

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 John M. Spinazzola, Reference)
No. 1042635, and Frontline Title, LLC.)
Reference No. 1088867)
_____)

CONSENT ORDER

TO: John M. Spinazzola
411 Madison Street, 2nd FL
Boonton, NJ 07005-2051

Frontline Title, LLC
1 Cattano Avenue
Morristown, NJ 07960

THIS MATTER, having been opened by the Commissioner of Banking and Insurance ("Commissioner"), State of New Jersey, upon issuance of First Amended Order to Show Cause No. E16-38 (the "Order to Show Cause") alleging that John M. Spinazzola ("Spinazzola") and Frontline Title, LLC. ("Frontline") (collectively "Respondents") may have violated various provisions of the insurance laws of the State of New Jersey; and

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

WHEREAS, Frontline was formerly licensed as a resident business entity producer pursuant to N.J.S.A. 17:22A-32b until the expiration of its license on May 31, 2013; 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"), the regulations governing Insurance Producer Standards of Conduct, N.J.A.C. 11:17A-1.1 et seq., N.J.A.C. 11:17C-1.1 et seq., and N.J.A.C. 11:17D-1.1 et seq., and the New Jersey Insurance Fraud Prevention Act, N.J.S.A. 17:33A-1 et seq. ("Fraud Act"); and

WHEREAS, Spinazzola is the Designated Responsible Licensed Producer of Frontline and responsible for the activities of Frontline, and responsible for ensuring that Frontline complies with the insurance laws, rules and regulations of this State, pursuant to N.J.S.A. 17:22A-32b(2); 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, 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 insurance business in this State or elsewhere; 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-40c, the producer license of a business entity may be suspended, revoked or refused if the Commissioner finds, after hearing, that an individual licensee's violation was known or should have been known by one or more of the partners, officers or managers acting on behalf of the business entity and the violation was neither reported to the Commissioner nor corrective action taken; and

WHEREAS, pursuant to N.J.S.A. 17:22A-45c, any person violating the Producer Act shall be liable to a penalty not exceeding \$5,000 for the first offense and not exceeding \$10,000 for each subsequent offense to be recovered in a summary proceeding in accordance with the Penalty Enforcement Law of 1999, N.J.S.A. 2A:58-10 et seq., and the Commissioner may order restitution of moneys owed any person and reimbursement of the costs of investigation and prosecution, as appropriate; 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 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.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.A.C. 11:17A-4.8, an insurance producer shall reply, in writing, to any inquiry of the New Jersey Department of Banking and Insurance

("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 was given; 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(c), all title insurance settlement funds shall be disbursed within five business days after settlement except as determined by the parties at settlement; and

WHEREAS, pursuant to N.J.S.A. 17:33A-4a(4)(b), a person violates the Fraud Act if she prepares or makes 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-5a(2), the Commissioner is authorized to levy a civil administrative penalty and order restitution against those who violate the provisions of the Fraud Act; and

WHEREAS, pursuant to N.J.S.A. 17:33A-5c, the Commissioner is authorized to assess a civil and administrative penalty of not more than \$5,000.00 for the first violation, \$10,000.00 for the second violation and \$15,000.00 for each subsequent violation of any provision of the Fraud Act and to order restitution to any insurance company or other person who has suffered a loss as a result of a violation of the Fraud Act; and

WHEREAS, pursuant to N.J.S.A. 17:33A-5.1, if a person is charged with insurance fraud in a legal proceeding and the charge is resolved through a settlement requiring

the person to pay a sum of money, the person shall be subject to a surcharge in an amount equal to 5 percent of the settlement payment; and

WHEREAS, on May 16, 2016, the Commissioner issued the Order to Show Cause alleging violations of the Producer Act and the Fraud Act by Respondents as set forth in the following Counts:

COUNT 1
(Producer Act Charges)

IT APPEARING, that at all relevant times Respondents were acting as a title insurance agency; and

IT FURTHER APPEARING, that at all relevant times Respondents owned and controlled a bank account with Chase Bank numbered xxxxx3804; and

IT FURTHER APPEARING, that account xxxxx3804 was named "Frontline Title LLC"; and

IT FURTHER APPEARING, that during or about November 2010, Respondents acted as settlement agents for the refinancing of real estate located at 101 Cooper Avenue, Montclair, New Jersey; and

IT FURTHER APPEARING, that both the original mortgage and the refinanced mortgage for 101 Cooper Avenue were provided through J.P. Morgan Chase Bank; and

IT FURTHER APPEARING, that on or about November 29, 2010, as part of the refinancing, J.P. Morgan Chase Bank Loan Funding wired \$140,255.06 into Respondents' bank account number xxxxx3804; and

IT FURTHER APPEARING, that on or about December 1, 2010, to pay off the original mortgage, Respondents transmitted to J.P.M. Chase check number 2879 in the amount of \$136,806.93 from Respondents' bank account number xxxxx3804; and

