

STATE OF NEW JERSEY  
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF:

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Proceedings by the Commissioner of Banking )  
and Insurance, State of New Jersey, to fine, )  
suspend and/or revoke the insurance license of )  
Scott Newsholme, Reference No. 258496. )  
\_\_\_\_\_ )

**ORDER TO SHOW CAUSE**

TO: Scott Newsholme  
FCI Fairton  
655 Fairton-Millville Road  
Fairton, New Jersey 08320

THIS MATTER, having been opened by the Commissioner of Banking and Insurance (“Commissioner”), State of New Jersey, upon information that Scott Newsholme (“Respondent”), may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Respondent was formerly licensed as a resident individual insurance producer in the State of New Jersey, pursuant to N.J.S.A. 17:22A-32(a), until November 30, 2014, when his license expired; 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”); 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)(6), an insurance producer shall not be convicted of a felony or crime of the fourth degree or higher; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40(a)(7), an insurance producer shall not commit any insurance unfair trade practice or fraud; 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)(14), an insurance producer shall not fail to pay income tax; 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.S.A. 17:22A-40(a)(19), an insurance producer shall notify the Commissioner within 30 days of the final disposition of any formal disciplinary proceedings initiated against the insurance producer by the Financial Industry Regulatory Authority ("FINRA"); 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-47(c), an insurance producer shall report to the Commissioner any disciplinary action taken against the insurance producer by FINRA.

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 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 not exceeding \$5,000.00 for the first offense and not exceeding \$10,000.00 for each subsequent offense; additionally, the Commissioner may order restitution of monies owed any person and reimbursement of costs of the investigation and prosecution; and

#### FACTUAL ALLEGATIONS

IT FURTHER APPEARING, that in addition to being a licensed insurance producer, Respondent was also an investment agent registered since May 1998 with FINRA and the New Jersey Bureau of Securities ("BOS"); and

IT FURTHER APPEARING, Respondent was affiliated with broker-dealer Royal Alliance Associates Inc. ("RAA") from May 8, 1998 to December 17, 2008; and

IT FURTHER APPEARING, from 2002 through 2010, Respondent was the owner of Newley Financial Group Inc. ("Newley"), a New Jersey corporation which is currently non-operational, and which maintained an office at 99 Main Street, Matawan, New Jersey 07747. Through Newley, Respondent provided tax preparation and accounting services to his clients; and

IT FURTHER APPEARING, that Respondent was affiliated with the broker-dealer SII Investment, Inc. (“SII”); and

IT FURTHER APPEARING, that “Victim 1” is a resident of Kentucky and previously resided in New Jersey from 2002 to 2004. Victim 1 has little to no investment experience; and

IT FURTHER APPEARING, that Victim 1 was a client of Newley Financial’s tax preparation services; and

IT FURTHER APPEARING, that in 2003, Respondent sold Victim 1 a variable annuity policy offered by AIG Sun America Life Assurance Company for \$146,000 (“Annuity Policy”) which was held in an account at RAA; and

IT FURTHER APPEARING, in 2007, Respondent instructed Victim 1 to surrender the Annuity Policy. On July 17, 2007, Victim 1 surrendered the Annuity Policy and subsequently received a check in the amount of \$141,321.44, which was the value at the time of the surrender less the surrender charge; and

IT FURTHER APPEARING, after Victim 1 surrendered the Annuity Policy, Respondent visited Victim 1 in Kentucky and instructed her to issue two checks, one for \$100,000 and the other for \$40,000, each paid to the order of Newley Financial; and

IT FURTHER APPEARING, on July 27, 2007, Respondent personally cashed the \$100,000 check at a check cashing store; and

IT FURTHER APPEARING, on or around August 8, 2007, Respondent deposited the \$40,000 check into a bank account owned by Newley Financial; and

IT FURTHER APPEARING, on November 4, 2013, Respondent sent a letter to Victim 1 falsely stating that Victim 1 held an IRA account at SII (“IRA Account”) with a then-current value

of \$203,449. However, Respondent never opened an account for Victim 1 at SII as Respondent had claimed; and

IT FURTHER APPEARING, that on four separate dates, Respondent sent fabricated account statements to Victim 1, which falsely stated that her IRA Account was invested in four exchange-traded mutual funds; and

IT FURTHER APPEARING, on July 15, 2014 Victim 1 filed a complaint with SII expressing concerns about not being able to move her account to another firm. SII informed Victim 1 that she never had an account open with SII; and

