

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, suspend, and/or revoke the)
public adjuster licenses of Priority One)
Adjustment Services, LLC, Reference No.)
9869864, Victor F. Tonzillo, Jr., Reference)
No. 9869738, and Paul D. Ciarrocca,)
Reference No. 9869848.)

ORDER TO SHOW CAUSE

TO: Priority One Adjustment Services, LLC
951 Route 206 North
Bordentown, NJ 08505-1539

Victor F. Tonzillo, Jr.
951 Route 206 North
Bordentown, NJ 08505-1539

Victor F. Tonzillo, Jr.
5810 South Broad Street
Hamilton, NJ 08620-9507

Paul D. Ciarrocca
951 Route 206 North
Bordentown, NJ 08505-1539

THIS MATTER, having been opened by the Commissioner of Banking and Insurance (“Commissioner”), State of New Jersey, upon information that Priority One Adjustment Services, LLC (“Priority One”), Victor F. Tonzillo, Jr. (“Tonzillo”), and Paul D. Ciarrocca (“Ciarrocca”) (collectively, “Respondents”), may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Priority One is currently licensed as a public adjuster in the State of New Jersey, pursuant to N.J.S.A. 17:22B-5; and

WHEREAS, Tonzillo is currently licensed as a public adjuster in the State of New Jersey, pursuant to N.J.S.A. 17:22B-5; and

WHEREAS, Ciarrocca is currently licensed as a public adjuster in the State of New Jersey, pursuant to N.J.S.A. 17:22B-5; and

WHEREAS, at all relevant times, Tonzillo and Ciarrocca were the owners, officers, and/or members of Priority One, and shall therefore be held individually responsible for all insurance related conduct of Priority One pursuant to N.J.A.C. 11:1-12.2(a) and N.J.A.C. 11:1-12.5; and

WHEREAS, Respondents are subject to the provisions of the New Jersey Public Adjusters' Licensing Act, N.J.S.A. 17:22B-1 to -20 ("Public Adjusters' Act"), and the regulations governing the licensing of public adjusters, N.J.A.C. 11:1-37.1 to -37.19; and

WHEREAS, pursuant to N.J.S.A. 17:22B-14(a)(1), and N.J.A.C. 11:1-37.14(a)(1) and (2), a public adjuster shall not violate any provision of the insurance laws, including any rules promulgated by the Commissioner, or violate any law in the course of his or its dealings as an adjuster; and

WHEREAS, pursuant to N.J.S.A. 17:22B-13(a) and N.J.A.C. 11:1-37.13(c), no individual, firm, association or corporation licensed under the Public Adjusters' Act shall solicit the adjustment of a loss or damage occurring in this State from an insured, whether by personal interview, by telephone, or by any other method, between the hours of 6:00 P.M. and 8:00 A.M. during the 24 hours after the loss has occurred; and

WHEREAS, pursuant to N.J.S.A. 17:22B-13(c), and N.J.A.C. 11:1-37.13(a) and (b)(3), no individual, firm, partnership, association or corporation licensed as a public adjuster shall have any right to compensation from any insured for or on account of services rendered to an insured as a public adjuster unless the right to compensation is based upon a written contract or

memorandum between the adjuster and the insured, and the adjuster specifying or clearly defining the services to be rendered and the amount or extent of the compensation; and

WHEREAS, pursuant to N.J.S.A. 17:22B-13(c) and N.J.A.C. 11:1-37.13(b)(3)(ii), the written memorandum or contract between a licensed public adjuster and an insured shall contain a list of services to be rendered and the maximum fees to be charged, which fees shall be reasonably related to services rendered; and

WHEREAS, pursuant to N.J.S.A. 17:22B-13(c) and N.J.A.C. 11:1-37.13(b)(5), the written memorandum or contract between a licensed public adjuster and an insured shall prominently include a section which specifies: (i) the procedures to be followed by the insured if he or she seeks to cancel the contract, including any requirement for a written notice; (ii) the rights and obligations of the parties if the contract is cancelled at any time; and (iii) the costs to the insured or the formula for the calculation of costs to the insured for services rendered in whole or in part; and

WHEREAS, pursuant to N.J.A.C. 11:1-37.13(b)(3)(iii), the written memorandum or contract between a licensed public adjuster and an insured shall state the time and date of execution of the contract by each party; and

WHEREAS, pursuant to N.J.S.A. 17:22B-14(a)(1), and N.J.A.C. 11:1-37.14(a)(1), the Commissioner may suspend or revoke a public adjuster's license if, after notice and an opportunity for a hearing, the Commissioner determines that a licensee has violated any provision of the insurance laws, including any rules promulgated by the Commissioner, or violated any law in the course of his, or its, dealings as a public adjuster; and

