

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 Louis Polite, Jr., Reference No.
8208904.

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FINAL ORDER

TO: Louis Polite, Jr.
15 Seeley Drive
Westampton, New Jersey 08060

This matter, having been opened by the Commissioner of Banking and Insurance, State of New Jersey ("Commissioner"), upon information that Louis Polite, Jr. ("Polite" or "Respondent") may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Polite is 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") and the Producer Licensing regulations promulgated thereunder, N.J.A.C. 11:17-1.1 to -2.17, 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 this 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 this 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-29, a person shall not sell, solicit or negotiate insurance in this State unless the person is licensed for that line of authority in accordance with this act; and

WHEREAS, pursuant to N.J.A.C. 11:17D-2.5(e), no person whose license has been suspended or revoked may be a partner, officer, director or owner of a licensed business entity, or otherwise be employed in any capacity by an insurance producer; and

WHEREAS, pursuant to N.J.A.C. 11:17A-1.3(a), no person shall act as an insurance producer without first obtaining a license from the Commissioner granting authority for the kind of insurance transacted; and

WHEREAS, pursuant to N.J.A.C. 11:17A-1.3(b), any person who solicits, negotiates or sells contracts of insurance in New Jersey shall be considered to be transacting the business of insurance in New Jersey so as to require licensure as an insurance producer; and

WHEREAS, pursuant to N.J.A.C. 11:17A-1.3(c), engaging in a single act or transaction of the business of an insurance producer, or holding oneself out to the public or an insurance producer as being so engaged, shall be sufficient proof of engaging in the business of an insurance producer as to require licensure; 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, or may take any combination of actions for violating the Producer Act, for any one or more of the following causes: (2) violating any insurance laws, or violating any regulation, subpoena or order of the commissioner or of another state's insurance regulator; (8) using fraudulent, coercive or dishonest practices, or demonstrating incompetence, untrustworthiness or

financial irresponsibility in the conduct of insurance business in this State or elsewhere; and (16) committing any fraudulent act; and

WHEREAS, pursuant to N.J.S.A. 17:22A-45(c), any licensee violating the Producer Act and/or the Insurance Producer Standards of Conduct is subject to a penalty not exceeding \$5,000.00 for the first offense and not exceeding \$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

WHEREAS, the Commissioner issued Order to Show Cause No. E24-04 on January 8, 2024¹, alleging violations of the Producer Act by Polite as set forth below.

GENERAL ALLEGATIONS

IT APPEARING, that Polite was licensed as a resident insurance producer in 1984 and held said license until it was revoked by the Commissioner pursuant to Final Order E11-98 dated November 15, 2011; and

IT FURTHER APPEARING, that AVS Insurance Agency, Inc. ("AVS Insurance") was a business entity formed in May 2005 under the laws of New Jersey, and became licensed in May 2005 as an insurance producer in the State of New Jersey pursuant to N.J.S.A. 17:22A-32(a), until its license was cancelled on September 28, 2020; and

IT FURTHER APPEARING, that between 2016 and 2018, at which time his insurance license was revoked, Polite was an employee of and/or maintained an agency relationship with AVS Insurance, in that he solicited insurance business on behalf of AVS Insurance and/or held himself out to the public and to clients of AVS Insurance as an insurance agent authorized to engage in insurance related activities and transact insurance business, which acts included but were not limited to conferring directly with or offering advice directly to a purchaser or prospective purchaser of insurance products and/or service; and

¹Due to a typographical error, Order to Show Cause No. E24-04 states it was executed in 2023 when, in fact, it was executed in 2024.

IT FURTHER APPEARING, that during his employment and/or agency relationship with AVS Insurance, Polite used the alias "P.J." and/or "P.J. Villatoro" for the purpose of concealing his identity and obscuring his activity as an unlicensed person transacting the business of insurance in New Jersey; and

COUNT ONE

IT FURTHER APPEARING, that on multiple occasions while employed by AVS Insurance, Polite conferred directly with "P.V.," the owner of a New Jersey construction business, for the purpose of soliciting and/or conducting insurance business on behalf of AVS Insurance; and

IT FURTHER APPEARING, that on multiple occasions while employed by AVS Insurance, Polite discussed with P.V. the terms or conditions of various contracts or policies of insurance, and also directly sold to P.V. several contracts or policies of insurance; and

IT FURTHER APPEARING, that at all times during his interactions with P.V., Polite held himself out as an employee or agent of AVS Insurance, and as a person authorized to conduct insurance business on behalf of P.V. and his company; and

