

ORDER TO SHOW CAUSE NO. E15-119

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 First)
Jersey Insurance Agency, Inc.,)
Reference No. 8216262, Gerald E.)
Conner, Reference No. 8013713,)
and James W. Blumetti, Reference)
No. 9617483.)

**FIRST AMENDED
ORDER TO SHOW CAUSE**

TO: First Jersey Insurance Agency, Inc.
Gerald E. Conner
James W. Blumetti
100 Willow Brook Road
Suite 150
Freehold, NJ 07728

THIS MATTER, having been opened by the Commissioner of Banking and Insurance ("Commissioner"), State of New Jersey, upon information that FIRST JERSEY INSURANCE AGENCY, INC. ("First Jersey"), JAMES W. BLUMETTI ("Blumetti"), and GERALD E. CONNER ("Conner") (collectively, "Respondents") may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, 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.; 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; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(7), an insurance producer shall not commit any insurance unfair trade practice; 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. 17:29B-4(2), an insurance producer shall not make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio station, or in any other way, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the

conduct of his insurance business, which is untrue, deceptive or misleading; and

WHEREAS, pursuant to N.J.A.C. 11:2-11.2, advertisements shall be truthful and not misleading in fact or in implication. Words or phrases the meaning of which is clear only by implication or by familiarity with insurance terminology shall not be used; and

WHEREAS, pursuant to N.J.A.C. 11:17A-2.6(a), 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;
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-2.8, no insurance producer shall make any misleading representations or incomplete or fraudulent comparison of any insurance policies or annuity contracts or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate,

retain, or convert any insurance policy or annuity contract, or to take out a policy of insurance or annuity contract with another insurer; and

IT APPEARING that, at all relevant times, Respondent First Jersey was a licensed resident insurance producer in the State of New Jersey, pursuant to N.J.S.A. 17:22A-32; and

IT FURTHER APPEARING that, at all relevant times, Respondent Conner was a licensed resident insurance producer in the State of New Jersey, pursuant to N.J.S.A. 17:22A-32; and

IT FURTHER APPEARING that, at all relevant times, Respondent Blumetti was a licensed resident insurance producer in the State of New Jersey, pursuant to N.J.S.A. 17:22A-32; and

IT FURTHER APPEARING, that at all relevant times, Respondents Conner and Blumetti were the Designated Responsible Licensed Producers and responsible for the activities of Respondent First Jersey, and responsible for First Jersey's compliance with the insurance laws, pursuant to N.J.S.A. 17:22A-32b(2); and

ALLEGATIONS COMMON TO ALL COUNTS

IT FURTHER APPEARING, that on or about September 16, 2013, Respondents issued an advertisement ("advertisement") (attached hereto as Exhibit "A") to New Jersey resident "BB" which stated:

2013 MEDICARE UPDATE

As of January 1st, a leading senior organization and other Medicare Supplement insurers may increase their rates up to 30% on Medicare supplement coverage. Many seniors have turned to HMOs seeking lower premiums only to find out that patient care is inadequate. Some HMO's have even closed their doors.

Based on this there is now available a plan in your state to supplement Medicare at lower rates for seniors over 65 years of age.

To find out how to qualify, return this Medicare Supplement inquiry card within 5 days.

IT FURTHER APPEARING, that the advertisement requested the recipient provide Respondents with the recipient's name, date of birth, spouse's name, spouse's date of birth, and their phone number;

IT FURTHER APPEARING, that Respondents did not consult with the Department to determine the rate increase for Medicare supplement coverage for 2013; and

IT FURTHER APPEARING, that in 2013 no Medicare supplement coverage insurer had a state approved increase of 30%; and

COUNT 1

IT FURTHER APPEARING, that this instance where Respondents mailed an advertisement for insurance products to a New Jersey resident, which was untrue, deceptive or misleading, constitutes

violations of N.J.S.A. 17:22A-40a(2), (7) & (8), N.J.S.A. 17:29B-4, and N.J.A.C. 11:2-11.2; and

COUNT 2

IT FURTHER APPEARING, that this instance where Respondents mailed an advertisement for insurance products to a New Jersey resident, which failed to identify to the person Respondents were soliciting prior to commencing Respondents' solicitation, the name of either Respondent Connor or Respondent Blumetti, and the nature of the relationship between Respondent Connor or Respondent Blumetti and Respondent First Jersey, constitutes violations of N.J.A.C. 11:17A-2.6(a), and N.J.S.A. 17:22A-40a(2) & (8); and

COUNT 3

IT FURTHER APPEARING, that this instance where Respondents mailed an advertisement for insurance products to a New Jersey resident, which made misleading representations or incomplete or fraudulent comparison of insurance policies for the purpose of inducing or tending to induce the recipient to lapse, forfeit, surrender, terminate, retain, or convert any insurance policy or annuity contract, or to take out a policy of insurance or annuity contract with another insurer, constitutes violations of N.J.S.A. 17:22A-40a(2) & (8), and N.J.A.C. 11:17A-2.8; and

NOW, THEREFORE, IT IS on this 24th day of November, 2015

ORDERED, that pursuant to the provisions of N.J.S.A. 17:22A-40a, Respondents shall appear and show cause why their insurance producer licenses shall not be revoked by the Commissioner; and

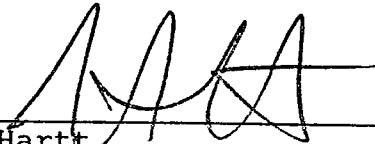
IT IS FURTHER ORDERED that, Respondents shall appear and show cause why the Commissioner should not assess fines up to \$5,000.00 for the first violation and not exceeding \$10,000.00 for each subsequent violation, pursuant to the provisions of N.J.S.A. 17:22A-45c, due to their failure to comply with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

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

IT IS PROVIDED that, Respondents 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 and 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, the right to a hearing in this matter shall be deemed to have been waived by the Respondents 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, New Jersey 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 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
Director of Insurance