

BANKING AND INSURANCE QUARTERLY

Information for New Jersey's Banking, Insurance and Real Estate Industries

Summer 2007



Jon S. Corzine
Governor

Steven M. Goldman
Commissioner

Commissioner hosts symposium

NJ banking professionals discuss economic growth strategy

JAMESBURG – More than 200 individuals representing the New Jersey banking industry recently met during the 2007 Commissioner's Symposium to discuss recent market trends, regulatory changes, and the role of the financial services sector in growing the economy of the future.

“The regulatory structure of the dual banking system has continued to evolve through innovations in the financial services sector, to the point where we are increasingly seeing global compacts which create additional complexity in an already complicated regulatory framework,” said DOBI Commissioner Steven M. Goldman in the opening address.

The theme of the symposium, “Growing New Jersey's Economy,” was a central

focus of the presenters, which included representatives from the Federal Reserve in both Philadelphia and New York, the Federal Deposit Insurance Corporation (FDIC), and the Conference of State Bank Supervisors (CSBS).

The symposium was sponsored by CSBS and DOBI.

“Court rulings, international compacts, legislation, regulation, market forces – any single one of these factors can change the complexion of the financial services industry practically over night,” Goldman said. “Our ability to influence these factors, in many instances, is minimal. But by coming together with those knowledgeable in these fields, we can gain valuable insight on where things are going.”

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Letter from Commissioner
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REMINDER!

All Real Estate licenses
expired on
June 30, 2007

Renewal information
located on page 11



DOBI takes action against health insurer for alleged deception of small employers

TRENTON – The Department of Banking and Insurance (DOBI) has filed an administrative order alleging CIGNA HealthCare of New Jersey and an affiliate, Connecticut General Life Insurance Company, failed to properly notify 2,123 small businesses of their health plan options, instead steering them into products with substantially reduced benefits.

DOBI Commissioner Steven M. Goldman signed the order requiring CIGNA and CGLI to restore coverage and benefits to the degree they would have existed had employers been properly advised of options and plan choices, and pay a fine of \$500 per violation, for a total of \$2.123 million.

In 2006, CIGNA applied to DOBI to withdraw 35 optional benefit riders used with the standard health maintenance (HMO) plan. The application included a draft employer notice of non-renewal of the riders, along with a statement that CIGNA would continue to offer the state-mandated HMO plans. The actual notice sent to employers, however, deleted that notification.

Instead, DOBI alleges, CIGNA encouraged employers to enroll in a CGLI plan – but failed to explain a significant reduction in benefits. Most notable is that the CGLI plan limits home health services to 60 days per year and limits coverage of durable medical equipment to \$1,000 per year; the state-mandated plan does not limit coverage in either instance.

CIGNA and CGLI have 30 days to request an administrative hearing objecting to the order. If no hearing is requested, the order will then become final.

Territorial Rating Commission holds first public meeting

TRENTON – The Territorial Rating Commission recently held its first meeting to review data and take the first step toward redrawing auto insurance territory maps last updated a half-century ago.

Redrawing of the maps represents one of the final steps in the auto insurance reform process passed by the legislature in 1993.

“Motorists statewide have benefited from increased competition in the auto insurance market,” said DOBI Commissioner Steven M. Goldman. “Now it’s time to take this same competitive market to the urban areas, which ultimately will further stabilize the market statewide.”

Since 2003, New Jersey has seen a stabilization and decrease of auto insurance rates for the state’s motorists due to an increase in competition statewide. More than 75 percent of motorists have seen rate reductions or dividends totaling an estimated \$1 billion since 1993.

Redrawing of the territory rating maps is part of a two-pronged process that includes DOBI’s proposed TREE (Territorial Rating Equalization Exchange), the most recent initiative to achieve the long-term goal of a stable and sustainable auto insurance marketplace that can withstand the cyclical nature of the insurance industry.

The purpose of TREE is to establish a plan that creates an incentive for carriers to offer competitive rates to urban drivers, yet keeps suburban rates stable without market distortion.

“Ultimately, this will distribute the equalization system across the entire auto insurance industry and will improve accessibility and affordability in urban markets while allowing insurance underwriters to freely focus on the areas most compatible with their business plan,” Goldman said.



NAIC launches Insure U for Small Business

In April, the National Association of Insurance Commissioners (NAIC) launched a public education program to assist small businesses with information about business risks and insurance options. Under the banner of Insure U for Small Business, the campaign includes an online education site, public service announcements in English and Spanish, and community outreach by public information officers of state insurance departments. Commissioner Steven M. Goldman, front row, far right, along with other states’ insurance department representatives, participated in the launch at the New York Public Library.

For more information, visit www.insureonline.org/smallbusiness/

Photo courtesy of NAIC

Electronic health records collaborative moves forward

The second phase of the Health Information Security and Privacy Collaboration (HISPC) is underway. HISPC, which began in early 2005, is an in-depth study of how the quality of patient health care can be substantially increased with the use of electronic health records. Numerous studies have shown that rapid access to personal health information reduces dangerous drug interactions; assists physicians in making proper diagnosis and treatment decisions; improves outcomes in the care of chronic illnesses; improves medical care efficiencies; reduces costs; and lessens the incidence of unnecessary and redundant tests.

