

STATE OF NEW JERSEY  
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF:

Proceedings by the Commissioner of )  
Banking and Insurance, State of )  
New Jersey, to fine, suspend and/or ) **FINAL ORDER**  
revoke the insurance producer )  
license of Garrett Smith, )  
Reference No. 1279157 )

TO: Garrett Smith  
636 Jackson Avenue  
Roselle, NJ 07203

THIS MATTER, having been opened by the Commissioner of Banking and Insurance ("Commissioner"), State of New Jersey, upon issuance of Order to Show Cause No. E17-16 alleging that Garrett Smith ("Smith" or "Respondent"), may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Smith was licensed as a resident insurance producer pursuant to N.J.S.A. 17:22A-32 until the expiration of his license on September 30, 2016; and

WHEREAS, Smith is subject to the provisions of the New Jersey Insurance Producer Licensing Act of 2001, N.J.S.A. 17:22A-26 et seq. ("Producer Act"), the New Jersey Insurance Fraud Prevention Act, N.J.S.A. 17:33A-1 et seq. ("Fraud Act") and the regulations promulgated thereunder, N.J.A.C. 11:16-1.1

et seq. and the regulations governing Insurance Producer Standards of Conduct, N.J.A.C. 11:17A-1.1 et seq.; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(2), an insurance producer shall not violate any insurance law, regulation, subpoena or order of the Commissioner or of another state's insurance regulator; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(6), an insurance producer shall not have been convicted of a felony or crime of the fourth degree or higher; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(8), an insurance producer shall not use fraudulent, coercive, or dishonest practices, or demonstrate incompetence, untrustworthiness, or financial irresponsibility in the conduct of insurance business in this State or elsewhere; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(16), an insurance producer shall not commit any fraudulent act; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(18), an insurance producer shall not fail to notify the Commissioner within 30 days of his conviction of any crime, indictment or the filing of any formal criminal charges, or the suspension or revocation of any insurance license or authority by a state, other than this State, or the initiation of formal disciplinary proceedings in a state, other than this State, affecting the

producer's insurance license; or fail to obtain the written consent pursuant to sections 1033 and 1034 of Title 18, United States Code (18 U.S.C. ss.1033 and 1034); or fail to supply any documentation that the Commissioner may request in connection therewith; and

WHEREAS, pursuant to N.J.S.A. 17:22A-47b, an insurance producer shall, within 30 days of the initial pretrial hearing date, report to the Commissioner any criminal prosecution of the producer taken in any jurisdiction and said report shall include a copy of the initial complaint filed, the order resulting from the hearing and any other relevant legal documents; and

WHEREAS, pursuant to N.J.A.C. 11:17A-4.8, an insurance producer shall reply, in writing, to any inquiry of the New Jersey Department of Banking and Insurance ("Department") relative to the business of insurance within the time requested in said inquiry, or no later than 15 calendar days from the date the inquiry was made or mailed in cases where no response time is given; and

WHEREAS, pursuant to N.J.S.A. 17:22A-45c, any person violating any provision of the Producer Act shall be liable for a civil penalty not exceeding \$5,000 for the first offense and not exceeding \$10,000 for each subsequent offense, as well as restitution of moneys owed any person and reimbursement of the

costs of investigation and prosecution; and

WHEREAS, pursuant to N.J.S.A. 17:33A-4a(1), no person shall present or cause to be presented any written or oral statement as part of, or in support of or opposition to, a claim for payment or other benefit pursuant to an insurance policy or the "Unsatisfied Claim and Judgment Fund Law," P.L.1952, c.174 (C.39:6-61 et seq.), knowing that the statement contains any false or misleading information concerning any fact or thing material to the claim; and

WHEREAS, pursuant to N.J.S.A. 17:33A-4a(3), no person shall conceal or knowingly fail to disclose the occurrence of any event which affects any person's initial or continued right or entitlement to (a) any insurance benefit or payment or (b) the amount of any benefit or payment to which the person is entitled; and

WHEREAS, pursuant to N.J.S.A. 17:33A-5a and c, violations of the Fraud Act subject the violator to a civil and administrative penalty not to exceed \$5,000.00 for the first violation, not to exceed \$10,000.00 for the second violation and not to exceed \$15,000.00 for each subsequent violation; moreover, the Commissioner may issue a final order recovering costs of prosecution, including attorneys' fees in accordance with N.J.A.C. 11:16-7.9(c); and

WHEREAS, pursuant to N.J.S.A. 17:33A-5.1, any person who is found in any legal proceeding to have committed insurance fraud shall be subject to a surcharge in the amount of \$1,000.00; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40d, the Commissioner shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by the Producer Act and Title 17 of the Revised Statutes or Title 17B of the New Jersey Statutes against any person who is under investigation for or charged with a violation of the Producer Act or Title 17 of the Revised Statutes or Title 17B of the New Jersey Statutes even if the person's license or registration has been surrendered or has lapsed by operation of law; and

WHEREAS, the Commissioner issued Order to Show Cause No. E17-16 ("OTSC") on March 24, 2017, alleging violations of New Jersey insurance laws by Smith as follows:

