

STATE OF NEW JERSEY  
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF:

Proceedings by the Commissioner of	)	ORDER TO SHOW CAUSE
Banking and Insurance, State of New Jersey,	)	
to fine, suspend and/or revoke the insurance	)	
producer license of Claudia Silverberg,	)	
Reference No. 1531217	)	

TO: Claudia Silverberg  
14460 Strathmore Lane  
BLDG 6  
Delray Beach, FL 33446-3041

This matter, having been opened by the Commissioner of Banking and Insurance, State of New Jersey ("Commissioner"), upon information that Claudia Silverberg ("Silverberg" or "Respondent") may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Silverberg is licensed as a non-resident insurance producer by 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 Producer Licensing regulations, N.J.A.C. 11:17-1.1 to -2.17, 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)(5), an insurance producer shall not intentionally misrepresent the terms of an actual or proposed insurance contract, policy or application for insurance;

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)(16), an insurance producer shall not commit any fraudulent act; and

WHEREAS, pursuant to N.J.A.C. 11:17A-1.4(c), an insurance producer shall not negotiate or solicit in New Jersey any insurance contract which has not first been filed in New Jersey where such contract is required to be filed; 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, or may take any combination of actions for violating the Producer Act; and

WHEREAS, pursuant to N.J.S.A. 17:22A-45(c), any licensee violating the Producer Act and/or the Insurance Producer Standards of Conduct 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

#### **ALLEGATIONS COMMON TO ALL COUNTS**

IT APPEARING, that at all relevant times, Silverberg was an insurance agent employed by Atlantic Business Association, Inc. ("Atlantic") to sell, among other things, various health

insurance products to businesses and individuals, including but not limited those residing in New Jersey; and

IT FURTHER APPEARING, that in or about December 2016, Silverberg, on behalf of Atlantic, began to solicit, market and sell to New Jersey residents a health insurance product known as “Council Plans” issued by insurance carrier Excellus BlueCross BlueShield (“Excellus”), which was not licensed in New Jersey; and

IT FURTHER APPEARING, that for purposes of marketing and selling “Council Plans,” Silverberg represented to New Jersey residents that “Council Plans” were “individual standard health benefits plans” approved under and compliant with New Jersey law<sup>1</sup>; and

IT FURTHER APPEARING, that the “Council Plans” marketed and sold by Silverberg were not, in fact, “individual standard health benefits plans” approved under and compliant with New Jersey law, but rather were employer-employee based group health insurance plans available through Excellus only to persons who live and work in the state of New York; and

IT FURTHER APPEARING, that in or about January 2017, Silverberg sold seven (7) “Council Plans” to New Jersey residents which generated premiums in excess of \$11,000; and

IT FURTHER APPEARING, that in or about February 2017, Excellus terminated all “Council Plan” policies sold to New Jersey residents by Silverberg and refunded all premiums collected from said policyholders given that New Jersey residents were not eligible to purchase said insurance coverage; and

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<sup>1</sup> Generally stated, an “individual standard health benefits plan” is a guaranteed renewable health insurance plan, sold by New Jersey licensed carriers to New Jersey residents who do not have access to employer or government insurance coverage, which plan provides the insureds with standard health insurance benefits as mandated by the New Jersey Individual Health Insurance Reform Act, N.J.S.A. 17B:27A-2 to -56.

**COUNT ONE**

IT FURTHER APPEARING, that Silverberg marketed and sold “Council Plans” to New Jersey residents when, in fact, said insurance product was not approved for sale in New Jersey, in violation of N.J.S.A. 17:22A-40(a)(2), (5), (8) and (16) and N.J.A.C. 11:17A-1.4(c); and

**COUNT TWO**

IT FURTHER APPEARING, that the New Jersey Department of Banking and Insurance served Silverberg with a Subpoena Ad Testificandum (Subpoena No. 17-02), pursuant to N.J.S.A. 17:22A-45(a), directing that she appear before the Commissioner or designated representative on July 20, 2017, to give testimony and produce documents relevant to its investigation into the sale of “Council Plans” to New Jersey residents; and

IT FURTHER APPEARING, that Silverberg failed and refused to comply with said subpoena in violation of N.J.S.A. 17:22A-40(a)(2); and

**NOW, THEREFORE, IT IS** on this 14<sup>th</sup> day of January, 2020

ORDERED, that Respondent appear and show cause why her New Jersey insurance producer license should not be suspended or revoked pursuant to N.J.S.A. 17:22A-40; 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 and \$10,000.00 for each subsequent violation of the Producer Act and/or the Producer Standards of Conduct regulations, 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, in addition to any other penalty, she should not be required to reimburse the Department for the costs of the investigation and prosecution as authorized by N.J.S.A. 17:22A-45(c); and

IT IS PROVIDED, that Respondent has the right to request an administrative hearing, to be represented by counsel or other qualified representative, at her 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 Dowtin, 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 Dakar R. Ross, Deputy Attorney General, Department of Banking and Insurance, P.O. Box 117, Trenton, New Jersey 08625. 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 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 a hearing.

  
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Marlene Caride  
Commissioner