

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF:

Proceedings by the Commissioner of Banking)
and Insurance, State of New Jersey, to fine,)
suspend and/or revoke the insurance producer)
license of Dominick J. Perrone, Reference)
No. 1189022.)

ORDER TO SHOW CAUSE

TO: Dominick J. Perrone
1306 Lee Way
Forked River, NJ 08731

Dominick J. Perrone
26 Main Street, Suite 100
Toms River, New Jersey 08753

THIS MATTER, having been opened by the Commissioner of Banking and Insurance (“Commissioner”), State of New Jersey, upon information that Dominick J. Perrone (“Respondent”), may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Respondent was formerly licensed as a resident insurance producer in the State of New Jersey, pursuant to N.J.S.A. 17:22A-32a, until October 31, 2017, when his license expired; 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 to -48 (“Producer Act”), the New Jersey Insurance Fraud Prevention Act, N.J.S.A. 17:33A-1 to -30 (“Fraud Act”) and the regulations promulgated thereunder, N.J.A.C. 11:16-1.1 to -7.10, the Producer Licensing regulations, N.J.A.C. 11:17-1.1 to

-2.17, and the regulations governing Insurance Producer Standards of Conduct, N.J.A.C. 11:17A-1.1 to 11:17D-2.8; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40d, the Commissioner shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by the Producer Act and Title 17 of the Revised Statutes or Title 17B of the New Jersey Statutes against any person who is under investigation for or charged with a violation of the Producer Act or Title 17 of the Revised Statutes of Title 17B of the New Jersey Statutes even if the person's license or registration has been surrendered or has lapsed by operation of law; and

WHEREAS, pursuant to N.J.S.A. 17:22A-29, a person shall not sell, solicit or negotiate insurance in this State unless the person is licensed for that line of authority in accordance with the Producer Act; and

WHEREAS, pursuant to N.J.S.A. 17:22A-33(f), licensees shall inform the Commissioner by any means acceptable to the Commissioner of a change of address within 30 days of the change; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(2), an insurance producer shall not violate any insurance law, 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 or elsewhere; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(16), an insurance producer shall not commit any fraudulent act; and

WHEREAS, pursuant to N.J.A.C. 11:17A-1.3(a), except as provided in N.J.A.C. 11:17B-2.1(b) or (e), no person shall act as an insurance producer or maintain or operate any office in this State for the transaction of the business of an insurance producer, or receive any commission, brokerage fee, compensation or other consideration for services rendered as an insurance producer, without first obtaining a license from the Commissioner granting authority for the kind of insurance transacted; and

WHEREAS, pursuant to N.J.A.C. 11:17A-1.4(a), no person shall solicit, negotiate or sell an insurance contract in New Jersey unless he or she is a licensed insurance producer; and

WHEREAS, pursuant to N.J.A.C. 11:17-2.8(f)1, an insurance producer shall provide the Department with a complete and current business mailing address, and, if different, a street or location address, phone number and, if applicable, email address; and individual licensees shall also provide the Department with a complete and current residence address, phone number and, if applicable, email address; and

WHEREAS, pursuant to N.J.A.C. 11:17-2.8(f)2, an insurance producer shall provide, in the format prescribed by the Department, notification of any change of business mailing or location address, residence address, phone numbers and email addresses within 30 days of the change, and maintain a proof of notification for five years or until receipt of a license or other documentation from the Department showing the new address; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a, the Commissioner may place on probation, suspend, revoke or refuse to issue or renew an insurance producer's license for violating the

Producer Act or may levy a civil penalty in accordance with N.J.S.A. 17:22A-45c, or any combination of actions; and

WHEREAS, pursuant to N.J.S.A. 17:22A-45c, any person violating the Producer Act is subject to a penalty not exceeding \$5,000.00 for the first offense and not exceeding \$10,000.00 for each subsequent offense; additionally, the Commissioner may order restitution of moneys owed any person and reimbursement of costs of the investigation and prosecution; and

WHEREAS, pursuant to N.J.S.A. 17:33A-4a(3), no person shall conceal or knowingly fail to disclose the occurrence of any event which affects any person's initial or continued right or entitlement to (a) any insurance benefit or payment or (b) the amount of any benefit or payment to which the person is entitled; 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-5a and N.J.A.C. 11:16-7.9(a) and (c), violations of the Fraud Act subject the violator to a civil and administrative 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 along with restitution and costs of prosecution and attorneys' fees; and

WHEREAS, pursuant to N.J.S.A. 17:33A-5.1, any person who is found in any legal proceeding to have committed insurance fraud shall be subject to a surcharge in the amount of \$1,000.00; and

ALLEGATIONS COMMON TO COUNTS ONE TO THREE

IT APPEARING, that Respondent was employed as an insurance producer at American Family Life Assurance Company (“AFLAC”) from March 26, 2015 through May 4, 2015; and

IT FURTHER APPEARING, that during Respondent’s employment at AFLAC he submitted six individual insurance policy applications (“Applications”) for his wife, Jessica Perrone (“Jessica”), which indicated that Jessica was an employee of Jersey Shore Auto Sales (“JSAS”); and

IT FURTHER APPEARING, that JSAS never began operations and that Jessica was never employed by JSAS; and

IT FURTHER APPEARING, that Respondent submitted the Applications to AFLAC and is required to witness the signature of the prospective insured; and

