

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 producer
license of Abdulrasheed Berte, Reference No.
1659525

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) **ORDER TO SHOW CAUSE**
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TO: Abdulrasheed Berte
125 W. 228th St., Apt. 10L
Bronx, NY 10463

This matter, having been opened by the Commissioner of Banking and Insurance (“Commissioner”), State of New Jersey, upon information that Abdulrasheed Berte (“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 insurance producer in the State of New Jersey, pursuant to N.J.S.A. 17:22A-32(a), until January 31, 2020, 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”), and 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, 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.A.C. 11:17A-4.10, an insurance producer acts in a fiduciary capacity in the conduct of his or her insurance business; 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; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40(a)(7), an insurance producer shall not commit 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. 17:22A-40(a)(9), an insurance producer shall not have an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40(a)(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-40(a)(16), an insurance producer shall not commit any fraudulent act; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40(a)(18), an insurance producer shall not fail to 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 this State, or the initiation of formal disciplinary proceedings in a state, other than this State, affecting the producer's insurance license; and

WHEREAS, pursuant to N.J.S.A. 17:22A-47(a), an insurance producer shall report to the Commissioner any administrative action taken against the insurance producer in another jurisdiction or by another governmental agency in this State within 30 days of the final disposition of the matter. The report shall include a copy of the order, consent order or other relevant legal documents; and

WHEREAS, pursuant to N.J.A.C. 11:17A-4.8, an insurance producer shall reply, in writing, to any inquiry of the of the Department relative to the business of insurance within the time requested in said inquiry, or no later than 15 calendar days from the date the inquiry was made or mailed in cases where no response time is given; 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 in accordance with N.J.S.A. 17:22A-45(c), or any combinations of actions for violations of the Producer Act; and

WHEREAS, pursuant to N.J.S.A. 17:22A-45(a), the Commissioner shall have the power to conduct investigations, to administer oaths, to interrogate licensees and others, and to issue subpoenas to any subpoena to any licensee or any other person in connection with any investigation, hearing or other proceeding without fee; 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; 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-4(a)(4)(b), a person violates the Fraud Act if he or she 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; and

WHEREAS, pursuant to N.J.S.A. 17:33A-4(a)(5), no person shall conceal or knowingly fail to disclose any evidence, written or oral, which may be relevant to a finding that a violation of the provisions of paragraph (4) of this subsection a. has or has not occurred; and

WHEREAS, pursuant to N.J.S.A. 17:33A-5(a) and 5(c), 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 in accordance with N.J.A.C. 11:16-7.9(c); 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

FACTS COMMON TO ALL COUNTS

IT APPEARING, that at all relevant times, United of Omaha Life Insurance Company was an insurance carrier ("Omaha") admitted to transact business in New Jersey; and

IT FURTHER APPEARING, that at all relevant times, National Western Life Insurance Company was an insurance carrier ("NWL") admitted to transact business in New Jersey; and

IT FURTHER APPEARING, that at all relevant times, Omaha and NWL solicited and sold term life insurance policies in New Jersey; and

IT FURTHER APPEARING, that on May 15, 2018, Respondent entered into an appointment contract with Omaha, which was terminated on March 4, 2019 due to Respondent providing false, fictitious, or forged applications for insurance; and

IT FURTHER APPEARING, that on March 19, 2019, Respondent entered into an appointment contract with NWL, which was terminated on June 6, 2019 due to Respondent providing incorrect, misleading, incomplete, or materially untrue information in an application for insurance; and

IT FURTHER APPEARING, that from July 2018 through May 2019, Respondent transmitted 18 applications for term life insurance to Omaha ("Omaha Applications"), and 7 applications for term life insurance to NWL ("NWL Applications"), which contained the names

of some real individuals, but with fictitious identifying information about the applicants such as fabricated banking, employment and contact information; and

IT FURTHER APPEARING, that each of the 25 applications for term life insurance policies contained fraudulent and forged signatures; and

IT FURTHER APPEARING, that each of the 25 applications for term life insurance contained an electronic signature purporting to be that of the applicant; and

IT FURTHER APPEARING, for each of the 25 applications for term life insurance, Respondent transmitted to NWL and Omaha an Agent's Report or Producer's Statement, certifying that he met with the applicant in person and that all information in the application was true and accurate according to the applicant; and

IT FURTHER APPEARING, for each of the 25 applications for term life insurance, Respondent provided fictitious bank account information and a forged electronic signature purporting to be that of the applicant for the bank authorizations required for each of the 25 applications for term life insurance; and

IT FURTHER APPEARING, that NWL and Omaha received from Respondent the 25 applications for term life insurance policies and issued some term life insurance policies as a result; and

