

CONSENT ORDER No. E16-13

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 )  
revoke the insurance producer )  
license of Dominick Q. Costa, )  
Reference No. 1078693 )  
\_\_\_\_\_)  
\_\_\_\_\_)

**CONSENT ORDER**

TO: Dominick Q. Costa  
412 Morris Avenue, Apt. 35  
Summit, NJ 07901

THIS MATTER, having been opened by the Commissioner of Banking and Insurance ("Commissioner"), State of New Jersey, upon information that Dominick Q. Costa ("Respondent"), licensed as a resident individual insurance producer pursuant to N.J.S.A. 17:22A-26 et seq., may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Respondent was at all relevant times a licensed insurance producer in the State of New Jersey pursuant to N.J.S.A. 17:22A-32, employed by the Otterstedt Insurance Agency ("Otterstedt"); and

WHEREAS, Respondent is subject to the provisions of the 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; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(4), an insurance producer shall not improperly withhold, misappropriate or convert any monies or properties received in the course of doing insurance business; 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, untrustworthiness or financial irresponsibility in the conduct of the insurance business; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(10), an insurance producer shall not forge another's name to an application for insurance or to any document related to an insurance transaction; 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.A.C. 11:17B-3.1(b), an insurance producer charging a fee to an insured or prospective insured shall first obtain a written agreement, separate and apart from all other agreements and applications, which shall contain only the following provisions: a clear statement of the amount of the fee to be charged and the nature of the service to be provided therefor; a statement that such fees are not part of the premium charged and can be charged only if the insured or prospective insured consents in writing; a clear statement as to whether a commission will be received from the purchase of insurance; the signature of the insured or prospective insured and licensed insurance producer; and the date of execution of the agreement; and

WHEREAS, pursuant to N.J.A.C. 11:17B-3.1(c), any fee charged by an insurance producer shall bear a reasonable relationship to the services provided and shall not be discriminatory; and

WHEREAS, pursuant to N.J.A.C. 11:17B-3.1(f), an insurance producer may not charge a fee for services not actually performed; and

IT APPEARING, that the Commissioner issued Order to Show Cause No. E15-50 on May 11, 2015, alleging violations of the New Jersey insurance laws by Respondent Costa as follows:

**COUNT 1**

IT APPEARING that, from March 2012 through March 2013, Respondent collected a "Policy Initiation Fee" from applicants for insurance without a written agreement; and

IT FURTHER APPEARING that, Otterstedt, Respondent's employer, did not authorize any Policy Initiation Fee; and

IT FURTHER APPEARING that, during the time period in question, Respondent obtained Policy Initiation Fees from at least ten clients for a total of \$7,300.00; and

IT FURTHER APPEARING that, on September 10, 2013, Respondent admitted to the Department of Banking and Insurance ("Department") that he charged unauthorized and fraudulent Policy Initiation Fees during the time period in question; and

IT FURTHER APPEARING that, Respondent's unauthorized and fraudulent collection of Policy Initiation Fees constituted violations of N.J.S.A. 17:22A-40a(2), (4), (8), (16) and N.J.A.C. 11:17B-3.1(c) and (f); and

IT FURTHER APPEARING that, Respondent's failure to obtain written agreements from each applicant when charging a Policy Initiation Fee constituted violations of N.J.A.C. 11:17B-3.1(b); and

**COUNT 2**

IT FURTHER APPEARING that, from March 2012 through March 2013, Respondent produced and distributed, to applicants for insurance, fictitious and inaccurate Certificates of Insurance and insurance ID cards; and

IT FURTHER APPEARING that, during the time period in question, Respondent produced nine (9) Certificates of Insurance for applicants for whom insurance had not been placed; and

IT FURTHER APPEARING that, during the time period in question, Respondent produced eleven (11) Certificates of Insurance for policies that had been cancelled; and

IT FURTHER APPEARING that, during the time period in question, Respondent produced twelve (12) Certificates of Insurance dated to cover a period of time not covered by the policy; and

