

1.1 to 11:17D-2.8; and the Persons Employed in the Business of Insurance regulations, N.J.A.C. 11:17E-1.1 to -1.7; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40(d), 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 or 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-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)(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-40(a)(6), an insurance producer shall not be convicted of a felony or crime of the fourth degree or higher; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40(a)(7), an insurance producer shall not admit or be found to have committed any insurance unfair trade practice or fraud; 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. 17B:30-13, except as otherwise expressly provided by law, no person shall knowingly make, permit to be made or offer to make any contract of life insurance, annuity or health insurance, or agreement as to such contract other than as plainly expressed in the contract issued thereon, or pay or allow, or give or offer to pay, allow, or give, directly or indirectly, as an inducement to such insurance, or annuity, any rebate of premiums or considerations payable on the contract or of any agent's, solicitor's or broker's commission relating thereto, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract; or give, or sell, or purchase or offer to give, sell, or purchase as an inducement to such insurance or annuity or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, or partnership or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the contract; and

WHEREAS, pursuant to N.J.A.C. 11:17A-2.3(h), services or monetary benefits provided for free or at a discounted price that inure to the personal benefit of the person and that are largely extraneous to the coverage being purchased or the insurance services being provided by an insurance producer, or services offered in a discriminatory manner as an inducement to write or move business shall be deemed a prohibited rebate(s) or inducement(s). Examples of such services or benefits that the Department would consider prohibited rebates or inducements include payments of cash or cash equivalents of greater than \$100.00; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40(a), the Commissioner may place on probation, suspend, revoke, or refuse to issue or renew an insurance producer's license or may levy a civil penalty in accordance with N.J.S.A. 17:22A-45(c), or any combinations of actions for violations of the Producer Act; and

WHEREAS, pursuant to N.J.S.A. 17:22A-45(c), any person violating the Producer Act is subject to a penalty not exceeding \$5,000 for the first offense and not exceeding \$10,000 for each subsequent offense; moreover, the Commissioner may order restitution of moneys owed any person and reimbursement of the costs of investigation and prosecution, as appropriate; and

WHEREAS, pursuant to N.J.S.A. 17:33A-4(a)(4)(b), a person violates the Fraud Act if he or she prepares or makes 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-5(a) and -5(c), violations of the Fraud Act subject the violator to a civil and administrative penalty of up to \$5,000.00 for the first violation, up to \$10,000.00 for the second violation, and up to \$15,000.00 for each subsequent violation; moreover, the Commissioner may issue a final order assessing penalties and costs of prosecution, including 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

FACTUAL ALLEGATIONS

IT APPEARING THAT, on or about June 5, 2013, Respondent entered into a contractual relationship with Massachusetts Mutual Insurance Company ("Mass Mutual") to sell insurance products; and

IT FURTHER APPEARING THAT, between June 18, 2013 and January 30, 2015, Respondent submitted 217 whole life insurance applications to Mass Mutual; and

IT FURTHER APPEARING THAT, in the 217 applications submitted to Mass Mutual, Respondent used the personal identifying information obtained from individual consumers; and

IT FURTHER APPEARING THAT, Respondent obtained each individual consumer's personal identifying information by offering free life insurance and cash payments in exchange for usage of their personal identifying information; and

IT FURTHER APPEARING THAT, Respondent offered additional cash payments to the individual consumers if they opened bank accounts in their own names and provided account access to Respondent; and

IT FURTHER APPEARING THAT, in the 217 applications submitted to Mass Mutual, Respondent fabricated or otherwise made false statements regarding individual consumers' employment, income, and/or net worth; and

IT FURTHER APPEARING THAT, in connection with the 217 applications, Respondent submitted preauthorized forms to Mass Mutual that authorized the automatic monthly withdrawal of premiums from bank accounts belonging to the individual consumers; and

IT FURTHER APPEARING THAT, Mass Mutual approved 127 of the 217 applications submitted by Respondent resulting in the issuance of 127 whole life insurance policies; and

IT FURTHER APPEARING THAT, as a result of the 127 issued policies Respondent earned commissions totaling \$1,132,675.00; and

