

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 Joel M. Kopke, Ref. No.)
1190391, and Kathy Pauline Marino,)
Reference No. 1317472.

**CONSENT ORDER
AS TO JOEL M. KOPKE**

TO: Joel M. Kopke
278 Court Street, Unit 103
Plymouth, MA 02360

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

WHEREAS, at all relevant times, Respondent was licensed as a resident individual insurance producer in the State of New Jersey pursuant to N.J.S.A. 17:22A-32(a) until said license expired on or about August 31, 2014; and

WHEREAS, Respondent was subject to the provisions of the New Jersey Insurance Producer Licensing Act, N.J.S.A. 17:22A-26 to -48 ("Producer Act"), the regulations governing Insurance Producer Standards of Conduct, N.J.A.C. 11:17A-1.1 to 11:17D-2.8, and the New Jersey Insurance Fraud Prevention Act, N.J.S.A. 17:33A-1 to -30 ("Fraud Act"); 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 business 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. 17:29B-3, no person shall engage in this State in any trade practice that is an unfair method of competition or an unfair or deceptive act or practice in the business of insurance; and

WHEREAS, pursuant to N.J.A.C. 11:17A-4.2, 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; 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.S.A. 17:33A-4(a)(4)(b), a person shall not prepare or make any written or oral statement, intended to be presented to any insurance company or producer for the purposes 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 policy;
and

WHEREAS, pursuant to N.J.S.A. 17:22A-40(a), 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 against the producer, for a violation of the Producer Act; and

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

WHEREAS, pursuant to N.J.S.A. 17:33A-5(b), any person violating the Fraud Act is subject to a penalty not to exceed \$5,000.00 for the first violation and not exceeding \$10,000.00 for the second offense, and not to exceed \$15,000.00 for each subsequent offense. The court shall also award court costs and reasonable attorney fees; and

WHEREAS, pursuant to N.J.S.A. 17:33A-5.1, in addition to any other penalty, fine or charge imposed pursuant to law, a person charged with insurance fraud in a legal proceeding and the charge is resolved through a settlement requiring the person to pay a sum of money, the person shall be subject to a surcharge in an amount equal to 5 percent of the settlement payment; and

WHEREAS, on September 21, 2016, the Commissioner issued Order to Show Cause No. E16-89 ("OTSC") alleging violations of the Producer Act and the Fraud Act by Respondent as set forth in the following counts:

COUNT ONE

IT APPEARING that Kopke omitted and misrepresented medical conditions of three potential insureds on three applications to Colonial, which conditions had been disclosed to Kopke, while serving as agent for

Colonial, in violation of N.J.S.A. 17:22A-4(a)(2), (5), (8) and (16) and N.J.S.A. 17:29B-3; and

COUNT TWO

IT APPEARING that Respondents collectively omitted and misrepresented medical conditions of three potential insureds on four applications to Banker[s] and Colonial, which conditions had been disclosed to Respondents, while serving as agents for Bankers and Colonial, in violation of N.J.S.A. 17:22A-40(a)(2), (5), (8) and (16) and N.J.S.A. 17:29B-3; and

COUNT THREE

IT FURTHER APPEARING that Kopke presented to Bankers and Colonial insurance applications which appeared to have J.G.'s signature when, in fact, Kopke knew J.G.'s spouse had signed the applications as J.G., in violation of N.J.S.A. 17:22A-40a(2), (8) and (16), and N.J.A.C. 11:17A-4.2; and

COUNT FOUR

IT FURTHER APPEARING that by omitting certain medical history and misrepresenting that the above proposed insureds had not suffered medical illnesses and/or other conditions, Respondents prepared and made written statements intended to be presented to an insurance company for the purpose of obtaining an insurance policy, knowing that the statements contained false and misleading information concerning any fact or thing material to the insurance application, in violation of N.J.S.A. 17:33A-4(a)(4)(b); and

WHEREAS, Respondent was given notice of the aforesaid allegations and an opportunity to be heard;

WHEREAS, on March 27, 2017, Respondent filed an Answer and a Request for a Hearing; and

