

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 Adam T. Baals, Jr., Reference No.)
0216000, and Jacquelyne M. McGlinchey,)
Reference No. 1091924.)

ORDER TO SHOW CAUSE

TO: Adam T. Baals, Jr.
256 Briar Hill Lane
Woodbury, NJ 08096

Jacquelyne M. McGlinchey
5039 Kerri Alice Circle
Ruskin, FL 33570-2527

THIS MATTER, having been opened by the Commissioner of Banking and Insurance, State of New Jersey (“Commissioner”), upon information that Adam T. Baals, Jr. (“Baals”) and Jacquelyne McGlinchey (“McGlinchey”) (collectively, “Respondents”) may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Baals 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, McGlinchey was licensed as a resident insurance producer in the State of New Jersey pursuant to N.J.S.A. 17:22A-32(a), until her license expired on February 28, 2013; and

WHEREAS, Fidelity Estate Planning, LLC (“FEP”), is an unlicensed limited liability company formed by Baals in 2004 in the State of New Jersey; 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”), the Producer Licensing regulations, N.J.A.C. 11:17-1.1 to -2.17 (“Producer Regulations”), 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)(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 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. 17:22A-40(a)(18), an insurance producer shall notify the Commissioner within 30 days of his conviction of any crime, indictment, or the filing of any formal criminal charges; 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.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 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 of up to \$5,000.00 for the first offense and up to \$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 RELATING TO JANET BRADFORD JUDGMENT

1. Prior to her involvement with Baals, McGlinchey and FEP, Janet Bradford ("Bradford") created an estate plan that evenly divided her estate between her four children, naming her daughter Brenda Varelli ("Varelli") as executrix.

2. Bradford's mental health thereafter deteriorated and she was diagnosed with dementia, diabetes, rhabdomyolysis, and macular degeneration.

3. By January 2006, Bradford lacked the mental capacity to manage her own affairs and Bradford's granddaughter, Jennifer White ("White"), had unilaterally assumed control of Bradford's finances.

4. In the summer of 2007, White introduced Bradford to McGlinchey, an agent for FEP, and through McGlinchey, an attorney, Donald Kingett ("Kingett").

5. On or about July 16, 2007, White paid FEP an estate planning fee of \$1,245 from Bradford's funds with a check on which White had signed Bradford's signature.

6. Kingett created a new set of estate planning documents for Bradford (i.e., will, trusts, deeds, power of attorney) that principally benefitted White and her immediate family, and that substantially altered the manner in which Bradford's assets were invested and held.

7. As part of the estate plan for Bradford created by FEP, on August 1, 2007, and August 27, 2007, respectively, White signed Bradford's signature on applications for two OM Financial Life Insurance ("OM Financial") equity-indexed annuities, numbered #Lxxxxx53 and #Lxxxxx71 (collectively, the "Annuities").

8. The Annuities named White as the sole beneficiary.

9. As part of the estate plan for Bradford created by FEP, the majority of Bradford's assets were liquidated and transferred into the Annuities, in the total amount of \$177,183.98, by White, Baals, McGlinchey and FEP.

10. White signed Bradford's signature on at least 10 separate documents in the process of liquidating Bradford's assets in order to purchase the Annuities, including the Annuity applications, checks, and various other documents transferring Bradford's assets.

11. McGlinchey has admitted that she falsely certified that she witnessed Bradford's signature on the Annuity applications when the signatures had in fact been signed by White.

12. OM Financial paid Baals \$23,959.60 in commissions for the sale of the Annuities, which he split equally with McGlinchey.

13. Bradford died in February 2008.

14. In June 2008, three of Bradford's children, Varelli, Kyle Bradford and Lyle Bradford, brought suit in the Probate Part of the Superior Court of New Jersey to set aside the Kingett documents, for restoration of estate assets, and for tort related compensatory and punitive damages, all based on allegations of negligence, fraud, consumer fraud, conspiracy, undue influence and mental incapacity.

15. The Honorable Anne McDonnell, J.S.C., of the Probate Part severed and removed to the Law Division of the Superior Court of New Jersey all claims except for undue influence and mental capacity.

16. By Order of September 26, 2011, Judge McDonnell found that Bradford lacked mental capacity and was unduly influenced by White in the creation of the Kingett documents, nullified the Kingett documents, and ordered the return of all assets to the estate.