The collaboration's purpose is to recommend ways to protect personal health information privacy while leveraging the medical advantages of electronic health data technology. HISPC completed its work on the first phase on April 30, 2007. Thirty-three states and one territory participated in a federally-sponsored study of privacy and security of patient health records and the use of electronic health records. The Final Implementation Plan Report was filed with representatives of the U.S. Secretary of Health and Human Services.



The work of DOBI and NJ-HISPC is laying the foundation for a private and secure electronic health care records system.

NJ-HISPC is a cooperative collaboration of several departments in state government. The Department of Banking and Insurance (DOBI) was the lead agency and was supported by the Departments of Health and Senior Services, Human Services, Military and Veterans Affairs, the State's Professional Boards, and other entities. Furthermore, Rutgers University, Center for State Health Policy and Thomas Edison State College provided professional assistance on the acquisition and assembly of data.

In addition, many corporate and private citizens served in a voluntary advisory capacity providing details on best practices, critical analysis of the data, organizing information and drafting reports. Their work was an invaluable resource and a key factor in the achievements made in the first phase of this collaborative.

As a result, the project managers of the thirty-four HISPC participating entities were designated as the National HISPC. This group is charged with the responsibility to implement the findings and recommendations that were submitted in the Final Implementation Plans submitted by the State HISPCs. Interim federal funding has been provided for May and June 2007 and NJ-HISPC is in the process of submitting further contract proposals which will cover funding for the implementation activities from July 1, 2007 to December 31, 2007.

Specifically, NJ-HISPC will seek to develop an educational presentation on the value of electronic health records and to help clear up many misunderstandings regarding the application of the privacy and security laws and regulations. After the educational package, syllabus and PowerPoint are developed, representatives of the DOBI speakers bureau will make electronic health record presentations to health care providers, civic groups and consumers. Thomas Edison State College is expected to participate in this effort and may be able to award continuing education credits.

NJ-HISPC also has launched an effort with New York State and New York City to develop an electronic health care record for Medicaid children pursuant to a Medicaid Transformation Grant received at the New Jersey Department of Human Services. New Jersey and New York will also endeavor to merge their public health registries to better serve consumers and to assist public health authorities in the event of a major crisis such as a bioterrorist event or pandemic.

The work of DOBI and NJ-HISPC is laying the foundation for a private and secure electronic health care records system. The collaboration's goal continues to be to improve access to quality health care for all New Jersey citizens. The HISPC effort is part of Governor Jon S. Corzine's plan to improve the quality and efficiency of the health delivery system in this state.

The HISPC phase one interim and final reports and other related resource information can be found at: www.state.nj.us/dobi/njhisp.html. Volunteers interested in contributing to New Jersey's second phase of the HISPC collaborative should contact William O'Byrne, coordinator, NJ e-Health Information Technology Development at 609-292-5316, ext. 50032 or e-mail: wobyrne@dobi.state.nj.us.

Health claims binding arbitration program ramps up

This summer, the Department of Banking and Insurance rolled out a new health claims binding arbitration program for doctors, hospitals and other medical service and equipment providers. The Program for Independent Claims Payment Arbitration (PICPA) began accepting applications last month and is operated for the Department by Maximus, Inc., based in Reston, Va. Maximus received the contract last March through a competitive bidding process handled by the Department of Treasury.

In June, parties with claims eligible for arbitration began submitting

applications. The arbitration cost is \$180 per claim for each party, including a \$50 initial review fee, with higher review and arbitration fees applying where the disputed amount of aggregated claims totals \$2,000 or higher.

Claims from health care services on or after July 11, 2006, are eligible for PICPA if certain criteria are met, including an amount in dispute that is more than \$1,000 and the provider has appealed the claim to the carrier. The provider must submit the application within 90 days following the carrier's adverse decision on the claim appeal

or when the carrier's claim appeal decision was due. Maximus is expected to render a decision on the case within 30 days following receipt of required documentation.

The arbitration program is part of the Health Claims Authorization, Processing and Payment Act (HCAPPA), which went into effect on July 11, 2006. The Act permits health care providers to request arbitration of one or more claims after exhausting the internal appeal with the carrier. Further information regarding the PICPA program may be found on the Department's web site, www.njdoji.org.

Hurricane season prompts DOBI to encourage homeowner's policy reviews

The Department of Banking and Insurance is urging all insurance agents to remind their clients of the need for a thorough seasonal review of their homeowner's policy, especially those living on barrier islands, along coastal waterways or in areas previously flooded.

The official arrival of hurricane season began on June 1, and was preceded by a named subtropical storm, Andrea. Forecasters predict this hurricane season, which lasts until Nov. 30, could produce between seven and 10 hurricanes in the Atlantic Ocean and Gulf of Mexico. Forecasters project three to five of those in the strong category.

