

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(6), the Commissioner may suspend or revoke the license of a producer if the licensee has been convicted of a felony or crime of the fourth degree or higher; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(16), the Commissioner may suspend or revoke the license of a producer if the licensee commits any fraudulent act; and

WHEREAS, pursuant to N.J.S.A. 17:22A-45d, in any formal proceeding, if the Commissioner finds that the interests of the public require that immediate action be taken prior to completion of the hearing, the making of a determination and the entry of a final order, he or she may enter an appropriate order to be effective pending completion of the hearing and entry of a final order; and

WHEREAS, pursuant to 18 U.S.C. § 1033(e) and N.J.A.C. 11:17E-1.3, no person who has been convicted of a felony involving breach of trust or dishonesty or having been convicted under 18 U.S.C. § 1033 shall be employed in the business of insurance in this State in any capacity without having first obtained a waiver from the Commissioner or his or her designee in accordance with the provisions of 18 U.S.C. § 1033(e)(2) and N.J.A.C. 11:17E-1 et seq.; and

WHEREAS, pursuant to N.J.A.C. 11:17E-1.2, dishonesty is defined as any act, omission, or commission, which involves or in any way constitutes the offense of theft, larceny, robbery, wrongful appropriation, criminal conversion, tax evasion, perjury, bribery, forgery, defalcation, counterfeiting, false or misleading oral or written statements, deception, fraud, schemes or other artifices to deceive or defraud, material misrepresentation and/or the failure to disclose material facts which are part of a criminal enterprise; and

WHEREAS, pursuant to N.J.A.C. 11:17E-1.2, a felony means any crime identified as an offense of the first, second, third, or fourth degree pursuant to N.J.S.A. 2C:1-4 and 43-1; and

IT APPEARING that, on February 5, 2015, the New Jersey State Grand Jury returned Indictment SGJ664-15-9 ("Indictment") against the Respondent; and

IT FURTHER APPEARING that the Indictment charged Respondent with Insurance Fraud in the second degree and Attempted Theft by Deception in the third degree in the amount of \$2,800; and

IT FURTHER APPEARING that the Indictment alleged that Respondent "knowingly made, or caused to be made false, fictitious, fraudulent, or misleading statements of material fact or knowingly did omit or cause to be omitted material facts, as part of, in support of, or in connection with a claim for payment, reimbursement, or other benefit in the approximate amount of \$2,800 for food spoilage made to New Jersey Manufacturers Insurance Company"; and

IT FURTHER APPEARING that the Indictment alleged that Respondent "purposely did attempt to obtain property in the approximate amount of \$2,800 from New Jersey Manufacturers Insurance Company by creating or reinforcing a false impression that a utility pole and wires connecting power to 67 Linda Road, Manahawkin, New Jersey 08050 had been knocked down by the wind;" and

IT FURTHER APPEARING that on or about January 4, 2016, Respondent pleaded guilty to Count 1 of the Indictment charging him with one violation of Insurance Fraud pursuant to N.J.S.A 2C:21-4.6; and

IT FURTHER APPEARING that said charge was amended to a third degree crime; and

IT FURTHER APPEARING that a person is found guilty of Insurance Fraud under N.J.S.A. 2C:21-4.6 if he or she knowingly makes, or causes to be made, a false, fictitious, fraudulent, or misleading statement of material fact in, or omits a material fact from, or causes a material fact to be omitted from, any record, bill, claim or other document, in writing,

electronically, orally or in any other form, that a person attempts to submit, submits, causes to be submitted, or attempts to cause to be submitted as part of, in support of or opposition to or in connection with: (1) a claim for payment, reimbursement or other benefit pursuant to an insurance policy, or from an insurance company or the Unsatisfied Claim and Judgment Fund Law, P.L.1952, c.174 (C.39:6-61 et seq.); (2) an application to obtain or renew an insurance policy; (3) any payment made or to be made in accordance with the terms of an insurance policy or premium finance transaction; or (4) an affidavit, certification, record or other document used in any insurance or premium finance transaction; and

IT FURTHER APPEARING that on or about April 19, 2016, Respondent was convicted of Insurance Fraud in the third degree pursuant to N.J.S.A. 2C:21-4.6 and sentenced to two years of probation and ordered to pay a fine of \$2,500; and

IT FURTHER APPEARING that Respondent's conviction constitutes a felony, which involves dishonesty or breach of trust, in accordance with N.J.A.C. 11:17E-1.2; and

IT FURTHER APPEARING that, pursuant to 18 U.S.C. § 1033(e) and N.J.A.C. 11:17E-1.3(a), Respondent cannot engage in the business of insurance as a result of said conviction until such a time as he obtains a written waiver from the Commissioner; and

IT FURTHER APPEARING that the Commissioner has not issued a waiver to Respondent, and, as a result, Respondent cannot legally engage in the business of insurance in this State; and

IT FURTHER APPEARING that Order to Show Cause E15-104 ("OTSC E15-104") seeking revocation, monetary penalties, and costs, as appropriate, was issued on September 10, 2015; and

