

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D2025-0988

LITAI ASSETS LLC,

Appellant,

v.

FLORIDA DEPARTMENT OF
FINANCIAL SERVICES,

Appellee.

On appeal from the Circuit Court for Leon County.
John C. Cooper, Judge.

September 30, 2026

PER CURIAM.

Litai Assets LLC is in the insurance and viatical business. It services viatical settlements—contracts through which parties sell their life insurance benefits for an immediate cash payout. The Department of Financial Services attempted to investigate Litai’s activity and records via administrative subpoena, which Litai challenged as unauthorized. The trial court ruled that the Department had authority to investigate Litai’s business and issue the administrative subpoena, and Litai appeals. We affirm.

Facts

The viatical industry allows a person with a life insurance policy to sell that benefit, pre-death, for an immediate lump sum payment. Often, but not always, the insured is terminally ill and prefers to get money up front to pay medical or other expenses. The new holder of the viaticated policy then takes over any premium payments coming due, and recovers the death benefit upon the viator's death. The parties to this process include viatical settlement providers, the purchasers; viators, the insureds; and viatical brokers, who charge a fee to connect providers and viators. *See* § 626.9911(11)–(16), Fla. Stat. (2023). Viatical licensees have statutorily-imposed record-keeping requirements, including the obligation to “keep and make available” or “maintain ... or have readily accessible” such records to the Department or Office of Insurance Regulation, as applicable, to ensure Code compliance. *See* §§ 626.561(2), 626.748, Fla. Stat.

Until June of 2022, Litai held a Department-issued insurance agency license. After that license lapsed, Litai's website still advertised that it had “a thirteen year long history [sic] of servicing life insurance policies,” was “currently managing over 5,000 life insurance policies and [] the largest servicer in the industry,” and provided “pre-investment transaction advice.”

The Department began investigating Litai for possible unlicensed practice in fall 2023. After Litai rebuffed Department attempts to review Litai records, the Department issued an investigative subpoena seeking four categories of documents: (1) records “pertaining to insurance or the effectuating of insurance transactions (including viaticals)” for the prior five months, so the Department could “verify if your agency is transacting insurance in violation of the Florida Statutes”; (2) a list of active life settlement agreements for two trusts and life insurance policies of two specific individuals in those trusts; (3) Litai's bank statements for the prior eight months from an identified bank account; and (4) business e-mails from four named Litai employees/managers for the prior three months, one of whom held a Department-issued life insurance agent license.

Litai responded that it was not transacting insurance, but merely servicing viaticated policies, and therefore it had no records responsive to the subpoena. Litai also asserted that the Department lacked authority to investigate Litai because the Department did not regulate viatical servicers. Litai challenged the subpoena as overbroad.

The Department petitioned the circuit court to enforce the subpoena. The court granted the petition. It directed Litai to “comply with the subject subpoena” and “allow [the Department] unencumbered access, by electronic or photographic means, to books, papers, records, files, correspondence, documents, and accounts so as to enable [the Department] to determine whether any person has violated any provision of the [Insurance Code] in accordance with [*Bankers**].”

Standard of Review

We review questions of statutory interpretation and jurisdiction de novo. *See Dep’t of Revenue v. Graczyk*, 206 So. 3d 157, 159 (Fla. 1st DCA 2016); *see Fla. Dep’t of Revenue v. Verizon Commc’ns, Inc.*, 380 So. 3d 541, 543–44 (Fla. 1st DCA 2024).

Analysis

Litai argues that the Department had no authority to issue the subpoena because Litai is only a viatical servicer, and the Department does not have authority to regulate, investigate, or subpoena such servicers. We agree with the trial court and hold to the contrary, that the Department did and does have such authority, statutorily conferred. *See generally Advance Am. v. State, Off. of Att’y Gen., Dep’t of Legal Affs.*, 801 So. 2d 310, 310–11 (Fla. 1st DCA 2001) (affirming AG’s authority to investigate RICO claim that payday lender was charging usurious rates by rollover or consecutive transactions, and issue subpoenas for that purpose); *Fla. Dep’t of Ins. & Treasurer v. Bankers Ins. Co.*, 694 So. 2d 70, 71 (Fla. 1st DCA 1997) (explaining an agency’s “legitimate

* *Fla. Dep’t of Ins. & Treasurer v. Bankers Ins. Co.*, 694 So. 2d 70 (Fla. 1st DCA 1997).

regulatory realm is no more and no less than what the Legislature prescribes by law”).

