

BANKING AND INSURANCE QUARTERLY

Information for New Jersey's Banking, Insurance and Real Estate Industries

Winter 2007



At left, Banking Director Terry McEwen discusses the importance of financial literacy with students at Trenton Central High School.

Jon S. Corzine
Governor

Steven M. Goldman
Commissioner

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DOBI presents Banking Awareness Week

Regulators, industry partner to promote financial literacy to high school students

TRENTON – Educators, regulators and banking professionals blanketed New Jersey in October to promote financial literacy to high school students during Banking Awareness Week.

More than 110 high schools from 18 New Jersey counties participated in this first-of-its-kind program. Eleven organizations – ranging from state agencies to banking trade groups – signed on as part of the effort.

“Financial literacy is one of the critical skill sets that every young adult must possess to function in modern society, and so often, it is severely lacking,” said Governor Jon Corzine. “I am certainly pleased that such a diverse group, led by the Department of Banking and Insurance, has recognized this need in our schools and has taken it upon themselves to heighten awareness in the field of personal finance.”



Banking Awareness Week began with a kick-off event held at Trenton Central High School. Present were, from left, NJ Department of Banking and Insurance Commissioner Steven Goldman, NJ Department of Education Commissioner Lucille Davy and TCHS Principal James Earle.

The goal of Banking Awareness Week is to promote and improve financial literacy and understanding among young adults in New Jersey and focus on such issues as using credit responsibly, avoiding financial predators, and sorting through the complexity and confusion that some financial decisions can present.

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REMINDER!

**Banking Licensees,
Financial Institutions –
File annual reports
online beginning
January 2007**

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DOBI, Banking Industry Partners to Promote Financial Literacy

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Two-member teams presented the 45-minute Banking Awareness Week program to high school students, which is based on a curriculum developed by the Federal Deposit Insurance Corporation (FDIC). The program focused on three core areas: budgeting, use of savings and checking accounts, and responsible use of credit. The teams consisted of a banking industry professional and a representative from one of the other partner organizations.

In addition to the state Department of Banking and Insurance, partner organizations included the NJ Bankers Association; NJ League of Community Bankers; NJ Mortgage Brokers Association; NJ Department of Education; NJ Economic Development Authority; NJ Department of Community Affairs; NJ Commerce, Economic Growth and Tourism Commission; FDIC; NJ Coalition for Financial Education; NJ Financial Literacy Awareness Network; and NJ Redevelopment Authority.

Plans are underway to continue the financial education outreach project with a special emphasis on April 2007 as Banking Awareness Month.

During **Banking Awareness Week**, the New Jersey Department of Banking and Insurance and partner organizations visited **111** high schools within **100** school districts. The financial literacy program reached more than **4,650** high school students.



A total of **79** banking professionals (branch managers, commercial lenders, etc.) from **37** financial institutions participated, along with **36** state educators and regulators.

Recent Legislative and Regulatory Actions

(Division of Banking)

Proposals – Online at www.state.nj.us/dobi/proposed.htm

Reserves and Reserve Depositories

Proposed Readoption with Amendments: N.J.A.C. 3:8; Proposed Repeal and New Rule: N.J.A.C. 3:8-2.1; Proposed Repeal: N.J.A.C. 3:8-2.2

Federal Matters

Proposed Readoption: N.J.A.C. 3:9; Proposed Repeals: N.J.A.C. 3:9-4 and 5

Retail Installment Sales Act Rules

Proposed Readoption with Amendments: N.J.A.C. 3:20

Mortgages

Proposed Readoption: N.J.A.C. 3:10; Proposed Repeals: N.J.A.C. 3:10 1, 2, 3, 4, 6 and 7; Proposed Readoption with Amendment: N.J.A.C. 3:26

General Provisions

Proposed Readoption with Amendment: N.J.A.C. 3:26

Qualified Educational Institutions

Proposed Readoption with Amendment: N.J.A.C. 3:35

Adoptions – Online at www.state.nj.us/dobi/adopt.htm

Procedural Rules

Adopted Repeal and New Rule: N.J.A.C. 3:1-2.22; Adopted Amendments: N.J.A.C. 3:1-2.2, 2.4 through 2.8, 2.10, 2.13, 2.14, 2.15, 2.16, 2.18, and 2.23

Predatory Lending

Adopted New Rules: N.J.A.C. 3:30

Check Cashing - Deposits

Adopted Amendments: N.J.A.C. 3:24-1.3 and 5.5

Bulletins – Online at www.state.nj.us/dobi/bulletin.shtml

Bulletin No. 06-20: Parity Application of OTS Final Rule 2005-34

Public Notices – Online at www.state.nj.us/dobi/lrnotice.htm

Notice Under the Fair Foreclosure Act – List of Government and Non-Profit Entities that May Provide Financial Assistance or Counseling to Borrowers in Foreclosure

DOBI's Role in Bank Secrecy Act and Anti-Money Laundering Laws

In recent years, the New Jersey Department of Banking and Insurance's Division of Banking has stepped up its enforcement efforts to ensure compliance with the Bank Secrecy Act (BSA) and Anti-Money Laundering (AML) laws including New Jersey's Anti-Money Laundering Act (N.J.S.A. 2C:21-23 et seq.), which is part of the State's Criminal Code. The Division has partnered with other regulatory agencies and with licensees to make sure that we are fulfilling our mission of protecting and educating consumers while upholding the law. In addition, the Division of Banking and the Office of Consumer Finance must comply with various reporting requirements to federal agencies under these laws.

