

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, ) FINAL ORDER  
to fine, suspend and/or revoke the insurance )  
producer license of Carl L. Ellen, Reference )  
No. 8027804. )  
)

TO: Carl L. Ellen  
180 LAFAYETTE AVE  
APT 8H  
PASSAIC, NJ 07055-4719

This matter, having been opened by the Commissioner of Banking and Insurance, State of New Jersey ("Commissioner"), upon information that Carl L. Ellen ("Ellen" or "Respondent") may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Respondent was formerly licensed as a resident insurance producer by the State of New Jersey pursuant to N.J.S.A. 17:22A-34(a), which license expired on August 31, 2020; 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, and the regulations governing Insurance Producer Standards of Conduct, N.J.A.C. 11:17A-1.1 to 11:17D-2.8, and as well as 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-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 demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of insurance business in this State or elsewhere

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. 17:33A-4(a)(4)(b), it is also a violation of the Fraud Act to prepare or make 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. 17:22A-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; and

WHEREAS, pursuant to N.J.S.A. 17:22A 45(c), any licensee violating the Producer Act and/or the Insurance Producer Standards of Conduct 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; and

WHEREAS, pursuant to N.J.S.A. 17:33A-5(a) and (c), violations of the Fraud Act subject the violator to a civil and administrative penalty not to exceed \$5,000.00 for the first offense, not to exceed \$10,000.00 for the second offense and not to exceed \$15,000.00 for each subsequent offense; moreover, the Commissioner may issue a final order recovering costs of prosecution, including attorneys' fees in accordance with N.J.A.C. 11:16-7.9(c); 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

WHEREAS, the Commissioner issued Order to Show Cause No. E24-06 on January 25, 2024, alleging violations of the Producer Act and the Fraud Act by Respondent as set forth below:

#### **FACTUAL ALLEGATIONS**

IT APPEARING, that at all relevant times, Respondent was an insurance producer licensed in the State of New Jersey, and approved to sell automobile insurance policies issued through the New Jersey Automobile Insurance Plan ("N.J. Plan"); and

IT FURTHER APPEARING, that on or about January 24, 2018, Respondent submitted to the N.J. Plan a "Special Automobile Insurance Policy ("SAIP")" application on behalf of Carlton L. Ellen ("Carlton"), the son of Respondent; and

IT FURTHER APPEARING, that in support of Carlton's SAIP application, Respondent submitted a copy of a State of New Jersey Health Benefits Identification Card in the name of "Carlton Ellen" with an identification number ending "8901"; and

IT FURTHER APPEARING, that on or about February 21, 2018, Respondent next submitted a SAIP Application to the N.J. Plan on behalf of himself; and

IT FURTHER APPEARING, that in support of his SAIP application, Respondent falsely represented that he was Medicaid dependent and submitted a copy of a State of New Jersey Health Benefits Identification Card which was fraudulent in that the name on the card was "Carl Ellen" but the identification number ended in "8901" which was, in fact, assigned to Respondent's son Carlton; and

IT FURTHER APPEARING, that upon discovering the discrepancy with Respondent's State of New Jersey Health Benefits Identification Card, the N.J. Plan investigated and determined that the New Jersey state health benefits program had never issued an identification card to the Respondent, and therefore denied Respondent's SAIP application; and

IT FURTHER APPEARING, that the N.J. Plan directed Respondent to appear before a peer review panel to address the bona fides of his SAIP application, but Respondent refused to appear and instead submitted a written statement to the N.J. Plan advising "I plead guilty" and "request that my license be terminated immediately"; and

#### COUNT ONE

IT FURTHER APPEARING, that Respondent engaged in fraudulent conduct in connection with applying for a "Special Automobile Insurance Policy" with the N.J. Plan in that Respondent falsely represented that he was Medicaid dependent and submitted a fraudulent copy of a State of New Jersey Health Benefits Identification Card in his name that contained the identification number assigned to his son Carlton and not to Respondent, in violation of N.J.S.A. 17:22A-40(a)(2), (5), (8) and (16), and N.J.S.A. 17:33A-4(a)(4)(b); and

IT FURTHER APPEARING, that as set forth in the Certification of Dakar Ross ("Ross Cert."), attached as Exhibit A, ¶¶3-4, Ellen was given notice of the aforesaid charges and an opportunity to contest the charges at a hearing pursuant to Order to Show Cause E24-06; and

IT FURTHER APPEARING, that as set forth in Ross Cert., ¶¶5-7, Ellen was duly served with Order to Show Cause E24-06 by certified mail, RRR, and regular mail sent to the address listed on this Final Order in accordance with N.J.A.C. 11:17D-2.1(a)(3); and

IT FURTHER APPEARING, that as set forth in Ross Cert., ¶8, Ellen failed to appear, respond or otherwise defend against Order to Show Cause E24-06, and has waived his rights to a hearing, and therefore the violations in the OTSC are deemed admitted pursuant to N.J.A.C. 11:17D-2.1(b)(1); and

IT FURTHER APPEARING, that in Kimmelman v. Henkels & McCoy, Inc., 108 N.J. 123 (1987), the Supreme Court established seven factors to be considered in determining the imposition of civil fines in administrative proceedings (“Kimmelman Factors”); and

