

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
Bryan Davis.

)
)
)
)
)

FINAL ORDER

TO: Mr. Bryan Davis
3875 Franklin Towne Court
Murrysville, PA 15668

Mr. Bryan Davis
121 Ashbury Court
Monroeville, PA 15146

THIS MATTER, having been opened by the Commissioner of Banking and Insurance (“Commissioner”), State of New Jersey, upon issuance of Order to Show Cause E18-127 (“OTSC”) alleging that Bryan Davis (“Respondent”), may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Respondent was and is not licensed as a producer in 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 to -48 (“Producer Act”); and

WHEREAS, pursuant to N.J.S.A. 17:22A-29, a person shall not sell, solicit, or negotiate insurance in this State unless the person is licensed for that line of authority in accordance with the Producer Act; and

WHEREAS, pursuant to N.J.A.C. 11:17A-13(a), with certain exceptions, no person shall act as an insurance producer without first obtaining a license from the Commissioner granting authority for the kind of insurance transacted; and

WHEREAS, pursuant to N.J.A.C. 11:17A-13(b), unless otherwise provided by the Producer Act, any person who solicits, negotiates, or sells contracts of insurance in New Jersey shall be considered to be transacting the business of insurance in New Jersey so as to require licensure as an insurance producer; and

WHEREAS, pursuant to N.J.A.C. 11:17A-13(c), engaging in a single act or transaction of the business of an insurance producer, or holding oneself out to the public or an insurance producer as being so engaged, shall be sufficient proof of engaging in the business of an insurance producer as to require licensure pursuant to the Producer Act; and

WHEREAS, pursuant to N.J.S.A. 17:22A-45(c), any person violating the Producer Act is subject to a penalty not exceeding \$5,000.00 for the first offense and not exceeding \$10,000.00 for each subsequent offense; additionally, the Commissioner may order restitution of moneys owed any person and reimbursement of cost of the investigation and prosecution; and

WHEREAS, on December 24, 2018, the Commissioner issued the OTSC, alleging violations of New Jersey insurance laws by Respondent as set forth in the following Count:

IT APPEARING, that at all times relevant hereto, Respondent was not licensed in New Jersey as an insurance producer, and is not currently licensed in New Jersey; and

IT FURTHER APPEARING, that Respondent sold a Prudential Insurance Company of America ("Prudential") life insurance policy in New Jersey to WG, a New Jersey resident; and

IT FURTHER APPEARING, that subsequently, Prudential cancelled the policy and refunded the premium payment to WG; and

IT FURTHER APPEARING, that by acting as an insurance producer in this State and selling insurance in New Jersey without a New Jersey insurance producer license, Respondent violated N.J.S.A. 17:22A-29 and N.J.A.C. 11:17A-1.3(a) – (c); and

WHEREAS, as set forth in the Certification of Deputy Attorney General Brian R. Fitzgerald, attached hereto as Exhibit A, Respondent 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 upon Respondent by certified and regular mail to his last known residence and mailing address according to Pennsylvania Department of Transportation Bureau of Driver Licensing and LexisNexis, respectively; and

WHEREAS, Respondent failed to provide a written response to the charges contained in the OTSC within twenty days as provided by N.J.A.C. 11:17D-2.1(d)(1), and therefore 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);

NOW, THEREFORE, IT IS on this *24* day of *June*, 2019:

ORDERED, that the charges contained in Count 1 of the OTSC are deemed admitted by Respondent, 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-45(c), Respondent is responsible for the payment of civil penalties in the total amount of \$15,000.00 for the violations of the Producer Act and other regulations cited above; and

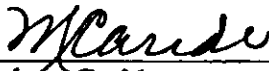
IT IS FURTHER ORDERED, that pursuant to N.J.S.A. 17:22A-45(c) and N.J.A.C. 11:1-32.4(b)(20), Respondent shall reimburse the Department of Banking and Insurance for the costs associated with the investigation and prosecution of this matter, as evidenced by the Certification of Costs by Investigator Drew Gowen, attached hereto as Exhibit B, totaling \$687.50; and

IT IS FURTHER ORDERED, that Respondent shall pay the above fines and costs totaling \$15,687.50 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 is 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 to -12; 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.