IT FURTHER APPEARING THAT, Respondent remitted parts of the earned commissions to the individual consumers as compensation for usage of their personal identifying information; and

IT FURTHER APPEARING THAT, Respondent transferred parts of the earned commissions to individual consumers' bank accounts in order to fund the premiums being paid from those bank accounts; and

IT FURTHER APPEARING THAT, Mass Mutual would not have issued the policies or paid commissions in connection with those policies if Mass Mutual had known that any of the information in those applications was false, misleading, or fraudulent; and

IT FURTHER APPEARING THAT, on March 28, 2016, Respondent pleaded guilty to Accusation No. 16-03-0077, in the Superior Court of New Jersey, Law Division – Criminal, County of Essex, to one count of Financial Facilitation of Criminal Activity, Second Degree, in violation of N.J.S.A. 2C:21-25(b)(1), and to one count of Insurance Fraud, Second Degree, in violation of N.J.S.A. 2C:21-4.6; and

IT FURTHER APPEARING THAT, on May 16, 2016, Respondent was convicted of the aforementioned criminal offenses, sentenced to three years' incarceration, and ordered to pay Mass Mutual restitution in the amount of \$750,000; and

COUNT ONE
(PRODUCER ACT)

IT FURTHER APPEARING, that Respondent, by submitting 217 applications for insurance to Mass Mutual for the purpose of obtaining insurance policies that contained fabricated or otherwise made false statements regarding individual consumers' employment, income, and/or net worth: (i) violated insurance laws and regulations; (ii) intentionally misrepresented the terms of an actual or proposed insurance contracts, policies, or applications for insurance; (iii) used fraudulent, coercive, or dishonest practices, or demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of insurance business in this State; and (iv) committed fraudulent acts, in violation of N.J.S.A. 17:22A-40(a)(2), (5), (8), and (16); and

COUNT TWO
(FRAUD ACT)

IT FURTHER APPEARING, that Respondent, by submitting 217 applications for insurance to Mass Mutual for the purpose of obtaining insurance policies, Respondent prepared written statements intended to be presented to an insurance company, knowing that the statements contained false or misleading information concerning things material to the insurance applications or contracts, in violation of N.J.S.A. 17:33A-4(a)(4)(b); and

COUNT THREE
(PRODUCER ACT)

IT FURTHER APPEARING, that Respondent was convicted of Financial Facilitation of Criminal Activity, N.J.S.A. 2C:21-25(b)(1), Second Degree, and Insurance Fraud, N.J.S.A. 2C:21-4.6, Second Degree, and, as such: (i) was convicted of a felony or crime of the fourth degree or higher, and (ii) was found to have committed fraud, in violation of N.J.S.A. 17:22A-40(a)(6) and (7); and

COUNT FOUR
(PRODUCER ACT)

IT FURTHER APPEARING, that Respondent offered free life insurance and cash payments to individuals in exchange for usage of their personal identifying information as an inducement to write or move business, in violation of N.J.S.A. 17B:30-13 and N.J.A.C. 11:17A-2.3(h); and

NOW, THEREFORE, IT IS on this 10th day of June, 2019

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-40(a); and

IT IS FURTHER ORDERED, that Respondent appear and show cause why the Commissioner should not assess a civil penalty not exceeding \$5,000.00 for the first violation, and

not exceeding \$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-45(c); and

IT IS FURTHER ORDERED, that Respondent appear and show cause why he 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-45(c), N.J.S.A. 17:33A-5(c), and N.J.A.C. 11:16-7.9(c); 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, up to \$10,000.00 for the second offense, and up to \$15,000 for each subsequent offense of the Fraud Act pursuant to the provisions of N.J.S.A. 17:33A-5(c) and N.J.A.C. 11:16-7.9(a); 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 PROVIDED, that Respondent has the right to request an administrative hearing, to be represented by counsel or other qualified representative, at his 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 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, New Jersey

08625, or by faxing the hearing 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: Division of Law, P.O. Box 117, Trenton, NJ 08625, fax (609) 777-3503. The request shall contain the following:

- (a) Respondent's full name, current 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 the 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
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- (d) A statement requesting the hearing.



Marlene Caride
Commissioner