IT FURTHER APPEARING that, during the time period in question, Respondent produced one (1) fictitious automobile insurance card; and

IT FURTHER APPEARING that, during the time period in question, Respondent produced four (4) automobile insurance cards with inaccurate information; and

IT FURTHER APPEARING that, on September 10, 2013, Respondent admitted to the Department that he produced four (4) Certificates of Insurance for applicants for whom insurance had not been placed, seven (7) Certificates of Insurance for policies that had been cancelled, twelve (12) Certificates of Insurance dated to cover a period of time not covered by the policy, one (1) fictitious automobile insurance card, and four (4) automobile insurance cards with inaccurate information; and

IT FURTHER APPEARING that, Respondent's production and distribution of fictitious and inaccurate Certificates of Insurance and insurance ID cards constituted violations of N.J.S.A. 17:22A-40a(2), (5), (8), and (16); and

---

**COUNT 3**

IT FURTHER APPEARING that, Respondent produced two (2) Cancellation Request/Policy Release forms

for an Otterstedt client by accessing the Otterstedt data system remotely, after being terminated from employment with Otterstedt and forging the signature of the policy owner on forms submitted to the insurance carrier; and

IT FURTHER APPEARING that, Respondent was terminated from his employment at Otterstedt on March 15, 2013; and

IT FURTHER APPEARING that, on April 3, 2013, Respondent accessed the Otterstedt data system remotely using the password and sign-on information for Otterstedt employee John Casiero; and

IT FURTHER APPEARING that, on April 3, 2013, Respondent created two (2) Cancellation Request/Policy Release forms for Otterstedt client Rojas Construction; and

IT FURTHER APPEARING that, on April 3, 2013, Respondent forged the signature of the policy owner on two (2) Cancellation Request/Policy Release forms for Otterstedt client Rojas Construction; and

IT FURTHER APPEARING that, on September 10, 2013, Respondent admitted to the Department that he used the password and sign-on information of Otterstedt employee John Casiero to remotely access the Otterstedt data system and produce two (2) Cancellation Request/Policy Release forms; and

IT FURTHER APPEARING that, Respondent's unauthorized access of Otterstedt's data system to produce and forge Cancellation Request/Policy Release forms constituted violations of N.J.S.A. 17:22A-40a(2), (8), and (10); and

**COUNT 4**

IT FURTHER APPEARING that, Respondent misappropriated insurance premiums for two (2) applicants for insurance, and failed to place their insurance policies; and

IT FURTHER APPEARING that, on or about February 8, 2013, Respondent received \$1,284.00 in insurance premium from NRJ Trimming ("NRJ") to add a vehicle to the automobile policy for NRJ; and;

IT FURTHER APPEARING that, Respondent retained the premium received from NRJ for Respondent's personal expenses; and

IT FURTHER APPEARING that, Respondent did not forward the premium to Otterstedt or the insurance carrier; and

IT FURTHER APPEARING that, Respondent did not add a vehicle to NRJ's automobile insurance policy; and

IT FURTHER APPEARING that, Respondent received \$1,105.00 in insurance premium from JX Construction ("JX") to issue policies for worker's compensation and general liability insurance; and

IT FURTHER APPEARING that, Respondent retained the premium from JX for Respondent's personal expenses; and

IT FURTHER APPEARING that, Respondent did not place insurance policies for JX for either worker's compensation or general liability; and

IT FURTHER APPEARING that, Respondent admitted to the Department that he retained the premiums from NRJ and JX for his personal expenses and did not place insurance policies for NRJ and JX for automobile, worker's compensation, or general liability insurance; and

IT FURTHER APPEARING that, Respondent's misappropriation of insurance premiums and failure to place insurance policies constituted violations of N.J.S.A. 17:22A-40a(2), (4), (8), and (16)

IT FURTHER APPEARING, that Respondent Costa requested a hearing on the allegations contained in Order to Show Cause No. E15-50; and

IT FURTHER APPEARING, that Order to Show Cause No. E15-50 was transmitted to the Office of Administrative Law, and assigned Docket No. BKI-08408-2015N; and