The reach of the USA Patriot Act of 2001 extends to all money service businesses or MSBs. Firms operating as money transmitters, foreign money transmitters, and check cashers, which are three of the 16 types of licensees regulated by the Division's Office of Consumer Finance, are included within the definition of MSBs in the Code of Federal Regulations.

Since July 24, 2002, all MSBs have been required to implement a four part anti-money laundering program that, at a minimum, includes: (1) adoption of internal policies and procedures; (2) appointment of a compliance officer within the company; (3) an employees' training program; and (4) an independent audit function to test the program.

Compliance is mandatory. No exceptions are made because of the business size, either large or small.

The regulation (31 C.F.R. 103.125), however, does allow flexibility in evaluating a program so long as it is "commensurate with the risks posed by the location and size, and the nature of the volume of the financial services provided..." In addition to implementing a BSA/AML program, the new regulations also required MSBs to register with Financial Crimes Enforcement Network (FinCen), www.fincen.gov, by December 31, 2001, and renew their registration every two years.

A specific target of the BSA/AML program is the crime of money laundering. The term money laundering has a distinct and very technical legal definition under state and federal laws. In general, it is the handling of funds in a knowing attempt to mask its source from a criminal enterprise or crime network.

Money laundering has been determined to be a primary source of funding for terrorists' and gang activities. The discovery and prevention of money laundering is a matter of

Money laundering, in general, is the handling of funds in a knowing attempt to mask its source from a criminal enterprise or crime network.

national security. Accordingly, it is important for each one of us to do our best to deter and expose such activity.

New Jersey licensees, who receive training and understanding of money laundering, what it is and how to spot it, play a key role in stopping this crime. The Division of Banking looks on licensees as allies in the fight to stop money laundering in the Garden State.

Division of Banking examiners look at all aspects of compliance and cooperate fully with our partner agencies at the state and federal level. The Division works together with other law enforcement agencies, and with business in training conferences, as well as during examinations. The Division of Banking typically receives full employer and employee cooperation from licensees during examinations.

The prevention of money laundering is not just the right thing to do, it is the law.



Since 2002, all money service businesses (MSBs) have been required to implement a four part anti-money laundering program that, at a minimum, includes:

- (1) adoption of internal policies and procedures;
- (2) appointment of a compliance officer within the company;
- (3) an employees' training program; and
- (4) an independent audit function to test the program.

Fingerprinting Process for Banking Licensees

Frequently Asked Questions

In September, a new digital fingerprinting process was implemented for New Jersey Licensed Lenders, Pawnbrokers, Check Cashers, Money Transmitters and Foreign Money Transmitters.

Who needs to schedule a fingerprint scan for criminal history purposes as a condition of receiving a Division of Banking license?

- All new applicants for New Jersey Licensed Lender individual licenses with mortgage banker or correspondent mortgage banker or mortgage broker and/or secondary lender business authority (ies).
- Any individual who will serve as an officer, director, member, partner, manager or owner of a controlling interest of a corporation, limited liability company or partnership applying for a license to conduct business as a New Jersey Check Casher, Money Transmitter, Foreign Money Transmitter, Pawnbroker or Licensed Lender (includes mortgage banker, correspondent mortgage banker, mortgage broker, secondary lender, consumer lender, and sales finance company authorities).
- Any new applicant for a sole proprietorship New Jersey Check Casher, Money Transmitter, Foreign Money Transmitter, Pawnbroker or Licensed Lender license (includes mortgage banker, correspondent mortgage banker, mortgage broker, secondary lender, consumer lender and sales finance company authorities).
- Any new individual applying to become licensed as an individual licensee in affiliation with an existing Licensed Lender business entity with mortgage banker or correspondent mortgage banker or mortgage broker and/or secondary lender authority (ies).
- Any new individual who will serve as an officer, director,

member, partner, manager or owner of a controlling interest of a corporation, limited liability company or partnership that is an existing licensed New Jersey Check Casher, Money Transmitter, Foreign Money Transmitter, Pawnbroker or Licensed Lender (includes mortgage banker, correspondent mortgage banker, mortgage broker, secondary lender, consumer lender and sales finance authorities).

- All individuals to be employed by a licensed New Jersey Check Casher.

How do I begin the process?

The first step is to download the current version of the Universal Form from the Department's web site at www.state.nj.us/dobi/bankmnu.shtml (choose your correct license type).

Following completion of the proper Universal Form, applicants can schedule an appointment with Sagem Morpho, the electronic fingerprint vendor for the state of New Jersey. Scheduling can be completed online at www.bioapplicant.com/nj or by calling **1-877-503-5981** Monday through Friday, 8 a.m. to 5 p.m., and Saturday, 8 a.m. to noon.

The company has established permanent scanning locations throughout New Jersey, with several mobile units available. There is a processing fee payable to Sagem Morpho of \$78 and a cancellation fee of \$14. Check the Sagem Morpho web site or call the toll-free number for acceptable forms of payment and appointment cancellation terms.

