

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)
or revoke the insurance licenses)
of Brian G. David, Reference)
No. 9610214; David Financial Group LLC,)
Reference No.1515840; Maria M. Gonzalez,)
Reference No. 1213123; and Sugell Bakir,)
Reference No. 1139664)

**ORDER
TO
SHOW CAUSE**

To: Brian G. David
48 Mountainview Blvd.
Wayne, NJ 07470-6766

David Financial Group LLC
48 Mountainview Blvd.
Wayne, NJ 07470

Maria M. Gonzalez
156 N. 7th St.
Paterson, NJ 07522-1205

Sugell Bakir
316 Prospect Avenue
Apt. 2H
Hackensack, NJ 07601

THIS MATTER, having been opened by the Commissioner of Banking and Insurance (“Commissioner”), State of New Jersey, upon information that Brian G. David (“David”), David Financial Group LLC (“David Financial Group”), Maria M. Gonzalez (“Gonzalez”), and Sugell Bakir (“Bakir”) (collectively “Respondents”) may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, David is licensed as a resident individual insurance producer, pursuant to N.J.S.A. 17:22A-32a; and

WHEREAS, David Financial Group is licensed as a resident business entity insurance producer, pursuant to N.J.S.A. 17:22A-32b. David is the owner and Designated Responsible Licensed Producer (“DRLP”) of David Financial Group; and

WHEREAS, Gonzalez is licensed as a resident individual insurance producer pursuant to N.J.S.A. 17:22A-32a; and

WHEREAS, Bakir is licensed as a resident individual insurance producer pursuant to N.J.S.A. 17:22A-32a; 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 et seq. (“Producer Act”), the Producer Licensing regulations, N.J.A.C. 11:17-1.1 et seq., the regulations governing Insurance Producer Standards of Conduct, N.J.A.C. 11:17A-1.1 et seq., the provisions regulating unfair trade practices, N.J.S.A. 17:29B-1 et seq. and N.J.A.C. 11:17A-2.1 et seq. and the New Jersey Insurance Fraud Prevention Act, N.J.S.A. 17:33A-1 et seq. (“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(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(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.S.A. 17:22A-40a(17), an insurance producer shall not knowingly facilitate or assist another person in violating any insurance laws; and

WHEREAS, pursuant to N.J.S.A. 17:29A-15, no broker or agent shall pay, allow, or give, or offer to pay, allow, or give, directly or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit, or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatsoever, not specified in the policy of insurance, except to the extent such rebate, discount, abatement, credit, reduction, favor, advantage or consideration may be provided for in rating-systems field by or on behalf of such insurer and approved by the Commissioner; and

WHEREAS, pursuant to N.J.A.C. 11:17-2.10(b)4, when a producer employs another producer, the employing producer shall be responsible for the insurance-related conduct of the employed producer; 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. 11:17A-2.3(a), no insurance producer shall offer, make or give, or permit to be offered, made or given, to any person directly or indirectly, an inducement to purchase insurance other than that plainly expressed in the insurance contract; 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 for the first offense and not exceeding \$10,000 for each subsequent offense to be recovered in a summary proceeding in accordance with the "Penalty Enforcement Law of 1999," P.L.1999, c. 274 (C. 2A:58-10 et seq.); additionally, the Commissioner may order restitution of moneys owed any person and reimbursement of the costs of investigation and prosecution, as appropriate; and

WHEREAS, pursuant to N.J.S.A. 17:33A-4a(3), a person or practitioner violates the Fraud Act if he conceals or knowingly fails to disclose the occurrence of an event which affects any person's initial or continued right or entitlement to (a) any insurance benefit or payment or (b) the amount of any benefit or payment to which the person is entitled; and

WHEREAS, pursuant to N.J.S.A. 17:33A-4a(4)(b), a person or practitioner violates the Fraud Act if he prepares or makes 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-4b, a person or practitioner violates the Fraud Act if he knowingly assists, conspires with, or urges any person or practitioner to violate any of the provisions of the Fraud Act; and

WHEREAS, pursuant to N.J.S.A. 17:33A-4c, a person or practitioner violates the Fraud Act if, due to the assistance, conspiracy, or urging of any person or practitioner, he knowingly benefits, directly or indirectly, from the proceeds derived from a violation of the Fraud Act; and

WHEREAS, pursuant to N.J.S.A. 17:33A-5c, the Commissioner is authorized to assess a civil and administrative 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 any provision of the Fraud Act and to order restitution to any insurance company or other person who has suffered a loss as a result of a violation of the Fraud Act; and

