

ORDER TO SHOW CAUSE NO. E16-24

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)
John M. Spinazzola, Reference)
No. 1042635, and Frontline)
Title, LLC, Reference No.)
1088867.)

ORDER TO SHOW CAUSE

TO: John M. Spinazzola
411 Madison Street, 2nd FL
Boonton, NJ 07005-2051

Frontline Title, LLC
1 Cattano Avenue
Morristown, NJ 07960

THIS MATTER, having been opened by the Commissioner of Banking and Insurance ("Commissioner"), State of New Jersey, upon information that John M. Spinazzola ("Spinazzola") and Frontline Title, LLC ("Frontline") (collectively, the "Respondents") may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Respondent Spinazzola is currently a licensed resident individual insurance producer in the State of New Jersey pursuant to N.J.S.A. 17:22A-32; and

WHEREAS, Respondent Frontline was a licensed resident business entity insurance producer in the State of New Jersey pursuant to N.J.S.A. 17:22A-32, until its license expired on or about May, 31, 2013; and

WHEREAS, Respondent Spinazzola was the Designated Responsible Licensed Producer and responsible for the activities of Respondent Frontline, and responsible for Frontline's compliance with the insurance laws, pursuant to N.J.S.A. 17:22A-32b(2); and

WHEREAS, the Respondents are subject to the provisions of the New Jersey Insurance Producer Licensing Act ("Producer Act"), N.J.S.A. 17:22A-26, et seq., the Title Insurance Act of 1974 ("Title Act"), N.J.S.A. 17:46B-1 et seq., 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 the New Jersey Insurance Fraud Prevention Act ("Fraud Act"), N.J.S.A. 17:33A-1 et seq.; 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; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(4), an insurance producer shall not 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 the insurance business; and

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

WHEREAS, pursuant to N.J.S.A. 17:22A-40(c), the producer license of a business entity may be suspended or revoked if an individual licensee's violation was known or should have been known by one or more of the partners, officers or managers acting on behalf of the business entity and the violation was neither reported nor corrective action taken; 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 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. 17:46B-10.1a, every title insurance producer licensed pursuant to the Producer Act and

every title insurance company shall maintain a separate record of all receipts and disbursements as a depository for funds representing closing or settlement proceeds of a real estate transaction, which funds shall be deposited in a separate trust or escrow account, and which shall not be commingled with a producer's or company's own funds or with funds held by a producer or company in any other capacity; and

WHEREAS, pursuant to N.J.A.C. 11:17A-1.6(c), licensed partners, officers and directors, and all owners with an ownership interest of 10 percent or more in the organization shall be held responsible for all insurance related conduct of the organization licensee, any of its branch offices, its other licensed officers or partners, and its employees; 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. 11:17A-4.8, an insurance producer shall reply in writing, to any inquiry of the Department relative to the business of insurance within the time requested in said inquiry, or no later than 15 calendar days from the date inquiry was made or mailed in cases where no response time was given; and

WHEREAS, pursuant to N.J.A.C. 11:17C-2.2(c), all title insurance settlement funds shall be disbursed within five

business days after settlement except as determined by the parties at settlement; and

WHEREAS, pursuant to N.J.S.A. 17:33A-5a(2), the Commissioner of the Department Banking and Insurance of the State of New Jersey is authorized to levy a civil administrative penalty and order restitution against those who violate the provisions of the Fraud Act; and

WHEREAS, pursuant to N.J.S.A. 17:33A-4a(4)(b), a person violates the Fraud Act if he prepares or makes any written or oral statement, intended to be presented to any insurance company or producer for the purpose of obtaining an insurance policy, knowing that the statement contains any false or misleading information concerning any fact or thing material to an insurance application or contract; and

COUNT 1
(Producer Act Charges)

IT APPEARING, that at all relevant times Respondents were acting as a title insurance agency; and

IT FURTHER APPEARING, that at all relevant times Respondents owned and controlled at least two bank accounts with Chase Bank numbered xxxxx3796 and xxxxx3804; and

IT FURTHER APPEARING, that accounts xxxxx3796 and xxxxx3804 were both named "Frontline Title LLC"; and

