

FINAL ORDER NO. E14-80

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 and)
revoke the insurance producer)
license of Jovani Morales,)
Reference No. 1383137)

FINAL ORDER

TO: Jovani Morales
435 Exeter Street
Orlando, FL 32820-3043

This matter, having been opened by the Commissioner of Banking and Insurance ("Commissioner"), State of New Jersey, upon information that JOVANI MORALES ("Morales" or "Respondent"), may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Respondent Morales was a licensed resident insurance producer in the State of New Jersey pursuant to N.J.S.A. 17:22A-32, until the license expired on or about February 28, 2014; and

WHEREAS, Respondent is subject to the provisions of the New Jersey Insurance Producer Licensing Act, ("Producer Act") N.J.S.A. 17:22A-26 et seq.; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(2), an insurance producer shall not violate any insurance law, regulation, subpoena, or order of the Commissioner; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(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-40a(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; and

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

WHEREAS, pursuant to N.J.S.A. 17:22A-33(f), an insurance producer shall inform the Commissioner by any means acceptable to the Commissioner of a change of address within 30 days of the change; and

WHEREAS, pursuant to N.J.A.C. 11:17-2.7(f), all licensees shall provide in the format prescribed by the Department, notification of any change of business mailing or location address, residence address, phone numbers and email addresses within 30 days of the change and maintain a proof of

notification for five years or until receipt or other documentation from the Department showing the new address; and

IT APPEARING, that Robert Hagaman is currently a licensed resident insurance producer in the State of New Jersey pursuant to N.J.S.A. 17:22A-32; and

IT FURTHER APPEARING, that The Medicare Store is currently a licensed resident insurance producer in the State of New Jersey pursuant to N.J.S.A. 17:22A-32; and

IT FURTHER APPEARING, that Robert Hagaman is the sole owner and Designated Responsible Licensed Producer ("DRLP") for The Medicare Store; and

IT FURTHER APPEARING, that Respondent Morales was at all relevant times an employee of Robert Hagaman and The Medicare Store; and

IT FURTHER APPEARING, that Geisinger Health Plan ("Geisinger") is a Health Management Organization; and

WHEREAS, the Commissioner issued Order to Show Cause No. E14-54 on May 5, 2014 ("OTSC") alleging violations of the New Jersey Insurance laws, to Respondent Morales as set forth in the following Counts:

COUNT 11

IT FURTHER APPEARING, that Respondent Morales was not at any time a licensed agent for Geisinger; and

IT FURTHER APPEARING, that on or about December 28, 2012, Respondent Morales met with consumers "AT and VT", on behalf of The Medicare Store, and attempted to sell them a Geisinger Health Plan; and

IT FURTHER APPEARING, that Respondent Morales misrepresented the terms of the Geisinger plan to AT and VT by stating they could use their original Medicare for any out of network doctor, when in fact they could not; and

IT FURTHER APPEARING, that this instance, where Respondent Morales attempted to sell coverage for a provider he was not an agent for, and misrepresented a Medicare coverage plan to a consumer, constitutes violations of N.J.S.A. 17:22A-40a(2), (5), (8), (16); and

COUNT 15

IT FURTHER APPEARING, that Respondent Morales' address of record with the Department was listed as 21 Webb Ave #2, Ocean Grove, NJ 07756; and

IT FURTHER APPEARING, that on or about April 9, 2013, Respondent Morales changed his mailing address with the United States Postal Service, to 435 Exeter Street, Orlando, FL 32820; and

IT FURTHER APPEARING, that Respondent Morales did not notify the Department of his change in address; and

IT FURTHER APPEARING, that this instance, where Respondent Morales failed to inform the Commissioner of a change of address within 30 days of the change, constitutes violations of N.J.S.A. 17:22A-40a(2), (8), N.J.S.A. 17:22A-33(f), and N.J.A.C. 11:17C-2.7(f)(2); and

IT FURTHER APPEARING, that as set forth in the Certification of Service of Ryan S. Schaffer, Deputy Attorney General, attached hereto as Exhibit A, Respondent was given notice of the aforesaid charges and an opportunity to contest the charges at a hearing pursuant to Order to Show Cause No. E14-54, which was duly served by certified and regular mail to the addresses listed in the OTSC and this Final Order, in accordance with N.J.A.C. 11:17D-2.1(a)3; and

IT FURTHER APPEARING, that although due notice of the charges provided an opportunity to oppose the allegations, Respondent failed to provide a written response to the charges contained in Order to Show Cause No. E14-54 within 20 days as provided by N.J.A.C. 11:17D-2.1(d), and therefore, Respondent has waived his right to a hearing to contest these charges and the charges are deemed admitted, pursuant to N.J.A.C. 11:17D-2.1(b).

