

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 license of Clifford Moss, Reference
No. 0116767)

CONSENT ORDER

TO: CLIFFORD MOSS
c/o Sari Gabay-Rafiy, Esq.
291 Broadway, Suite 901
New York, NY 10007

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. E18-23 ("Order to Show Cause") alleging that Clifford Moss ("Respondent"), may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Respondent is licensed as a nonresident individual insurance producer in the State of New Jersey, pursuant to N.J.S.A. 17:22A-34a; 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") and the New Jersey Insurance Fraud Prevention Act, N.J.S.A. 17:33A-1 to -30 ("Fraud Act"); and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(2), an insurance producer shall not violate any insurance law, regulation, subpoena, or order of the Commissioner, or another state's insurance regulator; and

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

WHEREAS, pursuant to N.J.S.A. 17:22A-45c, 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; moreover, the Commissioner may order restitution of moneys owed any person and reimbursement of the cost of the investigation and prosecution; and

WHEREAS, pursuant to N.J.S.A. 17:33A-4a(4)(b), a person who 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, violates the Fraud Act; and

WHEREAS, pursuant to N.J.S.A. 17:33A-5a and -5c, violations of the Fraud Act subject the violator to a civil and administrative penalty of not more than \$5,000.00 for the first violation, not more than \$10,000.00 for the second violation, and not more than \$15,000.00 for each

subsequent violation; moreover, the Commissioner may issue a final order assessing restitution and the cost of prosecution, including attorneys' fees, in accordance with N.J.A.C. 11:16-7.9(a) and 7.9(c); and

WHEREAS, on March 20, 2018, the Commissioner issued the Order to Show Cause alleging violations of the Producer Act and Fraud Act by Respondent as set forth in the following counts:

COUNT 1

IT APPEARING, that at all relevant times, Respondent was a licensed insurance producer and agent with Allianz Life Insurance Company of North America ("Allianz"); and

IT FURTHER APPEARING, that in 2009, Respondent submitted to Allianz applications for annuity policies for individuals NN and JN, husband and wife; and

IT FURTHER APPEARING, that on the applications, Respondent indicated that the signing of the applications took place in New Jersey; and

IT FURTHER APPEARING, that NN and JN actually signed the applications and resided in New York; and

IT FURTHER APPEARING, that Allianz was and is not licensed to transact insurance business in the state of New York; and

IT FURTHER APPEARING, that Respondent misrepresented information on two annuity applications submitted to Allianz as to where the sales occurred and where the applications were signed, in violation of N.J.S.A. 17:22A-40a(2), (5), (8) and (16); and

COUNT 2

IT FURTHER APPEARING, that in 2012, Respondent submitted to Allianz an application for an annuity policy for individual MSV; and

IT FURTHER APPEARING, that on the application, Respondent indicated that the signing of the application took place in New Jersey; and

IT FURTHER APPEARING, that MSV actually signed the application and resided in New York; and

IT FURTHER APPEARING, that Allianz was and is not licensed to transact insurance business in the state of New York; and

IT FURTHER APPEARING, that Respondent misrepresented information on an annuity application submitted to Allianz as to where the sale occurred and where the application was signed, in violation of N.J.S.A. 17:22A-40a(2), (5), (8) and (16); and

COUNT 3

IT FURTHER APPEARING, that in 2012, Respondent submitted to Allianz an application for an annuity policy for the HF Living Trust, which is based in New York; and

IT FURTHER APPEARING, that on the application, Respondent indicated that the signing of the application took place in New Jersey; and

IT FURTHER APPEARING, that MSV as representative of the HF Living Trust actually signed the application in New York; and

IT FURTHER APPEARING, that Allianz was and is not licensed to transact insurance business in the state of New York; and

IT FURTHER APPEARING, that Respondent misrepresented information on an annuity application submitted to Allianz as to where the sale occurred and where the application was signed, in violation of N.J.S.A. 17:22A-40a(2), (5), (8) and (16); and

COUNT 4

IT FURTHER APPEARING, that in November 2013, Allianz investigators sent surveys to NN, JN, MSV, and MSV as representative of the HF Living Trust inquiring as to where the annuity applications were signed; and

IT FURTHER APPEARING, that on the surveys, each of the aforementioned individuals indicated that the annuity applications were signed in New York; and

