

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 Abdulrasheed Berte, Reference No.)
1659525.)

FINAL ORDER

TO: Abdulrasheed Berte
125 W. 228th Street, Apt. 10L
Bronx, New York 10463

This matter, having been opened by the Commissioner of Banking and Insurance (“Commissioner”), State of New Jersey, upon issuance of Order to Show Cause E22-12 (the “OTSC”) alleging that Abdulrasheed Berte (“Berte”), may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Berte was formerly licensed as a non-resident insurance producer in the State of New Jersey, pursuant to N.J.S.A. 17:22A-32(a), until January 31, 2020, when his license expired; and

WHEREAS, Berte 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, the New Jersey Insurance Fraud Prevention Act, N.J.S.A. 17:33A-1 to -30 (“Fraud Act”) and the regulations promulgated thereunder, N.J.A.C. 11:16-1.1 to -7.10; 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 of 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.A.C. 11:17A-4.10, an insurance producer acts in a fiduciary capacity in the conduct of his or her insurance business; 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)(7), an insurance producer shall not commit 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 any fraudulent, coercive, or dishonest practices, or demonstrate incompetence or untrustworthiness in the conduct of insurance business; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40(a)(9), an insurance producer shall not have an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory; 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)(18), an insurance producer shall not fail to notify the Commissioner within 30 days of his conviction of any crime, indictment or the filing of any formal criminal charges, or the suspension or revocation of any insurance license or authority by a state, other than this State, or the initiation of formal disciplinary proceedings in a state, other than this State, affecting the producer's insurance license; and

WHEREAS, pursuant to N.J.S.A. 17:22A-47(a), an insurance producer shall report to the Commissioner any administrative action taken against the insurance producer in another jurisdiction or by another governmental agency in this State within 30 days of the final disposition of the matter. The report shall include a copy of the order, consent order or other relevant legal documents; 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-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 combination of actions for violations of the Producer Act; and

WHEREAS, pursuant to N.J.S.A. 17:22A-45(a), the Commissioner shall have the power to conduct investigations, to administer oaths, to interrogate licensees and others, and to issue subpoenas to any licensee or any other person in connection with any investigation, hearing or other proceeding pursuant to this act, without fee; 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; 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-4(a)(5), no person shall conceal or knowingly fail to disclose any evidence, written or oral, which may be relevant to a finding that a violation of the provisions of paragraph (4) of this subsection (a) has or has not occurred; 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, on March 21, 2022, the Commissioner issued the OTSC, alleging that Berte violated various New Jersey insurance laws by as set forth in the following:

ALLEGATIONS COMMON TO ALL COUNTS

IT APPEARING, that at all relevant times, United of Omaha Life Insurance Company was an insurance carrier (“Omaha”) admitted to transact business in New Jersey; and

IT FURTHER APPEARING, that at all relevant times, National Western Life Insurance Company was an insurance carrier (“NWL”) admitted to transact business in New Jersey; and

IT FURTHER APPEARING, that at all relevant times, Omaha and NWL solicited and sold term life insurance policies in New Jersey; and

IT FURTHER APPEARING, that on May 15, 2018, Respondent entered into an appointment contract with Omaha, which was terminated on March 4, 2019, due to Respondent providing false, fictitious, or forged applications for insurance; and

IT FURTHER APPEARING, that on March 19, 2019, Respondent entered into an appointment contract with NWL, which was terminated on June 6, 2019, due to Respondent providing incorrect, misleading, incomplete, or materially untrue information in an application for insurance; and

IT FURTHER APPEARING, that from July 2018 through May 2019, Respondent transmitted 18 applications for term life insurance to Omaha (“Omaha Applications”) and 7 applications for term life insurance to NWL (“NWL Applications”), which contained the names of some real individuals, but with fictitious identifying information about the applicants such as fabricated banking, employment and contact information; and

IT FURTHER APPEARING, that each of the 25 applications for term life insurance policies contained fraudulent and forged signatures; and

IT FURTHER APPEARING, that each of the 25 applications for term life insurance contained an electronic signature purporting to be that of the applicant; and

IT FURTHER APPEARING, that for each of the 25 applications for term life insurance, Respondent transmitted to NWL and Omaha an Agent's Report or Producer's Statement, certifying that he met with the applicant in person and that all the information in the application was true and accurate according to the applicant; and