NOW, THEREFORE, IT IS on this 15th day of July, 2014

ORDERED, that the charges contained in Order to Show Cause No. E14-54 are deemed admitted by Respondent, pursuant N.J.A.C. 11:17D-2.1(b); and

IT IS FURTHER ORDERED, that pursuant to N.J.S.A. 17:22A-40 and N.J.A.C. 11:17D-2.1(b)(2), the expired resident

insurance producer license of Respondent Jovani Morales is REVOKED effective upon the execution of this Final Order by the Commissioner; and

IT IS FURTHER ORDERED, that pursuant to N.J.S.A. 17:22A-45c, Respondent Jovani Morales shall be responsible for the payment of civil penalties totaling \$5,250.00 to the Commissioner for the violations contained in Order to Show Cause No. E14-54, which aggregate amount has been determined as follows:

- a. \$5,000.00 for the violations of the Producer Act described in Count 11 of Order to Show Cause No. E14-54 for attempting to sell coverage for a provider he was not an agent for, and misrepresenting a Medicare coverage plan to consumers; and
- b. \$250.00 for the violations of the Producer Act as described in Count 15 of Order to Show Cause No. E14-54, pursuant to N.J.A.C. 11:17D-2.4(a)1, for failing to inform the Commissioner of a change of address within 30 days of the change; and

IT IS FURTHER ORDERED, that pursuant to N.J.S.A. 17:22A-45c, Respondent Jovani Morales shall be responsible for the reimbursement to the Commissioner of the costs of investigation totaling \$1,625.00. A true and exact copy of the

Certification of Eugene Shannon, Department of Banking and Insurance Investigator, is attached hereto as Exhibit B; and

IT IS FURTHER ORDERED, that Respondent shall pay the above fines and costs of investigation totaling \$6,875.00 in full by remitting payment to the Commissioner of Banking and Insurance, State of New Jersey, 20 West State Street, P.O. Box 329, Trenton, New Jersey 08625, Attention: Virgil Downtin, Chief of Investigations by certified check, cashier's check or money order made payable to the "State of New Jersey, General Treasury," within ten (10) days from the date of service of this Order; and

IT IS FURTHER ORDERED, that in the event full payment of the fines and costs is not made, the Commissioner may exercise any and all remedies available by law, including but not limited to recovery of any unpaid penalties, in accordance with The Penalty Enforcement Law, N.J.S.A. 2A:58-10 et seq.; and

IT IS FURTHER ORDERED, that the fines in this Final Order are imposed pursuant to the police powers of the State of New Jersey for the enforcement of the law and the protection of the public health, safety and welfare, and are not intended to constitute debts which may be limited or discharged in a bankruptcy proceeding; and

IT IS FURTHER ORDERED, that the provisions of this Final Order represent a final agency decision and constitute a final resolution of the allegations contained in Order to Show Cause No. E14-54 as to Respondent Jovani Morales.

A handwritten signature in black ink, appearing to read 'Peter L. Hartt', written over a horizontal line.

Peter L. Hartt
Acting Director of Insurance

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JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiff
Richard J. Hughes Justice Complex
25 Market Street
P. O. Box 117
Trenton, New Jersey 08625

By: Ryan S. Schaffer
Deputy Attorney General
NJ Attorney ID No. 058152013
(609)292-7669
Ryan.Schaffer@dol.lps.state.nj.us

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE

Proceedings by the Commissioner of)	
Banking and Insurance, State of)	CERTIFICATION OF
New Jersey to fine and revoke)	DEPUTY ATTORNEY GENERAL
the insurance producer license of)	RYAN S. SCHAFFER
Jovani Morales, Reference No.)	
1383137.)	

I, Ryan S. Schaffer, of full age, do of my own personal knowledge make the following statements by way of certification in lieu of affidavit pursuant to R. 1:4-4(b):

1. I am a Deputy Attorney General assigned as counsel for the New Jersey Department of Banking and Insurance ("Department") in the above matter. I submit this certification in support of the Department's request that a Final Order be entered against Jovani Morales ("Morales") and specifically to establish that proper service of Order to Show Cause No. E14-54 was made upon Morales.

2. The Commissioner of the Department issued Order to Show Cause No. E14-54 on May 5, 2014.

3. By letter dated May 7, 2014, my office attempted to serve a copy of the OTSC No. E14-54 upon Morales via regular and certified mail, return receipt requested, at the following, last known home addresses for Morales on file with the Department:

435 Exeter Street
Orlando, FL 32820-3043

4. The Certified mailing sent to Morales continues to be unclaimed. The regular mailing sent to Morales was not returned to this office.

