

2. The account number of the trust or escrow account;
3. The date monies are received, deposited, disbursed or withdrawn;
4. The amount of money received, deposited, disbursed or withdrawn;
5. An itemized record of the allocation of the funds;
6. The name of the insured, insurance producer, insurer or other account to or from whom monies are disbursed or received;
7. The claim number;
8. The receipt number, when available; and
9. The method of payment, such as, cash, check, money order or draft.

(c) For each disbursement, the number of the check shall be recorded in the register.

(d) All entries for receipts and disbursements shall be supported by evidential matter as provided in (b) and (c) above. The evidential matter shall be referenced in the entry so that it may be traced for verification.

(e) Each licensee shall prepare and maintain a monthly reconciliation of the trust account.

(f) Each licensee shall maintain a file for each claimant with whom a contractual relationship has been established. The minimum items required to be maintained in the file include:

1. Correspondence received or sent with respect to any insurance or insurance related transaction;
2. All of the client's contracts; and
3. All claim files.

(g) The licensee shall also maintain the following records for a period of five years:

1. Escrow or trust account statements;
2. Names and addresses of all licensees and sublicensees;
3. Copies of all new and renewal applications submitted to the Department by an individual, the company, all sublicensees and temporary sublicensees;
4. All fees received, if not deposited in a trust or escrow account; and
5. All records of transactions with persons or entities owned by the licensee or by one or more of its officers or directors or an owner of 10 percent or more of the licensee that are construction firms, salvage firms or appraisal firms.

(h) Failure to keep, maintain or make available for inspection by the Commissioner, those records which the Commissioner shall require to be maintained in accordance with this subchapter, or any other violations by a licensee, shall result in the imposition of administrative fines comparable to the fines set forth at N.J.A.C. 11:17D-2.4.

11:1-37.13 Right to compensation

(a) No individual, firm, partnership, association or corporation licensed under this subchapter shall have any right to compensation from any insured for or on account of services rendered to an insured as a public adjuster unless the right to compensation is based upon a written contract or memorandum between the adjuster and the insured and specifying or clearly defining the services to be rendered and the amount or extent of the compensation.

(b) The written memorandum or contract between a licensed public adjuster and an insured:

1. Shall be executed in duplicate and a fully executed copy shall be provided to the insured upon execution;
2. Shall be kept on file by the public adjuster, available at all times for inspection without notice by the Commissioner; and
3. Shall contain the following:
 - i. The signatures of the insured and the public adjuster;
 - ii. A list of services to be rendered and the maximum fees to be charged, which fees shall be reasonably related to services rendered; and
 - iii. The time and date of execution of the contract (day, month, year) by each party;
4. Shall conform to the requirements of the Consumer Contracts Act at N.J.S.A. 56:12-1 et seq. and, as applicable, the Federal Trade Commission Act as set forth at 15 U.S.C. 41, and 16 C.F.R. subsection 429.1 (1993).
5. Shall prominently include a section which specifies:
 - i. The procedures to be followed by the insured if he or she seeks to cancel the contract, including any requirement for a written notice;
 - ii. The rights and obligations of the parties if the contract is cancelled at any time; and
 - iii. The costs to the insured or the formula for the calculation of costs to the insured for services rendered in whole or in part.

(c) No public adjuster shall enter into any contract or agreement, oral or written, with an insured, to negotiate or settle claims for loss or damage occurring in this State between the hours of 6:00 P.M. and 8:00 A.M. during the 24 hours after the loss has occurred.

11:1-37.14 Violations and penalties

(a) The Commissioner may deny, suspend, revoke or refuse to renew a public adjuster's license based on any violation of the Act or this subchapter, or for the commission or omission of any act by a public adjuster which demonstrates that the applicant or licensee is not competent or trustworthy to act as a public adjuster, or where the person has:

1. Violated any provision of this State's insurance laws, including any rules promulgated thereunder;
2. Violated any law in the course of acting as a public adjuster;
3. Committed a fraudulent or dishonest act;
4. Demonstrated the licensee's lack of integrity, incompetency, bad faith, dishonesty, financial irresponsibility or untrustworthiness to act as a public adjuster;
5. Aided, abetted or assisted another person in violating any insurance law of this or any other State;
6. Withheld material information or made a material misstatement in the application for the license;
7. Failed to pay any fine or restitution imposed by an order of the Commissioner;
8. Collected from any client any fee other than that agreed to in the employment contract in a form required by N.J.A.C. 11:1-37.13;
9. Misappropriated, converted or illegally withheld, money which was received in the conduct of business that belonged to insurers, clients or others;
10. Failed to notify the Commissioner within 30 days of a conviction for any crime, indictment or the filing of any formal criminal charges, or the suspension or revocation of any insurance license or authority by a state, other than this State, or failed to supply any documentation that the Commissioner may request in connection therewith;
11. 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;
12. Induced the cancellation of a duly executed written memorandum between an insured and a public adjuster;
13. Made any misrepresentation of facts or advised any person on questions of law in conjunction with the business as a public adjuster;
14. Had any professional license suspended or revoked in this or any other state;
15. Engaged in the business of a public adjuster in New Jersey with an invalid or expired license; or

16. Committed any other act, or omission which the Commissioner determines to be inappropriate conduct by a licensee of this State.

(b) Any person which 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 for a first offense and not more than \$5,000 for the second and each subsequent offense. Each transaction or statutory violation shall constitute a separate offense.

(c) The procedures for the imposition of administrative penalties shall be governed by N.J.A.C. 11:17D-2.1.

11:1-37.15 Effect of suspension or revocation of public adjuster license

(a) Upon service of any final order suspending or revoking a public adjuster license, the public adjuster shall immediately return to the Commissioner for cancellation any license in the public adjuster's possession.

(b) No other licensed individual or organization shall advertise, display or conduct any business as a public adjuster using the legal or business name of any person whose license has been suspended or revoked.

(c) No person whose public adjuster license has been suspended or revoked shall be entitled to any refund of license fees for the unexpired term of any license issued.

11:1-37.16 Reinstatement after suspension or revocation of a public adjuster license

(a) No individual, firm, association or corporation whose license has been revoked and no firm or association of which the individual is an officer or director, shall be entitled to any license or renewal license under this subchapter for a period of one year after the revocation.

(b) A person whose license has been suspended or revoked may, after one year from the effective date of any order revoking a public adjuster license or upon completion of the period of suspension, apply for reinstatement of the license on the form of application used for initial public adjuster license applicants and shall fulfill all of the requirements set forth therein.

(c) The applicant shall submit with the application a copy of the order of suspension or revocation and an executed affidavit that states:

1. That the period of suspension or revocation has been completed or in the case of a revocation one year has elapsed from the date of the revocation;
2. That all required conditions for reinstatement as described in the order of suspension or revocation have been met;