

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF:

Proceedings by the Commissioner of)
Banking and Insurance, State of)
New Jersey, to fine, suspend and/or) **FINAL ORDER**
revoke the insurance producer)
license of Garrett Smith,)
Reference No. 1279157)

TO: Garrett Smith
636 Jackson Avenue
Roselle, NJ 07203

THIS MATTER, having been opened by the Commissioner of Banking and Insurance ("Commissioner"), State of New Jersey, upon issuance of Order to Show Cause No. E17-16 alleging that Garrett Smith ("Smith" or "Respondent"), may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Smith was licensed as a resident insurance producer pursuant to N.J.S.A. 17:22A-32 until the expiration of his license on September 30, 2016; and

WHEREAS, Smith is subject to the provisions of the New Jersey Insurance Producer Licensing Act of 2001, N.J.S.A. 17:22A-26 et seq. ("Producer Act"), the New Jersey Insurance Fraud Prevention Act, N.J.S.A. 17:33A-1 et seq. ("Fraud Act") and the regulations promulgated thereunder, N.J.A.C. 11:16-1.1

et seq. and the regulations governing Insurance Producer Standards of Conduct, N.J.A.C. 11:17A-1.1 et seq.; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(2), an insurance producer shall not violate any insurance law, regulation, subpoena or order of the Commissioner or of another state's insurance regulator; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(6), an insurance producer shall not have been convicted of a felony or crime of the fourth degree or higher; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(8), an insurance producer shall not use fraudulent, coercive, or dishonest practices, or demonstrate incompetence, untrustworthiness, or financial irresponsibility in the conduct of insurance business in this State or elsewhere; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(16), an insurance producer shall not commit any fraudulent act; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(18), an insurance producer shall not fail to notify the Commissioner within 30 days of his conviction of 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 the initiation of formal disciplinary proceedings in a state, other than this State, affecting the

producer's insurance license; or fail to obtain the written consent pursuant to sections 1033 and 1034 of Title 18, United States Code (18 U.S.C. ss.1033 and 1034); or fail to supply any documentation that the Commissioner may request in connection therewith; and

WHEREAS, pursuant to N.J.S.A. 17:22A-47b, an insurance producer shall, within 30 days of the initial pretrial hearing date, report to the Commissioner any criminal prosecution of the producer taken in any jurisdiction and said report shall include a copy of the initial complaint filed, the order resulting from the hearing and any other relevant legal documents; and

WHEREAS, pursuant to N.J.A.C. 11:17A-4.8, an insurance producer shall reply, in writing, to any inquiry of the New Jersey Department of Banking and Insurance ("Department") relative to the business of insurance within the time requested in said inquiry, or no later than 15 calendar days from the date the inquiry was made or mailed in cases where no response time is given; and

WHEREAS, pursuant to N.J.S.A. 17:22A-45c, any person violating any provision of the Producer Act shall be liable for a civil penalty not exceeding \$5,000 for the first offense and not exceeding \$10,000 for each subsequent offense, as well as restitution of moneys owed any person and reimbursement of the

costs of investigation and prosecution; and

WHEREAS, pursuant to N.J.S.A. 17:33A-4a(1), no person shall present or cause to be presented any written or oral statement as part of, or in support of or opposition to, a claim for payment or other benefit pursuant to an insurance policy or the "Unsatisfied Claim and Judgment Fund Law," P.L.1952, c.174 (C.39:6-61 et seq.), knowing that the statement contains any false or misleading information concerning any fact or thing material to the claim; and

WHEREAS, pursuant to N.J.S.A. 17:33A-4a(3), no person shall conceal or knowingly fail to disclose the occurrence of any event which affects any person's initial or continued right or entitlement to (a) any insurance benefit or payment or (b) the amount of any benefit or payment to which the person is entitled; and

WHEREAS, pursuant to N.J.S.A. 17:33A-5a and c, violations of the Fraud Act subject the violator to a civil and administrative penalty not to exceed \$5,000.00 for the first violation, not to exceed \$10,000.00 for the second violation and not to exceed \$15,000.00 for each subsequent violation; moreover, the Commissioner may issue a final order recovering costs of prosecution, including attorneys' fees in accordance with N.J.A.C. 11:16-7.9(c); and

