

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF:

)	ORDER TO SHOW CAUSE
Proceedings by the Commissioner of)	
Banking and Insurance, State of New Jersey,)	
to fine, suspend and/or revoke the insurance)	
producer license of Henry R. Slay, Reference)	
No. 0199573.)	

TO: Henry R. Slay
120 E. Street Road, K2-07
Warminster, PA 18974

This matter, having been opened by the Commissioner of Banking and Insurance, State of New Jersey (“Commissioner”), upon information that Henry R. Slay (“Slay” or “Respondent”) may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Respondent was licensed as a resident insurance producer in the State of New Jersey pursuant to N.J.S.A. 17:22A-32(a) on or about July 2, 2013 and voluntarily surrendered his license on or about August 13, 2018; 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 (“Producer Act”), the Insurance Information Practices Act, N.J.S.A. 17:23A-1 to -22, the New Jersey Insurance Fraud Prevention Act, N.J.S.A. 17:33A-1 to -30 (“Fraud Act”), the regulations promulgated thereunder, N.J.A.C. 11:16-1.1 to -7.10, 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-40(d), 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-40(a)(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-40(a)(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-40(a)(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-40(a)(16), an insurance producer shall not commit any fraudulent act; and

WHEREAS, pursuant to N.J.S.A. 17:33A-4(a)(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 thing material to an insurance application or contract; and

WHEREAS, pursuant to N.J.A.C. 11:17A-4.8, an insurance producer shall reply, in writing, to any inquiry of the Department relative to the business of insurance within the time requested in said inquiry, or no later than 15 calendar days from the date the inquiry was made or mailed in cases where no response time is given; and

WHEREAS, pursuant to N.J.A.C. 11:17A-2.6, an insurance producer who solicits insurance shall be required to identify the following information to the person he or she is soliciting prior to commencing his or her solicitation: (1) his or her name as it appears on his or her insurance producer license; (2) the name of the insurer, if known, or insurance producer, that he or she is representing; and (3) the nature of the relationship between the insurance producer and the insurer or insurance producer being represented; and

WHEREAS, pursuant to N.J.A.C. 11:17A-4.5, an insurance producer shall not disclose or solicit the disclosure of personal or privileged information about an individual collected or received in connection with an insurance transaction except in conformity with N.J.S.A. 17:23A-1 to -22; and

WHEREAS, pursuant to N.J.S.A. 17:23A-3, no insurance producer shall use or authorize the use of pretext interviews to obtain information in connection with an insurance transaction, except when expressly permitted; and

WHEREAS, pursuant to N.J.S.A. 17:23A-5, an insurance producer shall clearly specify those questions designed to obtain information solely for marketing or research purposes from an individual in connection with an insurance transaction; and

WHEREAS, pursuant to N.J.S.A. 17:22A-45(c), any person violating the Producer Act is subject to a penalty of up to \$5,000.00 for the first offense and up to \$10,000.00 for each subsequent offense; additionally, the Commissioner may order restitution of moneys owed any person and reimbursement of costs of the investigation and prosecution, as appropriate; and

WHEREAS, pursuant to N.J.S.A. 17:33A-5(a) and (c), violations of the Fraud Act subject the violator to a civil and administrative penalty not to exceed \$5,000 for the first offense, \$10,000 for the second offense and \$15,000 for each subsequent offense; moreover, the Commissioner may

issue a final order recovering costs of prosecution, including attorneys' fees in accordance with N.J.A.C. 11:16-7.9(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

WHEREAS, pursuant to N.J.S.A. 17:23A-18(a), any person violating the Insurance Information Practices Act is subject to a penalty of up to \$500.00 for each violation, but not to exceed \$10,000.00 in the aggregate for multiple violations; and

ALLEGATIONS COMMON TO ALL COUNTS

IT APPEARING, that at all relevant times, Slay was licensed as a resident insurance producer and an agent for Combined Insurance Company of America ("Combined Insurance"), whereby he sold, among other insurance products, "Accident Protector" and "Sickness Protector" insurance policies (collectively, "Protector Insurance"); and

IT FURTHER APPEARING, that Slay engaged in a fraudulent scheme to market and sell Protector Insurance by soliciting individuals without identifying himself as an insurance agent or employee of Combined Insurance, and offering to compensate them for answering and signing a written "survey"; and

IT FURTHER APPEARING, that unbeknownst to said individuals, Slay was not conducting a survey, but rather was engaging in a pretext to deceive them into completing and signing applications for Protector Insurance; and

IT FURTHER APPEARING, that Slay then submitted to Combined Insurance said fraudulent applications for Protector Insurance on behalf of individuals who had not requested

information regarding said coverages and were not aware that they had, in fact, completed insurance applications for same; and

IT FURTHER APPEARING, that with each fraudulent Protector Insurance application, Slay also remitted from his own personal funds the first month's insurance premium due thereon, which lead Combined Insurance to issue said policies and pay him a commission thereon; and

IT FURTHER APPEARING, that upon investigating and verifying several fraud complaints filed by individuals deceived by Slay, Combined Insurance cancelled the fraudulent insurance policies, and terminated Slay's employment "For Cause" effective on or about February 24, 2015; and

