



N.J. Department of

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Elizabeth "Lisa" Randall
Appointed Insurance Commissioner

Elizabeth "Lisa" Randall was confirmed as Insurance Commissioner by the New Jersey Senate on Dec. 7. Randall had assumed her duties as Acting Commissioner on Oct. 13. At the time of her appointment, she was serving as the Governor's Banking Commissioner, a position she had held since March 1994.

Commissioner Randall oversees the regulation of New Jersey's 1,128 licensed insurers with more than \$21.2 billion in premiums in 1994. The Insurance Commissioner also regulates the state's real estate industry. There are approximately 77,000 licenses for insurance and 83,000 for real estate.

"Lisa Randall has been an outstanding Commissioner of Banking," Governor Whitman said upon announcing her appointment.

"Her knowledge of the Legislature and the industry she has regulated has served the state and its people well, and I am confident that the Department of Insurance will be served equally well," the Governor

said.

Randall, a resident of Westwood, was elected in a special State Assembly election in the 39th Legislative District in 1985. She was re-elected to the General Assembly three times and served until 1991, when she resigned her position to become Bergen County Counsel. She held that post until being nominated as Banking Commissioner. During her tenure in the Assembly, Commissioner Randall was a partner in the Westwood law firm of Randall, Randall and Stevens.

As Commissioner of Insurance, she is a member of the New Jersey Individual Health Coverage Program Board, the New Jersey Small Employer Health Benefits Program Board and the Unsatisfied Claim and Judgment Fund Board. She is also Vice Chair of the New Jersey Executive Commission on Ethical Standards.

Randall Appoints Deputy Commissioners

Commissioner Randall recently appointed **Cynthia L. Codella** of West Orange as a Deputy Commissioner.

Codella is responsible for the property and casualty areas of the department. The divisions involved in auto and homeowner's rate filings, financial examinations, solvency and rehabilitation, property/casualty actuaries, fraud prevention and the Unsatisfied Claim and Judgment Fund report to her.

Codella joins Deputy Commissioner **Anita B. Kartalopoulos** of Clinton Township, who oversees the department's life and health operations. She is responsible for the divisions involved in all life and health insurance matters (including managed-care organizations), senior health, enforcement and consumer protection, life/health actuaries, workers' compensation and real estate. Codella was formerly Vice President of First Trenton Indemnity Company in Parsippany, a subsidiary of Travelers Insurance Company. Her responsibilities included claims litigation management, budgets, quality control, employee training, systems, regulatory affairs, and strategic planning.

Kartalopoulos, an attorney, joined the Department of Insurance in September 1994 as Executive Director of the state Real Estate Commission. She was promoted to Special Deputy Commissioner in September and has been serving as a Deputy Commissioner under Randall since October.

She was a partner at Novak and Kartalopoulos in Clinton and served as municipal attorney for the Town of Phillipsburg.

"There are challenging issues facing the Department of Insurance in both the property/casualty and life/health fields. I believe that Cynthia Codella and Anita Kartalopoulos are well-qualified to meet these

issues," Randall said.

Under the reorganized structure of the Department of Insurance devised by Randall, the divisions of legislative affairs, management and budget, and public affairs will report to Chief of Staff Gabrielle Charette.

Randall Orders \$3.4M In Restitution - Largest Amount Ever

Commissioner Randall has ordered two former officers of a Gloucester County trucking insurance agency, which bilked millions of dollars from insurers, lenders and former clients in 1991 and 1992, to pay nearly \$3.4 million in restitution. This is the largest amount of restitution ever ordered by the New Jersey Department of Insurance.

Randall ordered that William Pappas of Voorhees and Armand A. Bucci of Laurel Springs pay the restitution for funds owed to several insurance companies and insureds, and five insurance premium finance companies. The Commissioner determined that Pappas and Bucci had committed numerous violations of state insurance laws.

Pappas and Bucci are former officers of Pappas Trucking Insurance Agency, Inc., which had operated in Turnersville.

The administrative decision by Randall is the last step in a series of state and federal criminal and regulatory actions stemming from one of the largest insurance policy premium schemes in New Jersey.

In addition, Randall fined Pappas \$10,000 and Bucci \$5,000. She also revoked Pappas' insurance producer license and suspended Bucci's license.