For more information, visit www.state.nj.us/dobi/bankmnu.shtml.

Meet Thomas M. Hunt, Assistant Director, Office of Consumer Finance



Hunt

- Served 15 years as a Deputy Attorney General with the New Jersey Attorney General's Office representing the Department on insurance and banking matters including its anti-money-laundering program
- Clerked for one year at the New Jersey Office of Administrative Law, where he concentrated on environmental regulatory cases and issues
- Holds a JD from the Rutgers School of Law, Newark; BA and MA degrees from Magdalene College, Cambridge University, and an AB from Princeton University

Recent Enforcement Actions

(New Jersey Real Estate Commission)

Paul Cibelli, Jr., salesperson, Somerset County – On September 12, 2006, the Commission approved a settlement wherein Mr. Cibelli agreed to surrender his license with prejudice pending the final disposition of the criminal charges pending against him.

Juan Zapata, formerly licensed salesperson, Bergen County – On September 19, 2006, after a full hearing, the Commission revoked Mr. Zapata's license until July 1, 2010, and imposed a \$2,000 fine for violations of N.J.S.A. 45:15-17(e) unworthiness, dishonesty and bad faith; and 45:15-17(n), obtaining a license by fraud, misrepresentation or deceit. The Commission further found that Mr. Zapata was not eligible to hold a license under N.J.S.A. 45:15-9 and 45:15-12.1 since he had not fulfilled the qualifications as set forth in that statute. Mr. Zapata failed to disclose a theft conviction on his application for a real estate license.

Christopher Maia, salesperson, Union County – On September 19, 2006, after a full hearing, the Commission revoked Mr. Maia's license until March 19, 2009, and imposed a \$500 fine for violations of N.J.S.A. 45:15-17(a), misrepresentation; 45:15-17(e) unworthiness, dishonesty or bad faith; 45:15-17(h) being convicted of a crime, knowledge of which the Commission did not have at the time of last issuing a real estate license to him; and 45:15-17(n), obtaining a license by fraud, misrepresentation or deceit. The Commission further found that Mr. Maia was not eligible to hold a license under N.J.S.A. 45:15-9 since he had not fulfilled the qualifications as set forth in that statute. Mr. Maia failed to disclose prior criminal convictions on his application for a real estate license.

Zahirul Hasan, unlicensed – On September 26, 2006, after a full hearing, the Commission determined that Mr. Hasan was not eligible to hold a real estate license. The Commission found that Mr. Hasan's actions in obtaining a second school certificate by lying about losing his first school certificate and in misrepresenting his criminal history on the license examination/application demonstrated that he did not possess the requisite good character, honesty, integrity and trustworthiness that a candidate must possess under N.J.S.A. 45:15-9.

Sheryl Schubert, salesperson, Morris County – On September 26, 2006, after a full hearing, the Commission revoked Ms. Schubert's license for one year and imposed a fine of \$1,000 for violations of N.J.S.A. 45:15-17(a), misrepresentation, and 45:15-17(n), obtaining a license by fraud, misrepresentation or deceit. The Commission further found that Ms. Schubert was not eligible to hold a license under N.J.S.A. 45:15-9 since she had not fulfilled the qualifications as set forth in that statute.

Recent Legislative and Regulatory Actions

(New Jersey Real Estate Commission)

Public Notices – Online at www.state.nj.us/dobi/lrnotice.htm

Notice of Action on Petition for Rulemaking, Consumer Information Statement N.J.A.C. 11:5-6.9; Petitioner: Michael R. Monihan

Reminder Regarding Escrow Monies

New Jersey law requires that all escrow deposit monies received by a licensee on a real estate transaction be deposited into the broker's trust/escrow account within five (5) business days of receipt. (*See* N.J.S.A. 11:5-5.1.) The only exception to this rule is if an offer to buy or lease is rejected or withdrawn within the five business days of receipt. In that case, the money can be returned to the offeror in the form that it was received. In addition, in the event that the broker's commission is included in the funds deposited into the escrow account, the commission must be paid from that account within five business days.

Licensing Requirements for Residential Mortgage Brokers

Persons and firms engaged in the business of brokering **residential** mortgage loans for compensation must be licensed by the New Jersey Department of Banking and Insurance. The New Jersey Licensed Lenders Act, N.J.S.A. 17:11C-1 et seq., requires the licensure and regulation of mortgage bankers, correspondent mortgage bankers, and mortgage brokers relating to the solicitation, brokering and origination of residential first mortgage loans on New Jersey property.

Licensure is also required for the origination of secondary or subsequent mortgage loans on residential property to consumers. Licensing and regulation under this statute are administered by the Department's Division of Banking.

An individual licensed as a New Jersey real estate broker, broker-salesperson is not, by virtue of being so licensed, authorized to engage in the residential mortgage brokerage business. For more information on the licensure requirements applicable to residential mortgage brokers, contact the Licensing Services Section within the New Jersey Division of Banking at 609-292-5340.

Planning to Move?

