

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)
Ryan Fabian, Reference No. 1516598.)
_____)

ORDER TO SHOW CAUSE

TO: Ryan Fabian
2400 McClellan Avenue
Apt. E1408
Pennsauken, New Jersey 08109-4609

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

WHEREAS, Respondent was formerly licensed as a resident individual insurance producer in the State of New Jersey, pursuant to N.J.S.A. 17:22A-32(a), until January 31, 2017, 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(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 of 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-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)(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-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. 11:17C-2.4(a), an insurance producer shall issue a receipt for each premium for any payment, premium, deposit or installment payment which is submitted by personal delivery; 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 monies owed any person and reimbursement of costs of the investigation and prosecution; and

RESPONDENT'S PRIOR VIOLATIONS

IT APPEARING, that on October 7, 2016, Respondent signed Consent Order E16-98 for violations of the Producer Act related to failure to credit clients' premium payments to their accounts and failure to remit such premium payments to State Farm Insurance Company, in violation of N.J.S.A. 17:22A-40(a)(2), (4), and (8) and N.J.A.C. 11:17C-2.2(a) and (b); and

IT FURTHER APPEARING, that in Consent Order E16-98, Respondent agreed to pay a \$2,500.00 fine; and

IT FURTHER APPEARING, as of July 31, 2018, Respondent has only paid \$128 of the \$2,500 fine, and failed to make additional payments as agreed to under Consent Order E16-98, in violation of N.J.S.A. 17:22A-40(a); and

FACTUAL ALLEGATIONS

IT FURTHER APPEARING, that on September 16, 2016, Respondent was a resident licensed insurance producer employed with Bruce Coles Allstate Agency; and

IT FURTHER APPEARING, that on September 16, 2016, Respondent accepted three money orders of \$185.00 each, from "M.H." for the payment of the premium for M.H.'s Allstate auto insurance policy; and

IT FURTHER APPEARING, that M.H. left the "pay to" section of the money orders blank, and Respondent then entered his name in the "pay to" section on each of the September 16, 2016 money orders; and

IT FURTHER APPEARING, that Respondent endorsed his name on the back of each of the September 16, 2016 money orders; and

IT FURTHER APPEARING, that Respondent did not give M.H. receipts in exchange for the September 16, 2016 money orders; and

IT FURTHER APPEARING, that M.H. did not receive an auto insurance policy from Allstate Insurance in exchange for the three payments of \$185.00 he gave to Respondent; and

IT FURTHER APPEARING, that on October 4, 2016, Respondent was terminated by Bruce Coles, owner of Bruce Coles Allstate Agency where Respondent worked at the time of the violative acts; and

IT FURTHER APPEARING, that on November 23, 2016, Bruce Coles paid \$555.00 in premium to Allstate Insurance for a new auto insurance policy for M.H.; and

IT FURTHER APPEARING, that on January 25, 2017, the Gloucester Township Municipal Court issued a Summons and Complaint to Respondent, charging him with forgery and theft, in violation of N.J.S.A. 2C:21-1A(1) and N.J.S.A. 2C:20-3A, respectively, for “altering or changing a writing belonging to Allstate Insurance Agency . . . specifically by signing his name to three separate money orders from a customer who was purchasing car insurance and then cashing the money orders without processing them”; and

IT FURTHER APPEARING, that on May 3, 2017, Respondent entered into a Pretrial Intervention agreement in Camden County, for the above-mentioned conduct (“PTI Agreement”); and

IT FURTHER APPEARING, that the PTI Agreement ordered Respondent to pay \$555.00 in restitution to Bruce Coles; and

IT FURTHER APPEARING, that on May 3, 2017, a court order was issued by the Superior Court of New Jersey in Camden County, requiring Respondent to forfeit his New Jersey insurance producer license; and

COUNT ONE

IT FURTHER APPEARING, that Respondent committed fraudulent acts against M.H. in the conduct of doing insurance business, by failing to remit three money orders to Allstate Insurance Agency and misappropriating the funds for his own personal use, in violation of N.J.S.A. 17:22A-40(a)(2), (4), (8) and (16); and

COUNT TWO

IT FURTHER APPEARING, that Respondent failed to issue receipts for the money orders received from M.H., in violation of N.J.S.A. 17:22A-40(a)(2) and (8), and N.J.A.C. 11:17C-2.4(c); and

COUNT THREE

IT FURTHER APPEARING, that Respondent failed to pay the civil penalty under Consent Order E16-98, in violation of N.J.S.A. 17:22A-40(a)(2); and

NOW, THEREFORE, IT IS on this 01 day of December, 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