Department Obtains Court Order Against Atlantic City Producer

The department recently obtained a New Jersey Superior Court order banning an Atlantic City producer and his agency from doing business in the state.

In announcing the action in December, Commissioner Randall said it marked the first time that the department has gone into court and obtained a preliminary restraining order to prevent an agent or agency from victimizing consumers.

Ashraf Gouda and his agency, **American Group of New Jersey, Inc.** are accused in court documents of selling New Jersey Personal Automobile Insurance Plan (PAIP) policies even after their authority to write PAIP business was suspended and then revoked. As a result, motorists who paid for insurance and were issued insurance identification cards believed they were insured when they actually were uninsured.

"This case is unusual because it presented to the department for the first time a blatant, ongoing situation that demanded to be stopped immediately. To obtain a court injunction, the department must show irreparable harm and we did that," Randall said.

The preliminary restraining order prohibits Gouda and his agency from "marketing, renewing, servicing or doing business in any form." Superior Court Judge L. Anthony Gibson of the Chancery Division in Atlantic City also ordered a freeze on any money in the bank accounts of Gouda or the agency which were related to the sale or renewal of private passenger auto insurance. No transactions may be made without prior notice to the department and the approval of the court. The order also requires Gouda to cooperate with the Department of Insurance investigators in their continuing inspection of his records.

On Dec. 13, Randall issued Gouda and American Group of New Jersey an order suspending their licenses pending completion of administrative proceedings and an order to show cause.

At a preliminary hearing on Dec. 28, an administrative law judge continued the license suspensions pending the outcome of administrative proceedings. A departmental investigation found that Gouda had accepted at least \$9,684 in premium payments from 23 consumers for their new and renewal PAIP policies after the PAIP Producer Certification Peer Review Panel temporarily suspended and later revoked his authority to bind PAIP coverage. The suspension, which was issued Sept. 12, allowed Gouda to continue to process renewal business. The panel suspended his certifications for numerous violations of PAIP rules and procedures.

On Oct. 20, PAIP permanently revoked Gouda's certification because it found that he had submitted PAIP applications with incomplete or missing vital documents, including inspection authorization forms, prior insurance records and sufficient evidence of applicants' eligibility for PAIP coverage. The revocation prohibited Gouda from transacting any PAIP business.

"These consumers were led to believe that they had valid coverage though PAIP," Randall said. "they were unwittingly driving without insurance. The potential financial losses to these individuals and their families could have been devastating."

The civil action filed by the department asks that the judge permanently bar the defendants from operating in New Jersey as a licensed insurance producer or corporate insurance licensee. Among other things, it asks that the court order the defendants to pay PAIP any premiums owed for insurance sales prior to Sept. 12. It also asks that Gouda be ordered to reimburse any consumers who paid him for insurance on or after Sept. 12, for which no insurance was issued.

"This should send a message that we will not tolerate serious and intentional violations of our insurance regulations and statutes by agents," Randall said. "Consumers should not become victims."

Nearly One Million Covered Under Standardized Individual and Small Employer Health Insurance Plans

Enrollment in health insurance plans regulated under New Jersey's Individual Health Coverage (IHC) Program and Small Employer Health (SEH) Benefits Program approached the 1 million mark as of Sept. 30, 1995.

Kevin O'Leary, the programs' executive director, called the increase in the number of individuals and small employers purchasing health insurance over the past year "an encouraging sign that the state's health insurance reform programs are meeting their goals."

O'Leary noted that enrollment in the individual market rose to approximately 168,000 in the third quarter of this year, up 17 percent from the prior quarter. The number of in-force standard, community-rated plans doubled between September 1994 and September 1995. More than 85,000 people who were previously uninsured have been able to purchase coverage since August 1993., the inception date of the IHC Program. There are 28 participating carriers in the market that consisted of just one company two years ago.

At a press conference on Dec. 14, the SEH Program Board announced that more than 775,000 people are now covered under health benefits plans issued to small employers.

Commissioner Randall said. "Two years ago, New Jersey began an experiment in health insurance reform. We preserved the competitive forces of the private market, but tried to ensure that all small employers who needed health coverage could purchase it at a reasonable price. We brought insurance companies and HMOs to the table to help design and regulate the market. The results have been extremely encouraging."