The Department and the Office of Insurance Regulation share authority over the Florida Insurance Code, and the Code directs that each “shall enforce the provisions of [the Code]” within its respective realm. § 624.307(1)–(2), Fla. Stat. Each may investigate “as it may deem proper to determine whether any person has violated any provision of this code within its respective regulatory jurisdiction.” § 624.307(3), Fla. Stat. Each may investigate unlicensed activity under the Code—again, within its respective regulatory jurisdiction. § 624.310(2)(a), Fla. Stat.

The Department has authority over “insurance agents, insurance agencies, managing general agents, insurance adjusters, reinsurance intermediaries, viatical settlement brokers, customer representatives, service representatives, and agencies.” § 626.016(1), Fla. Stat. It licenses them. *See* § 626.172(1), Fla. Stat. It is illegal to act as, or advertise or hold yourself out as, an insurance agent, adjuster, or agency or to “transact[] insurance or otherwise engage[] in insurance activities” without a license. *See* § 626.112(1)–(10), Fla. Stat. A Department-issued license is required to “engage in the solicitation of insurance,” which includes offering or attempting to negotiate on another’s behalf a viatical settlement contract. *See* § 626.112(1)(b)(6), Fla. Stat.

As to viaticals, the Department controls viatical settlement brokers, and a life agent can be a viatical settlement broker. *See* §§ 626.785(1), 626.7845(1), 626.9916(1)–(2), Fla. Stat. The Office licenses and controls viatical settlement providers. § 626.9912(1), Fla. Stat.; *see Coventry First, LLC v. State, Off. of Ins. Regul.*, 38 So. 3d 200, 202 (Fla. 1st DCA 2010) (discussing the Office and viatical providers). Both the Department and the Office, within their delineated roles, have the authority “to regulate viatical settlement providers, viatical settlement brokers, viatical settlement contracts, and viatical settlement transactions.” § 626.99285, Fla. Stat.

In addition to its regulatory authority, the Department has statutory authority to investigate “accounts, records, documents, and transactions pertaining to or affecting the insurance affairs of

any agent, adjuster, insurance agency, customer representative, service representative, or other person subject to its jurisdiction.” § 624.317(1), Fla. Stat.; *see also* § 626.9561, Fla Stat. (granting the Department and Office, within their respective realms, power to investigate “the affairs of every person involved in the business of insurance in this state in order to determine” unfair competition or deceptive acts or practices). During the investigation, the person(s) “shall make freely available . . . the accounts, records, documents, files, information, assets, and matters in their possession or control relating to the subject of the examination or investigation”; and subpoenas may be issued to require production of “books, papers, records, files, correspondence, documents, or other evidence which is relevant to the inquiry.” §§ 624.318(2), 624.321(1)(b), Fla. Stat.; *see also* § 626.601(2), Fla. Stat.

The Department regulates and licenses insurance agents and agencies, and viatical brokers. A Department license is required to solicit insurance—i.e., offer or attempt to negotiate on behalf of another a viatical settlement contract. The Department investigates its licensees and any unlawful unlicensed activity—including not just advertising or holding out as an insurance agent, adjuster, or agency, but also transacting insurance or otherwise engaging in insurance activities.

Litai asserts it is not a viatical provider (under the Office’s auspices) or a viatical broker (under the Department’s auspices). It claims it merely services viatical agreements and has done nothing wrong. But this is self-serving and conclusory, and does not confront or resolve the real issue of the Department’s statutory authority. A mere denial of impropriety does not thwart the Department’s authority to investigate activity within its jurisdiction.

The Department has clear and express statutory authority to investigate whether Litai is brokering viaticals without a Department-issued license. So too, the Department has the authority to investigate Litai and ensure it is not operating as an insurance agency (including offering or attempting to negotiate viatical settlement contracts on behalf of another person). A factual basis exists. Litai held a Department insurance license for years; one of its owners/managers holds an active Department

license; and its website discussed its history and prowess within the life insurance industry, to include viaticals and “pre-investment transaction advice.” On the record presented, we also reject Litai’s arguments that the subpoena was overbroad, a general warrant, and not supported by sufficient suspicion of a violation.

Accordingly, the final judgment enforcing the Department’s subpoena is AFFIRMED.

LEWIS, BILBREY, and KELSEY, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Oral Beason, General Counsel, Litai Assets LLC, Pompano Beach; Jesse Michael Panuccio, Evan Matthew Ezray, and Andrea Guzman of Boies Schiller Flexner LLP, Fort Lauderdale; Ben Allen Andrews, John Lawrence Brennan, III, and Stephanie Loren Clark of Pennington, P.A., Tallahassee, for Appellant.

Francis Albert Carbone II, General Counsel, Michael Thomas Ruff, and Marshawn Michael Griffin, Florida Department of Financial Services, Tallahassee, for Appellee.