

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)
public adjuster licenses of James Lee)
Kelley, Reference No. 1522630, Jeffrey)
Arthur Kelley, Reference No. 1290831, and)
Adelphia Insurance Agency, Reference No.)
9475568)
_____)

ORDER TO SHOW CAUSE

TO: James Lee Kelley
1376 Bunkerhill Drive
Cherry Hill, NJ 08003

Jeffrey Arthur Kelley
157 North Broad Street
Trenton, NJ 08608

Adelphia Insurance Agency
1376 Bunkerhill Drive
Cherry Hill, NJ 08003

THIS MATTER, having been opened by the Commissioner of Banking and Insurance (“Commissioner”), State of New Jersey, upon information that James Lee Kelley (“James”), Jeffrey Arthur Kelley (“Jeffrey”), and Adelphia Insurance Agency (“AIA”) (collectively, “Respondents”), may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, James was licensed as a resident insurance producer by the State of New Jersey, pursuant to N.J.S.A. 17:22A-32(a), from May 20, 2013 until his license expired on November 30, 2018; and

WHEREAS, Jeffrey was licensed as a resident insurance producer by the State of New Jersey, pursuant to N.J.S.A. 17:22A-32(a), from October 18, 2010 until his license expired on September 30, 2018; and

WHEREAS, AIA was licensed as a resident insurance producer by the State of New Jersey, pursuant to N.J.S.A. 17:22A-32(a), from October 31, 1994 until its license was voluntarily surrendered on April 28, 2017; and

WHEREAS, pursuant to N.J.S.A. 17:22A-32(b)(2), James and Jeffrey were the Designated Responsible Licensed Producers (“DRLPs”), and responsible for the conduct of AIA; and

WHEREAS, Respondents are subject the provisions of the New Jersey Insurance Producer Licensing Act of 2001, N.J.S.A. 17:22A-26 to -48 (“Producer Act”), 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-40(d), the Commissioner shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by the Producer Act and Title 17 of the Revised Statutes or Title 17B of the New Jersey Statutes against any person who is under investigation for or charged with a violation of the Producer Act or Title 17 of the Revised Statutes or Title 17B of the New Jersey Statutes even if the person’s license or registration has been surrendered or has lapsed by operation of law; 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)(4), an insurance producer shall not improperly withhold, misappropriate or convert any monies or properties received in the course of doing insurance business; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40(a)(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-40(a)(16), an insurance producer shall not commit any fraudulent act; and

WHEREAS, pursuant to N.J.A.C. 11:17B-3.1(a), insurance producers may charge a fee for services in the sale of personal lines property/casualty or personal lines insurance subject to N.J.A.C. 11:17B-3.2; and

WHEREAS, pursuant to N.J.A.C. 11:17B-3.1(b), any insurance producer charging a fee to an insured or prospective insured shall first obtain from the insured or prospective insured a written agreement and outlines the provisions that shall be included said written agreement; and

WHEREAS, pursuant to N.J.A.C. 11:17B-3.1(c), any fee charged by an insurance producer shall bear a reasonable relationship to the services provided and shall not be discriminatory; and

WHEREAS, pursuant to N.J.A.C. 11:17B-3.2(a)(1), no service fee charged by an insurance producer for any one policy shall exceed \$20.00; and

WHEREAS, pursuant to N.J.A.C. 11:17B-3.2(a)(2), no insurance producer may charge a fee for completing accident or claim report forms, nor shall a fee be charged for providing forms required by an insurer for servicing a policy; and

WHEREAS, pursuant to N.J.A.C. 11:17B-3.2(a)(4), no charge may be made for service not actually performed; and

WHEREAS, pursuant to N.J.A.C. 11:17B-3.2(a)(5), a maximum service fee of \$15.00 may be charged by an insurance producer upon placement of a renewal, except under certain circumstances outlined within this provision; 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.A.C. 11:1-12.2(a), active officers of corporate licensees shall be held individually responsible for all insurance-related conduct of the corporate licensee; 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 or may levy a civil penalty, or may take any combination of actions for violating the Producer Act; and

WHEREAS, pursuant to N.J.S.A. 17:22A-45(c), any licensee violating the Producer Act and/or the Insurance Producer Standards of Conduct 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

FACTUAL ALLEGATIONS

IT APPEARING, that on or about March 18, 2016, insured "N.P." had an automobile insurance policy with National Liability & Fire Insurance Company ("NLFIC"); and

IT FURTHER APPEARING, that NLFIC entered into an approved buy-out contract with its successor, Integon National Insurance Company ("Integon"), effective January 1,

2016. As part of the contract it was agreed that Integon would assume NLFIC renewal policies; and

IT FURTHER APPEARING, that on or about March 18, 2016, N.P. was sent an Important Notice stating the above with a renewal offer from Integon attached; and

IT FURTHER APPEARING, that a minimum down payment of \$315.00 was required to renew N.P.'s policy with Integon; and

