

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 Christopher Gabel,)
Reference No. 1295032)

ORDER TO SHOW CAUSE

To: Christopher Gabel
43 Daniel Lane
Kinnelon, NJ 07405

Christopher Gabel
804 River Place
Butler, NJ 07405

THIS MATTER, having been opened by the Commissioner, Department of Banking and Insurance ("Commissioner"), State of New Jersey, upon information that Christopher Gabel ("Respondent"), licensed as a resident producer pursuant to N.J.S.A. 17:22A-32 until his license expired on November 30, 2014, may have violated various provisions of the insurance laws of the State of New Jersey; 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 et seq. ("Producer Act"), the New Jersey Insurance Fraud Prevention Act, N.J.S.A. 17:33A-1 et seq. ("Fraud Act") and the regulations promulgated thereunder, N.J.A.C. 11:16-1.1 et seq.; 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 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 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-40a(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-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(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(7), an insurance producer shall not have admitted to or been found to have committed any insurance unfair trade practice or fraud; 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 insurance business in this State or elsewhere; and

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

WHEREAS, pursuant to N.J.S.A. 17:22A-45c, any person violating any provision of the Producer Act shall be liable 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-4a(1), no person shall present or cause to be presented any written or oral statement as part of, or in support of or opposition to, a claim for payment or other benefit pursuant to an insurance policy knowing that the statement contains any false or misleading information concerning any fact or thing material to the claim; and

WHEREAS, pursuant to N.J.S.A. 17:33A-4a(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 contract; and

WHEREAS, pursuant to N.J.S.A. 17:33A-5a and -5c, 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(a) and 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

COUNT I

IT APPEARING that Respondent was employed by American Family Life Assurance Company of Columbus (“AFLAC”) prior to January 28, 2013; and

IT APPEARING that on or about January 28, 2013, AFLAC terminated the Respondent without cause; and

IT FURTHER APPEARING that AFLAC subsequently updated Respondent’s termination status to “with cause” based upon further investigation by its Special Investigation Unit; and

IT FURTHER APPEARING that AFLAC determined that Respondent established fraudulent entities or businesses in order to create false impressions that he had sold insurance policies and obtain commissions and credits from AFLAC to which he was not entitled, and that these fraudulent businesses included C.K. Gabel, LLC, Exterior Solutions, Stain Master Cleaning Service, and Budham Transport (“Fictitious Companies”); and

IT FURTHER APPEARING that Respondent fraudulently applied for policies on behalf of each of the Fictitious Companies and submitted fraudulent claims on the policies; and

IT FURTHER APPEARING that Respondent falsely claimed that he met with the owners of each of the Fictitious Companies to ensure that the companies were legitimate, and falsely claimed that each owner had submitted to Respondent a payroll acknowledgement form, a valid tax ID number and the names of three employees; and

IT FURTHER APPEARING that Respondent fraudulently procured \$2,621.33 in advance commissions from AFLAC in reference to the Fictitious Companies; and

IT FURTHER APPEARING that Respondent submitted forged and inaccurate applications and submitted forged and inaccurate insurance documents to AFLAC in reference to the Fictitious Companies and upon discovery falsely stated that he had verified that the Fictitious Companies were legitimate, in violation of the Producer Act, N.J.S.A. 17:22A-40a(2),(4),(5),(7),(8),(10) and (16), and the Fraud Act, N.J.S.A. 17:33A-4a(1) and (4)(b); and

COUNT II

IT FURTHER APPEARING that from January 2012 through June 2012, the Respondent knowingly prepared and submitted eight fraudulent insurance claims to AFLAC which stated that he had received medical services and included forged physician statements in said claim submissions to AFLAC (“False Medical Claims”);and

IT FURTHER APPEARING that Respondent fraudulently procured \$120 in benefits from AFLAC as a result of the False Medical Claims; and

IT FURTHER APPEARING that Respondent submitted forged and inaccurate claim insurance documents to AFLAC supporting the False Medical Claims in violation of the Producer Act, N.J.S.A. 17:22A-40a(2),(4),(5),(7),(8),(10) and (16), and the Fraud Act, N.J.S.A. 17:33A-4a(1); and

NOW, THEREFORE, IT IS on this 31ST day of July, 2017

ORDERED, that Respondent appear and show cause why his New Jersey insurance producer license shall not be permanently suspended or revoked pursuant to N.J.S.A. 17:22A-40a; 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 offense and not exceeding \$10,000.00 for each subsequent offense of the Producer Act pursuant to the provisions of N.J.S.A. 17:22A-45c; 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 violation, and \$15,000.00 for each subsequent violation of the Fraud Act pursuant to the provisions of N.J.S.A. 17:33A-5c 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 him in accordance with N.J.S.A. 17:33A-5.1; and

IT IS FURTHER ORDERED, that Respondent appear and show cause why he should not be required to make payment of restitution to AFLAC in the amount of \$2,741.66 consisting of \$2,621.33 in advance commissions obtained from the Fictitious Companies and \$120 in benefits obtained as a result of the False Medical Claims, as authorized by N.J.S.A. 17:33A-5c; 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 and prosecution, including attorneys' fees, as authorized pursuant to N.J.S.A. 17:22A-45c, N.J.S.A. 17:33A-5c, and N.J.A.C. 11:16-7.9(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 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 the Respondent, and the Commissioner shall dispose of this matter in accordance with the 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. 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 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 the hearing.



Peter L. Hart
Director of Insurance