

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 license of Clifford Moss, Reference)
No. 0116767)

ORDER TO SHOW CAUSE

TO:

CLIFFORD MOSS
NORTHWESTERN MUTUAL LIFE
INSURANCE COMPANY
420 LEXINGTON AVENUE
NEW YORK, NY 10603

CLIFFORD MOSS
7101 SHORE RD., APT. 4J
BROOKLYN, NY 11209

CLIFFORD MOSS
1880 HYLEN BLVD.
STATEN ISLAND, NY 10305

THIS MATTER, having been opened by the Commissioner of Banking and Insurance ("Commissioner"), State of New Jersey, upon information that Clifford Moss ("Respondent") may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Respondent is licensed as a nonresident insurance producer in the State of New Jersey pursuant to N.J.S.A. 17:22A-34a; 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") and the New Jersey Insurance

Fraud Prevention Act, N.J.S.A. 17:33A-1 to -30 ("Fraud Act") and the regulations implementing the Fraud Act, N.J.A.C. 11:16-1.1 to 7.10; 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 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(10), an insurance producer shall not forge another's name to an application for insurance or to any document related to an insurance transaction; 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, the Commissioner may place on probation, suspend, revoke or refuse to issue or renew an insurance producer's license, and may levy a civil penalty, for a violation of the Producer Act; and

WHEREAS, pursuant to N.J.S.A. 17:22A-45c, any person violating the Producer Act is subject to a penalty not exceeding \$5,000.00 for the first offense and not exceeding \$10,000.00 for each subsequent offense; moreover, the Commissioner may order restitution of moneys owed any person and reimbursement of costs of investigation and prosecution, as appropriate; and

WHEREAS, pursuant to N.J.S.A. 17:33A-4a(4)(b), a person who 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 violates the Fraud Act; and

WHEREAS, pursuant to N.J.S.A. 17:33A-5c and N.J.A.C. 11:16-7.9, violations of the Fraud Act subject the violator to an administrative penalty not more than \$5,000.00 for the first violation, \$10,000.00 for the second violation, and \$15,000.00 for each subsequent violation; moreover, the Commissioner may issue a final order assessing restitution and costs of prosecution, including attorneys' fees; 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

COUNT 1

IT APPEARING, that at all relevant times, Respondent was a licensed insurance producer and agent with Allianz Life Insurance Company of North America ("Allianz"); and

IT FURTHER APPEARING, that in 2009, Respondent submitted to Allianz applications for annuity policies for individuals NN and JN, husband and wife; and

IT FURTHER APPEARING, that on the applications, Respondent indicated that the signing of the applications took place in New Jersey; and

IT FURTHER APPEARING, that NN and JN actually signed the applications and resided in New York; and

IT FURTHER APPEARING, that Allianz was and is not licensed to transact insurance business in the state of New York; and

IT FURTHER APPEARING, that Respondent misrepresented information on two annuity applications submitted to Allianz as to where the sales occurred and where the applications were signed, in violation of N.J.S.A. 17:22A-40a(2), (5), (8) and (16); and

COUNT 2

IT FURTHER APPEARING, that in 2012, Respondent submitted to Allianz an application for an annuity policy for individual MSV; and

IT FURTHER APPEARING, that on the application, Respondent indicated that the signing of the application took place in New Jersey; and

IT FURTHER APPEARING, that MSV actually signed the application and resided in New York; and

IT FURTHER APPEARING, that Allianz was and is not licensed to transact insurance business in the state of New York; and

IT FURTHER APPEARING, that Respondent misrepresented information on an annuity application submitted to Allianz as to where the sale occurred and where the application was signed, in violation of N.J.S.A. 17:22A-40a(2), (5), (8) and (16); and

COUNT 3

IT FURTHER APPEARING, that in 2012, Respondent submitted to Allianz an application for an annuity policy for the HF Living Trust, which is based in New York; and

IT FURTHER APPEARING, that on the application, Respondent indicated that the signing of the application took place in New Jersey; and

IT FURTHER APPEARING, that MSV as representative of the HF Living Trust actually signed the application in New York; and

IT FURTHER APPEARING, that Allianz was and is not licensed to transact insurance business in the state of New York; and

IT FURTHER APPEARING, that Respondent misrepresented information on an annuity application submitted to Allianz as to where the sale occurred and where the application was signed, in violation of N.J.S.A. 17:22A-40a(2), (5), (8) and (16); and

COUNT 4

IT FURTHER APPEARING, that in November 2013, Allianz investigators sent surveys to NN, JN, MSV, and MSV as representative of the HF Living Trust inquiring as to where the annuity applications were signed; and

IT FURTHER APPEARING, that on the surveys, each of the aforementioned individuals indicated that the annuity applications were signed in New York; and

IT FURTHER APPEARING, that in February 2014, Respondent submitted identical letters to Allianz purportedly from NN, NN as representative of JN (deceased), MSV, and MSV as representative of the HF Living Trust, which stated that the aforementioned individuals were mistaken in their survey responses and that the annuity policies were sold and signed in New Jersey; and

IT FURTHER APPEARING, that Respondent created the letters himself and forged the signatures on those letters in an effort to cover up his wrongdoing; and

IT FURTHER APPEARING, that Respondent forged the signatures of four insureds on letters he submitted to Allianz, in violation of N.J.S.A. 17:22A-40a(2), (8), (10) and (16); and

COUNT 5

IT FURTHER APPEARING, that Respondent prepared and presented to Allianz, for the purpose of obtaining insurance policies, four annuity applications misrepresenting the state in which the applications were signed, knowing that the applications contained false and misleading information concerning material facts to the insurance applications or contracts in violation of N.J.S.A. 17:33A-4a(4)(b); and

NOW, THEREFORE, IT IS, on this 20th day of March, 2018:

ORDERED, that Respondent appear and show cause why his New Jersey insurance producer license should not be suspended or revoked pursuant to N.J.S.A. 17:22A-40a; 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 \$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 the provisions of N.J.S.A. 17:22A-45c; and

IT IS FURTHER ORDERED, that Respondent appear and show cause why he should not be required to reimburse the New Jersey Department of Banking and Insurance ("Department") for the cost of investigation and prosecution as authorized by N.J.S.A. 17:22A-45c; and

IT IS FURTHER ORDERED, that Respondent appear and show cause why the Commissioner should not assess a civil penalty of not more than \$5,000.00 for the first violation, \$10,000.00 for the second violation, and \$15,000 for each subsequent violation of the Fraud Act and order restitution pursuant to N.J.S.A. 17:33A-5c and N.J.A.C. 11:16-7.9; and

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

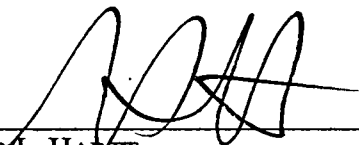
IT IS FURTHER ORDERED, that Respondent appear and show cause why the Commissioner should not impose a \$1,000.00 surcharge against him in accordance with N.J.S.A. 17:33A-5.1; and

IT IS PROVIDED, that Respondent has the right to request an administrative hearing, to be represented by counsel or other qualified representative, at his 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 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, N.J. 08625 or by faxing the request to the Department at (609) 292-5337. A copy of the request for a hearing shall also be sent to Deputy Attorney General Brian R. Fitzgerald at fax number (609) 777-3503. The request shall contain:

- (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 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. HART
DIRECTOR OF INSURANCE