

ORDER TO SHOW CAUSE NO. E15-81

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 Catarina Young,)
Reference No. 0300271, and)
Elite Benefits Corp.,)
Reference No. 0332316)

**FIRST AMENDED
ORDER TO SHOW CAUSE**

TO: Catarina Young
9 Summit Avenue
Metuchen, N.J. 08840

Elite Benefits Corp.
320 Amboy Avenue
Metuchen, N.J. 08840

Elite Benefits Corp.
c/o Catarina Young
9 Summit Avenue
Metuchen, N.J. 08840

This matter, having been opened by the Commissioner of Banking and Insurance ("Commissioner"), State of New Jersey, upon information that Catarina Young ("Young"), and Elite Benefits Corp. ("Elite"), (collectively, "Respondents") may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, the Respondents are subject to the provisions of the New Jersey Insurance Producer Licensing Act ("Producer

Act"), N.J.S.A. 17:22A-26, et seq., the regulations governing Insurance Producer Standard of Conduct, N.J.A.C. 11:17A-1.1 et seq., and the New Jersey Insurance Fraud Prevention Act ("Fraud Act"), N.J.S.A. 17:33A-1 et seq.; and

WHEREAS, at all relevant time hereto, Respondent Young was licensed as a resident insurance producer, prior to license expiration on January 31, 2011, in the State of New Jersey pursuant to N.J.S.A. 17:22A-32; and

WHEREAS, at all relevant time hereto, Respondent Elite was licensed as a resident business entity insurance producer in the State of New Jersey pursuant to N.J.S.A. 17:22A-32; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(2), an insurance producer shall not violate any insurance laws, regulations, subpoenas or orders of the Commissioner; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(4), an insurance producer shall not improperly withhold, misappropriate or convert any monies or properties received in the course of doing insurance business; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(8), an insurance producer shall not use fraudulent, coercive or dishonest business practices, or demonstrate incompetence, untrustworthiness or financial irresponsibility in the conduct of 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-40d, 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.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. 17:33A-5a(2), the Commissioner of the Department Banking and Insurance of the State of New Jersey ("Department") is authorized to levy a civil administrative penalty and order restitution against those who violate the provisions of the Fraud Act; and

WHEREAS, pursuant to N.J.S.A. 17:33A-2, the Fraud Act was enacted in order to "confront aggressively the problem of insurance fraud in New Jersey" through the assessment of penalties upon those who violate the Fraud Act; and

WHEREAS, pursuant to N.J.S.A. 17:33A-4a(4)(b), a person violates the Fraud Act if 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, the Department seeks the imposition of maximum civil penalties, for 104 separate violations of the Producer Act, in the amount of \$5,000.00 for the first violation, and \$10,000.00 for each subsequent violation, for a total maximum penalty of \$1,035,000.00, pursuant to the provisions of N.J.S.A. 17:22A-45c; and

WHEREAS, the Department seeks the imposition of maximum civil penalties, for 2 separate violations of the Fraud Act, in the amount of \$5,000.00 for the first violation, \$10,000.00 for the second violation, and \$15,000.00 for any violations thereafter, for a total maximum penalty of \$15,000.00, pursuant to the provisions of N.J.S.A. 17:33A-5c; and

COUNT 1
(Respondents Young & Elite)

IT APPEARING, that at all relevant times, Young was an employee, the Designated Responsible Licensed Producer ("DRLP"), and partial owner of Elite, a formerly licensed New Jersey business entity insurance producer that brokered and managed healthcare plans on behalf of third-party entities; and

IT FURTHER APPEARING, that at all relevant times, Elite managed and brokered the healthcare and prescription benefit plans on behalf of the Multi-Skilled Employees and Employers Welfare Trust Fund ("Fund"), a multi-employer group healthcare organization comprised of members of several unions and members that had a bargaining agreement with the union; and

IT FURTHER APPEARING, that the Fund's healthcare plan was provided by Horizon Blue Cross Blue Shield of New Jersey ("Horizon") and its prescription plan was provided by Benecard Services, Inc. ("Benecard"); and

IT FURTHER APPEARING, that the Fund only provided health care and prescription benefits to eligible members, which were its union members and employees, and their eligible dependents, that had a bargaining agreement with the union; and

IT FURTHER APPEARING, that Young and her family members were not union members or employees that had a bargaining agreement with the union, and were therefore, not eligible for and not entitled to health care coverage and prescription benefits from the Fund; and

IT FURTHER APPEARING, that that on or about June 1, 2006, while acting as the DRLP of Elite, Respondent Young enrolled her mother, O.R., and her father, M.S., in the health care benefits plan brokered by Elite and offered by the Fund to its eligible members; and