COUNT 1

IT FURTHER APPEARING, that on or about January 11, 2015, Slay approached "I.W." for purposes of soliciting and selling her "Accident Protector" and "Sickness Protector" insurance coverages without identifying himself as an insurance agent or employee of Combined Insurance in violation of N.J.S.A. 17:22A-40(a)(2) and (8) and N.J.A.C. 11:17A-2.6; and

IT FURTHER APPEARING, that Slay withheld material information regarding the terms, conditions and nature of said applications of insurance, and intentionally misrepresented to "I.W." that the documents she was reviewing and signing were "surveys" when, in fact, they were applications for insurance, in violation of N.J.S.A. 17:22A-40(a)(2), (5), (8) and (16); N.J.S.A. 17:23A-3; and N.J.A.C. 11:17A-4.5; and

IT FURTHER APPEARING that Slay submitted said insurance applications in the name of "I.W." and earned commissions thereon without the authorization, approval or knowledge of "I.W.," in violation of N.J.S.A. 17:22A-40(a)(2), (8) and (16) and N.J.S.A. 17:33A-4(a)(4)(b); and

COUNT 2

IT FURTHER APPEARING, that on or about January 11, 2015, Slay approached "S.B." for purposes of soliciting and selling him "Accident Protector" and "Sickness Protector" insurance coverages without identifying himself as an insurance agent or employee of Combined Insurance Company in violation of N.J.S.A. 17:22A-40(a)(2) and (8) and N.J.A.C. 11:17A-2.6; and

IT FURTHER APPEARING, that Slay withheld material information regarding the terms, conditions and nature of said applications of insurance, and intentionally misrepresented to "S.B." that the documents he was reviewing and signing were "surveys" when, in fact, they were applications for insurance, in violation of N.J.S.A. 17:22A-40(a)(2), (5), (8) and (16); N.J.S.A. 17:23A-3 and N.J.A.C. 11:17A-4.5; and

IT FURTHER APPEARING that Slay submitted said insurance applications in the name of "S.B." and earned commissions thereon without the authorization, approval or knowledge of "S.B.," in violation of N.J.S.A. 17:22A-40(a)(2), (8) and (16) and N.J.S.A. 17:33A-4(a)(4)(b); and

COUNT 3

IT FURTHER APPEARING, that on or about June 20, 2016, the Department of Banking and Insurance ("Department") contacted Slay regarding its investigation into the above matters and, in response, Slay agreed to appear at the Department's office on June 24, 2016, to discuss same; and

IT FURTHER APPEARING, that on or about August 2, 2016, the Department served Slay with written questions regarding its investigation into the above matters and again requested that he appear at the Department's office on August 10, 2016, to discuss same; and

IT FURTHER APPEARING, that Slay failed to appear at the Department's office on either June 24, 2016 or on August 10, 2016, and also failed to respond, in any manner, to the Department's written inquiries dated August 2, 2016, in violation of N.J.A.C. 11:17A-4.8; and

NOW, THEREFORE, IT IS on this *24* day of *June*, 2019,

ORDERED, that Respondent appear and show cause why his/her New Jersey insurance producer license should not be suspended or revoked pursuant to N.J.S.A. 17:22A-40(a); and

IT IS FURTHER ORDERED, that Respondent appear and show cause why the Commissioner should not assess a civil penalty of up to \$5,000.00 for the first violation and up to \$10,000.00 for each subsequent violation of the Producer Act and order Respondent to pay restitution of moneys owed to any person, pursuant to N.J.S.A. 17:22A-45(c); and

IT IS FURTHER ORDERED, that Respondent appear and show cause why the Commissioner should not assess a penalty of not more than \$5,000 for the first violation, \$10,000 for the second violation, and \$15,000 for each subsequent violation of the Fraud Act, pursuant to N.J.S.A. 17:33A-5(c); and

IT IS FURTHER ORDERED, that Respondent appear and show cause why, in addition to any other penalty, the Commissioner should not assess a civil penalty of up to \$500.00 for each violation, but not to exceed \$10,000.00 in the aggregate for multiple violations, of the Insurance Information Practices Act, pursuant to N.J.S.A. 17:23A-18(a); and

IT IS FURTHER ORDERED, that Respondent appear and show cause why, in addition to any other penalty, he/she should not be required to reimburse the Department for the costs of the investigation and prosecution as authorized by N.J.S.A. 17:22A-45(c) and N.J.S.A. 17:33A-5(c); and

IT IS FURTHER ORDERED, that Respondent appear and show cause why the Commissioner should not assess costs of prosecution, including attorneys' fees, pursuant to N.J.S.A. 17:33A-5(c); and

IT IS FURTHER ORDERED, that Respondent appear and show cause why the Commissioner should not assess a surcharge in the amount of \$1,000 against Respondent pursuant to N.J.S.A. 17:33A-5.1; and

IT IS PROVIDED, that Respondent has the right to request an administrative hearing, to be represented by counsel or other qualified representative, at their 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 Respondent 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, New Jersey 08625, or by faxing the hearing request to the Department at (609) 292-5337. A copy of the request for a hearing shall also be sent to Dakar R. Ross, Deputy Attorney General, Department of Banking and Insurance, P.O. Box 117, Trenton, New Jersey 08625. The request from each respondent 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 a hearing.



Marlene Caride
Commissioner