WHEREAS, pursuant to N.J.S.A. 17:33A-5.1, any person who is found in any legal proceeding to have committed insurance fraud shall be subject to a surcharge in the amount of \$1,000.00; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40d, the Commissioner shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by the Producer Act and Title 17 of the Revised Statutes or Title 17B of the New Jersey Statutes against any person who is under investigation for or charged with a violation of the Producer Act or Title 17 of the Revised Statutes or Title 17B of the New Jersey Statutes even if the person's license or registration has been surrendered or has lapsed by operation of law; and

WHEREAS, the Commissioner issued Order to Show Cause No. E17-16 ("OTSC") on March 24, 2017, alleging violations of New Jersey insurance laws by Smith as follows:

IT APPEARING, that on or about December 30, 2010, the Respondent submitted a false automobile accident claim to New Jersey Manufacturers Insurance Company stating that his mother's 2001 Lincoln Town Car had been damaged on December 26, 2010 during a "hit and run" incident while parked in front of the insured's residence when, in fact, the vehicle had been damaged while the Respondent was operating it on December 25, 2010; Respondent fled the scene of the accident and subsequently garaged the vehicle at an alternate location, in violation of N.J.S.A. 17:22A-40a(2), (8) and

(16) and N.J.S.A. 17:33A-4a(1) and (3); and

IT FURTHER APPEARING, that on or about January 17, 2014, the Respondent was indicted by the State of New Jersey and charged with second degree insurance fraud in violation of N.J.S.A. 2C:21-4.6a(1) and fourth degree false reporting to law enforcement in violation of N.J.S.A. 2C:28-4; and

IT FURTHER APPEARING, that on or about February 24, 2015, the Respondent pleaded guilty to one count of second degree insurance fraud in violation of N.J.S.A. 2C:21-4.6a(1) and was sentenced on or about April 10, 2015 to probation for a period of three years with 90 days of jail time, in violation of N.J.S.A. 17:22A-40a(2), (6) and (16); and

IT FURTHER APPEARING that the Respondent failed to advise the Department of the aforementioned incidents within 30 days, in violation of N.J.S.A. 17:22A-40a(2) and (18) and N.J.S.A. 17:22A-47b; and

IT FURTHER APPEARING, that the Respondent failed to provide a written response with supporting documentation relative to the aforementioned criminal activity pursuant to correspondence issued by the Department on April 1, 2015, in violation of N.J.S.A. 17:22A-40a(2) and N.J.A.C. 11:17A-4.8; and

WHEREAS, as set forth in the Certification of Service of Deputy Attorney General Richard E. Wegryn, Jr., attached hereto as Exhibit A, Smith was given notice of the aforesaid charges and an opportunity to contest the charges at a hearing pursuant to the OTSC, which was duly served by certified and

regular mail upon Smith at his last known business or mailing address, according to files maintained by the Department in accordance with N.J.A.C. 11:17D-2.1(a)3; and

WHEREAS, although due notice of the charges provided an opportunity to oppose the allegations, Smith failed to provide written responses to the charges contained in the OTSC, and therefore Smith has waived his right to a hearing to contest these charges and the charges are deemed admitted, pursuant to N.J.A.C. 11:17D-2.1(b)1; and

NOW, THEREFORE, IT IS on this 20th day of October, 2017:

ORDERED that the charges contained in the OTSC are deemed admitted by Smith due to his failure to respond to the alleged violations pursuant to N.J.A.C. 11:17D-2.1(b)1; and

IT IS FURTHER ORDERED that, pursuant to N.J.S.A. 17:22A-40a and N.J.A.C. 11:17D-2.1(b)2, the insurance producer license of Smith is hereby **REVOKED**; and

