

CHAPTER 69I-20, Florida Administrative Code UNCLAIMED PROPERTY

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69I-20.001 Registration.

Sections 717.117(8) and 717.1400, F.S., requires that, in order to file claims as a Claimant's Representative, acquire ownership or entitlement to unclaimed property, and receive a distribution of fees and costs from the

Department, private investigators licensed to practice in the State of Florida, certified public accountants licensed to practice in the State of Florida and attorneys licensed to practice in the State of Florida must register with the Department.

(1) To register with the Bureau of Unclaimed Property a private investigator licensed to practice in the State of Florida must file a duly completed and executed, Form DFS-UP-140, Application for Registration as an Unclaimed Property Claimant Representative - Florida Private Investigator, effective 1-3-05, and must provide the documents specified in the form.

(2) To register with the Bureau of Unclaimed Property a certified public accountant licensed to practice in the State of Florida must file a duly completed and executed, Form DFS-UP-142, Application for Registration as an Unclaimed Property Claimant Representative - Florida Certified Public Accountant, effective 1-3-05, and must provide the documents specified in the form.

(3) To register with the Bureau of Unclaimed Property an attorney licensed to practice in the State of Florida must file a duly completed and executed, Form DFS-UP-141, Application for Registration as an Unclaimed Property Claimant Representative – Florida Attorney, effective 1-3-05, and must provide the documents specified in the form.

(4) The forms referred to herein are hereby incorporated by reference and available from the Florida Department of Financial Services, Bureau of Unclaimed Property, 200 East Gaines Street, Tallahassee, Florida 32399-0358.

Specific Authority 717.138 F.S.. Law Implemented 92.525, 717.124, 717.135, 717.1351, 717.1400 F.S. History-New 1-3-05.

69I-20.0011 Full Disclosure Statement

(1) For purposes of the FULL DISCLOSURE STATEMENT codified in Sections 717.135(3) and 717.1351(2), F.S., the mailing address of the Bureau of Unclaimed Property is "State of Florida Department of Financial Services, Bureau of Unclaimed Property, P.O. Box 1910, Tallahassee, FL 32302-1910".

(2) For purposes of the FULL DISCLOSURE STATEMENT codified in Sections 717.135(3) and 717.1351(2), F.S., the Internet address of the Bureau of Unclaimed Property is "www.fltreasurehunt.org".

(3) For purposes of the FULL DISCLOSURE STATEMENT codified in Sections 717.135(3) and 717.1351(2), F.S., and for purposes of Section 717.1351(4), F.S., the property description obtained

from the CD-ROM of claimable accounts obtained from the Bureau of Unclaimed Property may be used as the property category. (4) For purposes of the FULL DISCLOSURE STATEMENT codified in Sections 717.135(3) and 717.1351(2), F.S., the property category, date of last contact, and property remitted by or holder information from a single account that is being claimed must be disclosed in the FULL DISCLOSURE STATEMENT.

Specific Authority 717.138, F.S. Law Implemented 717.135, 717.1351, F.S. History-New 04-27-09.

69I-20.0021 Procedures for Filing Claim.

(1) Claims Submission. Claims for unclaimed property in the custody of the Department, pursuant to Chapter 717, F.S., shall be submitted to the Department on the form(s) prescribed and supplied by the Department, together with documentation proving entitlement to the unclaimed property. All forms referenced in this rule are available from and shall be submitted to: The Florida Department of Financial Services, Bureau of Unclaimed Property, 200 East Gaines Street, Tallahassee, Florida 32399-0358.

(a) The Department will only process claims that are complete.

(b) A complete claim shall include the correct claim form identified in this rule, fully completed with all blanks filled in and manually signed and dated by all claimants or the Claimants' Representative, proof of entitlement, and all supporting documentation as described and required by this rule, and Rule 69I-20.0022, F.A.C.

(c) Claims meeting the requirements of paragraph (b) above shall be deemed complete.

(d) Incomplete claims delivered to the Department will be returned to the claimant with a notice describing the additional documentation that must be submitted to make the claim complete. The notices are Form DFS-UP-106a, Unclaimed Property Request for Further Information (Claim Filed by Apparent Owner), Form DFS-UP-106b, Unclaimed Property Request for Further Information (Claim Filed by a Business), Form DFS-UP-107a, Unclaimed Property Request for Further Information (Claim Filed by Other Than the Apparent Owner), and Form DFS-UP-108a, Unclaimed Property Request for Further Information (Claim Filed by Claimant's Representative on Behalf of the Claimant), which are hereby incorporated by reference, effective 1-3-05.

(e) The claim may be refiled at any time.

(2) Claim Determination. The Department will only review the merits of a claim that has been deemed complete as filed. The Department will determine whether the claimant has established ownership and entitlement to the unclaimed property.

(a) If the claim is approved, the proceeds will be delivered as set forth in subsection (10).

(b) If the claim is denied, written notice containing rights to request a hearing as provided in Sections 120.569 and 120.57, F.S., will be mailed to the claimant or the Claimant's Representative at the address provided in the claim.

(3) Withdrawal of Claim. A claimant or a Claimant's Representative may make a written request, including email or facsimile transmission, that a claim be withdrawn at any time, except as provided in Section 717.1241.

(4) Claims Filed by Apparent Owner, (including Corporations).

(a) Claims by apparent owners for unclaimed property shall be submitted on Form DFS-UP-106, entitled Claim Filed by Apparent Owner, which is hereby incorporated by reference, effective 1-3-05.

(b) Form DFS-UP-106 shall be manually signed and dated by the claimant and accompanied by the following:

1. Personal identification of the claimant as provided in subsection 69I-20.0022(2), F.A.C.

2. Proof demonstrating that the claimant is the owner and is entitled to the claimed property as required by Rule 69I-20.0022, F.A.C. When ownership is claimed by an entity, personal identification of the entity representative as provided by subsection 69I-20.0022(2), F.A.C., is also required. Personal identification of the entity representative is not required if the entity is an active corporation.

(5) Claims Filed by Other than Apparent Owners.

(a) Claims for unclaimed property filed by someone other than the apparent owner, for example, an heir, personal representative, or beneficiary, shall be submitted on Form DFS-UP-107, entitled Claim Filed by Other than the Apparent Owner, which is hereby incorporated by reference, effective 1-3-05.

(b) Form DFS-UP-107 shall be manually signed and dated by the claimant and accompanied by the following:

1. Original documentation establishing such person's right to act on behalf of the owner.

2. The name, address, taxpayer identification number (if available), and telephone number (if available), of the beneficiary, heir or personal representative for whom payment is sought.

3. Personal identification as provided by subsection 69I-20.0022(2), F.A.C., of the beneficiary, heir,

personal representative, or, in the case of a Purchase Agreement, of the buyer and owner.

4. Proof demonstrating that the estate beneficiary or heir is entitled to the unclaimed property consistent with Rule 69I-20.0022, F.A.C.

5. If applicable, the original Purchase Agreement signed and dated by the owner and the buyer pursuant to Section 717.1351, F.S.

6. Full disclosure must be provided on a duly completed and executed, Form DFS-UP-143, Florida Department of Financial Services Full Disclosure Form, which is hereby incorporated by reference, effective 1-3-05. The original disclosure form must be filed with the Department. The disclosure form and the purchase agreement must be signed and dated on the same day.

(6) Claims Filed by Claimant's Representative.

(a) All claims for unclaimed property filed by a Claimant's Representative shall be submitted on Form DFS-UP-108, entitled Claim Filed by Claimant's Representative on Behalf of the Claimant, which is hereby incorporated by reference, effective 1-3-05.

(b) Form DFS-UP-108 shall be manually signed and dated by the person(s) filing the claim and accompanied by the following:

1. Original Recovery Agreement signed and dated by the claimant and the Claimant's Representative pursuant to Section 717.135, F.S.

2. The name, address, taxpayer identification number (if available), and telephone number, of the person or entity for whom payment is sought.

3. Personal identification of the person(s) for whom payment is sought as provided in subsection 69I-20.0022(2), F.A.C. When ownership is claimed by an entity, personal identification of the entity representative is also required as provided in subsection 69I-20.0022(2), F.A.C., must be filed, unless the entity is an active corporation.

