

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF:

Proceeding by the Commissioner of Banking)
and Insurance, State of New Jersey, to fine)
the insurance producer license of Jonathan) CONSENT ORDER
Porcena, Reference No: 1301785)

To: Jonathan Porcena
516 Magnolia Ave., Apt 1
Elizabeth, NJ 07206

This matter, having been opened by the Commissioner of Banking and Insurance (“Commissioner”), State of New Jersey, upon information that Jonathan Porcena, (“Respondent”), currently licensed as a resident insurance producer pursuant to N.J.S.A. 17:22A-32, may have violated the producer laws of the State of New Jersey; and

WHEREAS, Respondent is 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 laws, or violate any regulation, subpoena or order of the Commissioner or of another state’s insurance regulator; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a (5), an insurance producer shall not intentionally misrepresent the terms of an actual or proposed insurance contract, policy or application for insurance; 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 insurance business in this State; and

WHEREAS, pursuant to N.J.S.A. 17:33A-4a(4)(b), no person shall prepare or make any written or oral statement, intended to be presented to any insurance company or producer for the purpose of obtaining an insurance policy, knowing that the statement contains any false or misleading information concerning any fact or thing material to an insurance application or contract; and

WHEREAS, pursuant to N.J.S.A. 17:33A-5c, violations of the Fraud Act subject the violator to a civil penalty not to exceed \$5,000.00 for the first offense, not to exceed \$10,000.00 for the second offense and not to exceed \$15,000.00 for each subsequent offense; and

WHEREAS, pursuant to N.J.S.A. 17:33A-5.1, each person who settles an insurance fraud proceeding shall be subject to a surcharge of 5% of the Fraud Act settlement amount; and

WHEREAS, Americo Financial Life and Annuity Insurance Company (“AFLAIC”) life insurance policy, known as “Home Mortgage Series 125 CBO”, is not available for sale in the state of Pennsylvania but was available for sale in the state of New Jersey; and

WHEREAS, on or about March through June of 2015, Respondent completed sixteen (16) applications for “Home Mortgage Series 125 CBO” AFLAIC life insurance policies for residents of Pennsylvania and misrepresented that the applications had been

signed in the state of New Jersey, when in reality, the applicants had signed the documents in Pennsylvania, in violation of N.J.S.A. 17:22A-40a (2), (5) and (8), and N.J.S.A. 17:33A 4a(4)(b);

WHEREAS, the Respondent:

- 1) Has admitted responsibility for the aforementioned violations; and
- 2) Has cooperated with the Department of Banking and Insurance's ("Department") investigation; and

WHEREAS, cause does exist under N.J.S.A. 17:22A-40a, N.J.S.A. 17:22A-45c and N.J.S.A. 17:33A-5c to impose a fine; and

WHEREAS, that the Respondent has waived his right to a hearing on the aforementioned violations and has consented to the payment of a civil penalty in the amount of \$15,000.00 for the violations of the Producer Licensing Act and payment of a civil penalty in the amount of \$1,500.00 for the violations of the Fraud Act; and

WHEREAS, that pursuant to N.J.S.A. 17:33A-5.1, Respondent shall pay a statutory insurance surcharge of \$75.00; and

WHEREAS, this matter should be resolved upon the consent of the parties without resort to a formal hearing; and

NOW, THEREFORE, IT IS on this 22nd day of March, 2016

ORDERED AND AGREED, that pursuant to N.J.S.A. 17:22A-40a, the Respondent shall pay a civil penalty in the amount of \$15,000.00 for the violations of the Producer Licensing Act admitted herein; and

IT IS FURTHER ORDERED AND AGREED, that Respondent shall pay a civil penalty of \$1,500.00 for the violations of the Fraud Act admitted herein; and

IT IS FURTHER ORDERED AND AGREED, that Respondent shall pay an insurance fraud surcharge in the amount of \$75.00 for the violations of the Fraud Act admitted herein; and

IT IS FURTHER ORDERED AND AGREED, that the said civil penalties and surcharge shall be paid by certified check, cashier's check or money order made payable to the "State of New Jersey, General Treasury," with an initial payment of \$3000.00 due by the 29th of February 2016 and twenty five (25) subsequent monthly payments of \$543.00 due and payable on or before the 31st day of each month thereafter; and

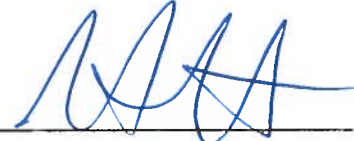
IT IS FURTHER ORDERED AND AGREED that the signed Consent Order, together with the initial fine payment of \$3,000.00 and each subsequent monthly installment, shall be remitted to:

New Jersey Department of Banking and Insurance
ATTN: Virgil Downtin, Chief of Investigations
9th Floor – Enforcement Unit
P.O. Box 329
Trenton, New Jersey 08625

IT IS FURTHER ORDERED AND AGREED, that in the event full payment of the fine is not made in accordance with this Order, the Commissioner may exercise any and all remedies available by law, including but not limited to recovery of any unpaid amounts in summary proceedings, in accordance with the penalty enforcement law N.J.S.A. 2A:58-10 et seq.; and

IT IS FURTHER ORDERED AND AGREED, that the provisions of this Consent Order represent a final agency decision and constitute a final resolution of the violations contained herein; and

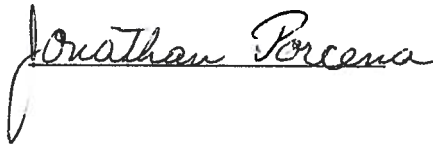
IT IS FURTHER ORDERED AND AGREED, that Respondent shall cease and desist from engaging in the conduct that gave rise to this Consent Order and hereafter, shall comply in all respects with the New Jersey insurance laws and regulations.



Peter L. Hartt
Director of Insurance

Consented to as to Form,
Entry and Content

By:



Jonathan Porcena

03-13-2016

Date