Maureen Lopes, chairperson of the SEH Board said, "I am pleased by the steady increase in the number of small businesses offering coverage to their employees. Over the past year, we have seen an 11 percent increase in the number of employers covered. In the same period, some 2,500 previously uninsured small employers have come into the market due, at least in part, to the guaranteed issue policy requirements of the reform law."

According to Lopes, sales of small employer policies were split evenly between the standard plans

developed by the SEH Board and nonstandard plans. She noted that there are six standard plans and approximately 60 optional benefit riders that can be attached to them.

"Even in a standardized market, there is tremendous choice for small employers," Lopes said. "And the cost of coverage is no longer based on the health status or claims history of the group."

The SEH Board also released the first annual premium comparison survey for small employer coverage. The survey, which was conducted by the Department of Insurance, required companies offering small employer coverage to provide premium data for standard plans covering a sample small employer group, consisting of six employees and their dependents. The survey and a listing of carriers and telephone numbers will be distributed with the SEH Benefits Plans Buyers' Guide.

"This survey is an essential tool for shopping in a standardized market," O'Leary said. "All carriers are offering standard health benefits plans, so small employers should have confidence that a standard plan's benefits will be the same from whichever carrier they choose. We hope that putting this information in consumers' hands will encourage small employers to provide coverage for their employees."

While the survey contains premium information for just three counties, it shows the relative pricing of all insurers for the standard plans. Consequently, it should serve as a useful comparison shopping guide for small employers throughout the state.

"The availability of comprehensive market information may also spark increased price competition among the carriers.," O'Leary said. "The companies will see how their rates stack up against other insurers, and those in the higher range may feel the need to reduce their premiums to order to be more competitive."

Small employers may obtain the Buyers' Guide by calling 1-800-263-5912.

Individuals may call 1-800-838-0935 for IHC Program Board's Buyers' Guide.

Department Helps Producers Track Continuing Education Credits

Each licensed insurance producer must obtain at least 48 continuing education credits (CECs) over four years prior to his or her license renewal date. Each producer has a maximum of one year after the license's expiration date to earn the credits to reinstate the license. However, no business may be transacted before the license is reinstated.

A producer may obtain his or her current CEC balance by contacting the credit banker, Assessment Systems, Inc., at 1-800-274-7168. Assessment Systems provides every producer with a free copy of his

ir her account balance January of each year and four months before the license expiration date. The company provides updates of CEC account balances at all other times for a \$10 fee.

Producer licenses are renewable in February, May, August, and November each year, coinciding with the expiration dates of Jan. 31, April 30, July 31 and Oct. 31. The Department strongly urges producers to bank credits as far in advance as possible to avoid delays in license renewals.

The Department's insurance education unit provides a list of approved schools, a calendar of courses conducted on a daily basis during each quarter, and a description of the three ways to attain credits. Producers may obtain this information by contacting Thelma Tunstall at 1-609-633-0819.

Randall Names Attorney As Ethics Officer

Commissioner Randall recently appointed attorney **Elaine W. Ballai** as Ethics Officer for the Department of Insurance.

Ballai assumed her duties with the department on Nov. 1. As Ethics Officer, she provides ethics advice to the department's 520 employees and serves as the department's liaison to the Executive Committee on Ethical Standards.

Ballai had been a regulatory officer in the Department of Banking since 1993. Her duties included serving as the department's Ethics Officer and Affirmative Action Officer.

In a unique cost-sharing arrangement between the two departments, Ballai will continue to serve as the Department of Banking's Affirmative Action Officer and Ethics Officer. One-sixth of her salary will be funded by the Department of Banking.

Ballai was in private law practice as an associate with the Somerset firm of Rosenhouse, Cutler and Zuckerman for three years. She joined state government in 1976 and served for four years as a deputy attorney general assigned to the Department of Corrections. From 1980 to 1992, Ballai was a regulatory officer in the Department of Corrections, where she also served as Ethics Officer.

Randall Assessing \$15M From Insurance Industry

Commissioner Randall recently announced two pro-consumer moves that will benefit New Jersey's property insurance policyholders.

