

ORDER TO SHOW CAUSE NO. E15-70

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 and revoke the)
insurance licenses of Edward R.)
Cenneno, Jr., Reference No.)
1010099 and Phoenix Bail Bonds)
Reference No. 1147318)

**ORDER
TO SHOW
CAUSE**

TO: Edward R. Cenneno, Jr.
324 Chippewa Trail
Browns Mills, New Jersey 08015

-and-

Phoenix Bail Bonds
c/o Edward R. Cenneno, Jr.
324 Chippewa Trail
Browns Mills, New Jersey 08015

-and-

Edward R. Cenneno, Jr.
215 High Street, Suite 1B
Mt. Holly, New Jersey 08060

-and-

Phoenix Bail Bonds
c/o Edward R. Cenneno, Jr.
215 High Street, Suite 1B
Mt. Holly, New Jersey 08060

This matter, having been opened by the Commissioner of Banking and Insurance ("Commissioner"), State of New Jersey, upon information that Edward R. Cenneno, Jr. ("Cenneno") and Phoenix Bail Bonds ("Phoenix") may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Cenneno was previously licensed as an individual insurance producer pursuant to N.J.S.A. 17:22A-32, before his license expired on September 30, 2011; and

WHEREAS, Phoenix was previously licensed as a resident insurance producer pursuant to N.J.S.A. 17:22A-32 before its license expired on May 31, 2012; and

WHEREAS, pursuant to N.J.S.A. 17:22A-32b(2), Cenneno was the Designated Responsible Licensed Producer ("DRLP"), and responsible for the conduct of Phoenix, and

WHEREAS, American Contractors Indemnity Company ("ACIC") and International Fidelity Insurance Company ("IFIC") are surety companies organized in the State of California and in the State of New Jersey, respectively; and

WHEREAS, United Surety Agents, Inc. ("United") is a managing general agency for ACIC and IFIC, licensed to conduct the business of insurance in the State of New Jersey; and

WHEREAS, Financial Casualty & Surety, Inc. ("FCS") is a surety company organized in the State of Texas; and

WHEREAS, James V. Mascola ("Mascola") is a managing general agent for Financial Casualty & Surety, Inc. licensed to conduct the business of insurance in the State of New Jersey;

WHEREAS, Genevieve Steward ("Steward") was a managing agent for Financial Casualty & Surety, Inc., and previously licensed to conduct the business of insurance in the State of New Jersey; and

WHEREAS, Cenneno and Phoenix are subject to the provisions of the New Jersey Insurance Producer Licensing Act ("Producer Act"), N.J.S.A. 17:22A-26, et seq., Producer Licensing regulations, N.J.A.C. 11:17-1 et seq. and regulations governing Insurance Producer Standards of Conduct, N.J.A.C. 11:17B-1.1 et seq. and N.J.A.C. 11:17C-1.1 et seq.; and

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

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(4), an insurance producer shall not improperly withhold, misappropriate or convert any monies or properties received in the course of doing

insurance business; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(8), an insurance producer shall not use fraudulent, coercive or dishonest business practices, or demonstrate incompetence, untrustworthiness or financial irresponsibility in the conduct of insurance business; 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-42a, an agent shall abide by the terms of its written agency contract with an insurer; and

WHEREAS, pursuant to N.J.S.A. 17:22A-45a, the Commissioner shall have the power to conduct investigations, to administer oaths, to interrogate licensees and others, and to issue subpoenas to any licensee or any other person in connection with any investigation; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40d, the Commissioner shall retain authority to enforce the provisions of and to impose any penalty or remedy authorized by this act even if the person's license or registration has been surrendered or has lapsed by operation of law; and

WHEREAS, pursuant to N.J.A.C. 11:17-2.14(c), submitting a license for cancellation or allowing a license to expire shall not void or terminate any disciplinary proceedings against the licensee, nor prevent imposition of any penalty, ordered restitution or costs; and

WHEREAS, pursuant to N.J.A.C. 11:17A-4.8, an insurance producer shall reply, in writing, to any inquiry of the Department relative to the business of insurance within the time requested, or no less 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.A.C. 11:17A-4.10, an insurance producer acts in a fiduciary capacity in the conduct of his or her insurance business; and

WHEREAS, pursuant to N.J.A.C. 11:17C-2.1(a), an insurance producer shall hold all premium funds in a fiduciary capacity and shall not misappropriate, improperly convert to the insurance producer's own use or illegally withhold premium funds; and

WHEREAS, pursuant to N.J.A.C. 11:17C-2.2(b), all premiums due the insured shall be paid to the insured or credited to the insured's account within five business days after receipt by the

insurance producer from the insurer or other insurance producer or premium finance company;

ALLEGATIONS COMMON TO COUNTS 1 THROUGH 6

IT APPEARING that, at all relevant times, Cenneno was a party to Bail Bond Agency Agreements with ACIC, IFIC and United, whereby United acted as a managing general agent for bail bonds solicited and executed in ACIC and/or IFIC's name by Respondent Cenneno within the State of New Jersey; and