Marlene Caride
Commissioner

EXHIBIT A

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
Bryan Davis.

)
)
)
)
)

**CERTIFICATION OF BRIAN R.
FITZGERALD**

I, Brian R. Fitzgerald, of full age, do of my own personal knowledge make the following statements by way of certification in lieu of affidavit pursuant to R. 1:4-4(b):

1. I am a Deputy Attorney General assigned as counsel for the Department of Banking and Insurance, State of New Jersey ("Department"), in the above-captioned matter. I make this certification in support of entry of the Final Order against Respondent Bryan Davis ("Respondent").

2. On December 24, 2018, the Commissioner issued Order to Show Cause E18-127 ("OTSC") against Respondent charging him with violations of the insurance laws of this State.

3. Pursuant to N.J.A.C. 1:1-7.1(a), in administrative agency actions, service "shall be made in person; by certified mail, return receipt requested; by ordinary mail; or in any manner which is designed to provide actual notice to the party or person being served."

4. On December 28, 2018, my office mailed the OTSC via certified mail, return receipt requested, and regular mail to Respondent's last known business address according to LexisNexis of 3875 Franklin Towne Court, Murrysville, PA 15668.

5. The regular mailing was not returned to this office and the certified mailing was delivered on January 3, 2019 (A true and exact copy of the certified mailing green card is attached hereto as Exhibit 1.)

6. On December 28, 2018, my office also mailed the OTSC to Respondent via certified mail, return receipt requested, and regular mail to Respondent's last known residential address on file with the Pennsylvania Department of Transportation, Bureau of Driver Licensing, of 121 Ashbury Court, Monroeville, PA 15146.

7. The regular mailing was not returned to this office and the certified mailing was delivered on January 1, 2019 (A true and exact copy of the certified mailing green card is attached hereto as Exhibit 2.)

8. Service of the OTSC on the last known business and residence addresses of Respondent as described above constitutes lawful service upon Respondent.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.



Brian R. Fitzgerald

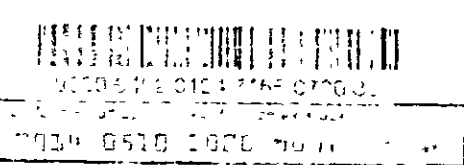
Dated: May 14, 2019

EXHIBIT 1

- Complete items 1, 2, and 3
- If the recipient is a business, you must provide a bill of lading for the contents of the package
- An unopened electronic device must be placed in a protective container

1. Article Addressed to:

Mr. & Mrs. J. J. Jones
 3478 Pine Street, Suite 101
 Harrisville, PA 15668



Signature: *X. D. Jones*

Agent
 Addressee

Date of Delivery: 11/3/11

3. Service Type

Adult Signature
 Priority Mail Express®
 Registered Mail™
 Registered Mail Restricted

Domestic Return Receipt

EXHIBIT 2

Domestic Return Receipt Instructions

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1 Article Addressed to:
Mr. Bryan Davis
121 Ashbury Court
Monroeville, PA 15146



9590 9402 3124 7166 0720 47

2 Article Number (Transfer from service label)
7014 0510 0000 9097 4087

PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt

A *[Signature]* Agent
 Addressee

B Received by (Printed Name) _____ C Date of Delivery 1-2-19

D Is delivery address different from item 1? Yes
If YES, enter delivery address below: no

- 3 Service Type
- | | |
|--|---|
| <input type="checkbox"/> Adult Signature | <input type="checkbox"/> Priority Mail Express® |
| <input type="checkbox"/> Adult Signature Restricted Delivery | <input type="checkbox"/> Registered Mail™ |
| <input type="checkbox"/> Certified Mail® | <input type="checkbox"/> Registered Mail Restricted Delivery |
| <input type="checkbox"/> Certified Mail Restricted Delivery | <input checked="" type="checkbox"/> Return Receipt for Merchandise |
| <input type="checkbox"/> Collect on Delivery | <input type="checkbox"/> Signature Confirmation™ |
| <input type="checkbox"/> Collect on Delivery Restricted Delivery | <input type="checkbox"/> Signature Confirmation Restricted Delivery |
| <input type="checkbox"/> Insured Mail | |
| <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500) | |

Domestic Return Receipt

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
Bryan Davis.