Randall said she is withdrawing a proposed regulation that, if adopted, would have paved the way for the reimposition of a surcharge on every residential or commercial property insurance policy written in the state.

Randall said she plans to have insurance companies, instead of New Jersey's policyholders, defray losses and expenses in the Fair Access to Insurance Requirements (FAIR) Plan, created by the Legislature in 1968 to provide essential property insurance to those unable to obtain such coverage in the voluntary market.

"This announcement assures the state's policyholders that their wallets aren't going to be the ones tapped to fund the FAIR Plan," said Randall.

"State law clearly establishes a meaningful role for an insurance industry assessment instead of putting the cost on the backs of policyholders through a surcharge," the Commissioner added.

The new assessment was called for in a 1968 law but never imposed in the 27-year history of the FAIR Plan. The assessment will be paid by the approximately 300 companies that write property insurance for either residential or commercial property.

The estimated assessment is about \$15 million this year but will change annually based on the projected needs of the FAIR Plan.

In 1994, premiums paid by about 2 million homeowner's, tenant's and condominium policyholders, plus as undetermined number of commercial policyholders, totaled \$1.9 billion.

The FAIR Plan is administered by the New Jersey Insurance Underwriting Association, which is based in Newark. The FAIR Plan sells fire, extended coverage, burglary and theft insurance. The maximum coverage limits available in the FAIR Plan were increased in 1993 to \$500,000 in dwelling coverage and up to \$250,000 in personal property (contents) coverage.

Losses and expenses incurred by the FAIR Plan have been subsidized by the Insurance Development Fund, a special account created by the Legislature in 1968 to serve as a financial backup to pay expenses and losses over and above monies taken in by the New Jersey Insurance Underwriting Association through premiums, investments and industry assessments.

Historically, losses and expenses in the FAIR Plan have exceeded the amount taken in through premiums **paid** by FAIR Plan policyholders and through investment income. The shortfall has been funded through IDF surcharge revenues and no industry assessments were imposed.

In 1988, then Commissioner Kenneth Merin found that the IDF had accumulated a substantial **surplus**. As a result, he issued a regulation that discontinued what was a 2 percent surcharge on commercial and

homeowner's policies. The 2 percent was on the basic property portions of the policy, which is about 75 percent of a policyholder's total bill. The surcharge was not on the liability portion.

For purposes of illustration, a 2 percent surcharge would total approximately \$5, based on a \$340 homeowner's policy.

In August, the Department of Insurance proposed a regulation that would have provided the mechanism for the Commissioner of Insurance to reimpose or suspend the policyholder surcharge by order based on the size of the fund.

"The choice for me as Commissioner was to once again ask the policyholders of this state to dip into their pockets by a surcharge on all residential and commercial property insurance policies, or to establish for the first time an industry assessment," Randall said.

"Clearly, the Legislature contemplated an assessment of insurance companies when it wrote the 1968 laws creating the FAIR Plan. However, historically, all policyholders throughout New Jersey were footing the bill for decades," she said. "I'm pleased to say those days are over."

License Revocations

The Department has revoked or suspended the licenses of the following producers and agencies:

- **All Sure Auto Agency, Inc.**, Point Pleasant - Failed to satisfy or successfully move to vacate a judgment obtained by an insured amounting to \$5,000 plus interest and penalties; made misrepresentations on a Producer Assignment Plan application; used a motor club membership form which did not comply with a departmental regulation.
- **Auto Stop Insurance Agency Inc.**, Ledgewood - Failed to pay a fine imposed by the Commissioner.
- **Yolinia Binaday**, Edison - Bound PAIP coverage for five insureds electronically, yet failed to provide PAIP with matching applications with corresponding binding dates.
- **Milton Bloom**, West Orange - Failed to comply with the department's life insurance replacement regulation.
- **Keith R. Bruno**, West Deptford, **Caryl Neld**, Sewell, **Harry C. Warner**, Allentown and **Albert Watsula**, Latrobe, PA (separate and unrelated violations) - Made a material misrepresentation on a license application.
- **Jesse J. Craig, Jr.**, Willingboro - Revocation, restitution and \$2,500 in costs; Backdated an insurance application; issued 41 checks with insufficient funds; failed to pay a civil penalty imposed by the Commissioner; submitted insurance applications to an insurer after the termination of his contract with Craig Financial Services, Inc., violating PAIP performance

standards.