WHEREAS, pursuant to N.J.S.A. 17:22B-14(a)(3), the Commissioner may suspend or revoke any adjuster's license if, after notice and opportunity for a hearing, the Commissioner determines that the licensee has committed a fraudulent or dishonest act; and

WHEREAS, pursuant to N.J.S.A. 17:22B-14(a)(4), the Commissioner may suspend or revoke any adjuster's license if, after notice and opportunity for a hearing, the Commissioner determines that the licensee has demonstrated incompetency, lack of integrity, bad faith, dishonesty, financial irresponsibility or untrustworthiness to act as an adjuster; and

WHEREAS, pursuant to N.J.S.A. 17:22B-14(a)(5), the Commissioner may suspend or revoke any adjuster's license if, after notice and opportunity for a hearing, the Commissioner determines that the licensee has aided, abetted or assisted another person in violating any insurance law of this State; and

WHEREAS, pursuant to N.J.S.A. 17:22B-3(a), no individual, firm, association or corporation shall act as a public adjuster in this State unless authorized to do so by virtue of a license issued or renewed pursuant to the Public Adjusters' Act; and

WHEREAS, pursuant to N.J.S.A. 17:22B-3(b), no public adjuster shall act on behalf of an insured unless licensed as a public adjuster; and

WHEREAS, pursuant to N.J.A.C. 11:1-37.14(a)(16), no public adjuster shall engage in the business of a public adjuster with an invalid or expired license; and

WHEREAS, pursuant to N.J.A.C. 11:1-37.14(a)(9), a public adjuster shall not misappropriate, convert, or illegally withhold, money which was received in the conduct of business that belonged to insurers, clients or others; and

WHEREAS, pursuant to N.J.S.A. 17:22B-13(f) and N.J.A.C. 11:1-37.11(a) and (b), no individual, firm, association, or corporation licensed under the Public Adjusters' Act shall receive, accept or hold any moneys toward the settlement of a claim for loss or damage on behalf of an insured unless the public adjuster deposits the moneys in an interest-bearing escrow account or trust account in a banking institution or savings and loan association in this State insured by an

agency of the federal government. Any funds held in an escrow or trust account together with interest accruing thereon shall be the property of the insured until disbursement thereof pursuant to a written memorandum, signed by the insured and by the adjuster, specifying or clearly defining the services rendered and the amount of any compensation to be paid from the escrowed funds; and

WHEREAS, pursuant to N.J.A.C. 11:1-37.12(a)(1), each licensee shall maintain accurate files, books and records reflecting all insurance-related transactions in which the licensee or his or her employees take part, and those records shall be maintained for a period of five years from the date of closing the claim, and all books and records shall consist of sequentially numbered pages and maintained in such a manner that they can be produced for examination at any time; and

WHEREAS, pursuant to N.J.A.C. 11:1-37.12(e), each licensee shall prepare and maintain a monthly reconciliation of the trust account; and

WHEREAS, pursuant to N.J.A.C. 11:1-37.12(h), failure to keep, maintain or make available for inspection by the Commissioner, those records which the Commissioner shall require to be maintained, shall result in the imposition of administrative fines; and

WHEREAS, pursuant to N.J.A.C. 11:1-37.14(a), the Commissioner may suspend or revoke a public adjuster's license based on any violation of the Public Adjusters' Act or the regulations promulgated thereunder, or for the commission or omission of any act by a public adjuster which demonstrates that the applicant or licensee is not competent or trustworthy to act as a public adjuster, or where the person has, among other things: (1) Violated any provision of this State's insurance laws, including any rules promulgated thereunder; (2) Violated any law in the course of acting as a public adjuster; (3) Committed a fraudulent or dishonest act; (4) Demonstrated the applicant's or licensee's lack of integrity, incompetency, bad faith, dishonesty, financial

irresponsibility, or untrustworthiness to act as a public adjuster; (5) Aided, abetted or assisted another person in violating any insurance law of this State; (8) Collected from any client any fee other than that agreed to in the employment contract in a form required by N.J.A.C. 11:1-37.13; (9) Misappropriated, converted or illegally withheld, money which was received in the conduct of business that belonged to insurers, clients or others; (15) Solicited the adjustment of a loss or damage occurring in this State from an insured, whether by personal interview, by telephone, or by any other method, between the hours of 6:00 P.M. and 8:00 A.M. during the 24 hours after the loss has occurred; (16) Engaged in the business of a public adjuster in New Jersey with an invalid or expired license; and/or (17) Committed any other act, or omission which the Commissioner determines to be inappropriate conduct by a licensee of this State; and

