

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 insurance producer )  
licenses of Sarah S. Somsky, Reference No. )  
8213506; and SKAL and Comp, LLC, )  
Reference No. 1187936 )

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**CONSENT ORDER**

TO: Sarah S. Somsky  
325 Passaic Avenue  
Lodi, New Jersey 07644

SKAL & Comp, LLC  
c/o Sarah Somsky  
325 Passaic Avenue  
Lodi, New Jersey 07644

THIS MATTER, having been opened by the Commissioner of Banking and Insurance ("Commissioner"), State of New Jersey, upon issuance of Order to Show Cause No. E16-111 (the "Order to Show Cause") alleging that Sarah S. Somsky ("Somsky") and SKAL & Comp, LLC ("SKAL") (collectively, "Respondents"), may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Somsky is licensed as a resident insurance producer pursuant to N.J.S.A. 17:22A-32; and

WHEREAS, SKAL is licensed as a resident business entity insurance producer pursuant to N.J.S.A. 17:22A-32, with Somsy listed as the designated responsible licensed producer; 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 et seq. ("Producer Act") and the regulations governing Insurance Producer Standards of Conduct, N.J.A.C. 11:17A-1.1 et seq. and N.J.A.C. 11:17C-1.1 et seq.; 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(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, N.J.S.A. 17:22A-40a(8) states, amongst other provisions, that an insurance producer shall not demonstrate incompetence, untrustworthiness or financial irresponsibility in the conduct of insurance business; 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. 11:17C-2.2(b), all premiums due the insured shall be paid to the insured or credited to the insured's account within five business days after receipt by the insurance producer from the insurer or other insurance producer or premium finance company; and

WHEREAS, on November 22, 2016, the Commissioner issued Order to Show Cause No. E16-111 alleging violations by the Respondents as set forth in the following Counts:

## COUNT 1

IT APPEARING that on or about February 11, 2010, Respondents brokered a workers' compensation insurance policy for company TCS through New Jersey Casualty Insurance Company ("NJC"), a subsidiary of New Jersey Manufacturers ("NJM"); and

IT FURTHER APPEARING that TCS paid Respondents the premium for the policy and Respondents remitted the premium monies to NJC; and

IT FURTHER APPEARING that, due to a rate classification change ordered by the Compensation Rating and Inspection Bureau ("CRIB") on or about October 2, 2014 with respect to TCS, the premium rate for TCS decreased and TCS was entitled to a premium refund; and

IT FURTHER APPEARING that by check dated December 16, 2014, NJC paid Respondents a refund for TCS in the amount of \$7,721.88, in accordance with the rate change for the TCS policy, which amount represented a return of the premium owed to TCS, less \$260.12 for Respondents' unearned commission; and

IT FURTHER APPEARING that the check sent to Respondents by NJC was marked Pay to the Order of TCS; and

IT FURTHER APPEARING that Respondents deposited this check on or about December 24, 2014 into their Trust Account at TD Bank; and

IT FURTHER APPEARING that, on or about May 20, 2015, TCS filed a Complaint with the Department alleging that it had not yet received its refund; and

IT FURTHER APPEARING that, Respondents did not return the sum of \$7,982.00 until on or about October 4, 2015; and

IT FURTHER APPEARING that Respondents failed to timely return the premium refund monies owed to TCS, demonstrating untrustworthiness and financial irresponsibility in the conduct of insurance business and a breach of their fiduciary duty, in violation of N.J.S.A. 17:22A-40a(2), (4), and (8), N.J.A.C. 11:17C-2.2(b) and N.J.A.C. 11:17A-4.10;

## COUNT 2

IT APPEARING that, on or about September 13, 2011, the Respondents brokered a commercial auto policy for individual BM, specifically for a 2008 Mercedes Benz automobile; and

IT FURTHER APPEARING that the Respondents were the broker of record for this transaction, and ProTrans, Inc. ("ProTrans") was the managing underwriter; and

IT FURTHER APPEARING that the Respondents were responsible for collecting and remitting the policy premium; and

IT FURTHER APPEARING that the policy was procured from Ohio Casualty Insurance Company, a subsidiary of Liberty Mutual Insurance; and

IT FURTHER APPEARING that on October 31, 2011, Respondents were billed for the policy premium by Liberty Mutual; and

IT FURTHER APPEARING that BM financed the cost of the premium through the Insurance Finance Corporation ("IFC"); and

IT FURTHER APPEARING that, on or about December 8, 2011, BMM cancelled the policy; and

IT FURTHER APPEARING that, on or about February 29, 2012, a cancellation credit of \$3,842.92 was processed by Liberty Mutual; and

IT FURTHER APPEARING that, on March 13, 2012 a check for \$3,842.92, representing a refund of the credit balance, was remitted by Liberty Mutual to ProTrans; and