IT IS FURTHER ORDERED that, pursuant to N.J.S.A. 17:22A-45c and N.J.S.A. 17:33A-5, Smith shall be liable for the payment of a civil penalty in the amount of \$7,500.00 for the violations of the Producer Act and for the payment of a civil penalty in the amount of \$2,500.00 for the violation of the Fraud Act as set forth in the OTSC, and a statutory surcharge in

the amount of \$1,000.00 pursuant to N.J.S.A. 17:33A-5.1; and

IT IS FURTHER ORDERED that, pursuant to N.J.S.A. 17:22A-45c and N.J.A.C. 11:1-32.4(b)20, Smith shall reimburse the Department for the costs associated with the investigation of this matter, as evidenced by the Certification of Costs by Investigator Daxesh M. Patel, attached hereto as Exhibit "B", totaling \$612.50; and

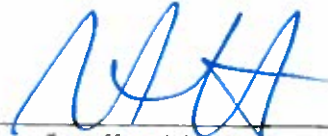
IT IS FURTHER ORDERED that Smith shall pay the above fines and costs totaling \$11,612.50 in full by remitting payment to the Commissioner of Banking and Insurance, State of New Jersey, 20 West State Street, P.O. Box 329, Trenton, New Jersey 08625, Attention: Virgil Downtin, Chief of Investigations by certified check, cashier's check or money order made payable to the "State of New Jersey, General Treasury," within ten (10) days from the date of service of this Order; and

IT IS FURTHER ORDERED that in the event full payment of the fines and costs are not made, the Commissioner may exercise any and all remedies available by law, including but not limited to recovery of any unpaid penalties, in accordance with the Penalty Enforcement Law of 1999, N.J.S.A. 2A:58-10 et seq.; and

IT IS FURTHER ORDERED that the fines in this Final Order are imposed pursuant to the police powers of the State of

New Jersey for the enforcement of the law and the protection of the public health, safety and welfare, and are not intended to constitute debts which may be limited or discharged in a bankruptcy proceeding; and

IT IS FURTHER ORDERED that the provisions of this Final Order represent a final agency decision and constitute a final resolution of the allegations contained in the OTSC.



Peter L. Hartt
Director of Insurance

EXHIBIT A

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF:

Proceedings by the Commissioner)	CERTIFICATION OF
Of Banking and Insurance, State)	DEPUTY ATTORNEY
of New Jersey, to fine, suspend)	GENERAL RICHARD
and/or revoke the insurance)	E. WEGRYN, JR.
license of Garrett Smith,)	
Reference No. 1279157)	

I, Richard E. Wegryn, Jr., of full age, do of my own personal knowledge make the following statements by way of certification in lieu of affidavit pursuant to R. 1:4-4(b):

1. I am a Deputy Attorney General assigned as counsel for the Commissioner, Department of Banking and Insurance, State of New Jersey ("Commissioner"), in the above-captioned matter. I make this certification in support of entry of the Final Order in the above-captioned case against Respondent Garrett Smith ("Respondent").

2. On March 24, 2017, the Commissioner issued Order to Show Cause No. E17-16 against Respondent charging him with violations of the insurance laws of this State pursuant to the New Jersey Insurance Producer Licensing Act of 2001, N.J.S.A. 17:22A-26 et seq., and the New Jersey Insurance Fraud Prevention Act, N.J.S.A. 17:33A-1 et seq.

3. Under cover letter dated April 3, 2017, our office served Respondent with Order to Show Cause No. E17-16 at Respondent's resident address. Specifically, the cover letter and Order to Show Cause were sent via certified mail, return receipt requested, and regular mail to Respondent's resident address at 636 Jackson Avenue, Roselle, New Jersey 07203.

4. Respondent was successfully served at 636 Jackson Avenue, Roselle, New Jersey 07203 as evidenced by the fact that the regular mail was not returned and the certified mail was returned to this office marked "unclaimed."

5. I received a letter of representation in this matter from Julianae E. Blackburn, Esquire dated May 30, 2017 which stated that she "will be contacting [me] soon in order to discuss an amicable settlement in this matter." Notwithstanding, I have received no further communication or offer of settlement from attorney Blackburn.

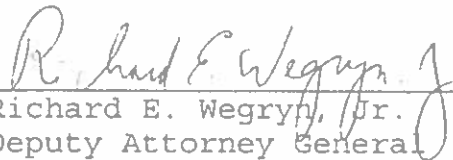
6. Pursuant to N.J.S.A. 11:17D-2.1(a)3, service of the Order to Show Cause in this manner constitutes lawful service upon Respondent.

