

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF:

<u>Proceedings by the Commissioner of Banking and Insurance, State of New Jersey, to fine, suspend, and/or revoke the insurance license of Kirti Shah, Reference No. 9023393.</u>)	ORDER TO SHOW CAUSE
)	SEEKING IMMEDIATE LICENSE
)	SUSPENSION PENDING
)	COMPLETION OF
)	ADMINISTRATIVE PROCEEDINGS

TO: Kirti Shah
1 Quinby Court
Parsippany, NJ 07054

THIS MATTER, having been opened by the Commissioner of Banking and Insurance ("Commissioner" or "Petitioner"), State of New Jersey, upon information that Kirti Shah ("Respondent"), may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Respondent is currently licensed as a resident insurance producer in the State of New Jersey pursuant to N.J.S.A. 17:22A-32(a); 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 Producer Licensing regulations, N.J.A.C. 11:17-1.1 to -2.17, the regulations governing Insurance Producer Standards of Conduct, N.J.A.C. 11:17A-1.1 to 11:17D-2.8 and the Persons Employed in the Business of Insurance regulations, N.J.A.C. 17E-1.1 to -1.7; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40(a)(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-40(a)(6), an insurance producer shall not have

been convicted of a felony or crime of the fourth degree or higher; and

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

WHEREAS, pursuant to N.J.S.A. 17:22A-45(d), in any formal proceeding, if the Commissioner finds that the interests of the public require that immediate action be taken prior to completion of the hearing, the making of a determination, and the entry of a final order, the Commissioner may enter an appropriate order to be effective pending completion of the hearing and entry of a final order. These orders may be entered on ex parte proofs if the proofs indicate that the Commissioner's withholding of any action until completion of a full hearing will be harmful to the public interest. Orders issued pursuant to N.J.S.A. 17:22A-45(d) shall be subject to an application to vacate upon ten (10) days' notice, and a preliminary hearing on the ex parte order shall be held in any event within twenty (20) days after it is entered; and

WHEREAS, pursuant to N.J.A.C. 11:17E-1.3(a), no person having been convicted of a felony involving breach of trust or dishonesty or having been convicted under 18 U.S.C. § 1033 shall be employed in the business of insurance in this State in any capacity without having first obtained a waiver from the Commissioner or his or her designee in accordance with the provisions of 18 U.S.C. § 1033(e)(2); and

WHEREAS, pursuant to N.J.A.C. 11:17E-1.2, dishonesty is defined as any act, omission, or commission, which involves or in any way constitutes the offense of theft, larceny, robbery, wrongful appropriation, criminal conversion, tax evasion, perjury, bribery, forgery, defalcation,

counterfeiting, false or misleading oral or written statements, deception, fraud, schemes or other artifices to deceive or defraud, material misrepresentation and/or the failure to disclose material facts which are part of a criminal enterprise; and

WHEREAS, pursuant to N.J.A.C. 11:17E-1.2, a felony means, among other things, any crime identified as an offense of the first, second, third, or fourth degree pursuant to N.J.S.A. 2C:1-4 and 43-1; and

IT FURTHER APPEARING, that, on or about June 27, 2017, Respondent received a criminal complaint summons ("Complaint") from the State of New Jersey, Morris County, charging him with one felony count of insurance fraud in the third degree under N.J.S.A. 2C:21-4.6(a), and two felony counts of forgery in the fourth degree under N.J.S.A. 2C:21-1(a)(1) and (3), respectively; and

IT FURTHER APPEARING, that on October 10, 2017, Respondent waived his right to prosecution by indictment and trial by jury; and

IT FURTHER APPEARING, that on that same day, Respondent entered into a plea agreement whereby Respondent pleaded guilty to one count of fourth degree forgery; and

IT FURTHER APPEARING, that on November 3, 2017, a Judgment of Conviction was entered by the Superior Court of Morris County convicting Respondent of one count of felony forgery in the fourth degree under N.J.S.A. 2C:21-1(a)(1) based on Respondent altering or changing a writing of another without authorization; and

IT FURTHER APPEARING, that Respondent's conviction constitutes a felony involving dishonesty or breach of trust in accordance with N.J.A.C. 11:17E-1.2; and

IT FURTHER APPEARING, that pursuant to 18 U.S.C. § 1033(c)(2) and N.J.A.C. 11:17E-1.3(a), Respondent cannot be employed in the business of insurance in this State in any capacity without having first obtained a waiver from the Commissioner; and

IT FURTHER APPEARING, that, as stated in the Certification of Joseph A. McDougal, attached as Exhibit A, the Commissioner has not issued a waiver to Respondent and, as a result, Respondent cannot legally be employed in the business of insurance in this State; and

IT FURTHER APPEARING, that simultaneously with this Order to Show Cause, the Commissioner is issuing a separate Order to Show Cause seeking revocation, monetary penalties, and costs against Respondent; and

IT FURTHER APPEARING, that pursuant to N.J.S.A. 17:22A-45(d), the Commissioner is empowered to immediately suspend the license of an insurance producer if the Commissioner finds that the public interest requires immediate suspension prior to the completion of formal administrative proceedings; and


NOW, THEREFORE, IT IS on this *24th* day of *Jan* 2019

ORDERED, that Respondent appear and show cause why his New Jersey insurance producer license should not be temporarily suspended pursuant to N.J.S.A. 17:22A-45(d); and

IT IS FURTHER ORDERED, that Respondent shall file and serve answering certifications, briefs, and any other evidence on which he intends to rely not more than seven (7) days from the date of service of this Order to Show Cause. Respondent's answering papers shall be filed with the Office of Regulatory Affairs, Department of Banking and Insurance, 20 West State Street, P.O. Box 325, Trenton, NJ 08625, with a copy to be sent to the Petitioner's counsel, Brian R. Fitzgerald, Deputy Attorney General, 25 Market Street, P.O. Box 117, Trenton, NJ 08625; and

IT IS FURTHER ORDERED, that the Petitioner may file a reply thereto not more than seven (7) days after the filing of Respondent's opposition; and

IT IS FURTHER ORDERED, that if Respondent fails to respond to this Order to Show Cause, then a separate Order of Immediate License Suspension shall be issued.



Marlene Caride
Commissioner

Jd Shah Imm Suspension Order/Orders