WHEREAS, pursuant to N.J.A.C. 11:1-12.2(a), active officers shall be held individually responsible for all insurance related conduct of the corporate licensee; and

WHEREAS, pursuant to N.J.A.C. 11:1-12.5, active members shall be held individually responsible for all insurance related conduct of the partnership licensee; and

WHEREAS, pursuant to N.J.S.A. 17:22B-17 and N.J.A.C. 11:1-37.14(b), any person who violates any provision of the Public Adjusters' Act or the regulations promulgated thereunder shall, in addition to any other penalties provided by law, be liable for a civil penalty of not more than \$2,500 for a first offense and not more than \$5,000 for the second and each subsequent offense. Each transaction or statutory violation shall constitute a separate offense; and

WHEREAS, pursuant to N.J.S.A. 17:22B-17, any moneys or property acquired by means of an unlawful act or practice may be restored to any person in interest; and

FACTUAL ALLEGATIONS

1. Priority One was first licensed as a resident public adjuster on December 14, 1998.
2. On June 1, 2015, Priority One's license expired and did not become active again until October 1, 2015.
3. Between June 1, 2015, and September 30, 2015, Priority One entered into 25 contracts with New Jersey insureds for public adjuster's services to advise and assist in the adjustment of an insurance claim when Priority One was not a New Jersey licensed public adjuster.
4. Between May 1, 2015, and September 30, 2015, Priority One entered into 35 contracts with New Jersey insureds for public adjuster's services to advise and assist in the adjustment of an insurance claim.
5. The 35 public adjuster contracts between Priority One and New Jersey insureds between May 1, 2015, and September 30, 2015, did not comply with the Public Adjusters' Act, because: (1) all of the 35 contracts did not prominently include a section that specified the procedures to be followed by the insured if he or she sought to cancel the contract, including any requirement for a written notice, and the rights and obligations and costs of the parties if the contract was cancelled at any time; and (2) 2 of the 35 contracts did not state the time that the contracts were executed.
6. Priority One entered into 3 public adjuster contracts in 2015 [Claim No.'s ending in 3554, 0703 and 0188] in which the fees charged were not reasonably related to the services rendered, since Priority One charged a fee to the insured on the Replacement Cost Value when the insured was only awarded the Actual Cost Value from the insurer.
7. From 2015 until at least June 2019, Priority One failed to maintain a register of all monies received, deposited, disbursed or withdrawn in connection with transactions with an insured.

8. From 2015 until at least June 2019, Priority One accepted money on behalf of insureds and failed to deposit said money into an interest-bearing escrow or trust account.

9. From 2015 until at least June 2019, Priority One accepted money on behalf of insureds that was not held pursuant to a written agreement signed by the insured and the public adjuster that clearly specified the services rendered and the amount of any services to be paid from the escrowed funds.

10. On March 2, 2019, David and Sarah Quigley suffered a fire loss at their residence in Hainesport, New Jersey.

11. On March 3, 2019, the Quigley's entered into a contract with Priority One to assist in the adjustment of their loss ("March 3, 2019 Contract").

12. The March 3, 2019 Contract did not comply with the Public Adjusters' Act because it did not fully and correctly explain the cancellation process, including the costs to the insured, the formula for the calculation of costs for services rendered in whole or in part, and the rights and obligations of the parties if the contract was cancelled at any time.

13. Priority One received two checks from New Jersey Manufacturers Insurance Company ("NJM") during the claims process for the Quigley's: Check # XXXXX04884 dated June 21, 2019, payable to Priority One and the Quigley's, in the amount of \$72,228.15; and Check # XXXXX06372 dated June 24, 2019, payable to Priority One and the Quigley's, in the amount of \$7,548.46.

14. Priority One did not deposit either of the two checks from NJM into an interest-bearing escrow or trust account.

15. When questioned by Investigators of the Department on September 19, 2019, Tonzillo of Priority One stated that Priority One did not have, and had never had, an escrow or trust account.

COUNT 1

16. By entering into 25 contracts with New Jersey insureds, between June 1, 2015 and September 30, 2015, for public adjuster's services to advise and assist in the adjustment of an insurance claim when Priority One was not a New Jersey licensed public adjuster, each transaction or statutory violation constituting a separate offense under N.J.S.A. 17:22B-17, Respondents violated N.J.S.A. 17:22B-14(a)(1), (4) and (5), N.J.S.A. 17:22B-3(a) and (b), and N.J.A.C. 11:1-37.14(a)(1), (2), (4), (5) and (16).