IT FURTHER APPEARING that, on March 28, 2012, a check for \$3,492.39 was issued by ProTrans and sent to Respondents, which represented the returned premium balance, less a \$384.20 deduction for the unearned commission, and adding a \$34.59 credit for the "unused" N.J. PLIGA surcharge; and

IT FURTHER APPEARING that, on May 10, 2012, Respondents issued a check in the amount of \$3,271.39 to IFC, to pay off the loan taken out by BM for the policy premium; and

IT FURTHER APPEARING that Respondents failed to issue a check paying off the loan to IFC for approximately forty-three (43) days after receipt of the funds from ProTrans; and

IT FURTHER APPEARING that Respondents failed to timely pay off the loan amount to IFC on behalf of BM, demonstrating untrustworthiness and financial irresponsibility in the conduct of insurance business and breach of fiduciary duty, in violation of N.J.S.A. 17:22A-40a(2), (4), and (8), N.J.A.C. 11:17C-2.2(b) and N.J.A.C. 11:17A-4.10.

IT FURTHER APPEARING, that Respondents admit and agree to take responsibility for the violations contained in Order to Show Cause No. E16-111; and

IT FURTHER APPEARING, that cause does exist under N.J.S.A. 17:22A-40a and N.J.S.A. 17:22A-45(c) to impose a fine; and

IT FURTHER APPEARING, that Respondents waived their right to a hearing on the aforementioned violations; and

IT FURTHER APPEARING, that this matter should be resolved upon the consent of the parties without resort to a formal hearing.

NOW, THEREFORE, IT IS on this 14<sup>th</sup> day of SEPTEMBER, 2017,

ORDERED AND AGREED, that Respondents admit to the violations of the Producer Act and the regulations governing Insurance Producer Standards of Conduct as stated in Order to Show Cause No. E16-111; and

IT IS FURTHER ORDERED AND AGREED, that Respondents shall pay a fine in the amount of \$7,000.00 to the Department; and

IT IS FURTHER ORDERED AND AGREED, that immediately upon execution of this Consent Order, Respondents shall remit the first payment in the amount of \$1,500.00 by certified check, cashier's check or money order made payable to the "State of New Jersey, General Treasury"; and

IT IS FURTHER ORDERED AND AGREED, that this signed Consent Order together with the payment of \$1,500.00 shall be remitted to:

Anita Bittner, Deputy Attorney General  
State of New Jersey, Division of Law  
R.J. Hughes Justice Complex  
25 Market Street, Second Floor West Wing  
P.O. Box 117  
Trenton, New Jersey 08625

and

IT IS FURTHER ORDERED AND AGREED, that Respondents shall remit the remaining balance of \$5,500.00 in monthly installment payments due on the first of each month, beginning on September 1, 2017, until the full civil penalty has been paid. Installment payments are to be made as follows: \$250.00 a month for 22 months beginning on September 1, 2017; and

IT IS FURTHER ORDERED AND AGREED, that all installment payments are to be paid by certified check, cashier's check or money order made payable to the "State of New Jersey, General Treasury" and sent to:

Rose V. McGill  
Collections Department  
New Jersey Department of Banking and Insurance  
20 West State Street, 10<sup>th</sup> Floor  
Trenton, New Jersey 08625

and

IT IS FURTHER HEREBY STIPULATED AND AGREED, that in the event full payment of the fine is not made, the Commissioner may exercise any and all remedies available by law, including, but not limited to, recovery of any unpaid penalties pursuant to the Penalty Enforcement Law of 1999, N.J.S.A. 2A:58-10, et seq.; and

IT IS FURTHER ORDERED AND AGREED, that the provisions of this Consent Order represent a final agency decision and constitute final resolution of Order to Show Cause No. E16-111.

  
Peter L. Hart  
Director of Insurance

**Consented to as to Form, Consent, and Entry:**

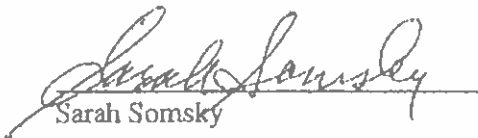
CHRISTOPHER S. PORRINO  
ATTORNEY GENERAL OF NEW JERSEY  
Attorney for New Jersey Department of Banking and Insurance

  
Anita Bittner  
Deputy Attorney General

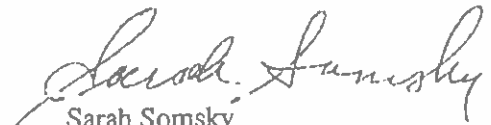
Date: \_\_\_\_\_

  
Larry Stempler  
Attorney for Respondents

Date: 8/21/17

  
Sarah Somsky

Date: 8/21/17

  
Sarah Somsky  
on behalf of SKAL and Comp, I.I.C

Date: 8/21/17