IT FURTHER APPEARING, that for each of the 25 applications for term life insurance, Respondent provided fictitious bank account information and a forged electronic signature purporting to be that of the applicant for bank authorizations required for each of the 25 applications for term life insurance; and

IT FURTHER APPEARING, that NWL and Omaha received from Respondent the 25 applications for term life insurance policies and issued some term life insurance policies as a result; and

IT FURTHER APPEARING, that out of the 7 applications for term life insurance Respondent submitted to NWL, 5 applications for insurance passed underwriting and term life insurance policies were issued, resulting in a total advance commission of \$10,273.08 for Respondent, of which \$10,273.08 is still due and owed to NWL for the unearned commissions; and

IT FURTHER APPEARING, that none of the real individuals named as applicants in the 25 applications for term life insurance policies authorized Respondent to submit an application to NWL or Omaha on their behalf; and

IT FURTHER APPEARING, that none of the real individuals named as applicants in the 25 applications for term insurance policies submitted to NWL or Omaha met with Respondent; and

IT FURTHER APPEARING, that none of the real individuals named as applicants in the 25 applications for term life insurance policies electronically signed, or authorized Respondent to electronically sign, their name to any term life insurance policy application, or pre-authorization agreement for any bank withdrawals; and

IT FURTHER APPEARING, as a result of the 25 fraudulent applications, Respondent was terminated from NWL and Omaha “for cause;” and

IT FUTHER APPEARING, on or about May 20, 2019, as a result of the fraudulent Omaha Applications, Respondent voluntarily surrendered his producer license for 10 years with the North Carolina Department of Insurance; and

IT FURTHER APPEARING, on or about October 9, 2019, as a result of the fraudulent NWL Applications, Respondent’s insurance license with the Louisiana Department of Insurance was revoked; and

IT FURTHER APPEARING, Respondent reported the North Carolina regulatory action but failed to report the Louisiana regulatory action to the Commissioner; and

IT FURTHER APPEARING, Respondent failed to cooperate with the New Jersey Department of Banking and Insurance’s (“Department”) investigation by failing to appear before the Department for a scheduled interview and by failing to respond to the multiple phone calls and emails sent to him by the Department; and

IT FURTHER APPEARING, Respondent failed to respond to a Department Subpoena dated February 21, 2020, commanding his appearance at the Department for questioning; and

COUNT ONE

IT FURTHER APPEARING, that Respondent submitted 25 applications for term life insurance to Omaha or NWL with knowledge that the applications contained false or fraudulent employment, banking or personal information regarding the named insureds, and forged the named insureds’ signatures on said applications in violation of N.J.S.A. 17:22A-40(a) (2), (5), (7), (8), (10) and (16); and

COUNT TWO

IT FURTHER APPEARING, that Respondent submitted 25 applications for term life insurance policies to NWL or Omaha, knowing that each of these applications contained fictitious insured information and/or forgeries of insureds’ signatures, and other false or misleading information concerning any fact or thing material to

the application or contract in violation of N.J.S.A. 17:33A-4(a)(b) and N.J.S.A. 17:33A-4(a)(5); and

COUNT THREE

IT FURTHER APPEARING, that as a result of the fraudulent Omaha Applications, Respondent voluntarily surrendered his producer license for 10 years with the North Carolina Department of Insurance, and as a result of the fraudulent NWL Applications, Respondent's insurance license with the Louisiana Department of Insurance was revoked in violation of N.J.S.A. 17:22A-40(a)(9); and

COUNT FOUR

IT FURTHER APPEARING, that Respondent failed to report the Louisiana regulatory action that resulted in the revocation of Respondent's insurance license, in violation of N.J.S.A. 17:22A-40(a)(18) and N.J.S.A. 17:22A-47(a); and

COUNT FIVE

IT FURTHER APPEARING, that Respondent failed to cooperate with the Department's investigation in violation of N.J.S.A. 17:22A-40(a)(2), N.J.S.A. 17:22A-45(a) and N.J.A.C. 11:17A-4.8; and

COUNT SIX

IT FURTHER APPEARING, that Respondent failed to comply with the Department Subpoena dated February 21, 2020, in violation of N.J.S.A. 17:22A-40(a)(2), N.J.S.A. 17:22A-45(a) and N.J.A.C. 11:17A-4.8; and

IT FURTHER APPEARING that Berte was given notice of the aforesaid charges and an opportunity to contest the charges at a hearing pursuant to the OTSC; and