Proactive communications with policyholders can avoid misunderstandings and surprises between insurance professionals and their insureds. Homeowners and businesses should be reminded to secure copies of their insurance policies and review them, and to make certain that they have contact information for their insurers or agents.

Homeowners should also be reminded that standard homeowner policies do not cover property damage caused by flooding, and if they are located in an area where flooding is a threat, that the National Flood Insurance Program (www.floodsmart.gov) handles this coverage.



Forecasters predict this hurricane season, which lasts until Nov. 30, could produce between seven to 10 hurricanes in the Atlantic Ocean and Gulf of Mexico.

Agents may also want to take this opportunity to remind policyholders of their responsibilities in the event they suffer a loss, such as:

- Notify appropriate authorities;
- Immediately report any insured damage to their insurance company;
- Preserve and protect damaged property, and mitigate against any additional loss, and;
- Determine the extent of damage and/or items lost and submit a copy to their insurer.

If your company offers a loss mitigation plan, you may also want to encourage clients to take advantage of the program, especially policyholders in certain coastal areas.

Recent Legislative and Regulatory Actions

(Division of Insurance)

Proposals – Online at www.state.nj.us/dobi/proposed.htm

Personal Lines: Rate Filing Review Procedures

Proposed New Rules: N.J.A.C. 11:1-2A

Private Passenger Automobile Insurance: Rate Filing Review Procedures

Proposed Amendments: N.J.A.C. 11:3-18

Loss Reserve Opinions

Proposed Repeal and New Rules: N.J.A.C. 11:1-21

Adoptions – Online at www.state.nj.us/dobi/adopt.htm

Persons Employed in the Business of Insurance

Convicted Persons; Waivers

Adopted Amendments: N.J.A.C. 11:17E-1.4 and 1.5 and 11:17E Appendix Exhibits A and B

Filings: Property and Casualty

Filing of Rates, Manual Rules, Rating Plans, Policy Forms and Endorsements

Adopted Amendments: N.J.A.C. 11:1-2.2 and 2.6 and 11:1-2 Appendix; 11:2-42.3 and 11:2-42 Appendix Exhibit A; 11:3-16.3 and 16.6 and 11:13-2.5

Adopted Repeal: N.J.A.C. 11:1-2 Appendix Exhibit A

Joint Insurance Funds for Local Governmental Units Providing Property and Liability Coverages

Adopted Amendment: N.J.A.C. 11:15-2.6

UCJF's Reimbursement of Excess Medical Expense Benefits Paid by Insurers

Adopted Amendment: N.J.A.C. 11:3-28.7

Joint Insurance Funds for Local Governmental Units Providing Property and Liability Coverages

Refund: Interyear Fund Transfers

Adopted Amendment: N.J.A.C. 11:15-2.21

Legal Insurance

Readoption: N.J.A.C. 11:12

Orders – Online at www.state.nj.us/dobi/lrorders.htm

Order No. A07-105 – In the Matter of the Biennial Reporting of Rate Modifiers by Medical Malpractice Liability Insurers Transacting Business in this State

Order No. A07-106 – In the Matter of the Reporting of Renewal Premiums by Medical Malpractice Liability Insurers Transacting Business in this State

Order No. A07-109 – In the Matter of the 2006 Annual Public Hearing Regarding N.J.A.C. 11:1-34 The Surplus Lines Exportable List

Bulletins – Online at www.state.nj.us/dobi/bulletin.shtml

Bulletin No. 07-04 – Civil Unions (P.L. 2006, c. 103)

Bulletin No. 07-06 – Re: Producer Appointment Process

Bulletin 07-07 – Amendments to the HINT Forms

Bulletin No. 07-08 – Individual Life Insurance and Annuity Form Filings

Bulletin No. 07-09 – Voluntary Written Exposure and Primary Classification Data

Public Notices – Online at www.state.nj.us/dobi/lrnotice.htm

Notice of Extension of Public Comment Period – Health Benefit Plans – Minimum Standards for Network-Based Health Benefit Plans

Public Notice – Medical Malpractice Liability Insurance Premium Assistance Fund – Premium Subsidy for 2006

Minimum Net Worth Requirements for Health Maintenance Organizations – Notice of Increase in Medical Component of the Consumer Price Index

Minimum Net Worth Requirements for Organized Delivery Systems – Notice of Increase in Medical Component of the Consumer Price Index

Public Notice – List of Unauthorized Insurers Which Qualify as Eligible New Jersey Surplus Lines Insurers

For more information regarding legislative and regulatory affairs, visit www.state.nj.us/dobi/legsregs.htm

Recent Enforcement Actions

(Division of Insurance)

Final and Miscellaneous Orders

Victor Pastor, Hillside, NJ – Order Suspending Producer License and Mortgage Solicitor Registration Pending Completion of Administrative Proceedings, #E07-15, February 26, 2007; the insurance producer license and mortgage solicitor registration held by Pastor are immediately suspended and Pastor shall not engage in the business of insurance in any capacity pending completion of administrative proceedings and entry of a Final Order.

