

2. A request for a hearing shall include:

- i. The name, address and daytime telephone number of the alleged violator;
- ii. A copy of the notice;
- iii. A statement requesting a hearing;
- iv. A specific admission, denial or explanation of each fact alleged in the notice, or a statement that the person is without knowledge thereof; and
- v. A concise statement of the facts or principles of law asserted to constitute any factual or legal defense.

3. If a hearing request fails to include a specific admission, denial or explanation of each fact alleged, or a statement that the person is without knowledge thereof, the facts alleged in the notice shall be deemed to have been admitted.

4. If a hearing request lacks any of the elements in (d)2 above, the Department may deny the request or by certified mail advise the person of the deficiencies and provide an additional 10 calendar days from the issuance of the deficiency letter to correct them. If no reply correcting the deficiencies is received by the Department within 10 calendar days, the Department may issue a final order without granting a hearing.

5. Upon receipt of a properly completed request for a hearing, the Manager of Enforcement, or such other Department personnel as may be designated by the Commissioner, shall examine the request and may conduct or direct such further proceedings as may be appropriate, including, but not limited to, an interview with the alleged violator.

6. Not later than 60 days after the receipt of a properly completed request for a hearing, the Manager of Enforcement, or such other Department personnel as may be designated by the Commissioner, shall advise the alleged violator of the manner of disposition, which may be as follows:

- i. Terminated with or without prejudice;
- ii. Resolved by consent order, which may provide for a lesser or different administrative penalty; or
- iii. A finding that the matter constitutes a contested case, pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. In such a case, the Department shall transmit the matter to the Office of Administrative Law for a hearing consistent with the Uniform Administrative Practice Rules, N.J.A.C. 1:1.

Amended by R.2000 d.44, effective February 7, 2000.

See: 31 N.J.R. 3583(a), 32 N.J.R. 499(a).

In (d)1, added "or faxed to the Department at (609) 292-5337".

Amended by R.2002 d.354, effective November 4, 2002.

See: 34 N.J.R. 2286(a), 34 N.J.R. 2549(b), 34 N.J.R. 3839(a).

In (d), substituted references to Manager for references to Administrator in 1, 5 and the introductory paragraph of 6.

Case Notes

Order to Show Cause (OTSC) constituted the notice referenced in N.J.A.C. 11:17D-2.1(b)1; although the licensee initially responded to the OTSC, the licensee's subsequent repeated failures to respond to Orders and scheduling notices from the ALJ constituted "failure to respond as required by the notice, within the time period provided in the notice" within the meaning of that phrase in N.J.A.C. 11:17D-2.1(b)1. Accordingly, all violations alleged in the OTSC were deemed admitted. *Goldman v. Budge*, OAL Dkt. No. BKI 10260-2004S, 2007 N.J. AGEN LEXIS 515, Final Decision (June 28, 2007).

Interim suspension of insurance licenses during course of administrative hearing process was modified to restriction on types of insurance that licensees could sell. *New Jersey Department of Insurance v. Sarris Financial Group, Inc.*, 96 N.J.A.R.2d (INS) 77.

Agents charged with misconduct who voluntarily surrendered their licenses were not entitled to hearing on issue of fitness when their applications for license renewal were denied. *Department of Insurance v. Schemanski*, 96 N.J.A.R.2d (INS) 61.

Transgressions of insurance producer licensees were such as to require revocation of licenses and imposition of fines. *Fortunato v. R.R. Brown & Co.*, 95 N.J.A.R.2d (INS) 11.

Revocation of insurance producer's license and assessment of penalty were proper. *Fortunato v. Shipitofsky*, 94 N.J.A.R.2d (INS) 39.

Insurance producer's license properly revoked and penalties imposed. *Department of Insurance v. Shih*, 94 N.J.A.R.2d (INS) 34.

Insurance producer's license revoked; placing commercial automobile coverage with unauthorized or non-existent carriers. *Fortunato v. Blumeyer*, 94 N.J.A.R.2d (INS) 13.

Penalties and license revocation; accepting premiums and failing to remit or refund payments, issuing bad checks. *Fortunato v. Vale Insurance Agency, Inc.*, 94 N.J.A.R.2d (INS) 9.

Backdating automobile policy warranted revocation of license. *Fortunato v. Winograd*, 93 N.J.A.R.2d (INS) 46.

Charging fee without written memorandum warranted fine. *Fortunato v. Bandoroff*, 93 N.J.A.R.2d (INS) 41.

Insurance fraud warranted revocation of license. *Fortunato v. Del Mauro*, 93 N.J.A.R.2d (INS) 37.

Backdating insurance application warranted revocation of license. *Fortunato v. Leiber*, 93 N.J.A.R.2d (INS) 20.

