

ORDER TO SHOW CAUSE NO. E14-78

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 revoke the insurance)
license of Francis X. Gartland)
Reference No. 8031844, Federal)
Hill Risk Management LLC Reference)
No. 0092008 and Gartland Company)
of New Jersey Reference No. 9586075))
_____)

ORDER TO SHOW CAUSE

TO: Francis X Gartland
803 S. Sharp Street
Baltimore, MD 21230

-and-

Federal Hill Risk Management LLC
1122 Kenilworth Drive
Suite 408
Towson, MD 21204

-and-

Gartland & Company of New Jersey LLC
662 S. Stevens Avenue
P.O. Box 3040
South Amboy, NJ 08879

THIS MATTER, having been opened to the Commissioner of Banking and Insurance ("Commissioner"), State of New Jersey, upon information that Francis X. Gartland ("Gartland"), Federal Hill Risk Management LLC ("Federal Hill") and Gartland & Company of New Jersey, LLC ("Gartland Company"), (together, "Respondents"), may

have violated various provision so the insurance laws of the State of New Jersey; and

WHEREAS, Gartland was licensed as a non-residential insurance producer, pursuant to N.J.S.A. 17:22A-34, until it expired on April 30, 2012; and

WHEREAS, Federal Hill was licensed as a non-residential insurance producer, pursuant to N.J.S.A. 17:22A-32, until it expired on May 31, 2012; and

WHEREAS, Gartland Company was licensed as a non-residential insurance producer, pursuant to N.J.S.A. 17:22A-32, until it expired on May 31, 2012; and

WHEREAS, at all relevant times, Gartland was the Designated Responsible Licensed Producer ("DRLP") of Federal Hill and responsible for the conduct of Federal Hill, pursuant to N.J.S.A. 17:22A-32b(2); and

WHEREAS, at all relevant times, Gartland was the owner of Federal Hill and Gartland Company and responsible for their conduct, pursuant to N.J.A.C. 11:17A-1.6(c); and

WHEREAS, the Respondents are subject to the provisions of the New Jersey Insurance Producer Licensing Act of 2001, N.J.S.A. 17:22A-26 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; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(4), an insurance producer shall not misappropriate or convert money received in the course of doing the business of insurance; and

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

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(7), an insurance producer shall not have been found to have committed any insurance unfair practice or fraud; 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 the insurance business; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(10), an insurance producer shall not forge another's name to any document in an insurance related transaction; 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(17), an insurance producer shall not knowingly assist another person in violating any insurance laws; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(18), an insurance producer shall notify the Commissioner of his indictment and/or conviction of any crime; and

WHEREAS, pursuant to N.J.S.A. 17:22A-47(b), an insurance producer shall report a criminal prosecution of the producer to the Commissioner within thirty (30) days of the pretrial hearing date; and

WHEREAS, pursuant to N.J.S.C. 11:17A-4.10, and insurance producer acts in a fiduciary capacity in the conduct of his business; and

WHEREAS, pursuant to N.J.S.A. 17:22a-40c, the producer license of a business entity may be suspended or revoked if an individual licensee's violation was known or should have been known by one or more of the partners, officers or managers acting on behalf of the business entity and the violation was neither reported nor corrective action taken; and

WHEREAS, pursuant to 18 U.S.C. §§ 1033(e) (1) (A) & 1033(e) (2), a person who has been convicted of any criminal felony involving dishonesty may engage or participate in the business of insurance only if he or she obtains the written consent of the Commissioner; and

WHEREAS, pursuant to N.J.A.C. 11:17E-1.3(a), no person having been convicted of a felony involving, among other things, dishonesty shall be employed in the business of insurance in this State in any capacity without having obtained a waiver from the Commissioner or his or her designee in accordance with 18 U.S.C. § 1033(e) (2); and

WHEREAS, pursuant to N.J.A.C. 11:17C-2.2(a), an insurance producer shall remit all premium funds to the insurer or other insurance producer, if applicable, within five (5) business days after receipt of the funds; and

WHEREAS, pursuant to N.J.A.C. 11:17C-2.2(b), an insurance producer shall remit all premiums due the insured within five business days after the insurance producer's receipt from the insurer; and

WHEREAS, pursuant to N.J.A.C. 11:17C-2.1(a), all premiums shall be held by an insurance producer in a fiduciary capacity and shall not be misappropriated, improperly converted to the insurance producer's own use or illegally withheld by the licensee; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40d, the Commissioner retains authority to take action against any person or entity with an expired license; and

COUNT 1
(Gartland)

