

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 and)
suspend or revoke the insurance)
producer license of Cynthia Ann)
Van Seeters, Reference No.)
1016989.)

FINAL ORDER

TO: Cynthia Ann Van Seeters
33 Sunset Road
Bloomingdale, NJ 07403

This matter, having been opened by Richard Badolato, Acting Commissioner, New Jersey Department of Banking and Insurance ("Commissioner"), upon issuance of Order to Show Cause No. E15-58, upon information that Respondent Cynthia Ann Van Seeters may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Respondent is subject to the provisions of the New Jersey Insurance Producer Licensing Act of 2001, N.J.S.A. 17:22A-26 et seq. ("Producer Act"); and

WHEREAS, Respondent was licensed as a resident individual insurance producer, pursuant to N.J.S.A. 17:22A-32, until her license expired on October 31, 2010; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40d, the Commissioner shall retain the authority to enforce the provisions of, and impose any penalty or remedy authorized by, the Producer Act against any person who is under investigation for, or charged

with, a violation of the Producer Act 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-40a(2), an insurance producer shall not violate any insurance law, regulation, subpoena, or order of the Commissioner; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(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-40a(6), an insurance producer shall not be convicted of a felony or crime of the fourth degree or higher;

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 the insurance business; 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.S.A. 17:22A-40a(19), an insurance producer shall not fail to notify the Commissioner within thirty days of the final disposition of any criminal prosecutions, as required by the Producer Act, or fail to supply any

documentation the Commissioner may request in connection therewith;
and

WHEREAS, pursuant to N.J.S.A. 17:22A-47b, an insurance producer shall report to the Commissioner any criminal prosecution of the producer taken in any jurisdiction within thirty days of the initial pretrial hearing date. The report shall include a copy of the initial complaint filed, the order resulting from the hearing, and any other relevant legal documents; and

WHEREAS, pursuant to N.J.S.A. 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. 17:22A-45c, any person violating any provisions of the Producer Act shall be liable for a penalty not exceeding \$5,000.00 for the first offense and not exceeding \$10,000.00 for each subsequent offense, as well as, restitution of moneys owed any person, and reimbursement of the costs of investigation and prosecution; and

WHEREAS, N.J.A.C. 11:17D-1.1 et seq. sets forth the procedures that govern the conduct of administrative hearings for imposing administrative penalties, including the method of determining monetary fines, for violations of the Producer Act; and

WHEREAS, pursuant to N.J.A.C. 11:17D-2.1(a)3, notice of the administrative complaint shall be served by personal delivery, or by certified mail to the respondent's last known business or mailing address, according to the files maintained by the Department. Service in this manner shall be considered lawful service on the respondent; and

WHEREAS, pursuant to N.J.A.C. 11:17D-2.1(d), a respondent shall have 20 calendar days from the date of service of an administrative complaint within which to deliver a written request for a hearing to the Commissioner; and

WHEREAS, pursuant to N.J.A.C. 11:17D-2.1(b)(1), a respondent's failure to respond, as required by the notice, within the time provided, shall be deemed to be an admission as to all the allegations, charges and conclusions contained in the notice, and no further proceeding shall be required prior to the execution of a final order that imposes the administrative penalty or penalties described in the notice; and

WHEREAS, on June 9, 2015, the Commissioner issued Order to Show Cause No. E15-58 alleging that Respondent violated various provisions of the Producer Act, as set forth in the following Counts 1 through 5:

ALLEGATIONS COMMON TO ALL COUNTS

IT APPEARING that, at all times relevant hereto, Respondent was licensed a resident insurance producer; and

IT FURTHER APPEARING that, at all times relevant hereto, Respondent was employed at Allen & Allen Insurance ("Allen Insurance"); and

COUNT 1

IT FURTHER APPEARING that, between October 28, 2008 and October 8, 2009, Respondent wrote 14 Allen Insurance checks to herself or to cash, forged her employer's signature, and converted the money for her own personal use; and

IT FURTHER APPEARING that Respondent misappropriated \$11,990 in connection with these 14 Allen Insurance checks; and

IT FURTHER APPEARING that Respondent was not authorized to write or sign any Allen Insurance company checks; and

IT FURTHER APPEARING that Respondent was not entitled to payment from Allen Insurance for the amounts of the aforementioned checks; and

IT FURTHER APPEARING that, Respondent committed 14 separate acts of theft, forgery, and deception while employed as an insurance producer at Allen Insurance, in violation of N.J.S.A. 17:22A-40a(2), (8), and (16); and

COUNT 2

IT FURTHER APPEARING that Respondent also misappropriated cash premiums from Allen Insurance clients on 38 occasions between November 2008 and October 2009; and

IT FURTHER APPEARING that, on 38 separate occasions, Respondent misappropriated, converted, or withheld monies received in the course of doing insurance business, in violation of N.J.S.A. 17:22A-40a(2), (4), (8), and (16); and

COUNT 3

IT FURTHER APPEARING that, on or about October 27, 2009, Respondent was issued a Complaint and Summons for third degree theft by deception, ordering her to appear before the court on November 11, 2009; and

