

WHEREAS, pursuant to N.J.S.A. 17:22A-40d, 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 of 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-40a(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-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.A.C. 11:17A-4.2, in cases where an applicant's signature is required, an insurance producer who takes an application for insurance shall be required to witness the signature of the prospective insured on the application prior to the submission of the application

to the insurer only when the application is signed by the applicant after having been completed in a face to face meeting between the producer and the prospective insured; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a, the Commissioner may place on probation, suspend, revoke or refuse to issue or renew an insurance producer's license for violating the Producer 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; 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-4a(3), no person shall conceal or knowingly fail to disclose the occurrence of any event which affects any person's initial or continued right or entitlement to (a) any insurance benefit or payment or (b) the amount of any benefit or payment to which the person is entitled; and

WHEREAS, pursuant to N.J.S.A. 17:33A-4a(4)(b), no person shall 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. 17:33A-5a 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

ALLEGATIONS COMMON TO ALL COUNTS

IT APPEARING, that, at all relevant times, Respondent was employed as an Insurance Agent with Combined Insurance Company (“Combined”); and

IT FURTHER APPEARING, that beginning on August 15, 2015 through October 11, 2016 Respondent submitted 17 insurance applications for Income Protector, Life, Accident Protector, Sickness Protector, Accident and Sickness Protector, and Sick Pay Plus to Combined for D.R.; and

IT FURTHER APPEARING, that beginning on October 17, 2015 through January 21, 2016 Respondent submitted four insurance applications for Life, Accident Protector, Accident and Sickness Protector, and Sick Pay Plus to Combined for C.M.; and

IT FURTHER APPEARING, that on October 17, 2015 and October 19, 2015 Respondent submitted two insurance applications for Life and Sick Pay Plus to Combined for D.F.; and

IT FURTHER APPEARING, that for all of these 23 policy applications submitted between August 15, 2015 through October 11, 2016 for D.R., C.M. and D.F., Respondent forged the signature of the applicant and intentionally included false and misleading material information on the application; and

IT FURTHER APPEARING, that, on November 23, 2016, Combined terminated the employment contract with Respondent based upon its finding that Respondent had forged policy applications, had otherwise committed fraud, had failed to fully review completed applications, and had generally failed to conduct himself in a manner consistent with the best interests of the company; and

COUNT ONE

IT FURTHER APPEARING, that Respondent submitted 23 insurance policy applications to Combined for three different individuals (D.R., C.M. and D.F. for the purpose of obtaining an insurance policy, forged the signatures of the applicant on each application, and intentionally included false or misleading information concerning a fact or thing material to the application in violation of N.J.S.A. 17:22A-40a(2), (5), (8), (16), and N.J.A.C. 11:17A-4.2; and

COUNT TWO

IT FURTHER APPEARING, that Respondent submitted 23 insurance policy applications to Combined for three different individuals (D.R., C.M. and D.F. for the purpose of obtaining an insurance policy, knowing that each application contained false or misleading information concerning a fact or thing material to the application in violation of N.J.S.A. 17:33A-4a(3) and -4a(4)(b); and

NOW, THEREFORE, IT IS on this 2nd day of January, 2019

ORDERED, that Respondent appear and show cause why his New Jersey insurance producer license should not be suspended or revoked pursuant to N.J.S.A. 17:22A-40a; and

IT IS FURTHER ORDERED, that Respondent appear and show cause why the Commissioner should not assess a civil penalty of up to \$5,000.00 for the first violation and \$10,000.00 for each subsequent violation of the Producer Act and order Respondent to pay restitution of moneys owed to any person, pursuant to the provisions of N.J.S.A. 17:22A-45c; and

IT IS FURTHER ORDERED, that Respondent appear and show cause why he should not be required to reimburse the Department for the cost of the investigation and prosecution, including attorneys' fees, as authorized pursuant to N.J.S.A. 17:22A-45c, N.J.S.A. 17:33A-5c, and N.J.A.C. 11:16-7.9(c); and

IT IS FURTHER ORDERED, that Respondent appear and show cause why the Commissioner should not assess a civil penalty of up to \$5,000.00 for the first offense, \$10,000.00 for the second offense, and \$15,000 for each subsequent offense of the Fraud Act pursuant to the provisions of N.J.S.A. 17:33A-5c and N.J.A.C. 11:16-7.9(a); and

IT IS FURTHER ORDERED, that Respondent appear and show cause why the Commissioner should not impose a \$1,000.00 surcharge against him in accordance with N.J.S.A. 17:33A-5.1; and

IT IS PROVIDED, that Respondent has the right to request an administrative hearing, to be represented by counsel or other qualified representative, at his own expense, to take testimony, to call or cross-examine witnesses, to have subpoenas issued, and to present evidence or argument if a hearing is requested; and

IT IS FURTHER PROVIDED, that unless a request for a hearing is received within twenty (20) days of the service of this Order to Show Cause, the right to a hearing in this matter shall be deemed to have been waived by Respondents, and the Commissioner shall dispose of this matter in accordance with law. A hearing may be requested by mailing the request to Virgil Downtin, Chief of Investigations, Department of Banking and Insurance, P.O. Box 329, Trenton, New Jersey 08625, or by faxing the hearing request to the Department at (609) 292-5337. A copy of the request for a hearing shall also be sent to Deputy Attorney General Richard E. Wegryn, Jr., Banking and Insurance Section, R.J. Hughes Justice Complex, 25 Market Street, P.O. Box 117, Trenton, NJ 08625-0117. The request shall contain the following:

- (a) Respondent's full name, address and daytime telephone number;
- (b) A statement referring to each charge alleged in this Order to Show Cause and identifying any defense intended to be asserted in response to each charge. Where the defense relies on facts not contained in the Order to Show Cause, those specific facts must be stated;

- (c) A specific admission or denial of each fact alleged in this Order to Show Cause. Where Respondent has no specific knowledge regarding a fact alleged in the Order to Show Cause, a statement to that effect must be contained in the hearing request. Allegations of this Order to Show Cause not answered in the manner set forth above shall be deemed to have been admitted; and
- (d) A statement requesting the hearing.



Marlene Caride
Commissioner