

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 revoke and) CONSENT
fine the insurance license of Marta Cristina) ORDER
Cunha, Reference No. 1376918)

To: Marta Cristina Cunha
2272 Vauxhall Road
Union, NJ 07083

This matter, having been opened by the Commissioner of Banking and Insurance (“Commissioner”), State of New Jersey, upon information that Marta Cristina Cunha (“Respondent”), formerly licensed as a resident individual insurance producer, pursuant to N.J.S.A. 17:22A-32a, 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 to -48 (the “Producer Act”) and the New Jersey Insurance Fraud Prevention Act, N.J.S.A. 17:33A-1 to -30 (the “Fraud Act”); 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(6), a producer shall not have been convicted of a felony or crime of the fourth degree or higher; and

WHEREAS, pursuant to N.J.S.A 17:22A-40a(7), a 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(16), an insurance producer shall not commit a fraudulent act; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(18), an insurance producer shall notify the Commissioner within 30 days of his conviction of any crime, indictment or the filing of any formal criminal charges, or the suspension or revocation of any insurance license or authority by a state, other than this State, or the initiation of formal disciplinary proceedings in a state, other than this State, affecting the producer's insurance license; shall obtain the written consent pursuant to sections 1033 and 1034 of Title 18, United States Code (18 U.S.C. ss. 1033 and 1034); and shall supply any documentation that the Commissioner may request in connection therewith; 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-5c, violations of the Fraud Act subject the violator to a civil penalty not to exceed \$5,000.00 for the first violation, not to exceed \$10,000.00 for the second violation and not to exceed \$15,000.00 for each subsequent violation; and

WHEREAS, pursuant to N.J.S.A. 17:33A-5.1, each person who settles a Fraud Act violation shall be subject to a surcharge of 5% of the settlement amount; and

WHEREAS, during the period from July 1, 2015 through November 30, 2015, the Respondent submitted seven life insurance applications for six New Jersey residents to American Memorial Life Insurance Company ("AMLIC") which were not authorized by the applicants. Respondent impersonated the six applicants during telephone interviews with personnel of AMLIC, and received commission payments for said business, in violation of N.J.S.A. 17:22A-40a(2), (7), (8) and (16) and N.J.S.A. 17:33A-4a(4)(b); and

WHEREAS, on December 22, 2016, Respondent was charged with insurance fraud in the second degree, theft by deception in the third degree and two counts of identity crime in the second degree; and

WHEREAS, Respondent failed to report her conviction to the Commissioner

WHEREAS, on August 25, 2017, Respondent was convicted of the crime of theft by deception in the third degree in violation of N.J.S.A. 2C:20-4; and

WHEREAS, Respondent failed to report the charges and the conviction to the Commissioner within 30 days, in violation of N.J.S.A. 17:22A-40a(2) and (18); and

WHEREAS, Respondent's conviction of theft by deception in the third degree violates N.J.S.A. 17:22A-40a and (6); and

WHEREAS, the Respondent:

- 1) Has admitted responsibility for the aforementioned violations; and
- 2) Has cooperated with the Department of Banking and Insurance's ("Department") investigation; and

WHEREAS, cause does exist under N.J.S.A. 17:22A-40a, N.J.S.A. 17:22A-45c, and N.J.S.A. 17:33A-5c to impose a fine; and

WHEREAS, Respondent has waived her right to a hearing on the aforementioned violations and consented to the revocation of her resident insurance producer license for the violations of the Producer Licensing Act, and payment of a civil penalty in the amount of \$2,500.00 for the violations of the Fraud Act; and

WHEREAS, pursuant to N.J.S.A. 17:33A-5.1, Respondent shall pay a statutory insurance surcharge of \$125.00; and

WHEREAS, this matter should be resolved upon the consent of the parties without resort to a formal hearing on the aforementioned violations; and

NOW, THEREFORE, IT IS on this 25th day of May, 2018

ORDERED AND AGREED, that the Respondent's resident insurance producer license, Reference Number 1376918 is revoked pursuant to N.J.S.A. 17:22A-40a, and said license shall be immediately returned to the Department upon execution of this Consent Order by the Respondent; and

IT IS FURTHER ORDERED AND AGREED, that Respondent shall pay a civil penalty of \$2,500.00 for the violations of the Fraud Act; and

IT IS FURTHER ORDERED AND AGREED, that Respondent shall pay an insurance fraud surcharge in the amount of \$125.00 for the violation of the Fraud Act; and

IT IS FURTHER ORDERED AND AGREED, that said civil penalty and surcharge shall be paid by certified check, cashier's check or money order made payable to the "State of New Jersey, General Treasury," with an initial payment of \$213.00 due and payable immediately upon execution of this Consent Order by Respondent and 36 subsequent monthly payments of \$67.00 due and payable on or before the 1st day of August 2018 and each month thereafter; and

IT IS FURTHER ORDERED AND AGREED, that the signed Consent Order together with the respondent's nonresident producer license, the initial civil penalty payment and surcharge of \$213.00 and each subsequent monthly installment payment shall be remitted to:

New Jersey Department of Banking and Insurance
Attention: Virgil Downtin, Chief of Investigations
9th Floor, Consumer Protection Services, Enforcement Unit
P. O. Box 329
Trenton, New Jersey 08625-0329

and

IT IS FURTHER ORDERED AND AGREED, that pursuant to N.J.A.C. 11:17D-2.7, Respondent is barred from applying for an insurance producer license for a period of five years from the date this Consent Order; and

IT IS FURTHER ORDERED AND AGREED, that in the event full payment of the civil penalty and surcharge are not made or any payment is not made in accordance with this Order, the Commissioner may exercise any and all remedies available by law, including but not limited to recovery of any unpaid penalties in summary proceedings, in accordance with the penalty enforcement law N.J.S.A. 2A:58-10 to 12; and

IT IS FURTHER ORDERED AND AGREED, that the provisions of this Consent Order represent a final agency decision and constitute a final resolution of the violations contained herein.



Peter L. Hartt
Director of Insurance

Consented to as to
Form, Content and Entry

By: 
Marta Cristina Cunha

Date: 5/15/2018

KAMALJIT KALIA
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires 12/21/2022

Used
05/15/18