4. Proof demonstrating that the person(s) or entity being represented is entitled to the property being claimed consistent with Rule 69I-20.0022, F.A.C.

(c) Claimant's Representative Fee Caps.

1. The Agreement between the claimant and the Claimant's Representative shall reflect the total fee charged by the Representative for the account(s) listed on the claim form and the Recovery Agreement.

2. The Agreement between the claimant and the Claimant's Representative shall contain either full disclosure or fee caps.

3. Full disclosure must be provided on a duly completed and executed, Form DFS-UP-143, Florida Department of Financial Services Full Disclosure Form, which is hereby incorporated by reference, effective 1-3-05. The original disclosure form must be filed with the Department. The disclosure form and the recovery agreement must be signed and dated on the same day.

4. If the Agreement between the claimant and the Claimant's Representative contains fees that exceed statutory caps, the Department will deny the claim.

5. Fees will be paid when the value of all approved accounts associated with the Agreement have been determined as follows:

a. Cash accounts – The value of cash accounts will be determined when posted to the account.

b. Securities – If the security is transferred to the claimant's brokerage account, value of securities will be determined as of the close of business on the date of the transfer.

c. Tangible Personal Property – The value of tangible personal property accounts shall be based on the appraised shipping value at the time the property is prepared for transfer to the claimant.

6. Contracts for the recovery of small estate accounts pursuant to Section 717.1243, F.S., by Estate Affidavit (Form DFS-UP-1243), in lieu of probate, are subject to Section 717.135(1), F.S.

(7) Claims Filed by Holders of Unclaimed Property Paid or Delivered to the Department.

(a) Claims for unclaimed property filed by a holder shall be submitted on Form DFS-UP-110, Claim Filed by Holder for the Return of Unclaimed Property, which is hereby incorporated by reference, effective 1-3-05.

(b) Form DFS-UP-110 shall be manually signed and dated by the authorized representative of the holder.

(8) Claim by Other States.

(a) The Claims for unclaimed property filed by another state shall be submitted on Form DFS-UP-131, Claim by Other States, which is hereby incorporated by reference, effective 1-3-05.

(b) Form DFS-UP-131 shall be manually signed and dated by the authorized representative of the state filing the claim.

(9) Claims for Reimbursement of Costs by Holders of Safe Deposit Boxes or Other Safekeeping Repositories.

(a) This subsection applies to claims for reimbursement filed by holders of unclaimed property for their actual costs of the opening of safe deposit boxes and for any valid lien or contract providing for the holder to be reimbursed for unpaid

rent or storage charges. The claim shall be submitted on Form DFS-UP-112, entitled Safe Deposit Reimbursement Claim Form, which is hereby incorporated by reference, effective 1-3-05.

(b) Form DFS-UP-112 shall be manually signed and dated by an authorized representative of the holder.

(c) Form DFS-UP-112 shall not be filed with the Department prior to the date of the sale of the contents of the safe deposit box or other safekeeping repository.

(10) Payment and Delivery of Property.

(a) Payment and Delivery when Claim is Filed by person entitled to the unclaimed property.

1. Cash. The Department will issue and mail a warrant payable to the claimant.

2. Securities. The Department will liquidate all securities which can be sold as soon as practicable, unless the security cannot be sold due to market conditions. Payment will be provided as follows:

a. If the securities have been liquidated, payment of the cash proceeds will be made by warrant and mailed to the claimant's address.

b. For securities that cannot be sold due to market conditions and can be certificated, the Department will request, in writing, a certificate be issued for the number of shares due the claimant and the certificate be registered in the claimant's name, unless the claimant requests, in writing that the securities be transferred electronically to the claimant's existing brokerage, mutual fund or other securities type account, provided the information required by the securities industry is available at the time the claim is filed.

The information required by the securities industry for electronic transfer could include the broker or agent's DTC number (Depository Trust Corporation), ABA number (American Banker's Association), the claimant's brokerage, mutual fund, or other securities type account number and account registration.

c. Certificated securities that cannot be sold, due to market conditions will be registered in the name of the claimant's name and mailed to the claimant's address.

d. For securities that cannot be sold due to market conditions and cannot be certificated, the Department will make an attempt to electronically transfer the securities to the claimant's brokerage, mutual fund, or other securities type account, providing the information required by the securities industry is provided at the time the claim is filed.

e. Securities that cannot be sold, certificated or electronically transferred will not be paid. Written notice will be provided to the owner.

f. All securities will be registered according to industry standards.

3. Tangible Personal Property.

a. If the property is valued at less than ten thousand dollars (\$10,000) and can be accepted for delivery by a common carrier, the property will be shipped to the owner at the address listed on the claim.

b. If the property is valued at ten thousand dollars (\$10,000) or more, or the property cannot be accepted for delivery by a common carrier, the Department will advise the claimant of the award by letter, and make the property available for pickup during normal business hours at the Department's offices in Tallahassee, Florida.

i. The claimant must produce the award letter and picture identification in order to claim the property at the Department's Tallahassee address.

ii. Receipt of the property must be acknowledged in writing by the person receiving the property.

iii. If the property is not collected at the Department's Tallahassee office within ninety (90) days of the date on the award letter, it may be offered for sale at the next auction and the proceeds delivered the same as cash in paragraph (11)(a) above.

c. If the property is valued at ten thousand dollars (\$10,000) or more, the claimant must arrange with a common carrier to pick up the property during normal business hours at the Department's office in Tallahassee, Florida. All claimant's communications with the Department regarding how the property is to be delivered to the claimant must be in writing. Upon request, the Department will provide the claimant with the appraised shipping value.

(b) Payment and Delivery of Claims filed by Claimant's Representative.

1. Cash – Payment of cash will be made to claimants by warrant, net of the Claimant's Representative's fees, and mailed to the claimant. Payment of fees to Claimant's Representatives will be made electronically at least twice a month provided a completed Form DFS-AA-26E, incorporated by reference in Rule 69I-22.002, F.A.C., is provided.

2. Securities – The Department will liquidate all securities that can be sold as soon as practicable, unless the security cannot be sold due to market conditions. Payment will be provided as follows:

a. If the securities have been liquidated, payment of the cash proceeds will be made as set forth in subparagraph (10)(b)1. above.

b. For securities that cannot be sold due to market conditions and can be certificated, the Department will request, in writing, that a certificate be issued for the number shares due the claimant, and registered in

the name of the claimant, unless the claimant requests, in writing with notice to the Claimant's Representative, the Department electronically transfer the shares to a brokerage, mutual fund or other securities type account and the information required by the securities industry to make the transfer is provided by the claimant.

c. If the security can be certificated and delivery of the certificate is requested, in writing, by the claimant and the Claimant's Representative, the security will be registered in the claimant's name and the certificate will be mailed to the Claimant's Representative with notice to the claimant.

d. For securities that cannot be sold due to market conditions and can not be certificated, the Department will make an attempt to electronically transfer the securities to the claimant's brokerage, mutual fund, or other securities type account, if the information required by the securities industry is provided at the time the claim is filed. Such information could include the broker's or agent's DTC number (Depository Trust Corporation), ABA number (American Banker Association), the claimant's account number and account registration. If such information is not available at the time the claim is to be paid, written notice will be provided to the Claimant's Representative, who must provide the information. The security for which such information is required will not be paid until the information is provided. When the security is paid, the owner and the Claimant's Representative will receive written notice of the transfer.

e. Securities that cannot be sold, electronically transferred, or certificated will not be paid. Written notice will be provided to the claimant and the Claimant's Representative.

f. All securities will be registered according to industry standards.

Specific Authority 717.138 FS. Law Implemented 92.525, 717.1201, 717.124, 717.12403, 717.12404, 717.12405, 717.1242, 717.1243, 717.125, 717.126, 717.1261, 717.1262, 717.135, 717.1351, 717.139 FS. History--New 3-20-91, Amended 3-13-96, 3-18-96, 1-18-99, 1-5-00, 4-16-02, Formerly 3D-20.0021, Amended 1-3-05.

69I-20.0022 Proof of Ownership and Entitlement to Unclaimed Property.