IT FURTHER APPEARING, that the Commissioner and Respondent Costa entered into this Consent Order prior to the Administrative Hearing; and

IT FURTHER APPEARING, that Respondent Costa admits and agrees to take responsibility for the Producer Act violations contained in Order to Show Cause No. E15-50; and

IT FURTHER APPEARING that cause does exist, pursuant to N.J.S.A. 17:22a-40a, and N.J.S.A. 17:22A-45c, to impose administrative penalties upon Respondent Costa; and

IT FURTHER APPEARING, that Respondent Costa has waived his right to a hearing on the above violations and consents to revocation of his insurance producer license and the payment of administrative penalties totaling \$25,000.00 for the violations contained in Order to Show Cause No. E15-50, pursuant to N.J.S.A. 17:22A-45c; and

IT FURTHER APPEARING, that Otterstedt has refunded Policy Initiation Fees and misappropriated premiums to affected consumers; and



IT FURTHER APPEARING, that this matter should be resolved upon the consent of the parties without resort to a formal hearing; and

IT FURTHER APPEARING, that good cause exists to enter into this Consent Order; and

NOW, THEREFORE, IT IS on this 1<sup>st</sup> day of March, 2016,

ORDERED AND AGREED, that Respondent Costa admits to the allegations contained in Order to Show Cause No. E15-50; and

IT IS FURTHER ORDERED AND AGREED, that the New Jersey insurance producer license of Respondent Costa is hereby REVOKED; and

IT IS FURTHER ORDERED AND AGREED, that pursuant to N.J.S.A. 17:22A-45c, Respondent Costa shall pay administrative penalties in the amount of \$25,000.00 for the Producer Act violations admitted to herein; and

IT IS FURTHER ORDERED AND AGREED, that Respondent Costa shall make an initial down payment of these administrative penalties in the amount of \$2,000.00 to the Commissioner, paid by certified check, cashier's check or money order made payable to the "State of New Jersey, General Treasury," due and payable immediately upon the execution of this Consent Order by Respondent Costa, and shall be remitted to:

Kevin J. McGowan, Deputy Attorney General  
State of New Jersey, Division of Law  
R.J. Hughes Justice Complex

25 Market Street, P.O. Box 117  
Trenton, New Jersey 08625

IT IS FURTHER ORDERED AND AGREED, that the remaining \$23,000.00 in administrative penalties shall be paid in 48 monthly installments of \$479.17, due on the first of each month, beginning March 1, 2016. Payment shall be made by certified check, bank check, or money order, payable to the "State of New Jersey, General Treasury," and shall be remitted to:

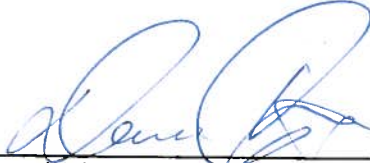
Commissioner  
New Jersey Department of Banking and Insurance  
Attn: Jan Allen, Collections  
20 West State Street  
PO Box 325  
Trenton, New Jersey 08625

IT IS FURTHER ORDERED AND AGREED, that the provisions of this Consent Order represent a final agency decision and constitute final resolution of the violations contained in Order to Show Cause No. E15-50 related to Respondent Costa; and


IT IS FURTHER ORDERED AND AGREED, that Respondent Costa shall cease and desist from engaging in the conduct that gave rise to this Consent Order.

  
\_\_\_\_\_  
Peter L. Hartt  
Director of Insurance

Consented to as to  
Form, Content and  
Entry:

  
\_\_\_\_\_  
Dominick Q. Costa  
Respondent


Date: 2/11/2016

  
\_\_\_\_\_  
Vincent R. Kramer Jr., Esq.  
Attorney for Respondent

Date: 2/11/16

JOHN J. HOFFMAN  
ACTING ATTORNEY GENERAL OF NEW JERSEY

Date: 2/23/16

  
\_\_\_\_\_  
Kevin J. McGowan  
Deputy Attorney General  
Attorney for the New Jersey  
Department of Banking and  
Insurance