IT FURTHER APPEARING, that on or about December 7, 2010, check number 2879 was returned to Respondents by J.P.M. Chase for insufficient funds; and

IT FURTHER APPEARING, that this instance, where Respondents transmitted a check, relative to the business of title insurance, for which

Respondents' bank account did not have sufficient funds to pay, constitutes violations of N.J.S.A. 17:22A-40a(2), (8), and (16); and

COUNT 2
(Producer Act Charges)

IT FURTHER APPEARING, that Respondents never returned \$136,806.93 to J.P.M. Chase relative to the 101 Cooper Avenue refinancing; and

IT FURTHER APPEARING, that this instance were Respondents failed [to] disburse title insurance settlement funds, and misappropriated \$136,806.93 for their own purposes, constitutes violations of N.J.S.A. 17:22A-40a(2), (4), (8), (16), N.J.A.C. 11:17A-4.10, and N.J.A.C. 11:17C-2.2(c); and

COUNT 3
(Fraud Act Charges)

IT FURTHER APPEARING, that on or about March 15, 2013, Respondents submitted an application to Gotham Insurance Company for an Errors and Omissions insurance policy; and

IT FURTHER APPEARING, that on the March 15, 2013 application, Respondents answered "NO" to the application question "Does any person to be insured have knowledge or information of any act, error, or omissions which might reasonably be expected to give rise to a claim against him or his predecessors in Business that has not been reported to your respective Errors and Omissions Insurance carrier?"; and

IT FURTHER APPEARING, that on the March 15, 2013 application Respondents answered "NO" to the application question "have any professional liability claims ever been made against any proposed insured?"; and

IT FURTHER APPEARING, that based upon Respondents' disclosures on the March 15, 2013 application, Gotham Insurance issued Respondents an Errors and Omissions insurance policy; and

IT FURTHER APPEARING, that after Gotham Insurance issued Respondents an Errors and Omissions insurance policy, Respondents submitted a claim on the policy related to the Cooper Avenue refinancing; and

IT FURTHER APPEARING, that on or about November 7, 2013, Gotham Insurance rejected Respondents' claim for benefits because the loss occurred prior to policy inception; and

IT FURTHER APPEARING, that on or about November 7, 2013, Gotham Insurance voided Respondents' Errors and Omissions insurance policy; and

IT FURTHER APPEARING, that Gotham Insurance would not have issued the Errors and Omissions insurance policy if Respondents had disclosed the prior loss relative to the refinancing; and

IT FURTHER APPEARING, that this instance were Respondents prepared or made a written or oral statement in the application to Gotham Insurance, for the purpose of obtaining an insurance policy, knowing that the application contains false or misleading information concerning any fact or thing material to the insurance application, constitutes violations of N.J.S.A. 17:33A-4a(4)(b), N.J.S.A. 17:22A-40a(2), (8), and (16); and

COUNT 4
(Producer Act Charges)

IT FURTHER APPEARING, that on or about January 25, 2012, the Department mailed, via regular and certified mails, a letter to Respondents requesting a response within ten days of receipt of the letter; and

IT FURTHER APPEARING, that the January 25, 2012 letter sent via certified mail was returned to the Department as unclaimed; and

IT FURTHER APPEARING, that the January 25, 2012 letter sent via regular mail was not returned to the Department; and

IT FURTHER APPEARING, that Respondents never responded to the Department's January 25, 2012 letter; and

IT FURTHER APPEARING, that on or about February 17, 2012, the Department mailed, via regular and certified mail, a letter to Respondents requesting a response; and

IT FURTHER APPEARING, that the February 17, 2012 letter sent via certified mail was returned to the Department as unclaimed; and

IT FURTHER APPEARING, that the February 17, 2012 letter sent via regular mail was not returned to the Department; and

IT FURTHER APPEARING, that Respondents never responded to the Department's February 17, 2012 letter; and

IT FURTHER APPEARING, that these instances, where Respondents failed to reply in writing, to two inquiries 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 inquiry was made or mailed in cases where no response time was given, constitutes two separate violations each of N.J.S.A. 17:22A-40a(2) and N.J.A.C. 11:17A-4.8; and

IT FURTHER APPEARING, that on June 3, 2016 Respondents filed an Answer denying the allegations set forth in the Order to Show Cause; and

IT FURTHER APPEARING, that the parties have reached an agreement resolving this matter in accord with the terms and conditions of this Consent Order; and

IT FURTHER APPEARING, that Respondents admit and agree to take responsibility for the violations contained in Counts One and Two of the Order to Show Cause; and

IT FURTHER APPEARING, that Respondents admit and agree that the allegations in Count Three of the Order to Show Cause constitute violations of the Fraud Act and agree to take responsibility for same; and

IT FURTHER APPEARING, that the Commissioner withdraws the allegations and charges as stated in Count Four of the Order to Show Cause with prejudice; and

