

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 ) CONSENT  
Insureco Agency & Insurance Services Inc., ) ORDER  
Ref. No. 8208825, David Patrick Madigan, )  
Ref. No., 0109124, American Bankers )  
Insurance Co. of Florida, Ref. No. 7610111, )  
and Assurant, Inc. )

TO: **Insureco Agency & Insurance Services Inc.**  
2677 N. Main St. #600  
Santa Ana, CA 92705

**David Patrick Madigan**  
2677 N. Main St. #600  
Santa Ana, CA 92705

**American Bankers Insurance Co. of Florida**  
11222 Quail Roost Drive  
Miami, FL 33157

This matter, having been opened by the Commissioner of Banking and Insurance (“Commissioner”), State of New Jersey, upon information that Insureco Agency & Insurance Services Inc. (“Insureco”), currently licensed as a nonresident business entity insurance producer pursuant to N.J.S.A. 17:22A-34, David Patrick Madigan (“Madigan”), currently licensed as a nonresident individual insurance producer and Insureco’s designated responsible licensed producer pursuant to N.J.S.A. 17:22A-32b(2), and American Bankers Insurance Company of Florida (“ABIC”), admitted as an authorized insurer pursuant to N.J.S.A. 17:22B:17-11, have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Assurant, Inc. (“Assurant”), is a Delaware corporation, that is an insurance holding company, Insureco and ABIC are subsidiaries of Assurant, and Assurant Specialty Property is a division of Assurant; and

WHEREAS, Insureco, Madigan, and ABIC, (collectively “Respondents”) are subject to the provisions of New Jersey Insurance Producer Licensing Act of 2001, N.J.S.A. 17:22A-26 et seq.; and

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

WHEREAS, pursuant to N.J.S.A. 17:22A-36, an insurance producer doing business under any name other than the producer’s legal name shall notify the commissioner prior to using the assumed name; and

WHEREAS, pursuant to N.J.A.C. 11:17-2.7(b), no nonresident licensed producer shall conduct business under a name other than its legal or business name in the state where it maintains a resident license; and

WHEREAS, pursuant to N.J.A.C. 11:17-2.8 (a) and (e), licensees shall file with the Department of Banking and Insurance (“Department”) a branch office registration form within 30 days before business is first conducted there and no branch office may engage in insurance related conduct unless at least one licensed individual insurance producer is present; and

WHEREAS, pursuant to N.J.A.C. 11:17A-1.6 (a), each place of business maintained by an insurance producer for the purpose of transacting the business of insurance shall be under the direct supervision of an insurance producer; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a (12), an insurance producer shall not knowingly accept insurance business from an unlicensed insurance producer; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a (17), an insurance producer shall not knowingly facilitate or assist another person in violating any insurance laws; and

WHEREAS, pursuant to N.J.S.A. 17:22A-29, no person shall sell, solicit or negotiate insurance in this State unless the person is licensed for that line of authority in accordance with this act; and

WHEREAS, pursuant to N.J.A.C. 11:17A-1.3 (a), (b), (c), and (d), no person shall act as an insurance producer, by soliciting, negotiating or selling insurance, or maintaining or operating any office in this State for the transaction of the business of an insurance producer, without first obtaining a license from the Commissioner granting authority for the kind of insurance transacted; and no licensed insurance producer shall permit or allow any unlicensed person to transact the business of an insurance producer; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a (5), an insurance producer shall not intentionally misrepresent the terms of an actual or proposed insurance contract, policy or application for insurance; 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 in the conduct of insurance business; and

IT APPEARING that between June 2011 through August 2014, Insureco operated under the trade name of SureDeposit without registering said name in the state where it maintains its resident license and did not notify the Department prior to using the assumed name in this state, in violation of N.J.S.A. 17:22A-40a (2), N.J.S.A. 17:22A-36, and N.J.A.C. 11:17-2.7 (b); and

IT FURTHER APPEARING that beginning in June 2011, Insureco was operating an unregistered branch office in this State that was not under the direct supervision of an insurance producer, in violation of N.J.S.A. 17:22A-40a (2), N.J.A.C. 11:17-2.8 (a) and (e), and N.J.A.C. 11:17A-1.6 (a); and

IT FURTHER APPEARING that beginning in June 2011, Respondents began to offer New Jersey residential rental tenants a “surety bond program” that is an alternative to paying a traditional security deposit to landlords; and

IT FURTHER APPEARING that in or around July 2014, the Department determined that the “surety bond program” offered by Respondents is a product regulated by the Department which requires a producer license to sell, solicit, or negotiate in this State; and that beginning in June 2011, Respondents permitted or allowed unlicensed persons to sell, solicit or negotiate the “surety bond program” in this state, in violation of N.J.S.A. 17:22A-40a (2), (12), and (17), N.J.S.A. 17:22A-29, and N.J.A.C. 11:17A-1.3 (a), (b), (c), and (d); and

IT FURTHER APPEARING that beginning in June 2011, Respondents provided New Jersey apartment communities offering the “surety bond program” with a “SureDeposit User’s Guide” and a document entitled “Tenant Bond Enrollment and Bond Acknowledgment Form” (“Tenant Bond”) to enroll additional New Jersey residential rental tenants, each of which was misleading in fact or by implication about the “surety bond program” and facilitated unlicensed insurance transactions, in violation of N.J.S.A. 17:22A-40a (2), (5), (8), (12), and (17), N.J.S.A. 17:22A-29, and N.J.A.C. 11:17A-1.3 (a), (b), (c), and (d); and