)
)
)
)
)
)
CERTIFICATION OF COSTS

I, Drew Gowen, of full age, does hereby certify as follows:

1. I am employed by the New Jersey Department of Banking and Insurance, Enforcement Unit ("Department") and hold the title of Investigator.

2. This certification is submitted in support of the Department's application for reimbursement of its costs of investigation and prosecution, in accordance with N.J.S.A. 17:22A-45(c) and N.J.A.C. 11:1-32.4(b)20.

3. On January 18, 2018 I was assigned the responsibility for conducting an investigation to determine whether Respondent Bryan Davis ("Respondent") violated certain provisions of the New Jersey Insurance Producer Licensing Act of 2001, N.J.S.A. 17:22A-26 to -48 ("Producer Act"), which investigation contributed to the issuance of an Order to Show Cause.

4. To determine the amount of time that Department investigators spent in the investigation and prosecution of this matter, I reviewed the Department's files relative to this matter, including investigator time records. On the basis of this review I have prepared the schedule of costs attached hereto as Exhibit "1".

5. As this schedule reflects, Department investigators spent at least 13.5 hours investigating and prosecuting this matter.

6. Pursuant to N.J.A.C. 11:1-32.4(b)(20), costs to the Department for the investigation and prosecution for violations of the Producer Act are reimbursable at the rate of \$50.00 per hour, rounded to the nearest quarter hour.

7. I therefore request that the Department's costs of investigation and prosecution be reimbursed in the amount of \$675.00.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false I am subject to punishment.


Drew Gowen

Dated: 5-13-19



State of New Jersey
DEPARTMENT OF BANKING AND INSURANCE
DIVISION OF INSURANCE
CONSUMER PROTECTION SERVICES
ENFORCEMENT UNIT
PO BOX 329
TRENTON, NJ 08625-0329

PHIL MURPHY
Governor

SHEILA OLIVER
Lt. Governor

MARLENE CARIDE
Commissioner

TEL (609) 292-5316
 FAX (609) 292-5337

Exhibit 1

**RECORD OF TIME EXPENDED ON
 INVESTIGATION AND/OR PROSECUTION**

Re: Bryan C Davis
 Department File No.: 314406
 Investigator: Drew A. Gowen

Date	Time in Hours	Phone	Case Prep	Comments
1-19-2018	1.5	Report of Contact		Reviewed file, documents and respondent information, checked licensing report. Contact with Prudential to obtain original applications for insureds.
1-22-2018	1	Report of Contact		Contact with Complainant
1-24-2018	0.25			Written Communication with Prudential rep to obtain info on refund
1-31-2018	0.50	Report of Contact		Contact with 2 nd Complainant
2-15-2018	1		Investigative Report	
2/22-5/2-2018	2	Report of Contact		Multiple contacts with Respondent via phone calls and emails
2-22-2018	.50			Reviewed statement submitted by Randy Wolfe
3-13-2018	.25	Report of Contact		Contact with Prudential Dryden Circle
3-20-2018	1		Investigative Report	

Visit us on the Web at dobi.nj.gov

New Jersey is an Equal Opportunity Employer • Printed on Recycled Paper and Recyclable

4/3-4/13	2.50		F&E	
4/20-4/27 2018	1			Multiple phone calls with Respondent
5-2-2018	.25			Prepped file to be sent to DAG's office for hearing request
10-1-2018	.25			Spoke to DAG regarding the case
10-17-2018	.25			Ran Accurint search to confirm Respondent address
12/19- 12/28 2018	.25			Requested and obtained MVC search for Respondent address
2-1-2019	1			Certification of Costs draft
TOTAL:	13.5			
Hours @ \$50 x hrs	= \$675			