IT FURTHER APPEARING, that in February 2014, Respondent submitted identical letters to Allianz purportedly from NN, NN as representative of JN (deceased), MSV, and MSV as representative of the HF Living Trust, which stated that the aforementioned individuals were mistaken in their survey responses and that the annuity policies were sold and signed in New Jersey; and

IT FURTHER APPEARING, that Respondent created the letters himself and forged the signatures on those letters in an effort to cover up his wrongdoing; and

IT FURTHER APPEARING, that Respondent forged the signatures of four insureds on letters he submitted to Allianz, in violation of N.J.S.A. 17:22A-40a(2), (8), (10) and (16); and

COUNT 5

IT FURTHER APPEARING, that Respondent prepared and presented to Allianz, for the purpose of obtaining insurance policies, four annuity applications misrepresenting the state in which the applications were signed, knowing that the applications contained false and misleading information concerning material facts to the insurance applications or contracts in violation of N.J.S.A. 17:33A-4a(4)(b); and

WHEREAS, Respondent admits and agrees to take responsibility for the violations contained in Order to Show Cause No. E18-23; and

WHEREAS, Respondent waives his right to a hearing on the above violations and consents to the revocation of his insurance producer license and the payment of a \$3,000.00 civil penalty and \$150.00 surcharge pursuant to the Fraud Act, N.J.S.A. 17:33A-5a and -5c, and N.J.S.A. 17:33A-5.1; 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, to revoke Respondent's producer license pursuant to N.J.S.A. 17:22A-40a, and impose a civil penalty and surcharge pursuant to 17:33A-5a and -5c, and N.J.S.A. 17:33A-5.1; and

NOW, THEREFORE, IT IS on this 2nd day of OCTOBER 2018,

ORDERED AND AGREED, that Respondent admits to the violations of the Producer Act and Fraud Act, as described in Order to Show Cause No. E18-23 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 Respondent is hereby REVOKED; and

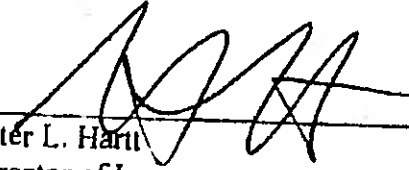
IT IS FURTHER ORDERED AND AGREED that, Respondent shall pay a civil penalty and surcharge in the amount of \$3,150.00, consisting of a \$3,000.00 penalty and a \$150.00 surcharge pursuant to N.J.S.A. 17:33A-5a and -5c, and N.J.S.A. 17:33A-5.1 to the New Jersey Department of Banking and Insurance; and

IT IS FURTHER ORDERED AND AGREED that, said civil penalty shall be paid by certified check, cashier's check, or money order made payable to the "State of New Jersey, General Treasury," due and payable immediately upon the execution of this Consent Order by Respondent; and;

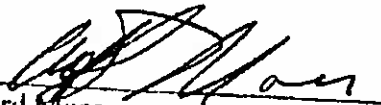
IT IS FURTHER ORDERED AND AGREED that this signed Consent Order together with the payment of \$3,150.00 shall be remitted to:

Brian R. Fitzgerald, Deputy Attorney General
State of New Jersey, Division of Law
R.J. Hughes Justice Complex
25 Market Street, Second Floor West Wing
P.O. Box 117
Trenton, New Jersey 08625

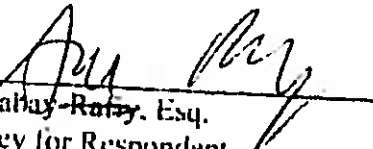
IT IS FURTHER ORDERED AND AGREED, that the provisions of this Consent Order represent a final agency decision and constitute final resolution of the violations contained in Order to Show Cause No. E18-23 and this Consent Order.


Peter L. Hart
Director of Insurance

Consented to as to Form, Content and Entry:


Clifford Moss

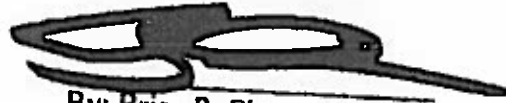
Date: _____


Sari Gahay-Rafay, Esq.
Attorney for Respondent

Date: 10/4/18

Date: 10/23/18

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



By: Brian R. Fitzgerald
Deputy Attorney General