

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)	ORDER TO SHOW CAUSE
or revoke the insurance license)	
of Garrett Smith, Reference)	
No. 1279157)	

To: Garrett Smith
636 Jackson Avenue
Roselle, NJ 07203

THIS MATTER, having been opened by Richard J. Badolato, Commissioner, New Jersey Department of Banking and Insurance ("Commissioner"), upon information that Garrett Smith ("Respondent"), licensed as a resident producer pursuant to N.J.S.A. 17:22A-32 until his license expired on September 30, 2016, may have violated various provisions of the insurance laws of the State of New Jersey; 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. ("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., the Producer Licensing regulations, N.J.A.C. 11:17-1 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 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. 17:33A-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 offense, not to exceed \$10,000.00 for the second offense and not to exceed \$15,000.00 for each subsequent offense; 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-45c, any person violating the Producer Act is subject to fines of up to \$5,000.00 for the first offense, and up to \$10,000.00 for each subsequent offense; moreover, the Commissioner may order restitution of moneys owed any person and reimbursement of costs of the investigation and prosecution; 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

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

NOW, THEREFORE, IT IS on this 24th day of MARCH, 2017

ORDERED, that Respondent appear and show cause why his New Jersey insurance producer license shall not be suspended or revoked pursuant to N.J.S.A. 17:22A-40a; and

IT IS FURTHER ORDERED, that Respondent appear and show cause why the Commissioner should not assess a civil penalty of up to \$5,000.00 for the first offense, \$10,000.00 for the second offense, and \$15,000 for each subsequent offense of the Fraud Act

pursuant to the provisions of N.J.S.A. 17:33A-5c and N.J.A.C. 11:16-7.9(a); and

IT IS FURTHER ORDERED, that Respondent appear and show cause why the Commissioner should not impose a \$1,000.00 surcharge against him in accordance with N.J.S.A. 17:33A-5.1; and

IT IS FURTHER ORDERED, that Respondent appear and show cause why the Commissioner should not assess a civil penalty of up to \$5,000.00 for the first violation and \$10,000.00 for each subsequent violation of the Producer Act pursuant to the provisions of N.J.S.A. 17:22A-45c; and

IT IS FURTHER ORDERED, that Respondent appear and show cause why he should not be required to reimburse the Department for the cost of the investigation and prosecution, including attorneys' fees, as authorized pursuant to N.J.S.A. 17:22A-45c, N.J.S.A. 17:33A-5c, and N.J.A.C. 11:16-7.9(c); and

IT IS PROVIDED, that Respondent has the right to request an administrative hearing, to be represented by counsel or other qualified representative, at his own expense, to take testimony, to call or cross-examine witnesses, to have subpoenas issued, and to present evidence or argument if a hearing is requested; and

IT IS FURTHER PROVIDED, that unless a request for a hearing is received within twenty (20) days of the service of this Order to Show Cause, the right to a hearing in this matter shall be deemed to have been waived by the Respondent, and the Commissioner

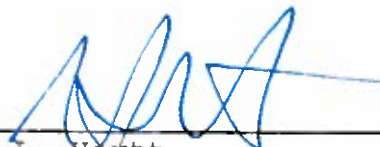
shall dispose of this matter in accordance with the law. A hearing may be requested by mailing the request to Virgil Downtin, Chief of Investigations, Department of Banking and Insurance, P.O. Box 329, Trenton, New Jersey 08625, or by faxing the hearing request to the Department at (609) 292-5337. The request shall contain the following:

(a) Respondent's full name, address, and daytime telephone number;

(b) A statement referring to each charge alleged in this Order to Show Cause and identifying any defense intended to be asserted in response to each charge. Where the defense relies on facts not contained in the Order to Show Cause, those specific facts must be stated;

(c) A specific admission or denial of each fact alleged in this Order to Show Cause. Where the Respondent has no specific knowledge regarding a fact alleged in the Order to Show Cause, a statement to that effect must be contained in the hearing request. Allegations of this Order to Show Cause not answered in the manner set forth above shall be deemed to have been admitted; and

(d) A statement requesting the hearing.

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke extending to the right.

Peter L. Hartt
Director of Insurance