5. On or about May 30, 2014, the Department received an undated letter from Morales stating that he is writing in response to the letter he recently received from the Department. Morales' letter was not a sufficient response to OTSC No. E14-54. The letter's envelope displayed the return address of:

6463 Forecastle Court
Orlando, FL 32807

5. On or about May 30, 2014, I spoke with Morales via telephone. Morales confirmed that he received OTSC No. E14-54 by mail. I informed Morales that his undated letter, received May 30, 2014, was not a sufficient response to OTSC No. E14-54 and that he must answer the OTSC within the time specified.

6. On or about May 30, 2014, I mailed to Morales a letter memorializing the content of our conversation on the same date.

Specifically, I notified Morales that his undated letter was not an acceptable response to OTSC No. E14-54. I enclosed a copy of OTSC No. E14-54. The letter, mailed to 6463 Forecastle Court, Orlando, FL 32807, has not been returned to this office.

7. Pursuant to N.J.A.C. 11:17D-2.1(a)3, service of the Order to Show Cause in this manner constitutes lawful service upon Morales.

8. To date, Morales has not filed an answer nor requested a hearing to contest the allegations set forth in Order to Show Cause No. E14-54.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: July 11, 2014



Ryan S. Schaffer
Deputy Attorney General

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JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiff
Richard J. Hughes Justice Complex
25 Market Street
P. O. Box 117
Trenton, New Jersey 08625

By: Ryan S. Schaffer
Deputy Attorney General
NJ Attorney ID No. 058152013
(609)292-7669
Ryan.Schaffer@dol.lps.state.nj.us

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE

Proceedings by the Commissioner of)
Banking and Insurance, State of) CERTIFICATION OF CIVIL
New Jersey to fine and revoke) INVESTIGATOR EUGENE SHANNON
the insurance producer license of)
Jovani Morales, Reference No.)
1383137.)

I, Eugene Shannon, of full age, do of my own personal knowledge make the following statements by way of certification in lieu of affidavit pursuant to R. 1:4-4(b):

1. I am an Investigator employed by the New Jersey Department of Banking and Insurance ("Department"). I was the Civil Investigator assigned to the within matter and I am fully familiar with the facts of this case.

2. In accordance with N.J.S.A. 17:22A-45(c), the Department is entitled to reimbursement of its cost of investigation and prosecution.

3. To determine the amount of time that this investigator


spent in the investigation and prosecution of this matter, I reviewed the Department's file(s) relative to this matter, including this investigator's time records. On the basis of this review I have prepared the schedule attached hereto as Exhibit A.

4. As this schedule reflects, I personally spent at least 32.5 hours investigating and prosecuting this matter.

5. Pursuant to N.J.A.C. 11:1-32.4(b)(20), costs to the Department for the investigation and prosecution for violations of the New Jersey Insurance Producer Licensing Act, N.J.S.A. 17:22A-40, are reimbursable at the rate of \$50.00 per hour, rounded to the nearest quarter hour.

6. The Department requests that the Department's costs of investigation and prosecution be reimbursed in the amount of \$1,625.00.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.


Eugene Shannon
Investigator

Dated: 7/11/2014

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State of New Jersey
 DEPARTMENT OF BANKING AND INSURANCE
 CONSUMER PROTECTION SERVICES
 PO BOX 329
 TRINTON, NJ 08625-0329

CHRIS CHRISTIE
 Governor

KENNETH E. KOBYLOWSKI
 Commissioner

Exhibit A

**RECORD OF TIME EXPENDED ON
 INVESTIGATION AND/OR PROSECUTION**

Re: Jovani Morales
 Department File No.: 155247
 Investigator: Eugene Shannon

Date	Time in Hours	Phone	Case Prep	Comments
2/20/13	1.5			Review complaint documents, identify respondents, email Carrier
2/28/13	3			Review response from Carrier
3/6/13	2			Obtain and review license documents
3/12/13	1			Correspondence to Respondents
3/13/13	5			Interview Complainant, copy documents
3/22/13	2	Interview Hagaman		Review Hagaman response
3/25/13	1			Interview witness
4/4/13	2			Request to Hagaman, Letters to Morales
5/3/13	2			USPS tracking and address update
5/6/13	2		Investigative Report	
5/9/13	1			Interview Geisinger
5/14/13	2		F&E Report	
3/14/13	1			Consult with DAG
4/22/14	1		Review OTSC	
2/20-5/9/13	3	Various		Carrier, respondent, agencies

5/30/14	1			Review contact from Morales, update address with DAG
6/3/14	1			Review response to OTSC from Hagaman
6/25/14	1			Prepare schedule of costs
TOTAL:	Hours	32.5		
Hours @ \$50 x hrs	= \$1,625.00			