COUNT 1

IT APPEARING that between December 8, 2008 and May 26, 2010 Cenneno and Phoenix solicited and executed 180 bail bonds in the total amount of \$1,455,893.99; and

IT FURTHER APPEARING that Cenneno and Phoenix collected gross premiums from insureds in the amount of \$145,589.40 from executing the 180 bail bonds; and

IT FURTHER APPEARING Cenneno and Phoenix were required to remit and pay United, among other costs, premiums in the amount of three percent (3%) of the full bond within seven (7) days of issuance or three percent (3%) of any unaccounted powers of attorney pursuant to their Bail Bond Agency Agreements with United; and

IT FURTHER APPEARING that Cenneno and Phoenix failed to remit premiums to United in the amount of \$43,676.82 pursuant to the Bail Bond Agency Agreements; and

IT FURTHER APPEARING that Cenneno and Phoenix improperly withheld, misappropriated and converted bond premiums received in the course of conducting insurance business, which constitutes fraudulent and dishonest practices and demonstrates incompetence, untrustworthiness and financial irresponsibility in the conduct of insurance business, in violation of N.J.S.A. 17:22A-40a(2), (4), (8) and (16), N.J.A.C. 11:17C-2.1(a), N.J.A.C. 11:17A-4.10 and N.J.A.C. 11:17C-2.2(b); and

COUNT 2

IT FURTHER APPEARING that between December 9, 2008 and February 2, 2010, Cenneno and Phoenix issued and failed to account for six powers of attorney in the total bond amount of \$20,000.00; and

IT FURTHER APPEARING that Cenneno and Phoenix collected premiums in the amount of \$2,000.00 for the six powers of attorney; and

IT FURTHER APPEARING that Cenneno and Phoenix failed to report, pay or return to United the powers of attorney and remit to United the amount of \$600.00 in premiums pursuant to the Bail

Bond Agency Agreements; and

IT FURTHER APPEARING that by failing to pay United for the issued and unaccounted for powers of attorney, Cenneno and Phoenix improperly withheld, misappropriated and converted payments received in the course of conducting insurance business, which constitutes fraudulent and dishonest practices and demonstrates incompetence, untrustworthiness and financial irresponsibility in the conduct of insurance business, in violation of N.J.S.A. 17:22A-40a(2), (4), (8) and (16), N.J.A.C. 11:17C-2.1(a), N.J.A.C. 11:17A-4.10 and N.J.A.C. 11:17C-2.2(b); and

COUNT 3

IT FURTHER APPEARING that Cenneno failed to abide by the terms and duties of his agency agreement with United when they failed to remit premiums as instructed and hold these funds in a fiduciary capacity, in violation of N.J.S.A. 17:22A-42a and N.J.S.A. 17:22A-40a(2), (4), (8) and (16); and

COUNT 4

IT FURTHER APPEARING that between 2009 and 2011, Cenneno and Phoenix solicited and executed 53 bail bonds issued by ACIC and/or IFIC and United; and

IT FURTHER APPEARING that said 53 bail bonds were forfeited and judgments were entered against Cenneno and/or Phoenix and United in the amount of \$125,738.00; and

IT FURTHER APPEARING that Cenneno and/or Phoenix failed to pay off the judgments entered against them in the total amount of \$125,738.00, as required under the agency agreement with ACIC, IFIC and United; and

IT FURTHER APPEARING that United, as the agent, paid off the judgments entered against Cenneno and/or Phoenix in the total amount of \$125,738.00; and

IT FURTHER APPEARING that Cenneno failed to remit and pay United the amount of \$125,738.00, pursuant to the Bail Bond Agency Agreements; and

IT FURTHER APPEARING that Cenneno and Phoenix failed to satisfy judgments entered against them in the course of conducting insurance business, which constitutes fraudulent and dishonest practices and demonstrates incompetence, untrustworthiness and financial irresponsibility in the conduct of insurance business, in violation of N.J.S.A. 17:22A-40a(2), (4), (8) and (16), N.J.S.A. 11:17C-2.1(a), N.J.A.C. 11:17A-4.10 and N.J.A.C. 11:17C-2.2(b); and

COUNT 5

IT FURTHER APPEARING that Cenneno failed to abide by the terms and duties of their agency agreements with ACIC, IFIC and United when he failed to pay off judgments entered against him and/or Phoenix, in violation of N.J.S.A. 17:22A-42a and N.J.S.A. 17:22A-40a(2), (4), (8) and (16); and

COUNT 6

IT FURTHER APPEARING that on or about July 7, 2011, pursuant to N.J.S.A. 17:22A-45a, the Department requested Cenneno and Phoenix to provide a written response to the Department regarding the United bail bond transactions; and

IT FURTHER APPEARING that on or about August 22, 2011, pursuant to N.J.S.A. 17:22A-45a, the Department again requested that Cenneno and Phoenix provide a written response regarding the United bail bond transactions; and

IT FURTHER APPEARING that Cenneno and Phoenix failed to respond to the Departments inquiries in violation of N.J.S.A. 17:22A-40a(2) and (8), and N.J.A.C. 11:17A-4.8; and