IT FURTHER APPEARING that, on or about May 24, 2010, Respondent pled guilty to criminal charges of third degree theft by deception in Superior Court of New Jersey, Bergen County; and

IT FURTHER APPEARING that, on or about July 9, 2010, Respondent was sentenced in Superior Court of New Jersey, Bergen County, to five years of probation and ordered to pay restitution to Allen Insurance at a rate of \$200.00 per month; and

IT FURTHER APPEARING that, Respondent failed to report her criminal prosecution to the Commissioner within thirty days of the initial pretrial hearing date, in violation of N.J.S.A. 17:22A-40a(19) and N.J.S.A. 17:22A-47b; and

COUNT 4

IT FURTHER APPEARING that, on or about May 24, 2010, Respondent was convicted of a felony or crime of the fourth degree or higher, in violation of N.J.S.A. 17:22A-40a(2) and (6); and

COUNT 5

IT FURTHER APPEARING that, on or about November 18, 2009, J.A. of Allen Insurance sent a complaint to the Commissioner alleging misconduct by Respondent; and

IT FURTHER APPEARING that, on or about April 15, 2010, the Department sent Respondent a letter addressing the allegations set forth by J.A. in his November 18, 2009 complaint letter; and

IT FURTHER APPEARING that the Department's April 15th letter required Respondent to send a written statement to the Department within 7 calendar days, explaining her position in regards to J.A.'s allegations; and

IT FURTHER APPEARING that, Respondent failed to respond to the Department's letter within the time requested, in violation of N.J.S.A. 17:22a-40a(2) and (8) and N.J.A.C. 11:17A-4.8; and

WHEREAS, Respondent was given notice of the above-referenced charges and an opportunity to contest the charges at a hearing; and

WHEREAS, on or about June 11, 2015, Order to Show Cause No. E15-58 was sent to Respondent via regular and certified mail to her last known residence address on file with the Department; and

WHEREAS, on or about June 22, 2015, notice was left for Respondent at her last known address; and

WHEREAS, the certified mail was returned to the Department marked "UNCLAIMED"; and

WHEREAS, the regular mail sent to Respondent was not returned; and

WHEREAS, service of Order to Show Cause No. E15-58 in this manner constitutes lawful service upon Respondent, pursuant to N.J.A.C. 11:17D-2.1(a)3; and

WHEREAS, Respondent failed to provide a written response to the charges contained in Order to Show Cause No. E15-58; and

WHEREAS, pursuant to N.J.A.C. 11:17D-2.1(b), Respondent has waived her right to a hearing to contest the charges; and

NOW, THEREFORE, IT IS on this 28th day of October 2015

ORDERED that, pursuant to N.J.A.C. 11:17D-2.1(b), the

charges contained in Order to Show Cause No. E15-58 are deemed admitted by Respondent; and

IT IS FURTHER ORDERED that, pursuant to N.J.S.A. 17:22A-40, and N.J.A.C. 11:17D-2.1(b)(2), the expired resident insurance producer license of Respondent is hereby REVOKED effective upon the execution of this Final Order by the Commissioner; and

IT IS FURTHER ORDERED that, pursuant to N.J.S.A. 17:22A-45c, Respondent shall be responsible for the payment of \$37,500.00 in fines to the Commissioner for 55 violations of the Producer Act contained in Order to Show Cause No. E15-58, Counts 1 through 5, as follows:

- Count 1 - \$10,000.00 for 14 violations of the Producer Act for misappropriating 14 checks;
- Count 2 - \$20,000.00 for 38 violations of the Producer Act for misappropriating cash premiums in 38 instances;
- Count 3 - \$2,500.00 for failing to report her criminal prosecution to the Commissioner within 30 days;
- Count 4 - \$2,500.00 for being convicted of a felony or crime of the fourth degree or higher; and
- Count 5 - \$2,500.00 for failing to respond to an inquiry by the Department.

IT IS FURTHER ORDERED that Respondent shall pay restitution to Allen Insurance in the amount of \$23,193.84, pursuant to N.J.S.A. 17:22A-45c; and

IT IS FURTHER ORDERED that payments of \$37,500.00 in fines shall be made by Respondent in one payment and shall be

remitted to the New Jersey Department of Banking and Insurance, 20 West State Street, P.O. Box 325, Trenton, New Jersey 08625, Attention: Jan Allen, Supervisor of Investigations, by certified check, cashier's check, or money order made payable to the State of New Jersey, General Treasury, within 10 days of the date of service of this Final Order; and

IT IS FURTHER ORDERED that, in the event full payment of fines and investigative costs is not made, the Commissioner may exercise any and all remedies available by law, including but not limited to recovery of any unpaid penalties in accordance with the Penalty Enforcement Law, N.J.S.A. 2A:58-10 et seq.; and

IT IS FURTHER ORDERED, that the fines 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, that the provisions of this Final Order represent a final agency decision and constitute a final resolution of the allegations contained in Order to Show Cause No. E15-58.



PETER L. HARTT
Director of Insurance