

ORDER TO SHOW CAUSE NO. E16-57

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, and/or revoke the)
public adjuster licenses of)
Alliance Adjustment Group,)
Inc., Reference No. 0070074,)
and James M. Wagner, Reference)
No. 0070075)

ORDER TO SHOW CAUSE

TO: Alliance Adjustment Group, Inc.
263 North Main Street
Doylestown, PA 18901

James M. Wagner
4742 Essex Drive
Doylestown, PA 18902

THIS MATTER, having been opened by the Commissioner of Banking and Insurance ("Commissioner"), State of New Jersey, upon information that Alliance Adjustment Group, Inc. ("AAG") and James M. Wagner ("Wagner") (collectively "Respondents") licensed as public adjusters in this State pursuant to N.J.S.A. 17:22B-1 et seq., may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Respondents are subject to the provisions of the New Jersey Public Adjusters' Licensing Act, N.J.S.A. 17:22B-1 et seq. ("Public Adjusters' Act"); and

WHEREAS, pursuant to N.J.S.A. 17:22B-14a(1) and N.J.A.C. 11:1-37.14(a)2, the Commissioner may refuse to issue or renew a license, or suspend or revoke any adjuster's license if the licensee, or any sublicensee named in the license has violated any provision of the insurance law, including any rules promulgated by the Commissioner, or has violated any law in the course of his, or its, dealings as an adjuster; and

WHEREAS, pursuant to N.J.S.A. 17:22B-14a(2) and N.J.A.C. 11:1-37.14(a)6, a public adjuster shall not withhold material information or make a material misstatement in the application for the license; and

WHEREAS, pursuant to N.J.S.A. 17:22B-14a(3) and N.J.A.C. 11:1-37.14(a)3, a public adjuster shall not commit a fraudulent or dishonest act; and

WHEREAS, pursuant to N.J.S.A. 17:22B-14a(4) and N.J.A.C. 11:1-37.14(a)4, a public adjuster shall not demonstrate incompetency, lack of integrity, bad faith, dishonesty, financial irresponsibility or untrustworthiness to act as an adjuster; and

WHEREAS, pursuant to N.J.A.C. 11:1-37.12, every licensed public adjuster is required to maintain accurate books and records, for all insurance related transactions, in such a manner that they can be produced for examination at any time, including a "...register of all monies received, deposited, disbursed or withdrawn in connection with a transaction with an insured, including, but not limited to: fees, transfers and disbursements from a trust account; and all transactions concerning, including the balance of, all interest bearing accounts"; and

WHEREAS, pursuant to N.J.A.C. 11:1-37.13(b)3ii, the written memorandum or contract between a licensed public adjuster and an insured shall contain a list of services to be rendered and the maximum fees to be charged, which fees shall be reasonably related to services rendered; and

WHEREAS, pursuant to N.J.A.C. 11:1-37.14(a)9, the Commissioner may suspend or revoke a public adjuster's license if the public adjuster has misappropriated, converted or illegally withheld, money which was received in the conduct of business that belonged to insurers, clients or others;

WHEREAS, pursuant to N.J.A.C. 11:1-37.14(a)11, the Commissioner may suspend or revoke a public adjuster's license if the public adjuster has failed to appear in response to any

subpoena issued by the Commissioner or his authorized designee; failed to produce any documents or other material requested in a subpoena; or refused or failed to cooperate with an investigation by the Commissioner of the activities of the person or any other licensee; and

WHEREAS, pursuant to N.J.A.C. 11:1-37.14(a)17, the Commissioner may suspend or revoke a public adjuster's license if the public adjuster has committed any other act or omission which the Commissioner determines to be inappropriate conduct by a licensee of the State of New Jersey;

WHEREAS, pursuant to N.J.A.C. 11:1-37.14(b), any person that violates any provision of this subchapter shall, in addition to any other penalties provided by law, be liable for a civil penalty of not more than \$2,500.00 for a first offense and not more than \$5,000.00 for the second and each subsequent offense. Each transaction or statutory violation shall constitute a separate offense; and

COUNT 1

IT APPEARING that, on or about May 2, 2013, Respondent AAG endorsed and deposited a check in the amount of \$2,697.56, into its escrow account, from State Farm Fire and Casualty Company, payable to Respondent AAG, its clients I.G. and K.J., and the clients' mortgagee Everhome Mortgage, in relation to the

clients' property damage suffered from Superstorm Sandy on October 29, 2012; and

IT FURTHER APPEARING that, Respondent AAG did not secure the endorsement of the clients' mortgagee, Everhome Mortgage, when depositing that check into Respondent AAG's bank account; and

IT FURTHER APPEARING that, on or about April 9, 2013, Respondent AAG endorsed and deposited a check in the amount of \$15,121.53, into its escrow account, from Franklin Mutual Insurance, payable to Respondent AAG, its client S.H., and the client's mortgagee Beneficial Bank, in relation to the client's property damage suffered from Superstorm Sandy on October 29, 2012; and