IT FURTHER APPEARING, that Respondents have waived their rights to a hearing on the above violations and consented to the revocation of their insurance producer licenses and the payment of a \$20,250.00 total fine, allocated as follows: \$5,000.00 for the violation alleged in Count 1, \$10,000.00 for the violation alleged in Count 2, \$5,000.00 for the violation alleged in Count 3, and \$250.00 representing the statutory surcharge, pursuant to N.J.S.A. 17:33A-5.1; and

IT FURTHER APPEARING, that this matter should be resolved upon the consent of the parties without resort to a formal hearing, subject to the terms and conditions of this Consent Order; and

IT FURTHER APPEARING, that good cause exists to enter into this Consent Order:

NOW, THEREFORE, IT IS on this 11th day of November, 2017.

ORDERED AND AGREED, that Respondents admit to the violations of the Producer Act, Fraud Act, and Department Regulations as described in Counts One, Two, and Three of the Order to Show Cause; and

IT IS FURTHER ORDERED AND AGREED, that the Department withdraws the charges in Count Four of the Order to Show Cause with prejudice; and

IT IS FURTHER ORDERED AND AGREED, that the New Jersey insurance producer license of John M. Spinazzola is hereby REVOKED, pursuant to N.J.S.A. 17:22A-40a; and

IT IS FURTHER ORDERED AND AGREED, that pursuant to N.J.A.C. 11:17D-2.5(e), John M. Spinazzola may not be a partner, officer, director or owner of a licensed business entity, or otherwise be employed in any capacity by an insurance producer; and

IT IS FURTHER ORDERED AND AGREED that the New Jersey insurance producer license of Frontline Title, LLC, is hereby REVOKED, pursuant to N.J.S.A. 17:22A-40a; and

IT IS FURTHER ORDERED AND AGREED, Respondents shall pay civil penalties in the amount of \$20,250.00 for the violations admitted to herein; and

IT IS FURTHER ORDERED AND AGREED, Respondents shall remit an initial payment on the civil penalties in the amount of \$1,000.00 to the Department by certified check.

cashier's check or money order made payable to the "State of New Jersey, General Treasury" due and payable immediately upon the execution of this Consent Order by Respondents; and

IT IS FURTHER ORDERED AND AGREED, that that this signed Consent Order together with the initial payment of \$1,000.00 shall be remitted to:

Ryan S. Schaffler, Deputy Attorney General
State of New Jersey, Division of Law
R.J. Hughes Justice Complex
25 Market Street
P.O. Box 117
Trenton, New Jersey 08625

and

IT IS FURTHER ORDERED AND AGREED, that the Respondents shall remit the remaining balance of \$19,250.00 of the penalties to the Department in monthly installment payments of \$300.00, to be paid on or by the first day of each month, beginning December 1, 2017, until the full settlement amount has been paid, by certified check, official bank 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, 10th Floor
P.O. Box 325
Trenton, New Jersey 08625

and

IT IS FURTHER ORDERED 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 in accordance with the Penalty Enforcement Law of 1999, N.J.S.A. 2A:58-10 et seq.


IT IS FURTHER ORDERED AND AGREED, that pursuant to N.J.S.A. 17:22A-45c, Respondents are hereby Ordered to pay restitution in the amount of \$136,806.93 to New Jersey Title Insurance Company, its parent or successor entity, or to any person or entity with rights or claims thereto; and

IT IS FURTHER ORDERED AND AGREED, that nothing contained in this settlement agreement shall be construed as a waiver of any rights and defenses Respondents may be entitled to assert in any legal action brought by any third party; and

IT IS FURTHER ORDERED AND AGREED, that pursuant to N.J.S.A. 17:33A-5d, this settlement agreement shall not be used in a subsequent criminal proceeding relating to any violation of the Fraud Act; and


IT IS FURTHER ORDERED AND AGREED, that the fines and restitution are imposed herein 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 AND AGREED, that the provisions of this Consent Order represent a final agency decision and constitute final resolution of the violations contained in the Order to Show Cause and this Consent Order.


Peter B. Hart
Director of Insurance

Consented to as to Form, Content, and Entry:

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




Ryan S. Schaffer
Deputy Attorney General

Date: 11/3/17



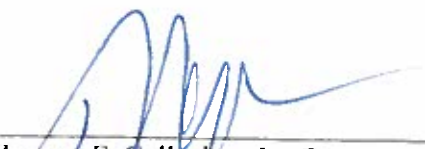
John M. Spinazzola, Individually

Date: 10/27/2017



John M. Spinazzola, as the Designated
Responsible Licensed Producer of Frontline
Title, LLC.

Date: 10/27/2017



Jerome F. Gallagher, Jr., Esq.
Norris McLaughlin & Marcus, P.A.
Attorney for Respondents

Date: 10/31/17