

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF:

)	ORDER TO SHOW CAUSE
Proceedings by the Commissioner of)	
Banking and Insurance, State of New Jersey,)	
to fine, suspend and/or revoke the insurance)	
producer license of Carl L. Ellen, Reference)	
No. 8027804.)	
)	

TO: Carl L. Ellen
180 LAFAYETTE AVE
APT 8H
PASSAIC, NJ 07055-4719

This matter, having been opened by the Commissioner of Banking and Insurance, State of New Jersey (“Commissioner”), upon information that Carl L. Ellen (“Ellen” or “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 insurance producer by the State of New Jersey pursuant to N.J.S.A. 17:22A-34(a), which license expired on August 31, 2020; 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 as well as the New Jersey Insurance Fraud Prevention Act, N.J.S.A. 17:33A-1 to -30 (“Fraud Act”); 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 this 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 this 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-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)(8), an insurance producer shall not use fraudulent, coercive or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of insurance business in this State or elsewhere

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. 17:33A-4(a)(4)(b), it is also a violation of the Fraud Act to prepare or make 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. 17:22A-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

WHEREAS, pursuant to N.J.S.A. 17:33A-5(a) and (c), violations of the Fraud Act subject the violator to a civil and administrative penalty not to exceed \$5,000.00 for the first offense, not to exceed \$10,000.00 for the second offense and not to exceed \$15,000.00 for each subsequent offense; moreover, the Commissioner may issue a final order recovering 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

FACTUAL ALLEGATIONS

IT APPEARING, that at all relevant times, Respondent was an insurance producer licensed in the State of New Jersey, and approved to sell automobile insurance policies issued through the New Jersey Automobile Insurance Plan ("N.J. Plan"); and

IT FURTHER APPEARING, that on or about January 24, 2018, Respondent submitted to the N.J. Plan a "Special Automobile Insurance Policy ("SAIP")" application on behalf of Carlton L. Ellen ("Carlton"), the son of Respondent; and

IT FURTHER APPEARING, that in support of Carlton's SAIP application, Respondent submitted a copy of a State of New Jersey Health Benefits Identification Card in the name of "Carlton Ellen" with an identification number ending "8901"; and

IT FURTHER APPEARING, that on or about February 21, 2018, Respondent next submitted a SAIP Application to the N.J. Plan on behalf of himself; and

IT FURTHER APPEARING, that in support of his SAIP application, Respondent falsely represented that he was Medicaid dependent and submitted a copy of a State of New Jersey Health Benefits Identification Card which was fraudulent in that the name on the card was “Carl Ellen” but the identification number ended in “8901” which was, in fact, assigned to Respondent’s son Carlton; and

IT FURTHER APPEARING, that upon discovering the discrepancy with Respondent’s State of New Jersey Health Benefits Identification Card, the N.J. Plan investigated and determined that the New Jersey state health benefits program had never issued an identification card to the Respondent, and therefore denied Respondent’s SAIP application; and

IT FURTHER APPEARING, that the N.J. Plan directed Respondent to appear before a peer review panel to address the bona fides of his SAIP application, but Respondent refused to appear and instead submitted a written statement to the N.J. Plan advising “I plead guilty” and “request that my license be terminated immediately”; and

COUNT ONE

IT FURTHER APPEARING, that Respondent engaged in fraudulent conduct in connection with applying for a “Special Automobile Insurance Policy” with the N.J. Plan in that Respondent falsely represented that he was Medicaid dependent and submitted a fraudulent copy of a State of New Jersey Health Benefits Identification Card in his name that contained the identification number assigned to his son Carlton and not to Respondent, in violation of N.J.S.A. 17:22A-40(a)(2), (5), (8) and (16), and N.J.S.A. 17:33A-4(a)(4)(b); and

NOW, THEREFORE, IT IS on this 25th day of JANUARY, 2024

ORDERED, that Respondent appear and show cause why his New Jersey insurance producer license should not be 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 the Commissioner should not assess a civil penalty of not more than \$5,000.00 for the first violation, \$10,000.00 for the second offense and \$15,000.00 for each subsequent violation of the Fraud Act offense; and order Respondent to pay costs of prosecution, including attorneys' fees in accordance with N.J.A.C. 11:16-7.9(c); and

IT IS FURTHER ORDERED, that Respondent appear and show cause why, in addition to any other penalty or fine for violating the Fraud Act, Commissioner should not assess a surcharge in the amount of \$1,000.00 pursuant to N.J.S.A. 17:33A-5.1; and

IT IS FURTHER ORDERED, that Respondent appear and show cause why, in addition to any other penalty, Commissioner should not order Respondent 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 their 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 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.


Justin Zimmerman
Acting Commissioner