IT APPEARING THAT, through Federal Hill and Gartland Company, Gartland was the insurance broker and sold, solicited or negotiated insurance to numerous New Jersey local government entities, including, but not limited to, the Toms River School District; and

IT FURTHER APPEARING THAT on October 19, 2010, Gartland was criminally indicted in the United States District Court of New

Jersey under case number 10-713 and charged with various crimes, including mail fraud and bribery; and

IT FURTHER APPEARING THAT on December 7, 2010, the United States Attorneys Office filed a 27 court Superseding Indictment against Gartland under case number 10-713. Specifically, the Superseding Indictment charged, among other things, that Gartland committed Mail Fraud using Federal Hill and Gartland Company to pay the Toms River School Superintendent numerous bribes and kickbacks; in return, the Respondents obtained insurance business and fraudulent payments from the School District; and

IT FURTHER APPEARING THAT, on April 2, 2012, Gartland pleaded guilty to the allegations of the Superseding Indictment. Specifically, Gartland admitted that he paid at least \$3,360,000 in bribes to the Toms River School Superintendent in order to obtain insurance business and commissions from Toms River; and

IT FURTHER APPEARING THAT on November 16, 2012, Gartland plead guilty to the Mail Fraud charges in the Superseding Indictment, a felony, in violation of N.J.S.A. 17:22A-40a(2), (6), (7) and (8); and

COUNT 2
(Gartland)

IT FURTHER APPEARING THAT Respondents' scheme to unlawfully obtain insurance business for the Toms River School District, bribe public officials and conceal fraudulent payments constitutes

violations of N.J.S.A. 17:22A-40a(2), (4), (6), (8), (16) and (17);
and

COUNT 3
(Gartland)

IT FURTHER APPEARING THAT Gartland failed to notify the Department of his indictment in case number 10-713 within thirty (30) days, in violation of N.J.S.A. 17:22A-40a(2), (8) and (18) and N.J.S.A. 17:22A47(b); and

COUNT 4
(Gartland)

IT FURTHER APPEARING THAT Gartland failed to report his criminal conviction to the Commissioner in violation of N.J.S.A. 17:22A-40a(2), (8), and (18), N.J.S.A. 17:22A47(b) and N.J.A.C. 11:17E-1.3(a); and

COUNT 5
(Gartland, Federal Hill and Gartland Company)

IT FURTHER APPEARING THAT at all relevant times, Respondents sold, solicited or negotiated insurance to the City of Perth Amboy and the Perth Amboy Board of Education; and

IT FURTHER APPEARING THAT on May 19, 2011, Respondents were criminally indicted in the United States District Court of New Jersey under case number 11-336 for, among other things, conspiracy to violate Federal Election Campaign Laws; and

IT FURTHER APPEARING THAT Count 1 of the Indictment No. 11-336 alleged that Gartland was guilty of Conspiracy to Violate the

Federal Election Campaign Act by contributing money to a candidate in the names of other people. Specifically, Count I of the Indictment alleged Gartland used Federal Hill and Gartland Company and their employees to donate Gartland's money to federal candidates using their names in order to circumvent federal election law; and

IT FURTHER APPEARING THAT, on April 2, 2012, Respondents pleaded guilty to, among other things, conspiracy to violate Federal Election Campaign Laws; and

IT FURTHER APPEARING THAT Respondents' scheme to violate federal election laws through the use of straw donors, including Federal Hill and Gartland company employees and bank accounts, constitutes violation of N.J.S.A. 17:22A-40a(2), (6), (16) and (17) and N.J.S.A. 17:22A-40c; and

IT FURTHER APPEARING THAT Gartland failed to notify the Department of his indictment in Case No. 11-336 within thirty (30) days, in violation of N.J.S.A. 17:22A-40a(2), (8) and (18) and N.J.S.A. 17:22A-47(b); and

COUNT 6
(Gartland, Federal Hill and Gartland Company)

IT FURTHER APPEARING THAT Respondents failed to report their criminal convictions, in violation of N.J.S.A. 17:22A-40a(2), (8) and (18) , N.J.S.A. 17:22A-47(b) and N.J.A.C. 11:17E-1.3(a); and

COUNT 7
(Gartland and Federal Hill)

IT FURTHER APPEARING THAT, at all relevant times, Gartland and Federal Hill were official brokers of record for and sold, solicited or negotiated insurance to the City of Perth Amboy;

IT FURTHER APPEARING THAT, on June 3, 2010, Gartland and Federal Hill were criminally indicted by a State Grand Jury in a five (5) count indictment, under Indictment No. 10-06-00073 for, among other things, Theft by Deception in the 2nd Degree by creating a fictitious wellness program for Perth Amboy and billing for fictitious coverage for the non-existent wellness program; and