(1) Any and all persons filing a claim for unclaimed property have the burden to provide to the Department a preponderance of evidence to prove ownership and entitlement to such

property being claimed. Accordingly, in addition to the requirement specified in Rule 69I-20.0021, F.A.C., persons making a claim to unclaimed property shall comply with the provisions of this rule, as specified below.

(2) Any and all persons claiming an interest in unclaimed property in the possession of the Department shall file with the Department a copy of a valid driver's license of the claimant at the time the original claim form is filed. If the claimant has not been issued a valid driver's license at the time the original claim form is filed, the Department shall be provided with a legible copy of a photographic identification of the claimant issued by the United States or a foreign nation, a state or territory of the United States or foreign nation, or a political subdivision or agency thereof. In lieu of filing a copy of a government issued photographic identification of the claimant with the claim, the claimant or the Claimant's Representative may file Form DFS-UP-144, Notarized Sworn Statement of the Claimant, which has been accurately completed in full, executed by the claimant and the notary. This form is incorporated by reference effective 1-3-05 and available from the Florida Department of Financial Services, Bureau of Unclaimed Property, 200 East Gaines Street, Tallahassee, Florida 32399-0358. The notarized sworn statement must accurately affirm the claimant's identity and state the claimant's address. This subsection shall not apply to any person who is acting as an Claimant's Representative.

(3) Claims by Beneficiaries or Estates.

(a) If the apparent owner is deceased, the claim must include a certified copy of the decedent's death certificate, as well as the following:

1. Open Estates – Records, certified by the clerk of court within one (1) year of the date of filing the claim with the Department, reflecting the personal representative's right to act for the estate of the apparent owner.
2. Closed Estates – A certified copy of a probate court order, certified by the clerk of court identifying the beneficiaries and the proportional entitlement of each to the estate. If a court order, identifying the beneficiaries and the proportional entitlement of each to the property of the estate is not available, the claimant must submit those documents from the probate court file from which this information may be determined. Typically, this information may be obtained from the decedent's will, if one exists, and the Order admitting the will to probate; the Petition for Administration; or the Petition for Discharge with exhibits. If any such combination of documents is submitted, they must be accompanied by a copy of the Order of Discharge and the docket sheet. In no event is the will standing alone, sufficient.

3. Unclaimed Property with Aggregate value of \$5,000.00 or Less – If all of the unclaimed property held by the Department on behalf of a deceased apparent owner has an aggregate value of \$5,000 or less, as an alternative to subparagraph (3)(a)2., the claimant may file a copy of the will, if the decedent had a will, and an affidavit signed by all the beneficiaries stating that all the beneficiaries have amicably agreed upon a division of the estate, that no probate proceedings are pending for the estate, and that all funeral expenses, expenses of the last illness and other lawful claims have been paid. The affidavit shall be submitted on Form DFS-UP-1243, Estate Affidavit, effective 1-3-05, which is hereby incorporated by reference and available from the Florida Department of Financial Services, Bureau of Unclaimed Property, 200 East Gaines Street, Tallahassee, Florida 32399-0358. No partial payments shall be made.

(4) Claims for Guardianship Assets.

(a) The claim must be filed by the court appointed guardian or Claimant's Representative, who must provide a court order evidencing the guardian's existing authority to act on behalf of the ward, certified by the clerk of court within one (1) year of filing the claim with the Department, along with the guardian's name, address and social security number.

(b) The warrant will be made payable to "Guardian For" the ward.

(5) Claims for Business Accounts. Any person claiming an interest in an unclaimed business account in the possession of the Department as an official of the business shall file with the Department the following:

(a) If the unclaimed business account relates to a proprietorship or a partnership then:

1. Documentation to reflect that the apparent owner is the same proprietorship or partnership, and

2. Documentation reflecting the individual's authorization to file a claim for the proprietorship's or partnership's unclaimed property.

3. Personal identification shall be provided as specified in subsection (2) of this rule.

(b) If the unclaimed business account relates to an active corporation:

1. The last annual report of the corporation if it is available from the Internet site of the Florida Department of State. The claimant must furnish the Department with a printout from the Florida Department of State Internet site identifying the officers and directors of the corporation. If the

last annual report of the corporation is not available from the Internet site of the Florida Department of State, the claimant shall file a microfiche copy of the records on file with the Florida Department of State. If microfiche from the Florida Department of State is not available, the claimant may furnish to the Department a uniform resource locator (U.R.L.) for the address of a free Internet site operated by the state of incorporation of the corporation that provides access to the last corporate filing identifying the officers and directors of the corporation. The claimant must furnish the Department with a printout from the free Internet site identifying the officers and directors of the corporation. If the free Internet site is not available, an authenticated copy of the last corporate filing from an appropriate state official of the state of incorporation shall be provided to the Department which identifies the officers and directors of the corporation.

2. Unless the corporate representative is listed as an officer or director of the corporation, evidence to reflect the claimant's right to act on behalf of the business. Letterhead and business cards alone will not be sufficient to meet the required burden of proof. For example:

a. Signed and dated statement by an officer or director of the corporation, other than the person signing the claim, authorizing the individual authority to file the claim.

b. Bylaws of the corporation identifying the person signing the claim as occupying a position with authority to contractually bind the corporation.

c. Corporate resolution authorizing the person signing, to file the claim on behalf of the corporation.

3. Documents evidencing ownership or entitlement to the account. Letterhead and business cards alone will not be sufficient to meet the required burden of proof. Examples of other documentary evidence include:

evidence that the corporation is the sole corporation that has operated under the reported name; utility bills, cancelled checks or deposit slips, copies of annual reports, sales or marketing materials that would identify the corporation and match one of the account identifiers, copy of an occupational license issued to the corporation, price lists, bank statements, loan papers, etc., documents in the corporation's name which establish a relationship with a bank, tax filings, including annual tax returns, quarterly employee withholding filings, employee tax filing records such as W-2 or W-4 forms (with personal information redacted), sales tax filings, other tax filings or bills, financial statements (audited), SEC filings (other than those which are public records), company identification cards, insurance documentation – property and casualty, health and workers' compensation insurance policies, claim

forms, premium statements, benefit membership cards.

(c)1. If the unclaimed business account is that of a dissolved corporation, the claimant must specify the corporation's state of incorporation and its last principal business address. The claimant must provide a certified copy of the last corporate filing identifying the officers and directors of the corporation. This document must be obtained from an appropriate authorized official of the state of incorporation. A certified copy of the last corporate filing shall not be required if:

a. The last annual report of the corporation if it is available from the Internet site of the Florida Department of State. The claimant must furnish the Department with a printout from the Florida Department of State Internet site identifying the officers and directors of the corporation.

b. If the last annual report of the corporation is not available from the Internet site of the Florida Department of State, the claimant shall file a microfiche copy of the records on file with the Florida Department of State.

c. If microfiche from the Florida Department of State is not available, the claimant may furnish to the department a uniform resource locator (U.R.L.) for the address of a free Internet site operated by the state of incorporation of the corporation that provides access to the last corporate filing identifying the officers and directors of the corporation. The claimant must furnish the Department with a printout from the free Internet site identifying the officers and directors of the corporation.

2. The evidence provided must prove that the dissolved corporation is the same corporation as shown on the Department's records. The evidence must prove that the claimant is entitled to all or a proportional share of the dissolved corporation or that the claimant is an officer or director of the corporation. It is not sufficient that the claimant has the same name as that of an officer or director of the dissolved corporation. The claimant must demonstrate a connection to the dissolved corporation.

Subparagraph (5)(b)3. herein provides examples of documents which may establish a connection between the claimant and the dissolved corporation.

3. A claim for an unclaimed business account of a dissolved corporation must indicate whether the dissolved corporation has ever been a debtor in bankruptcy. If the dissolved corporation has ever been a debtor in bankruptcy, the claim must identify the

bankruptcy chapter under which the bankruptcy case proceeded. The claim must also identify the location of the bankruptcy court, the case number, and the address and telephone number of the Office of the U.S. Trustee in that jurisdiction. If no bankruptcy proceedings of the dissolved corporation are known, the claim must either provide the results of a bankruptcy court web site Case

Management/Electronic Case Files (CM/ECF) search, if available, or a Public Access to Court Electronic Records (PACER) search. The CM/ECF or PACER search must be conducted in the bankruptcy court of the state and district of incorporation and where the main office is located, if different. The claim must provide the results of both a search by corporate name and a search by tax identification number, if available, for the state and district of incorporation and the location of the main office, if different. As an alternative to the CM/ECF or PACER search, the claim must provide a completed United States Bankruptcy Court Application for Search of Bankruptcy Records from the state and district of incorporation, and from the district where the main office is located, if different.

