



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 of

**JOSEPH J. CERVONE,**

Applicant.

**NOTICE OF HEARING**

**VIDEOCONFERENCE HEARING**

Docket Number: 2022-0007-A

Event Number: 161 679 9574

Event Password: SEqJ26jtNe3

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**TO THE APPLICANT:**

**PLEASE TAKE NOTICE THAT,** pursuant to your request, a Hearing will be conducted by the New York State Department of Financial Services (“Department”), on the 12th day of October, 2023, at 10:00 a.m., to review the determination denying your application for written consent to engage in the business of insurance pursuant to 18 U.S.C. § 1033. The Hearing will be held via videoconference, via Webex. **The Event Number for this Hearing is 161 679 9574, and the Event Password is SEqJ26jtNe3.**

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 Notice.

You are instructed to go to the Department's website, at [https://www.dfs.ny.gov/reports\\_and\\_publications/public\\_hearings](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](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](mailto: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](mailto:VideoHearings@dfs.ny.gov). Include your name, the date of the Hearing, and your Event Number. The documents will be sent to you via email no later than 7 days prior to the Hearing.

**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](mailto:ServiceDesk@dfs.ny.gov).**

The denial of your application should be upheld on the grounds that you have demonstrated untrustworthiness to engage in the business of insurance based on the following:

1. During the period 2009 through 2012, you committed the crime of Obstructing and Impeding the Due Administration of the Internal Revenue Service ("IRS") in that you: (1) prepared and caused to be filed federal income tax returns on behalf of clients, knowing that the tax returns contained credits and losses to which the clients were not entitled, (2) prepared and caused to be filed U.S. partnership income tax returns on behalf of numerous limited liability companies, knowing that the tax returns contained credits and losses to which the limited liability companies were not entitled, (3) filed federal income tax returns on behalf of yourself, knowing that they falsely understated the amount of income you received, and (4) caused your personal expenses to be paid by one or more limited liability companies, knowing that those payments would not be reported to the IRS, thereby defeating the IRS's reporting process and its abilities to detect income.

2. You committed the crime of Subscribing to False Tax Returns in that you filed federal individual tax returns for the tax years 2010 and 2011 that you signed under penalty of perjury, and in the tax returns you knowingly under-reported income in an amount exceeding five hundred thousand dollars, and thereby falsely and fraudulently omitted income you received.

3. Your criminal conduct, as set forth in paragraphs 1 and 2 above, resulted in a tax loss to the U.S. government in an amount exceeding twenty-three million dollars.

4. As a consequence of the foregoing, on March 29, 2017, in the United States District Court, Southern District of New York, you were convicted, upon plea of

guilty, of two felonies: Obstructing and Impeding the Due Administration of the Internal Revenue Service, in violation of Title 26, United States Code, Section 7212(a) and Subscribing to False Tax Returns, in violation Title 26, United States Code, Section 7206(1). On October 25, 2017, you were sentenced to a term of imprisonment of twenty-two months, to a term of supervised release of one year, and to a fine in the amount of fifteen thousand dollars.

5. Such other and further evidence relevant to your qualifications and fitness for the license sought as may be presented at the hearing.


**PLEASE TAKE FURTHER NOTICE** that the Hearing is being held pursuant to Sections 304-a, 305, and 306 of the Financial Services Law and that notice thereof is being given to you in accordance with Section 304 of the Financial Services Law. Your 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. Should you fail to appear at the Department's Virtual Hearing Center at the time fixed for the online virtual hearing, or any adjourned date thereof, your request for a hearing will be deemed withdrawn, and the denial of your application will be upheld.

Dated: New York, NY  
August 29, 2023

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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

**BY CERTIFIED MAIL AND REGULAR MAIL:**

Joseph J. Cervone  


By email: .net



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

## SUMMARY OF HEARING PROCEDURES

(Summary of Hearing Procedures for Adjudicatory Proceedings Before the Department of Financial Services as Set Forth in Title 23, Part 2 of the Official Compilation of Codes, Rules and Regulations of the State of New York (23 NYCRR 2), and as Required by Section 301(3) of the State Administrative Procedure Act)

1. The Hearing will be conducted and administered in compliance with the State Administrative Procedure Act and the Financial Services Law, and will be held before an impartial hearing officer who will make a Report of findings, conclusions, and recommendations to the Superintendent or the Superintendent's designee.
2. You must be ready, and prepared with your evidence, to present your case on the hearing date.
3. You may be represented by an attorney at the hearing.
4. Interpreter services shall be available for deaf persons, upon advance request, at no charge. Such request should be made as soon as possible by contacting the Department attorney who signed the Citation/Notice of Hearing.
5. You may file a written answer to the Citation/Notice of Hearing. If you do so, it should be delivered at least two days before the hearing date to the Department attorney who signed the Citation/Notice of Hearing. You will have a full opportunity at the hearing to dispute or explain any charges made against you in the Citation/Notice of Hearing whether or not you file an answer.
6. You may present evidence and have witnesses testify at the hearing. If you believe a Witness will not appear voluntarily and you do not have an attorney representing you, you may request the hearing officer to furnish you with a subpoena to compel the witness' attendance. If the hearing officer issues the subpoena, the service of the subpoena upon the witness and payment of all required fees is your responsibility.
7. You may request a hearing officer's report and an opportunity to comment on it in writing before the Superintendent acts on the report. The request must be made to the hearing officer on the record prior to close of the hearing.
8. Prior to the commencement, a hearing may be postponed upon your request upon a written application to the Department official who issued the Citation/Notice of Hearing. The application may be granted upon a showing of good cause at the discretion of the Department official who issued the Citation/Notice of Hearing.
9. A hearing in progress may be adjourned by the hearing officer at your request for good cause shown or upon consent of all parties. If you request that a hearing in progress be adjourned for good cause shown, you must present documentary evidence as the hearing officer deems appropriate. The factors to be considered in determining good cause shown include but are not limited to the illness of a party, witness,

