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SUPERIOR COURT OF NEW JERSEY
SPECIAL CIVIL PART – MONMOUTH COUNTY
DOCKET NO. MON-DC-010698-21

MARLENE CARIDE,)
COMMISSIONER OF THE NEW)
JERSEY DEPARTMENT OF)
BANKING AND INSURANCE,)
Plaintiff,)
v.)
AARON WHITEHURST and)
ATHLETIC ENHANCEMENT)
INCORPORATED,)
Defendants.)

Civil Action

**ORDER FOR FINAL JUDGMENT BY
DEFAULT**

**SPECIAL CIVIL PART: STATUTORY
PENALTIES**

**AMOUNT IN CONTROVERSY:
\$9,941.00**

THIS MATTER HAVING BEEN opened to the Court on the application of Matthew J. Platkin, Acting Attorney General of New Jersey, (by Brian R. Fitzgerald, Deputy Attorney General, appearing), attorney for Plaintiff, Marlene Caride, Commissioner of the New Jersey Department of Banking and Insurance on a motion for judgment by default; and

Defendants, Aaron Whitehurst (“Whitehurst”) and Athletic

Enhancement Incorporated (“Athletic Enhancement”) (collectively, “Defendants”), having been duly served with a copy of the Summons and Complaint in the above-captioned action, and default having been entered for Defendants’ failure to appear, answer, or otherwise defend;

IT IS on this 26th day of August, 2022,

ORDERED that this Court now finds that Defendants violated the New Jersey Insurance Fraud Prevention Act, N.J.S.A. 17:33A-1 to -30 (“Fraud Act”) by (i) concealing or knowingly failing to disclose the occurrence of an event which affected Defendants’ initial right or entitlement to an insurance benefit or payment, and (ii) making an oral statement intended to be presented to an insurance company for the purpose of obtaining an insurance policy knowing that the statement contained false or misleading information concerning material facts, both in violation of the Fraud Act.

Specifically, Defendants, on an automobile insurance application adding coverage for an additional vehicle to an existing automobile insurance policy, knowingly failed to disclose (i) that an automobile accident involving the vehicle had occurred prior to adding the vehicle to the policy, in violation of N.J.S.A. 17:33A-4(a)(3), and (ii) that an individual not listed on the policy was a driver of the insured vehicle, in violation of N.J.S.A. 17:33A-4(a)(4)(b); and

In favor of Plaintiff, Marlene Caride, Commissioner of the New Jersey Department of Banking and Insurance: (i) \$5,000.00 in civil penalties against Defendants, jointly and severally, for one (1) violation of the Fraud Act pursuant to 17:33A-5(c); (ii) attorneys’ fees of \$2,941.00, jointly and

severally, pursuant to N.J.S.A. 17:33A-5(c); (iii) a statutory fraud surcharge of \$1,000.00 against Whitehurst, individually, pursuant to N.J.S.A. 17:33A-5.1; and (iv) a statutory fraud surcharge of \$1,000.00 against Athletic Enhancement, individually, pursuant to N.J.S.A. 17:33A-5.1.

IT IS FURTHER ORDERED, that a copy of this Order be served upon all parties within 10 days of the date of receipt.

Hon. Kerry E. Higgins, J.S.C.

Hon. Kerry E. Higgins, J.S.C.

This motion was:

_____ Opposed Unopposed

Motion is GRANTED for the reasons set forth in the moving papers which are unopposed and the Court finds meritorious.