Thomas Dobrek, Bordentown, NJ; **Mr. Lucky Bail Bonds, Inc.**, Gretna, LA – Final Decision and Order #E07-26, March 26, 2007; Amended Order to Show Cause #E04-56, April 21, 2006; charged respondents with issuing a \$35,000 check for payment of a court-ordered bail bond forfeiture judgment that was dishonored for lack of sufficient funds; accepting premium payments but failing to obtain or post bail bonds; collecting bail bond premiums that were excessive, inadequate or unfairly discriminatory; misappropriating or converting for their own use a \$10,000 collateral payment; and that in 2005 Dobrek made misrepresentations in a producer application submitted to an insurer. Counts 1 and 2 of the Order to Show Cause (issuing dishonored \$35,000 check and accepting premium but failing to post bail bonds) were dismissed. The remaining charges were proven. **Sanctions:** Revocation of Dobrek's producer license and the limited registrations of Dobrek and Mr. Lucky Bail Bonds; Restitution – \$18,301; Fines – \$20,000; Costs – \$1,175.

CIGNA HealthCare of New Jersey; Connecticut General Life Insurance Company – Order Directing Remediation and Assessing Penalties #A07-34, April 25, 2007; CIGNA began to nonrenew optional benefit riders regarding small employer plans starting July 1, 2006, but the notices issued to employers differed from the specimen notice approved by the Department; CGLI and CIGNA provided small employer groups that were affected by the rider withdrawal with information encouraging them to select a CGLI PPO plan, but failed to disclose the availability of a CIGNA HMO or HMO POS plan and did not explain the significant differences in benefits between the standard small employer HMO and HMO POS plans that were issued by CIGNA and the small employer PPO plans offered by CGLI; CGLI was required to make its PPO plan available without restrictive riders, but failed to do so in many cases; CIGNA had 1,332 small employer HMO and HMO POS contracts in force as of June 30, 2006, which employers were advised that they only had the option to renew into CGLI, and in addition, as of March 26, 2007, CGLI offered and issued CGLI PPO plans containing restrictive riders to approximately 791 new small employer groups. Order #A07-34 requests remedial relief to restore coverages and benefits to approximately the degree that would have likely existed had CIGNA and CGLI properly made available to employers required options and plan choices. **Proposed sanction:** \$2,123,000 fine.

Orders to Show Cause

F. Roger Strandskov, Towaco, NJ; **Eastern Insurance Agency, Inc.**, Towaco, NJ – Order To Show Cause #E07-10, January 31, 2007; Strandskov is charged with unworthiness for licensure as a result of his conviction of the second degree crime of Theft-Illegal Retention for which he was sentenced to imprisonment and payment of restitution totaling \$610,849.04; each act of misappropriation underlying the criminal conviction, which acts pertain to premium owed to insurers, constitutes a separate administrative violation by Strandskov and his agency, Eastern.

Related Action: Order Suspending Respondent Strandskov's License Pending Completion of Administrative Proceedings #E07-11, January 31, 2007.

Joshua Paul Novello, Clark, NJ – Order to Show Cause #E07-20, March 13, 2007; producer is charged with issuing a check to the Department for payment of a licensing fee which was dishonored for insufficient funds and failing to replace this check; and failing to respond to the Department's written inquiry.

Marva S. Ransom, Newark, NJ – Order to Show Cause #E07-18, March 5, 2007; producer is charged with issuing a check to the Department for payment of a license renewal fee which was dishonored for insufficient funds and failing to replace this check; failing to respond to a Department telephone inquiry; and failing to respond to a Department written inquiry.

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Recent Enforcement Actions

(Division of Insurance)

Robert Stone, Camden, NJ – Order to Show Cause #E07-22, March 13, 2007; producer is charged with failing to disburse \$20,415.33 received from a premium finance company to insurers; demonstrating lack of fitness for licensure by reason of this conviction of theft by failure to make required disposition of property; and failing to timely notify the Department of his indictment.

Charles D. Edwards, New Brunswick, NJ; **On Top Bail Bonds**, New Brunswick, NJ; **Renita Thomas**, North Brunswick, NJ – Order to Show Cause #E07-31, April 16, 2007; respondents are charged with permitting Renita Thomas to transact the business of insurance without a license; accepting monies for a bail bond but neither remitting the premium money in a timely manner nor returning the money to the customer in a timely manner; and (Edwards) providing false and misleading information to Department investigators regarding the procurement of the bail bond and the unlicensed activity of Thomas.

Beatriz V. Montesinos, Paterson, NJ; **Premier Agency, Inc.**, Paterson, NJ – Order to Show Cause #E07-32, April 17, 2007; producers are charged with collecting fees without a proper fee agreement and in excess of the maximum allowed fee for insurance brokers or consultants; failing to issue receipts or issuing nonconforming receipts; depositing and maintaining premium funds received from clients in an account that was not a dedicated premium trust account; failing to maintain accurate books and records reflecting all insurance-related transactions and failing to maintain a register containing the minimum required information regarding all monies received, deposited, disbursed or withdrawn in connection with insurance transactions; and failing to notify the Department of the change in Montesinos' business address.