IT FURTHER APPEARING, that during or about November 2010, Respondents acted as settlement agents for the refinancing of real estate located at 101 Cooper Avenue, Montclair, New Jersey; and

IT FURTHER APPEARING, that both the original mortgage and the refinanced mortgage for 101 Cooper Avenue were provided through J.P. Morgan Chase Bank; and

IT FURTHER APPEARING, that on or about November 29, 2010, as part of the refinancing, J.P. Morgan Chase Bank Loan Funding wired \$140,255.06 into Respondents' bank account number xxxxx3796; and

IT FURTHER APPEARING, that on or about December 1, 2010, to pay off the original mortgage, Respondents transmitted to J.P. Morgan Chase check number 2879 in the amount of \$136,806.93 from Respondents' bank account number xxxxx3804; and

IT FURTHER APPEARING, that on or about December 7, 2010, check number 2879 was returned to Respondents by J.P. Morgan Chase for insufficient funds; and

IT FURTHER APPEARING, that this instance, where Respondents transmitted a check, relative to the business of title insurance, for which Respondents' bank account did not have sufficient funds to pay, constitutes violations of N.J.S.A. 17:22A-40a(2), (8), and (16); and

COUNT 2
(Title Act Charges)

IT FURTHER APPEARING, that Respondents used Chase bank account number xxxxx3796 for purposes other than a trust account; and

IT FURTHER APPEARING, that this instance where Respondents commingled funds to be held in escrow into a bank account used for purposes other than a trust account, constitutes violations of N.J.S.A. 17:22A-40a(2) and (8), and N.J.S.A. 17:46B-10.1a; and

COUNT 3
(Producer Act Charges)

IT FURTHER APPEARING, that Respondents never returned \$136,806.93 to J.P.M. Chase relative to the 101 Cooper Avenue refinancing; and

IT FURTHER APPEARING, that this instance were Respondents failed disburse title insurance settlement funds, and misappropriated \$136,806.93 for their own purposes, constitutes violations of N.J.S.A. 17:22A-40a(2), (4), (8), (16), N.J.A.C. 11:17A-4.10, and N.J.A.C. 11:17C-2.2(c); and

COUNT 4
(Fraud Act Charges)

IT FURTHER APPEARING, that on or about March 15, 2013, Respondents submitted an application to Gotham Insurance Company for an Errors and Omissions insurance policy; and

IT FURTHER APPEARING, that on the March 15, 2013 application, Respondents answered "NO" to the application question "Does any person to be insured have knowledge or information of any act, error, or omissions which might reasonably be expected to give rise to a claim against him or his predecessors in Business that has not been reported to your respective Errors and Omissions Insurance carrier?"; and

IT FURTHER APPEARING, that on the March 15, 2013 application Respondents answered "NO" to the application question "have any professional liability claims ever been made against any proposed insured?"; and

IT FURTHER APPEARING, that based upon Respondents' disclosures on the March 15, 2013 application, Gotham Insurance issued Respondents an Errors and Omissions insurance policy; and

IT FURTHER APPEARING, that after Gotham Insurance issued Respondents an Errors and Omissions insurance policy, Respondents submitted a claim on the policy related to the Cooper Avenue refinancing; and

IT FURTHER APPEARING, that on or about November 7, 2013, Gotham Insurance rejected Respondents' claim for benefits because the loss occurred prior to policy inception; and

IT FURTHER APPEARING, that on or about November 7, 2013, Gotham Insurance voided Respondents' Errors and Omissions insurance policy; and

IT FURTHER APPEARING, that Gotham Insurance would not have issued the Errors and Omissions insurance policy if Respondents had disclosed the prior loss relative to the refinancing; and

IT FURTHER APPEARING, that this instance were Respondents prepared or made a written or oral statement in the application to Gotham Insurance, for the purpose of obtaining an insurance policy, knowing that the application contains false or misleading information concerning any fact or thing material to the insurance application, constitutes violations of N.J.S.A. 17:33A-4a(4)(b), N.J.S.A. 17:22A-40a(2), (8), and (16); and

COUNT 5
(Producer Act Charges)

