

ORDER TO SHOW CAUSE NO. E16-63

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)
Ryan P. Cataldo, Reference No.)
1060835)

ORDER TO SHOW CAUSE

TO: Ryan P. Cataldo
30 Cherry Street
Tinton Falls, New Jersey 07724-2607

THIS MATTER, having been opened by the Commissioner of Banking and Insurance ("Commissioner"), State of New Jersey, upon information that Ryan P. Cataldo ("Cataldo"), may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Cataldo was licensed as a resident individual insurance producer, pursuant to N.J.S.A. 17:22A-32 until his license expired on August 31, 2013; and

WHEREAS, Cataldo is subject to the provisions of the New Jersey Insurance Producer Licensing Act ("Producer Act"), N.J.S.A. 17:22A-26, et seq., and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(2), an insurance producer shall not violate any insurance law; 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 the insurance business; 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.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 against any person even if the person's license 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 shall act in a fiduciary capacity in the conduct of his or her business; and

WHEREAS, pursuant to N.J.A.C. 11:4-2.3, an insurance producer who initiates an application shall submit to the

insurer, with or as part of the application, a statement signed by both the applicant and the producer as to whether the applicant has existing policies or contracts; and

ALLEGATIONS COMMON TO ALL COUNTS

IT APPEARING that, at all relevant times, Cataldo was an agent for Guardian Life Insurance Company of America ("Guardian") until his agency relationship was terminated for cause by Guardian on or about April, 2010; and

IT FURTHER APPEARING that, at all relevant times, Cataldo was an agent for John Hancock Insurance Company ("John Hancock"); and

IT FURTHER APPEARING that on or about April 28, 2009, Cataldo sold, solicited or negotiated a Guardian whole life insurance policy to Ingrid Scipio ("Scipio"); and

IT FURTHER APPEARING that on the application for the Guardian whole life insurance policy signed on April 28, 2009, Cataldo listed Scipio's earned income as \$51,000.00 and Scipio's net worth as \$473,000.00; and

IT FURTHER APPEARING that on or about April 28, 2009, Steven Giuliano and Cataldo submitted Scipio's life insurance application for a whole life insurance policy with Authorization to Obtain and Release Information to Guardian; and

IT FURTHER APPEARING that Guardian issued Scipio a whole life insurance policy with a policy number ending in #4255 on July 27, 2009 with a death benefit of \$900,000.00 and an effective date of August 1, 2009; and

IT FURTHER APPEARING that on or about September 23, 2009, Cataldo sold, solicited or negotiated a John Hancock Life Insurance Company ("John Hancock") whole life insurance policy to Scipio; and

IT FURTHER APPEARING that Cataldo represented on the John Hancock life insurance application, signed on September 23, 2009, that Scipio's gross annual earned income was \$110,000.00; that Scipio's gross annual unearned income was \$55,000.00 and that Scipio's household net worth was \$2,500,000.00, without Scipio's knowledge and consent; and

IT FURTHER APPEARING that on or about September 23, 2009, Cataldo submitted Scipio's life insurance application to John Hancock for a whole life insurance policy with a death benefit of approximately \$2,000,000.00; and

IT FURTHER APPEARING that John Hancock issued Scipio a whole life insurance policy for \$2,000,000.00 with a policy number ending in #7420; and

IT FURTHER APPEARING that on or about September 30, 2009, Cataldo submitted a Life Insurance Change Request

form to Guardian for Scipio to change the Guardian whole life policy with policy number ending in #4255 on Scipio's life to a yearly renewable term life insurance policy with a death benefit of \$100,000.00; and

IT FURTHER APPEARING that Guardian issued Scipio a yearly renewable term life insurance policy with a policy number ending in #7539 and an effective date of October 8, 2009; and

IT FURTHER APPEARING that Cataldo was paid the annual commission from Guardian on Scipio's whole life insurance policy with a policy number ending in #4255; and

IT FURTHER APPEARING that Cataldo was paid the annual commission from John Hancock on Scipio's whole life insurance policy with a policy number ending in #7420; and

COUNT 1

IT FURTHER APPEARING that, on or about April 28, 2009, Cataldo provided false information on the Guardian insurance application by stating inaccurate income and wealth information for Scipio, in violation of N.J.S.A. 17:22A-40a(2), (5), (8) and (16) and N.J.A.C. 11:17A-4.10; and

COUNT 2

IT FURTHER APPEARING that, on or about September 23, 2009, Cataldo provided false information on the John

Hancock insurance application by stating inaccurate income and wealth information for Scipio, in violation of N.J.S.A. 17:22A-40a(2), (5), (8) and (16) and N.J.A.C. 11:17A-4.10; and

COUNT 3

IT FURTHER APPEARING that, on or about September 23, 2009, Cataldo failed to disclose on the Guardian Life Insurance Change Request form and Agent's Certification that there was an existing insurance policy on Scipio's life in violation of N.J.S.A. 17:22A-40a(2), (5), (8) and (16), N.J.A.C. 11:17A-4.10 and N.J.A.C. 11:4-2.3; and

NOW, THEREFORE, IT IS on this 5th day of July, 2016,

ORDERED, that pursuant to the provisions of N.J.S.A. 17:22A-40a, Cataldo shall appear and show cause why his insurance producer license shall not be revoked by the Commissioner; and

IT IS FURTHER ORDERED that Cataldo shall appear and show cause why the Commissioner should not assess fines up to \$5,000.00 for the first violation and not exceeding \$10,000.00 for each subsequent violation, pursuant to the provisions of N.J.S.A. 17:22A-45c, due to his failure to comply with the Producer Act; and

IT IS FURTHER ORDERED that, pursuant to N.J.S.A. 17:22A-45c, Cataldo shall appear and show cause why he

should not be subject to additional penalties, including restitution and reimbursement of the costs of investigation and prosecution by the Department of Banking and Insurance; and

IT IS PROVIDED that Cataldo 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 subpoena and subpoena duces tecum 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 the 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, New Jersey Department of Banking and Insurance, P.O. Box 329, Trenton, N.J. 08625 or by faxing the request to the Department at (609) 292-5337. A copy of the request for a hearing shall also be sent to Deputy Attorney General Carl M. Bornmann at fax number (609) 777-3503. The request shall contain:

(A) The licensee's 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 the Respondents have no specific knowledge regarding a fact alleged in this 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.



Peter L Hartt
Director of Insurance