IT FURTHER APPEARING that as set forth in the Certification of Chandra M. Arkema, attached as Exhibit A, on August 13, 2022, the OTSC was personally served upon Berte; and

IT FURTHER APPEARING that personal service of the OTSC upon Berte constitutes lawful service, pursuant to N.J.A.C. 11:17D-2.1(a)(3); and

IT FURTHER APPEARING that Berte failed to provide written responses to the charges contained in the OTSC within 20 days as provided by N.J.A.C. 11:17D-2.1(d)(1), and therefore has waived his rights to a hearing to contest these charges and the charges deemed admitted, pursuant to N.J.A.C. 11:17D-2.1(b)(1); and

WHEREAS, the Commissioner has reviewed the civil penalty factors under Kimmelman v. Henkels & McCoy, Inc., 108 N.J. 123, 137-139 (1987), and finds that Respondent showed bad faith by forging and submitting fake applications for term life insurance policies to two companies then concealing from the Department his disciplinary history for that activity. For his illegal activity, Respondent received thousands of dollars of unearned commissions, which he never repaid. Moreover, Respondent refused to cooperate with the Department's investigation into this illegal activity. He provided no evidence of inability to pay a civil penalty.

NOW, THEREFORE, IT IS on this 14 **day of** February, **2023,**

ORDERED, that the charges contained in the OTSC are deemed admitted by Berte due to his failure to respond to the charges, 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 insurance producer license of Berte is **REVOKED** effective upon the execution of this Final Order; and

IT IS FURTHER ORDERED, that Berte shall be responsible for the payment totaling \$645,000.00 in civil penalties for violations of the Producer Act, Fraud Act, and other insurance laws cited above as follows:

Berte shall be responsible for the payment of civil penalties to the Division of Insurance Enforcement totaling \$245,000.00 for the Producer Act violations as described in Count 1 of the Order to Show Cause; and

Berte shall be responsible for the payment of civil penalties to the Bureau of Fraud Deterrence totaling \$360,000.00 for the Fraud Act violations as described in Count 2 of the Order to Show Cause; and

Berte shall be responsible for the payment of civil penalties to the Division of Insurance Enforcement totaling \$10,000.00 for the Producer Act violation as described in Count 3 of the Order to Show Cause; and

Berte shall be responsible for the payment of civil penalties to the Division of Insurance Enforcement totaling \$10,000.00 for the Producer Act violation as described in Count 4 of the Order to Show Cause; and

Berte shall be responsible for the payment of civil penalties to the Division of Insurance Enforcement totaling \$10,000.00 for the Producer Act violation as described in Count 5 of the Order to Show Cause; and

Berte shall be responsible for the payment of civil penalties to the Division of Insurance Enforcement totaling \$10,000.00 for the Producer Act violation as described in Count 6 of the Order to Show Cause; and

IT IS FURTHER ORDERED, that pursuant to N.J.S.A. 17:22A-45c and N.J.A.C. 11:1-32.4(b)20, Berte shall reimburse the Department of Banking and Insurance, Division of Insurance Enforcement and Bureau of Fraud Deterrence, for the costs associated with the investigation and prosecution of this matter, as evidenced by the Certification of Costs by Investigator Gervasio (attached as Exhibit B), totaling \$1,850.00. 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.S.A. 17:33A-5c, Berte shall reimburse the Department of Banking and Insurance, Bureau of Fraud Deterrence, for the attorneys' fees

associated with the investigation and prosecution of this matter, as evidenced by the Certification of Chandra M. Arkema, totaling \$8,907.50. The Commissioner has reviewed the attorneys' fees application and finds the amount of time to be reasonable; and

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

IT IS FURTHER ORDERED, that Berte shall pay the above fines and costs totaling \$656,757.50 by remitting full payment to the Commissioner of Banking and Insurance, State of New Jersey, 20 West State Street, P.O. Box 329, Trenton, New Jersey 08625, Attention: Virgil Downtin, Chief of Investigations by certified check, cashier's check or money order made payable to the "State of New Jersey, General Treasury," within ten (10) days from the date of service of this Order; and

IT IS FURTHER ORDERED, that in the event full payment of the fines 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, in accordance with the Penalty Enforcement Law of 1999, N.J.S.A. 2A:58-10 to -12; and

IT IS FURTHER ORDERED, that the fines in this Final Order are 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 are 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 the OTSC.

A handwritten signature in blue ink, appearing to read "M. Caride".

Marlene Caride
Commissioner