



**COMMONWEALTH OF MASSACHUSETTS**  
**Office of Consumer Affairs and Business Regulation**  
**DIVISION OF INSURANCE**

1000 Washington Street • Suite 810 • Boston, MA 02118-6200  
(617) 521-7794 • FAX (617) 521-7475  
<http://www.mass.gov/doi>

CHARLES D. BAKER  
GOVERNOR

KARYN E. POLITO  
LIEUTENANT GOVERNOR

JAY ASH  
SECRETARY OF HOUSING AND  
ECONOMIC DEVELOPMENT

JOHN C. CHAPMAN  
UNDERSECRETARY

DANIEL R. JUDSON  
COMMISSIONER OF INSURANCE

December 7, 2016

Downey Insurance Agency, Inc.  
C/O Charles Downey  
P.O. Box 570  
Marlborough, MA 01752

RE: Downey Insurance Agency, Inc.– Massachusetts License No. 1782731  
SIU Investigation No. 9211

**VIA First Class Mail & E-Mail**

Dear Mr.Downey:

I represent the Massachusetts Division of Insurance (“Division”) with regard to the above-captioned investigation. Pursuant to an investigation conducted by the Division’s Special Investigations Unit, the Division has cause to believe that Downey Insurance Agency, Inc. (“VSC”) violated the Massachusetts insurance laws set forth below by the conduct detailed in this settlement letter.

This case was opened on March 2, 2016, after the Division discovered that Downey Insurance Agency, Inc. was paying commissions to Smart Services Insurance Agency, Inc., which was an unlicensed business entity. Further investigation revealed Downey Insurance Agency, Inc. produced or renewed 170 policies, which resulted in \$7,515.99 in commissions paid to Smart Services Insurance Agency, Inc.

The conduct described above is evidence of the following violations:

M.G.L. c. 175, § 177 . . . [n]o company and no officer, agent or employee thereof, and no duly licensed insurance producer, shall, indirectly or indirectly pay, or allow or offer or agree to pay or allow compensation or anything of value to an person . . . for acting as an insurance producer. . . who is not then duly licensed as an insurance producer. Whoever knowingly violates any provision of this section shall be punished by a fine not less than \$50 nor more than \$500.

M.G.L. c. 175, § 162R (a)(2) . . . [t]he commissioner may place on probation, suspend, revoke or refuse to issue or renew an insurance producer’s license or may levy a civil penalty for . . . violating

any insurance laws. Additionally, a violation is punishable by a fine up to one thousand dollars. M.G.L. c. 176D, § 7.

M.G.L. c. 176D, §2 – No person shall engage in this commonwealth in any trade practice which is defined in this chapter as, or determined pursuant to section six of this chapter to be, an unfair method of competition or an unfair or deceptive act or practice in the business of insurance. A violation is punishable by a fine up to one thousand dollars. M.G.L. c. 176D, § 7.

The Division is authorized to issue an order requiring you to show cause as to why Downey Insurance Agency, Inc. should not be made to cease and desist from the above alleged conduct. If, after a public hearing, the Commissioner of Insurance finds that Downey Insurance Agency, Inc. did commit the alleged violations, he may impose a fine up to the amounts listed above and order that your Massachusetts Insurance Producer License be placed on probation, suspended or revoked.

The Division proposes to resolve this matter through a settlement if you agree to waive the right to a public hearing, agree to cease and desist from the above-alleged conduct and agree to pay a **fine of \$500.00**. If you choose to accept the Division's offer, please have an authorized individual sign this settlement letter where provided below and return it to my attention along with a check made payable to the Commonwealth of Massachusetts, no later than **December 22, 2016**.

The Division considers the acceptance of this settlement to constitute a reportable administrative event which should be included on your next Massachusetts producer license renewal application. You also may be required to report this action in other jurisdictions where you hold an insurance producer license. This Agreement shall be construed under and governed by the laws of the Commonwealth of Massachusetts.

Although this correspondence does not constitute the required statutory notice of a public hearing, if this matter is not resolved by **December 22, 2016**, the Division intends to file its Order to Show Cause and will notify you of the hearing date.

Thank you for your prompt attention to this matter. Should you have any questions or wish to discuss this matter further, I may be reached at (617) 521-7471 or Scott.Peary@state.ma.us.

Sincerely,

Scott J. Peary  
Chief Enforcement Counsel

Enclosure



CHARLES D. BAKER  
GOVERNOR

KARYN E. POLITO  
LIEUTENANT GOVERNOR

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**SETTLEMENT AGREEMENT**

This Settlement Agreement (“Agreement”) is made by and between the Commonwealth of Massachusetts, Division of Insurance (“Division”), and Downey Insurance Agency, Inc., licensed as an insurance producer licensed under the laws of the Commonwealth of Massachusetts (“Commonwealth”) and with an address of P.O. Box 570, Marlborough, MA 01752.

WHEREAS, Downey Insurance Agency, Inc. was licensed by the Division as an insurance producer pursuant to M.G.L. c. 175, § 162H *et seq.*;

WHEREAS, an insurance producer licensed in the Commonwealth must uphold the standards in M.G.L. c. 175, § 162H *et seq.* and must comply with the Commonwealth’s insurance laws, including without limitation, those set forth in M.G.L. c. 175 & M.G.L. c. 176D; the Code of Massachusetts Regulations; and any other regulatory requirements; each of which give the Commissioner of Insurance review, approval, and enforcement authority over licensees;

WHEREAS, the Division has conducted an investigation, Special Investigation Number 9211, and contends that the acts and conduct of Downey Insurance Agency, Inc. as set forth in the Division’s correspondence dated December 7, 2016, a copy of which is attached hereto, constitute grounds for revocation of Downey Insurance Agency, Inc.’s insurance license and the imposition of fines;

WHEREAS, Downey Insurance Agency, Inc. is aware of its rights to notice and to an administrative hearing with respect to the alleged violations of Massachusetts insurance laws in these matters, and hereby waives those rights.

NOW THEREFORE, in consideration of the foregoing and the covenants, warranties, representations, and agreements contained herein, it is mutually agreed as follows:

1. Downey Insurance Agency, Inc. agrees to immediately cease and desist from the conduct outlined in the Division’s December 7, 2016 correspondence.

2. Downey Insurance Agency, Inc. agrees to pay a \$500.00 fine by December 22, 2016. Such check shall be made payable to the Commonwealth of Massachusetts and returned, along with an original signed version of the instant settlement agreement, to:

Massachusetts Division of Insurance  
C/O Scott Peary, Chief Enforcement Counsel  
1000 Washington Street, Suite 810  
Boston, MA 02118

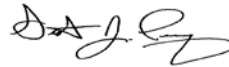
3. Except as expressly set forth in this Agreement, the failure of the Division at any time to require strict performance by Downey Insurance Agency, Inc. of any terms, provisions, or conditions hereof shall in no way affect the right thereafter to enforce the same, nor shall the waiver by the Division of any breach of any of the terms, provisions, and conditions hereof be construed or deemed a waiver of any succeeding breach of any term, provision, or condition thereof.

4. In the event that the Division finds that there has been a breach of any provision of this Agreement, the Division may, in its discretion, pursue any and all legal remedies permitted by the Massachusetts insurance laws as well as any other appropriate law of the Commonwealth.

5. The provisions of this Agreement may be amended, modified, or expanded solely in writing by joint consent of the Division and Downey.

SIGNED:

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Charles Downey  
Downey Insurance Agency, Inc.



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Commonwealth of Massachusetts  
Division of Insurance  
Scott Peary  
Chief Enforcement Counsel

Dated: \_\_\_\_\_

Dated: December 7, 2016