IT FURTHER APPEARING, that Polite's conduct on behalf of AVS Insurance constituted being employed by an insurance producer, and his interactions with P.V. constituted sufficient proof of engaging in the business of an insurance producer as to require licensure, and having undertaken these activities while his license as insurance producer was revoked, Polite violated N.J.S.A. 17:22A-29, N.J.A.C. 11:17A-1.3(a), (b) and (c); N.J.A.C. 11:17D-2.5(e); and N.J.A.C. 11:17D-2.5(e); and N.J.S.A. 17:22A-40(a)(2), (8) and (16);and

COUNT TWO

IT FURTHER APPEARING, that on multiple occasions while employed by AVS Insurance, Polite conferred directly with "V.C.," the owner of a New Jersey construction business, for the purpose of soliciting and/or conducting insurance business on behalf of AVS Insurance; and

IT FURTHER APPEARING, that on multiple occasions while employed by AVS Insurance, Polite discussed with V.C. the terms or conditions of various contracts or policies of insurance, and also directly sold to V.C. several contracts or policies of insurance; and

IT FURTHER APPEARING, that at all times during his interactions with V.C., Polite held himself out as an employee or agent of AVS Insurance, and a person authorized to conduct insurance business on behalf of V.C. and his company; and

IT FURTHER APPEARING, that Polite's conduct on behalf of AVS Insurance constituted being employed by an insurance producer, and his interactions with V.C. constituted sufficient proof of engaging in the business of an insurance producer as to require licensure, and having undertaken these activities while his license as insurance producer was revoked, Polite violated N.J.S.A. 17:22A-29, N.J.A.C. 11:17A-1.3(a), (b) and (c); N.J.A.C. 11:17D-2.5(e); and N.J.A.C. 11:17D-2.5(e); and N.J.S.A. 17:22A-40(a)(2), (8) and (16); and

COUNT THREE

IT FURTHER APPEARING, that on multiple occasions while employed by AVS Insurance, Polite conferred directly with "J.C.," the owner of a New Jersey construction business, for the purpose of soliciting and/or conducting insurance business on behalf of AVS Insurance; and

IT FURTHER APPEARING, that on multiple occasions while employed by AVS Insurance, Polite discussed with J.C. the terms or conditions of various contracts or policies of insurance, and also directly sold to J.C. several contracts or policies of insurance; and

IT FURTHER APPEARING, that on multiple occasions while employed by AVS Insurance, Polite directly contacted Leon Silver Associates, LLC ("Leon"), a formerly-licensed insurance underwriter and wholesale broker operating in Cranford, New Jersey, to obtain insurance policy quotes, secure insurance binders and conduct other insurance business on behalf of J.C. and his company; and

IT FURTHER APPEARING, that at all times during his interactions with J.C. and Leon, Polite held himself out as an employee or agent of AVS Insurance, and a person authorized to conduct insurance business on behalf of J.C. and his company; and

IT FURTHER APPEARING, that Polite's conduct on behalf of AVS Insurance constituted being employed by an insurance producer, and his interactions with J.C. and Leon constituted sufficient proof of engaging in the business of an insurance producer

as to require licensure, and having undertaken these activities while his license as insurance producer was revoked, Polite violated N.J.S.A. 17:22A-29, N.J.A.C. 11:17A-1.3(a), (b) and (c); N.J.A.C. 11:17D-2.5(e); and N.J.A.C. 11:17D-2.5(e); and N.J.S.A. 17:22A-40(a)(2), (8) and (16);and

IT FURTHER APPEARING, that as set forth in the Certification of Dakar Ross ("Ross Cert."), attached as Exhibit A, ¶¶3-4, Polite was given notice of the aforesaid charges and an opportunity to contest the charges at a hearing pursuant to Order to Show Cause E24-04; and

IT FURTHER APPEARING, that as set forth in Ross Cert., ¶¶5-7, Polite was duly served with Order to Show Cause E24-04 by certified mail, RRR, and regular mail sent to the address listed on this Final Order in accordance with N.J.A.C. 11:17D-2.1(a)(3); and

IT FURTHER APPEARING, that as set forth in Ross Cert., ¶8, Polite failed to appear, respond or otherwise defend against Order to Show Cause E24-04, and had waived his rights to a hearing, and therefore the violations in the OTSC were deemed admitted pursuant to N.J.A.C. 11:17D-2.1(b)(1); and

IT FURTHER APPEARING, that in Kimmelman v. Henkels & McCoy, Inc., 108 N.J. 123 (1987), the Supreme Court established seven factors to be considered in determining the imposition of civil fines in administrative proceedings ("Kimmelman Factors"); and

