

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF:

Proceedings by the Commissioner of Banking)	ORDER
and Insurance, State of New Jersey, to fine, suspend)	TO
and/or revoke the insurance producer license of)	SHOW CAUSE
Jeffrey Clendenny, Ref. No. 8913353)	
)	

TO: Jeffrey Clendenny
2 Deepdale Drive
Randolph, NJ 07869

Jeffrey Clendenny
Raymond G. McCarthy & Co. Inc.
50 Union Avenue, Suite 1
Rutherford, NJ 07070

This matter, having been opened to the Commissioner of Banking and Insurance (“Commissioner”), State of New Jersey, upon information that Jeffrey Clendenny (“Clendenny”) may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Clendenny is currently licensed as a resident insurance producer pursuant to N.J.S.A. 17:22A-32; and

WHEREAS, Clendenny is subject to the provisions of the New Jersey Producer Licensing Act of 2001, N.J.S.A. 17:22A-26 to -57 (“Producer Act”) and the New Jersey Insurance Fraud Prevention Act, N.J.S.A. 17:33A-1 to -34 (“Fraud Act”); and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(2), the Commissioner may suspend or revoke the license of an insurance producer if the licensee has violated any insurance law; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(5), the Commissioner may suspend or revoke the license of an insurance producer if the licensee intentionally misrepresents 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), the Commissioner may suspend or revoke the license of an insurance producer if the licensee uses fraudulent, coercive or dishonest practices, or demonstrates incompetence, untrustworthiness or financial irresponsibility in the conduct of insurance business; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(16), the Commissioner may suspend or revoke the license of an insurance producer if the licensee commits any fraudulent act; and

WHEREAS, pursuant to N.J.S.A. 17:22A-45a, the Commissioner shall have the power to conduct investigations, to administer oaths, to interrogate licensees and others, and to issue subpoenas to any licensee or any other person in connection with any investigation, hearing or other proceeding pursuant to this act, without fee; and

WHEREAS, pursuant to N.J.S.A. 17:33A-4a(4)(b), a person violates the Fraud Act if he prepares or makes any written or oral 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 or contract; and

WHEREAS, pursuant to N.J.S.A. 17:33A-5, the Commissioner is authorized to institute suit for civil penalties and other relief against any person who violates the provisions of the Fraud Act; and

ALLEGATIONS COMMON TO ALL COUNTS

IT APPEARING that Clendenny was employed as an insurance producer by Michael Bello Insurance Agency, Inc. ("MB Insurance") from 1999 through 2013; and

IT FURTHER APPEARING that in 2010 Clendenny sold, solicited, or negotiated a business insurance policy, specifically a "garage policy," for Pro Auto Body ("PAB") through Travelers Indemnity Company of America ("Travelers"); and

IT FURTHER APPEARING that the policy was renewed for the policy period January 20, 2011 through January 20, 2012; and

IT FURTHER APPEARING that on December 9, 2011, Travelers sent PAB a non-renewal notice indicating that the policy would not be renewed because PAB had a loss ratio of over 200% over the past three (3) years; and

IT FURTHER APPEARING that Travelers' non-renewal notice, dated December 9, 2011, stated that a loss occurred on August 29, 2011 and the total claim amount was \$158,728.00; and

IT FURTHER APPEARING that Travelers paid the \$158,728.00 claim; and

IT FURTHER APPEARING that on or about January 13, 2012, Clendenny then sold, solicited, or negotiated a replacement business insurance policy, specifically a "garage policy," for PAB through Mercer Insurance Company of New Jersey, Inc., ("Mercer"), a member of United Fire Group; and

IT FURTHER APPEARING that on the Mercer application, dated January 13, 2012, Clendenny falsely stated that PAB had no losses with its prior carrier, Travelers; and

IT FURTHER APPEARING that the Mercer application, dated January 13, 2012, specifically asked if any insurance was cancelled/declined/non-renewed for any reason and Clendenny answered “No;” and

IT FURTHER APPEARING that Clendenny did not provide Mercer with a loss run; and

IT FURTHER APPEARING that based on the false representations provided by Clendenny in the January 13, 2012 application to Mercer, a “garage policy” was issued by Mercer for the policy period January 20, 2012 through January 20, 2013; and

IT FURTHER APPEARING that the Mercer policy was renewed for the policy period January 20, 2013 through January 20, 2014; and

IT FURTHER APPEARING that on December 9, 2013, Mercer sent PAB a notice of refusal to renew the policy because of adverse loss for two claims, the first on October 29, 2012 in the amount of \$72,986.00 caused by wind damage and the second on January 1, 2013 in the amount of \$23,687.00 caused by an auto claim ; and

IT FURTHER APPEARING that Mercer paid both the October 29, 2012 and January 1, 2013 claims; and

IT FURTHER APPEARING that Clendenny left the employ of MB Insurance in 2013 and began working at Raymond G. McCarthy & Co. (“McCarthy Insurance”) at that time; and

