

ORDER TO SHOW CAUSE NO. E16-54

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 Licenses of AJS Bail)
Bonds, LLC, Reference No.)
1066187, and Abraham Bashner,)
Jr., Reference No. 1028905,)

ORDER TO SHOW CAUSE

TO: Abraham Bashner, Jr.
1017 Kissam Ct.
South Plainfield, NJ 07080-
2431

AJS Bail Bonds, LLC
c/o Abraham Bashner, Jr.
1017 Kissam Ct.
South Plainfield, NJ 07080-
2431

This matter, having been opened by the Commissioner of Banking and Insurance ("Commissioner"), State of New Jersey, upon information that AJS Bail Bonds, LLC ("AJS"), and Abraham Bashner, Jr. ("Bashner") (collectively, "Respondents") may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, at all relevant time hereto, Respondent Bashner was licensed as a resident insurance producer in the State of New Jersey pursuant to N.J.S.A. 17:22A-32; and

WHEREAS, at all relevant time hereto, Respondent AJS was licensed as a resident business entity insurance producer in the State of New Jersey pursuant to N.J.S.A. 17:22A-32, until the license expired on May 31, 2016; and

WHEREAS, the Respondents are subject to the provisions of the New Jersey Insurance Producer Licensing Act ("Producer Act"), N.J.S.A. 17:22A-26, et seq., and the regulations governing Insurance Producer Standard of Conduct, N.J.A.C. 11:17A-1.1 et seq.; and

WHEREAS, pursuant to N.J.S.A. 17:22A-45c, any person violating any provisions of the Producer Act shall be liable to a penalty not exceeding \$5,000.00 for the first offense and not exceeding \$10,000.00 for each subsequent offense, as well as, restitution of moneys owed any person and reimbursement of the costs of investigation and prosecution; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(2), an insurance producer shall not violate any insurance laws, regulations, subpoenas or orders of the Commissioner; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(4), an insurance producer shall not improperly withhold, misappropriate or convert any monies or properties received in the course of doing insurance business; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(8), an insurance producer shall not use fraudulent, coercive or dishonest

business practices, or demonstrate incompetence, untrustworthiness or financial irresponsibility in the conduct of insurance business; 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.S.A. 17:22A-45a, the Commissioner shall have the power to conduct investigations, to administer oaths, to interrogate licensees and others, and to issue subpoenas to any licensee or any other person in connection with any investigation, hearing or other proceeding pursuant to this act, without fee; and

WHEREAS, pursuant to N.J.A.C. 11:17A-4.10, an insurance producer acts in a fiduciary capacity in the conduct of his or her insurance business; and

WHEREAS, pursuant to N.J.A.C. 11:17C-2.1(a), all premium funds shall be held by an insurance producer in a fiduciary capacity and shall not be misappropriated, improperly converted to the insurance producer's own use, or illegally withheld by the licensee; and

WHEREAS, pursuant to N.J.A.C. 11:17C-2.2(a), all premium funds shall be remitted to the insurer within five business days after receipt of the funds; and

WHEREAS, pursuant to N.J.A.C. 11:17C-2.2(b), all premiums due the insured shall be paid to the insured or credited to the

insured's account within five business days after receipt by the insurance producer from the insurer or other insurance producer or premium finance company; and

WHEREAS, pursuant to N.J.A.C. 11:17A-4.8, an insurance producer shall reply, in writing, to any inquiry of the New Jersey Department of Banking and Insurance ("Department") relative to the business of insurance within the time requested, or no later than 15 calendar days from the date the inquiry was made or mailed in cases where no response time is given; and

WHEREAS, pursuant to N.J.A.C. 11:17A-1.6(c), licensed partners, officers and directors, and all owners with an ownership interest of 10 percent or more in the organization shall be held responsible for all insurance related conduct of the organization licensee, any of its branch offices, its other licensed officers or partners, and its employees; and

WHEREAS, pursuant to N.J.S.A. 17:22A-32b(2), a business entity acting as an insurance producer shall designate a licensed insurance producer or producers responsible for the business entity's compliance with the insurance laws, rules and regulations of this State; and

WHEREAS, at all times relevant hereto, Respondent Bashner was the Designated Responsible Licensed Producer ("DRLP") for and responsible for the activities of Respondent AJS, and

responsible for Respondent AJS's compliance with the insurance laws, pursuant to N.J.S.A. 17:22A-32b(2); and

COUNT 1
(ALL NAMED RESPONDENTS)

IT APPEARING, that in or around November of 2013, New Jersey resident "KA" was placed in Passaic County Jail and held on a \$750,000.00 bail; and

