

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,)	FINAL ORDER
to fine, suspend and/or revoke the insurance)	
producer licenses of Brian J. Piccolo,)	
Reference No. 9617537, and Insurance)	
Coverage Specialists, LLC, Reference No.)	
1001967.)	

TO: Brian J. Piccolo
59 Brighton Road
Andover, New Jersey 07821

Insurance Coverage Specialists, LLC
c/o Brian J. Piccolo
59 Brighton Road
Andover, New Jersey 07821

This matter, having been opened by the Commissioner of Banking and Insurance, State of New Jersey (“Commissioner”), upon information that Brian J. Piccolo (“Piccolo”) and Insurance Coverage Specialists, LLC (“ICS”) (collectively, “Respondents”) may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Piccolo is currently licensed as a resident insurance producer in the State of New Jersey pursuant to N.J.S.A. 17:22A-32(a); and

WHEREAS, ICS was licensed in the State of New Jersey as a resident business entity insurance producer pursuant to N.J.S.A. 17:22A-32(b), until its license expired on or about May 31, 2019; and

WHEREAS, 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 (“Producer Act”), 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), 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-40(d), the Commissioner shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by this 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 this 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)(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)(7), an insurance producer shall not commit 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)(16), an insurance producer shall not commit any fraudulent act; and

WHEREAS, pursuant to N.J.S.A. 17:33A-4(a)(3), it is a violation of the Fraud Act to conceal or knowingly fail to disclose the occurrence or an event which affects any person's initial or continued right or entitlement to (a) any insurance benefit or payment or (b) the amount or any benefit or payment to which the person is entitled; and

WHEREAS, pursuant to N.J.S.A. 17:33A-4(a)(4)(b), it is a violation of the Fraud Act to prepare or 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. 17:22A-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-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

WHEREAS, the Commissioner issued Order to Show Cause E20-06 on January 14, 2020, alleging violations of New Jersey insurance laws by Respondents as set forth below:

ALLEGATIONS COMMON TO ALL COUNTS

IT APPEARING, that at all relevant times, Piccolo was the owner, president and Designated Responsible License Producer of ICS; and

IT FURTHER APPEARING, that at all relevant times, Respondents served as the insurance agent and brokerage firm for two businesses which had common ownership: Johnson Services, LLC (“Johnson Services”) and Johnson Specialized Transportation, Inc. (“Johnson Transportation”); and

IT FURTHER APPEARING, that at all relevant times, Johnson Transportation was a trucking and towing company which maintained its business operations at 302 Elbow Lane, Burlington, New Jersey; and

IT FURTHER APPEARING, that at all relevant times, Johnson Services was an automobile repair shop which also maintained its business operations at 302 Elbow Lane, Burlington, New Jersey; and

IT FURTHER APPEARING, that during the period beginning December 2010 and ending in November 2012, Respondents obtained workers’ compensation and employer’s liability coverage exclusively on behalf of Johnson Services through insurance policies issued by Maryland Casualty Company (“Maryland Casualty”); and

IT FURTHER APPEARING, that at no time did Respondents obtain workers’ compensation and/or employer’s liability coverage through insurance policies issued by Maryland Casualty on behalf of Johnson Transportation; and

COUNT ONE

IT FURTHER APPEARING, that in January 2011, Respondents issued sixty-two (62) separate Certificates of Insurance and presented same to numerous public agencies and private companies which falsely attested that Johnson Services and Johnson Transportation were both insured and covered under the insurance policies issued by Maryland Casualty when, in fact, Johnson

Services was the only named insured and policyholder thereunder, in violation of N.J.S.A. 17:22A-40(a)(2), (5), (7), (8) and (16); and

COUNT TWO

IT FURTHER APPEARING, that in connection with obtaining and renewing insurance coverage on behalf of Johnson Services, Respondents falsely represented to Maryland Casualty that Johnson Services was the only business operating from the premises located at 302 Elbow Lane, Burlington, New Jersey; and

IT FURTHER APPEARING, that Maryland Casualty relied upon Respondent's representation and considered same to be material and pertinent to its underwriting process for accurately assessing insurance risk and determining the coverages and premiums for the policies issued to Johnson Services; and

IT FURTHER APPEARING, that Respondents knowingly misrepresented and concealed from Maryland Casualty that Johnson Services and Johnson Transportation simultaneously operated their businesses from 302 Elbow Lane, Burlington, New Jersey, for the purpose of obtaining a lower insurance premium rate for Johnson Services than it otherwise would have been charged by Maryland Casualty, in violation of N.J.S.A. 17:22A-40(a)(2), (5), (7), (8) and (16) and N.J.S.A. 17:33A-4(a)(3) and (a)(4)(b); and

IT FURTHER APPEARING, that as set forth in the certification of Dakar Ross, attached hereto as Exhibit A, Respondents were given notice of the aforesaid charges and an opportunity to contest the charges at a hearing pursuant to Order to Show Cause E20-06, which was duly served on Respondents by certified mail, RRR, and regular mail to the addresses listed on this Final Order in accordance with N.J.A.C. 11:17D-2.1(a)(3); and

IT FURTHER APPEARING, that Respondents filed an Answer to the Order to Show Cause and requested a hearing, whereupon the matter was then transmitted to the Office of Administrative Law ("OAL") as a contested matter; and

