

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 insurance )  
producer licenses of Greg )  
(Gregory) Garbuz, Reference No. )  
1032769 and Elite Insurance & )  
Financial Services, Inc., )  
Reference No. 1295249 )

CONSENT ORDER

TO: Greg (Gregory) Garbuz  
44 Dempsey Ave., Apt. 1  
Edgewater, NJ 07020-1271

Elite Insurance &  
Financial Services, Inc.  
301 Bridge Plaza North  
Fort Lee, NJ 07024

and

Greg (Gregory) Garbuz  
515 Anderson Ave., Apt. 5C  
Cliffside Park, NJ 07010

This matter, having been opened by the Commissioner of Banking and Insurance ("Commissioner"), State of New Jersey, upon issuance of Order to Show Cause No. E16-93 alleging that Greg (Gregory) Garbuz ("Garbuz") and Elite Insurance & Financial Services, Inc. ("Elite") (collectively, "Respondents") may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Garbuz was formerly licensed as a resident

insurance producer pursuant to N.J.S.A. 17:22A-32, until his license expired on August 31, 2015; and

WHEREAS, Elite was formerly licensed as a resident business entity insurance producer pursuant to N.J.S.A. 17:22A-32, with Garbuz listed as the designated responsible licensed producer ("DRLP"), until its license expired on May 31, 2015; and

WHEREAS, Respondents are subject to the provisions of the New Jersey Insurance Producer Licensing Act of 2001, N.J.S.A. 17:22A-26 et seq. ("Producer Act"), and the regulations governing Insurance Producer Standards of Conduct, N.J.A.C. 11:17A-1.1 et seq. and N.J.A.C. 11:17C-1.1 et seq.; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40d, 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 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-40a(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-40a(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-40a(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.A.C. 11:17A-4.8, an insurance producer shall reply, in writing, to any inquiry made by the Department of Banking and Insurance (the "Department") relative to the business of insurance within the time requested in said inquiry, or no less than 15 calendar days; 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.A.C. 11:17C-2.1(a) and (b), 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; moreover, all premium funds shall be segregated and not in any manner commingled with any other funds of the insurance producer; and

WHEREAS, pursuant to N.J.A.C. 11:17C-2.2(a) and (b), all premiums shall be remitted to the insurer or other insurance producer, as applicable, within five business days after receipt of the funds, with certain exceptions; moreover, all premiums due the insured shall be paid to the insured or credited to the insured's account within five business days after receipt by the insurance producer from the insurer or other insurance producer or premium finance company; 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 the producer holds any premiums for more than five business days before remitting the premium to an insurer or other insurance producer; and

WHEREAS, pursuant to N.J.A.C. 11:17C-2.4(a) and (b), an insurance producer shall issue a receipt for each premium for any payment, premium deposit or installment payment which is submitted by personal delivery or when a receipt is requested,

and shall maintain a copy of the each receipt issued; moreover, every receipt and receipt book shall, among other things, indicate the name of the insured, the name of the insurance company, residual market mechanism or other insurance producer, if applicable, the date of the transaction and the amount of the remittance; and

WHEREAS, pursuant to N.J.A.C. 11:17C-2.5, an insurance producer must maintain accurate books and records reflecting all insurance-related transactions in which the insurance producer or his employees take part, and shall maintain a register of all monies received, deposited, disbursed or withdrawn in connection with an insurance transaction, including, but not limited to: premiums; service fees; placement fees; inspection fees; motor club fees; premium taxes; transfers and disbursements from a trust account; and all transactions concerning, including the balance of, all interest bearing accounts; and

WHEREAS, On September 27, 2016, the Commissioner issued Order to Show Cause No. E16-93 alleging violations of New Jersey's insurance laws as follows:

**FACTS RELEVANT TO COUNTS 1 THROUGH 5**

**A. Respondents' Dealings With Best Home Care**

IT APPEARING that Respondents procured a commercial general liability insurance policy for Best Home Care, Inc. ("BHC"), through Western World Insurance Group ("WWIG"), which was

effective July 11, 2013 with a policy number ending in "\_959"; and

IT FURTHER APPEARING BHC cancelled the WWIG policy, with the cancellation effective on January 1, 2014; and

IT FURTHER APPEARING that the cancellation resulted in a premium credit of \$10,327.45, which amount was remitted to BHC's wholesale producer, Brooks Insurance Agency, which in turn remitted the funds to Elite, via check dated March 10, 2014; and

IT FURTHER APPEARING that the amount of \$10,327.45 was deposited and posted to Elite's bank account on March 13, 2014; and

IT FURTHER APPEARING that Elite did not provide a check to BHC for the returned premium until an Elite trust account check, No. 260, dated April 17, 2014 was provided to BHC (the "April 17 Check"); and

IT FURTHER APPEARING that, on April 18, 2014, BHC attempted to deposit the April 17 Check to its account at Bank of America; and