4. The Office of the U.S. Trustee or the trustee will be contacted by the Department if the dissolved corporation was a debtor in a closed Chapter 7 bankruptcy case and the aggregate value of the unclaimed property is greater than \$2,500.00. If the bankruptcy case is reopened, the unclaimed property will be remitted to the bankruptcy trustee.

5. Unclaimed property will be remitted to the bankruptcy trustee for a corporation in a pending bankruptcy case unless the debtor is in possession of the bankruptcy estate. If the debtor is in possession of the bankruptcy estate, the unclaimed property will be remitted to the debtor corporation.

6. Personal identification shall be provided as specified in subsection (2) of this rule.

Specific Authority 717.138 FS. Law Implemented 92.525, 117.05, 717.124, 717.12403, 717.12404, 717.12405, 717.1242, 717.1243, 717.126, 717.1261, 717.1262, 717.139, 732.102, 732.103 FS. History—New 3-20-91, Amended 3-13-96, 8-18-96, 1-28-97, 1-18-99, 4-16-02, Formerly 3D-20.0022, Amended 1-3-05. Cf. 11 U.S.C. ss. 541, 542.

69I-20.0023 Database Submissions.

(1) A claimant, or a claimant's representative, may submit the results of a database search for the Department to consider with the claim for unclaimed property.

(2) In the event that the claim is denied, and a hearing is requested by the claimant or the claimant's representative, the evidentiary requirements of Sections 120.569 and 120.57, F.S., shall apply to the results of a database search.

(3) Unless otherwise provided by Florida law, the results of a database search shall be public record in accordance with Section 119.07, F.S. *Specific Authority 717.138 FS. Law Implemented 717.124, 717.126 FS. History-New 1-3-05.*

69I-20.0024 Investigation or Examination Fees.

(1) The Department shall charge \$100.00 per eight hour day for each examiner engaged in an investigation or examination of the records of a holder under Chapter 717, F.S.

(2) Such examination fee shall be calculated on an hourly basis and shall be rounded down to the nearest hour if less than .5 of an hour is spent. If equal to or greater than .5 of an hour is spent the time will be rounded up to the nearest hour.

(3) A holder shall not be required to pay an investigation or examination fee if the investigation or examination fails to disclose property which is reportable and deliverable under Chapter 717, F.S.

(4) The Department shall not charge a fee for the investigation or examination of any governmental unit.

Specific Authority 717.138 FS. Law Implemented 717.1301(6) FS. History-New 11-12-91, Formerly 3D-20.0024.

69I-20.0025 Shareholder Affidavit.

In the event that the Department receives unclaimed property which is reported in the name of a corporation which has been dissolved and the documentary evidence establishing the ownership interest of the respective shareholders has been lost or destroyed, the claimant may file an affidavit which identifies the shareholders of the dissolved corporation and the respective ownership interest of each shareholder. The following is a recommended form for the affidavit. The form affidavit may be modified to meet the specific facts of the case. Nothing in this rule shall be interpreted as foreclosing the option of the Department of requiring live testimony in order to establish the respective ownership interest in unclaimed property which is reported in the name of a dissolved corporation should the Department determine that the circumstances warrant live testimony. The recommended form for the affidavit is as follows:

AFFIDAVIT
STATE OF)
COUNTY OF)

After being duly sworn, the affiant states as follows:

1. My name is _____. I have personal knowledge of the matters set forth in this affidavit, and if called to testify would do so as set forth herein.

2. _____(hereinafter Corporation) is currently dissolved.

3. I have made a good faith search for the stock certificates of the Corporation and have not been able to locate the original stock certificates or copies thereof.

4. I have made a good faith search for any documentation of the Corporation which would reflect the stock ownership of the Corporation and have not been able to locate the original of any such documentation or copies thereof.

5. To my knowledge none of the documents referred to in paragraphs 3. and 4. herein have been destroyed in bad faith in an effort to conceal the ownership of the Corporation.

6. To my knowledge the ownership interest of the Corporation was as follows:

SWORN to and subscribed before me this _____, day of _____, A.D.

(Signature of Notary Public)

(Print, Type, or Stamp Commissioned Name of Notary Public)
Personally Known

OR
Produced Identification

Type of Identification Produced

Specific Authority 717.138 FS. Law Implemented 717.124, 717.126 FS. History-New 11-6-96, Formerly 3D-20.0025.

69I-20.0026 Claimant Affidavit.

In the event proof of ownership to unclaimed property can not be substantiated, the claimant may file an affidavit swearing to the authenticity of the claim and to the lack of documentation and agreeing to the release of the claimant's name and address by the Department to subsequent claimants providing substantiated proof of entitlement to the unclaimed property. The affidavit shall be submitted on Form DFS-UP-124, Claimant Affidavit revised 10-1-01, which is hereby incorporated by reference and available from the Department of Financial Services, Bureau of Unclaimed Property, 200 East Gaines Street, Tallahassee, Florida 32399-0358. This section

applies only if all of the unclaimed property held by the Department on behalf of the claimant for which entitlement has not been established has an aggregate value of \$250 or less.

Specific Authority 717.138 F.S. Law Implemented 717.124(3) F.S. History–New 1-28-97, Amended 4-16-02, Formerly 3D-20.0026.

69I-20.0028 General Principles for Joint Ownership of Property for Accounts that are not Unclaimed Demand, Savings or Checking Accounts Formerly Held by a Financial Institution.

(1) Tenancy in common. Generally, each owner is entitled to receive a percentage share of the unclaimed property. If there are two owners, each owner will receive 50%; if there are 3 owners, each owners, each owner will receive 33.33%, etc. If an owner dies, the percentage share of the unclaimed property shall be remitted to that owner’s estate or beneficiary, as defined in Section 731.201, F.S., provided that entitlement is established in accordance with Section 717.126, F.S. Unclaimed property reported with more than one owner designated with the word “and” is treated as a tenancy in common.

(2) Joint Tenancy with Rights of Survivorship. This type of property involves two or more people. Generally, each owner is entitled to receive a percentage share of the unclaimed property. If there are two owners, each owner will receive 50%; if there are 3 owners, each owner will receive 33.33%, etc. If one of the owners dies, the remaining owner or owners are entitled to receive the unclaimed property. If all owners are deceased, the unclaimed property shall be remitted to the estate or beneficiary of the last surviving owner provided that entitlement is established in accordance with Section 717.126, F.S.

(3) Tenancy by the Entirety. This type of tenancy applies only to married persons. Both persons must file a claim for the unclaimed property. If one spouse dies, the surviving spouse is entitled to the unclaimed property. If both owners are deceased, the unclaimed property shall be remitted to the estate or beneficiary of the last surviving spouse provided that entitlement is established in accordance with Section 717.126, F.S. IF the spouses divorce, the tenancy by the entirety is converted to a tenancy in common.

Specific Authority 717.138, F.S. Law Implemented 717.124, 717.126, F.S. History–New 04-27-09.

69I-20.029 Survivorship Accounts Reported by a Financial Institution.

(1) In the absence of evidence to the contrary, an unclaimed demand, savings, or checking account from a financial institution as defined in Section 655.002, F.S., reported to the Department as an “and” account or as an “or” account, or otherwise reported in the name of two or more persons shall be treated as a survivorship account notwithstanding Rule 69I-20.0028, F.A.C.

(2) This rule relates to proving entitlement pursuant to Section 717.126, F.S., and shall not be interpreted as affecting any private cause of action that one account holder may have against a joint account holder.

Specific Authority 717.138, F.S. Law Implemented 717.12403, 717.126, F.S. History–New 04-27-09. Cf Sections 655.005, 655.79, F.S.

69I-20.030 Definitions.

As used in these rules.

(1) The definitions provided in Section 717.101, F.S., shall also apply to these rules.

(2) “Service charge” and “maintenance charge” means all documented charges that are incurred by a banking or financial organization with regard to the handling of an account.