United HealthCare Insurance Company, Hartford CT – Order to Show Cause #E07-28, April 10, 2007; insurer is charged with the following: issuing and publishing "New Jersey Protocols on the use of Non-Participating Laboratory Services" which includes the announcement of sanctions that may be imposed against participating physicians if the doctors make what United deems are inappropriate referrals to out-of-network (OON) laboratories; the possible imposition of such sanctions effectively restricts OON benefits and constitutes an unfair claim settlement practice; and engaging in an unfair trade practice by failing to inform its members about the existence and operation of the physician sanctions, which may affect members' benefits, quality of care, and health care plan choice.

Consent Orders

Frederick Scott Addis, King of Prussia, PA; **The Addis Group, LLC**, King of Prussia, PA – Consent Order #E07-14, February 22, 2007; Producers charged fees to two clients without obtaining written agreements. **Sanction:** Fine – \$10,000.

Joseph Pettit, Yorktown Heights, NY; **National Association of Residential Real Estate Professionals**, Fort Valley, GA – Consent Order #E07-13, February 20, 2007; NARREP secured surplus lines insurance coverage without utilizing a New Jersey insurance producer having surplus lines authority; and Pettit submitted numerous courtesy filings on behalf of NARREP, a risk purchasing group lacking surplus lines authority. **Sanction:** Fine – \$19,400 (\$9,700 each – Pettit and NARREP).

Michael J. Delisi, Brick, NJ; **Anton Adjustment Co.-NJ, Inc.**, Orange, NJ – Consent Order #E07-16, March 5, 2007; public adjusters misappropriated, converted or illegally withheld a client's \$14,268.77 insurance settlement claim payment; and failed to timely notify the Department of Delisi's indictment. **Sanctions:** Revocation of licenses; Fine – \$5,000; Costs – \$500.

Health Net of New Jersey, Inc., Shelton, CT – Consent Order #E07-25, March 15, 2007; Health Net misrepresented to the Department that it wished to implement a proposed repricing methodology which, in fact, had already been put to use; Health Net's use of the repricing methodology violated small group regulations and was not in accordance with the provision of its large group contracts approved prior to April 2005; Health Net violated the terms of its small group contracts by failing to cover a 96-hour supply of certain prescription drugs; Health Net's protocols from May 2005 to September 2006 failed to provide coverage for one or more therapies appropriate to treat children with autism/pervasive developmental disorder, and in instances Health Net denied coverage, in violation of the biologically-based mental illness mandate; Health Net tiered reimbursement for certain out-of-network mental health benefits based on the professional designation of the provider which violated small group rules and which was not in

Recent Enforcement Actions

(Division of Insurance)

accordance with its large group contracts approved prior to April 2005; and Health Net failed to timely file with the Department the administrative services agreement between it and Health Net of the Northeast, Inc. (its parent) covering administrative, consulting and other support services. Remediation is being made to adversely affected members or medical providers. **Sanction:** Fine – \$400,000.

Sherry A. Kakol, Bridgeton, NJ – Consent Order #E07-17, March 5, 2007; Producer collected \$4,742.36 in premium payments, but failed to remit those payments to her employer. **Sanctions:** Revocation of license; Fine – \$2,500.

Sandra M. Meehan, Monroe, NJ – Consent Order #E07-24, March 13, 2007; Producer issued a check to the Department for payment of a license renewal fee which was dishonored for insufficient funds; and failed to timely notify the Department of her change of home address. **Sanction:** Fine – \$750.

Princeton Insurance Company, Princeton, NJ – Consent Order #E07-21, March 13, 2007; Beginning in April 2006, Princeton began nonrenewing and conditionally renewing a block of business consisting of approximately 60 policies insured under its POP problem (policies insured with properties having values in excess of \$1M) without having first submitted a block nonrenewal plan to the Department. **Sanction:** Fine – \$5,000.

Abraham H. Teitelbaum, Lakewood, NJ; **Quick Title Search, LLC**, Lakewood, NJ – Consent Order #E07-23, March 13, 2007; producers permitted an unlicensed employee to transact title insurance business; they permitted that employee to offer unlawful inducements (free theater tickets and limo services); and failed to timely notify the Department of the replacement of its designated responsible licensed producer. **Sanction:** Fine – \$3,250 (allocated \$2,250 to Quick Title Search and \$1,000 to Teitelbaum).

Laurence K. Bowser, Somerville, NJ; **State Title Group, Inc.**, Somerville, NJ – Consent Order #E07-29, April 11, 2007; Producers transferred title business to New Jersey Title, which business had been solicited or negotiated while State Title Group had been acting as an agent for Lawyers Title; and failed in numerous instances to timely deliver title policies to insureds. **Sanction:** Fine – \$25,000.

Rosie M. Chou, Flushing, NY – Consent Order #E07-38, April 30, 2007; Producer failed to timely renew her license and transacted the business of insurance during the time her license was not active. **Sanction:** Fine – \$500.

