

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 license)
of Maxwell Jason Eskreis, Reference)
No. 1292765)

**ORDER
TO
SHOW CAUSE**

To: Maxwell J. Eskreis
420 East 80th Street
Apt. 6C
New York, NY 10075

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

WHEREAS, Eskreis was formerly licensed as a non-resident insurance producer in the State of New Jersey, pursuant to N.J.S.A. 17:22A-34, until November 30, 2014, when his license expired; and

WHEREAS, Eskreis 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 regulations governing Insurance Producer Standards of Conduct, N.J.A.C. 11:17A-1.1 to 11:17D-2.8, 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; 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, 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.S.A. 17:22A-40a, the Commissioner may place on probation,

suspend, revoke or refuse to issue or renew an insurance producer's license, and may levy a civil penalty, for a violation of 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; moreover, 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(4)(b), a person who prepares or makes 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, violates the Fraud Act; and

WHEREAS, pursuant to N.J.S.A. 17:33A-5a and 5c, violations of the Fraud Act subject the violator to a civil and administrative penalty of not more than \$5,000.00 for the first violation, \$10,000.00 for the second violation and \$15,000.00 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 \$1,000.00; and

COUNT 1

IT APPEARING, that at all relevant times, Eskreis was employed as an insurance producer and Associate for the American Family Life Assurance Company of Columbus ("Aflac"); and

IT FURTHER APPEARING, that Eskreis submitted twenty fraudulent insurance policy applications to Aflac for fourteen alleged New Jersey resident applicants between February 22, 2013 and March 25, 2014; and

IT FURTHER APPEARING, that Eskreis used fictitious persons; and

IT FURTHER APPEARING, that the fraudulent policy applications were submitted as premiums to be paid by employer payroll deduction; and

IT FURTHER APPEARING, that the fourteen applicants were listed as employed with one of four New Jersey businesses-Meadowlands Hospital ("MH"), Confident Care Corp. ("CCC"), Confident Day Care ("CDC"), and Joseph Smentkowski Inc. ("JS"); and

IT FURTHER APPEARING, that no premiums were paid for the twenty fraudulent insurance policy applications; and

IT FURTHER APPEARING, that although no premiums were paid for the twenty fraudulent insurance policy applications, Eskreis received advance commission payments from Aflac to which he was not entitled; and

IT FURTHER APPEARING, that Eskreis was terminated from Aflac as of October 1, 2014 for submitting fraudulent applications for insurance; and

IT FURTHER APPEARING, that on or about February 22, 2013, Eskreis submitted to Aflac two policy applications for Accident and Cancer insurance for a fictitious MH employee, Melanie Sherman, and forged the signatures on the applications; and

IT FURTHER APPEARING, that on or about June 27, 2013, Eskreis submitted to Aflac a policy application for Short Term Disability insurance for a fictitious MH employee, Jessica Hart, and forged the signatures on the application; and

IT FURTHER APPEARING, that on or about July 10, 2013, Eskreis submitted to Aflac a policy application for Short Term Disability insurance for a fictitious MH employee, Anna Lisa Jeffers, and forged the signatures on the application; and

IT FURTHER APPEARING, that on or about August 25, 2013, Eskreis submitted to Aflac two policy applications for Short Term Disability insurance for two fictitious MH employees, Martha Damicio and Lynda Cervoni, and forged the signatures on the applications; and

IT FURTHER APPEARING, that on or about August 29, 2013, Eskreis submitted to Aflac two policy applications for Hospital Indemnity and Accident insurance for a fictitious MH employee, Janice O'Reilly, and forged the signatures on the applications; and

IT FURTHER APPEARING, that on or about September 24, 2013, Eskreis submitted to Aflac a policy application for Cancer insurance for a fictitious MH employee, Katherine Kempf, and forged the signatures on the application; and

IT FURTHER APPEARING, that on or about October 23, 2013, Eskreis submitted to Aflac two policy applications for Cancer and Short Term Disability insurance for a fictitious MH employee, Victoria Green, and forged the signatures on the applications; and

IT FURTHER APPEARING, that on or about November 25, 2013, Eskreis submitted to Aflac a policy application for Accident insurance for a fictitious MH employee, Amanda Reichert, and forged the signatures on the application; and

IT FURTHER APPEARING, that on or about February 22, 2013, Eskreis submitted to Aflac two policy applications for Accident insurance for two fictitious CCC employees, Lourdes Millena and Ana Lopez, and forged the signatures on the applications; and

IT FURTHER APPEARING, that on or about March 5, 2013, Eskreis submitted to Aflac two policy applications for Cancer and Hospital Indemnity insurance for a fictitious CCC employee, Maritza Ignacio, and forged the signatures on the applications; and

IT FURTHER APPEARING, that on or about July 15, 2013, Eskreis submitted to Aflac two policy applications for Cancer and Short Term Disability insurance for a fictitious CDC employee, Helena Petterova, and forged the signatures on the applications; and

IT FURTHER APPEARING, that on or about March 25, 2014, Eskreis submitted to Aflac two policy applications for Hospital Indemnity and Accident insurance for a fictitious JS employee, Jose Valles, and forged the signatures on the applications; and

IT FURTHER APPEARING, that Eskreis submitted twenty fraudulent insurance policy applications to Aflac, and forged the signatures on the applications, in violation of N.J.S.A. 17:22A-40a(2), (5), (8), (10) and (16); and

COUNT 2

IT FURTHER APPEARING, that Eskreis prepared and presented to Aflac, for the purpose of obtaining insurance policies, twenty fraudulent insurance policy applications, knowing that the insurance policy applications contained false and misleading information concerning facts material to the insurance policy applications in violation of N.J.S.A. 17:33A-4a(4)(b); and

NOW, THEREFORE, IT IS on this 3rd day of July, 2018

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, in addition to any other penalty, he should not be required to reimburse the Department for the cost of the investigation and prosecution as authorized pursuant to N.J.S.A. 17:22A-45c; and

IT IS FURTHER ORDERED, that Respondent appear and show cause why the Commissioner should not assess a civil penalty of not more than \$5,000.00 for the first violation, \$10,000.00 for the second violation, and \$15,000 for each subsequent violation of the Fraud Act and order restitution pursuant to N.J.S.A. 17:33A-5c; and

IT IS FURTHER ORDERED, that Respondent appear and show cause why the Commissioner should not assess the costs of prosecution, including attorneys' fees, pursuant to N.J.S.A. 17:33A-5c; 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 Jeffrey S. Posta, Banking and Insurance Section, 25 Market Street, P.O. Box 117, Trenton, New Jersey 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.



Peter L. Hart
Director of Insurance