The Commission **must** be notified immediately when there is **any change** in a: business address; legal or "doing business as" name; business telephone number; branch office supervisor; **AND** the closing of a main or branch office **OR** the opening of a new escrow account. Notification must be done within 30 days of the change. Violators are subject to fines of \$500 per offense.

Changes to Producer Licensing Regulations Impact Education, Terms

In December 2002, the National Association of Insurance Commissioners (NAIC) adopted the Uniform Resident Producer Licensing Standards in an effort to move all states from reciprocity for nonresident licensing to true uniform licensing requirements consistent with the Gramm-Leach-Bliley Financial Services Modernization Act of 1999. The New Jersey Department of Banking and Insurance has worked closely with the NAIC Producer Licensing Working Group and already has implemented 29 of these uniform licensing standards. Effective January 1, 2007, amendments to the producer licensing regulations will result in the implementation of all uniform standards adopted by the NAIC. These changes will promote more efficient and uniform processes throughout the nation while retaining key consumer protections. The changes to the producer licensing regulations will impact prelicensing education requirements, continuing education, and license terms.

For **new resident producer applicants**, the regulations will now require a **minimum of 20 hours of prelicensing education per line of authority**. This instruction is now allowed via approved self-study programs and internet online courses in addition to regular classroom instruction, allowing for more diverse means of prelicensing education. Several additional professional designations are now recognized for waiver of prelicensing education.

The Department has also added **two separate limited lines for car rental insurance and travel insurance**. These lines were previously included under limited line ticket insurance but have now been separated to bring them in line with the uniform core limited lines adopted by the NAIC. This change will provide greater ease in a producer's ability to obtain nonresident licensure for these lines of authority in other states using core limited lines.

One of the most significant changes effective January 1, 2007, that will impact new and existing licensees is the **change from a four-year license cycle to a biennial renewal coinciding**

with the producer's birth month. This change was requested by national producer trade organizations to alleviate confusion about renewal dates when producers are licensed in multiple states. In order to avoid confusion and the need to prorate fees, producers will transition to the new two-year license on their next renewal. If the producer's birth month in the second year following initial license or renewal is less than 18 months from the time of issuance, the producer will not renew until the following year. For example, a producer whose current license expires July 31, 2007, will not transition to the two-year license until that date. If his birth month is October, his license will not renew again until October 2009, 27 months after his current renewal.

Prelicensing education for new resident producer applicants

- Minimum of 20 hours per line of authority now required
- Approved self-study programs and internet online courses now allowed in addition to classroom instruction

Cycle change for new and existing licensees

- Changes from a four-year license cycle to a biennial renewal coinciding with the producer's birth month
- Producers will transition to the new two-year license on their next renewal
- Business entities (agencies) will move to a biennial license and will expire on May 31

Continuing education requirements for resident producers

- Changes from current 48 credit hours to 24 hours for a biennial license renewal (Three of the 24 hours must be in ethics)

New cost of a producer license

- Major Lines - \$150 (down from \$300)
- Limited Lines only - \$75 (down from \$150)

Business entities (agencies) will move to a biennial license and will expire on May 31. The transition for business entities will be handled in the same manner as individuals.

With the change to a biennial license, the new regulations also change **continuing education requirements for resident producers from the current 48 credit hours to 24 hours for a biennial license renewal**. Three of the 24 hours must be in ethics. Producers renewing with a four-year license will still be required to have earned 48 hours of continuing education.

Producers are also reminded that only one state should be designated as the home state for resident licensing purposes. A producer whose principle place of residence is one state and principle place of business is another is permitted to select one state as the home state for the purpose of fulfilling resident licensing requirements such as continuing education. Producers with such circumstances are asked

to check to see if they have multiple resident state licenses and if so, to select one state as the home state and notify the other state to change the license to nonresident status.

In addition to changes to implement the Uniform Resident Producer Licensing Standards, the new regulations include a provision for continuing education courses provided by approved

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Amendments to Producer Licensing Regulations

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education providers to be subject to renewal at the time the provider's license is renewed. This change will assure that course content is up to date. The new rules also provide for a fee for producer company appointments and terminations as well as an annual appointment renewal process.

Due to the change in licensing term, the Department has also **lowered the cost of a producer license** from \$300 for major lines and \$150 for limited lines only to \$150 for major lines and \$75 for limited lines only. New fees also include a processing fee for any paper applications since the Department now offers all initial and renewal processes for

producers electronically. Paper processing costs more and takes longer so electronic transactions are strongly encouraged. Our producer licensing systems allow for resident and nonresident new and renewal applications online as well as electronic producer appointments, terminations and renewals. In addition, the SBS Online Licensee Service (OLS) subscription offers e-mail notification of changes to the producer's license and online address changes.

Copies of the regulatory changes to producer licensing and all online electronic initiatives are available on the Department's web site, www.njdoabi.org.

