

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)
Donald Shelby Toomer, Jr., Reference No.)
258496.)

ORDER TO SHOW CAUSE

TO: Donald Shelby Toomer, Jr.
2283 Candlestick Avenue
Henderson, NV 89052

THIS MATTER, having been opened by the Commissioner of Banking and Insurance (“Commissioner”), State of New Jersey, upon information that Donald Shelby Toomer, Jr. (“Respondent”), may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Respondent was formerly licensed as a non-resident individual insurance producer in the State of New Jersey, pursuant to N.J.S.A. 17:22A-34(a), until August 31, 2016, when his license expired; 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)(18), an insurance producer shall notify the Commissioner within 30 days of his conviction of any crime, indictment or the filing of any formal criminal charges, or the suspension or revocation of any insurance license or authority by a state other than New Jersey; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40(a)(19) and N.J.S.A. 17:22A-47(c), an insurance producer shall notify the Commissioner within 30 days of the final disposition of any disciplinary action taken against the producer by the Financial Industry Regulatory Authority ("FINRA"); and

WHEREAS, pursuant to N.J.S.A. 17:22A-47(b), an insurance producer shall, within 30 days of the initial pretrial hearing date, report to the Commissioner any criminal prosecution of the producer taken in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing and any other relevant legal documents; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40(d), 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-33(f), an insurance producer shall inform the Commissioner by any means acceptable to the Commissioner of a change of address within 30 days of the change; and

WHEREAS, pursuant to N.J.A.C. 11:17-2.8(f), all licensees shall provide in the format prescribed by the New Jersey Department of Banking and Insurance (“Department”) notification to the Commissioner of any change in business address, residence address, phone numbers or email address within 30 days of the change and maintain a proof of notification for five years or until in receipt of a license or other documentation from the Department showing the new address; and

WHEREAS, pursuant to N.J.A.C. 11:17A-4.8, an insurance producer shall reply, in writing, to any inquiry of the Department relative to the business of insurance within the time period requested in said inquiry, or no more than 15 calendar days from the date of inquiry was made or mailed in cases where no response time is given; and

WHEREAS, pursuant to N.J.A.C. 11:17D-2.2, each calendar day that an insurance producer fails to respond to an inquiry of the Department within the time requested shall be considered a separate violation and the Commissioner may impose the maximum penalty provided therefor by law; 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 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 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

FACTUAL ALLEGATIONS

IT APPEARING, that beginning on March 20, 2003 Respondent was a licensed non-resident insurance producer in the state of New Jersey; and

IT FURTHER APPEARING, that on December 21, 2015, Respondent was charged by indictment in the United States District Court, District of New Jersey, with one count of conspiracy to commit securities fraud and investment advisor fraud, two counts of securities fraud, and two counts of investment advisor fraud (“NJ Indictment”); and

IT FURTHER APPEARING, Respondent failed to notify the Department of the NJ Indictment within 30 days; and

IT FURTHER APPEARING, FINRA sent Respondent a Notice of Suspension on May 12, 2016; and

IT FURTHER APPEARING, Respondent did not notify the Department of the FINRA Notice of Suspension; and

IT FURTHER APPEARING, that on June 6, 2016, the Department sent a letter via regular and certified mail to Respondent requesting confirmation that he reported the NJ Indictment to the Department (“Confirmation Letter”); and

IT FURTHER APPEARING, that the Confirmation Letter was sent to the address on the Department’s records: 4021 Meadows Lane, Las Vegas, Nevada 89107; and

IT FURTHER APPEARING, that on June 12, 2016, the Confirmation Letter sent to Respondent was returned to the Department as “not deliverable as addressed”; and

IT FURTHER APPEARING, that Respondent did not notify the Department of his address change; and

IT FURTHER APPEARING, that Respondent's non-resident insurance producer license expired on August 16, 2016; and

IT FURTHER APPEARING, that the NJ Indictment was dismissed on June 2, 2017; and

IT FURTHER APPEARING, that on June 27, 2017, Respondent was charged by indictment in the United States District Court, District of Nevada, with two counts of filing false tax returns ("NV Indictment"); and

IT FURTHER APPEARING, that on May 2, 2018, a copy of the Confirmation Letter was sent to Respondent at his new address: 2283 Candlestick Avenue, Henderson, Nevada 89052; and

IT FURTHER APPEARING, that Respondent never responded to the Confirmation Letter indicating that he failed to report the NJ Indictment to the Department within 30 days; and

IT FURTHER APPEARING, that in February 2019, the Government offered Respondent a plea deal to plead guilty in the United States District Court for the District of New Jersey for filing false tax returns, in exchange for dropping the NV Indictment; and

IT FURTHER APPEARING, that in February 2019, Respondent pled guilty to the filing of false tax returns in the United States District Court for the District of New Jersey ("DNJ Plea Agreement"); and

IT FURTHER APPEARING, that on March 18, 2019, Respondent was convicted of filing false tax returns, in violation of 26 U.S. Code § 7206(1), in the U.S. District Court for the District of New Jersey; and

IT FURTHER APPEARING, the NV Indictment was dismissed on March 19, 2019; and

COUNT ONE

IT FURTHER APPEARING, that Respondent failed to notify the Department of the NJ Indictment within 30 days, in violation of N.J.S.A. 17:22A-40(a)(2), (18), and N.J.S.A. 17:22A-47(b); and

COUNT TWO

IT FURTHER APPEARING, that Respondent failed to notify the Department of the FINRA Notice of Suspension, in violation of N.J.S.A. 17:22A-40(a) (19) and N.J.S.A. 17:22A-47(c); and

COUNT THREE

IT FURTHER APPEARING, that Respondent failed to notify the Department of his address change within 30 days of the change, in violation of N.J.S.A. 17:22A-33(f), N.J.S.A. 17:22A-40(a)(2), and N.J.A.C. 11:17-2.8(f); and

COUNT FOUR

IT FURTHER APPEARING, that Respondent failed to respond to the Department's Confirmation Letter, in violation of N.J.A.C. 11:17A-4.8; and

NOW, THEREFORE, IT IS on this 15th day of ~~2020~~, January 2020

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-40(a); 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 of up to \$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-45(c);
and

IT IS FURTHER ORDERED, that Respondent appear and show cause why 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-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 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 Ashleigh B. Shelton at: Division of Law, P.O. Box 117, Trenton, NJ 08625. 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.



Marlene Caride
Commissioner