- **Richard Cretice**, Stafford - Revocation and costs: Accepted life insurance payments and failed to remit them to two insurers; accepted premiums for life insurance and failed to secure the requested coverages; failed to comply with a departmental subpoena.
- **Albert G. D'Amore** - Accepted a deposit for auto insurance and failed to secure the requested coverage in a timely manner, leaving the insured without coverage; issued four identification cards where no coverage existed.
- **Arthur N. Frischman**, North Brunswick - Endorsed and cashed 21 loan checks and return premium checks totaling \$55,971.38 without the knowledge or consent of the insureds.
- **Ronnie George**, Englewood - Revocation and costs: Made a material misrepresentation on a license application; failed to comply with a departmental subpoena; failed to respond to a departmental inquiry within 15 calendar days; failed to notify the department of changes in both his residence and business addresses.
- **David R. Hagan**, Westfield - Failed to notify the department of a change in his business and/or residence address.
- **Michael Matonti**, Wyckoff - Submitted to an insurer an invoice which inflated the actual damages incurred in a loss; submitted to an insurer another invoice which contained an altered date and an inflated amount; pleaded guilty to insurance fraud after an indictment in New York State; failed to notify the Commissioner of his indictment and conviction.
- **John D. McAllister**, New York City, N.Y. - Three-year license suspension, \$5,000 fine and costs of \$15,499.64; Presented an insurance proposal to a potential insured which purported coverages from two insurers when, in fact, the insurers had not authorized him to propose such coverages; sent a memorandum and a letter to an insured which falsely represented that certain coverages had been bound; failed to comply with a departmental subpoena; failed to register a branch office; permitted an unlicensed corporation to transact insurance business; failed to notify the department of a change in his business address; failed to satisfy a judgment.
- **Merit Abstract** and its active officer, **William F. Attardi**, Voorhees - Failed to account for \$1.3 million in premiums from Merit's trust account.
- **Joseph F. Petaccio, Jr.**, Collingswood - Accepted \$41,292 from an insured, yet failed to remit the payment to the insurer or return it to the insured.
- **Premier Title Agency, Inc.**, and its active officer, **Robert M. Wurster** - Failed to forward or refund mortgage payoff proceeds totaling \$377,000; failed to remit title insurance premiums totaling \$14,411.47.
- **Raniero A. Sebastani**, Sussex - Revocation, \$21,250 in fines, and costs of \$1,445.19: Prepared and submitted forms to an insurer without the knowledge and consent of the insureds for the purpose of securing the cash surrender values of the policies; misappropriated the \$6,243.66 sent to him after the forms were processed; failed to comply with life insurance replacement regulations; failed to comply with departmental subpoena; failed to notify the department of a change in business address.
- **Jay Yasovsky**, Barnegat - Failed to pay a fine imposed by the Commissioner.

Other Penalties, Fines And Administrative Penalties

The department has assessed penalties and/or fines to the following companies for various violations of New Jersey's insurance statutes and regulations.

- **Illinois Insurance Exchange** - \$25,000 in investigative costs for providing coverages to New Jersey risks prior to being approved by the department as an eligible surplus lines insurer.
- **Mutual of Omaha Insurance Company** - \$37,900 for failing to comply with departmental guidelines relative to complaint handling procedures, advertising and policy forms as determined in a 1992 market conduct examination.
- **Preferred Mutual Insurance Company** - \$5,000 for implementing a moratorium on writing personal lines habitation business without the department's approval.