Recent Legislative and Regulatory Actions

(Division of Insurance)

Proposals – Online at www.state.nj.us/dobi/proposed.htm

Actuarial Services – Prohibition of Discretionary Clauses

Proposed New Rule: N.J.A.C. 11:4-58

Medical Fee Schedules – Automobile Insurance Personal Injury Protection and Motor Bus Medical Expense Insurance Coverage

Proposed Repeal and New Rules: N.J.A.C. 11:3-29 Appendix, Exhibits 1, 4, 5 and 6; Proposed New Rule: N.J.A.C. 11:3-29 Appendix, Exhibit 7; Proposed Amendments: N.J.A.C. 11:3-29.1, 29.2, 29.3, and 29.4

Office of The Insurance Claims Ombudsman

Proposed Readoption with Amendments: N.J.A.C. 11:25

Rate Process for Limited Rate Changes – Calculations for Private Passenger Automobile Insurance Rate Changes

Proposed Amendments: N.J.A.C. 11:3-16B

Legal Insurance

Proposed Readoption: N.J.A.C. 11:12

Unsatisfied Claim and Judgment Fund's Reimbursement of Excess Medical Expense Benefits Paid By Insurers

Proposed Amendment: N.J.A.C. 11:3-28.7

Persons Employed in the Business of Insurance – Convicted Persons; Waivers

Proposed Amendments: N.J.A.C. 11:17E-1.4 and 1.5 and 11:17E Appendix Exhibits A and B.

Actuarial Services – Life/Health/Annuity Forms – Standards for Individual Life Insurance Policy Forms – Individual Annuity Contract Form Standards

Proposed Amendments: N.J.A.C. 11:4-40.2 and 43.3

Adoptions – Online at www.state.nj.us/dobi/adopt.htm

Medical Malpractice – Structured Settlements and Furnishing of Bonds

Adopted New Rules: N.J.A.C. 11:27-10

Administration

Readoption with Amendments: N.J.A.C. 11:1

Fraud Prevention and Detection

Readoption with Amendments: N.J.A.C. 11:16; Adopted Repeal and New Rule: N.J.A.C. 11:16-6 Appendix

Individual Annuity Contract Form Standards – Standards for Contracts on a Variable Basis

Adopted Amendments: N.J.A.C. 11:4-43.3 and 44.3

Surplus Lines Insurance – Allocation of Premium Tax and Surcharge

Adopted Amendments: N.J.A.C. 11:2-34.2 and 34.3

Orders – Online at www.state.nj.us/dobi/lrorders.htm

Order A06-119: In the Matter of the Imposition of a Surcharge for Recoupment of the New Jersey Property-Liability Insurance Guaranty Association Assessment Due September 15, 2006 and Imposed Pursuant to N.J.S.A. 17:30A-8a(3)

Order A06-120: In the Matter of the 2005 Annual Public Hearing Regarding N.J.A.C. 11:1-34, the Surplus Lines Exportable List

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Recent Legislative and Regulatory Actions (Division of Insurance)

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Order A06-122: In the Matter of the Quarterly Reports Submitted by Property/Casualty Insurers Writing Homeowners Insurance Coverage in New Jersey to Determine Existing Market Conditions Pursuant to N.J.A.C. 11:2-41.9

Order A06-124: In the Matter of the Public Hearing Held Pursuant to N.J.S.A. 17b:25-18.3 on Modifications to the Types of Life, Health and Annuity Forms Eligible for Filing Pursuant to a Certification Process

Bulletins – Online at www.state.nj.us/dobi/bulletin.shtml

Bulletin No. 06-19: National Provider Identifiers (NPI) – Notice of a Conference and Compliance Information

Bulletin No. 06-21: Maximum Reserve Valuation and Nonforfeiture Rates

Bulletin No. 06-22: Amends Bulletin 06-01 (Effect of the Public Advocate Restoration Act of 2005 Upon Policyholder Notices of Requests for Medicare Supplement Insurance Rate Increases)

Bulletin No. 06-23: Annual Premium Survey: N.J.A.C. 11:3-45; Annual Premium Survey Information

Public Notices – Online at www.state.nj.us/dobi/lrnotice.htm

Notice of Cancellation and Nonrenewal of Fire and Casualty Coverage

Notice of Surety Companies Listed as Acceptable to Provide Payment or Performance Bonds as Required by N.J.S.A. 2A:44-143 and 144

Notice of Action on Petition for Rulemaking – Review of the Medical Fee Schedule N.J.A.C. 11:3-29, Appendix Exhibit 4; Petitioner: Medical Transportation Association

Notice of Public Hearing – Life/Health/Annuity Forms Certification Eligibility, N.J.A.C. 11:4-40.9

Notice of the Imposition of a Surcharge for Recoupment of the Property-Liability Insurance Guaranty Association Assessment

Recent Enforcement Actions

(Division of Insurance)

For more 2006 insurance enforcement actions, visit www.state.nj.us/dobi/insfines.htm

Final and Miscellaneous Orders

Stanley F. Span, Springfield, NJ; **Span Associates Insurance Agency**, Springfield, NJ – Final Order #E06-123, August 17, 2006; Order to Show Cause #E05-16, issued February 23, 2005, charged that Span's criminal acts and conviction reflect adversely on his fitness for licensure; and charged producers with accepting premium payments, yet failing to remit the funds to an insurer or returning the funds to the consumers; converting to their own use and altering checks payable to others; issuing checks that were subsequently dishonored for insufficient funds; issuing auto insurance ID cards purporting to show coverage, when in fact coverages were never placed and no insurance was in force; issuing non-compliant temporary auto insurance ID cards; issuing a Certificate of Insurance when no coverages were in force because they failed to place the requested coverages; submitting deficient applications to PAIP and having their certification revoked by PAIP as a result of those deficiencies; submitting deficient applications to CAIP; and failing to comply with Department subpoenas. Although provided with notice and an opportunity to contest these charges, Span and Span Associates failed to do so. **Sanctions:** Revocation of Licenses; Restitution - \$16,605.53; Fine - \$113,500; Costs - \$1,100.