IT FURTHER APPEARING that, Respondent AAG did not secure the endorsement of the clients' mortgagee, Beneficial Bank, when depositing that check into Respondent AAG's bank account; and

IT FURTHER APPEARING that, on or about June 27, 2013, Respondent AAG endorsed and deposited a check in the amount of \$12,993.67, into its escrow account, from Franklin Mutual Insurance, payable to Respondent AAG, its client S.M., and the client's mortgagees RBS Citizens NA and Sovereign Bank, in

relation to the client's property damage suffered from Superstorm Sandy on October 29, 2012; and

IT FURTHER APPEARING that, Respondent AAG did not secure the endorsements of the client's mortgagees, RBS Citizens NA and Sovereign Bank, when depositing that check into Respondent AAG's bank account;

IT FURTHER APPEARING THAT, Respondent AAG's failure to secure proper endorsements when depositing insurance company checks into Respondent AAG's escrow account constituted violations of N.J.S.A. 17:22B-14a(1), (3), and (4), and N.J.A.C. 11:1-37.14(a)2, 3, 4, 9, and 17; and

Count 2

IT FURTHER APPEARING that, on or about January 17, 2014, the Commissioner issued Subpoena No. 14-01 to Respondents AAG and Wagner; and

IT FURTHER APPEARING THAT, Subpoena No. 14-01 commanded production of the following:

1. Beginning October 29, 2012; copies of all contracts for settled/closed claims applicable to New Jersey insureds affected by Superstorm Sandy
2. Beginning October 29, 2012; copies of all drafts/checks, front and back, for settled claims applicable to New Jersey insureds affected by Superstorm Sandy
3. An Excel and/or Word table reflecting the following:
 - a. Insured's name
 - b. Name of Insurance Carrier
 - c. Date of Loss

- d. Name(s) of Public Adjuster assigned to each claim
- e. Total estimate amount
- f. Total amount paid by Insurance Carrier
- g. Percentage (%) paid to Alliance Adjustment Group, Inc.
- h. Total fee(s) paid to Alliance Adjustment Group, Inc. per claim; and

IT FURTHER APPEARING that, on or about February 28, 2014, Respondents responded to the subpoena, but were unable to provide the total amount paid from the carrier, the total estimate amount, the total fees paid to Respondent AAG for any of the requested insureds, and copies of the backs of cancelled checks; and

IT FURTHER APPEARING THAT, Respondents' failure to produce all documents and/or other materials commanded by Subpoena No. 14-01 constituted violations of N.J.S.A. 17:22B-14a(1) and (4), N.J.A.C. 11:1-37.12, and N.J.A.C. 11:37.14(a)2, 4, and 11; and

Count 3

IT APPEARING THAT, on August 11, 2011, Respondents entered into a consent order with the Insurance Commissioner of the Commonwealth of Pennsylvania, Docket No. CO11-03-019, and were assessed a fine \$4,000.00, wherein Respondents allegedly hired an unlicensed individual to conduct public adjuster business on behalf of Respondent AAG; and

IT FURTHER APPEARING THAT, on or about November 11, 2012, Respondents submitted renewal applications to the New Jersey Department of Banking and Insurance ("Department") for their public adjuster licenses; and

IT FURTHER APPEARING THAT, each renewal application asked whether the applicant had been named or involved in an administrative proceeding that had not been previously reported to the Department, to which Respondents answered "NO"; and

IT FURTHER APPEARING THAT, on August 5, 2013, in a letter to the Department, Respondent Wagner stated that a representative from Respondent AAG inadvertently marked "NO" in error, for which Respondent Wagner took full responsibility; and

IT FURTHER APPEARING THAT, Respondents' material misstatements on their renewal applications constituted violations of N.J.S.A. 17:22B-14a(2) and (3), N.J.A.C. 11:1-37.14(a)2, 3, and 6; and

NOW, THEREFORE, IT IS on this 21st day of JUNE, 2016

ORDERED, that pursuant to the provisions of N.J.S.A. 17:22B-14a, Respondents shall appear and show cause why their public adjuster license shall not be suspended or revoked by the Commissioner; and

IT IS FURTHER ORDERED, that Respondent shall appear and show cause why the Commissioner should not assess fines not

exceeding \$2,500.00 for the first violation and not exceeding \$5,000.00 for each subsequent violation, pursuant to the provisions of N.J.S.A. 17:22B-17 , due to their failure to comply with New Jersey's insurance laws and regulations; and


IT IS FURTHER ORDERED, that, pursuant to N.J.S.A. 17:22B-17, Respondents shall appear and show cause why they should not be subject to additional penalties, including restitution to their victims and reimbursement of the costs of investigation and prosecution by the Department of Banking and Insurance; and

IT IS PROVIDED THAT, Respondents have the right to request an administrative hearing, to be represented by counsel or other qualified representative, at their own expense, to take testimony, 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, New Jersey Department of

Banking and Insurance, P.O. Box 329, Trenton, N.J. 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 Kevin McGowan 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 Martt
Director of Insurance