IT FURTHER APPEARING, that the seven Kimmelman Factors are as follows: (1) the good or bad faith of the defendant; (2) defendant's ability to pay a civil fine; (3) the amount of profits obtained from the illegal activity; (4) the injury to the public; (5) the duration of the misconduct; (6) the existence of criminal or treble damages actions; and (7) the past violations of defendant; and

IT FURTHER APPEARING, that the Kimmelman Factors apply to this matter as follows:
(1) Respondent showed bad faith by engaging in the business of an insurance producer while his

license as insurance produced was revoked; (2) Respondent has not provided any evidence of his inability to pay a civil fine; (3) Department has no information as to the income/profit, if any, received by Respondent while engaging in the business of an insurance producer while his license as insurance produced was revoked; (4) there was injury to the public because the public relied upon Respondent's false representation that he was lawfully authorized to conduct insurance business; (5) Respondent's violations were not isolated incidents but part of a continuous scheme to solicit and conduct insurance business without an insurance producer license; (6) no criminal or treble damages actions have been filed against Respondent regarding his illegal activity; and (7) Respondent has a prior violation which resulted in the revocation of his insurance producer license by the Commissioner pursuant to Final Order E11-98 dated November 15, 2011; and

NOW, THEREFORE, IT IS on this 26th day of August, 2024,

ORDERED, that the charges contained in Counts One, Two and Three of Order to Show Cause E24-04 are deemed admitted by Respondent Louis Polite, Jr., pursuant to N.J.A.C. 11:17D-2.1(b)(1); and

IT IS FURTHER ORDERED, that Polite shall be responsible for the payment totaling \$30,000.00 in civil penalties for violations of the Producer Act cited above as follows:

Polite shall be responsible for the payment of civil penalties to the Division of Insurance Enforcement totaling \$10,000.00 for the Producer Act violations (a second offense because Respondent had a prior violation found against him in 2011 pursuant to Final Order E11-98 dated November 15, 2011) as described in Count One of the Order to Show Cause; and

Polite shall also be responsible for the payment of civil penalties to the Division of Insurance Enforcement totaling \$10,000.00 for the Producer Act violations (a third offense) as described in Count Two of the Order to Show Cause.; and

Polite shall also be responsible for the payment of civil penalties to the Division of Insurance Enforcement totaling \$10,000.00 for the Producer Act violations (a fourth offense) as described in Count Three of the Order to Show Cause.; and

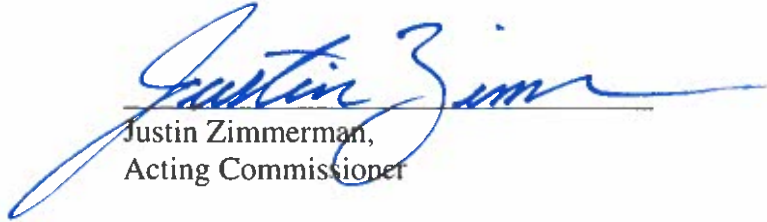
IT IS FURTHER ORDERED, that pursuant to N.J.S.A. 17:22A-45(c), Polite shall be responsible for the reimbursement to the Department of the costs of investigation totaling \$1,712.50. A true and exact copy of the Certification of Eugene Shannon, Department of Banking and Insurance Investigator, is attached hereto as Exhibit B. The Commissioner has reviewed the investigative costs application and finds the amount of time to be reasonable; and

IT IS FURTHER ORDERED, that Polite shall pay the above penalties and costs totaling \$31,712.50 to the Commissioner of Banking and Insurance, State of New Jersey, P.O. Box 329, Trenton, New Jersey 08625, Attention: Eugene Shannon, Chief of Investigations, by certified check, cashier's check or money order made payable to the "State of New Jersey, General Treasury," within ten days from the date of service of this Order; and

IT IS FURTHER ORDERED, that in the event full payment of the penalty and costs is not made, the Commissioner may exercise any and all remedies available by law, including but not limited to recovery of any unpaid penalties, with post-judgment interest, in accordance with the Penalty Enforcement Law, N.J.S.A. 2A:58-10 to -12; and

IT IS FURTHER ORDERED, that the civil penalty in this Final Order is imposed 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 is not intended to constitute debts which may be limited or discharged in a bankruptcy proceeding; and

IT IS FURTHER ORDERED, that the provisions of this Final Order represent a final agency decision and constitute a final resolution of the allegations contained in Order to Show Cause No. E24-04.



Justin Zimmerman,
Acting Commissioner