Robert Kirner, Bloomfield, NJ; **Kirner Insurance Agency**, Bloomfield, NJ – Consent Order Suspending Licenses Pending Completion of Administrative Proceedings #E06-114; August 2, 2006. Order to Show Cause #E06-96 was previously filed on June 16, 2006, and charged respondents with failing to forward clients' premium payments to a premium finance company, PAIP and an insurer; issuing checks to PAIP that were returned for insufficient funds; exhibiting conduct demonstrating dishonesty, incompetence, untrustworthiness and lack of fitness as reflected by the revocation of respondents' PAIP and CAIP certifications; and failing to maintain a dedicated premium trust account. Pursuant to this Consent Order respondents' licenses are voluntarily suspended pending completion of the administrative proceedings.

Henry P. Mendoza, Jersey City, NJ – Consent Order #E06-124; August 16, 2006; Producer failed to provide notice to the Department of the existence of criminal charges against him (theft by deception in excess of \$75,000). Pursuant to this Consent Order Mendoza's license is suspended pending resolution of the criminal charges.

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Recent Enforcement Actions (Division of Insurance)

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Chasity Burns, Somerset, NJ – Final Order #E06-140, September 25, 2006; Order to Show Cause #E06-55, issued April 3, 2006, charged Burns with falsely reporting a personal auto accident to the police and to her insurance company, claiming that her auto was damaged in front of her residence when in fact the damage was caused in an undisclosed hit-and-run accident; accepting payment from her insurance company for the fraudulently reported accident; failing to comply with her insurance company's request for the return of the payment; and failing to respond to the Department's request for information regarding the fraudulently reported accident. Burns responded to the OTSC, denying the allegations; however, she did not request a hearing. A deficiency letter was issued; however, Burns did not file a response or request a hearing. Burns responded to a final letter and stated that she was not requesting a hearing. Accordingly, Burns waived the opportunity for a hearing and the charges are deemed admitted. **Sanctions:** Revocation of license; Restitution - \$1,325.24, plus interest; Fine - \$13,500; Costs - \$537.50.

Denise Hill, Delran, NJ – Final Order #E06-139, September 25, 2006; Order to Show Cause #E06-55, issued June 19, 2006, charged Hill with binding an application for PAIP coverage for her brother without receiving, accepting or documenting receipt of premium monies from her brother; issuing a check from her employer's trust account to pay her brother's premium; when terminated from employment, improperly removing and taking possession of proprietary items belonging to her former employer; and preparing and submitting a cancellation request/policy release form which contained a forged signature. Hill responded to the OTSC, declining the opportunity for a hearing. Accordingly, Hill waived the opportunity for a hearing and the charges are deemed admitted. **Sanctions:** Revocation of license; Fine - \$12,500; Costs - \$700.

Raymond Wayne Hrdlicka, Elizabeth, NJ; **Timothy Medini**, Trenton, NJ – Final Decision and Order #E06-141, October 2, 2006; Order to Show Cause # E03-19, issued February 19, 2003, charged former limited insurance representatives with engaging in a practice and pattern of failing to promptly pay judgments resulting from forfeited bail bonds (Hrdlicka); causing the State to expend unnecessary costs and institute litigation for the collection of forfeited bail bonds as a result of the failure to promptly pay judgments (Hrdlicka); failing to comply with court directives and court rules governing the payment of bail bond forfeiture judgments (Hrdlicka); issuing checks that lacked sufficient funds as payment of court ordered bail bond forfeiture judgments (Hrdlicka); paying commissions to inmates at the Sussex County jail (Hrdlicka and Medini); lacking integrity, acting in bad faith, dishonesty, financial irresponsibility and incompetence to continue as registered limited representatives (Hrdlicka). Order to Show Cause #E-14-107, issued September 17, 2004, charged Medini with providing incorrect, misleading and materially untrue information on his application for a producer license. This Final Order enforces the terms of an unexecuted consent order with respect to Medini. With respect to Hrdlicka, the administrative law judge had issued orders striking defenses, barring him from introducing testimony or evidence and granting summary judgment against him. **Sanctions:** Revocation of license (Medini) and limited insurance representative registrations (Hrdlicka and Medini); Fines - \$33,000 for Hrdlicka and \$3,500 for Medini; Costs \$875 for Hrdlicka and \$500 for Medini.

Marco Nicolo, Philadelphia, PA – Final Decision and Order #E06-142, October 12, 2006; Order to Show Cause # E04-129 issued October 18, 2004, charged the public adjuster with submitting a false receipt to State Farm for repairs to a client's fence. The factual allegations had been admitted by Nicolo, however, the issue of sanctions had been contested. **Sanctions:** Revocation of license; Fine - \$2,500; Costs - \$687.50.

