

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) CONSENT
Mark Yehuda Herschlag, Reference No.1220725) ORDER
and Cosmo Insurance Agency, Reference No.)
No. 1269517)

To: Mark Yehuda Herschlag)
4 Sienna Way) Cosmo Insurance Agency
Lakewood, NJ 08701-2148) 15 America Avenue, Suite 203
Lakewood, NJ 08701-3210

This matter, having been opened by the Commissioner of Banking and Insurance (“Commissioner”), State of New Jersey, upon information that Cosmo Insurance Agency, Inc., currently licensed as a resident business entity insurance producer, pursuant to N.J.S.A. 17:22A-32b, and its designated responsible licensed producer, Mark Yehuda Herschlag (“Herschlag”), currently licensed as a resident individual insurance producer, pursuant to N.J.S.A. 17:22A-32a, may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Cosmo Insurance Agency, Inc. and Herschlag (collectively “Respondents”) are subject to the provisions of the New Jersey Insurance Producer Licensing Act of 2001, N.J.S.A. 17:22A-26 to -48 (the “Producer Act”), and the regulations governing the Insurance Producer Standards of Conduct, N.J.A.C. 11:17A-1.1 to N.J.A.C. 11:17D-2.8; and

WHEREAS, pursuant to N.J.S.A. 17:22A-32b(2), Herschlag is the designated responsible licensed producer of Cosmo Insurance Agency, Inc. and responsible for the agency’s compliance with the insurance laws, rules and regulations of this State; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a, the Commissioner may place on probation, suspend, revoke or refuse to 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-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(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-28, defines "person" as an individual or business entity; and

WHEREAS, pursuant to N.J.S.A. 17B:30-4, no person shall 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, or television station, or in any other way, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance and annuities or with respect to any person in the conduct of his insurance and annuity 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 implication and words or phrases the meaning of which is clear only by implication or familiarity with insurance terminology shall not be used.

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;
and
3. The nature of the relationship between the insurance producer and the insurer or insurance producer being represented; and

WHEREAS, between July 19, 2018 and March 14, 2019, Respondents demonstrated incompetence by circulating advertisements for health insurance to the public in magazines on at least four separate dates wherein the advertisement failed to disclose the organization offering the insurance and the insurance producer managing the insurance program, in violation of N.J.S.A. 17:22A-40a(2) and (8), N.J.S.A. 17B:30-4, N.J.A.C. 11:2-11.2 and N.J.A.C. 11:17A-2.6(a); and

WHEREAS, the Respondents:

- 1) Have admitted responsibility for the aforementioned violations;
- 2) Have cooperated with the investigation conducted by the Department;
- 3) Have asserted that the violations cited in this Consent Order were not willful; and

WHEREAS, cause does exist under N.J.S.A. 17:22A-40a and N.J.S.A. 17:22A-45c to impose a fine; and

WHEREAS, Respondents have waived their right to a hearing on the aforementioned violations and consented to payment of a fine in the amount of fifty-five thousand dollars (\$55,000.00); and

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

NOW, THEREFORE, IT IS on this 03 day of February, 2021

ORDERED AND AGREED, that the Respondents shall pay a fine in the amount of \$55,000.00 to the Department; and

IT IS FURTHER ORDERED AND AGREED, that said fine shall be paid by certified check, cashier's check, wire transfer or money order made payable to the "State of New Jersey, General Treasury," which shall be paid upon execution of this Consent Order by the Respondents; and

IT IS FURTHER ORDERED AND AGREED, that the signed Consent Order, together with the fine payment of \$55,000.00 shall be remitted to:

New Jersey Department of Banking and Insurance
Attention: Virgil Downtin, Chief of Investigations
9th Floor, Consumer Protection Services, Enforcement Unit
P. O. Box 329
Trenton, New Jersey 08625-0329

and

IT IS FURTHER ORDERED AND AGREED, that the provisions of this Consent Order represent a final agency decision and constitute a final resolution of the violations contained herein; and

IT IS FURTHER ORDERED AND AGREED, that the Respondents shall cease and desist from engaging in the conduct that gave rise to this Consent Order.



Marlene Caride
Commissioner

Consented to as to Form,
Entry and Content

By: 

Mark Yehuda Herschlag as the Designated Responsible
Licensed Producer for Cosmo Insurance Agency

Mark Yehuda Herschlag
Mark Yehuda Herschlag (Individually)

Date: 1/20/21

**NEW JERSEY NOTARY ACKNOWLEDGEMENT
(INDIVIDUAL)**

State of New Jersey)
)
County of Ocean) ss

On January, 2021 before me, Yechiel Hirth, Notary Public in and for said county, personally appeared Mark Yehuda Herschlag, [signer/witness] who has/have satisfactorily identified him/her/themselves as the signer(s) or witness(es) to the above referenced document.

(Affix Notary Stamp Here)

Yechiel Hirth
Notary Public Signature

My Commission Expires: 10/4/22