IT FURTHER APPEARING, that representatives from SII met with Respondent and asked him to produce documents to corroborate his explanation that he used Victim 1's annuity funds to invest in stock from two private companies. However, Respondent was unable to produce such documents; and

IT FURTHER APPEARING, SII terminated Respondent for cause on July 23, 2014; and

IT FURTHER APPEARING, that FINRA sent letters to Respondent requesting documents relating to a complaint filed by Victim 1. Respondent never responded to FINRA's request for documents; and

IT FURTHER APPEARING, FINRA issued Respondent a notice of suspension effective October 22, 2014; and

IT FURTHER APPEARING, on December 30, 2014, FINRA permanently barred Respondent from association with any FINRA member in any capacity; and

IT FURTHER APPEARING, Respondent failed to report the FINRA suspension to the Commissioner; and

IT FURTHER APPEARING, the BOS conducted an investigation into Respondent's conduct relating to Victim 1 as described above; and

IT FURTHER APPEARING, on June 24, 2015, Respondent entered into a Consent Order with the BOS for his conduct relating to Victim 1 as described above and agreed to a revocation of his agent registration, the payment of a civil monetary penalty in the amount of \$35,000, and the payment of restitution to Victim 1 in the amount of \$85,000; and

IT FURTHER APPEARING, on September 5, 2017, the United States Attorneys' Office ("USAO") indicted Respondent for his scheme to defraud Victim 1 as well as Victims 2-5; and

IT FURTHER APPEARING, that according to the USAO Complaint, Respondent's scheme to defraud investors involved the misappropriation of funds given to him by Victims 1-5; and

IT FURTHER APPEARING, that according to the USAO Complaint, Respondent instructed Victim 4 to write him checks for \$185,000, for the purpose of investing in life insurance policies. However, Respondent converted Victim 4's money for his own personal use; and

IT FURTHER APPEARING, on November 26, 2018, Respondent pled guilty to wire fraud, aggravated identity theft, and aiding and abetting the preparation of a false tax return. Respondent was sentenced to 102 months in prison; and

IT FURTHER APPEARING, on September 6, 2017, the Securities and Exchange Commission ("SEC") charged Respondent with violating section 17(a) of the Securities Act of 1933, violating section 10(b) of the Exchange Act and Rule 10b-5, and violation sections 206(1) and 206(2) of the Advisers Act; and

IT FURTHER APPEARING, a Final Judgment in favor of the SEC was entered against Respondent on March 22 2019. Respondent was liable for disgorgement of \$1,370,697, with interest totaling \$196,687.34; and

**COUNT ONE**

IT FURTHER APPEARING, that Respondent committed fraudulent acts against Victim 1 in the conduct of doing insurance business, in violation of N.J.S.A. 17:22A-40(a)(2), N.J.S.A. 17:22A-40(a)(4) and N.J.S.A. 17:22A-40(a)(8); and

**COUNT TWO**

IT FURTHER APPEARING, that Respondent misappropriated monies entrusted to him by Victim 4 and issued false financial statements in the conduct of doing insurance business, in violation of N.J.S.A. 17:22A-40(a)(2), (4), and (8); and

**COUNT THREE**

IT FURTHER APPEARING, that Respondent committed fraudulent acts against Victim 5 in the conduct of doing insurance business, in violation of N.J.S.A. 17:22A-40(a)(2), N.J.S.A. 17:22A-40(a)(4) and N.J.S.A. 17:22A-40(a)(8); and

**COUNT FOUR**

IT FURTHER APPEARING, that Respondent pled guilty to wire fraud, aggravated identity theft, and aiding and abetting the preparation of false tax returns, in violation of N.J.S.A. 17:22A-40(a)(6), (7), (14), and (16); and

**COUNT FIVE**

IT FURTHER APPEARING, that Respondent failed to report to the Commissioner his FINRA license was suspended, in violation of N.J.S.A. 17:22A-40(a)(19) and N.J.S.A. 17:22A-47(c); and

NOW, THEREFORE, IT IS on this 2<sup>nd</sup> day of January, 2020

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 of 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 the provisions of N.J.S.A. 17:22A-45(c); and

IT IS FURTHER ORDERED, that Respondent appear and show cause why he should not be required to reimburse the Department for the cost of the investigation and prosecution, as authorized pursuant to 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 his 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 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 Deputy Attorney General Ashleigh B. Shelton at: Division of Law, P.O. Box 117, Trenton, NJ 08625. The request 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 the hearing.

  
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Marlene Caride  
Commissioner