

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 insurance )  
producer license of Kenneth J. Murphy, )  
Reference No. 9727519 )

**ORDER TO SHOW CAUSE**

TO:

KENNETH J. MURPHY  
9 WINDING BROOK ROAD  
HAMBURG, NJ 07419

THIS MATTER, having been opened by the Commissioner of Banking and Insurance (“Commissioner”), State of New Jersey, upon information that Kenneth J. Murphy (“Respondent”) 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 in the State of New Jersey pursuant to N.J.S.A. 17:22A-32a, until his license expired on November 30, 2015; 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-40d, the Commissioner shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by the Producer Act, Title 17 of the Revised Statutes or Title 17B of the New Jersey Statutes against any person who is under investigation for or charged with a violation of the Producer Act, Title 17 of the Revised

Statutes or Title 17B of the New Jersey Statutes even if the person's license or registration has been surrendered or has lapsed by operation of law; 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 or of another state's insurance regulator; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(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-40a(7), an insurance producer shall not admit or be found to have committed any insurance unfair trade practice or fraud; 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 insurance business in this State or elsewhere; 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-45c, 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 to be recovered in a summary proceeding in accordance with the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (N.J.S.A. 2A:58-10 et seq.); moreover, the Commissioner may order restitution of moneys owed any person and reimbursement of the costs of investigation and prosecution, as appropriate; and

## COUNT 1

IT APPEARING, that at all times relative hereto, Respondent was a licensed insurance producer and an agent with Farmers Insurance Group (“Farmers”); and

IT FURTHER APPEARING, that in July 2014, Respondent submitted applications for nine Farmers insurance policies purportedly for individuals MS, ESM, EM, KMS, DO, DT, CB, KMJ and himself (collectively, the “Policies”); and

IT FURTHER APPEARING, that for six of the Policies, Respondent set up electronic funds transfer (“EFT”) payments using a Visa debit card belonging to Respondent and issued in Respondent’s name; and

IT FURTHER APPEARING, that for one of the Policies, the address listed for the purported insured was falsely listed as that of the New Jersey Institute of Technology; and

IT FURTHER APPEARING, that no insurance application nor any policy document signed by the purported insured was submitted to Farmers by Respondent for any of the Policies; and

IT FURTHER APPEARING, when Farmers attempted to contact the purported insureds, one individual, DT, denied that he agreed to apply for a policy with Respondent, and Farmers was unable to reach the remaining seven insureds, if they in fact exist; and

IT FURTHER APPEARING, that all of the Policies were cancelled for nonpayment or rejected EFT payments; and

IT FURTHER APPEARING, that Respondent failed to complete the appropriate policy application forms for the policy that he applied for himself; and

IT FURTHER APPEARING, that Respondent was paid commissions by Farmers for submitting the applications for the Policies; and

IT FURTHER APPEARING, that Farmers terminated its agency agreement with Respondent on October 27, 2014 for willful misrepresentation;

IT FURTHER APPEARING, that Respondent submitted applications for fictitious policies and/or provided inaccurate, forged, or fictitious information to Farmers, in violation of N.J.S.A. 17:22A-40a(2), (5), (7), (8), and (16); and

NOW, THEREFORE, IT IS, on this 5<sup>th</sup> day of MARCH, 2018

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-40a; 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 N.J.S.A. 17:22A-45c; and

IT IS FURTHER ORDERED, that Respondent appear and show cause why he should not be required to reimburse the Department of Banking and Insurance ("Department") for the costs of investigation and prosecution as authorized by 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 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, 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 Brian R. Fitzgerald at fax number (609) 777-3503. The request shall contain:

- (a) Respondent'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 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.

  
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PETER L. HARTT  
DIRECTOR OF INSURANCE