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SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - ESSEX COUNTY
DOCKET NO. ESX-L-426-20

MARLENE CARIDE,)
COMMISSIONER OF THE NEW)
JERSEY DEPARTMENT OF)
BANKING AND INSURANCE,)
Plaintiff,)

Civil Action

STIPULATION OF SETTLEMENT

v.)

LUIS TAMAY-CHIMBORAZ;)
LUIGI CONSTRUCTION AND)
LANDSCAPING, INC.; and)
LUIS QUITO-QUIROZ,)

Defendants.

WHEREAS, Plaintiff Marlene Caride, Commissioner of the New Jersey Department of Banking and Insurance ("Plaintiff" or "Commissioner"), and Luis Tamay-Chimboraz ("Tamay") and Luigi Construction and Landscaping, Inc. (collectively, "Defendants") have reached an amicable agreement resolving the issues in

controversy, and consented to the entry of the within Stipulation of Settlement ("Settlement").

WHEREAS, the Commissioner and Defendants (collectively, the "Parties") have determined and hereby agree that this Settlement is in each of their best interests and for good cause shown.

NOW THEREFORE, the Parties agree fully and finally to settle this matter pursuant to the terms and conditions below.

1. Defendants admit that they violated the New Jersey Insurance Fraud Prevention Act, N.J.S.A. 17:33A-1 to -30 ("Fraud Act"), by falsely claiming to have personally given the "Statement of No Loss" for the purpose of having Luigi Construction's insurance policy reinstated and by falsely representing to Progressive Insurance Company that neither Tamay nor his vehicles had been in any accidents prior to the reinstatement of the insurance policy.

2. Defendants' aforementioned conduct constitutes multiple violations of the Fraud Act, and any future violation of the Fraud Act shall be considered a subsequent violation.

3. Defendants agree that they shall not engage in any future violations of the Fraud Act.

4. Defendants shall pay a total judgment of \$6,990.00 to the Commissioner ("Settlement Amount"). This Settlement Amount consists of \$5,000 in civil penalties, joint and several, pursuant

to N.J.S.A. 17:33A-4(a)(1); \$1,490.00 in attorneys' fees, joint and several, pursuant to N.J.S.A. 17:33A-5(b); and \$250.00 in statutory surcharge each, pursuant to N.J.S.A. 17:33A-5.1.

5. Defendants shall satisfy the judgment upon the following terms and conditions:

a. On or before December 25, 2020, Defendants shall remit to the attorney for the Commissioner a payment in the amount of \$1,000.00 by certified check, official bank check, or money order made payable to the "Commissioner, New Jersey Department of Banking and Insurance" and sent to:

Dakar Ross, Deputy Attorney General
Banking and Insurance Section
R.J. Hughes Justice Complex
25 Market Street, P.O. Box 117
Trenton, New Jersey 08625

b. Beginning January 1, 2021, Defendants shall remit the remaining balance of \$5,990.00 as follows: 11 monthly installment payments of \$500.00 each to be paid on or by the fifteenth (15) day of each month and then a last payment of \$490.00. All payments shall be made by certified check, official bank check, or money order made payable to the "Commissioner, New Jersey Department of Banking and Insurance" 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

6. No representation, inducement, promise, understanding, condition, or warranty not set forth in this Settlement has been made to or relied upon by Defendants in agreeing to this Settlement. Defendants represent that this Settlement is freely and voluntarily entered into without any degree of duress or compulsion.

7. In conjunction with the execution of this Stipulation of Settlement, the parties shall also enter into an Order of Entry of Judgment by Consent for the entire judgment amount, which will be docketed with the Superior Court of New Jersey as a statewide lien.

8. In the event of the failure by Defendants to pay any Settlement Amount installment payment when due, the entire Settlement Amount shall be immediately due and payable, upon written notice by the Commissioner. Such notice shall be given to the person and address designated in the Paragraph 16 by: (a) delivery in person; (b) a nationally recognized next-day courier service; or (c) first class regular or certified mail. Notice so given shall be effective upon: (a) receipt; or (b) on the fifth (5th) day following mailing, whichever occurs first. Defendants shall have an opportunity to pay the unpaid balance within fifteen (15) calendar days from the date of notice. If Defendants fail to pay the overdue unpaid balance of the payment obligations under this Settlement within fifteen (15) calendar days from the date of

notice of non-payment, then the Commissioner may take any action available under the law of this State to collect the amount outstanding at that time, including post-judgment interest from the date of the judgment, attorneys' fees expended to date and to collect this debt, and any other remedies available under the law.

9. The Parties agree that each Party shall bear its own legal and other costs incurred in connection with this matter, and no additional attorneys' fees or costs shall be due, except Defendants agree to pay Plaintiff's attorneys' fees pursuant to N.J.S.A. 17:33A-5(b) and all reasonable costs of collection and enforcement of this Settlement, including attorneys' fees and expenses.

10. For purposes of construction, this Settlement shall be deemed drafted by all Parties to this Settlement and therefore shall not be construed against any Party for that reason in any subsequent dispute.

11. The undersigned counsel and any other signatories represent and warrant that they are fully authorized to execute this Settlement on behalf of the persons indicated below.

12. All communications from any party concerning the subject matter of this Settlement shall be addressed as follows:

If to the Commissioner: Dakar Ross
Deputy Attorney General
Banking and Insurance Section
R.J. Hughes Justice Complex
25 Market Street
P.O. Box 117
Trenton, New Jersey 08625

If to Defendants: Luis Tamay-Chimboraz
44 Tompkins Street
West Orange, NJ 07052

13. This Settlement may be executed in counterparts, each of which constitutes an original and all of which constitutes one and the same agreement.

14. Pursuant to N.J.S.A. 17:33A-10(c), a copy of this Stipulation of Settlement shall be provided to any appropriate licensing authority.

15. This Settlement can be used in any subsequent civil or criminal proceeding.

16. The penalties of this Settlement are imposed pursuant to the police powers of the State of New Jersey for the enforcement of the law and 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.

CONSENTED AS TO FORM, CONTENT, AND ENTRY:

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiff

Dated: JANUARY 27, 2021

By: /S/ Dakar Ross
Dakar Ross
Deputy Attorney General

Dated: 1-4-21

By: Luis Tamay
Luis Tamay-Chimboraz
Pro Se Defendant, on behalf of
himself

Dated: 1-4-21

By: Luigi Tamay
Luis Tamay-Chimboraz
Pro Se Defendant, Owner and
President, on behalf of
Defendant Luigi
Construction and Landscaping,
Inc.