IT FURTHER APPEARING, that from on or about June 1, 2006 through on or about September 1, 2007, while Young's mother and father were enrolled in the Fund's health care benefits plan, the Fund paid premiums of \$12,197.44 and Horizon paid claims and benefits of \$13,893.16 on behalf of Young's mother and father; and

IT FURTHER APPEARING, that the Respondents enrollment of Respondent Young's mother and father in the Fund's health care benefits plan, without the knowledge or consent of the Fund, constitute two (2) separate violations by Young and Elite of N.J.S.A. 17:22A-40a(2), (4), (8) and (16), N.J.A.C. 11:17A-4.10, and N.J.S.A. 17:33A-4a(4)(b); and

COUNT 2
(Respondent Young)

IT FURTHER APPEARING, that between on or about November 17, 2003 and on or about December 26, 2006, Respondent Young knowingly misappropriated for her own benefit \$462,341.78 from the Fund by means of eighty-six (86) checks and sixteen (16) wire transfers from the Fund to her personal accounts; and

IT FURTHER APPEARING, that on or about December 15, 2011, Respondent Young was indicted by a Middlesex County Grand Jury and charged with second-degree Theft by Unlawful Taking, second-degree Misapplication of Entrusted Property or Property of

Government or Financial Institution, and third-degree Forgery;
and

IT FURTHER APPEARING, that on or about October 29, 2013, Respondent Young was found guilty by jury verdict in Middlesex County Superior Court, Criminal Division, of second-degree Theft by Unlawful Taking, and second-degree Misapplication of Entrusted Property or Property of Government or Financial Institution; and

IT FURTHER APPEARING, that the jury verdict determined that Respondent Young misappropriated \$462,341.78 from the Fund by means of eighty-six (86) checks and sixteen (16) wire transfers from the Fund to her personal accounts; and

IT FURTHER APPEARING, that Respondent Young's misappropriation of \$462,341.78 from the Fund by means of eighty-six (86) checks and sixteen (16) wire transfers from the Fund to her personal accounts constitutes one-hundred-two (102) individual thefts, misappropriations, and or improper conversions of monies received during the course of doing insurance business, in violations of N.J.S.A. 17:22A-40a(2), (4), (8) and (16) and N.J.A.C. 11:17A-4.10; and

NOW, THEREFORE, IT IS, on this 20th day of July, 2015

ORDERED, that pursuant to the provisions of N.J.S.A. 17:22A-40a, Respondents Young and Elite shall appear and show

cause why their insurance producer licenses shall not be revoked by the Commissioner; and

IT IS FURTHER ORDERED, that Respondents Young and Elite appear and show cause why the Commissioner should not assess fines up to \$5,000.00 for the first violation and not exceeding \$10,000.00 for each subsequent violation, pursuant to the provisions of N.J.S.A. 17:22A-45c, due to their failure to comply with New Jersey's insurance laws and regulations; and

IT IS FURTHER ORDERED, that Respondent Young shall appear and show cause why the Commissioner should not assess fines up to \$5,000.00 for the first violation, \$10,000 for the second violation and \$15,000 for each subsequent violation, pursuant to N.J.S.A. 17:33A-5c, due to her failure to comply with the New Jersey Insurance Fraud Prevention Act, N.J.S.A. 17:33A-1 et seq.; and

IT IS FURTHER ORDERED, that Respondents Young and Elite appear and show cause why they should not be subject to additional penalties including the reimbursement of the costs of investigation and prosecution by the Department of Banking and Insurance, authorized pursuant to the provisions of N.J.S.A. 17:22A-45c; and

IT IS FURTHER ORDERED, that Respondents Young and Elite appear and show cause why they should not be subject to the assessment of costs and reasonable attorneys' fees, pursuant to

N.J.S.A. 17:33A-5b; and

IT IS FURTHER ORDERED, that Respondents Young and Elite appear and show cause why they should not be subject to the imposition of a \$1,000.00 surcharge, pursuant to N.J.S.A. 17:33A-5.1; and

IT IS PROVIDED, that Respondents Young and Elite have the right to request an administrative hearing, to be represented by counsel or other qualified representative, at their own expense, to take testimony, to call or cross-examine witnesses, to have subpoena duces tecum 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, from each Respondent, the Respondent's right to a hearing in this matter shall be deemed to have been waived by Young and or Elite, 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, N.J. 08625 or by faxing the request to the Department at (609) 292-5337.

The request shall contain:

- (A) The licensee's 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 the 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 this 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.



PETER L. HARTT
ACTING COMMISSIONER OF BANKING AND INSURANCE