Rendering services as insurance producer without current license warrants fine. *Fortunato v. Bonavita*, 92 N.J.A.R.2d (INS) 77.

Defrauding federal government barred application for insurance producer license. *Scauro v. New Jersey Department of Insurance*, 92 N.J.A.R.2d (INS) 67.

Producer license revoked for failure to provide notice of criminal conviction. *Fortunato v. Monteiro*, 92 N.J.A.R.2d (INS) 22.

11:17D-2.2 Monetary penalty for time related violations

(a) Time related violations shall include the following:

1. When an insurance producer fails to respond to an inquiry of the Department within the time requested or within 15 calendar days from the date of the inquiry if no response date is given; or

2. When an insurance producer fails to act within or continues his or her actions during the time established or proscribed by a statute, administrative rule or order.

(b) Each calendar day that an insurance producer is in violation of (a)1 or 2 above shall be considered a separate violation and the Commissioner may impose the maximum penalty provided therefor by law.

Amended by R.2002 d.354, effective November 4, 2002.
See: 34 N.J.R. 2286(a), 34 N.J.R. 2549(b), 34 N.J.R. 3839(a).
Deleted "or limited insurance representatives" throughout.

11:17D-2.3 Alternative remedies

Neither the assessment of administrative penalties nor the payment of any such penalty shall be deemed to affect the availability to the Department of any other enforcement provision provided for by statute, rule or administrative order, in connection with the violation for which the penalty is levied.

Case Notes

Altering records, mitigated by nine years of unblemished record, warranted fine and suspension only. *Fortunato v. Morris*, 93 N.J.A.R.2d (INS) 17.

11:17D-2.4 Schedules of fines for certain insurance producer licensing violations

(a) The Department shall impose fines for certain insurance producer violations in accordance with the following schedule:

1. Failure to maintain on file with the Department a complete and accurate business or home address or to notify the Department of a change of business or home address within 30 calendar days as required by N.J.A.C. 11:17-2.7(f): \$250.00, except where notification is delayed beyond 60 calendar days, including the aforesaid 30 days, in which case the violator is subject to the maximum penalty provided by law;

2. Failure to notify the Department of the opening of a branch office within 30 days or the closing of a branch office within 20 days as required by N.J.A.C. 11:17-2.8(c): \$500.00;

3. Payment of a license or processing fee with a check later returned for insufficient funds or because the account is closed: \$500.00;

4. Failure to obtain approval for the use of a business name from the Department prior to conducting business under that name as required by N.J.A.C. 11:17-2.7(c): \$250.00;

5. Failure to notify the Department within 30 days of the addition or deletion of owners of more than 10 percent or officers, directors or partners as required by N.J.A.C. 11:17-2.11(c): \$250.00;

6. Failure to maintain in at least one office with an address on file with the Department copies of all employment contracts and copies of all agency contracts in accordance with N.J.A.C. 11:17-2.9: \$100.00 per contract; and

7. Upon demand by a licensed insurance producer, the failure by an employing insurance producer, insurer, or other custodian to return a license to the possession of the named insurance producer: \$500.00.

(b) The fines identified in (a) above are applicable to first offenders only. Repeat offenders shall be subject to the maximum penalties provided by law.

Amended by R.2005 d.237, effective July 18, 2005.
See: 37 N.J.R. 413(a), 37 N.J.R. 2691(c).

In (a), substituted "30" for "20". in 1, rewrote 4, and inserted the N.J.A.C. references throughout.

Amended by R.2011 d.027, effective January 18, 2011.
See: 42 N.J.R. 1470(a), 43 N.J.R. 189(b).

In (a)5, substituted "10" for "five".

Case Notes

Aiding, abetting and assisting an insurance agency to engage in insurance business during period of suspension warranted imposition of fine against licensed insurance producer. *Fortunato v. Da Silva*, 95 N.J.A.R.2d (INS) 1.

11:17D-2.5 Effect of suspension or revocation of producer license

(a) Upon service of any final order suspending or revoking an insurance producer license, the insurance producer shall immediately return to the Department for cancellation any license in his or her possession.

(b) Imposition of a period of suspension or of revocation shall sever any existing agency relationships with insurance companies, employment relationships with other insurance producers, and licensed officer or partner relationships with any licensed organization. In the event a license is later reinstated, those relationships shall be reestablished by re-filing in accordance with N.J.A.C. 11:17-2.9.

(c) No other licensed individual or organization shall advertise, display or conduct any insurance business using the legal or business name of any person whose license has been revoked.

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

(e) No person whose license has been suspended or revoked may be a partner, officer, director or owner of a licensed business entity, or otherwise be employed in any capacity by an insurance producer.