IT FURTHER APPEARING that, pursuant to N.J.S.A. 17:22A-45d, the Commissioner is empowered to immediately suspend the license of an insurance producer, if the Commissioner finds that the interests of the public require immediate suspension prior to the completion of formal administrative proceedings; and

IT FURTHER APPEARING that Order to Show Cause No. E16-68 (“Suspension OTSC E16-68”) was issued on August 1, 2016, seeking the immediate license suspension of Respondent’s insurance producer license; and

IT FURTHER APPEARING that Suspension OTSC E16-68 provided the Respondent with the opportunity to file answering certifications, briefs, or other evidence upon which he intends to rely not more than seven (7) days from service of Suspension OTSC E16-68; and

IT FURTHER APPEARING that Respondent requested and received an extension until August 22, 2016, to file his opposition to Suspension OTSC E16-68; and

IT FURTHER APPEARING that on August 22, 2016, Respondent submitted a letter brief opposing Suspension OTSC E16-68 and specifically, the suspension of his insurance producer license, wherein he argued that: (1) 18 U.S.C. § 1033 is inapplicable to the present action and would violate double jeopardy; (2) 18 U.S.C. § 1033 requires a finding that that Respondent’s conduct affected interstate commerce and is therefore, unconstitutional under the Supremacy Clause of the United States Constitution (“Supremacy Clause”); (3) 18 U.S.C. § 1033 does not apply to Respondent as his conviction was not based upon conduct affecting interstate commerce; (4) even if 18 U.S.C. § 1033 applies to Respondent’s conduct, he has not been given sufficient time to fill out a waiver in order to conduct insurance business in violation of his due process rights; and (5) the immediate suspension of Respondent’s license violates his due process rights; and

IT FURTHER APPEARING that the Commissioner submitted a reply to Respondent's opposition on August 29, 2016, arguing that (1) 18 U.S.C. § 1033 is applicable to Respondent and his activities as a licensed insurance producer; (2) the immediate suspension of Respondent's insurance producer license does not create a double jeopardy violation, as the Commissioner is not seeking to criminally indict Respondent and is acting pursuant to Congress's requirement that individuals who were convicted of felonies receive consent of the state insurance regulator before engaging in or participating in the business of insurance; (3) the implementation of 18 U.S.C. § 1033 does not violate the Supremacy Clause, as Congress specifically delegated to the states the authority to regulate the insurance industry under 15 U.S.C. § 1011 et seq.; (4) Respondent has had ample opportunity to seek a waiver from the Commissioner and failed to do so; and (5) Respondent is not being deprived of his due process rights through the suspension of his producer license; and

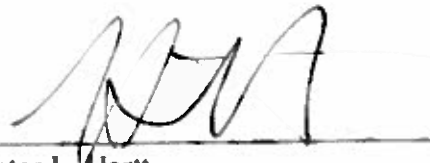
IT FURTHER APPEARING that for all the reasons stated in the Commissioner's application, Suspension OTSC E16-68, and reply dated August 29, 2016, allowing Respondent to continue to conduct the business of insurance pending completion of the administrative proceedings under OTSC E15-104 would be harmful to the public interest;

NOW, THEREFORE, IT IS on this day of ^{28th} November 2016:

ORDERED that, pursuant to N.J.S.A. 17:22A-45d, the insurance producer license held by Respondent Wayne M. Citron is hereby immediately suspended pending completion of administrative proceedings and entry of a Final Order upon the charges of the OTSC E15-104 pending at the Office of Administrative Law as a contested case under docket number BK1-17272-2015-S; and

IT IS PROVIDED that Respondent has the right, pursuant to N.J.S.A. 17:22A-45d, to move to vacate this Order upon ten (10) days' notice. Any motion to vacate this Order must be in writing and filed with the Commissioner by delivery of the motion to: Denise Illes, Chief of Legislative and Regulatory Affairs, Department of Banking and Insurance, P.O. Box 325, Trenton, New Jersey 08625. A copy of the motion to vacate should also be sent to Petitioner's attorney: Deputy Attorney General Kevin J. McGowan, 25 Market Street, P.O. Box 117, Trenton, New Jersey 08625, Fax (609)777-3503; and

IT IS FURTHER PROVIDED that pursuant to N.J.S.A. 17:22A-45d, Respondent may request a preliminary hearing to be held at the Office of Administrative Law within twenty (20) days of the date of this Order, on the matters contained herein and on a date selected by the Office of Administrative Law. Any request for a hearing on this Order must be in writing and filed with the Commissioner by delivery of the request to: Denise Illes, Chief of Legislative and Regulatory Affairs, Department of Banking and Insurance, P.O. Box 325, Trenton, New Jersey 08625. A copy of the request for a preliminary hearing should also be sent to Petitioner's attorney: Deputy Attorney General Kevin J. McGowan, 25 Market Street, P.O. Box 117, Trenton, New Jersey 08625, Fax (609)777-3503.



Peter L. Hartt
Director of Insurance

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