

STATE OF NEW JERSEY  
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF:

	)	ORDER
	)	TO SHOW CAUSE
Proceedings by the Commissioner of	)	
Banking and Insurance, State of New Jersey,	)	
to fine, suspend and/or revoke the insurance	)	
producer license of Anthony M.	)	
Zappaunbulso d/b/a Atlantic Coast	)	
Insurance Center, Reference No. 9365173.	)	

TO: Anthony M. Zappaunbulso  
d/b/a Atlantic Coast Insurance Center  
123 E. Morning Glory Road  
Wildwood Crest, New Jersey 08260

This matter, having been opened by the Commissioner of Banking and Insurance, State of New Jersey (“Commissioner”), upon information that Anthony M. Zappaunbulso d/b/a Atlantic Coast Insurance Center (“Zappaunbulso” or “Respondent”) may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, on or about December 9, 1993 Respondent was initially licensed as a resident insurance producer in the State of New Jersey pursuant to N.J.S.A. 17:22A-32(a), which license expired on July 31, 2021; and

WHEREAS, Respondent 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”), 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 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.S.A. 17:22A-40(a)(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-40(a)(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-40(a)(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-40(a)(16), an insurance producer shall not commit any fraudulent act; and

WHEREAS, pursuant to N.J.A.C 11:17C-2.1(a), all premium funds shall be held by an insurance producer in a fiduciary capacity and shall not be misappropriated, improperly converted to the insurance producer's own use, or illegally withheld by the licensee; and

WHEREAS, pursuant to N.J.A.C 11:17C-2.1(b), all premium funds shall be segregated and not in any manner commingled with any other funds of the insurance producer, except as may be permitted otherwise by law; and

WHEREAS, pursuant to N.J.A.C 11:17C-2.2(a), all premium funds shall be remitted to the insurer or other insurance producer, as applicable, within five business days after receipt of the funds except as otherwise required or provided by law; and

WHEREAS, pursuant to N.J.A.C 11:17C-2.3(a)(1), an insurance producer shall establish and maintain a trust account into which shall be deposited cash, checks and other instruments payable to the insurance producer when an insurance producer holds any premiums for more than five business days; and

WHEREAS, pursuant to N.J.A.C 11:17C-2.3(b), an insurance producer shall establish and maintain an account which shall be designated a "Trust Account" on the bank records and those words shall be displayed on the face of the checks on that account; 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.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 for violating the Producer Act; and

WHEREAS, pursuant to N.J.S.A. 17:22A-45(c), any person violating the Producer Act is subject to a penalty of up to \$5,000.00 for the first offense and up to \$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

**ALLEGATIONS COMMON TO ALL COUNTS**

IT APPEARING, that at all relevant times, Respondent was a licensed insurance producer in the State of New Jersey and an appointed agent for American Equity Investment Life

Insurance Company (“American Equity”), and conducted his insurance business under the trade name Atlantic Coast Insurance Center (“Atlantic Coast”); and

IT FURTHER APPEARING, that on or about January 28, 2019, Zappaunbulso deposited into the business checking account of Atlantic Coast a check from his client, “A.B.,” in the amount of \$5,000 to pay the premium to purchase an “Asset Shield 10” annuity from American Equity; and

IT FURTHER APPEARING, that on February 8, 2019, an application was executed by A.B. as the “Owner” and Zappaunbulso as the “Primary Licensed Agent” for the purchase of an “Asset Shield 10” annuity from American Equity, which application indicated that a check for \$5,000 to pay the annuity premium was enclosed therewith; and

IT FURTHER APPEARING, that on or about March 5, 2019, Zappaunbulso submitted the executed “Asset Shield 10” annuity application to American Equity, but failed to remit the \$5,000 premium payment that was required under the terms of said application; and

IT FURTHER APPEARING, that on or about March 6, 2019, American Equity notified Zappaunbulso that the submitted “Asset Shield 10” annuity application was rejected for non-compliance with the annuity’s terms and conditions in that, amongst other things, Respondent failed to remit the required \$5,000 premium payment; and

IT FURTHER APPEARING, that despite having been notified of deficiencies in A.B.’s annuity application, Zappaunbulso never corrected said deficiencies and never remitted the \$5,000 annuity premium to American Equity; and

IT FURTHER APPEARING, that on or about July 9, 2019, in an attempt to reimburse his client for the annuity premium payment he had received, Zappaunbulso remitted to A.B. a check drawn on the business checking account of Atlantic Coast (Check No. 137) in the amount of

\$5,000, however said check was non-negotiable and invalid because said bank account had “insufficient funds” at the time of deposit by A.B.; and

IT FURTHER APPEARING, that in July and August 2019, Zappaunbulso remitted to A.B. three checks drawn on his personal bank accounts totaling \$5,000, which checks were issued on the following dates and in the following amounts: \$4,000 on July 24<sup>th</sup>; \$900 on August 1<sup>st</sup>; and \$100 on August 5<sup>th</sup>; and