Nelson Gonzalez, Perth Amboy, NJ – Consent Order #E07-37, April 30, 2007; Producer's actions demonstrated incompetence and unworthiness, in that Gonzalez acted in an abrasive, unprofessional and improper manner while appearing at a municipal lock-up to post bail and refused to leave when ordered to do so; he was therefore arrested at the lock-up, and subsequently was found guilty of a violation of a township ordinance (interference with a police officer). **Sanctions:** Fine – \$2,500; Costs – \$500.

Joan M. Merola, East Brunswick, NJ; **John P. Merola**, East Brunswick, NJ – Consent Order #E07-30, April 16, 2007; Despite having his license revoked, John Merola held himself out to be and acted as a public adjuster, and Joan Merola aided and abetted in his activities. **Sanctions:** Revocation of license – Joan Merola; Fine – \$15,000.

United HealthCare Insurance Company, Hartford CT; **United Healthcare of New Jersey, Inc.**, Trumbull CT – Consent Order #E07-36, April 30, 2007, United advised large group contract members who requested predetermination of infertility procedures involving an egg donor that the expenses were not covered, when in fact the procedures fell within the infertility mandate. (United did cover other necessary infertility procedures for the same members.) **Sanction:** Fine – \$25,000.

Matters Resolved without Determination of Violation

Khuyen Pham, Consent Order #E07-27, March 27, 2007; Issue: licensee address information; **Administrative sanction** – \$250.

Jayanti C. Solanki; Consent Order #E07-35, April 26, 2007; Issue: licensee address information; **Administrative sanction** – \$250.

For more insurance enforcement actions, visit www.state.nj.us/dobi/insfines.htm

Department takes action against subprime mortgage lenders

TRENTON – Growing concern regarding subprime lending in New Jersey has resulted in the filing of orders against five mortgage lending firms by the Department of Banking and Insurance.

DOBI Commissioner Steven M. Goldman signed legal orders prohibiting four subprime lenders from doing business in the Garden State – four of those firms based on their inability to fulfill existing obligations to lenders.

The documents name LoanCity, Inc., based in San Jose, Calif.; Southstar Funding, LLC., of Atlanta, Ga.; New Century Mortgage Corp., Irvine, Calif.; and Home123, a New Century affiliate also based in Irvine. The cease and desist orders and orders to show cause demand that the companies immediately stop taking loan applications, stop closing loans that they are unable to fund, and present evidence as to why the New Jersey licenses of the entities should not be revoked.

DOBI learned that both companies have lost financial backing and are unable to fulfill existing loan obligations already in process, thus necessitating the need for action. The department is still in the process of determining how many loan applicants have been affected.

“To protect the interests of these consumers and to prevent others from falling into similar situations, it is necessary to take quick and immediate action via the legal system,” Goldman said.

Although unrelated to nationwide disruptions in the subprime market, DOBI also filed a cease and desist order naming Dana Capital Group of Irvine, Calif., following the discovery of nearly 400 violations by examiners. Alleged violations included failure to license branch offices, failure to license other retail offices, utilizing the services of unlicensed loan solicitors, collecting fees from applicants without disclosing the nature of those fees, and charging fees not allowed under New Jersey law.

The DOBI order requires Dana Capital to properly license all solicitors and offices, and refund all inappropriate fees. In addition, the company is asked to present evidence as to why the company’s New Jersey license should not be revoked, and to pay fines for the alleged violations.

In light of recent developments in the mortgage lending market, Goldman said the department is currently working with the legislature and industry trade groups to determine if a more extensive licensing procedure is warranted for certain aspects of the mortgage lending industry.

Additional information will be posted on the DOBI web site as it becomes available at www.state.nj.us/dobi/. Individuals with questions regarding a loan pending with any of these companies may call the **DOBI Consumer Hotline at (609) 984-2777**.

Recent Legislative and Regulatory Actions

(Division of Banking)

Proposals – www.state.nj.us/dobi/proposed.htm

Audit Requirements: Proposed Readoption with Amendments: N.J.A.C. 3:29

Adoptions – www.state.nj.us/dobi/adopt.htm

Qualified Educational Institutions: Readoption with Amendment:
N.J.A.C. 3:35

Bulletins – www.state.nj.us/dobi/bulletin.shtml

Bulletin 07-05 – Application of Parity as to Bank Stock Option Plans for Directors, Officers and Employees

Recent Enforcement Actions

(Division of Banking – Office of Depositories)

Institution: United Roosevelt Savings Bank

Type of Action: Cease and Desist Order issued jointly with the Federal Deposit Insurance Corporation (FDIC)

Effective Date: March 7, 2007

The Order was issued as a result of weaknesses noted in the bank’s Bank Secrecy Act/Anti-Money Laundering Program.

Financial Literacy Program Grows

This past April, more New Jersey high school students learned how to properly handle their personal finances as the Department of Banking and Insurance led its latest round of financial literacy classes, expanding on a successful program held last fall.

So far, more than 200 schools from 21 counties participated in the statewide program. The goal is to promote and improve financial literacy and understanding among young adults in New Jersey. The program focuses on using credit wisely and avoiding financial predators, as well as fundamental issues like opening a bank account and check writing.



