

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 Kim Fatzer a/k/a Kim Marie DiGiacomo,)
Reference No. 19-52598-35.)
_____)

ORDER TO SHOW CAUSE

TO: Kim Fatzer a/k/a Kim Marie DiGiacomo
12 Lagoon Trail
Kinnelon, New Jersey 07405

THIS MATTER, having been opened by the Commissioner of Banking and Insurance (“Commissioner”), State of New Jersey, upon information that Kim Fatzer, a/k/a Kim Marie DiGiacomo (“Respondent”), may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Respondent is currently licensed as a resident insurance producer in the State of New Jersey pursuant to N.J.S.A. 17:22A-32(a); 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 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, the regulations governing Insurance Producer Standards of Conduct, N.J.A.C. 11:17A-1.1

to 11:17D-2.8 and the Persons Employed in the Business of Insurance regulations, N.J.A.C. 11:17E-1.1 to-1.7; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40(a)(2), an insurance producer shall not violate any insurance laws, or violate any 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 have admitted or 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 the 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.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 licensee or any other person in connection with any investigation, hearing or other proceeding pursuant to this act, without fee; 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

WHEREAS, pursuant to N.J.S.A. 17:33A-4(a)(4)(b), no person shall 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 contact; 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 N.J.S.A. 17:33A-4(a)(4) has or has not occurred violates the Act; 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

ALLEGATIONS COMMON TO ALL COUNTS

IT APPEARING, that since May 29, 2014 the Respondent is an active licensed Insurance Producer (“License No. 1550076”) in the State of New Jersey, and has been since May 29, 2014; and

IT FURTHER APPEARING, that beginning on April 14, 2005, Respondent maintained an automobile insurance policy issued by New Jersey Manufacturers Insurance Company (“NJM”) with a policy number ending in 6298 (“Policy”); and

IT FURTHER APPEARING, that as of September 29, 2018, the Policy covered a 2017 Kia Sportage SUV, vehicle identification number (“VIN”) ending in 1354 (“Kia”) with Beverly Di Giacomo, age 74, and the Respondent, age 52, listed as household resident drivers at the Policy address of 12 Lagoon Trail, Kinnelon, New Jersey 07405 (“Policy Address”); and

IT FURTHER APPEARING, that as of September 29, 2018, the annual premium for the Policy was \$1,893.00; and

IT FURTHER APPEARING, that on October 8, 2018, Respondent’s son, Jared Fater (“Jared”), turned seventeen years of age and became licensed to drive; and

IT FURTHER APPEARING, that on October 13, 2018, at 2:58 p.m., the Respondent called NJM and requested an annualized price quote (“First October 13 Call”) to add a 2013 Volkswagen Jetta SE with a VIN ending in 5347 (“Jetta”) to the Policy, registered to Jared at the Policy Address and with Jared identified as the principal driver; and

IT FURTHER APPEARING, that on the First October 13 Call, the Respondent indicated that Jared would use the vehicle to commute to school approximately three (3) miles per day and would drive approximately six thousand (6,000) miles annually; and

IT FURTHER APPEARING, that on the First October 13 Call, NJM advised the Respondent that the annual premium for the price quote would total \$4,902.00 for full coverage and \$2,222.00 for liability coverage only, to which the Respondent responded, “that’s crazy; that’s insane; \$5,000.00 is out of control” and declined to add the Jetta to the Policy; and

IT FURTHER APPEARING, that on October 13, 2018, at 3:08 p.m., the Respondent contacted NJM (“Second October 13 Call”) from the same telephone number as the First October 13 Call, and falsely identified herself as Joanne Testino (“J. Testino”), the Respondent’s aunt; and

IT FURTHER APPEARING, that on the Second October 13 Call, while impersonating J. Testino, the Respondent added the Jetta to an NJM automobile policy ending 707-4 in the name of Robert Testino (“R. Testino”), the Respondent’s uncle and J. Testino’s husband, with a policy address of 11 Catherine Street, Totowa, New Jersey (“Testino NJM Policy”) and falsely claimed that J. Testino and R. Testino were the only household residents or drivers with regular access to the vehicle, which resulted in an additional annual premium of \$521.00; and

IT FURTHER APPEARING, that R. Testino and/or J. Testino never owned, registered or operated the Jetta; and

IT FURTHER APPEARING, that on October 22, 2018, NJM removed the Jetta from the Testino Policy after an investigation revealed that the Respondent had impersonated J. Testino on the Second October 13 Call to add the Jetta to the Testino Policy for Jared’s use; and

IT FURTHER APPEARING, that on January 23, 2020, during a joint interview with a Department Investigators the Respondent admitted to impersonating J. Testino on the Second October 13 Call to secure insurance for her son Jared, and claimed that stress from a divorce and a desire to obtain affordable insurance for her son influenced her fraudulent application; and

IT FURTHER APPEARING, that on April 18, 2017, Respondent entered into a Consent Order with the Department whereby she admitted to violating various insurance laws by submitting two applications to American Family Assurance Company of Columbus on behalf of two employees of a business named RJF, knowing that they were not eligible RJF employees, in violation of N.J.S.A. 17:22A-40a(2), (5) and (8); and

COUNT ONE
(Fraud Act)

IT FURTHER APPEARING, that Respondent, by falsely identifying herself as J. Testino to NJM on the Second October 13 Call for the purpose of fraudulently adding her son Jared to the existing Testino NJM Policy at a reduced premium, prepared or made a written or oral statement, intended to be presented to an insurance company for the purpose of obtaining an insurance policy, knowing that the statement contained any false or misleading information concerning any fact or thing material to an insurance application, in violation of N.J.S.A. 17:33A-4(a)(4)(b), and N.J.S.A. 17:33A-4(a)(5); and

COUNT TWO
(Producer Act)

IT FURTHER APPEARING, that Respondent, by falsely identifying herself as J. Testino to NJM on the Second October 13 Call for the purpose of fraudulently adding her son Jared to the existing Testino NJM Policy at a reduced premium, the Respondent intentionally misrepresented the terms of an actual or proposed insurance contract, policy or application for insurance, in violation of N.J.S.A. 17:22A-40(a)(2), (5), (7), (8), and (16); and

NOW, THEREFORE, IT IS on this 17 day of February , 2026,

ORDERED that Respondent appear and show cause why her New Jersey insurance producer license should not be 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 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 Respondent to pay restitution of moneys owned to any person, pursuant to the provisions of N.J.S.A. 17:22A-45(c); and

IT IS FURTHERED ORDERED, that Respondent appear and show cause why she should not be required to reimburse the Department for the cost of the investigation and prosecution, as authorized pursuant to N.J.S.A. 17:22-45(c); 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 offense, up to \$10,000.00 for the second offense, and up to \$15,000.00 for each subsequent offense of the Fraud Act, pursuant to N.J.S.A. 17:33A-5(c) and N.J.A.C. 11:16-7.9(a); and

IT IS FURTHER ORDERED, that Respondent appear and show cause why the Commissioner should not impose a \$1,000.00 surcharge against her in accordance with 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 her 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 Matthew Gervasio,

Supervisor 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 hearing shall also be sent to Deputy Attorney General Sean Healy at: Division of Law, P.O. Box 117, Trenton, New Jersey 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; and
- (c) A statement requesting the hearing.



Susan Ochs
Commissioner