Orders to Show Cause

Patricia Weg, Paterson, NJ – Order to Show Cause #E06-118, August 8, 2006; Producer is charged with engaging in the business of insurance prior to obtaining a license; collecting fees totaling more than \$300,000 without proper fee agreements and in excess of the maximum allowed fees; conducting insurance business as Sean's Rapid Agency prior to registering the name with the Department; and conducting insurance business as Sean's Travel & Insurance Agency without registering the name with the Department.

Lisa M. Dumey, Phillipsburg, NJ – Order to Show Cause #E06-138, September 25, 2006; Dumey is charged with preparing fraudulent title insurance commitments; failing to remit and converting to her own use premium payments; failing to report her criminal indictment on charges of second degree Conspiracy to Commit Theft by Deception; failing to report her criminal accusation charging the crime of Theft by Deception; failing to report her criminal convictions; misrepresenting her place of employment and thereafter failing to correct her business address; and failing to respond to a Department inquiry.

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Recent Enforcement Actions (Division of Insurance)

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Derrick L. Jenkins, New Brunswick, NJ – Order to Show Cause #E06-128, September 6, 2006; Jenkins is charged with transacting the business of insurance using the name “First Choice Bail Bonds,” without having registered the name with the Department; making and disseminating an advertisement that was untrue, deceptive and misleading in claiming he offered the lowest rates for bail bonds; and failing to respond to a Department inquiry.

Leonardo Efren Palmer, Newport Beach, CA – Order to Show Cause #E06-137, September 25, 2006; Palmer submitted four separate payments to the National Insurance Producer Registry (NIPR) for payment of non-resident license fees in four states (NJ, PA, VA and DE) with a credit card he lacked authority to use; and applying for a NJ producer license using a wrongfully converted form of payment.

Milagros Bonaparte, Perth Amboy, NJ – Order to Show Cause E#06-151, October 25, 2006; Producer is charged with paying for his producer license with a check that was subsequently dishonored; failing to respond to Department inquiries; and failing to notify the Department of a change of business address.

Martin K. Goldstein, New York, NY – Order to Show Cause #E06-148, October 3, 2006; Producer is charged with paying for the renewal of his producer license with a check that was subsequently dishonored; failing to notify the Department of changes of his home and business addresses; and failing to respond to Department inquiries in a timely manner.

Consent Orders

Automall 46, Inc., Totowa, NJ – Consent Order #E06-121, August 7, 2006; Unlicensed entity (auto dealer) charged fees for temporary physical damage and liability auto insurance coverage (spot delivery auto insurance). **Sanctions:** Restitution - \$11,175; Fine - \$16,000.

Ramon Feliciano, Egg Harbor Township, NJ – Consent Order #E06-125, August 25, 2006; Producer failed to timely report his indictment on criminal charges, the initial pretrial hearing regarding the indictment, and his third degree conviction under the indictment (distribution of cocaine within 1,000 feet of school property). **Sanctions:** Revocation of license; Fine - \$500; Costs - \$250.

Anthony Mento, Hammonton, NJ – Consent Order #E06-117, August 8, 2006; Producer failed to timely report his criminal conviction for a third degree controlled dangerous substance offense. **Sanction:** Fine - \$1,000.

Michael Lee Parks, Rowlett, TX; **CRC Insurance Services, Inc.**, Birmingham, AL – Consent Order #E06-120, August 8, 2006; Parks placed surplus lines business without the required producer license; respondents charged a fee to the originating broker that exceeded the allowable fee; and CRC allowed Parks to negotiate a contract of surplus lines insurance without the required license. **Sanction:** Fine - \$1,500 (\$750 each – Parks and CRC).

Thomas G. Piegari, Tewksbury Township, NJ; **Brown & Brown Metro**, Clark, NJ – Consent Order #E06-119; August 8, 2006; Respondents submitted courtesy filings on behalf of producers who lacked surplus lines authority. **Sanction:** Fine - \$3,500 (\$1,750 each – Piegari and Brown & Brown Metro).

Robert Ellison, New Brunswick, NJ; **Dependable Bail Bonds, LLC**, New Brunswick, NJ – Consent Order #E06-130, September 18, 2006; Producers issued nonconforming premium receipts. **Sanction:** Fine - \$1,000 (\$500 each – Ellison and Dependable Bail Bonds).

Salvatore Guttadauro, Middletown, NJ – Consent Order #E06-132, September 18, 2006; Producer failed to disclose on his license application a plea to a disorderly person’s offense. **Sanction:** Fine - \$1,000.

John N. Mason, Hancock, NY; **Chenango Brokers, LLC**, Hancock, NY – Consent Order Imposing Probation and Fine E06-129, September 6, 2006; Producers distributed an advertisement seeking business relationships with other NJ producers, which advertisement was misleading and exaggerated. **Sanctions:** Probation of license for six months (Mason); Fines – \$1,250 Mason and \$1,250 Chenango Brokers.