IT APPEARING, that on or about December 30, 2010, the Respondent submitted a false automobile accident claim to New Jersey Manufacturers Insurance Company stating that his mother's 2001 Lincoln Town Car had been damaged on December 26, 2010 during a "hit and run" incident while parked in front of the insured's residence when, in fact, the vehicle had been damaged while the Respondent was operating it on December 25, 2010; Respondent fled the scene of the accident and subsequently garaged the vehicle at an alternate location, in violation of N.J.S.A. 17:22A-40a(2), (8) and

(16) and N.J.S.A. 17:33A-4a(1) and (3); and

IT FURTHER APPEARING, that on or about January 17, 2014, the Respondent was indicted by the State of New Jersey and charged with second degree insurance fraud in violation of N.J.S.A. 2C:21-4.6a(1) and fourth degree false reporting to law enforcement in violation of N.J.S.A. 2C:28-4; and

IT FURTHER APPEARING, that on or about February 24, 2015, the Respondent pleaded guilty to one count of second degree insurance fraud in violation of N.J.S.A. 2C:21-4.6a(1) and was sentenced on or about April 10, 2015 to probation for a period of three years with 90 days of jail time, in violation of N.J.S.A. 17:22A-40a(2), (6) and (16); and

IT FURTHER APPEARING that the Respondent failed to advise the Department of the aforementioned incidents within 30 days, in violation of N.J.S.A. 17:22A-40a(2) and (18) and N.J.S.A. 17:22A-47b; and

IT FURTHER APPEARING, that the Respondent failed to provide a written response with supporting documentation relative to the aforementioned criminal activity pursuant to correspondence issued by the Department on April 1, 2015, in violation of N.J.S.A. 17:22A-40a(2) and N.J.A.C. 11:17A-4.8; and

WHEREAS, as set forth in the Certification of Service of Deputy Attorney General Richard E. Wegryn, Jr., attached hereto as Exhibit A, Smith was given notice of the aforesaid charges and an opportunity to contest the charges at a hearing pursuant to the OTSC, which was duly served by certified and

regular mail upon Smith at his last known business or mailing address, according to files maintained by the Department in accordance with N.J.A.C. 11:17D-2.1(a)3; and

WHEREAS, although due notice of the charges provided an opportunity to oppose the allegations, Smith failed to provide written responses to the charges contained in the OTSC, and therefore Smith has waived his right to a hearing to contest these charges and the charges are deemed admitted, pursuant to N.J.A.C. 11:17D-2.1(b)1; and

NOW, THEREFORE, IT IS on this 20<sup>th</sup> day of OCTOBER, 2017:

ORDERED that the charges contained in the OTSC are deemed admitted by Smith due to his failure to respond to the alleged violations pursuant to N.J.A.C. 11:17D-2.1(b)1; and

IT IS FURTHER ORDERED that, pursuant to N.J.S.A. 17:22A-40a and N.J.A.C. 11:17D-2.1(b)2, the insurance producer license of Smith is hereby **REVOKED**; and

IT IS FURTHER ORDERED that, pursuant to N.J.S.A. 17:22A-45c and N.J.S.A. 17:33A-5, Smith shall be liable for the payment of a civil penalty in the amount of \$7,500.00 for the violations of the Producer Act and for the payment of a civil penalty in the amount of \$2,500.00 for the violation of the Fraud Act as set forth in the OTSC, and a statutory surcharge in

the amount of \$1,000.00 pursuant to N.J.S.A. 17:33A-5.1; and

IT IS FURTHER ORDERED that, pursuant to N.J.S.A. 17:22A-45c and N.J.A.C. 11:1-32.4(b)20, Smith shall reimburse the Department for the costs associated with the investigation of this matter, as evidenced by the Certification of Costs by Investigator Daxesh M. Patel, attached hereto as Exhibit "B", totaling \$612.50; and

IT IS FURTHER ORDERED that Smith shall pay the above fines and costs totaling \$11,612.50 in full by remitting payment to the Commissioner of Banking and Insurance, State of New Jersey, 20 West State Street, P.O. Box 329, Trenton, New Jersey 08625, Attention: Virgil Downtin, Chief of Investigations by certified check, cashier's check or money order made payable to the "State of New Jersey, General Treasury," within ten (10) days from the date of service of this Order; and


IT IS FURTHER ORDERED that in the event full payment of the fines and costs are not made, the Commissioner may exercise any and all remedies available by law, including but not limited to recovery of any unpaid penalties, in accordance with the Penalty Enforcement Law of 1999, N.J.S.A. 2A:58-10 et seq.; and

IT IS FURTHER ORDERED that the fines in this Final Order are imposed pursuant to the police powers of the State of



New Jersey for the enforcement of the law and the protection of the public health, safety and welfare, and are not intended to constitute debts which may be limited or discharged in a bankruptcy proceeding; and

IT IS FURTHER ORDERED that the provisions of this Final Order represent a final agency decision and constitute a final resolution of the allegations contained in the OTSC.

  
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Peter L. Hartt  
Director of Insurance