IT FURTHER APPEARING that, on April 21, 2014, Bank of America rejected and returned the April 17 Check for insufficient funds; and

IT FURTHER APPEARING that Respondents then provided BHC with the premium monies it was owed via installment payments, specifically via: (i) \$2,500.00 check dated April 21, 2014; (ii) a \$4,000.00 check dated April 29, 2014; (iii) \$3,327.45 check dated May 2, 2014; and (iv) \$500.00 check dated May 7, 2014;

#### **B. Respondents' Dealings With M.Q.**

IT APPEARING that Respondents procured a personal auto policy for M.Q., through IFA Insurance Company ("IFA") which was effective April 16, 2013, with a policy number ending in "\_405"; and

IT FURTHER APPEARING that, on or about April 15, 2013, the date of her insurance application, M.Q. provided to Respondents the requisite down payment of \$353.60, which was remitted by Respondents to IFA to secure the auto policy; and

IT FURTHER APPEARING that, on or about May 24, 2013, M.Q. paid Respondents \$577.00, in cash, for which a receipt was provided, and which amount represented the next two months of premium payments for the auto policy, which amount Respondents were to remit to IFA; and

IT FURTHER APPEARING that IFA cancelled M.Q.'s auto policy, effective July 2, 2013, due to non-payment of premium; and

IT FURTHER APPEARING that Respondents never paid to IFA the \$577.00 in cash received from M.Q. on May 24, 2013; and

IT FURTHER APPEARING that Garbuz recognized that IFA would not reinstate M.Q.'s policy, and thereafter procured an auto policy for M.Q. through GEICO, for which Elite paid the difference between the cost of the GEICO policy and M.Q.'s payments to IFA, had the policy remained in effect; and

IT FURTHER APPEARING that M.Q. re-applied for coverage through IFA in 2014, but was denied coverage due to the non-payment of premium, consistent with N.J.A.C. 11:3-34.4(a)6;

**C. Respondents' Dealings With O.G.**

IT APPEARING that Respondents procured a personal auto policy for O.G. through IFA, which was effective on or about April 9, 2013, with a policy number ending in "\_406"; and

IT FURTHER APPEARING that, on April 9, 2013, O.G. remitted \$730.00 to Respondents, in cash, as payment of the IFA premium, for which a receipt was provided; and

IT FURTHER APPEARING Respondents never forwarded the premium to IFA, and instead Garbuz made payments toward the premium with his own credit card, specifically payments of: (i) \$150.00 on May 10, 2013; (ii) \$116.00 on June 24, 2013; (iii) \$116.00 on August 22, 2013; (iv) \$116.00 on October 21, 2013; and (v) \$232.00 on December 12, 2013;

COUNT 1

IT APPEARING that by, among other things, failing to return premium monies to insureds, passing checks to clients which were returned for insufficient funds, improperly retaining premium monies for Respondents' own use, failing to forward premium monies to carriers, allowing policies to be cancelled against clients' wishes, and failing to keep accurate books and records, Respondents misappropriated premium funds and failed to keep accurate records, demonstrating dishonesty, incompetence and untrustworthiness, in violation of N.J.S.A. 17:22A-40a(2), (4) and (8), N.J.A.C. 11:17C-2.4(a) and (b) and N.J.A.C. 11:17C-2.5;

COUNT 2

IT APPEARING that by failing to act in a fiduciary capacity in the conduct of their insurance business, Respondents violated N.J.A.C. 11:17A-4.10;

COUNT 3

IT APPEARING that by misusing and misappropriating premium monies which should have been held in trust, and commingling monies which should have been held in trust with Respondents' business and/or personal expenses, Respondents violated N.J.A.C. 11:17C-2.1(a) and (b);

COUNT 4

IT APPEARING that by failing to remit premium funds to the insurer, and premiums due the insured, within five business days of Respondents' receipt of same, Respondents violated N.J.A.C. 11:17C-2.2(a) and (b);

COUNT 5

IT APPEARING that, by causing the trust account check issued to BHC to be returned for insufficient funds, Respondents violated N.J.A.C. 11:17C-2.3; and

COUNT 6

IT APPEARING that, on June 20, 2014, IFA's underwriting manager provided the Department with a list of policies handled by Elite that were cancelled for non-payment of premiums, and a list of all policies which were issued non-payment



cancellation notices for the year 2013; and

IT FURTHER APPEARING that on August 25, 2014, the Department requested information from Respondents regarding the information provided by IFA's underwriting manager, as well as information regarding the facts as previously stated herein; and

IT FURTHER APPEARING that the Department continued to request such information from Respondents through September 2014; and

IT FURTHER APPEARING that, because Respondents failed to respond to the Department's requests, the Department issued a formal subpoena to Respondents on October 15, 2014, pursuant to N.J.S.A. 17:1-16 and N.J.S.A. 17:22A-45a, which required Respondents to comply and produce documents and information to the Department on October 31, 2014; and