IT FURTHER APPEARING, that Jessica purportedly signed and dated the Applications on March 26, 2016, April 7, 2015, and May 4, 2015 during the time that Respondent was unlicensed; and

IT FURTHER APPEARING, that Respondent’s insurance producer license expired on December 12, 2013 and was not reactivated until May 13, 2015; and

IT FURTHER APPEARING, that AFLAC terminated Respondent’s employment on the basis that the Applications contained forged signatures and intentional material false statements; and

COUNT ONE

IT FURTHER APPEARING, that in each of the Applications, Respondent knowingly and intentionally submitted material false statements to AFLAC in violation of N.J.S.A. 17:22A-40a(2), (5), (8), and (16), and N.J.S.A. 17:33A-4a(4)(b); and

COUNT TWO

IT FURTHER APPEARING, that Respondent submitted the Applications while he was not licensed as an insurance producer, in violation of N.J.S.A. 17:22A-29, N.J.S.A. 17:22A-40a(2) and (8), N.J.A.C. 11:17A-1.3(a), and N.J.A.C. 11:17A-1.4(a); and

COUNT THREE

IT FURTHER APPEARING, that on September 30, 2016, the Department of Banking and Insurance (“Department”) attempted to contact Respondent at the address on file with the Department; and

IT FURTHER APPEARING, that a public records search conducted on October 20, 2016 revealed that Respondent had changed his address; and

IT FURTHER APPEARING, that the Department sent certified letters to all known addresses of Respondent on October 21, 2016 and November 21, 2016 requesting a statement from Respondent regarding its investigation of the Applications, but the certified letters were returned as undeliverable; and

IT FURTHER APPEARING, that Respondent, as a resident licensed producer, failed to provide the Department with a complete and current business and residence address, phone number and email address; and

IT FURTHER APPEARING, that the attempt to contact Respondent at the address on file with the Department was unsuccessful; and

IT FURTHER APPEARING, that Respondent, as a resident licensed producer, failed to inform the Commissioner of a change in his residential address within 30 days, in violation of N.J.S.A. 17:22A-40a(2) and (8), N.J.S.A. 17:22A-33(f), and N.J.A.C. 11:17-2.8(f)2; and

NOW, THEREFORE, IT IS on this ^{5th} day of *December* 2018,

ORDERED, that Respondent appear and show cause why his New Jersey insurance producer license should not be suspended or revoked pursuant to N.J.S.A. 17:22A-40a; and

IT IS FURTHER ORDERED, that Respondent appear and show cause why the Commissioner should not assess a civil penalty of up to \$5,000.00 for the first violation and \$10,000.00 for each subsequent violation of the Producer Act and order Respondent to pay restitution of moneys owed to any person, pursuant to the provisions of N.J.S.A. 17:22A-45c; and

IT IS FURTHER ORDERED, that Respondent appear and show cause why the Commissioner should not assess a civil penalty of up to \$5,000.00 for the first offense, \$10,000.00 for the second offense, and \$15,000 for each subsequent offense of the Fraud Act pursuant to the provisions of N.J.S.A. 17:33A-5c and N.J.A.C. 11:16-7.9(a) and (c); and

IT IS FURTHER ORDERED, that Respondent appear and show cause why the Commissioner should not impose a \$1,000.00 surcharge against him in accordance with N.J.S.A. 17:33A-5.1; and

IT IS FURTHER ORDERED, that Respondent appear and show cause why they should not be required to reimburse the Department for the cost of the investigation and prosecution, including attorneys' fees, as authorized pursuant to N.J.S.A. 17:22A-45c, N.J.S.A. 17:33A-5c, and N.J.A.C. 11:16-7.9(c); and

IT IS PROVIDED, that Respondent has the right to request an administrative hearing, to be represented by counsel or other qualified representative, at their own expense, to take testimony, to call or cross-examine witnesses, to have subpoenas issued, and to present evidence or argument if a hearing is requested; and

IT IS FURTHER PROVIDED, that unless a request for a hearing is received within twenty (20) days of the service of this Order to Show Cause, the right to a hearing in this matter shall be deemed to have been waived by Respondents, and the Commissioner shall dispose of this matter in accordance with law. A hearing may be requested by mailing the request to Virgil Downtin, Chief of Investigations, Department of Banking and Insurance, P.O. Box 329, Trenton, New Jersey 08625, or by faxing the hearing request to the Department at (609) 292-5337, with a copy to Richard E. Wegryn, DAG, Banking and Insurance Section, R.J. Hughes Justice Complex, 25 Market Street, P.O. Box 117, Trenton, NJ 08625-0117. The request shall contain the following:

- (a) Respondent's full name, address and daytime telephone number;
- (b) A statement referring to each charge alleged in this Order to Show Cause and identifying any defense intended to be asserted in response to each charge. Where the defense relies on facts not contained in the Order to Show Cause, those specific facts must be stated;
- (c) A specific admission or denial of each fact alleged in this Order to Show Cause. Where Respondent has no specific knowledge regarding a fact alleged in the Order to Show Cause, a statement to that effect must be contained in the hearing request. Allegations of this Order to Show Cause not answered in the manner set forth above shall be deemed to have been admitted; and
- (d) A statement requesting the hearing.



Marlene Caride
Commissioner