IT FURTHER APPEARING, that effective on or about August 8, 2019, American Equity terminated its agency agreement with Zappaunbulso “For Cause” based upon Respondent having misappropriated his client’s insurance premium and for other violations of his agency agreement; and

**COUNT ONE**

IT FURTHER APPEARING, that Respondent received a \$5,000 insurance premium payment from A.B. and failed to remit same to the insurance carrier within five (5) days after receipt, in violation of N.J.S.A. 17:22A-40(a)(2), (4), (8) and (16) and N.J.A.C 11:17C-2.2(a); and

**COUNT TWO**

IT FURTHER APPEARING, that Respondent misappropriated and converted the \$5,000 insurance premium payment received from A.B. by depositing same in the business checking account for Atlantic Coast and thereafter using said funds for the benefit of himself and/or Atlantic Coast, thereby engaging in fraudulent and deceitful conduct in the course of doing insurance business, in violation of N.J.S.A. 17:22A-40(a)(2), (4), (8) and (16), N.J.A.C 11:17C-2.1(a) and (b) and N.J.A.C 11:17A-4.10; and

**COUNT THREE**

IT FURTHER APPEARING, that in connection with its investigation of Respondent's insurance transaction involving A.B., the Department requested and received from Respondent copies of the books, accounts and records of Atlantic Coast; and

IT FURTHER APPEARING, that upon reviewing the books, accounts and records of Atlantic Coast, the Department determined that Respondent had failed to establish and maintain a segregated bank account designated as a "Trust Account" for the deposit of cash and checks remitted by clients to pay insurance premiums, in violation of N.J.S.A. 17:22A-40(a)(2), (4), (8) and (16) and N.J.A.C 11:17C-2.3(a) and (b); and

**COUNT FOUR**

IT FURTHER APPEARING, that Respondent failed to maintain deposited funds in the business checking account for Atlantic Coast sufficient to satisfy Check No. 137 issued to A.B., thereby demonstrating incompetence, untrustworthiness and/or financial irresponsibility in the conduct his insurance business, in violation of N.J.S.A. 17:22A-40(a)(2), (4), (8) and (16) and N.J.A.C 11:17A-4.10; and

**NOW, THEREFORE, IT IS** on this 2<sup>nd</sup> day of May 2022:

ORDERED, that Respondent appear and show cause why his New Jersey insurance producer license should not be suspended or revoked pursuant to N.J.S.A. 17:22A-40(a); and

IT IS FURTHER ORDERED, that Respondent appear and show cause why the Commissioner should not assess a civil penalty of up to \$5,000.00 for the first violation and up to \$10,000.00 for each subsequent violation of the Producer Act and order Respondent to pay restitution of moneys owed to any person, pursuant to N.J.S.A. 17:22A-45(c); and

IT IS FURTHER ORDERED, that Respondent appear and show cause why, in addition to any other penalty, he should not be required to reimburse the Department for the costs of the investigation and prosecution as authorized by N.J.S.A. 17:22A-45(c); and

IT IS PROVIDED, that Respondent has the right to request an administrative hearing, to be represented by counsel or other qualified representative, at their expense, to take testimony, to call or cross-examine witnesses, to have subpoenas issued, and to present evidence or argument if a hearing is requested; and

IT IS FURTHER PROVIDED, that unless a request for a hearing is received within twenty (20) days of the service of this Order to Show Cause, the right to a hearing in this matter shall be deemed to have been waived by Respondent and the Commissioner shall dispose of this matter in accordance with law. A hearing may be requested by mailing the request to Virgil Downtin, Chief of Investigations, Department of Banking and Insurance, P.O. Box 329, Trenton, New Jersey 08625, or by faxing the hearing request to the Department at (609) 292-5337. A copy of the request for a hearing shall also be sent to Dakar R. Ross, Deputy Attorney General, Department of Banking and Insurance, P.O. Box 117, Trenton, New Jersey 08625. The request from each respondent shall contain the following:

- A. Respondent's full name, address, and daytime telephone number;
- B. A statement referring to each charge alleged in this Order to Show Cause and identifying any defense intended to be asserted in response to each charge. Where the defense relies on facts not contained in the Order to Show Cause, those specific facts must be stated;
- C. A specific admission or denial of each fact alleged in this Order to Show Cause. Where Respondent has no specific knowledge regarding a fact alleged in the Order to Show Cause, a statement to that effect must be contained in the hearing request. Allegations of this Order to Show Cause not answered in the manner set forth above shall be deemed to have been admitted; and

D. A statement requesting a hearing.

A handwritten signature in blue ink that reads "Marlene Caride". The signature is fluid and cursive, with the first name "Marlene" and the last name "Caride" clearly distinguishable.

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Marlene Caride  
Commissioner