The department also has fined the following producers and agencies for violations of the state's insurance laws and regulations:

- **Benefit Specialists, Inc.**, and its active officer, **Gerard J. Ferro**, Hammonton - \$40,000 for negotiating health insurance coverage on behalf of an unauthorized insurer.
- **Leslie Ann Boston**, Jersey City - \$1,000 for allowing her unlicensed brother to transact insurance business.
- **John T. Cavener**, Morristown - \$500 for failing to notify the department of a conviction within 30 days.
- **E. Ann Collins**, Lawrenceville - \$2,500 for completing six premium finance agreements at the direction of her employer on behalf of persons who either did not exist or had no knowledge of the agreements.
- **Thomas B. Fallon**, Woodcliff Lake - \$2,500 for providing copies of a department consent order to clients in an attempt to gain a competitive edge over a competitor producer; requesting the cancellation of an insured's workers' compensation policy in a way that was misconstrued, resulting in the insured's placement in the residual market.
- **David Guzman**, Jersey City - \$2,500 for requesting authorized policy loans and misdirecting premium payments collected to pay premiums on other unrelated policies; failing to notify the department of a change in his business address.
- **Montague Henry**, Baychester, N.Y. - \$5,000 for preparing and submitting to an insurer an application for an annuity without witnessing the signature of the applicant; failing to notify the department of a change in his business address; failing to respond to a departmental inquiry within 15 calendar days.
- **Steve M. Horan**, Tinton Falls - \$2,500 for collecting 83 excessive service fees while an agent of an insurer.
- **Robert Iero**, Mount Laurel - \$5,000 for selling a life insurance policy with an unfiled policy form; failing to comply with the department's replacement regulation; falsely representing on a life insurance application the geographical location where it was signed.

- **Jersey City Brokerage** and its active officer, **Khaled Fathalla**, Jersey City - \$1,830 for submitting 167 PAIP applications containing 183 PAIP Plan of Operation deficiencies.
- **Robert Jones**, Medford - \$500 for failing to pay a judgment to the JUA until contacted by the department.
- **Mary S. Kertman**, Turnersville - \$500 for transacting insurance business without the benefit of a current license.
- **Lawrence Kurnath**, Elmwood Park - \$500 for failing to promptly pay a judgment to the JUA.
- **Moore International Claims Adjusters, Inc.**, Brroklyn, N.Y. - \$500 civil penalty for rendering services as a public adjuster without a license.
- **Cheryl A. Scornavaca** - \$1,500 for failing to comply with the life insurance replacement regulation; contacting an insurer to request a loan while representing herself to be the insured's wife.
- **Priscilla Soto**, Elizabeth - \$500 for failing to notify the department of an indictment within 30 days.
- **Joseph C. Tabbi**, Bayonne - \$750 for failing to pay a judgment to the JUA until contacted by the department; failing to notify the department of changes in his business and home address.
- **Governor Taylor**, Trenton - \$4,500 for the untimely submission of an insured's policy renewal payment; using service fee agreements and receipts that did not comply with department regulations.
- **Alex Thomas**, Huntingdon, PA - \$3,000 for submitting to an insurer six life insurance applications in which he falsely certified the geographical locations where the applications were signed.

The following producers and agencies were fined for violations of surplus lines statutes:

- **James Hedges**, Moorestown - \$500
- **Hobbs Insurance Brokers of New Jersey, Inc.**, Rutherford - \$1,250 (Fines includes a penalty for failing to maintain a licensed active officer, and failing to respond to two letters from the department)
- **Henry J. O'Shea**, Haworth - \$250
- **Gerald J. Sullivan and Associates**, Haworth - \$250
- **Burns and Wilcox**, Lawrenceville - \$500

The following producers received fines or civil penalties for material misrepresentation on license application:

- **Robert A. Baker** - \$750 (Fine includes a penalty for failing to notify the department of a change in his business address)
- **John A. Carino**, Staten Island, N.Y. - \$500 civil penalty
- **Conrad DeBlasio**, South River - \$500
- **Miryam A. Delgado**, Wayne - \$1,000

- **William C. Kerrigan, Jr.**, Havertown, PA - \$750
- **Stephen Scherfel**, Bellmawr - \$500 civil penalty

The Department also assessed fines to the following producer and agency for failing to identify the insurer in a life insurance advertisement:

- **Robert E. Miller**, King of Prussia, PA - \$1,500
- **Tribus Financial Group**, Wayne - \$1,000

The department fined the following producers \$250 for failing to notify the department of changes in their business and/or residence address:

- **Kenneth L. Kessler**, Los Angeles, CA
- **Michael J. Ragusa**, Matawan
- **Rebecca Walk**, Altamont, N.Y. - \$500 (two violations)

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