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SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION - OCEAN COUNTY  
DOCKET NO. OCN-L-001441-22

MARLENE CARIDE, )  
COMMISSIONER OF THE )  
NEW JERSEY DEPARTMENT OF )  
BANKING AND INSURANCE, )  
Plaintiff, )  
v. )  
JOHN APPLEBY, III and LIFTECH )  
FORKLIFT REPAIR, INC., )  
Defendants. )

Civil Action

**ORDER FOR FINAL JUDGMENT  
BY DEFAULT**

THIS MATTER HAVING BEEN opened to the Court on the application of Matthew J. Platkin, Attorney General of New Jersey, (by William E. Vaughan, Deputy Attorney General, appearing), attorney for Plaintiff, Marlene Caride, Commissioner of the New Jersey Department of Banking and Insurance on a motion for judgment by default; and

Defendants, John Appleby, III (“Appleby”) and Liftech Forklift Repair, Inc.

("Liftech") (collectively, "Defendants"), having been duly served with a copy of the Summons and Complaint in the above-captioned action, and default having been entered for Defendants' failure to appear, answer, or otherwise defend;

This Court now finds that Defendants violated the New Jersey Insurance Fraud Prevention Act, N.J.S.A. 17:33A-1 to -30 ("Fraud Act") by (i) making a written statement intended to be presented to an insurance company for the purpose of obtaining an insurance policy knowing that the statement contained false or misleading information concerning a fact or thing material to an insurance application; (ii) presenting oral statements in support of a claim for payment or other benefit pursuant to an insurance policy knowing that the statements contained false or misleading information concerning a fact or thing material to the claim, and (iii) concealing and/or knowingly failing to disclose the occurrence of an event that affected their initial or continued right or entitlement to an insurance benefit or payment;

Specifically, Defendants (i) falsely represented on an automobile insurance policy application that Appleby was the only driver of the vehicle; failed to disclose an additional driver of the insured vehicle on the application; and failed to disclose a recent accident when applying for the policy, in violation of N.J.S.A. 17:33A-4(a)(1) and -4(a)(3), and -4(a)(4)(b); (ii) falsely represented on telephone calls with an insurance company in support of an accident claim that an accident occurred after obtaining the automobile insurance policy, when in fact it occurred prior to obtaining the policy, in

violation of N.J.S.A. 17:33A-4(a)(1); (iii) falsely represented on a telephone call with an insurance company in support of their claim that there had not been any accidents involving the insured vehicle between the time their prior automobile insurance policy was cancelled due to nonpayment of premium and the time when they obtained a new automobile insurance policy, and failed to disclose that there had been an incident during the lapse period, in violation of N.J.S.A. 17:33A-4(a)(1) and -4(a)(3); and (iv) falsely represented on telephone calls with an insurance company in support of an insurance claim that Appleby was the only occupant of the vehicle at the time of the accident, when in fact another individual was driving the vehicle at the time of the accident, and failed to disclose that driver, in violation of N.J.S.A. 17:33A-4(a)(1) and -4(a)(3); and

FINAL JUDGMENT is on this 26<sup>th</sup> day of MAY 2023, entered in favor of Plaintiff, Marlene Caride, Commissioner of the New Jersey Department of Banking and Insurance, as follows:

1. \$10,000.00 in civil penalties, jointly and severally, against both Defendants for two (2) violations of the Fraud Act, under N.J.S.A. 17:33A-5(b); **GRANTED\*\*\***
2. Attorneys' fees of \$3,500.00, jointly and severally, against both Defendants, pursuant to N.J.S.A. 17:33A-5(b);
3. Cost of service in the amount of \$40.00 against Appleby, individually, pursuant to N.J.S.A. 17:33A-5(b);
4. Cost of service in the amount of \$68.00 against Liftech, individually,

pursuant to N.J.S.A. 17:33A-5(b);

5. A statutory fraud surcharge of \$1,000.00 against Appleby, individually, pursuant to N.J.S.A. 17:33A-5.1; and
6. A statutory fraud surcharge of \$1,000.00 against Lifetech, individually, pursuant to N.J.S.A. 17:33A-5.1.

IT IS FURTHER ORDERED, that pursuant to N.J.S.A. 39:6A-15, Appleby's driving privileges will be suspended for a period of one (1) year from the date of this judgment.

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

/s/ Robert E. Brenner

**HON. ROBERT E. BRENNER, J.S.C.**

( ) OPPOSED

( X ) UNOPPOSED

\*\*\* MOTION GRANTED FOR THE REASONS SET FORTH ON THE RECORD.