

**STATE OF MAINE
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION
BUREAU OF INSURANCE**

IN RE:

Docket No. INS 05 - 213

MICHAEL MERCURIO

and

CONSENT AGREEMENT

MARINE UNDERWRITING, INC.

INTRODUCTION

1) This matter is before the Superintendent of Insurance as a Consent Agreement in connection with the activities of Michael Mercurio and Marine Underwriting, Inc. in Maine.

2) The Maine Insurance Code regulates persons who offer or sell insurance products and services in the State of Maine. The Superintendent of Insurance has jurisdiction over this matter pursuant to the Insurance Code generally, Title 24-A Maine Revised Statutes Annotated, and in particular, 24-A M.R.S.A. §§12-A, 211, 220, 1411, 1413, 1417, and 1420-K. This matter is also entered into as a consent agreement under the authority of 10 M.R.S.A. §8003 (5), to resolve, in lieu of an adjudicatory proceeding, the matters referenced below. The parties to this Consent Agreement and Order are Michael Mercurio; Marine Underwriting, Inc.; the Maine Superintendent of Insurance; and the Maine Office of the Attorney General.

FINDINGS OF FACT

3) Michael Mercurio has been licensed in Maine as a nonresident insurance Producer since November 24, 2004. He is President and sole employee of Marine Underwriting, Inc., a corporation with its principal place of business in Florida. Marine Underwriting, Inc. is not licensed in Maine under the Maine Insurance Code.

4) Mr. Mercurio's business address of record, as reflected in Bureau records, is:

Marine Underwriting, Inc.
5523 Lake Tern Court
Coconut Creek, FL 33073

6) The Bureau of Insurance received Mr. Mercurio's application for nonresident Producer licensing on November 8, 2004.

6) The application included signature, dated "11 3 2004."

- 7) Upon routine review, the Bureau issued Mr. Mercurio's license on November 24, 2004.
- 8) The Bureau learned through an independent source that Mr. Mercurio directed a letter on Marine Underwriting, Inc. letterhead, dated November 1, 2004, to a Maine resident, which was before he applied for licensing in Maine.
- 9) The November 1, 2004 letter from Mr. Mercurio to a Maine resident contained the following statements:

"This letter is to formerly (*sic*) introduce myself and my agency Marine Underwriting, Inc. We are one of a select group of producers that are able to write business with _____ (*specific references removed for purposes of this consent agreement*)....

"We have been dealing with _____ Company since 2003 and have been involved with the placement of your insurance since inception of your policy.

...

"Marine Underwriting, Inc. will continue to handle the insurance for your fishing vessel(s)....

"If you have any questions please feel free to contact me. As previously mentioned, I will continue to handle all aspects of the insurance for your fishing vessel(s).

"Look forward to dealing with you."

- 10) Marine Underwriting, Inc. has not applied for business entity licensing in Maine, as of May 19, 2005.

CONCLUSIONS OF LAW

11) Under 24-A M.R.S.A. §1411(1), a person may not act as or purport to be a producer as to Maine unless licensed as such.

12) Mr. Mercurio solicited a Maine resident and purported to be a producer able to provide services within Maine without being licensed.

13) Under 24-A M.R.S.A. §1413(1), a business entity, whether it has a location in this State or not, must be licensed as an insurance producer business entity in order to authorize individual licensees to act on the entity's behalf by engaging in insurance producer activities or in order to use the name of the business entity in insurance-related advertising in the State, and a business entity has no authority to act on its own without an individual licensee.

14) Marine Underwriting, Inc., acting through Mr. Mercurio, solicited a Maine resident and purported to be able to provide insurance producer services within Maine without being licensed.

15) Under 24-A M.R.S.A. §§12-A and 1420-K(1)(B), the above facts constitute grounds for revocation or suspension of Mr. Mercurio's individual license or other appropriate action including the imposition of a civil penalty, as well as grounds for the imposition of a civil penalty against Marine Underwriting, Inc., or other appropriate action including the issuance of a cease and desist order for unlicensed activity

COVENANTS

16) Michael Mercurio, Marine Underwriting, Inc., the Maine Bureau of Insurance, and the Maine Department of the Attorney General agree to the following.

17) This Consent Agreement is entered into in accordance with 10 M.R.S.A. § 8003(5)(B) and is not subject to review or appeal. This Consent Agreement is enforceable by an action in the Superior Court.

18) At the time of executing this Consent Agreement, Mr. Mercurio and Marine Underwriting, Inc. will remit to the Maine Bureau of Insurance a joint and several civil penalty in the amount of \$1,000.00, payable to the Treasurer of the State of Maine.

19) Mr. Mercurio and Marine Underwriting, Inc. will cease and desist from purporting to be able to provide insurance producer services in Maine through Marine Underwriting, Inc. unless and until Marine Underwriting, Inc. becomes licensed as a producer business entity in Maine.

20) Mr. Mercurio and Marine Underwriting, Inc. understand and acknowledge that this Agreement will constitute a public record within the meaning of 1 MRSA § 402, and will be available for public inspection and copying as provided for by 1 MRSA § 408, and will be reported to the NAIC "RIRS" database.

21) In consideration of the individual applicant's and business entity licensee's execution of and compliance with the terms of this Consent Agreement, the Superintendent of Insurance, Bureau of Insurance, and Department of the Attorney General agree to forgo pursuing further disciplinary measures or other civil or administrative sanction for the actions described in this Consent Agreement, other than those agreed to herein. However, should Mr. Mercurio or Marine Underwriting, Inc. violate this Consent Agreement, either of them may be subject to any available legal remedy for the violation, including without limitation the suspension or revocation of all licenses issued to the applicant under the Maine Insurance Code.

22) Nothing in this Agreement shall affect the rights or interests of any person who is not a party to this Agreement.

Executed by:

Michael Mercurio

Dated: _____, 2005

Michael Mercurio

State of Florida, _____, ss

Subscribed and sworn to before me
this _____ day of _____, 2005.

Notary Public

(printed name)

Marine Underwriting, Inc.

Dated: _____, 2005

By: _____

(printed name)

Its: _____

State of _____, _____, ss

Subscribed and Sworn to before me
this _____ day of _____, 2005

Notary Public

(printed name)

THE MAINE SUPERINTENDENT OF INSURANCE

Dated: _____, 2005

Alessandro A. Iuppa, Superintendent

FOR THE DEPARTMENT OF THE ATTORNEY GENERAL

Dated: _____, 2005

Assistant Attorney General

(printed name)