

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 license of)
Paul B. Kumar, Reference No. 1193586.)

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)

ORDER TO SHOW CAUSE

TO: Paul B. Kumar
414 Birchwood Court
North Brunswick, NJ 08902

THIS MATTER, having been opened by the Commissioner of Banking and Insurance (“Commissioner”), State of New Jersey, upon information that Paul B. Kumar (“Kumar”), may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Kumar is currently licensed as a resident insurance producer in the State of New Jersey pursuant to N.J.S.A. 17:22A-32a; and

WHEREAS, Kumar 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 New Jersey Insurance Fraud Prevention Act, N.J.S.A. 17:33A-1 to -30 (“Fraud Act”) and 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-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(7), an insurance producer shall not commit any insurance unfair trade practice or fraud; 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.A.C. 11:17A-4.2, in cases where an applicant's signature is required, an insurance producer who takes an application for insurance shall be required to witness the signature of the prospective insured on the application prior to the submission of the application to the insurer only when the application is signed by the applicant after having been completed in a face to face meeting between the producer and the prospective insured; and

WHEREAS, pursuant to N.J.A.C. 11:17A-4.10, an insurance producer acts in a fiduciary capacity in the conduct of his or her insurance business; 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 for violating 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; additionally, the Commissioner may order restitution of moneys owed any person and reimbursement of costs of the investigation and prosecution; and

WHEREAS, pursuant to N.J.S.A. 17:33A-4a(3), no person shall conceal or knowingly fail to disclose the occurrence of any 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), 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 misleading information concerning any fact or thing material to an insurance application or contract; and

WHEREAS, pursuant to N.J.S.A. 17:33A-5a and c, violations of the Fraud Act subject the violator to a civil and administrative penalty not to exceed \$5,000.00 for the first offense, not to exceed \$10,000.00 for the second offense and not to exceed \$15,000.00 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

ALLEGATIONS COMMON TO ALL COUNTS

IT APPEARING, that Kumar was employed as a Territory Manager with Combined Insurance Company (“Combined”) beginning on August 3, 2015; and

IT FURTHER APPEARING, that Kumar’s employment contract with Combined provided for a salary of \$500.00 per week and commissions based upon his personal sales of insurance; and

IT FURTHER APPEARING, that on September 23, 2015 Kumar met with JH, an existing policyholder with Combined, at his residence in Trenton, New Jersey for the purpose of updating his insurance with Combined; and

IT FURTHER APPEARING, that beginning on October 16, 2015 through December 16, 2015 Kumar submitted 16 insurance applications for Whole Life, Accident Sickness Protection, Sickness Protector, or Sick Pay Plus to Combined for members of JH’s immediate or extended family; and

IT FURTHER APPEARING, that for all of these 16 policy applications submitted between October 16, 2015 through December 16, 2015, Kumar did not witness the signature of the prospective insured, did not have a face to face meeting with the prospective insured with regard to the application prior to submitting it, and forged the prospective insured’s signature on the application; and

IT FURTHER APPEARING, that on January 4, 2016 Combined terminated the employment contract with Kumar based upon its finding that Kumar had forged policy applications, had otherwise committed fraud, had violated Combined’s Business Conduct Rules,

including its underwriting, screening guidelines, and signature rules, had failed to fully review completed applications with consumers, and had generally failed to conduct himself in a manner consistent with the best interests of the company; and

COUNT ONE

IT FURTHER APPEARING, that Kumar submitted 16 insurance policy applications to Combined for members of JH's immediate or extended family for which the producer is required to witness the signature of the prospective insured on the application after having completed a face to face meeting with the prospective insured concerning the application; and

IT FURTHER APPEARING, that in all of these 16 policy applications, Kumar did not witness the signature of the prospective insured, did not have a face to face meeting with the prospective insured with regard to the application prior to submitting it, and forged the prospective insured's signature on the application, in violation of N.J.S.A. 17:22A-40a(2), (5), (7), (8), (10), and (16) and N.J.A.C. 11:17A-4.2; and

COUNT TWO

IT FURTHER APPEARING, that Kumar submitted 16 insurance policy applications to Combined for members of JH's immediate or extended family for the purpose of obtaining an insurance policy, knowing that each of these applications contained a forged signature of the prospective insured, and other false or misleading information concerning any fact or thing material to the application or contract in violation of N.J.S.A. 17:33A-4a(3) and 4a(4)(b); and

NOW, THEREFORE, IT IS on this 25th day of MAY, 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 offense, \$10,000.00 for the second offense, and \$15,000 for each subsequent offense of the Fraud Act pursuant to the provisions of N.J.S.A. 17:33A-5c and N.J.A.C. 11:16-7.9(a); 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 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 they should not be required to reimburse the Department for the cost of the investigation and prosecution, including attorneys' fees, as authorized pursuant to N.J.S.A. 17:22A-45c, N.J.S.A. 17:33A-5c, and N.J.A.C. 11:16-7.9(c); 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 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 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. 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. Hartt
Director of Insurance