IT FURTHER APPEARING that in one instance the “surety bond program” offered by Respondents to New Jersey resident SB, by an unlicensed individual in or around February 2013, was misrepresented and SB did not receive adequate disclosure that: (1) SB remained liable to

the landlord for damages due to nonpayment of rent, breach of lease, or damages to the rental premises; 2) SB was obligated to reimburse Respondents for sums expended to pay the landlord's claim up to the bond amount; 3) SB could incur liabilities from claims that may exceed what the landlord could deduct legally from a traditional security deposits; and 4) that the purchase of the surety bond product affected SB's statutory rights and protections afforded under the New Jersey Security Deposit laws, in violation of N.J.S.A. 17:22A-40a(2), (5), (8), (12), and (17), N.J.S.A. 17:22A-29, and N.J.A.C. 11:17A-1.3 (a), (b), (c), and (d); and

IT FURTHER APPEARING that Respondents:

- 1) Have admitted responsibility for the aforementioned violations; and
- 2) Have cooperated with the investigation conducted by the Department; and
- 3) Have declared that these acts were unintentional; and
- 4) Have agreed to modify the operation of the SureDeposit program as to comply with New Jersey law; and

IT FURTHER APPEARING that the New Jersey Department of Banking and Insurance records indicate that the personal and business addresses of Respondent Madigan are in California; and

IT FURTHER APPEARING that Respondent Madigan asserts that he had no personal involvement in the aforementioned violations; and

IT FURTHER APPEARING, that cause does exist under N.J.S.A. 17:22A-40a and N.J.S.A. 17:22A-45c, to impose a fine; and

IT FURTHER APPEARING, that Respondents have waived their right to a hearing on the aforementioned violations and have consented to being jointly and severally liable for the payment of a fine in the amount of \$85,000.00; and

IT FURTHER APPEARING, that this matter should be resolved upon the consent of the parties without resort to a formal hearing on the aforementioned violations, and further good cause appearing; and

NOW, THEREFORE, IT IS on this 12<sup>th</sup> day of NOVEMBER, 2014

ORDERED AND AGREED, that Respondents pay a fine in the amount of \$85,000.00 to the Department; and

IT IS FURTHER ORDERED AND AGREED, that said fine shall be paid by certified check, cashier's check or money order made payable to the State of New Jersey, General Treasury, with a fine payment of \$85,000.00 due and payable immediately upon execution of this Consent Order by Respondents; and

IT IS FURTHER ORDERED AND AGREED, that the signed Consent Order together with the fine payment of \$85,000.00 shall be remitted to:

New Jersey Department of Banking and Insurance  
ATTN: Virgil Downtin, Chief of Investigations  
9<sup>th</sup> Floor – Enforcement Unit  
P.O. Box 329  
Trenton, New Jersey 08625

IT IS FURTHER ORDERED AND AGREED, that Respondents shall provide the Department within 30 days of the date of execution of the Consent Order with satisfactory proof that the Tenant Bond used to enroll New Jersey residents in the “surety bond program” has been modified to comply with all aspects of New Jersey insurance laws and regulations; and

IT IS FURTHER ORDERED AND AGREED, that Respondents shall provide the Department with satisfactory proof that the “User Guide” issued to New Jersey apartment communities offering the “surety bond program” has been modified to comply with all aspects of New Jersey insurance laws and regulations; and

IT IS FURTHER ORDERED AND AGREED, that Respondents shall provide the Department with satisfactory proof that the notice issued to New Jersey consumers enrolling in the “surety bond program” has been modified to comply with all aspects of New Jersey insurance laws and regulations; and

IT IS FURTHER ORDERED AND AGREED, that Respondents shall provide the Department with satisfactory proof that the marketing material issued to New Jersey consumers interested in and/or enrolling in the “surety bond program” and New Jersey apartment communities offering the “surety bond program” has been modified to comply with all aspects of New Jersey insurance laws and regulations; and

IT IS FURTHER ORDERED AND AGREED, that Respondents shall provide the Department with satisfactory proof that all New Jersey apartment communities offering the “surety bond program” have been notified that they must comply with all aspects of New Jersey insurance laws and regulations and the proper procedures to effectuate compliance; and

IT IS FURTHER ORDERED AND AGREED, that Respondents shall take all reasonable steps requested by the Commissioner for the implementation of these actions, including submitting documents requested pursuant to this order to the Department for approval prior to use and/or issuance; and

IT IS FURTHER ORDERED AND AGREED, that any subsequent documents and/or marketing material implemented and/or amended that is issued to New Jersey consumers interested in and/or enrolling in the “surety bond program” and New Jersey apartment communities offering the “surety bond program” will comply with all aspects of New Jersey insurance laws and regulations; and

IT IS FURTHER ORDERED AND AGREED, that in the event full payment of the fine is not made in accordance with this Order, the Commissioner may exercise any and all remedies available by law, including but not limited to recovery of any unpaid amounts in summary proceedings, in accordance with the penalty enforcement law N.J.S.A. 2A:58-10 et seq.; and

IT IS FURTHER ORDERED AND AGREED, that the provisions of this Consent Order represent a final agency decision and constitute a final resolution of the violations contained herein; and

IT IS FURTHER ORDERED AND AGREED, that Respondents shall cease and desist from engaging in the conduct that gave rise to this Consent Order and hereafter, shall comply in all respects with the New Jersey insurance laws and regulations.

  
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Peter L. Hartt  
Acting Director of Insurance

Consented to as to  
Form, Entry, and Content

**Insureco Agency & Insurance Services Inc.**

  
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DAVE MADIGAN

(Print Name and Title)


Date: 11-3-14

**David Patrick Madigan**

  
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Date: 11-3-14

**American Bankers Insurance Co. of Florida**

  
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RUSSELL G. KIRSCH, SVP F.S.R.A.

(Print Name and Title)

Date: 11-04-14