COUNT 2

17. By failing to include a section in 35 public adjuster contracts entered into between May 1, 2015 and September 30, 2015, and in the March 3, 2019 Contract with the Quigley's, specifying the procedures to be followed by the insured if the insured seeks to cancel the contract at any time, including any requirement of written notice and the rights and obligations and costs of the parties if the contract was cancelled at any time, and the costs to the insured or the formula for the calculation of the costs to the insured for services rendered in whole or in part, each transaction or statutory violation constituting a separate offense under N.J.S.A. 17:22B-17, Respondents violated N.J.S.A. 17:22B-13(c), N.J.S.A. 17:22B-14(a)(1) and (4), N.J.A.C. 11:1-37.13(b)(5), and N.J.A.C. 11:1-37.14(a)(1), (2), (4), (5) and (17).

COUNT 3

18. By failing to include the time that the contracts were executed in 2 of the 35 public adjuster contracts entered into between May 1, 2015 and September 30, 2015, each transaction or statutory violation constituting a separate offense under N.J.S.A. 17:22B-17, Respondents violated N.J.S.A. 17:22B-14(a)(1) and (4), N.J.A.C. 11:1-37.13(b)(3)(iii), and N.J.A.C. 11:1-37.14(a)(1), (2), (4), (5), (15) and (17).

COUNT 4

19. By entering into 3 public adjuster contracts in 2015 in which the fees charged were not reasonably related to the services rendered, and did not include a list of services to be rendered and the maximum fees to be charged, since Priority One charged a fee to the insured on the Replacement Cost Value when the insured was only awarded the Actual Cost Value from the insurer, each transaction or statutory violation constituting a separate offense under N.J.S.A. 17:22B-17, Respondents violated N.J.S.A. 17:22B-13(c), N.J.S.A. 17:22B-14(a)(1) and (4), N.J.A.C. 11:1-37.13(b)(3)(ii), and N.J.A.C. 11:1-37.14(a)(1), (2), (3), (4), (5), (8), (9) and (17).

COUNT 5

20. By failing to maintain a register of all monies received, deposited, disbursed or withdrawn in connection with transactions with an insured, by accepting money on behalf of an insured and failing to deposit said money into an interest-bearing escrow or trust account, and by not holding said money pursuant to a written agreement signed by the insured and the public adjuster that clearly specified the services rendered and the amount of any services to be paid from the escrowed funds, each transaction or statutory violation constituting a separate offense under N.J.S.A. 17:22B-17, Respondents violated N.J.S.A. 17:22B-13(f), N.J.S.A. 17:22B-14(a)(1) and (4), N.J.A.C. 11:1-37.11(a) and (b), and N.J.A.C. 11:1-37.14(a)(1), (2), (3), (4), (5), (9) and (17).

NOW, THEREFORE, IT IS on this 27 day of April 2023:

ORDERED, that Respondents appear and show cause why the New Jersey public adjuster licenses issued to Respondents should not be suspended or revoked by the Commissioner pursuant to N.J.S.A. 17:22B-14; and

IT IS FURTHER ORDERED, that Respondents appear and show cause why the Commissioner should not assess a civil penalty of up to \$2,500 for the first violation and up to

\$5,000 for each subsequent violation, pursuant to the provisions of N.J.S.A. 17:22B-17 and N.J.A.C. 11:1-37.14(b); and

IT IS FURTHER ORDERED, that Respondents appear and show cause why the Commissioner should not order Respondents to pay restitution of moneys owed to any person, pursuant to N.J.S.A. 17:22B-17 and N.J.A.C. 11:1-37.14(b); and

IT IS FURTHER ORDERED, that Respondents appear and show cause why, in addition to any other penalty, the Commissioner should not assess costs of the investigation and prosecution, pursuant to N.J.S.A. 17:22B-17 and N.J.A.C. 11:1-37.14(b); and

IT IS FURTHER ORDERED, that Respondents appear and show cause why the \$10,000 bond filed with the Commissioner in connection with Respondents' application(s) for a public adjuster license should not be used for the benefit of any person injured by any willful, malicious, or wrongful act by them in connection with the transaction of business, pursuant to N.J.S.A. 17:22B-12 and N.J.A.C. 11:1-37.9; and

IT IS PROVIDED, that Respondents have the right to request an administrative hearing, to be represented by counsel or other qualified representative, at their own 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 Respondents, 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, with a copy to Jeffrey

S. Posta, DAG, Banking and Insurance Section, R.J. Hughes Justice Complex, 25 Market Street,
P.O. Box 117, Trenton, NJ 08625-0117, jeffrey.posta@law.njoag.gov.

The request for a hearing shall contain the following:

- (a) Each 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.



Marlene Caride
Commissioner