

STATE OF NEW JERSEY  
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF:

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Proceedings by the Commissioner of Banking )  
and Insurance, State of New Jersey, to fine, )  
suspend and/or revoke the insurance license of )  
Octavio Montoya, Reference No. 1088466. )  
\_\_\_\_\_ )

**ORDER TO SHOW CAUSE**

TO: Octavio Montoya  
274 Goffle Road  
Apartment 1  
Hawthorne, New Jersey 07506-3605

THIS MATTER, having been opened by the Commissioner of Banking and Insurance (“Commissioner”), State of New Jersey, upon information that Octavio Montoya (“Respondent”), may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, at all relevant times, Respondent is licensed as a resident individual insurance producer in the State of New Jersey pursuant to N.J.S.A.17:22A-32(a); 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-40(a)(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-40(a)(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-40(a)(7), an insurance producer shall not have admitted or been found to have committed any insurance unfair trade practice or fraud; and

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

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

WHEREAS, pursuant to N.J.S.A. 17:22A-40(a), the Commissioner may place on probation, suspend, revoke or refuse to issue or renew an insurance producer's license for violating 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 costs of the investigation and prosecution; and

ALLEGATIONS COMMON TO ALL COUNTS

IT APPEARING, that on December 28, 2006, Respondent became a licensed insurance producer in the State of New Jersey; and

IT FURTHER APPEARING, that on or about November 5, 2015, Respondent completed an Allstate New Jersey Property and Casualty Insurance Company ("Allstate") application for automobile insurance, which became effective on or about November 12, 2015; and

IT FURTHER APPEARING, that on or about November 5, 2015, Respondent sought to insure his 2011 Mazda CX-9, 2007 Infiniti G35, and 2000 Honda Accord in the Allstate application for automobile insurance; and

IT FURTHER APPEARING, that on or about November 5, 2015, Respondent listed only himself and his wife, Digna Montoya, as members of the household who drove the vehicles; and

IT FURTHER APPEARING, that Respondent and Digna Montoya resided at 274 Goffle Road, Apartment 1, Hawthorne, New Jersey 07506; and

IT FURTHER APPEARING, that on or about November 14, 2015, Respondent's son, Brandon Montoya, was involved in a motor vehicle accident while operating Respondent's 2000 Honda Accord; and

IT FURTHER APPEARING, that Brandon Montoya resided with Respondent and was an operator of Respondent's listed vehicles; and

IT FURTHER APPEARING, that, had Respondent disclosed Brandon Montoya as a resident driver in his application, his premium would increase \$753.00 over a six month policy period; and

IT FURTHER APPEARING, that on or about February 4, 2016, Allstate voided Respondent's policy at the inception of the policy because its investigation revealed that the policy was obtained or renewed through material misrepresentation, fraud or concealment of material fact; and

IT FURTHER APPEARING, that on or about November 4, 2016, Respondent entered into a Consent Order with the Bureau of Fraud Deterrence in which he admitted that he violated the New Jersey Insurance Fraud Prevention Act, N.J.S.A. 17:33A-1 to -30 ("Fraud Act") because he knowingly supplied false and misleading statements on an Automobile Insurance Policy Application with Allstate Insurance Company dated November 5, 2015 by failing to disclose an additional resident of the policy address and operator of a policy vehicle; and

**COUNT ONE**

IT FURTHER APPEARING, that while licensed as an insurance producer, Respondent knowingly prepared and made a written statement, intended to be presented to any insurance company or producer for the purpose of obtaining an insurance policy, knowing that the statement contains any false or misleading information concerning any fact or thing material to an insurance application; and

IT FURTHER APPEARING, that specifically, when Respondent applied for a new insurance policy he concealed the fact that his son, Brandon Montoya, resided with him and operated the listed vehicles, thereby committing insurance fraud in violation of the Fraud Act and violating N.J.S.A. 17:22A-40(a)(2), (5), (7), (8), and (16); and

NOW, THEREFORE, IT IS on this 7 day of April, 2022

ORDERED, that Respondent appear and show cause why his New Jersey insurance producer license should not be suspended or revoked pursuant to N.J.S.A. 17:22A-40(a); 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 and order Respondent to pay restitution of moneys owed to any person, pursuant to the provisions of N.J.S.A. 17:22A-45(c); 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-45(c) 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 Respondent, and the Commissioner shall dispose of this matter in accordance with 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. A copy of the request for a hearing shall also be sent to Deputy Attorney General William E. Vaughan at: Division of Law, P.O. Box 117, Trenton, NJ 08625. 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 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.



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Marlene Caride, Commissioner