Financial industry personnel partnered with the Department to make 45-minute presentations to high school classes. Joining DOBI personnel were 48 representatives from partner organizations including the NJ Department of Education; NJ Bankers Association; NJ League of Community Bankers; Mortgage Bankers Association of NJ; NJ Credit Union League; Federal Deposit Insurance Corporation; NJ Financial Literacy Awareness Network; and NJ Coalition for Financial Education.

With the completion of the second series of this continuing outreach program, DOBI and its partners have taught more than 9,100 students. Feedback from educators and students was positive. “The students enjoyed your enthusiasm and the practical information presented to them,” wrote a Morris County teacher. “You covered topics they will always use. Their response after you left indicated how much they enjoyed your presentation. Thank you again for supporting our young students as they enter the ‘real world.’ ”

The number of students reached is expected to top 10,000 by the end of this year. The program’s third installment is slated for this October.

Recent Enforcement Actions (Division of Banking – Office of Consumer Finance)

The Office of Consumer Finance (OCF) recently issued several administrative cease and desist orders relating to the turmoil in the subprime mortgage loan market.

On March 13, cease and desist orders were issued to **New Century Mortgage Corporation** and its affiliate **Home123 Corporation**, of Irvine, Calif. Both companies had already shut their doors to new applications. State regulators around the country worked with the companies to determine the extent of application pipeline problems, and to remedy them. Brokers and trade groups, including the New Jersey Mortgage Brokers Association, provided critical help for consumers stranded in the pipeline. In New Jersey, all pipeline consumers were provided with alternate funders before the companies petitioned for bankruptcy. In April, both companies entered into Consent Orders with the Department, entailing the surrender of their licenses.

On April 13, cease and desist orders were issued to New Jersey-based **LoanCity** and Atlanta-based **Southstar**, two licensed lenders also caught in the funding fallout from subprime market troubles. Southstar has since surrendered its licenses. LoanCity has not. A final order revoking its licenses will be forthcoming.

On April 18, a cease and desist order was issued to **Dana Capital Group, Inc.**, also based in Irvine. This order did not require the total and immediate shut down of operations, but rather targeted a range of repeated activities conducted in violation of New Jersey laws and regulations. Chief among the violations were the massive use of unlicensed, “net” branch offices and unregistered mortgage solicitors, and the charging of numerous fees not permitted by New Jersey law. The order required an immediate halt to all business conducted outside of compliance, refunds of the impermissible fees, and also required Dana to show cause why its licenses should not be revoked for such conduct. Dana shut its doors to new applications on April 30, and has recently stated that it is beginning a process of “dissolution,” purportedly a California State law alternative to the protections normally afforded by a petition for bankruptcy. As of this writing, the cease and desist order remains in place, and State regulators around the country will be dealing with the company and the consequences of its failure for some time to come.

The OCF, together with the American Association of Residential Mortgage Regulators, and other state regulators, continues to closely monitor a number of other troubled licensed lenders.

On a different front, the OCF has been developing new forms of notices and orders to enforce the annual report submission requirements as provided in the new dedicated funding law, P.L. 2005, c. 199, and in amendments thereto recently signed into law, at P.L. 2007, c. 81. **The OCF will soon be issuing such notices and orders as may be necessary to enforce compliance with the annual report submission requirements.**

Recent Enforcement Actions

(New Jersey Real Estate Commission)

Hyun Pak, broker, Monmouth County – On April 17, 2007, the Real Estate Commission revoked Mr. Pak’s broker’s license and imposed a \$5,000 fine. Mr. Pak was found guilty of two violations of N.J.S.A. 45:15-17(e) for failing to cooperate with the Commission in the performance of its duties; in failing to comply with a subpoena issued by the Commission compelling the production of documents in the course of an investigation; and threatening conduct towards a Commission investigator. The Commission also ordered that all office signage for Green Point Realty be removed and Mr. Pak must cease and desist from representing himself as a real estate broker.

Jacqueline Thompson, salesperson, Camden County – On April 3, 2007, the Commission found Ms. Thompson guilty of a violation of N.J.S.A. 45:15-17(d), by failing to account for or to pay over monies belonging to others coming into her possession as a real estate licensee, N.J.S.A. 45:15-1, unlicensed activity, N.J.S.A. 45:15-17(e) (incompetency), and N.J.S.A. 45:15-16 because she accepted valuable compensation from someone other than her employing broker. Ms. Thompson, while licensed as a real salesperson, was also a principal in J&N Investment Co. and accepted funds from a consumer for the purpose of assisting him in obtaining investment properties. The funds were returned after the Commission investigation. The Commission revoked Ms. Thompson’s license for a period of three months, imposed a fine of \$500, ordered her to cease and desist from engaging in the real estate brokerage business through J&N Investment Co. and required Ms. Thompson to re-take the salesperson’s education course.

Michael T. Quinn, broker, Morris County – On March 27, 2007, the Commission approved a proposed settlement in which Michael Quinn agreed to a \$1,500 fine. Mr. Quinn admitted to violating N.J.S.A. 45:15-13 in that he failed to notify the Commission of his change of office address, N.J.A.C. 11:6.1(a)(2) in that he failed to display on the exterior of his maintained place of business his name and the words, “Licensed Real Estate Broker,” and N.J.A.C. 11:5-4.1 in that he failed to produce a signed employment agreement for a licensee who worked in his office.