COUNT 1

IT APPEARING, that Allstate Insurance Company (“Allstate”) offers premium discounts on automobile insurance policies to insureds if they have completed a defensive driver course; and

IT FURTHER APPEARING, that in 2015, Allstate discovered that David Financial was applying defensive driver discounts to automobile insurance policies at a significantly higher rate than other agencies in New Jersey; and

IT FURTHER APPEARING, that Allstate conducted an investigation into Respondents and learned that they were inappropriately applying defensive driver discounts to policies for insureds who did not take a defensive driver course; and

IT FURTHER APPEARING, that Respondents submitted to Allstate automobile insurance applications with fake defensive driver course certificates in an attempt to obtain discounts for insureds; and

IT FURTHER APPEARING, that Respondents fraudulently obtained defensive driver discounts for at least seven insureds, in violation of N.J.S.A. 17:22A-40a(2), (5), (8), (16) and (17) and N.J.S.A. 17:33A-4a(3), 17:33A-4a(4)(b), 17:33A-4b and 17:33A-4c; and

COUNT 2

IT FURTHER APPEARING, that Allstate offers lower insurance rates to insureds if they are able to show that they had maintained automobile insurance policies with other carriers before they applied for a policy with Allstate; and

IT FURTHER APPEARING, that during its investigation, Allstate discovered that Respondents fraudulently obtained lower insurance rates on automobile insurance policies for at least ten insureds by submitting fake letters from other insurance carriers as proof of prior automobile insurance, in violation of N.J.S.A. 17:22A-40a(2), (5), (8) and (16) and N.J.S.A. 17:33A-4a(3), 17:33A-4a(4)(b), 17:33A-4b and 17:33A-4c; and

COUNT 3

IT FURTHER APPEARING, that Allstate offers to insureds discounts on automobile insurance policies if the insured owns a home; and

IT FURTHER APPEARING, that Allstate discovered during its investigation that Respondents submitted fake proof of homeownership in order to obtain a discount on an automobile insurance policy for at least one insured, in violation of N.J.S.A. 17:22A-40a(2), (5), (8), (16) and (17) and N.J.S.A. 17:33A-4a(3), 17:33A-4a(4)(b), 17:33A-4b and 17:33A-4c; and

COUNT 4

IT FURTHER APPEARING, that Respondents offered insureds discounts on automobile insurance policies to which the insureds were not entitled, as an inducement to use David Financial to obtain automobile insurance policies with Allstate, in violation of N.J.S.A. 17:22A-40a(2), (5), (8) and (16), N.J.S.A. 17:29A-15 and N.J.A.C. 11:17A-2.3(a); and

COUNT 5

IT FURTHER APPEARING, that David, as the owner and DRLP of David Financial, is responsible for the insurance related conduct of his employees and of the agency, and is therefore responsible for the submission to Allstate of fraudulent information with automobile insurance applications, in violation of N.J.S.A. 17:22A-40a(2), (5), (8), (16) and (17); N.J.A.C. 11:17-2.10(b)4 and N.J.A.C. 11:17A-1.6(c); and

NOW, THEREFORE, IT IS on this 21st day of December, 2017;

ORDERED, that Respondents shall appear and show cause why their New Jersey insurance producer licenses shall not be suspended or revoked by the Commissioner and why they should not be fined up to \$5,000 for the first violation and not more than \$10,000 for each subsequent violation of the Producer Act, pursuant to N.J.S.A. 17:22A-40a and N.J.S.A. 17:22A-45c; and

IT IS FURTHER ORDERED, that Respondents shall appear and show cause why they should not be required to pay restitution and reimburse the New Jersey Department of Banking and Insurance (the "Department") the costs of investigation and prosecution, pursuant to N.J.S.A. 17:22A-45c; and

IT IS FURTHER ORDERED, that Respondents shall appear and show cause why the Commissioner should not assess civil and administrative penalties of up to \$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-5c; and

IT IS FURTHER ORDERED, that Respondents shall appear and show cause why they should not be subject to the assessment of restitution, costs and attorneys' fees, pursuant to N.J.S.A. 17:33A-5c; and

IT IS FURTHER ORDERED, that Respondents shall appear and show cause why they should not be subject to the imposition of a statutory fraud surcharge of \$1,000, pursuant to N.J.S.A. 17:33A-5.1; 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 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 Respondents, and the Commissioner shall dispose of this matter in accordance with law. A hearing may be requested by mailing the request to Virgil Dowtin, 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 Deputy Attorney General Adam B. Masel at fax number (609) 777-3503. 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