

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 licenses)
of Keith A. Ervin and United Integrity Group)
Inc., Reference Nos. 1004195 and 1038121.)

ORDER TO SHOW CAUSE

TO: Keith A. Ervin United Integrity Group Inc.
181 Scholls School Road 515 South End West Blvd., Ste. 1
Quakertown, PA 18951 Quakertown, PA 18951

THIS MATTER, having been opened by the Commissioner of Banking and Insurance (“Commissioner”), State of New Jersey, upon information that Keith A. Ervin and United Integrity Group Inc. (collectively, “Respondents”), may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Respondents are licensed as non-resident insurance producers in the State of New Jersey pursuant to N.J.S.A. 17:22A-34; and

WHEREAS, Respondents are 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 Trade Practices Act, N.J.S.A. 17B:30-1 to -57, and the Rules Governing Advertisement of Health Insurance, N.J.A.C. 11:2-11.1 to -11.22; 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)(7), an insurance producer shall not have admitted or has been found to have committed any insurance unfair trade practice or fraud; 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. 17B:30-2, no person shall engage in this State in any trade practice which is determined pursuant to the Trade Practices Act to be an unfair method of competition, or an unfair or deceptive act or practice in the business of life insurance, health insurance or annuity; and

WHEREAS, pursuant to N.J.S.A. 17B:30-4, no person shall make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance and annuities or with respect to any person in the conduct of his insurance and annuity business, which is untrue, deceptive or misleading; and

WHEREAS, pursuant to N.J.A.C. 11:2-11.2, advertisements shall be truthful and not misleading in fact or in implication. Words or phrases the meaning of which is clear only by implication or by familiarity with insurance terminology shall not be used; and

WHEREAS, pursuant to N.J.A.C. 11:2-11.5, all information required to be disclosed by these rules shall be set out conspicuously and in close conjunction with the statements in which such information relates or under appropriate captions of such prominence that it shall not be minimized, rendered obscure or presented in an ambiguous fashion or intermingled with the context of the advertisements so as to be confusing or misleading; and

WHEREAS, pursuant to N.J.A.C. 11:2-11.9(a), when a choice of the amount of benefits is referred to, an advertisement shall disclose that the amount of benefits provided depends upon the plan selected and that the premium will vary with the amount of the benefits; 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

WHEREAS, by Consent Order dated December 8, 2015, Respondents admitted that they caused to be made and disseminated a Medicare insurance mailing announcement, which contained statements which would leave the receiver to believe that the mailing had originated from a government agency and failed to identify the nature of the relationship between the insurance producer and the insurer, in violation of N.J.S.A. 17:22A-40(a)(2) and (8), N.J.A.C. 11:17A-2.6(a), and N.J.S.A. 17:29B-4(2); and

WHEREAS, by Consent Order dated December 8, 2015, Respondents also admitted that they moved the physical location of the business in January 2013, and failed to report the change to the Commissioner within thirty (30) days of the change, in violation of N.J.S.A. 17:22A-33(f) and N.J.A.C. 11:17-2.7(f)(2); and

WHEREAS, due to the December 8, 2015 Consent Order, the violations alleged in this Order to Show Cause constitute subsequent violations under N.J.S.A. 17:22A-45(c); and

COUNT ONE

IT APPEARING, that starting October 9, 2003, Respondent, Keith A. Ervin, became a non-resident licensed insurance producer in the State of New Jersey; and

IT APPEARING, that starting May 3, 2005, Respondent, United Integrity Group Inc., became a non-resident licensed insurance producer in the State of New Jersey; and

IT APPEARING, that Keith A. Ervin is the owner, president, and designated responsible licensed producer (“DLRP”) of United Integrity Group, Inc.; and

IT APPEARING, that United Integrity Group, Inc. represents several insurance carriers; and

IT APPEARING, that in April 2016, Respondents made and disseminated an advertisement, in the form of a flyer (“Flyer”), for Medicare Supplement Policies, which were disseminated to thousands of individuals, some of whom reside in New Jersey, over a period of approximately sixty (60) days; and

IT APPEARING that, the Flyers failed to identify the name of the insurer and the name of the policy by form number or description; and

IT APPEARING that, the rates advertised in the Flyers pertained to Cigna and Aetna Medicare Supplement Policies; and

IT APPEARING that, the rates advertised in the Flyers did not accurately represent rates for Medicare Supplement Policies issued by Cigna or Aetna at that time; and

IT APPEARING that, Cigna does not offer Medical Supplement Policies in New Jersey, although its subsidiary, Loyal American Life Insurance Company does; and

IT FURTHER APPEARING, that by making and disseminating to the public the Flyer, which failed to identify the name of the insurer and the name of the policy by form number or description, Respondents violated N.J.S.A. 17:22A-40(a)(2) and (8), N.J.S.A. 17B:30-4, N.J.A.C. 11:2-11.2, N.J.A.C. 11:2-11.5, and N.J.A.C. 11:2-11.9(a); and

NOW, THEREFORE, IT IS on this 28 day of May, 2021,

ORDERED, that Respondent appear and show cause why the Commissioner should not assess a civil penalty not exceeding \$5,000.00 for the first violation, and not exceeding \$10,000.00 for each subsequent violation of the Producer Act, and order Respondents 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 Respondents appear and show cause why they 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 Respondents have 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 Respondents, 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 Chandra M. Arkema at: Division of Law, P.O. Box 117, Trenton, NJ 08625, fax (609) 777-3503. The request shall contain the following:

- (a) Respondent's full name, current 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 the hearing.



Marlene Caride
Commissioner