

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 producer licenses of)
 Russell W. Emrick, Jr. d/b/a Kebalo Insurance Agency,)
 The Insurance Advisory Service Agency, and)
 My Insurance Man Agency, Ref. No. 8026975;)
 Insurance Management Group Inc., Ref. No. 9844698;)
 Joseph J. Gallagher Insurance Agency Inc. d/b/a)
 Gallagher Insurance Agency and J J Gallagher Insurance)
 Agency, Ref. No. 8012406; and)
 Renee R. Cherowitz, Ref. No. 8214974)

**CONSENT ORDER AS TO
RENEE R. CHEROWITZ
ONLY**

To: Brian K. Herman, Esq.
Brenda Lee Eutsler & Assocs., P.A.
1702 Haddonfield-Berlin Road
Cherry Hill, NJ 08003

THIS MATTER, having been opened by the Commissioner of Banking and Insurance ("Commissioner"), State of New Jersey, upon issuance of Order to Show Cause No. E17-90 (the "Order to Show Cause") alleging that Respondents Russell W. Emrick, Jr. d/b/a Kebalo Insurance Agency, The Insurance Advisory Service Agency, and My Insurance Man Agency ("Emrick"), Insurance Management Group Inc. ("IMG"), Joseph J. Gallagher Insurance Agency Inc. d/b/a Gallagher Insurance Agency and J J Gallagher Insurance Agency (the "Gallagher Agency") and Renee R. Cherowitz ("Cherowitz") (collectively, "Respondents") may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Cherowitz was licensed as a resident individual insurance producer in the State of New Jersey, pursuant to N.J.S.A. 17:22A-32a, until her license expired on December 31, 2011; and

WHEREAS, at all relevant times, Cherowitz was a Designated Responsible Licensed Producer ("DRLP") for IMG and responsible for the activities of IMG and its compliance with the insurance laws, rules, and regulations of this State, pursuant to N.J.S.A. 17:22A-32b(2); and

WHEREAS, Respondents are 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 Producer Licensing Regulations, N.J.A.C. 11:17-1.1 to -2.17 and the regulations governing Insurance Producer Standards of Conduct, N.J.A.C. 11:17A-1.1 to 11:17D-2.8; 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-29, a person shall not sell, solicit or negotiate insurance in this State unless the person is licensed for that line of authority in accordance with the Producer 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(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 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 any fraudulent act; and

WHEREAS, pursuant to N.J.A.C. 11:17-2.10(b)4, when a producer is employed by another producer, an employer shall be responsible for the insurance-related conduct of an employee; and

WHEREAS, pursuant to N.J.A.C. 11:17A-1.3(a), with certain exceptions, no person shall act as an insurance producer or maintain or operate any office in this State for the transaction of the business of an insurance producer, or receive any commission, brokerage fee, compensation or other consideration for services rendered as an insurance producer, without first obtaining a license from the Commissioner granting authority for the kind of insurance transacted; and

WHEREAS, pursuant to N.J.A.C. 11:17A-1.6(c), licensed partners, officers and directors, and all owners with an ownership interest of 10 percent or more in the

organization shall be held responsible for all insurance related conduct of the organization licensee, any of its branch offices, its other licensed officers or partners, and its employees; and

WHEREAS, pursuant to N.J.A.C. 11:17C-2.1(a), all premium funds shall be held by an insurance producer in a fiduciary capacity and shall not be misappropriated, improperly converted to the insurance producer's own use, or illegally withheld by the licensee; and

WHEREAS, pursuant to N.J.A.C. 11:17C-2.2(a), all premium funds shall be remitted to the insurer or other insurance producer, as applicable, within five business days after receipt of the funds except as otherwise required and provided by any of the following: (1) the insurance producer's contract with the insurer or written agreement with the insured; (2) any controlling statute or administrative rule; or (3) the rules of any residual market mechanism created by or pursuant to any statute; and

WHEREAS, pursuant to N.J.A.C. 11:17C-2.6(b), all records, books and documents required to be maintained by the provisions of N.J.A.C. 11:17C-1.1 to -2.6, shall, upon his or her request, be produced for examination by the Commissioner or his or her duly authorized representatives; and

WHEREAS, on October 16, 2017, the Commissioner issued the Order to Show Cause alleging that Cherowitz violated various provisions of New Jersey insurance laws as set forth in Counts 1 through 3, and Count 6 and Count 11:

COUNT 1

IT FURTHER APPEARING, that Emrick, IMG and Cherowitz failed to remit the premium on the Builder's Risk Policy within five business days, causing D.M. to be without coverage when he experienced a loss at the Property on

March 13, 2010, in violation of N.J.S.A. 17:22A-40a(2), (4), (8), and (16); and N.J.A.C. 11:17C-2.1(a); and