(3) “Presumed Unclaimed” means the apparent owner has not indicated an interest in the property for the applicable prescribed period. The interest should be evidenced by communication by the owner with a record of same on file.

(4) “Safekeeping Repository” means safe deposit boxes held in banks and financial institutions.

(5) “Owner of a Cashiers’ Check” is the named payee of the cashiers’ check unless the remitter has a release of ownership from the payee.

(6) “Inactive status” means the holder is not required to file a report of property presumed abandoned with the Department on an annual basis.

(7) “Report of property presumed abandoned” means a completed original set of reporting forms by the holder consisting of Forms DFS-UP-111, 121, 128, and 129 which discloses the amount of unclaimed property, apparent owner(s), last known address, social security number or federal employer identification number, property type, and date of last contact or Form DFS-UP-111 with the specific owner information in an electronic medium.

(8) “Claimant’s Representative” means a Florida attorney-at-law, Florida-certified public accountant, or private investigator who is duly licensed to do business in Florida, registered with the Department, and authorized by the claimant’s to claim unclaimed property on the claimant’s behalf.

(9) "Entity Representative" means one who is legally authorized to represent a claimant that is not a natural person. As used in this definition, the phrase "entity representative" does not include a Claimant's Representative.

(10) "Approximate value" or "approximate dollar value," for purposes of Sections 717.135 and 717.1351, F.S., means within 15% of the actual value.

(11) "Electronic medium," for purposes of Section 717.117(1), F.S., means 3.5 inch Diskette or CD-ROM.

(12) "Auction fees, preparation costs, and expenses," for purposes of Section 717.122(1), F.S., means appraiser and contractor fees, catalogue fees, and travel expenses.

Specific Authority 717.138 FS. Law Implemented 717.102(1), 717.117, 717.1201(7), 717.122, 717.135, 717.1351, 717.139 FS. History—New 6-23-91, Amended 1-28-97, 4-16-02, Formerly 3D-20.030, Amended 1-3-05.

69I-20.034 Report of Property Presumed Abandoned.

(1) All persons subject to this act shall file a report of property presumed abandoned with the Department, pursuant to Section 717.117, F.S., upon becoming subject to the filing requirement of Chapter 717, F.S., and each year thereafter, unless:

(a) Written justification has been received from a holder by the Department stating, but not limited to, the following reasons:

1. The holder is filing a complete and accurate report with another state which has a valid reciprocal agreement with the Department;
2. The holder is located outside Florida and does not conduct business in Florida in its day-to-day operations; or
3. The holder maintains a fiduciary relationship with its clients such as real estate brokers and attorneys and does not, as a normal course of business, maintain unclaimed property.

(b) Upon receipt of a written request, the Department after a review may place the holder in an inactive status.

(2) In lieu of a report on the Departmental forms, a letter attesting or a data file stating that no unclaimed property is being held by the holder is acceptable. If a letter is used, the letter must be signed by an officer of a private corporation or unincorporated association, a partner of a partnership or by its Chief Financial Officer if it is a public corporation. The letter or data file must contain the following information: name of the entity,

mailing address, name of contact person, telephone and fax number of the contact person, Internet address (if available), federal employer identification number of the entity and the amount of unclaimed property being reported as zero.

(3) In lieu of Forms DFS-UP-121, DFS-UP-128, and DFS-UP-129, holders reporting more than twenty-five owners shall file on an electronic medium in the format prescribed by the Department. A completed Form DFS-UP-111 shall accompany the electronic report.

(4) Every holder holding funds or other property, tangible or intangible, presumed abandoned and subject to Chapter 717, F.S., for twenty-five or less owners may report to the Department on original forms titled:

(a) "COVER SHEET FOR ANNUAL REPORT OF PROPERTY PRESUMED ABANDONED", Form Number DFS-UP-111, revised 2-12-97.

(b) "ANNUAL REPORT OF PROPERTY PRESUMED ABANDONED FOR CASH ITEMS NOT REPORTABLE IN AGGREGATE", Form Number DFS-UP-121, revised 2-12-97.

(c) "ANNUAL REPORT OF PROPERTY PRESUMED ABANDONED FOR SAFE DEPOSIT BOXES OR OTHER SAFEKEEPING REPOSITORY", Form Number DFS-UP-129, revised 2-12-97.

(d) "ANNUAL REPORT OF PROPERTY PRESUMED ABANDONED FOR SECURITIES THAT CANNOT BE LIQUIDATED", Form Number DFS-UP-128, revised 2-12-97.

(5) All forms referenced herein are hereby incorporated by reference and available from the Department of Financial Services, Bureau of Unclaimed Property, 200 East Gaines Street, Tallahassee, Florida 32399-0358.

(6) The report of property presumed abandoned shall be considered filed only upon receipt of both the funds and the actual report, whether it be on forms or via electronic medium.

Specific Authority 717.117(1),(2)(g), 717.138 FS. Law Implemented 717.117, 717.134 FS. History—New 6-23-91, Amended 8-29-94, 2-12-97, Formerly 3D-20.034.

69I-20.035 Reporting Safe Deposit Box Contents.

Safe deposit box contents shall be reported by submitting a completed Form DFS-UP-155, Safe Deposit Box Inventory Form of Property Presumed Unclaimed, effective 1-3-05, hereby incorporated by reference and available from the Department of Financial Services, Bureau of Unclaimed Property, 200 East Gaines Street, Tallahassee, Florida 32399-0358.

Specific Authority 717.117(1), 717.138 FS. Law Implemented 717.117 FS. History—New 1-3-05.

69I-20.036 Remitting of Safe Deposit Box Contents and Reimbursement of Expenses.

(1) All property presumed abandoned under Section 717.116, F.S., shall be delivered to the Department pursuant to Section 717.119, F.S. The delivery of the property, through the U.S. Mail or other carrier, shall be insured at an amount equal to the estimated value of the property. The package should be clearly marked on the outside "Deliver Unopened." A holder's safe-deposit box contents shall be delivered to the Department in a single shipment. In lieu of a single shipment, holders may provide the Department with a single detailed shipping schedule that includes package tracking information for all packages being sent pursuant to this section. The detailed shipping schedule shall specify the name of the apparent owner previously reported to the Department, the physical address of the safe deposit box whose contents are being remitted, and the name of a person who may be contacted regarding the report and the remittance of the safe deposit boxes.

(2) Reimbursement may be made for the actual cost incurred in the opening of a safe deposit box and to any valid lien or contract providing for the holder to be reimbursed for unpaid rent or storage costs pursuant to Section 717.1201(7), F.S. The Department shall reimburse the holder out of the proceeds remaining after the deduction of the Department's selling cost.

(3) Holders shall request reimbursement from the Department by submitting a completed Form DFS-UP-112, Safe Deposit Reimbursement Claim Form, effective 1-3-05, hereby incorporated by reference and available from the Florida Department of Financial Services, Bureau of Unclaimed Property, 200 East Gaines Street, Tallahassee, Florida 32399-0358.

(4)(a) All intangible and tangible property held in a safe deposit box or any other safekeeping repository and reported to the Department pursuant to Section 717.117, F.S., shall be delivered to the Department in accordance with Section 717.119(4), F.S. Delivery of property shall be commenced 120 days after the report due date and completed within 180 days after the report is due. In the event that the reporting date is postponed, the time periods specified in paragraph (4)(a) are extended for a period of time equal to the additional time given to the holder to report the unclaimed property.

(b) As used herein, delivery in accordance with Section 717.119(4), F.S., means actual delivery of the unclaimed property to the offices of the Department in Tallahassee, Florida. As proof of actual delivery holders may submit the registered mail return receipt.

(c) Within 120 days of the filing of the report, the Department will review reports submitted and notify the holder if the Department declines to accept certain items as having insufficient value to warrant the expense of notice and sale.

(d) The holder must notify the Department in writing within 120 days of the filing of the report that the safe deposit box contents have either been claimed by the owner or have no commercial value and will not be remitted to the Department by the holder.