7. The successful service of the Order to Show Cause to Respondent provided Respondent with an opportunity to contest the charges of Order to Show Cause No. E17-16 at a hearing, and provided that Respondent must file with the Commissioner an Answer to the charges of the Order to Show Cause, including a Request for

a Hearing, within twenty (20) days of service of the Order to Show Cause upon Respondent.

8. To date, Respondent has failed to provide sufficient written response to the charges contained in Order to Show Cause No. E17-16 as provided by N.J.A.C. 11:17D-2.1(d).

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.


Richard E. Wegryn, Jr.
Deputy Attorney General

Dated: October 12, 2017

EXHIBIT B

Proceedings by the Commissioner of)
Banking and Insurance, State of) CERTIFICATION OF COSTS
New Jersey, to fine, suspend and/or) BY INVESTIGATOR
revoke the insurance producer) DAXESH M. PATEL
license of Garrett Smith,)
Reference No. 1279157)

I, Daxesh M. Patel, of full age, do of my own personal knowledge make the following statements by way of certification in lieu of affidavit pursuant to R. 1:4-4(b):

1. I am an investigator with the New Jersey Department of Banking and Insurance, Division of Insurance, Consumer Protection Services ("Department").

2. This certification is submitted in support of the Department's application for reimbursement of its costs of investigation and prosecution, in accordance with N.J.S.A. 17:22A-45c.

3. On or about March 24, 2015, I was assigned responsibility for conducting an investigation to determine whether Garrett Smith, may have violated certain provisions of the New Jersey Insurance Producer Licensing Act of 2001, N.J.S.A. 17:22A-26 et seq. ("Producer Act"), and related insurance regulations.

4. To determine the amount of time that I spent in the

investigation and prosecution of this matter, I reviewed my files relative to this matter, including my time records. On the basis of this review, I have prepared the below schedule of costs:

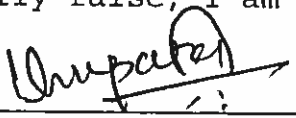
DATE	TIME IN HRS.	PHONE	CASE PREP.	COMMENTS
3/24/2015	0.50		X	File reviewed. This inv. sent an e-mail request to the BFD inv. Ron Dellanno to obtain a copy of an indictment & guilty plea.
3/30/2015 & 3/31/2015	0.25	X		Called respondent Garrett Smith and his attorney Alvares. Sent an e-mail to attorney Alvares.
4/1/2015	1.00		X	Sent a letter of request to Garrett Smith.
4/8/2015	2.00		X	Prepared IR No. 1.
4/28/2015	3.00		X	Prepared F & E.
5/01/2015	1.00		X	Sent a letter of request to Garrett Smith.
5/05/2015	0.25	X		Called attorney Alvares.
5/08/2015	2.00		X	Prepared Consent Order.
5/14/2015 & 5/15/2015	0.50		X	Received and reviewed a letter of representation and e-mail from attorney Juliana Blackburn.
6/16/2015	0.25	X		Called Garrett Smith.
7/14/2015 & 7/28/2015	0.25	X		Called Garrett Smith.
8/04/2015 & 8/11/2015	0.25	X		Sent an e-mail and called the BFD Supervising Investigator Canfield.
8/17/2015	0.25	X		Called Garrett Smith.
8/18/2015	0.25	X		Received call from attorney Blackburn.
9/04/2015	0.50		X	Referred this file to the AG's office.
Total Time	12.25	@ \$50.00 per hour		= TOTAL COST OF INVESTIGATION - \$612.50

5. As this schedule reflects, the investigative efforts expended by the Department concerning this matter total 12 hours and 15 minutes. Pursuant to N.J.A.C. 11:1-32.4(b)20, costs to the Department for the investigation and prosecution for

violations of the Producer Act are reimbursable at the rate of \$50.00 per hour, rounded to the nearest quarter hour.

6. I therefore request that the Department's costs of investigation and prosecution be reimbursed in the amount of \$612.50.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.



Daxesh M. Patel

Dated: October 12, 2017