

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 producer )  
license of Brian J. Spak, Reference No. 9952641 )  
and the insurance producer license of John R. )  
Najarian, Reference No. 0296772. )

**FINAL ORDER**

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TO: John R. Najarian  
179 Scharer Ave  
Northvale, NJ 07647-1827

This matter, having been opened by the Commissioner of Banking and Insurance (“Commissioner”), State of New Jersey, upon information that John R. Najarian (“Najarian”) and Brian J. Spak (“Spak”) (collectively, “Respondents”) may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Najarian was licensed as a resident insurance producer, pursuant to N.J.S.A. 17:22A-32a, on February 23, 2012, until said license expired on March 3, 2015; and

WHEREAS, Najarian 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)(1), an insurance producer shall not provide incorrect, misleading, incomplete or materially untrue information in the license application; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40(a)(2), an insurance producer shall not violate any insurance laws, or violate any 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)(3), an insurance producer shall not obtain or attempt to obtain a license through misrepresentation or fraud; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40(a)(15), an insurance producer shall not intentionally withhold material information or make a material misstatement in an application for a license; and

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

WHEREAS, pursuant to N.J.S.A. 17:22A-47(a), an insurance producer shall report to the Commissioner any administrative action taken against the insurance producer in another jurisdiction or by another governmental agency in this State within 30 days of the final disposition of the matter. This report shall include a copy of the order, consent order or other relevant legal documents; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40d, the Commissioner shall retain authority to enforce the provisions of and to 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. 17:22A-40a, 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-45c, 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; moreover, the Commissioner may order restitution of moneys owed any person and reimbursement of costs of the investigation and prosecution; and

WHEREAS, the Commissioner issued Order to Show Cause No. E21-02 on January 4, 2021, alleging violations of the Producer Act by Najarian as follows:

**FACTS COMMONS TO ALL COUNTS**

IT APPEARING, that at all relevant times, Respondents were licensed as resident insurance producers; and

IT FURTHER APPEARING, that on or about August 7, 2012, the New Jersey Bureau of Securities ("NJBOS") filed a civil action, by way of Verified Complaint ("Complaint"), in Superior Court, Chancery Division, Hudson County, against Respondents and their co-conspirators alleging multiple violations of the New Jersey Uniform Securities Law (1997)("NJUSL"), N.J.S.A. 49:3-47 to -83; and

IT FURTHER APPEARING, that as alleged in NJBOS's Complaint, Respondents and their co-conspirators engaged in numerous illegal and fraudulent acts in connection with the offer and sale of securities and thereby defrauded investors of more than \$7.2 million and were unjustly and unlawfully enriched in excess of \$4 million; and

**COUNT ONE**

(As to John Najarian only)

IT FURTHER APPEARING, that on or about December 30, 2013, a Consent Order and and Final Judgment ("Final Judgment") was entered by the Superior Court, Chancery Division, Hudson

County, in favor of the NJBOS and against Najarian and certain co-conspirators; and

IT FURTHER APPEARING, that as set forth in said Final Judgment, Najarian admitted that he had, in fact, violated the NJUSL in connection with the offer and sale of securities by engaging in multiple illegal and unlawful acts, which included but were not limited to: (1) failing to register as a securities “agent”; (2) offering and selling unregistered securities; (3) employing a device, scheme or artifice to defraud investors; (4) engaging in an act, practice or course of business which operated as a fraud or deceit upon investors; and (5) knowingly making material misrepresentations, misleading statements and material omissions in the offer and sale of securities; and

IT FURTHER APPEARING, that as set forth in said Final Judgment, a civil money judgment was entered against Najarian in the total sum of \$749,550, which constituted a \$25,000 civil penalty pursuant to N.J.S.A. 49:3-70.1 and the restitution/d disgorgement of \$724,550 pursuant to N.J.S.A. 49:3-69(a)(2); and

IT FURTHER APPEARING, that based upon the admissions set forth in the Final Judgment and the adjudication by the Superior Court of New Jersey, Najarian engaged in fraudulent and dishonest practices, and demonstrated untrustworthiness in the conduct of his securities business, and therefore committed fraudulent acts during the time period he was licensed as an insurance producer, in violation of N.J.S.A. 17:22A-40(a)(2) and (16); and