COUNT 2

IT FURTHER APPEARING, that Emrick, IMG and Cherowitz failed to remit insurance premium on the Max Specialty Policy to Jimcor within five business days, in violation of N.J.S.A. 17:22A-40a(2), (4), and (8); and N.J.A.C. 11:17C-2.1(a) and 11:17C-2.2(a); and

COUNT 3

IT FURTHER APPEARING, that despite numerous requests by the Department to Respondents between February 2014 and July 2014 for Respondents' complete records concerning D.M.'s insurance policies, Emrick, IMG and Cherowitz failed to provide required records during the Department's investigation, in violation of N.J.S.A. 17:22A-40a(2) and (8); and N.J.A.C. 11:17C-2.6(b); and

....

COUNT 6

IT FURTHER APPEARING, that R.G. and M.S. were the representatives of a condominium association that maintained a commercial insurance policy with Scottsdale for condominiums in New Jersey; and

IT FURTHER APPEARING, that on or about January 5, 2016, R.G. wrote a check in the amount of \$1,108.93, payable to the Gallagher Agency, and sent it to the Gallagher Agency for half of the annual premium; and

IT FURTHER APPEARING, that on January 7, 2016, R.G.'s check was deposited into the Gallagher Agency's trust account; and

IT FURTHER APPEARING, that on or about January 10, 2016, M.S. wrote a check in the amount of \$1,108.93, payable to IMG, and sent it to IMG for the second half of the annual premium; and

IT FURTHER APPEARING, that on January 13, 2016, M.S.'s check was deposited into the Gallagher Agency's

trust account, despite the check being made payable to IMG;
and

IT FURTHER APPEARING, that the premium was never
remitted to the McSweeney Agency; and

IT FURTHER APPEARING, that R.G. and M.S. issued new
checks to Scottsdale so that the policy would not be
cancelled; and

IT FURTHER APPEARING, that M.S. filed a complaint
with the local police department where the condominiums
were located and that the police department contacted
Emrick; and

IT FURTHER APPEARING, that on or about December 24,
2016, Emrick returned \$1,108.93 to M.S.; and

IT FURTHER APPEARING, that on or about June 19, 2017,
Emrick returned \$1,108.93 to R.G.; and

IT FURTHER APPEARING, that Respondents failed to
remit premiums within five business days to the McSweeney
Agency, in violation of N.J.S.A. 17:22A-40a(2), (4), and (8)
and N.J.A.C. 11:17C-2.1(a); and 11:17C-2.2(a); and

....

COUNT 11

IT FURTHER APPEARING, that the insurance producer
licenses of Emrick, the Gallagher Agency, and IMG were
expired when they acted as insurance producers for the
policies as described in Counts 4 through 10, in violation of
N.J.S.A. 17:22A-29; N.J.S.A. 17:22A-40a(2) and (8) and
N.J.A.C. 11:17A-1.3(a); and

WHEREAS, Cherowitz was given notice of the above-referenced charges and an
opportunity to contest the charges at a hearing; and

WHEREAS, on November 1, 2017, Cherowitz filed an Answer to the Order to
Show Cause and requested a hearing; and

WHEREAS, Cherowitz now admits and agrees to take responsibility for the
aforementioned violations contained in the Order to Show Cause; and

WHEREAS, Cherowitz waives her right to a hearing on the aforementioned
violations and consents to the revocation of her resident insurance producer license; and

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

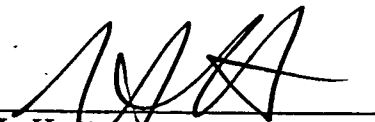
WHEREAS, good cause exists to enter into this Consent Order; and

NOW, THEREFORE, IT IS on this 10th day of August, 2018;

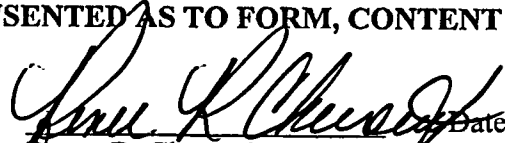
ORDERED AND AGREED, that Cherowitz admits to the violations of the
Producer Act, Producer Licensing Regulations, and the regulations governing Insurance
Producer Standard of Conduct, as described in the Order to Show Cause; and

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 resident insurance producer license of Cherowitz is hereby
REVOKED; 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 the
Order to Show Cause against Cherowitz only.


Peter L. Hart
Director of Insurance

CONSENTED AS TO FORM, CONTENT AND ENTRY OF ORDER:


Renee R. Cherowitz
Respondent


Dated: 7-24-18



Dated: 7/30/18

Brian K. Herman, Esq.
Brenda Lee Eutsler & Assocs., P.A.
Attorneys for Respondent

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY

By: 

Dated: 8/3/18

Adam B. Masef
Deputy Attorney General