received by the hearing officer within five calendar days prior to the return date set forth in the notice of action or proposed action that was served or issued by a party as provided in Financial Services Law section 304.

(c) The hearing officer may determine not to conduct a hearing or any portion thereof, or not to have a party or witness testify, by videoconference upon a finding that a timely written objection to conducting a hearing pursuant to this Part by videoconference submitted in accordance with subdivision (b) of this section establishes that:

(1) a party's due process rights would be best served by all or some of the parties and witnesses, and the hearing officer being physically present at the same location; or

(2) circumstances render a hearing, or a portion thereof, conducted pursuant to this Part by videoconference impractical.

(d) 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 section 2.14(b) of this Part, the term *hearing room* shall mean videoconference when a hearing is conducted by videoconference.

KATHY HOCHUL
Governor

ADRIENNE A. HARRIS
Superintendent

CERTIFICATION

I, Adrienne A. Harris, 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, signed by me on June 7, 2022, pursuant to the authority granted by Financial Services Law Sections 102, 201, 202, 302, and 305 and State Administrative Procedure Act Section 301, to take effect upon publication of the Notice of Adoption in the State Register.

Pursuant to the provisions of the State Administrative Procedure Act, prior notice of the proposed rule was published in the New York State Register on April 6, 2022. No other publication or prior notice is required by statute.

/s/ Adrienne A. Harris

Adrienne A. Harris
Superintendent of Financial Services

Dated: June 7, 2022