## **COUNT TWO**

(As to John Najarian only)

IT FURTHER APPEARING, that in or about March 2014, shortly after executing the Consent Order with the NJBOS, Najarian applied to renew his license as an insurance producer; and

IT FURTHER APPEARING, that in completing the license renewal application, Najarian falsely answered “NO” to the following question: “Have you been named or involved in an administrative proceeding including a FINRA sanction or proceeding regarding any professional or occupational license or registration, which has not been previously reported to the insurance department?”; and

IT FURTHER APPEARING, that in completing the license renewal application, Najarian intentionally failed to disclose any information regarding his involvement in the civil litigation with the NJBOS, in violation of N.J.S.A. 17:22A-40(a)(1), (3), and (15); and

**COUNT THREE**

(As to John Najarian only)

IT FURTHER APPEARING, that in December 2013, the litigation commenced by the NJBOS against Najarian had been completed and Najarian failed to report to the Commissioner the civil action taken by the NJBOS within 30 days of the final disposition of the matter, in violation of N.J.S.A. 17:22A-47(a);

IT FURTHER APPEARING, that as set forth in the certification of Dakar Ross, attached hereto as Exhibit A, Najarian was given notice of the aforesaid charges and an opportunity to contest the charges at a hearing pursuant to Order to Show Cause E21-02, which was duly served on Najarian by certified mail, RRR, and regular mail sent to the address listed on this Final Order in accordance with N.J.A.C. 11:17D-2.1(a)(3); and

IT FURTHER APPEARING, that Najarian failed to provide written responses to the charges contained in Order to Show Cause E21-02 within 20 days as provided by N.J.A.C. 11:17D-2.1(d)(1), and therefore Respondent has waived his rights to a hearing to contest these charges and the charges are deemed admitted, pursuant to N.J.A.C. 11:17D-2.1(b)(1); and

**NOW, THEREFORE, IT IS** on this 23 day of March, 2022,

ORDERED, that the charges contained in Counts 1, 2 and 3 of Order to Show Cause E21-02 are deemed admitted by Najarian, pursuant to N.J.A.C. 11:17D-2.1(b)(1); and

IT IS FURTHER ORDERED, that pursuant to N.J.S.A. 17:22A-40, and N.J.A.C. 11:17D-2.1(b)(2), the resident insurance producer license of John Najarian is hereby **REVOKED** effective upon the execution of this Final Order by the Commissioner; and

IT IS FURTHER ORDERED, that pursuant to N.J.S.A. 17:22A-45(c), Najarian shall pay a civil penalty in the total amount of twenty five thousand dollars (\$25,000.00) to the Commissioner for the violations of the Producer Act; and

IT IS FURTHER ORDERED, that pursuant to N.J.S.A. 17:22A-45(c), Najarian, jointly and severally, shall be responsible for the reimbursement to the Department of the costs of investigation totaling \$512.50. A true and exact copy of the Certification of Daxesh Patel, Department of Banking and Insurance Investigator, is attached hereto as Exhibit B; and

IT IS FURTHER ORDERED, that Najarian shall pay the above penalties and costs totaling \$25,512.50 to the Commissioner of Banking and Insurance, State of New Jersey, P.O. Box 329, Trenton, New Jersey 08625, Attention: Virgil Downtin, Chief of Investigations, by certified check, cashier's check or money order made payable to the "State of New Jersey, General Treasury," within ten days from the date of service of this Order; and

IT IS FURTHER ORDERED, that in the event full payment of the penalty and costs is not made, the Commissioner may exercise any and all remedies available by law, including but not limited to recovery of any unpaid penalties, with post-judgment interest, in accordance with the Penalty Enforcement Law, N.J.S.A. 2A:58-10 to -12; and

IT IS FURTHER ORDERED, that the civil penalty in this Final Order is imposed pursuant to the police powers of the State of New Jersey for the enforcement of the law and the protection of the public health, safety and welfare, and is not intended to constitute debts which may be limited or discharged in a bankruptcy proceeding; and

IT IS FURTHER ORDERED, that the provisions of this Final Order represent a final agency decision and constitute a final resolution of the allegations contained in Order to Show Cause No. E21-02.



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Marlene Caride  
Commissioner