(5) Numismatic List. A listing of cash and coin items considered to have numismatic value above face value, as referenced in Section 717.119(5), F.S., is hereby incorporated by reference and entitled Numismatic List, Form DFS-UP-150, effective 10-1-01. This list is also available on the Department's Internet website address, the annual reporting instructions, and upon request from the Department. *Specific Authority 717.138 FS. Law Implemented 717.117, 717.119, 717.1201(7), 717.127 FS. History—New 6-23-91, Amended 8-24-98, 4-16-02, Formerly 3D-20.036, Amended 1-3-05.*

69I-20.038 Late Annual Report(s), Late Payment(s), and Late Delivery of Abandoned Property.

(1) If the due date for filing the Report of Abandoned Property prescribed under Section 717.117, F.S., falls on a Saturday or Sunday, the following Monday will be considered the due date. In the event the reporting or payment or property delivery date is an official State of Florida holiday under Section 110.117, F.S., the next business day will become the due date.

(2) No penalty shall be assessed on a late report that correctly reflects no property to be reported.

(3) Upon written request, the Department shall postpone the reporting date or extend the property delivery date for a period of up to sixty (60) days for, but not limited to, the following reasons:

(a) Natural disasters;

(b) Acts of war or terrorism;

(c) Report to be filed by the holder or its subsidiaries using an electronic medium for the first time; or

(d) Significant changes in personnel.

(4) Upon written request, the Department shall waive penalties for, but not limited to, the following reasons:

(a) Natural disasters;

(b) Acts of war or terrorism;

- (c) Initial report filed by the holder or its subsidiaries which was not induced by an examination from the Department or agents;
 - (d) Penalty amount in excess of the reported amount; or
 - (e) Penalty assessed in error.
- (5) Extensions for the reason set forth in paragraph (3)(d) above shall be granted for one reporting period only within a three year time frame from the date of the first extension.
- (6) The Department shall grant postponements, extensions and waivers in writing.
- Specific Authority 717.138 FS. Law Implemented 717.117, 717.119, 717.134 FS. History—New 6-23-91, Amended 8-29-94, 1-28-97, Formerly 3D-20.038.*

69I-20.040 Written Notice.

All holders in possession of property presumed unclaimed having a value of \$50.00 or more shall give notice to the apparent owner in accordance with Section 717.117(4), F.S.

Specific Authority 717.138 FS. Law Implemented 717.117(4) FS. History—New 6-23-91, Amended 8-29-94, 1-28-97, 4-16-02, Formerly 3D-20.040.

69I-20.050 Voluntary Disclosure Agreements, Examinations and Audits.

- (1) The Department’s mission is to collect and return unclaimed property to its rightful owners in accordance with the Florida Disposition of Unclaimed Property Act, Chapter 717, F.S. To achieve these results, the Department is encouraging businesses (“Holders”) inside and outside the State of Florida who are in possession of unclaimed property to comply with Florida’s Unclaimed Property Law. This compliance can be achieved using a program called voluntary disclosure. This program provides the following benefits to a Holder:
- (a) It relieves the Holder of associated expense and liability holding unclaimed property; and
 - (b) Penalties and fines are not assessed by the Department;
- (2) To participate in this program, the Holder must not:
- (a) Be currently under examination or audit;
 - (b) Have filed an annual report of unclaimed property with the Department;
 - (c) Have agreed to a Department-assisted or Contractor-assisted self-audit;
 - (d) Have been requested to conduct a Department-assisted or contractor-assisted self-audit; or
 - (e) Have been notified by the Department or by one of the Department’s contract auditors of

- the intention or desire to conduct an examination or audit of the Holder.
- (3) The property to be disclosed must be unreported and unremitted unclaimed property due to the State of Florida. No property will be accepted on behalf of another state.
- (4) The Holder must provide the Bureau of Unclaimed Property with the following information:
 - (a) Name of entity, mailing address, contact person, telephone number, facsimile number and e-mail address of the contact person, federal employer identification number, and standard industrial code classification.
 - (b) The Holder’s state of incorporation;
 - (c) The Holder’s principal place of business (city and state);
 - (d) If the Holder’s state of incorporation and principal place of business is outside of Florida, the Holder must provide a list detailing the cities in Florida where the Holder conducts business with the number of locations in each city; and
 - (e) If the Holder has no locations within Florida, the Holder must so state.
- (5) The Holder must submit a detail plan outlining the disclosure process to be completed by the Holder, the estimation calculations used by the Holder, and a report identifying the unclaimed property due to the Department. The unclaimed property remittance must accompany the report.
- (6) If companies in the same or similar line of business regularly report unclaimed property such as payroll or vendor checks, unclaimed accounts payable, and unclaimed escrow accounts, and the Holder does not, or if companies of the same approximate size regularly report unclaimed property such as payroll or vendor checks, unclaimed accounts payable, and unclaimed escrow accounts of a certain dollar amount, and the Holder has reported a lower dollar amount, an unclaimed property audit or self-audit should be conducted.
 - (a) The Department’s contract auditors shall follow the procedures in Form DFS-UP-200, General Audit Process for the Identification, Authorization, General Ledger and/or Securities Audits, Contractor-Assisted Self-Audits, Collection and Delivery of Unclaimed Property for the State of Florida, effective 04/27/09.
 - (b) The Department’s contract auditors shall provide Holders with Form DFS-UP-210, Procedures Applicable to the State Authorized Unclaimed Property General Ledger and Securities Audits and Contractor-Assisted Self-Audits, Conducted by Contractors, effective 04/27/09.
 - (c) The Department’s auditors and supervisors shall follow the procedures in Form DFS-UP-220, State of Florida Bureau of Unclaimed Property Audit Manual, effective 04/27/09.

(d) The Department’s auditors and supervisors shall follow the procedures in Form DFS-UP-230, State of Florida Bureau of Unclaimed Property Self-Audit Manual, effective 04/27/09.

(e) The forms referred to herein are hereby incorporated by reference and available from the Florida Department of Financial Services, Bureau of Unclaimed Property, 200 East Gaines Street, Tallahassee, Florida 32399-0358,

Specific Authority 717.117(1), 717.138 FS. Law Implemented 717.117, 717.119, 717.129, 717.1301, 717.133(5), FS. History–New 1-3-05, Amended 04-27-09.

69I-20.071 Purpose.

The purpose of Rules 69I-20.071 through 69I-20.080, F.A.C., is to implement the Department’s duty to establish penalty guidelines for violations of Sections 717.1322 and 717.1341, F.S.

Specific Authority 717.138 FS. Law Implemented 717.101, 717.102, 717.103, 717.1035, 717.104, 717.1045, 717.105, 717.106, 717.107, 717.1071, 717.108, 717.109, 717.1101, 717.111, 717.112, 717.113, 717.115, 717.116, 717.117, 717.119, 717.124, 717.12404, 717.12405, 717.1261, 717.1262, 717.1301(1), 717.1311, 717.1315, 717.132, 717.1322, 717.1323, 717.134, 717.1341, 717.135, 717.1351, 717.1381, 717.1400 FS. History–New 1-3-05.

69I-20.072 Penalty Guideline Definitions.

The following definitions shall apply for purposes of this rule chapter.

(1) “Administrative complaint” refers to formal administrative charges filed by the Department against a person. The charges consist of factual allegations with citations to violations of the Florida Disposition of Unclaimed Property Act, Chapter 717, Florida Statutes, Department rules or orders.

(2) “Aggregate final penalty” means the total of the final penalties against a person in one or more enforcement actions.

(3) “Count” refers to a series of one or more numbered paragraphs of factual allegations in an administrative complaint that are incorporated by reference under the word “Count” followed by a Roman numeral, which are set apart from other counts in an administrative complaint, and which if true would constitute a violation of the Florida Disposition of Unclaimed Property Act, Chapter 717, F.S.

(4) “Convicted” means adjudicated guilty by a court.

(5) “Department” means the Florida Department of Financial Services.

(6) “Final penalty” means the penalty actually imposed on a person.

(7) “Penalty per count” means the total of the stated penalties in a count for each act, transaction or occurrence in violation of the Florida Disposition of Unclaimed Property Act, Chapter 717, F.S.

(8) “Registrant” means a person who has satisfied the requirements of Section 717.1400, F.S., and whose registration is active.

(9) “Stated penalty” means the penalty set forth in Rule 69I-20.075 or 69I-20.076, F.A.C., for each act, transaction or occurrence in violation of the Florida Disposition of Unclaimed Property Act, Chapter 717, F.S.

