

STATE OF NEW JERSEY  
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF:

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Proceedings by the Commissioner of Banking )  
and Insurance, State of New Jersey, to fine, )  
suspend, and/or revoke the insurance license )  
of Kirti Shah, Reference No. 9023393. )  
\_\_\_\_\_ )

**ORDER TO SHOW CAUSE**

TO: Kirti Shah  
1 Quinby Court  
Parsippany, NJ 07054

THIS MATTER, having been opened by the Commissioner of Banking and Insurance (“Commissioner”), State of New Jersey, upon information that Kirti Shah (“Respondent”), may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Respondent is currently licensed as a resident insurance producer in the State of New Jersey pursuant to N.J.S.A. 17:22A-32(a); 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 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, the Producer Licensing regulations, N.J.A.C. 11:17-1.1 to -2.17, the regulations governing Insurance Producer Standards of Conduct, N.J.A.C. 11:17A-1.1 to 11:17D-2.8 and the Persons Employed in the Business of Insurance regulations, N.J.A.C. 11:17E-1.1 to-1.7; 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)(6), an insurance producer shall not have been convicted of a felony or crime of the fourth degree or higher; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40(a)(7), an insurance producer shall not admit or found to have committed 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 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-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)(16), an insurance producer shall not commit any fraudulent act; 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), 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.A.C. 11:17E-1.3(a), no person having 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-1.3; and

WHEREAS, pursuant to N.J.A.C. 11:17E-1.2, a felony means, among other things, 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

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)(6), a person violates the Fraud Act if he prepares, presents, or causes to be presented to any insurer or other person, or demands or requires the issuance of, a certificate of insurance that contains any false or misleading information concerning the policy of insurance to which the certificate makes reference; 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 exceeding \$5,000.00 for the first offense, not exceeding \$10,000.00 for the second offense and not exceeding \$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, by Final Order dated September 1, 2008, the Commissioner found that Respondent altered and submitted to an insurance company a repair invoice in support of an

insurance claim, in violation N.J.S.A. 17:22A-17(a)(1), (4), and (20), and failed to notify the Commissioner of a prior indictment against him within the statutorily-prescribed time, in violation of N.J.S.A. 17:22A-40(a)(18) and N.J.S.A. 17:22A-47; and

WHEREAS, due to the September 1, 2008 Final Order, the violations alleged in this Order to Show Cause constitute subsequent violations under N.J.S.A. 17:22A-45(c); and

ALLEGATIONS COMMON TO ALL COUNTS

IT APPEARING, that on August 15, 2016, CNA Insurance ("CNA") issued a Certificate of Insurance ("Certificate") to HP, a business, for an insurance policy with a period of October 30, 2016 to October 30, 2017; and

IT FURTHER APPEARING, that the premium indicated on the Certificate was \$517.00; and

IT FURTHER APPEARING, that CNA sent the Certificate to Respondent for delivery to, and collection of, premium from HP; and

IT FURTHER APPEARING, that Respondent altered the Certificate to reflect a premium of \$1,517.00; and

IT FURTHER APPEARING, that Respondent delivered the Certificate to HP; and

IT FURTHER APPEARING, that HP paid directly to CNA a check for \$1,517.00 dated September 1, 2016; and

IT FURTHER APPEARING, that upon detecting the overpayment, CNA refunded \$1,000.00 to HP; and

IT FURTHER APPEARING, that, on or about June 27, 2017, Respondent received a criminal complaint summons ("Complaint") from the State of New Jersey, Morris County, charging him with one felony count of insurance fraud in the third degree under N.J.S.A. 2C:21-

4.6a. and two felony counts of forgery in the fourth degree under N.J.S.A 2C:21-1(a)(1) and (3), respectively; and

IT FURTHER APPEARING, that on July 18, 2017, Respondent informed the Commissioner of the Complaint in accordance with N.J.S.A. 17:22A-40(a)(18); and

IT FURTHER APPEARING, that on October 10, 2017, Respondent waived his right to prosecution by indictment and trial by jury; and

IT FURTHER APPEARING, that on that same day, Respondent entered into a plea agreement whereby Respondent pleaded guilty to one count of fourth degree forgery; and

IT FURTHER APPEARING, that on November 3, 2017, a Judgment of Conviction was entered by the Superior Court of Morris County convicting Respondent of one count of felony forgery in the fourth degree under N.J.S.A 2C:21-1(a)(1) based on Respondent altering or changing a writing of another without authorization; and

IT FURTHER APPEARING, that Respondent failed to notify the Commissioner that he was convicted of fourth degree forgery within 30 days of conviction pursuant to N.J.S.A. 17:22A-40(a)(18); and

IT FURTHER APPEARING, that on August 13, 2018, the Insurance Department of the Commonwealth of Pennsylvania ("Pennsylvania Insurance Department") revoked Respondent's Pennsylvania non-resident producer license for, among other things, (a) committing a felony, and (b) failing to report the Complaint and Judgment to the Pennsylvania Insurance Department within 30 days, both being violations of the Pennsylvania Statutes; and

#### **COUNT ONE**

IT FURTHER APPEARING, that Respondent, by altering the premium amount on the Certificate, altered the policy amount on an official insurance document without authorization, and

further presented or caused to be presented to any insurer or other person a certificate of insurance that contained false or misleading information concerning the policy of insurance to which the certificate made reference in violation of N.J.S.A. 17:22A-40(a)(2), (6), (7), (8), and (16), and N.J.S.A. 17:33A-4(a)(6); and

**COUNT TWO**

IT FURTHER APPEARING, that Respondent pleaded guilty to and was convicted of fourth degree forgery, a felony, and failed to notify the Commissioner within 30 days of his conviction of forgery, in violation of N.J.S.A. 17:22A-40(a)(2), (6), (7), (8), and (16), and further, following his conviction of a felony in the fourth degree or higher, failed to obtain a waiver from the Commissioner to be employed in the business of insurance in this State as required by N.J.A.C. 11:17E-1.3 and 18 U.S.C. § 1033(c)(2); and

**COUNT THREE**

IT FURTHER APPEARING, that Respondent's Pennsylvania non-resident insurance producer license was revoked, in violation of N.J.S.A. 17:22A-40(a)(2) and (9); and

NOW, THEREFORE, IT IS on this 24<sup>th</sup> day of Jan, 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-40(a); and

IT IS FURTHER ORDERED, that Respondent appear and show cause why the Commissioner should not assess a civil penalty not exceeding \$5,000.00 for the first violation, and not exceeding \$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-45(c); 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-45(c), N.J.S.A. 17:33A-5(c), 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 not exceeding \$5,000.00 for the first offense, not exceeding \$10,000.00 for the second offense, and not exceeding \$15,000 for each subsequent offense of the Fraud Act pursuant to the provisions of N.J.S.A. 17:33A-5(c) 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 Respondent, 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 Brian R. Fitzgerald at: Division of

Law, P.O. Box 117, Trenton, NJ 08625, fax (609) 777-3503. The request shall contain the following:

- (a) Respondent's full name, current 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 the 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.

  
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Marlene Caride  
Commissioner