



NEW YORK STATE
DEPARTMENT OF FINANCIAL SERVICES
ONE STATE STREET PLAZA
NEW YORK, NEW YORK 10004

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In the Matter of the Applications
and/or Licenses of

ANDREW M. FAGAN,

Respondent.
----- X

CITATION

**VIDEOCONFERENCE
HEARING**

Docket No. 2020-0006-C
Event Number: 178 564 7752
Event Password: ayVfWx9uC22

TO THE ABOVE-NAMED RESPONDENT:

PLEASE TAKE NOTICE THAT you are cited to appear on the 21st day of January, 2021, at 10:00 a.m. to show cause why all licenses issued to you by the New York State Department of Financial Services (“Department”) should not be suspended or revoked, and why all pending applications for licensure or renewal thereof should not be denied, or a monetary penalty imposed, by reason of the charge(s) and specification(s) hereinafter set forth. The Hearing will be held via videoconference, via Webex. **The Event Number for this Hearing is 178 564 7752, and the Event Password is ayVfWx9uC22.**

Pursuant to the First Amendment to Part 2 of Title 23 of the Official Compilation of Codes, Rules and Regulations of the State of New York (23 NYCRR §2.19), you may object to having the Hearing conducted via videoconference by sending a written notice of the objection to the hearing officer by first class mail or overnight mail to Videoconference Coordinator, Office of General Counsel, New York State Department of Financial Services, One State Street, New York, NY 10004, or via electronic mail to VideoHearings@dfs.ny.gov. The written notice of objection must be received at least five business days before the date set for the hearing. A copy of 23 NYCRR §2.19 is attached to this Citation.

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You are instructed to go to the Department's website, at https://www.dfs.ny.gov/reports_and_publications/public_hearings, to learn how the hearing will be conducted and what you will need to do in order to appear at your Videoconference Hearing. **At least 48 hours prior to your hearing, you will need to conduct a test to ensure that you can connect to the Videoconference Hearing. Instructions for testing can be found at https://www.dfs.ny.gov/reports_and_publications/public_hearings.** If you wish to introduce any documents at the Hearing, you must email them at least 24 hours prior to the start of the Hearing to VideoHearings@dfs.ny.gov, and include a brief description of each document and your Event Number. You may also request disclosure of the evidence that the Department will introduce at the Hearing by sending an email to VideoHearings@dfs.ny.gov. Include in your request your name, the date of the Hearing, and your Event Number.

If you have any questions with regard to connecting or are unable to connect to your Videoconference Hearing, call the Department Help Desk at 212-709-7777 or email ServiceDesk@dfs.ny.gov.

CHARGE I

RESPONDENT HAS DEMONSTRATED UNTRUSTWORTHINESS AND/OR INCOMPETENCE TO ACT AS AN INSURANCE PRODUCER WITHIN THE MEANING OF SECTION 2110(a)(4) OF THE INSURANCE LAW.

Specification A

1. During the approximate period May 2015 through November 2016, Respondent knowingly submitted materially misleading property images in applications for insurance to State Farm, an insurer. The property images were obtained based upon online computer searches and then transmitted to State Farm, providing the appearance that the properties had actually been physically inspected by someone employed by Respondent's insurance agency when in fact that was not true.

Specification B

2. During the approximate period May 2015 through November 2016, Respondent created fictitious customer banking information, including account numbers and routing numbers, and submitted this fictitious information to State Farm, an insurer. In some instances, these financial records were an attempt to provide the appearance that customers had made payments to State Farm when in fact that was not true.

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Specification C

3. During the approximate period May 2015 through November 2016, Respondent knowingly permitted at least one team member of Respondent's insurance agency to sell State Farm insurance policies that were not properly matched to risks and with coverage not adequate to cover the risks, either presented by the customers or known by the agency to exist for the customers.

Specification D

4. During the approximate period May 2015 through November 2016, Respondent knowingly and improperly permitted State Farm customers' personal information such as driver's license numbers and social security numbers to be stored at Respondent's insurance agency, both electronically on the agency's computer server and within customer paper files created and maintained within Respondent's insurance agency.

Specification E

5. On or about September 18, 2014, Respondent entered into Stipulation No. 2014-0200-S with the New York State Department of Financial Services ("Department"), and in said Stipulation, Respondent admitted that during the approximate period December 2004 through January 2005, while licensed as an agent by the Department, Respondent failed to supervise an employee who was involved in the submission of policies to an insurer that contained false underwriting information. In said Stipulation, Respondent agreed to take all necessary steps to prevent the recurrence of similar violations.

6. In or about September 2017, Respondent failed to comply with said Stipulation in that he failed to supervise an employee of his insurance agency who was involved in submitting insurance applications to State Farm that contained false underwriting information. The insurance applications were for four vehicles owned or operated by Heather Milone and Anthony Milone, and the applications falsely stated that the vehicles were for commercial use when in fact the vehicles were not for commercial use.

Specification F

7. On or about September 30, 2019, Respondent, then an agent for Travelers Indemnity Company ("Travelers"), added himself and a Toyota vehicle, of which Respondent was the registered owner, to a Travelers insurance policy belonging to Mohammad S. Ahamed without the consent of said insured, and backdated the policy alterations to September 5, 2019. Respondent made the false policy alterations after he

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had driven said Toyota vehicle without insurance on September 28, 2019 and had struck another vehicle insured by Travelers.

8. As a consequence of the foregoing conduct by Respondent, Travelers terminated for cause Respondent's appointment as an agent on or about February 4, 2020.

PLEASE TAKE FURTHER NOTICE THAT:

(A) According to the records of the New York State Department of Financial Services, Andrew M. Fagan is licensed as an agent under Sections 2103(a) and 2103(b) of the Insurance Law.

(B) This citation is issued pursuant to Section 2110 of the Insurance Law and Sections 304-a, 305 and 306 of the Financial Services Law, and notice of this hearing is given to Respondent in accordance with Section 304 of the Financial Services Law.

(C) Respondent's attention is directed to a statement in plain language, attached hereto, entitled "Summary of Hearing Procedures", summarizing the provisions of Title 23, Part 2 of the Official Compilation of Codes, Rules and Regulations of the State of New York (23 NYCRR 2). This statement contains important information concerning your rights and the Department's hearing procedures and should be read carefully. A copy of 23 NYCRR § 2.19 is attached hereto; a copy of the balance of 23 NYCRR 2 will be furnished upon request.

(D) Should Respondent fail to appear at the time and place fixed for the hearing or any adjourned date thereof, the hearing will proceed as scheduled and the disciplinary action, if any, may result in the imposition of a monetary penalty or in the suspension or revocation of any licenses and/or the denial of all pending applications for licenses or renewal thereof.

Dated: New York, NY
December 22, 2020

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

By: Michael S. Formichelli
Michael S. Formichelli
Associate Attorney
(212) 480-5250

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BY CERTIFIED MAIL AND REGULAR MAIL:

Andrew M. Fagan

[REDACTED]

Andrew M. Fagan

[REDACTED]