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Attorney for Plaintiff

Filed and so Ordered

Sep 20, 2021

This Motion was Unopposed

By: Ashleigh B. Shelton
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SUPERIOR COURT OF NEW JERSEY
SPECIAL CIVIL PART - MIDDLESEX COUNTY
DOCKET NO. MID-DC-014313-19

_____)	
)	
MARLENE CARIDE, COMMISSIONER OF)	<u>Civil Action</u>
THE NEW JERSEY DEPARTMENT OF)	
BANKING AND INSURANCE,)	ORDER OF SUMMARY JUDGMENT
)	
Plaintiff,)	SPECIAL CIVIL PART: STATUTORY
)	PENALTIES
v.)	
)	
MACAULAY WILLIAMS)	
)	
Defendant.)	
_____)	

This matter coming before the Court on the application of Gurbir S. Grewal, Attorney General, (by Ashleigh B. Shelton, Deputy Attorney General appearing), attorney for Plaintiff, Marlene Caride, Commissioner of the New Jersey Department of Banking and Insurance ("Commissioner"), for an Order of Summary Judgment

against Defendant Macaulay Williams ("Defendant"), and the Court having considered the papers submitted, and oral argument, if any, and for good cause shown; and

It is on this 20th day of September, 2021;

ORDERED, that Summary Judgment shall be and hereby is **GRANTED** in favor of the Commissioner and against Defendant; and

IT IS FURTHER ORDERED, this Court now finds that Defendant violated the New Jersey Insurance Fraud Prevention Act, N.J.S.A. 17:33A-1 to -30 ("Fraud Act"), specifically, N.J.S.A. 17:33A-4(a)(1) by providing false checks to Liberty Mutual in support of his claim that he paid his fiancé \$16,450 in alternate living expenses when in fact, he did not.

IT IS FURTHER ORDERED, that after consideration of the factors relevant to the calculation of civil penalties, as set forth in Kimmelman v. Henkels & McCoy, Inc., 108 N.J. 123 (1987), that judgment shall be and hereby is entered in the total amount of **\$38,472.00** ~~\$43,602.00~~ against Defendant.

This amount consists of: a \$5,000 civil penalty against Defendant for violation of N.J.S.A. 17:33A-4(a)(1), for the reasons described in the Commissioner's brief in support of summary judgment; a statutory fraud surcharge of \$1,000.00, pursuant to N.J.S.A. 17:33A-5.1; and attorneys' fees of **\$32,472.00** ~~\$37,602.00~~, pursuant to N.J.S.A. 17:33A-5(b), for the reasons described in the

Certification of Ashleigh B. Shelton in support of summary judgment;

IT IS FURTHER ORDERED, that a copy of this Order be served on all parties within 7 days from the date of receipt.



Hon. J. Randall Corman, JSC

The Honorable J. Randall Corman, J.S.C.

X _____ opposed

_____ unopposed

In view of the undisputed facts that 1) the Defendant submitted a claim to Liberty Mutual for \$31,500 in living expenses; 2) documentation for this claim consisted of copies of the checks the Defendant had issued payable to his girlfriend in the amount of \$16,450; 3) these checks were never cashed, the Court is compelled to conclude that the motion for summary judgment must be granted. The fact that the checks were never cashed means that these expenses were never incurred, therefore the Defendant did make false statements for the purpose of receiving insurance benefits. The submission of uncashed checks to Liberty Mutual as proof of expenses is a transparent attempt at deception and no rational factfinder could conclude otherwise.

While the number of unsuccessful motions filed by the Defendant justifies a larger than usual award of counsel fees, the amount of counsel fees requested has been reduced pursuant to RPC 1.5 to eliminate charges that were insufficiently documented or involved conferences between attorneys assigned to work on the Plaintiff's file.