

FILED

DEC 21 2017

SUPERIOR COURT
CLERK'S OFFICE

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 Christopher)
Gabel, Reference No. 1295032)

FINAL ORDER

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TO: Christopher Gabel
43 Daniel Lane
Kinnelon, NJ 07405

Christopher Gabel
804 River Place
Butler, NJ 07405

THIS MATTER, having been opened by the Commissioner of Banking and Insurance ("Commissioner"), State of New Jersey, upon issuance of Order to Show Cause No. E17-66 alleging that Christopher Gabel ("Gabel" or "Respondent"), may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Gabel was licensed as a resident insurance producer pursuant to N.J.S.A. 17:22A-32 until his license expired on November 30, 2014; and

WHEREAS, Gabel is subject to the provisions of the New Jersey Insurance Producer Licensing Act of 2001, N.J.S.A. 17:22A-26 et seq. ("Producer Act"), the regulations governing Insurance Producer Standards of Conduct, N.J.A.C. 11:17A-1.1 et seq. and N.J.A.C. 11:17D-1.1 et seq., the New Jersey Insurance

Fraud Prevention Act, N.J.S.A. 17:33A-1 et seq. ("Fraud Act") and the regulations promulgated thereunder, N.J.A.C. 11:16-1.1 et seq.; 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(4), an insurance producer shall not improperly withhold, misappropriate, or convert any monies or properties received in the course of doing insurance business; 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(7), an insurance producer shall not have admitted to or been found to have committed any insurance unfair trade practice or fraud; 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.S.A. 17:22A-45c, any person violating any provision of the Producer Act shall be liable to a penalty not exceeding \$5,000 for the first offense and not exceeding \$10,000 for each subsequent offense, to be recovered in a summary proceeding in accordance with the "Penalty Enforcement Law of 1999," P.L.1999, c. 274 (C. 2A:58-10 et seq.), and shall further be subject to restitution of moneys owed any person and to reimbursement of the costs of investigation and prosecution, as appropriate; and

WHEREAS, pursuant to N.J.S.A. 17:33A-4a(1), no person shall present or cause to be presented any written or oral statement as part of, or in support of or opposition to, a claim for payment or other benefit pursuant to an insurance policy or the "Unsatisfied Claim and Judgment Fund Law," P.L. 1952, c.174 (C.39:6-61 et seq.), knowing that the statement contains any false or misleading information concerning any fact or thing material to the claim; 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 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 -5c and N.J.A.C. 11:16-7.9(a) and N.J.A.C. 11:16-7.9(c), violations of the Fraud Act subject the violator to a civil and administrative penalty not to exceed \$5,000 for the first violation, not to exceed \$10,000 for the second violation and not to exceed \$15,000 for each subsequent violation; moreover, the Commissioner may issue a final order assessing restitution and costs of prosecution, including attorneys' fees; 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; 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 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 or 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, the Commissioner issued Order to Show Cause No. E17-66 ("OTSC") on July 31, 2017, alleging violations of New Jersey insurance laws by Gabel as follows:

COUNT I

IT APPEARING that Respondent was employed by American Family Life Assurance Company of Columbus ("AFLAC") prior to January 28, 2013; and

IT APPEARING that on or about January 28, 2013, AFLAC terminated the Respondent without cause; and

IT FURTHER APPEARING that AFLAC subsequently updated Respondent's termination status to "with cause" based upon further investigation by its Special Investigation Unit; and

IT FURTHER APPEARING that AFLAC determined that Respondent established fraudulent entities or businesses in order to create false impressions that he had sold insurance policies and obtain commissions and credits from AFLAC to which he was not entitled, and that these fraudulent businesses included C.K. Gabel, LLC, Exterior Solutions, Stain Master Cleaning Service, and Budham Transport ("Fictitious Companies"); and

IT FURTHER APPEARING that Respondent

fraudulently applied for policies on behalf of each of the Fictitious Companies and submitted fraudulent claims on the policies; and

IT FURTHER APPEARING that Respondent falsely claimed that he met with the owners of each of the Fictitious Companies to ensure that the companies were legitimate, and falsely claimed that each owner had submitted to Respondent a payroll acknowledgement form, a valid tax ID number and the names of three employees; and

IT FURTHER APPEARING that Respondent fraudulently procured \$2,621.33 in advance commissions from AFLAC in reference to the Fictitious Companies; and

IT FURTHER APPEARING that Respondent submitted forged and inaccurate applications and submitted forged and inaccurate insurance documents to AFLAC in reference to the Fictitious Companies and upon discovery falsely stated that he had verified that the Fictitious Companies were legitimate, in violation of the Producer Act, N.J.S.A. 17:22A-40a(2), (4), (5), (7), (8), (10) and (16), and the Fraud Act, N.J.S.A. 17:33A-4a(1) and (4)(b); and