(10) “Total penalty” refers to the sum of the penalties for each count.

Specific Authority 717.138 FS. Law Implemented 717.101, 717.102, 717.103, 717.1035, 717.104, 717.1045, 717.105, 717.106, 717.107, 717.1071, 717.108, 717.109, 717.1101, 717.111, 717.112, 717.113, 717.115, 717.116, 717.117, 717.119, 717.124, 717.12404, 717.12405, 717.1261, 717.1262, 717.1301(1), 717.1311, 717.1315, 717.132, 717.1322, 717.1323, 717.134, 717.1341, 717.135, 717.1351, 717.1381, 717.1400 FS. History–New 1-3-05

69I-20.073 Calculating Penalty.

(1) Penalty Per Count. The Department is authorized to find that grounds exist under Section 717.1322, F.S., for disciplinary action based upon a single act, transaction or occurrence of misconduct by a person. “Penalty per count” means the total of the stated penalties in a count for each act, transaction or occurrence in violation of the Florida Disposition of Unclaimed Property Act, Chapter 717, F.S.

(2) Total Penalty. Each penalty per count shall be added together and the sum shall be referred to as the “total penalty”.

(3) Final Penalty. The final penalty means the penalty which will be imposed against a person under these rules, as adjusted to take into consideration aggravating or mitigating factors, if any.

Specific Authority 717.138 FS. Law Implemented 717.101, 717.102, 717.103, 717.1035, 717.104, 717.1045, 717.105, 717.106, 717.107, 717.1071, 717.108, 717.109, 717.1101, 717.111, 717.112, 717.113, 717.115, 717.116, 717.117, 717.119, 717.124, 717.12404, 717.12405, 717.1261, 717.1262, 717.1301(1), 717.1311, 717.1315, 717.132, 717.1322, 717.1323, 717.134, 717.1341, 717.135, 717.1351, 717.1381, 717.1400 FS. History–New 1-3-05

69I-20.074 Prosecutorial Discretion.

(1) Stipulated Disposition. The provisions of this rule are intended and shall not be construed to limit the ability of the Department to informally dispose of

disciplinary actions by stipulation, agreed settlement or consent order whether or not the Department has initiated administrative charges.

(2) Cease and Desist Orders and Orders to take Corrective Action. This rule chapter shall not preclude the Department from initiating an administrative action against registered or unregistered individuals as authorized by Section 717.132, F.S.

(3) Collateral Actions. The provisions of this rule chapter are not intended and shall not be construed to limit the ability of the Department to pursue or recommend collateral, civil or criminal actions where appropriate.

Specific Authority 717.138 FS. Law Implemented 717.101, 717.102, 717.103, 717.1035, 717.104, 717.1045, 717.105, 717.106, 717.107, 717.1071, 717.108, 717.109, 717.1101, 717.111, 717.112, 717.113, 717.115, 717.116, 717.117, 717.119, 717.124, 717.12404, 717.12405, 717.1261, 717.1262, 717.1301(1), 717.1311, 717.1315, 717.132, 717.1322, 717.1323, 717.134, 717.1341, 717.135, 717.1351, 717.1381, 717.1400 FS. History–New 1-3-05

69I-20.075 Stated Penalty Guidelines for Violation of Sections 717.1322 and 717.1341, F.S., by Registrants.

(1) If it is found that a registrant has violated any of the following subsections of Section 717.1322, F.S., the following stated penalty guidelines shall apply for each act, transaction or occurrence. The penalty imposed within the range of penalties should be based upon the severity of the violation. It is the Florida Legislature's intent that minor violations be distinguished from serious violations.

(a) Section 717.1322(1)(a), F.S. – suspension of 6 months to revocation if the act is willful or with reckless disregard or deliberate ignorance of the truth, 1 to 2 months if the act is not willful or with reckless disregard or deliberate ignorance of the truth.

(b) Section 717.1322(1)(b), F.S. – suspension of 6 months to revocation.

(c) Section 717.1322(1)(c), F.S. – suspension of 6 months to revocation.

(d) Section 717.1322(1)(d), F.S. – suspension of 3 to 6 months.

(e) Section 717.1322(1)(e), F.S. – suspension of 3 to 6 months.

(f) Section 717.1322(1)(f), F.S. – suspension of 3 to 6 months if the act is willful, 1 to 2 months if the act is not willful.

(g) Section 717.1322(1)(g), F.S. – suspension of 3 months to revocation and a \$500 to \$1,000 fine per day of non-compliance.

(h) Section 717.1322(1)(h), F.S. – see Rule 69I-20.077, F.A.C.

(i) Section 717.1322(1)(i), F.S. – suspension of 3 to 6 months if the act is willful, 1 to 2 months if the act is not willful.

(j) Section 717.1322(1)(k), F.S. – suspension of 3 to 6 months and a \$500 to \$1,000 fine per day of non-compliance if the act is willful, 1 to 2 months suspension if the act is not willful.

(k) Section 717.1322(1)(l), F.S. – suspension of 12 to 24 months.

(l) Section 717.1341(3), F.S. – a fine equal to the value of the property for the first offense, a fine equal to twice the value of the property for the second offense, and a fine equal to three times the value of the property for the third and subsequent offenses.

(2) Any registrant that has an aggregate final penalty of suspension of more than 3 years shall have such person's registration revoked and shall be prohibited from being director, officer, agent, employee, or ultimate equitable owner of a 10% percent or greater interest in an employer of a registrant.

Specific Authority 717.138 FS. Law Implemented 717.101, 717.102, 717.103, 717.1035, 717.104, 717.1045, 717.105, 717.106, 717.107, 717.1071, 717.108, 717.109, 717.1101, 717.111, 717.112, 717.113, 717.115, 717.116, 717.117, 717.119, 717.124, 717.12404, 717.12405, 717.1261, 717.1262, 717.1301(1), 717.1311, 717.1315, 717.132, 717.1322, 717.1323, 717.134, 717.1341, 717.135, 717.1351, 717.1381, 717.1400 FS. History–New 1-3-05

69I-20.076 Stated Penalty Guidelines for Violation of Sections 717.1322 and 717.1341, F.S., by Persons who are not Registrants.

(1) If it is found that a person, who is not a registrant when the act was committed, has violated any of the following subsections of Section 717.1322, F.S., the following stated penalty guidelines shall apply for each act, transaction or occurrence.

The penalty imposed within the range of penalties should be based upon the severity of the violation. It is the Florida Legislature's intent that minor violations be distinguished from serious violations.

(a) Section 717.1322(1)(a), F.S. – fine of \$500 to \$1,000 if the act is willful or with reckless disregard or deliberate ignorance of the truth, \$100 to \$250 if the act is not willful or with reckless disregard or deliberate ignorance of the truth.

(b) Section 717.1322(1)(b), F.S. – fine of \$500 to \$2,000.

(c) Section 717.1322(1)(c), F.S. – fine of \$500 to \$2,000.

(d) Section 717.1322(1)(d), F.S. – fine of \$250 to \$750.

(e) Section 717.1322(1)(e), F.S. – fine of \$250 to \$750.

(f) Section 717.1322(1)(f), F.S. – fine of \$500 to \$1,000 if the act is willful, \$100 to \$250 if the act is not willful.

(g) Section 717.1322(1)(g), F.S. – \$500 to \$1,000 fine per day of non-compliance.

(h) Section 717.1322(1)(i), F.S. – fine of \$250 to \$750 if the act is willful, \$100 to \$250 if the act is not willful.

(i) Section 717.1322(1)(j), F.S. – fine of \$500 to \$1,000 if the person has committed the act for compensation or gain, or in the expectation of compensation or gain, a reprimand if the person has committed the act without the expectation of compensation or gain.

(j) Section 717.1322(1)(k), F.S. – fine of \$500 to \$1,000 fine per day of non-compliance if the act is willful, \$100 to \$250 if the act is not willful.

(k) Section 717.1322(1)(l), F.S. – fine of \$1,000 to \$2,000.

(l) Section 717.1341(3), F.S. – a fine equal to the value of the property for the first offense, a fine equal to twice the value of the property for the second offense, and a fine equal to three times the value of the property for the third and subsequent offenses.