IT FURTHER APPEARING THAT, on April 10, 2012, Gartland and Federal Hill pled guilty to Theft by Deception in the second degree and money laundering, alleged in the indictment; and

IT FURTHER APPEARING THAT, Gartland and Federal Hill admitted to accepting at least fifteen checks totaling \$216,495 between 8/3/07 through 2/6/09 from the City of Perth Amboy for insurance coverage and services never provided; and

IT FURTHER APPEARING THAT each of the aforementioned payments which were fraudulently induced by Gartland and Federal Hill's non-existent wellness program constitutes fifteen separate violations of N.J.S.A. 17:22A-40a(2), (4), (6), (8), (16), and (17) and N.J.S.A. 17:22A-40c; and

COUNT 8
(Gartland and Federal Hill)

IT FURTHER APPEARING THAT on December 10, 2012, Gartland and Federal Hill were convicted of Theft by Deception in the 2nd Degree, in violation of N.J.S.A. 17:22-40a(2), (6), (7) and (8); and

COUNT 9
(Gartland and Federal Hill)

IT FURTHER APPEARING THAT Gartland and Federal Hill failed to notify the Department of their indictments under Indictment No. 10-06-00073, within thirty (30) days, in violation of N.J.S.A. 17:22A-40a(2), (8), and (18) and N.J.S.A. 17:22A-47(b); and

COUNT 10
(Gartland and Federal Hill)

IT FURTHER APPEARING THAT Respondents Gartland and Federal Hill failed to report their conviction to the Commissioner, in violation of N.J.S.A. 17:22A-40a(2), (8), and (18) , N.J.S.A. 17:22A-47(b) and N.J.A.C. 11:17E-1.3(a); and

COUNT 11
(Gartland and Gartland Company)

IT FURTHER APPEARING THAT, and on July 22, 2010, Gartland and Gartland Company were criminally indicted by a State Grand Jury in an eight (8) count indictment, under Indictment No. 10-07-00095, for among other things, Financial Facilitation of Criminal Activity in the 1st Degree; and

IT FURTHER APPEARING THAT Gartland and Gartland Company falsely represented to an insurance carrier that the Perth Amboy Board of Education ("PABOE") authorized the insurance carrier to pay fees in the amount of \$2,593,400 to Gartland and Gartland Company from PABOE medical claims bank account for non-existent healthcare services; and

IT FURTHER APPEARING THAT Gartland further admitted that, between November 2003 and July 2009, he received \$2,593,400 in PABOE insurance related proceeds and which he deposited into bank accounts, including the account of Gartland Company; and

IT FURTHER APPEARING THAT, on April 10, 2012, Gartland and Gartland Company pled guilty to this charge and admitted that they engaged in a conspiracy with others to fraudulently bill the PABOE and an insurance carrier for non-existent or unauthorized healthcare related coverage and services.

IT FURTHER APPEARING THAT Gartland admitted that his scheme began when he forged the PABOE's President's signature in a November 18, 2003 letter to the insurance company authorizing payment to Gartland and Gartland and Company for unauthorized insurance coverage and services, in violation of N.J.S.A. 17:22A-40a(2), (7), (8), (10), (16) and (17); and

COUNT 12
(Gartland and Gartland Company)

IT FURTHER APPEARING THAT on December 10, 2012, Gartland and Gartland Company were convicted of Financial Facilitation of Criminal Activity in the 1st Degree, in violation of N.J.S.A. 17:22A-40a(2), (6) and (7); and

COUNT 13
(Gartland and Gartland Company)

IT FURTHER APPEARING THAT Gartland and Gartland Company failed to notify the Commissioner of their indictments under Indictment No. 10-06-00095, within thirty (30) days, in violation of N.J.S.A. 17:22A-40a(2), (8) and (18) and N.J.S.A. 17:22A-47(b); and

COUNT 14
(Gartland and Gartland Company)

IT FURTHER APPEARING THAT Gartland and Gartland Company failed to notify the Commissioner of their convictions in violation of N.J.S.A. 17:22A-40a(2), (8) and (18) and N.J.S.A. 17:22A-47(b) and N.J.A.C. 11:17E-1.3(a); and

NOW, THEREFORE, IT IS on this 8th day of July, 2014

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

IT IS FURTHER ORDERED that Respondents 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

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

IT IS PROVIDED THAT Respondents have the right to request an administrative hearing, to be represented by counsel, to call or cross-examine witnesses, to have subpoena and 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 the Respondents 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, New Jersey 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 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
Acting Director of Insurance