or attorney, the temporary absence of a witness, the opportunity to obtain an attorney, the actual engagement of an attorney in a court proceeding, and the number and nature of previous requests for adjournment.

10. If you do not appear at a hearing requested upon the denial of an application for a license, your request will be deemed withdrawn.
11. If you do not appear or are not represented at the hearing on a Citation, the hearing will take place as scheduled and a decision on the charges will be made. The decision may result in the revocation or suspension of your licenses and the denial of any pending applications, and such other action as may be permitted by law, including the imposition of monetary fines.
12. If you do not appear at a hearing, the hearing may be reopened upon a written application, if you satisfy the hearing officer that there are valid reasons for your failure to appear or your failure to request an adjournment or postponement and you have a meritorious case. If you do appear at the hearing, the hearing may be reopened on written request to the hearing officer if you can show newly discovered evidence or other compelling reason for such reopening. The application to reopen must be made within one hundred and twenty (120) days from the effective date of the Superintendent's or the Superintendent's designee's decision.
13. Once a decision is made against you, you may, if you wish, take an appeal to the courts. This appeal must be made within four months from the date the decision was effective. It should be emphasized that your right to take an appeal is not connected in any way with your right to reopen the hearing as described in paragraph 12 and an application to reopen does not extend your time to take an appeal to the courts.

**NEW YORK STATE  
DEPARTMENT OF FINANCIAL SERVICES  
FIRST AMENDMENT TO 23 NYCRR 2**

**RULES GOVERNING THE PROCEDURES FOR ADJUDICATORY PROCEEDINGS  
BEFORE THE DEPARTMENT OF FINANCIAL SERVICES**

I, Adrienne A. Harris, Superintendent of Financial Services of the State of New York, pursuant to the authority granted by Sections 102, 201, 202, 302 and 305 of the Financial Services Law and Section 301 of the State Administrative Procedure Act, do hereby promulgate the First Amendment to Part 2 of Title 23 of the Official Compilation of Codes, Rules and Regulations of the State of New York, to take effect upon the publication of the Notice of Adoption in the State Register, to read as follows:

**(ALL MATTER IS NEW)**

**Section 2.19 is added to read as follows:**

**§ 2.19 Hearings conducted by videoconference.**

(a) A hearing shall be conducted by videoconference, unless a hearing officer determines at the hearing officer's discretion, or upon a finding of good cause based upon an application submitted in accordance with subdivision (b) of this section, to conduct a hearing where all or some of the parties, witnesses, and the hearing officer are physically present at the same location. When a hearing is conducted by videoconference, the parties, witnesses, and the hearing officer do not need to be physically present at the same location.

(b) A party may object to a hearing being conducted by videoconference by sending a written notice of the objection to the hearing officer by first class mail, overnight mail, or electronic mail to an address designated by the Department and posted on the Department's website. The written notice of objection must be received by the hearing officer within five calendar days prior to the return date set forth in the notice of action or proposed action that was served or issued by a party as provided in Financial Services Law section 304.

(c) The hearing officer may determine not to conduct a hearing or any portion thereof, or not to have a party or witness testify, by videoconference upon a finding that a timely written objection to conducting a hearing pursuant to this Part by videoconference submitted in accordance with subdivision (b) of this section establishes that:

(1) a party's due process rights would be best served by all or some of the parties and witnesses, and the hearing officer being physically present at the same location;  
or

(2) circumstances render a hearing, or a portion thereof, conducted pursuant to this Part by videoconference impractical.

(d) All provisions of this Part that are not inconsistent with the specific provisions of this section shall apply to hearings conducted by videoconference. For purposes of section 2.14(b) of this Part, the term *hearing room* shall mean videoconference when a hearing is conducted by videoconference.



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KATHY HOCHUL  
Governor

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ADRIENNE A. HARRIS  
Superintendent

## CERTIFICATION

I, Adrienne A. Harris, Superintendent of Financial Services, do hereby certify that the foregoing is the First Amendment to Part 2 of Title 23 of the Official Compilation of Codes, Rules and Regulations of the State of New York, signed by me on June 7, 2022, pursuant to the authority granted by Financial Services Law Sections 102, 201, 202, 302, and 305 and State Administrative Procedure Act Section 301, to take effect upon publication of the Notice of Adoption in the State Register.

Pursuant to the provisions of the State Administrative Procedure Act, prior notice of the proposed rule was published in the New York State Register on April 6, 2022. No other publication or prior notice is required by statute.

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Adrienne A. Harris  
Superintendent of Financial Services

Dated: June 7, 2022