COUNT II

IT FURTHER APPEARING that from January 2012 through June 2012, the Respondent knowingly prepared and submitted eight fraudulent insurance claims to AFLAC which stated that he had received medical services and included forged physician statements in said claim submissions to AFLAC ("False Medical Claims"); and

IT FURTHER APPEARING that Respondent fraudulently procured \$120 in benefits from AFLAC as a result of the False Medical

Claims; and

IT FURTHER APPEARING that Respondent submitted forged and inaccurate claim insurance documents to AFLAC supporting the False Medical Claims in violation of the Producer Act, N.J.S.A. 17:22A-40a(2), (4), (5), (7), (8), (10) and (16), and the Fraud Act, N.J.S.A. 17:33A-4a(1); and

WHEREAS as set forth in the Certification of Deputy Attorney General Richard E. Wegryn, Jr., attached hereto as Exhibit A, Gabel was given notice of the aforesaid charges and an opportunity to contest the charges at a hearing pursuant to the OTSC, which was duly served by certified and regular mail upon Gabel at his last known business or mailing address, according to files maintained by the Department in accordance with N.J.A.C. 11:17D-2.1(a)3; and

WHEREAS, although due notice of the charges provided an opportunity to oppose the allegations, Gabel failed to provide written responses to the charges contained in the OTSC within the time period permitted by the OTSC, and therefore Gabel has waived his right to a hearing to contest these charges and the charges are deemed admitted, pursuant to N.J.A.C. 11:17D-2.1(b)1; and

NOW, THEREFORE, IT IS on this 3rd day of November, 2017:

ORDERED that the charges contained in OTSC are deemed

admitted by Gabel due to his failure to respond to the alleged violations pursuant to N.J.A.C. 11:17D-2.1(b)1; and

IT IS FURTHER ORDERED that, pursuant to N.J.S.A. 17:22A-40a, and N.J.A.C. 11:17D-2.1(b)2, the insurance producer license of Gabel is hereby REVOKED; and

IT IS FURTHER ORDERED that, pursuant to N.J.S.A. 17:22A-45c, Gabel shall be liable for the payment of a civil penalty in the amount of \$7,500.00 for the violations of the Producer Act and for the payment of a civil penalty in the amount of \$2,500.00 for the violation of the Fraud Act as set forth in the OTSC, and a statutory surcharge in the amount of \$1,000.00 pursuant to N.J.S.A. 17:33A-5.1; and

IT IS FURTHER ORDERED that, pursuant to N.J.S.A. 17:33A-5c, Gabel shall be liable for the payment of restitution to AFLAC in the amount of \$2,741.66 consisting of \$2,621.33 in advance commissions obtained from the Fictitious Companies and \$120.00 in benefits obtained as a result of the False Medical Claims; and

IT IS FURTHER ORDERED that, pursuant to N.J.S.A. 17:22A-45c and N.J.A.C. 11:1-32.4(b)20, Gabel shall reimburse the Department for the costs associated with the investigation of this matter, as evidenced by the Certification of Costs by Investigator Jared Stewart, attached hereto as Exhibit B,

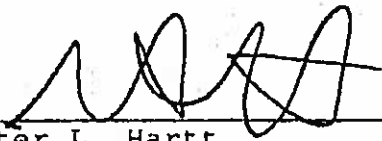
totaling \$800.00; and

IT IS FURTHER ORDERED that Gabel shall pay the above fines and costs totaling \$11,800.00 in full by remitting payment to the Commissioner of Banking and Insurance, State of New Jersey, 20 West State Street, P.O. Box 329, Trenton, New Jersey 08625, Attention: Virgil Downtin, Chief of Investigations by certified check, cashier's check or money order made payable to the "State of New Jersey, General Treasury," within ten (10) days from the date of service of this Order; and

IT IS FURTHER ORDERED that in the event full payment of the fines and costs are not made, the Commissioner may exercise any and all remedies available by law, including but not limited to recovery of any unpaid penalties, in accordance with the Penalty Enforcement Law of 1999, N.J.S.A. 2A:58-10 et seq.; and

IT IS FURTHER ORDERED that the fines in this Final Order are imposed pursuant to the police powers of the State of New Jersey for the enforcement of the law and the protection of the public health, safety and welfare, and are not intended to constitute debts which may be limited or discharged in a bankruptcy proceeding; and

IT IS FURTHER ORDERED that the provisions of this Final Order represent a final agency decision and constitute a final resolution of the allegations contained in the OTSC.



Peter L. Hartt
Director of Insurance