IT FURTHER APPEARING that Respondents were duly served with and received notice of the subpoena, because on October 28, 2014 their counsel of record requested an extension of time for Respondents to reply to the Subpoena; and

IT FURTHER APPEARING that the Department denied Respondents' request for an extension of time to respond to the Subpoena, and Respondents never responded, replied or appeared in response to the Subpoena; and

IT FURTHER APPEARING that Respondents failed to comply with the Department's requests for information, in violation of N.J.S.A. 17:22A-40a(8), N.J.S.A. 17:22A-45c, and N.J.A.C. 11:17A-4.8;

WHEREAS, the Respondents have admitted responsibility for the aforementioned violations; and

WHEREAS, cause does exist under N.J.S.A. 17:22A-40a and N.J.S.A. 17:22A-45c, to revoke the Respondents' insurance producer licenses and impose a fine; and

WHEREAS, Respondents have paid restitution to all of the individuals listed above; and

WHEREAS, the Respondents have waived their right to a hearing on the aforementioned violations and consented to the revocation of their insurance producer licenses and the payment of a fine totaling \$5,000.00; and

WHEREAS, this matter should be resolved upon the consent of the parties without resort to a formal hearing; and

NOW, THEREFORE, IT IS on this 1<sup>st</sup> day of December, 2017

ORDERED AND AGREED, that the New Jersey insurance producer licenses of Garbuz and Elite are hereby REVOKED, pursuant to N.J.S.A. 17:22A-40; and

IT IS FURTHER ORDERED AND AGREED, that Garbuz shall pay a fine in the amount of \$5,000.00 to the New Jersey Department of Banking and Insurance; and

IT IS FURTHER ORDERED AND AGREED, that immediately upon execution of this Consent Order, Garbuz shall remit the first payment in the amount of \$500.00 by certified check, cashier's check or money order made payable to the "State of New Jersey, General Treasury"; and

IT IS FURTHER ORDERED AND AGREED, that this signed Consent Order together with the payment of \$500.00 shall be remitted to:

Richard E. Wegryn, Jr., Deputy Attorney General  
State of New Jersey, Division of Law  
R.J. Hughes Justice Complex  
25 Market Street, Second Floor West Wing  
P.O. Box 117  
Trenton, New Jersey 08625

and

IT IS FURTHER ORDERED AND AGREED, that Respondent Garbuz shall remit the remaining balance of \$4,500.00 in monthly installment payments of \$150 due on the first of each month, beginning on December 1, 2017, for 30 months until the full fine has been paid; and

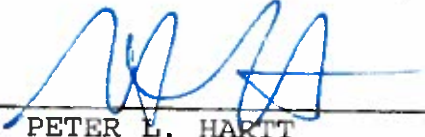
IT IS FURTHER ORDERED AND AGREED, that all installment payments are to be paid by certified check, cashier's check or money order made payable to the "State of New Jersey, General Treasury" and sent to:

Rose V. McGill  
Collections Department  
New Jersey Department of Banking and Insurance  
20 West State Street, 10th Floor  
Trenton, New Jersey 08625

and

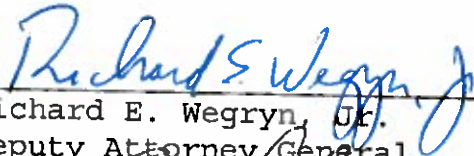
IT IS FURTHER ORDERED AND AGREED, that in the event full payment of the fine is not made, the Commissioner may exercise any and all remedies available by law, including, but not limited to, recovery of any unpaid penalties pursuant to the Penalty Enforcement Law of 1999, N.J.S.A. 2A:58-10, et seq.; and

IT IS FURTHER ORDERED AND AGREED, that the provisions of this Consent Order represent a final agency decision and constitute final resolution of Order to Show Cause No. E16-93.

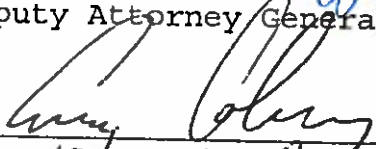
  
\_\_\_\_\_  
PETER L. HARTT  
Director of Insurance

Consented to as to Form, Consent, and Entry:

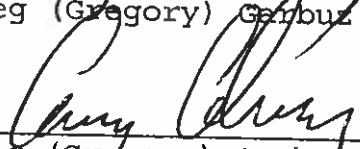
CHRISTOPHER S. PORRINO  
ATTORNEY GENERAL OF NEW JERSEY  
Attorney for New Jersey Department of Banking and Insurance

  
Richard E. Wegryn, Jr.  
Deputy Attorney General

Date: 11-24-2017

  
Greg (Gregory) Garbuz

Date: 11-03-2017

  
Greg (Gregory) Garbuz  
on behalf of Elite Insurance  
& Financial Services, Inc.

Date: 11-03-2017