17. Following a jury trial in the Law Division on April 11, 12, 13, 14, 18, 19, 20, 21, and 25, 2016, the jury determined that Baals, McGlinchey, FEP and White had engaged in fraud and breached their fiduciary obligation owed to Bradford, and that Baals, McGlinchey and FEP had committed consumer fraud.

18. On March 1, 2017, the Honorable David W. Morgan, J.S.C., Superior Court of New Jersey, Law Division, Gloucester County, Docket No. GLO-L-1405-11, entered a Judgment Order ("March 1, 2017 Judgment") in favor of the Estate of Janet Bradford ("Bradford Estate") and against Baals, McGlinchey, and FEP, jointly and severally, for \$560,068.74 in damages, \$506,153.28 in counsel fees, and \$6,516.55 in prejudgment interest, for a total of \$1,066,222.02,

wherein the Court entered findings of fact and conclusions of law that Baals, McGlinchey, and FEP had engaged in fraud, consumer fraud, and breach of fiduciary duty against the Bradford Estate.

FACTUAL ALLEGATIONS RELATING TO BAALS' CRIMINAL CONVICTION

19. On December 5, 2017, the Office of the County Prosecutor County of Cape May filed an Indictment in the Superior Court of New Jersey, Cape May County, against Baals alleging that on or about September 14, 2017, he committed the crimes of burglary and stalking against his former girlfriend, Celeste McKeefrey, and charging Baals with a third degree crime in violation of N.J.S.A. 2C:18-2(a)(1), and a fourth degree crime in violation of N.J.S.A. 2C:12-10(b), respectively.

20. On August 10, 2018, Baals pleaded guilty to a fourth degree crime in violation of N.J.S.A. 2C:12-10(b) in the Superior Court of New Jersey, Cape May County.

21. By Judgment of Conviction entered on October 16, 2018 in the Superior Court of New Jersey, Cape May County, Baals was convicted of a fourth degree crime in violation of N.J.S.A. 2C:12-10(b), and was sentenced to one year of probation.

COUNT ONE

22. Baals and McGlinchey are jointly and severally liable for the March 1, 2017 Judgment entered against them in Superior Court of New Jersey, Law Division, Gloucester County, which was based upon the Court's findings of fact and conclusions of law, that, *inter alia*, each had committed fraud, consumer fraud, and breach of fiduciary duty with regard to Janet Bradford, and assessed damages in the amount of \$560,068.74, counsel fees in the amount of \$506,153.28, and prejudgment interest in the amount of \$6,516.55, for a total of \$1,066,222.02, in violation of N.J.S.A. 17:22A-40(a)(2), (5), (7), (8), (16), and N.J.A.C. 11:17A-4.10.

COUNT TWO

23. Baals pleaded guilty to a fourth degree crime in violation of N.J.S.A. 2C:12-10(b), and was sentenced to one year of probation by Judgment of Conviction entered on October 16, 2018, in the Superior Court of New Jersey, Cape May County, in violation of N.J.S.A. 17:22A-40(a)(6).

24. Baals did not notify the Commissioner of his Indictment in the Superior Court of New Jersey, Cape May County, within 30 days of its filing on December 5, 2017, in violation of N.J.S.A. 17:22A-40(a)(18).

25. Baals did not notify the Commissioner of his conviction of a crime within 30 days of the Judgment of Conviction entered on October 16, 2018, in the Superior Court of New Jersey, Cape May County, in violation of N.J.S.A. 17:22A-40(a)(18).

NOW, THEREFORE, IT IS on this 16 day of August 2021,

ORDERED, that Respondents appear and show cause why their New Jersey insurance producer licenses should not be suspended or 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 up to \$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 N.J.S.A. 17:22A-45(c); and

IT IS FURTHER ORDERED, that Respondents appear and show cause why, in addition to any other penalty, they should not be required to reimburse the Department of Banking and Insurance for the costs of the investigation and prosecution as authorized by N.J.S.A. 17:22A-45(c); 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 Jeffrey S. Posta, Deputy Attorney General, Banking and Insurance Section, 25 Market Street, P.O. Box 117, Trenton, New Jersey 08625-0117. The request from each Respondent 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 a hearing.



Marlene Caride
Commissioner