

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 license)
of Gary Schenk, Reference No.)
9473156.)

CONSENT ORDER

To: Gary Schenk
1447 Thornwood Drive
Mount Laurel, NJ 08054

THIS MATTER, having been opened by the Commissioner of Banking and Insurance (“Commissioner”), State of New Jersey, upon issuance of Order to Show Cause No. E19-72 (“Order to Show Cause”) alleging that Gary Schenk (“Schenk” or “Respondent”) may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Schenk 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 August 31, 2016, when his license expired; and

WHEREAS, Schenk 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 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. 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)(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 in this State or elsewhere; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40(a)(10), an insurance producer shall not forge another's name to an application for insurance or to any document related to an insurance transaction; 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-40(a)(19), an insurance producer shall not fail to notify the Commissioner within 30 days of the final disposition of any formal disciplinary

proceedings initiated against the insurance producer, or disciplinary action taken against the producer, by the Financial Industry Regulatory Authority (“FINRA”), any successor organization, or other similar non-governmental regulatory authority with statutory authority to create and enforce industry standards of conduct, or of any other administrative actions or criminal prosecutions, as required by sections 15 and 22 of P.L.2001, c.210 (C.17:22A-40 and 17:22A-47), or fail to supply any documentation the Commissioner may request in connection therewith; and

WHEREAS, pursuant to N.J.S.A. 17:22A-47(c), an insurance producer shall report to the Commissioner any disciplinary action taken against the insurance producer, or any formal disciplinary proceedings initiated against the producer, by FINRA, any successor organization, or other similar non-governmental regulatory authority with statutory authority to create and enforce industry standards of conduct, within 30 days of the final disposition of the matter. This report shall include a copy of the order, consent order or other relevant legal documents; 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, and may levy a civil penalty, for a violation 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 fines of up to \$5,000.00 for the first offense, and up to \$10,000.00 for each subsequent offense; moreover, the Commissioner may order restitution of moneys owed any person and reimbursement of costs of the investigation and prosecution; and

WHEREAS, on July 29, 2019, the Commissioner issued the Order to Show Cause alleging violations of New Jersey’s insurance laws by Respondent as set forth in the following Counts:

COUNT 1

IT APPEARING, that on November 28, 2015, Schenk submitted a Request for Policy Loan to John Hancock Life Insurance Company (“John Hancock”) for an insurance policy owned by P.S.; and

IT FURTHER APPEARING, that Schenk completed the information on the Request for Policy Loan; and

IT FURTHER APPEARING, that Schenk forged the signature of P.S. on the Request for Policy Loan and on a Form W-9 submitted therewith; and

IT FURTHER APPEARING, that P.S. did not apply for a loan from John Hancock or authorize Schenk to apply for a loan from John Hancock; and

IT FURTHER APPEARING, that Schenk admitted that he signed the name of P.S. on the Request for Policy Loan in a letter to JH Livingston at Acorn Financial Services dated January 7, 2016; and

IT FURTHER APPEARING, that Schenk submitted a false Request for Policy Loan to John Hancock, and forged the signature of P.S. on the Request for Policy Loan and on the Form W-9, in violation of N.J.S.A. 17:22A-40(a)(2), (5), (8), (10) and (16); and

COUNT 2

IT FURTHER APPEARING, that effective on May 19, 2016, Schenk entered into a Letter of Acceptance, Waiver and Consent (“AWC”) with FINRA; and

IT FURTHER APPEARING, that FINRA alleged in the AWC that Schenk violated FINRA Rule 2010 by forging P.S.’s signature on a form seeking a loan against her variable universal life insurance policy; and

IT FURTHER APPEARING, that Schenk consented in the AWC to an 18-month suspension and a fine of \$5,000; and

IT FURTHER APPEARING, that Schenk did not report the AWC or the administrative action taken by FINRA to the Commissioner within 30 days of the final disposition of the matter, in violation of N.J.S.A. 17:22A-40(a)(19) and N.J.S.A. 17:22A-47(c); and

WHEREAS, Respondent was given notice of the allegations contained in the Order to Show Cause and an opportunity to be heard; and

WHEREAS, on August 5, 2019, Respondent submitted a Response to the Order to Show Cause and a Request for a Hearing; and

WHEREAS, this Consent Order encompasses and resolves the violations described in the Order to Show Cause; and

WHEREAS, Respondent admits and agrees to take responsibility for the violations described in the Order to Show Cause and this Consent Order; and

WHEREAS, Respondent waives his right to a hearing on the above violations and consents to the revocation of his insurance producer license; and

WHEREAS, it appearing that this matter should be resolved upon the consent of the parties without resort to a formal hearing; and

WHEREAS, good cause exists to enter into this Consent Order and to revoke Respondent's insurance producer license pursuant to N.J.S.A. 17:22A-40(a); and

NOW, THEREFORE, IT IS on this 14th day of October, 2019

ORDERED AND AGREED, that Respondent admits and agrees to take responsibility for the aforementioned violations of the Producer Act described in the Order to Show Cause and this Consent Order; and

IT IS FURTHER ORDERED AND AGREED, that pursuant to N.J.S.A. 17:22A-40, the New Jersey insurance producer license of Gary Schenk is hereby REVOKED; and


IT IS FURTHER ORDERED AND AGREED, that the provisions of this Consent Order represent a final agency decision and constitute final resolution of the violations contained in the Order to Show Cause and this Consent Order; and

IT IS FURTHER ORDERED AND AGREED, that Respondent shall cease and desist from engaging in the conduct that gave rise to the Order to Show Cause and this Consent Order.



Marlene Caride
Commissioner


Consented to as to Form, Content and Entry:



Gary Schenk, Respondent

Date: 10/2/2019 2019

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY
Attorney for the New Jersey
Department of Banking and Insurance

By: 

Jeffrey S. Posta
Deputy Attorney General

Date: October 4, 2019