

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)
licenses of Julio Nosta, Reference No.)
1306851, and JN Insurance Agency, LLC,)
Reference No. 1626971.)

ORDER TO SHOW CAUSE

TO: Julio Nosta
250 Pehle Ave., Suite 900
Saddle Brook, NJ 07663

JN Insurance Agency, LLC
c/o Julio Nosta
250 Pehle Ave., Suite 900
Saddle Brook, NJ 07663

THIS MATTER, having been opened by the Commissioner of Banking and Insurance, State of New Jersey (“Commissioner”), upon information that Julio Nosta (“Nosta”) and JN Insurance Agency, LLC (“JN Agency”) (collectively, “Respondents”) may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Nosta 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, JN Agency is currently licensed as a resident business entity insurance producer in the State of New Jersey pursuant to N.J.S.A. 17:22A-32(b); and

WHEREAS, Nosta is the Designated Responsible Licensed Producer of JN Agency; and

WHEREAS, Respondents are 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 (“Producer Regulations”), and the regulations governing Insurance Producer Standards of Conduct, N.J.A.C. 11:17A-1.1 to 11:17D-2.8; 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)(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.A.C. 11:17B-3.1(b), an insurance producer charging a fee to an insured or prospective insured shall first obtain from the insured or prospective insured a written agreement, which shall be separate and apart from all other agreements and applications, which shall contain the following provisions and no other provisions: (1) A clear statement of the amount of the fee to be charged and the nature of the service to be provided therefore; (2) A statement that such fees are not a part of the premium charged by the insurance company and that such fees can be charged only if the insured or prospective insured so consents in writing; (3) A clear statement as to whether a commission will be received from the purchase of insurance; and (4) The signature of the insured or prospective insured and the licensed insurance producer and the date of execution of the agreement; and

WHEREAS, pursuant to N.J.A.C. 11:17B-3.2(c), no insurance producer may charge a service fee for services rendered in the sale or service of life or health insurance; 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 for violating the Producer Act; and

WHEREAS, pursuant to N.J.S.A. 17:22A-45(c), any person violating the Producer Act is subject to a penalty of up to \$5,000.00 for the first offense and up to \$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.

FACTUAL ALLEGATIONS

1. Respondents charged health insurance clients a Membership/Concierge service fee in 2020 and 2021 ranging between \$75 and \$175.

2. Respondents utilized a written Membership/Concierge Services Script to explain the Membership/Concierge service fee to health insurance clients.

3. The written Membership/Concierge Services Script utilized by Respondents stated that the Membership/Concierge Services available for a fee included: (1) Provide you hands on service on anything you need within your current plan; (2) Help you understand an invoice or claim received; (3) Helping you open an online portal for the carrier and guide you to set up future payments and navigate the carrier's portal; (4) Helping you find providers under your existing plan.

4. Respondents did not obtain from health insurance clients charged a Membership/Concierge service fee a written agreement, separate and apart from all other agreements and applications, which contained the following provisions and no other provisions: (1) A clear statement of the amount of the fee to be charged and the nature of the service to be provided therefore; (2) A statement that such fees are not a part of the premium charged by the insurance company and that such fees can be charged only if the insured or prospective insured so

consents in writing; (3) A clear statement as to whether a commission will be received from the purchase of insurance; and (4) The signature of the insured or prospective insured and the licensed insurance producer and the date of execution of the agreement.

5. In 2020, Respondents charged a Membership/Concierge service fee to 45 health insurance clients.

6. In 2020, Respondents received a total of \$6,375 in Membership/Concierge service fees from 45 health insurance clients.

7. In 2021, Respondents charged a Membership/Concierge service fee to at least 99 health insurance clients.

8. In 2021, Respondents received at least \$14,645 in Membership/Concierge service fees from health insurance clients.

COUNT ONE

9. The Commissioner repeats and realleges each of the preceding paragraphs as if set forth at length herein.

10. Respondents improperly charged a service fee without first obtaining the required written agreement to at least 144 health insurance clients in 2020 and 2021, constituting at least 144 separate violations, in violation of N.J.S.A. 17:22A-40(a)(2), (8), and N.J.A.C. 11:17B-3.1(b).

COUNT TWO

11. The Commissioner repeats and realleges each of the preceding paragraphs as if set forth at length herein.

12. Respondents improperly charged a service fee for services rendered in the sale or service of health insurance to at least 144 health insurance clients in 2020 and 2021, constituting

at least 144 separate violations, in violation of N.J.S.A. 17:22A-40(a)(2), (8), and N.J.A.C. 11:17B-3.2(c).

a. NOW, THEREFORE, IT IS on this 17 day of September 2021,

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

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

IT IS FURTHER ORDERED, that Respondents appear and show cause why, in addition to any other penalty, they should not be required to reimburse the Department of Banking and Insurance for the costs of the investigation and prosecution as authorized by N.J.S.A. 17:22A-45(c); and

IT IS PROVIDED, that Respondents have the right to request an administrative hearing, to be represented by counsel or other qualified representative, at their 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 Jeffrey S. Posta, Deputy Attorney General, Banking and Insurance Section, 25 Market Street, P.O. Box 117, Trenton, New Jersey 08625-0117. The request from each Respondent 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 a hearing.



Marlene Caride
Commissioner