IT FURTHER APPEARING, that on or about May 10, 2016, N.P. signed a Premium Finance Agreement prepared by James and AIA to finance her renewal insurance premium through Strand Insurance Finance Company ("Strand"); and

IT FURTHER APPEARING, that Strand required an initial down payment of \$145.50 and ten sequential payments of \$95.41; and

IT FURTHER APPEARING, that on or about May 10, 2016, James collected a cash payment in the amount of \$189.00 from N.P. for the renewal of her automobile insurance policy; and

IT FURTHER APPEARING, that the \$189.00 consisted of \$145.50 initial down payment to Strand, a \$15.00 broker renewal fee, a \$13.00 Motor Vehicle Report ("MVR") fee, and a \$15.50 Auto Help Line of America membership; and

IT FURTHER APPEARING, that AIA was charging improper and/or excessive service fees because N.P. was charged \$45.50 in service fees above what was required as a down payment for Strand; and

IT FURTHER APPEARING, that the fees charged by AIA were thus improper and/or excessive because they exceeded the \$15.00 cap in N.J.A.C. 11:17B-3.2; and

IT FURTHER APPEARING, that the service fee agreement document provided to N.P states that the service fee includes charges for completing accident or claim reports; and

IT FURTHER APPEARING, thereafter, on or about May 31, 2016, N.P. requested the cancellation of her automobile insurance policy because she purchased a policy with another carrier; and

IT FURTHER APPEARING, that Strand never received from AIA completed finance agreement or premium funds on behalf of N.P.; and

IT FURTHER APPEARING, that Integon never received any payment to renew N.P.'s policy and canceled her policy for non-payment; and

IT FURTHER APPEARING, that despite charging N.P. for membership to Auto Help Line of America, AIA never submitted to Auto Help Line a signed agreement for N.P.'s enrollment in the program; and

IT FURTHER APPEARING, that N.P. went to AIA's office and she was given a refund check in the amount of \$189.00; and

IT FURTHER APPEARING, that as a result of AIA's failure to remit the payment, N.P. suffered a lapse in coverage and her new insurance carrier raised her premium as a result of the lapse; and

IT FURTHER APPEARING, that in addition to AIA's failure to remit the premium payment to Strand, AIA failed to place N.P.'s premium funds in a trust account; and

COUNT 1

IT FURTHER APPEARING, that Respondents failed to remit N.P.'s premium funds within five business days, in violation of N.J.S.A. 17:22A-40(a)(2), (4), (8) and N.J.A.C. 11:17C-2.2(a); and

COUNT 2

IT FURTHER APPEARING, that Respondents failed to place premium funds in a trust account, in violation of N.J.S.A. 17:22A-40(a)(2) and (8), N.J.A.C. 11:17A-4.10, N.J.A.C. 11:17C-2.3(a), and N.J.A.C. 11:17C-2.1; and

COUNT 3

IT FURTHER APPEARING, that Respondents charged improper and/or excessive fees, in violation of N.J.S.A. 17:22A-40(a)(2), (4), (8), N.J.A.C. 11:17B-3.1(a), (b) and (c), N.J.A.C. 11:17A-4.10, and N.J.A.C. 11:17B-3.2(a)(1), (2), (4), and (5); and

COUNT 4

IT FURTHER APPEARING, that by charging N.P. for membership to Auto Help Line of America, but never submitting to Auto Help Line a signed agreement for N.P.'s enrollment in the program, Respondents violated N.J.S.A. 17:22A-40(a)(2), (4), (8), and (16), and N.J.A.C. 11:17B.-3.1(c); and

COUNT 5

IT FURTHER APPEARING, that under N.J.A.C. 11:1-12.2(a), James and Jeffrey are responsible for the conduct of AIA because they were the DRLPs for AIA; and

NOW, THEREFORE, IT IS on this 29 day of September, 2022:

ORDERED, that Respondents appear and show cause why the New Jersey insurance producer licenses issued to Respondents should not be suspended or revoked by the Commissioner and why Respondents should not be fined up to \$5,000.00 for the first offense and up to \$10,000.00 for the second and each subsequent violation of the Producer Act and/or the Producer Standards of Conduct regulations, under N.J.S.A. 17:22A-40, N.J.S.A. 17:22A-45(c), and N.J.A.C. 11:17D-2.1(b)2; and

IT IS FURTHER ORDERED, that pursuant to N.J.S.A. 17:22A-45(c) Respondents appear and show cause why they should not be subject to additional penalties including restitution to their victim and reimbursement of the costs of investigation and prosecution by the Department of Banking and Insurance; 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 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, with a copy to Jessica Lugo, DAG, Banking and Insurance Section, R.J. Hughes Justice Complex, 25 Market Street, P.O. Box 117, Trenton, NJ 08625-0117. 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 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.



Marlene Caride
Commissioner