Daniel Riggsbee, salesperson, Hudson County – On March 20, 2007, the Real Estate Commission revoked the salesperson’s license of Daniel Riggsbee for a period of five years and imposed a fine of \$5,000. Mr. Riggsbee was found guilty of violating N.J.S.A. 45:15-17(d), N.J.S.A. 45:15-17(o), N.J.S.A. 45:15-17(e), N.J.S.A. 45:15-17(l), N.J.S.A. 45:15-17(m), N.J.A.C. 11:5-5.1 and N.J.S.A. 11:5-6.4. Mr. Riggsbee admitted that he did not turn over broker’s fee funds coming into his possession to his employing broker, Empire Realty Group. Instead, Mr. Riggsbee deposited the funds into his own personal account and spent the monies. The broker of Empire Realty Group has reimbursed the complainants. Any reinstatement application with the Commission is contingent upon Mr. Riggsbee refunding his broker.

Michael Conenna, salesperson, Atlantic County – On Jan. 9, 2007, the Real Estate Commission revoked Michael Conenna’s real estate salesperson’s license until Oct. 8, 2009, and found Mr. Conenna guilty of N.J.S.A. 45:15-19.1, N.J.S.A. 45:15-17(e), unworthiness, dishonesty and bad faith, and N.J.S.A. 45:15-17(l), fraud and dishonest dealing. Any reapplication subsequent to that date will be subject to the Rehabilitated Convicted Offenders Act and any other applicable laws. On Oct. 8, 2004, Mr. Conenna pled guilty in federal court to various health care fraud, mail fraud and marriage fraud offenses. He was sentenced to three years probation and required to make restitution.

Schedule of Final Renewal Notice

Second Supplemental renewal notice to be mailed: **July 23, 2007**

Requested return date: **Aug. 17, 2007**

Deadline: Postmarked by **Aug. 27, 2007**

(Please note late fee schedule below)

License Renewal fees:

Corporation – \$200
 Partnership – \$200
 Sole Proprietorship – \$200
 Limited Liability Company – \$200
 Broker-of-Record – \$200
 Broker-Salesperson – \$200
 Salesperson – \$100
 Branch Office – \$100

Late fees are as follows:

Corporations/Partnership/Sole Proprietorship/Limited Liability Company – \$40
 Broker-of-Record – \$40
 Broker-Salesperson – \$20
 Salesperson – \$20

Remember: On all renewal notices postmarked after their deadline, the Real Estate Commission’s records will reflect a break in licensure between June 30, 2007, and the date the renewal is received. By law, you cannot sue for compensation earned unless you can prove that you were duly licensed when the alleged cause of action arose. Furthermore, you are subject to fines by this Commission if you engage in the brokerage business at a time when you were not licensed to do so. The fines may range up to \$5,000 for the first violation and up to \$10,000 for subsequent violations.



New Jersey Department of Banking and Insurance
 Banking and Insurance Quarterly
 Office of Public Affairs
 PO Box 325
 Trenton, NJ 08625-0325
 Jon S. Corzine, Governor
 Steven M. Goldman, Commissioner

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New Jersey Department of Banking and Insurance

BANKING AND INSURANCE QUARTERLY

A Letter from Commissioner Steven M. Goldman



Goldman

I recently had the privilege of hosting the 2007 Commissioner’s Symposium, which involved 200 individuals working in the state’s financial services industry. A great deal of interesting and worthwhile information was exchanged, from economic trends to regulatory developments. But throughout the day, the 800-pound gorilla in the room was the subprime lending market.

We have all read the stories in the financial press regarding default and foreclosure rates on subprime loans of more than 20 percent in some states. Fortunately, that is not happening in New Jersey, as our lenders tend to use better underwriting criteria, are making better loans, and stay away from loan products that are inappropriate for their customers.

At the Department of Banking and Insurance, that is a major goal we share with our licensees: protection of the consumer, your customers. Strong consumer protection legislation, when coupled with licensees with a strong sense of customer service, provides an environment where New Jersey consumers get the best of both worlds.

I applaud the efforts of all of our licensees, in the real estate, insurance and banking industries for their strong customer service work ethic. These efforts help New Jersey to avoid many of the problems we are now seeing in other states. Congratulations on a job well done.

Contact the Editors:

NJDOBI Banking & Insurance
 Quarterly
 Office of Public Affairs
 PO Box 325
 Trenton, NJ 08625-0325

Telephone: (609) 292-5064
 E-mail: njbiq@dobi.state.nj.us

For Licensing Inquiries:

(questions, address changes, etc.)

Banking

E-mail: blic@dobi.state.nj.us
 Telephone: (609) 292-5340

Insurance

E-mail: inslic@dobi.state.nj.us
 Telephone: (609) 292-4337

Real Estate

E-mail: relic@dobi.state.nj.us
 Telephone: (609) 292-7053