

STATE OF NEW JERSEY  
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF:

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Proceedings by the Commissioner of Banking )  
and Insurance, State of New Jersey, to fine, )  
suspend and/or revoke the insurance license ) **ORDER TO SHOW CAUSE**  
of Max E. Nozek, Reference No. 1592081, )  
and The Nozek Group, LLC, Reference No. )  
1629667. )

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TO:	Max E. Nozek 1765 Greenwood Rd. Toms River, New Jersey 08753	The Nozek Group, LLC c/o Max E. Nozek 1765 Greenwood Road Toms River, New Jersey 08753
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THIS MATTER, having been opened by the Commissioner of Banking and Insurance ("Commissioner"), State of New Jersey, upon information that Max E. Nozek ("Nozek"), owner and Designated Responsible License Producer ("DLRP") of The Nozek Group, LLC ("Nozek Group") (collectively, "Respondents"), may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Nozek was formerly licensed by the Department as a resident insurance producer in the State of New Jersey, pursuant to N.J.S.A. 17:22A-32(a), until October 4, 2017 when his license was voluntarily surrendered; and

WHEREAS, Nozek Group was formerly licensed by the Department as a resident business entity producer, pursuant to N.J.S.A. 17:22A-32(b), until its license was voluntarily surrendered on October 4, 2017; and

WHEREAS, Respondents are subject to the provisions of the New Jersey Insurance Producer Licensing Act, N.J.S.A. 17:22A-1 to -57 (the "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 (the "Fraud Act"); 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 of 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 laws, or violate any 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)(6), an insurance producer shall not be convicted of a felony or crime of the fourth degree or higher; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40(a)(7), an insurance producer shall not have admitted to or been found to have committed any insurance unfair trade practice or fraud; 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)(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-40(a)(16), an insurance producer shall not commit any fraudulent act; and

WHEREAS, pursuant to N.J.S.A. 17:22A-32(b)(2), a business entity is to designate a licensed insurance producer responsible for the business entity's compliance with the insurance laws, rules and regulations of this State; and

WHEREAS, pursuant to N.J.A.C. 11:1-12.2(a), active officers shall be held individually responsible for all insurance related conduct of the corporate licensee; and

WHEREAS, pursuant to N.J.A.C. 11:17A-1.6(c), licensed partners, officers and directors, and all owners with an ownership interest of 10 percent or more in the organization shall be held responsible for all insurance related conduct of the organization licensee, any of its branch offices, its other licensed officers or partners, and its employees; 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 for violating 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 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-4(a)(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-4(a)(4)(b), no person shall 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-5(a) 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, at all relevant times, Respondents were appointed agents with S.USA Life Insurance Company ("S.USA Life") and Americo Financial Life and Annuity Insurance Company ("Americo") until they were terminated from S.USA Life, effective November 6, 2017, and from Americo, effective August 3, 2017, respectively; and

IT FURTHER APPEARING, that between June 14, 2017, and August 2, 2017, Respondents submitted at least twenty-two (22) life insurance applications to Americo without the knowledge or consent of the applicants, receiving a total commission of \$35,299.30 from Americo; and

IT FURTHER APPEARING, that between July 19, 2017, and September 6, 2017, Respondents submitted at least nineteen (19) life insurance applications to S.USA Life without the knowledge or consent of the applicants, receiving a total commission of \$30,913.50; and

IT FURTHER APPEARING, on September 3, 2019, Nozek was convicted of third-degree theft by deception as a result of his submission of life insurance applications without the knowledge or consent of the applicants; and

**COUNT ONE**  
**(Producer Act)**

IT FURTHER APPEARING, that Respondents knowingly and willingly produced and submitted forty-one (41) separate fraudulent life insurance applications, without the consent and knowledge of proposed applicants, to obtain advanced commission payments, in violation of N.J.S.A. 17:22A-40(a)(2), (5), (6), (7), (8), (10) and (16); and

IT FURTHER APPEARING, that each of the forty-one (41) instances where Respondents submitted life insurance policies without the consent and knowledge of proposed applicants constitutes a separate violation; and

**COUNT TWO**  
**(Producer Act)**

IT FURTHER APPEARING, that Nozek, pursuant to a criminal investigation conducted by the Office of the Insurance Fraud Prosecutor, was charged and sentenced to third degree-theft by deception, in violation of N.J.S.A. 17:22A-40(a)(2), (6), (8).

**COUNT THREE**  
**(Producer Act)**

IT FURTHER APPEARING, that Nozek, as Nozek Group's DLRP, owner and/or manager, is responsible for the violations alleged of Nozek Group pursuant to N.J.S.A. 17:22A-32(b)(2), N.J.A.C. 11:1-12.2(a), and N.J.A.C. 11:17A-1.6(c); and

**COUNT FOUR**  
**(Fraud Act)**

IT FURTHER APPEARING, Respondents, knowingly submitted forty-one (41) separate fraudulent life insurance applications, without the consent and knowledge of proposed applicants, to obtain advanced commission payments, in violation of N.J.S.A. 17:33A-4(a)(3) and -4(a)(4)(b); and

IT FURTHER APPEARING, that each of the forty-one (41) instances where Respondents submitted life insurance policies without the consent and knowledge of proposed applicants constitutes a separate violation; and

NOW, THEREFORE, IT IS on this 8<sup>th</sup> day of January, 2023

ORDERED, that Respondents appear and show cause why their New Jersey insurance producer licenses should not be revoked pursuant to N.J.S.A. 17:22A-40(a); and

IT IS FURTHER ORDERED, that Respondents 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 Respondents to pay restitution of moneys owed to any person, pursuant to the provisions of N.J.S.A. 17:22A-45(c); and

IT IS FURTHER ORDERED, that Respondents 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-45(c) and N.J.A.C. 11:16-7.9(c); and

IT IS FURTHER ORDERED, that Respondents appear and show cause why the Commissioner should not assess a civil penalty of up to \$5,000.00 for the first offense, up to

\$10,000.00 for the second offense, and up to \$15,000.00 for each subsequent offense of the Fraud Act pursuant to the provisions of N.J.S.A. 17:33A-5(c) and N.J.A.C. 11:16-7.9(a); and

IT IS FURTHER ORDERED, that Respondents appear and show cause why the Commissioner should not impose a \$1,000.00 surcharge in accordance with N.J.S.A. 17:33A-5.1; 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. A copy of the request for a hearing shall also be sent to Deputy Attorney General William E. Vaughan at: Division of Law, P.O. Box 117 Trenton, NJ 08625. 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.

  
Justin Zimmerman  
Acting Commissioner