IT FURTHER APPEARING, that Respondents thereafter failed to appear at multiple scheduled status conferences and their absences were unexplained and unexcused, and thereupon the OAL subsequently transmitted the matter back to the Department as Respondents' request for a hearing was deemed withdrawn and Respondents have waived their rights to a hearing to contest these charges and the charges were deemed admitted, pursuant to N.J.A.C. 11:17D-2.1(b)(1); and

IT FURTHER APPEARING, that in Kimmelman v. Henkels & McCoy, Inc., 108 N.J. 123 (1987), the Supreme Court established seven factors to be considered in determining the imposition of civil fines in administrative proceedings ("Kimmelman Factors"); and

IT FURTHER APPEARING, that the seven Kimmelman Factors are as follows: (1) the good or bad faith of the defendant; (2) defendant's ability to pay a civil fine; (3) the amount of profits obtained from the illegal activity; (4) the injury to the public; (5) the duration of the misconduct; (6) the existence of criminal or treble damages actions; and (7) the past violations of defendant; and

IT FURTHER APPEARING, that the Kimmelman Factors apply to this matter as follows: (1) Respondents showed bad faith by submitting an insurance application with false information and issuing sixty-two (62) separate Certificates of Insurance each falsely attesting that Johnson Services and Johnson Transportation were both insured and covered under the Maryland Casualty insurance policy; (2) Respondents have not provided any evidence of their inability to pay a civil fine; (3) Respondents profited by receiving payment from their client for issuing said false certificates; (4) there was injury to the public because public agencies and private companies relied upon the representations made in these false certificates; (5) Respondents' illegal activity occurred in a one month period; (6) no criminal or treble damages actions have been filed against

Respondents regarding their illegal activity; and (7) Respondents have a prior violation for failing to remit insurance premium; and

NOW, THEREFORE, IT IS on this 27 day of April, 2023,

ORDERED, that the charges contained in Counts One and Two of Order to Show Cause E20-06 are deemed admitted by Respondents, pursuant to N.J.A.C. 11:17D-2.1(b)(1); 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 resident insurance producer licenses of Brian J. Piccolo and Insurance Coverage Specialists, LLC, are hereby **REVOKED** effective upon the execution of this Final Order by the Commissioner; and

IT IS FURTHER ORDERED, that Respondents, jointly and severally, shall be responsible for the payment totaling \$630,000.00 in civil penalties for violations of the Producer Act, Fraud Act, and other insurance laws cited above as follows:

Respondents, jointly and severally, shall be responsible for the payment of civil penalties to the Division of Insurance Enforcement totaling \$615,000.00 for the Producer Act violations as described in Count One of the Order to Show Cause; and

Respondents, jointly and severally, shall be responsible for the payment of civil penalties to the Division of Insurance Enforcement totaling \$10,000.00 for the Producer Act violations as described in Count Two of the Order to Show Cause.; and

Respondents, jointly and severally, shall be responsible for the payment of civil penalties to the Bureau of Fraud Deterrence totaling \$5,000.00 for the Fraud Act violations as described in Count Two of the Order to Show Cause; and

IT IS FURTHER ORDERED, that pursuant to N.J.S.A. 17:22A-45c and N.J.A.C. 11:1-32.4(b)(20), Respondents, jointly and severally, shall reimburse the Department of Banking and

Insurance, Division of Insurance Enforcement and Bureau of Fraud Deterrence, for the costs associated with the investigation and prosecution of this matter, as evidenced by the Certification of Costs by Investigator Gervasio (attached as Exhibit B), totaling \$2,000.00. The Commissioner has reviewed the investigative costs application and finds the amount of time to be reasonable; and

IT IS FURTHER ORDERED, that pursuant to N.J.S.A. 17:33A-5c, Respondents, jointly and severally, shall reimburse the Department of Banking and Insurance, Bureau of Fraud Deterrence, for the attorneys' fees associated with the investigation and prosecution of this matter, as evidenced by the Certification of Dakar Ross, totaling \$10,000.00. The Commissioner has reviewed the attorneys' fees application and finds the amount of time to be reasonable; and

IT IS FURTHER ORDERED, that pursuant to N.J.S.A. 17:33A-5.1, Respondents, jointly and severally, shall pay the Department of Banking and Insurance, Bureau of Fraud Deterrence, a statutory fraud surcharge in the amount of \$1,000.00; and

IT IS FURTHER ORDERED, that Respondents, jointly and severally, shall pay the above fines and costs totaling \$643,000.00 by remitting full payment to the Commissioner of Banking and Insurance, State of New Jersey, 20 West State Street, P.O. Box 329, Trenton, New Jersey 08625, Attention: Virgil Downtin, Chief of Investigations by certified check, cashier's check or money order made payable to the "State of New Jersey, General Treasury," within ten (10) days from the date of service of this Order; and

IT IS FURTHER ORDERED, that in the event full payment of the fines and 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 of 1999, N.J.S.A. 2A:58-10 to -12; 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. E20-06.

A handwritten signature in blue ink that reads "Marlene Caride". The signature is fluid and cursive, with the first name "Marlene" and the last name "Caride" clearly distinguishable.

Marlene Caride
Commissioner