IT FURTHER APPEARING, that the seven Kimmelman Factors are as follows: (1) the good or bad faith of the defendant; (2) defendant’s ability to pay a civil fine; (3) the amount of profits obtained from the illegal activity; (4) the injury to the public; (5) the duration of the misconduct; (6) the existence of criminal or treble damages actions; and (7) the past violations of defendant; and

IT FURTHER APPEARING, that the Kimmelman Factors apply to this matter as follows: (1) In support of an application for an insurance policy, Respondent showed bad faith by falsely representing that he was a Medicaid dependent and submitting a copy of a State of New Jersey Health Benefits Identification Card which was not issued to him; (2) Respondent has not provided any evidence of his inability to pay a civil fine; (3) the Department has no information as to the income/profit, if any, received by Respondent as consequence of his fraudulent conduct; (4) there was injury to the public because Respondent sought insurance benefits under a public assistance program which he was not eligible or authorized to receive; (5) Respondent’s violations resulted

from an isolated incident and was not part of a pattern or scheme; (6) no criminal or treble damages actions have been filed against Respondent regarding his illegal activity; and (7) Respondent has no prior violations; and

NOW, THEREFORE, IT IS on this 20<sup>th</sup> day of January 2026,

ORDERED, that the charges contained in Count One of Order to Show Cause E24-06 are deemed admitted by Respondent Carl L. Ellen., pursuant to N.J.A.C. 11:17D-2.1(b)(1); and

IT IS FURTHER ORDERED, that pursuant to N.J.S.A. 17:22A-40, and N.J.A.C. 11:17D-2.1(b)(2), the resident insurance producer license of Respondent Carl L. Ellen is hereby **REVOKED** effective upon the execution of this Final Order by the Commissioner; and

IT IS FURTHER ORDERED, that pursuant to N.J.S.A. 17:33A-5(a) and (c), Ellen shall be responsible for the payment of civil penalties to the Department of Banking and Insurance, Bureau of Fraud Deterrence, in the total amount of \$5,000.00 for violations of the Fraud Act cited in Order to Show Cause E24-06; and

IT IS FURTHER ORDERED, that pursuant to N.J.S.A. 17:33A-5.1, Ellen shall be responsible for the payment of a surcharge to the Department of Banking and Insurance, Bureau of Fraud Deterrence, in the amount of \$1,000.00; and

IT IS FURTHER ORDERED, that pursuant to N.J.S.A. 17:22A-45(c), Ellen shall be responsible for the payment of civil penalties to the Division of Insurance, Office of Enforcement and Consumer Protection Services, in the total amount of \$5,000.00 for the Producer Act violations cited in Order to Show Cause E24-06; and

IT IS FURTHER ORDERED, that pursuant to N.J.S.A. 17:22A-45(c), Ellen shall be responsible for the reimbursement to the Department of the costs of investigation totaling \$812.50. A true and exact copy of the Certification of Eugene Shannon, Chief of Investigations, Department

of Banking and Insurance, is attached hereto as Exhibit B. The Commissioner has reviewed the investigative costs application and finds the amount of time to be reasonable; and

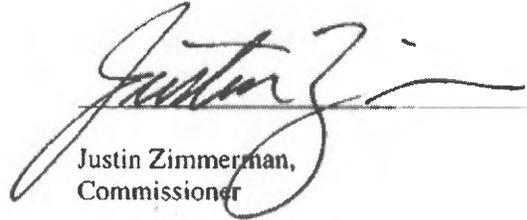
IT IS FURTHER ORDERED, that pursuant to N.J.A.C. 11:16-7.9(c), Ellen shall be responsible for the payment to the Department of attorneys' fees in the total amount of \$2,000.00. A true and exact copy of the Certification of Dakar Ross is attached hereto as Exhibit A. The Commissioner has reviewed the attorneys' fee application and finds the amount of time to be reasonable; and

IT IS FURTHER ORDERED, that Ellen shall pay the above penalties and costs totaling \$13,812.50 to the Commissioner of Banking and Insurance, State of New Jersey, P.O. Box 329, Trenton, New Jersey 08625, Attention: Eugene Shannon, Chief of Investigations, by certified check, cashier's check or money order made payable to the "State of New Jersey, General Treasury," within ten days from the date of service of this Order; and

IT IS FURTHER ORDERED, that in the event full payment of the penalty and costs is not made, the Commissioner may exercise any and all remedies available by law, including but not limited to recovery of any unpaid penalties, with post-judgment interest, in accordance with the Penalty Enforcement Law, N.J.S.A. 2A:58-10 to -12; and

IT IS FURTHER ORDERED, that the civil penalty in this Final Order is imposed pursuant to the police powers of the State of New Jersey for the enforcement of the law and the protection of the public health, safety and welfare, and is not intended to constitute debts which may be limited or discharged in a bankruptcy proceeding; and

IT IS FURTHER ORDERED, that the provisions of this Final Order represent a final agency decision and constitute a final resolution of the allegations contained in Order to Show Cause No. E24-06.



Justin Zimmerman,  
Commissioner