

ORDER TO SHOW CAUSE NO. E14-85

STATE OF NEW JERSEY  
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF:

\_\_\_\_\_  
Proceedings by the Commission of )  
Banking and Insurance, State of )  
New Jersey, to fine, suspend, )  
and/or revoke the insurance )  
license of Thomas J. O'Leary, )  
Reference No. 9590636 )  
\_\_\_\_\_ )

**ORDER TO SHOW CAUSE**

TO: Thomas J. O'Leary  
13 Blue Herun Drive  
South Amboy, New Jersey 08879

-and-

Thomas J. O'Leary  
FCI Morgantown  
Federal Correctional Institution  
P.O. Box 2000  
Morgantown, West Virginia 26507

THIS MATTER, having been opened to the Commissioner of Banking and Insurance ("Commissioner"), State of New Jersey, upon information that Thomas J. O'Leary ("Respondent"), 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 licensed as a resident insurance producer, pursuant to N.J.S.A 17:22A-32, until it expired on July 31, 2011; and

WHEREAS, the 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 law, regulation, subpoena or order of the Commissioner; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(6), an insurance producer shall not be 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 the insurance business; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(14), an insurance producer shall not fail to pay his income taxes; 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 notify the Commissioner of his indictment and/or conviction of any crime; and

WHEREAS, pursuant to N.J.S.A. 17:22A-47b, an insurance producer shall report a criminal prosecution of the producer to the Commissioner within thirty (30) days of the pretrial hearing date; and

WHEREAS, pursuant to N.J.S.C. 11:17A-4.10, an insurance producer acts in a fiduciary capacity in the conduct of his or her business; and

WHEREAS, pursuant to 18 U.S.C. §1033(e)(1)(A) & 1033(e)(2), a person who has been convicted of any criminal felony involving dishonesty may engage or participate in the business of insurance only if he or she obtains the written consent of the Commissioner; and

WHEREAS, pursuant to N.J.A.C. 11:17E-1.3(a), no person having been convicted of a felony involving, among other things, dishonesty shall be employed in the business of insurance in this State in any capacity without having obtained a waiver from the Commissioner or his or her designee in accordance with 18 U.S.C. § 1033(e)(2); and

WHEREAS, pursuant to N.J.S.A. 17:22A-40d, the Commissioner retains authority to take action against any person or entity with an expired license; and

#### **COUNT 1**

IT APPEARING THAT, at all relevant times, Respondent sold, solicited or negotiated insurance to the City of Perth Amboy and the Perth Amboy Board of Education; and

IT FURTHER APPEARING THAT on May 19, 2011, Respondent was criminally indicted in the United State District Court of New

Jersey under case number 11-336 for among other things, conspiracy to violate Federal Election Campaign laws; and

IT FURTHER APPEARING THAT, on March 2, 2012, Respondent pled guilty to criminal conspiracy to defraud the Federal Election Committee, a felony, admitting that he engaged in a conspiracy to unlawfully donate \$10,000 to a federal campaign using at least five contributors; and

IT FURTHER APPEARING THAT Respondent also admitted that he bribed a government official to maintain the insurance contracts that he and others had sold, solicited or negotiated with the City of Perth Amboy and the Perth Amboy Board of Education; and

IT FURTHER APPEARING THAT Respondent's scheme to violate federal election laws by donating money to a government official in order to maintain insurance contracts that he sold, solicited or negotiated to the City of Perth Amboy, constitutes violations of N.J.S.A. 17:22A-40a(2), (6), (7), (8), (16), and (17); and

#### **COUNT 2**

IT FURTHER APPEARING THAT Respondent failed to notify the Department of his indictment in case number 11-336 within thirty (30) days, in violation of N.J.S.A. 17:22A-40a(2), (8), and (18) and N.J.S.A. 17:22A-47(b); and

COUNT 3

IT FURTHER APPEARING THAT Respondent failed to report his criminal conviction to the Commissioner, in violation of N.J.S.A. 17:22A-40a(2), (8), and (18), N.J.S.A. 17:22A-47(b) and N.J.A.C. 11:17E-1.3(a); and

COUNT 4

IT FURTHER APPEARING THAT, on March 2, 2012, Respondent was charged with Tax Evasion under Title 26, United States Code, Section 7201 in a four (4) count Information in the United State District Court of New Jersey under case number 12-162. Specifically, the Information charged Respondent with evading his federal income taxes by concealing income and other income he was paid for selling, soliciting and negotiating insurance business with the City of Perth Amboy; and

IT FURTHER APPEARING THAT, on March 2, 2012, Respondent pled guilty to accepting income and other income of over \$200,000.00 in 2006 which he failed to report to the Internal Revenue Service ("IRS") in order to avoid paying federal income taxes, a felony, in violation of N.J.S.A. 17:22A-40a(2), (6), (7), (8) and (14); and

**NOW, THEREFORE, IT IS on this 6<sup>th</sup> day of AUGUST, 2014,**

ORDERED that pursuant to the provisions of N.J.S.A. 17:22A-40a, Respondent shall appear and show cause why his insurance producer license shall not be revoked by the Commissioner; and

IT IS FURTHER ORDERED that Respondent appear and show cause why the Commission should not assess fines up to \$5,000.00 for the first violation and not exceeding \$10,000.00 for each subsequent violation, pursuant to the provisions of N.J.S.A. 17:22A-45c, due to his failure to comply with new Jersey's insurance laws and regulations; and

IT IS FURTHER ORDERED that Respondent appear and show cause why he should not be subject to additional penalties, including the reimbursement of the costs of investigation and prosecution by the Department of Banking and Insurance and restitution, pursuant to N.J.S.A. 17:22a-45c; and

IT IS PROVIDED that Respondent has the right to request an administrative hearing, to be represented by counsel, to call or cross-examine witnesses, to have subpoena and subpoena *duces tecum* 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 Respondents 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 request to the

Department at (609) 292-5337. A copy of the request for a hearing shall also be sent to Deputy Attorney General Carl M. Bornmann at fax number (609) 777-3503. The request shall contain;

- (A) The licensee's 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 this 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 a hearing.

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