

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 Giovanni R. Jean-
Baptiste, Reference No. 1524740, and of
Premier Choice Health, LLC, Reference No.
1538675.

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) ORDER
) TO SHOW CAUSE
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TO: Giovanni R. Jean-Baptiste
448 5th Street
Donora, Pennsylvania 15033-1818

Premier Choice Health, LLC
448 5th Street
Donora, Pennsylvania 15033-1818

This matter, having been opened by the Commissioner of Banking and Insurance, State of New Jersey (“Commissioner”), upon information that Giovanni R. Jean-Baptiste (“Jean-Baptiste”) and Premier Choice Health, LLC (“PCH”) (collectively, “Respondents”) may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Jean-Baptiste was formerly licensed as a resident insurance producer in the State of New Jersey pursuant to N.J.S.A. 17:22A-32(a), until his license expired on or about April 30, 2015; and

WHEREAS, PCH was formerly licensed as a resident business entity insurance producer in the State of New Jersey pursuant to N.J.S.A. 17:22A-32(b), with Jean-Baptist listed as its Designated Responsible License Producer (“DRLP”), until its license expired on or about May 31, 2016; and

WHEREAS, Respondents are 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”), 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-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, or may take any combination of actions for violating the Producer Act, the Producer Licensing regulations and/or the regulations governing Insurance Producer Standards of Conduct; 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 this 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 this 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)(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.A.C. 11:17A-4.8, an insurance producer shall reply, in writing, to any inquiry of the Department relative to the business of insurance within the time requested in said inquiry, 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.S.A. 17:22A-45(c), 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, as appropriate; and

ALLEGATIONS COMMON TO ALL COUNTS

IT APPEARING, that at all relevant times, Jean-Baptiste was the owner, officer and DRLP of PCH; and

IT FURTHER APPEARING, that Respondents employed salespeople ("PCH Employees") to solicit, market and sell exclusively to non-New Jersey residents certain insurance products and services, including but not limited to, health insurance policies issued by Unified Life Insurance Company ("ULIC") and memberships in the National Congress of Employers ("NCE"); and affirming

IT FURTHER APPEARING, that Respondents instructed and directed PCH Employees to follow written scripts and employ aggressive "hard sell" tactics to increase the sale of said

insurance products by, including but not limited to, representing to potential customers that ULIC policies and NCE memberships provided major medical health insurance coverage and were deemed “Qualified Health Plans”¹; and

IT FURTHER APPEARING, that ULIC policies did not, in fact, provide major medical health insurance coverage nor were deemed “Qualified Health Plans” as they did not provide all the minimum essential benefits associated with serious illness and hospitalization, and otherwise failed to meet the standards of the Affordable Care Act; and

IT FURTHER APPEARING, that NCE memberships did not, in fact, provide major medical health insurance coverage nor were deemed “Qualified Health Plans” as they did not cover expenses typically associated with a hospitalization, surgery, major illness or injury, but rather merely provided discounts on the cost of select medical services and products, and otherwise failed to meet the standards of the Affordable Care Act; and

COUNT 1

IT FURTHER APPEARING, that Respondents, though the instruction and direction of their employees, engaged in fraudulent and deceitful insurance business practices, which included but were not limited to, making false and misleading representations to customers regarding the terms, benefits and coverages provided by ULIC policies and NCE memberships, in violation of N.J.S.A. 17:22A-40a(2), (5), (8) and (16); and

¹ “Qualified Health Plans” are health insurance plans certified by the Health Insurance Marketplace as providing the minimum essential health benefits and coverages, following the established limits on cost-sharing (like deductibles, copayments, and out-of-pocket maximum amounts), and meeting certain other requirements under the Patient Protection and Affordable Care Act, 42 U.S.C. § 18001 et seq. (2010) (“Affordable Care Act”).

COUNT 2

IT FURTHER APPEARING, that in addition to other aggressive “hard sell” marketing tactics, PCH Employees represented to certain potential customers that as a condition of buying a ULIC policy, they also were required to purchase a NCE membership when, in fact, there was no legal obligation to purchase these products together; and

IT FURTHER APPEARING, PCH Employees automatically charged the accounts of certain customers with the fees and costs of a NCE membership after they had only agreed to purchase a ULIC policy; and

IT FURTHER APPEARING, that Respondents, through the instruction and direction of PCH employees, engaged in fraudulent and deceitful insurance business practice by deceiving and forcing customers into purchasing NCE memberships and charging fees for such memberships when the customers neither desired nor needed any such membership, in violation of N.J.S.A. 17:22A-40a(2), (5), (8) and (16); and

COUNT 3

IT FURTHER APPEARING, that in connection with its investigation into this matter, the New Jersey Department of Banking and Insurance (“Department”) requested that Respondents produce for examination the books and records relating to the insurance-related transactions conducted by PCH Employees; and

IT FURTHER APPEARING, that Respondents failed to produce same, in violation of N.J.S.A. 17:22A-40(a)(2) and N.J.A.C. 11:17A-4.8; and

NOW, THEREFORE, IT IS on this 29th day of July, 2019,

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

IT IS FURTHER ORDERED, that Respondents appear and show cause why the Commissioner should not assess a civil penalty of not more than \$5,000.00 for the first violation and \$10,000.00 for each subsequent violation of the Producer Act and order Respondents 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 Respondents appear and show cause why, in addition to any other penalty, they should not be required to reimburse the Department for the costs of the investigation and prosecution as authorized by N.J.S.A. 17:22A-45(c); 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 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. A copy of the request for a hearing shall also be sent to Dakar R. Ross, Deputy Attorney General, Division of Law, P.O. Box 117, Trenton, New Jersey 08625. The request from each respondent shall contain the following:

- A. Respondents' 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 Respondents have 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 a hearing.



Marlene Caride
Commissioner