IT FURTHER APPEARING that in January 2014, Clendenny completed and submitted an application in order to secure a replacement business insurance coverage for PAB through AmGUARD Insurance Company (“Guard”); and

IT FURTHER APPEARING that one question in the January 2014 application, specifically asked, “has the prospect had any losses in the past four years (current policy and prior 3 years)?” and Clendenny answered “yes;”

IT FURTHER APPEARING that in the January 2014 application, Clendenny stated that a loss occurred on January 17, 2013 in the total amount of \$12,905.00, due to vehicle theft;

IT FURTHER APPEARING that on January 14, 2014, as part of the application, Clendenny provided Guard with a falsified loss run, which stated that on October 29, 2012, PAB had a loss in the amount of \$23,687.43 as a result from Hurricane Sandy, when PAB’s actual loss on October 29, 2012 was \$72,986.22; and

IT FURTHER APPEARING that on January 16, 2014, Clendenny provided Guard with a letter to PAB from Mercer that he knew contained false and misleading loss history for PAB; and

Count 1 (Producer Act)

IT FURTHER APPEARING that by completing and submitting false and misleading loss reports to Mercer, Clendenny violated the insurance laws, intentionally misrepresented the terms of an application for insurance, demonstrated fraudulent and dishonest practices, and untrustworthiness in the conduct of insurance business, and committed fraudulent acts, in violation of N.J.S.A. 17:22A-40a(2), (5), (8), and (16); and

Count 2 (Producer Act)

IT FURTHER APPEARING that by completing and submitting false and misleading loss reports and information to Guard, Clendenny violated the insurance laws,

intentionally misrepresented the terms of an application for insurance, demonstrated fraudulent and dishonest practices, and untrustworthiness in the conduct of insurance business, and committed fraudulent acts, in violation of N.J.S.A. 17:22A-40a(2), (5), (8), and (16); and

Count 3 (Fraud Act)

IT FURTHER APPEARING that by completing and submitting false and misleading loss reports to Mercer, Clendenny prepared and made written or oral statements intended to be presented to an insurance company for the purpose of obtaining an insurance policy, knowing that the statement contained false or misleading information concerning any fact or thing material to an insurance application, in violation of N.J.S.A. 17:33A-4a(4)(b); and

Count 4 (Fraud Act)

IT FURTHER APPEARING that by completing and submitting false and misleading loss reports to Guard, Clendenny prepared and made written or oral statements intended to be presented to an insurance company for the purpose of obtaining an insurance policy, knowing that the statement contained false or misleading information concerning any fact or thing material to an insurance application, in violation of N.J.S.A. 17:33A-4a(4)(b); and

Count 5 (Producer Act)

IT FURTHER APPEARING that on October 9, 2014, Clendenny coerced and/or induced an insured to sign a statement drafted by Clendenny that was submitted to the Department; and

IT FURTHER APPEARING that this statement, dated October 9, 2014, contained statements that Clendenny knew were false or misleading; and

IT FURTHER APPEARING that by coercing and/or inducing an insured to sign a fraudulent statement, Clendenny violated the insurance laws, used coercive or dishonest practices, demonstrated untrustworthiness in the conduct of insurance business, and committed a fraudulent act, in violation of N.J.S.A. 17:22A-40a(2), (8), and (16); and

NOW, THEREFORE, IT IS on this 17th day of July, 2015;

ORDERED, that Jeffrey Clendenny appear and show cause why his resident New Jersey insurance producer license should not be suspended or revoked and/or why he should not be subject to civil penalty by the Commissioner pursuant to N.J.S.A. 17:22A-40; and

IT IS FURTHER ORDERED, that Clendenny appear and show cause why the Commissioner should not assess a fine of up to \$5,000.00 for the first violation and \$10,000.00 for each subsequent violation, pursuant to the provisions of N.J.S.A. 17:22A-40 and N.J.S.A. 17:22A-45c for violations of the Producer Act; and

IT IS FURTHER ORDERED that Clendenny appear and show cause why he should not be fined up to \$5,000.00 for the first violation of the Fraud Act, \$10,000.00 for the second violation, and \$15,000.00 for each subsequent violation as well as costs and attorneys' fees, pursuant to N.J.S.A. 17:33A-5c for violations of the Fraud Act; and

IT IS FURTHER ORDERED that Clendenny appear and show cause why he should not be subject to a surcharge in the amount of \$1,000.00, pursuant to N.J.S.A. 17:33A-5.1; and

IT IS FURTHER ORDERED that Clendenny appear and show cause why he

should not be subject to additional penalties including reimbursement of the costs of investigation and prosecution by the Department and restitution pursuant N.J.S.A. 17:22A-45c; and


IT IS PROVIDED, that Jeffrey Clendenny 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 licensee, 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. 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.



Peter L. Hartt
Acting Commissioner of the New
Jersey Department of Banking and
Insurance