(2) Any person that has an aggregate final penalty of more than \$5,000 shall be prohibited from being director, officer, agent, employee, or ultimate equitable owner of a 10% percent or greater interest in an employer of a registrant.

Specific Authority 717.138 FS. Law Implemented 717.101, 717.102, 717.103, 717.1035, 717.104, 717.1045, 717.105, 717.106, 717.107, 717.1071, 717.108, 717.109, 717.1101, 717.111, 717.112, 717.113, 717.115, 717.116, 717.117, 717.119, 717.124, 717.12404, 717.12405, 717.1261, 717.1262, 717.1301(1), 717.1311, 717.1315, 717.132, 717.1322, 717.1323, 717.134, 717.1341, 717.135, 717.1351, 717.1381, 717.1400 FS.

History–New 1-3-05

69I-20.077 Criminal Proceedings.

(1) If a person is found to have committed criminal conduct in the course of such persons business, in violation of Section 717.1322(1)(h), F.S., the following stated penalty shall apply:

(a) If a person is convicted by a court for committing a crime punishable by imprisonment of 1 year or more under the law of the United States of America or of any state thereof or under the law of any other country, the penalty shall be revocation, if the person is registered, and the entry of an order prohibiting

the person from being director, officer, agent, employee, or ultimate equitable owner of a 10% percent or greater interest in an employer of a registrant.

(b) If a person is not convicted of, but has been found guilty of or has pleaded guilty or nolo contendere to the commission of a crime punishable by imprisonment of 1 year or more under the law of the United States of America or of any state thereof or under the law of any other country, which involves moral turpitude and is a crime involving breach of trust or dishonesty, the penalty shall be revocation, if the person is registered, and the entry of an order prohibiting the person from being director, officer, agent, employee, or ultimate equitable owner of a 10% percent or greater interest in an employer of a registrant.

(c) If a person is not convicted of, but has been found guilty of or has pleaded guilty or nolo contendere to, a felony or a crime punishable by imprisonment of 1 year or more under the laws of the United States of America or of any state thereof or under the law of any other country, which does not involve moral turpitude and is not a crime involving breach of trust or dishonesty, the penalty shall be a 24 month suspension, if the person is registered, and the entry of an order prohibiting the person from being director, officer, agent, employee, or ultimate equitable owner of a 10% percent or greater interest in an employer of a registrant for a period of 24 months.

(2) Foreign Law Enforcement Records. In the event that a law enforcement record includes convictions, charges, or arrests outside the United States, the Department shall consider the following factors to reduce or eliminate the penalty:

(a) Whether the crime in the criminal record would be a crime under the laws of the United States or any state within the United States;

(b) The degree of penalty associated with the same or similar crimes in the United States; and

(c) The extent to which the foreign justice system provided safeguards similar to those provided criminal defendants under the Constitution of the United States.

Specific Authority 717.138 FS. Law Implemented 717.117, 717.119, 717.132, 717.1322, 717.134, 717.1341 FS.

History–New 1-3-05.

69I-20.078 Aggravating and Mitigating Factors.

(1) It is the Florida Legislature’s intent that minor violations be distinguished from serious violations. A specific finding of mitigating or aggravating circumstances shall allow the Department to impose a penalty other than that provided for in the stated penalty guidelines.

(2) The variation and range of penalties permitted are as follows:

(a)1. A suspension may be reduced to a fine equivalent to \$500 to \$1,000 for each month of suspension.

2. A total penalty dollar amount may be reduced by up to 50%.

3. A reduction of the penalty may only be done only once for each act, transaction or occurrence in violation of the Florida Disposition of Unclaimed Property Act, Chapter 717, F.S.

(b)1. A suspension of 2 years or more may be increased to a revocation.

2. The total dollar penalty amount may be increased by up to 50%; provided that the stated penalty dollar amount shall not exceed the maximum statutory amount for each act, transaction or occurrence.

3. An increase of the penalty may only be done only once for each act, transaction or occurrence in violation of the Florida Disposition of Unclaimed Property Act, Chapter 717, F.S.

(3) Aggravating and mitigating factors for penalties assessed under Rules 69I-20.075 and 69I-20.076, F.A.C., and Sections 717.117(3), 717.119(5)(c), and 717.134, F.S.:

- (a) Willfulness of person's conduct;
- (b) Degree of actual injury to victim;
- (c) Degree of potential injury to victim;
- (d) Age or capacity of victim;
- (e) Timely restitution;
- (f) Motivation of person;
- (g) Financial gain or loss to person;
- (h) Cooperation with the Department;
- (i) Related criminal charge; disposition;
- (j) Previous disciplinary orders or prior warning by the Department;
- (k) The amount of the claim involved;
- (l) The complexity of locating the owner;
- (m) The steps taken to ensure the accuracy of the claim by the person filing the claim;
- (n) The acts of commission and omission of the ultimate owners in establishing themselves as rightful owners of the funds;
- (o) The acts of commission or omission of the agent or employee of an employer in the filing of the claim;
- (p) The actual knowledge of the agent, employee, employer, or owner in the filing of the claim;
- (q) The departure, if any, by the agent or employee from the internal controls and procedures established by the employer with regard to the filing of a claim;

(r) The number of defective claims previously filed by the agent, employee, employer, or owner; and

(s) Other relevant factors.

(5) Aggravating and mitigating factors for penalties assessed under Rule 69I-20.077, F.A.C.:

(a) Number of years that have passed since criminal proceeding;

(b) Age of person at time the crime was committed;

(c) Whether the person served time in jail;

(d) Whether or not the person violated criminal probation;

(e) Whether or not the person is still on criminal probation;

(f) Whether or not the person's actions or behavior resulted in substantial injury to victim;

(g) Whether or not restitution was, or is being timely paid;

(h) Whether or not the person's civil rights have been restored; and

(i) Other relevant factors.

Specific Authority 717.138 FS. Law Implemented 717.101, 717.102, 717.103, 717.1035, 717.104, 717.1045, 717.105, 717.106, 717.107, 717.1071, 717.108, 717.109, 717.1101, 717.111, 717.112, 717.113, 717.115, 717.116, 717.117, 717.119, 717.124, 717.12404, 717.12405, 717.1261, 717.1262, 717.1301(1), 717.1311, 717.1315, 717.132, 717.1322, 717.1323, 717.134, 717.1341, 717.135, 717.1351, 717.1381, 717.1400 FS. History--New 1-3-05

69I-20.079 Time for Payment of Administrative Fines and Costs.

In disciplinary cases where the Department has imposed an administrative fine for violation of Florida Disposition of Unclaimed Property Act, Chapter 717, F.S., the fine shall be paid within 30 days of the filing date of the final order unless otherwise directed by the Department.

Specific Authority 717.138 FS. Law Implemented 717.101, 717.102, 717.103, 717.1035, 717.104, 717.1045, 717.105, 717.106, 717.107, 717.1071, 717.108, 717.109, 717.1101, 717.111, 717.112, 717.113, 717.115, 717.116, 717.117, 717.119, 717.124, 717.12404, 717.12405, 717.1261, 717.1262, 717.1301(1), 717.1311, 717.1315, 717.132, 717.1322, 717.1323, 717.134, 717.1341, 717.135, 717.1351, 717.1381, 717.1400 FS. History--New 1-3-05

69I-20.080 Minor Violations.

Pursuant to Section 717.1322, F.S., the Department sets forth below those minor violations for which there is no substantial threat to the public health, safety, and welfare. Next to each violation is the fine to be imposed.

(1) Section 717.1400(5)(a), F.S. – reprimand if the written notification of the termination of the agency or employment is no more than 30 days late and a \$50 fine for each successive 30-day period up to a maximum fine of \$2,000.

(2) Section 717.1400(5)(c), F.S. – reprimand if the copy of the renewed private investigator's Class "C" individual license under Chapter 493, F.S., or a private investigator's employer's Class "A" business license under Chapter 493, F.S., is provided to the Department no more than 30 days late and a \$50 fine for each successive 30-day period up to a maximum fine of \$2,000.

Specific Authority 717.138 FS. Law Implemented 717.1322, 717.1400 FS. History–New 1-3-05.