IT FURTHER APPEARING, that on or about January 25, 2012, the Department mailed, via regular and certified mails, a letter to Respondents requesting a response within ten days of receipt of the letter; and

IT FURTHER APPEARING, that the January 25, 2012 letter sent via certified mail was returned to the Department as unclaimed; and

IT FURTHER APPEARING, that the January 25, 2012 letter sent via regular mail was not returned to the Department; and

IT FURTHER APPEARING, that Respondents never responded to the Department's January 25, 2012 letter; and

IT FURTHER APPEARING, that on or about February 17, 2012, the Department mailed, via regular and certified mail, a letter to Respondents requesting a response; and

IT FURTHER APPEARING, that the February 17, 2012 letter sent via certified mail was returned to the Department as unclaimed; and

IT FURTHER APPEARING, that the February 17, 2012 letter sent via regular mail was not returned to the Department; and

IT FURTHER APPEARING, that Respondents never responded to the Department's February 17, 2012 letter; and

IT FURTHER APPEARING, that these instances, where Respondents failed to reply in writing, to two inquiries of the Department relative to the business of insurance within the time requested in said inquiry, or no later than 15 calendar days from the date inquiry was made or mailed in cases where no response time was given, constitutes two separate violations each of N.J.S.A. 17:22A-40a(2) and N.J.A.C. 11:17A-4.8; and

NOW, THEREFORE, IT IS on this 30th day of March, 2016

ORDERED, that pursuant to the provisions of N.J.S.A. 17:22A-40a, Respondents shall appear and show cause why their insurance producer licenses shall not be revoked by the Commissioner; and

IT IS FURTHER ORDERED, that Respondent Spinazzola, as the sole Designated Responsible Licensed Producer of Frontline,

shall appear and show cause why Frontline's business entity insurance producer license shall not be revoked by the Commissioner; and

IT IS FURTHER ORDERED, that Respondents shall appear and show cause why the Commissioner should not assess fines up to \$5,000.00 for the first violation and not exceeding \$10,000.00 for each subsequent violation of the Producer Act, pursuant to the provisions of N.J.S.A. 17:22A-45c, due to their failure to comply with New Jersey's insurance laws and regulations; and

IT IS FURTHER ORDERED, that Respondents shall appear and show cause why the Commissioner should not assess fines up to \$5,000.00 for the first violation, \$10,000 for the second violation and \$15,000 for each subsequent violation of the Fraud Act, pursuant to N.J.S.A. 17:33A-5c, due to their failure to comply with the New Jersey Insurance Fraud Prevention Act; and

IT IS FURTHER ORDERED, that Respondents shall appear and show cause why they should not be subject to additional penalties, including restitution to their victims and reimbursement of the costs of investigation and prosecution by the Department of Banking and Insurance, pursuant to N.J.S.A. 17:22A-45c; and

IT IS FURTHER ORDERED, that Respondents shall appear and show cause why they should not be subject to the assessment of

costs and reasonable attorneys' fees, pursuant to N.J.S.A. 17:33A-5b; and

IT IS FURTHER ORDERED, that Respondents shall appear and show cause why they should not be subject to the imposition of a \$1,000.00 surcharge, pursuant to N.J.S.A. 17:33A-5.1; and

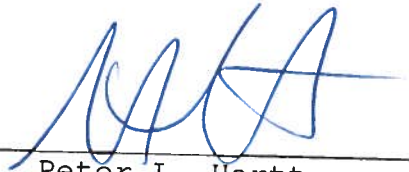
IT IS PROVIDED, that Respondents have the right to request an administrative hearing, to be represented by counsel or other qualified representative, at their own expense, to take testimony, to call or cross-examine witnesses, to have subpoena and subpoena duces tecum issued and to present evidence or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

IT IS FURTHER PROVIDED, that unless a request for a hearing is received within twenty 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 the 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, New Jersey Department of Banking and Insurance, P.O. Box 329, Trenton, N.J. 08625 or by faxing the request to the Department at (609) 292-5337. The request shall contain:

- (A) The licensee's 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 the Respondents have no specific knowledge regarding a fact alleged in this 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.



Peter L. Hartt
Director of Insurance