IT FURTHER APPEARING, that out of the 7 applications for term life insurance Respondent submitted to NWL, 5 applications for insurance passed underwriting and term life insurance policies were issued, resulting in a total advance commission of \$10,273.08 for Respondent, of which \$10,273.08 is still due and owed to NWL for the unearned commissions; and

IT FURTHER APPEARING, none of the real individuals named as applicants in the 25 applications for term life insurance policies authorized Respondent to submit an application to NWL or Omaha on their behalf; and

IT FURTHER APPEARING, none of the real individuals named as applicants in the 25 applications for term life insurance policies submitted to NWL or Omaha met with Respondent; and;

IT FURTHER APPEARING, none of the real individuals named as applicants in the 25 applications for term life insurance policies electronically signed, or authorized Respondent to electronically sign, their name to any term life insurance policy application, or pre-authorization agreement for any bank withdrawals; and

IT FURTHER APPEARING, as a result of the 25 fraudulent applications, Respondent was terminated from NWL and Omaha “for cause;” and

IT FURTHER APPEARING, on or about May 20, 2019, as a result of the fraudulent Omaha Applications, Respondent voluntarily surrendered his producer license for 10 years with the North Carolina Department of Insurance; and

IT FURTHER APPEARING, on or about October 9, 2019, as a result of the fraudulent NWL Applications, Respondent’s insurance license with the Louisiana Department of Insurance was revoked; and

IT FURTHER APPEARING, Respondent reported the North Carolina regulatory action but failed to report the Louisiana regulatory action to the Commissioner; and

IT FURTHER APPEARING, Respondent failed to cooperate with the New Jersey Department of Banking and Insurance’s (“Department”) investigation, by failing to appear before

the Department for a scheduled interview and by failing to respond to the multiple phone calls and emails sent to him by the Department; and

IT FURTHER APPEARING, Respondent failed to respond to a Department Subpoena dated February 21, 2020, commanding his appearance at the Department for questioning; and

COUNT ONE

IT FURTHER APPEARING, Respondent submitted 25 applications for term life insurance to Omaha or NWL with knowledge that the applications contained false or fraudulent employment, banking or personal information regarding the named insureds, and forged the named insureds' signatures on said applications in violation of N.J.S.A. 17:22A-40a(2), (5), (7), (8), (10) and (16); and

COUNT TWO

IT FURTHER APPEARING, Respondent submitted 25 applications for term life insurance policies to NWL or Omaha, knowing that each of these applications contained fictitious insured information and/or forgeries of insureds' signatures, and other false or misleading information concerning any fact or thing material to the application or contract in violation of N.J.S.A. 17:33A-4(a)(4)(b) -4(a)(5); and

COUNT THREE

IT FURTHER APPEARING, as a result of the fraudulent Omaha Applications, Respondent voluntarily surrendered his producer license for 10 years with the North Carolina Department of Insurance, and as a result of the fraudulent NWL Applications, Respondent's insurance license with the Louisiana Department of Insurance was revoked in violation of N.J.S.A. 17:22A-40(a)(9);

COUNT FOUR

IT FURTHER APPEARING, Respondent failed to report the Louisiana regulatory action that resulted in the revocation of Respondent's insurance license in violation of N.J.S.A. 17:22A-40(a)(18) and N.J.S.A. 17:22A-47(a); and

COUNT FIVE

IT FURTHER APPEARING, Respondent failed to cooperate with the Department's investigation in violation of N.J.S.A. 17:22A:-40(a)(2), N.J.S.A. 17:22A-45(a) and N.J.A.C. 11:17A-4.8; and

COUNT SIX

IT FURTHER APPEARING, Respondent failed to comply with the Department Subpoena dated February 21, 2020 in violation of N.J.S.A. 17:22A:-40(a)(2), N.J.S.A. 17:22A-45(a) and N.J.A.C. 11:17A-4.8; and

NOW, THEREFORE, IT IS on this 21 day of March , 2022

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 \$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 as authorized pursuant to N.J.S.A. 17:22A-45(c); and

IT IS FURTHER ORDERED, that Respondent appear and show cause why the Commissioner should not assess a penalty of not more than \$5,000 for the first violation, \$10,000 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-5(c); and

IT IS FURTHER ORDERED, that Respondent appear and show cause why the Commissioner should not assess costs of prosecution, including attorneys' fees, pursuant to N.J.S.A. 17:33A-5(c); and

IT IS FURTHER ORDERED, that Respondent appear and show cause why the Commissioner should not assess a surcharge in the amount of \$1,000.00 against Respondent, pursuant to 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 Telge N. Peiris at Division of Law, Banking and Insurance Section, 25 Market Street, P.O. Box 117, Trenton, NJ 08625-0117, or by faxing the hearing request to (609) 292-5337. 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