ALLEGATIONS COMMON TO COUNTS 7 THROUGH 9

IT APPEARING that, at all relevant times, Cenneno and Phoenix were parties to a Sub-Producer Bail Bond Agency

Agreement with FCS, Mascola and Steward whereby Mascola and Steward acted as a managing agent for bail bonds solicited and executed in FCS's name by Respondents Cenneno and/or Phoenix within the State of New Jersey; and

COUNT 7

IT APPEARING that between July 19, 2010 and October 26, 2010 Cenneno and Phoenix solicited and executed 26 bail bonds in the total amount of \$142,764.99; and

IT FURTHER APPEARING that Cenneno and Phoenix collected gross premiums in the amount of \$15,300.00 from executing the 26 bail bonds; and

IT FURTHER APPEARING that Cenneno and Phoenix were required to remit and pay FCS premiums, among other costs, in the amount of one percent (1%) of the total amount of bail bond liability for each bond written, subject to a \$10.00 minimum for each bond less than \$1,000.00, pursuant to their Sub-Producer Bail Bond Agency Agreement with FCS; and

IT FURTHER APPEARING that Cenneno and Phoenix failed to remit premiums for 26 bail bonds to FCS in the amount of \$1,455.11; and

IT FURTHER APPEARING that Cenneno and Phoenix improperly withheld, misappropriated and converted bond premiums received

in the course of conducting insurance business, which constitutes fraudulent and dishonest practices and demonstrates incompetence, untrustworthiness and financial irresponsibility in the conduct of insurance business, in violation of N.J.S.A. 17:22A-40a(2), (4), (8) and (16), N.J.A.C. 11:17C-2.1(a), N.J.A.C. 11:17A-4.10 and N.J.A.C. 11:17C-2.2(b); and

COUNT 8

IT FURTHER APPEARING that Cenneno and Phoenix failed to abide by the terms and duties of their agency agreement with FCS when they failed to remit premiums as instructed and hold these funds in a fiduciary capacity, in violation of N.J.S.A. 17:22A-42a and N.J.S.A. 17:22A-40a(2), (4), (8) and (16); and

COUNT 9

IT FURTHER APPEARING that on or about November 26, 2013, pursuant to N.J.S.A. 17:22A-45a, the Department requested Cenneno and Phoenix to provide a written response to the Department regarding the FCS bail bonds transactions; and

IT FURTHER APPEARING that Cenneno and Phoenix failed to respond to the Departments inquiries in violation of N.J.S.A. 17:22A-40a(2) and (8), and N.J.A.C. 11:17A-4.8; and

NOW, THEREFORE, IT IS on this 1st day of July, 2015:

ORDERED that pursuant to the provisions of N.J.S.A. 17:22A-40a, Respondents Cenneno and Phoenix shall appear and show cause why their insurance producer licenses shall not be revoked by the Commissioner; and

IT IS FURTHER ORDERED that Cenneno and Phoenix appear and show cause why the Commissioner should not assess fines up to \$5,000.00 for the first violation and not exceeding \$10,000.00 for each subsequent violation, pursuant to the provisions of N.J.S.A. 17:22A-45c, due to their failure to comply with New Jersey's insurance laws and regulations; and

IT IS FURTHER ORDERED that Cenneno and Phoenix appear and show cause why they should not be subject to additional penalties including reimbursement of the costs of investigation, prosecution and restitution by the Department of Banking and Insurance authorized pursuant to the provisions of N.J.S.A. 17:22A-45c; and

IT IS PROVIDED that Cenneno and Phoenix have the right to request an administrative hearing, to be represented by counsel or other qualified representative, at their own expense, to take testimony, to call or cross-examine witnesses, to have subpoena duces tecum issued and to present evidence or argument if a

hearing is requested; and

IT IS FURTHER PROVIDED that, unless a request for a hearing is received within twenty (20) days of the service of this Order to Show Cause, the right to a hearing in this matter shall be deemed to have been waived by Cenneno and Phoenix, and the Commissioner shall dispose of this matter in accordance with law. A hearing may be requested by mailing the request to Virgil Downtin, Chief of Investigations, Department of Banking and Insurance, P.O. Box 329, Trenton, N.J. 08625 or by faxing the request to the Department at (609) 292-5337. A copy of the request for a hearing shall also be sent to Deputy Attorney General Carl M. Bornmann at fax number (609) 777-3503. The request shall contain:

- (A) The licensee's name, address and daytime telephone number;
- (B) A statement referring to each charge alleged in this Order to Show Cause and identifying any defense intended to be asserted in response to each charge. Where the defense relies on the facts not contained in the Order to Show Cause, those specific facts must be stated;
- (C) A specific admission or denial of each fact alleged in

this Order to Show Cause. Where the Respondent has no specific knowledge regarding a fact alleged in this Order to Show Cause, a statement to that effect must be contained in the hearing request. Allegations of this Order to Show Cause not answered in the manner set forth above shall be deemed to have been admitted; and

(D) A statement requesting a hearing.



PETER L. HARTT
DIRECTOR OF INSURANCE