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Recent Enforcement Actions (Division of Insurance)

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Prime Insurance Syndicate, Inc., Salt Lake City, UT; **INEX Insurance Exchange**, Chicago, IL – Consent Order #E06-135, September 25, 2006; From 2000 to April 15, 2001, Prime, a syndicate member of INEX (an eligible surplus lines insurer), issued 209 commercial auto policies without a Certificate of Eligibility for this class of risk. Subsequent to April 15, 2001, Prime added over 100 vehicles to these existing commercial auto policies. Although Prime knew that it could issue no new policies, it added the vehicles based on its agent's misrepresentations that the new vehicles were part of an insurable interest for existing insureds. During the same approximate time period, Prime's agent collected improper fees from insureds. **Sanctions:** Restitution - \$65,176 (Prime); Fine - \$25,000 (to be paid by Prime, with Prime and INEX being jointly liable for payment).

Princeton Insurance Company, Princeton, NJ – Consent Order #E06-133; September 25, 2006; Princeton offered and sold a commercial insurance program called "The Clinic Program" that provided coverages to medical clinic caregivers for which it had not filed a rating plan. **Sanction:** Fine - \$3,000.

Eleanor V. Selvaggi, West Haven, CT – Consent Order #E06-131, September 18, 2006; Selvaggi misappropriated and converted to her own use commission checks payable to her employer. **Sanctions:** Revocation of license; Fine - \$5,000.

Henry S. Sulikowski, Jackson, NJ; **No Jail Time Bail Bonds**, Howell, NJ – Consent Order #E06-136, September 25, 2006; Producers issued nonconforming premium receipts. **Sanction:** Fine - \$500 (\$250 each – Sulikowski & No Jail Time).

Universal Insurance Exchange, Dallas, TX – Consent Order #E06-134, September 25, 2006; Insurance policies of Universal Insurance Exchange (a commercial life carrier domiciled in Texas but not licensed or authorized to sell insurance in NJ) were sold in New Jersey by producers (which producers were named as respondents in OTSC E04-112, issued September 27, 2004). **Sanction:** Fine - \$10,000.

Ernest Johnson, Pleasantville, NJ – Consent Order #E06-143, October 3, 2006; Producer is responsible for the conduct of an employee who issued a PAIP insurance ID card without having first received the required down payment. **Sanction:** Fine - \$5,000.

Miller Devro & Associates, Inc., Point Pleasant, NJ – Consent Order #E06-146, October 3, 2006; Miller Devro operated as a third-party billing service without being properly certified by the Department. **Sanction:** Fine - \$2,500.

Jed Novak, Rye, NY – Consent Order #E06-145, October 3, 2006; Producer using the unlicensed name "Glenwood Associates" issued a fraudulent certificate of insurance; he failed to timely notify the Department of a change of home and business addresses. **Sanctions:** Revocation of license; Fine - \$1,000.

Fred Orentlich, Southboro, MA – Consent Order #E06-147, October 3, 2006; Producer mailed life insurance solicitations which were deceptive and misleading in that the advertisements were labeled "Important Notice," did not properly identify the sender as a producer, and by placing the name of the prospect's lender in the envelope window created the false impression that the solicitation was sent by the lender. **Sanction:** Fine - \$5,000.

Westport Insurance Corporation, Overland Park, KS – Consent Order #E06-144, October 3, 2006; Insurer initiated the issuance of nonrenewal notices advising the discontinuance of its program of Lawyers Part Time Professional Liability coverage without filing a plan for block non-renewals with the Department. The insurer voluntarily ceased its plan to block non-renew. **Sanction:** Fine - \$3,000.

Matters Resolved without Determination of Violation

Aetna Health, Inc. – Consent Order #E06-116, August 4, 2006; Issue: market conduct examination (health); **Administrative sanction** - \$200,000.

Ross M. Arnel – Consent Order #E06-115; August 1, 2006; Issue: licensee address information; **Administrative sanction** - \$500.

Albert E. Czyzewicz – Consent Order #E06-122; August 15, 2006; Issue: licensee address information; **Administrative Sanction** - \$250.

University Health Plans, Inc., Newark, NJ – Consent Order #E06-152, October 26, 2006; Issue: calculation and payment of interest on adjusted claims; **Administrative sanction** - \$70,000; disgorgement representing unpaid interest - \$333,000.



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 Steven M. Goldman, Commissioner

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New Jersey Department of Banking and Insurance

BANKING AND INSURANCE QUARTERLY

A Letter from Commissioner Steven M. Goldman



Goldman

In 2006, few business sectors in our economy – on both the state and national level – saw the flurry of evolution, innovation and opportunity as the financial services industry. And as we have seen time and time again, change is good, provided we are prepared and positioned to take advantage of the opportunities these changes present.

In 2007, we expect New Jersey to maintain and build on its reputation as a leader in the nation’s financial services industry. At the Department of Banking and Insurance, our mission is to promote the growth, financial stability and efficiency of the industries we regulate, while providing a safe and stable system that optimizes consumer protections.

But if we are to meet these goals, it will require a cooperative effort among all stakeholders: our employees, partner governmental entities, the business sectors we regulate, and the consumers who serve as our eyes and ears throughout New Jersey. I look forward to our continued dialogue in these ongoing efforts.

Sincerely,
 Steven M. Goldman, Commissioner
 New Jersey Department of Banking and Insurance

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