WHEREAS, this Consent Order encompasses and resolves the violations stated in the OTSC as to Respondent;

WHEREAS, Respondent admits and agrees to take responsibility for the violations contained in the OTSC; and

WHEREAS, Respondent has waived his right to a hearing on the above violations and consented payment of \$12,500.00 in civil penalties pursuant to N.J.S.A. 17:22A-45(c) for

violations of the Producer Act; \$12,500.00 in civil penalties pursuant to N.J.S.A. 17:33A-5(b) for violations of the Fraud Act; \$1,000.00 in attorneys' fees pursuant to N.J.S.A. 17:33A-5(b); and \$625.00 in statutory surcharge pursuant to N.J.S.A. 17:33A-5.1; and

WHEREAS, Respondent has also consented to the revocation of his New Jersey Insurance Producer license, Ref. No. 1190391 and to never reapply for a producer license; and

WHEREAS, that this matter should be resolved upon the consent of the parties without resort to a formal hearing; and

WHEREAS, that good cause exists to enter into this Consent Order and impose civil penalties under N.J.S.A. 17:22A-45(e) and N.J.S.A. 17:33A-5(b); and

NOW, THEREFORE, IT IS on this 30th day of October 2019,

ORDERED AND AGREED that the charges contained in Counts 1 through 4 of the OTSC are admitted by Respondent; and

IT IS FURTHER ORDERED AND AGREED that, pursuant to N.J.S.A. 17:22A-40, the expired New Jersey Insurance Producer license of Joel M. Kopke, Ref. No. 1190391, is revoked; and

IT IS FURTHER ORDERED AND AGREED that Respondent shall never apply for an insurance producer license in this State; and

IT IS FURTHER ORDERED AND AGREED that Respondent shall pay a total of \$26,625 to the Commissioner for the violations admitted herein and as admitted in Counts 1 through 4 of the OTSC, comprised of \$12,500.00 in civil penalties pursuant to N.J.S.A. 17:22A-45(e) for violations of the Producer Act; \$12,500.00 in civil penalties pursuant to N.J.S.A. 17:33A-5(b) for violations of the Fraud Act; \$1,000.00 in attorneys' fees pursuant to N.J.S.A. 17:33A-5(b); and \$625.00 in statutory surcharge pursuant to N.J.S.A. 17:33A-5.1; and

IT IS FURTHER ORDERED AND AGREED that the penalties, attorneys' fees and statutory surcharge shall be payable by certified check, cashier's check, money order or other certified funds made payable to the "State of New Jersey - General Treasury," upon execution of this Consent Order by Respondent; and

IT IS FURTHER ORDERED AND AGREED that the signed Consent Order together with the penalties, attorneys' fees and statutory surcharge totaling \$26,625 shall be remitted to:

Dakar Ross, Deputy Attorney General
State of New Jersey, Division of Law
R. J. Hughes Justice Complex
25 Market Street
P. O. Box 117
Trenton, NJ 08625

and

IT IS FURTHER ORDERED AND AGREED that, in the event full payment of the penalties, attorneys' fees and statutory surcharge is not made, the Commissioner may exercise any and all remedies available by law, including but not limited to recovery any unpaid penalties, in accordance with the Penalty Enforcement Law of 1999, N.J.S.A. 2A:58-10 to -12; and

IT IS FURTHER ORDERED AND AGREED that, the sanctions in this Consent Order are imposed pursuant to the police powers of the State of New Jersey for the enforcement of the law and the protection of the public health, safety and welfare, and are not intended to constitute debts which may be limited or discharged in a bankruptcy proceeding; and


IT IS FURTHER ORDERED AND AGREED, that the provisions of this Consent Order represent a final agency decision and constitute the final resolution of the allegations contained in the OISC related to Respondent.


Marlene Caride
Commissioner

Consented to as to Form, Content and Entry:

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY
Attorney for the New Jersey
Department of Banking and Insurance

Date: 9/25/19


By: Dakar K. Ross
Deputy Attorney General

Date: 09-18-19


Joef M. Kopke
Respondent