IT FURTHER APPEARING, that on or about February 18, 2014, KA's father "MA" received from Respondents a bail bond premium quote of \$20,000.00 for KA's \$750,000.00 bail amount; and

IT FURTHER APPEARING, that on or about February 20, 2014, MA paid Respondents \$10,000.00 to procure a bail bond; and

IT FURTHER APPEARING, that on or about February 21, 2014, MA paid Respondents another \$10,000.00 to procure a bail bond; and

IT FURTHER APPEARING, that Respondents were unable to secure a bail bond for KA and stated to MA that they would return MA's \$20,000.00 premium; and

IT FURTHER APPEARING, that Respondents never returned MA's \$20,000.00 premium and never remitted any money on behalf of KA or MA to any insurer; and

IT FURTHER APPEARING, that this instance where Respondents fraudulently misappropriated premiums funds held in a fiduciary

capacity, constitutes violations of N.J.S.A. 17:22A-40a(2), (4), (8), (16), N.J.A.C. 11:17A-4.10, and N.J.A.C. 11:17C-2.1(a); and

COUNT 2
(ALL NAMED RESPONDENTS)

IT FURTHER APPEARING, that this instance where Respondents failed remit premium funds to an insurer, or return the premium funds to the insured, within five business days after receipt, constitutes violations of N.J.S.A. 17:22A-40a(2), (4), (8), (16), N.J.A.C. 11:17A-4.10, N.J.A.C. 11:17C-2.1(a), N.J.A.C. 11:17C-2.2(a), & (b); and

COUNT 3
(ALL NAMED RESPONDENTS)

IT FURTHER APPEARING, that on or about November 18, 2014, the Department mailed Respondents an inquiry letter, requesting a written statement regarding Respondents aforementioned conduct; and

IT FURTHER APPEARING, that Respondents never replied to the Department's November 18, 2014 inquiry letter; and

IT FURTHER APPEARING, that this instance where Respondents failed to respond in writing to an inquiry letter by the Department constitutes violations of N.J.S.A. 17:22A-40a(2), (8), N.J.A.C. 11:17A-4.8; and

COUNT 4
(ALL NAMED RESPONDENTS)

IT FURTHER APPEARING, that on or about December 12, 2014, the Department mailed Respondents an administrative subpoena ad testificandum commanding Respondents to appear and give testimony before the Commissioner on December 29, 2014; and

IT FURTHER APPEARING, that Respondents did not appear before the Commissioner on December 29, 2014; and

IT FURTHER APPEARING, that this instance where Respondents failed to respond to the administrative subpoena constitutes violations of N.J.S.A. 17:22A-40a(2), (8), N.J.S.A. 17:22A-45a, and N.J.A.C. 11:17A-4.8; and

COUNT 5
(BASHNER ONLY)

IT FURTHER APPEARING, that Bashner, as DRLP of AJS, is responsible for the violations of the Producer Act by AJS, in violation of N.J.S.A. 17:22A-32b(2) and N.J.A.C. 11:17A-1.6(c).

NOW, THEREFORE, IT IS, on this 9th day of January 2016

ORDERED, that pursuant to the provisions of N.J.S.A. 17:22A-40a, Respondents shall appear and show cause why their insurance producer licenses shall not be revoked by the Commissioner; and

IT IS FURTHER ORDERED, that Respondents appear and show cause why the Commissioner should not assess fines up to \$5,000.00 for the first violation and not exceeding \$10,000.00

for each subsequent violation, pursuant to the provisions of N.J.S.A. 17:22A-45c, due to their failure to comply with New Jersey's insurance laws and regulations; and

IT IS FURTHER ORDERED, that Respondents appear and show cause why they should not be subject to additional penalties including restitution and the reimbursement of the costs of investigation and prosecution by the Department of Banking and Insurance authorized pursuant to the provisions of N.J.S.A. 17:22A-45c; and

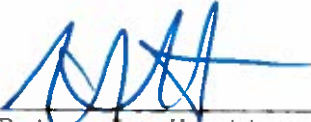
IT IS PROVIDED, that Respondents have the right to request an administrative hearing, to be represented by counsel or other qualified representative, at their own expense, to take testimony, to call or cross-examine witnesses, to have subpoena duces tecum issued and to present evidence or argument if 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, from each Respondent, the Respondent's right to a hearing in this matter shall be deemed to have been waived by the Respondent, 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, N.J. 08625 or by faxing the

request to the Department at (609) 292-5337. A copy of the request for a hearing shall also be sent to Deputy Attorney General Brian R. Fitzgerald at fax number (609) 777-3503. The request shall contain:

- (A) The licensee's 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 the 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 the Respondent has no specific knowledge regarding a fact alleged in this 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 a hearing.



Peter L. Hartt
Director of Insurance