

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 Kevin Dufficy and) **CONSENT ORDER**
FinAuction.com, LLC a/k/a
Financialize, LLC

TO: FinAuction.com a/k/a Financialize.com, LLC
c/o Kevin Dufficy
101 Stetson Avenue
Corte Madera, CA 949285

Kevin Dufficy
101 Stetson Avenue
Corte Madera, CA 94925

THIS MATTER, having been opened by the Commissioner of Banking and Insurance ("Commissioner"), State of New Jersey, upon information that Kevin Dufficy ("Dufficy") and FinAuction.com, LLC a/k/a Financialize, LLC (collectively, "Respondents"), may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Respondents are subject to the provisions of the New Jersey Insurance Producer Licensing Act of 2001, 17:22A-26 to -48 ("Producer Act"); the New Jersey Trade Practices Act, N.J.S.A. 17:29B-1 to -19 ("Trade Practices Act"), and the regulations

governing Insurance Producer Standards of Conduct, N.J.A.C. 11:17A-1.1 to 11:17D-2.8; and

WHEREAS, Dufficy is not currently licensed, and has never been licensed, as an insurance producer in New Jersey, or any other state; and

WHEREAS, FinAuction.com LLC a/k/a Financialize.com, LLC is a limited liability company incorporated in Delaware on March 11, 2014, which is not currently licensed, and has never been licensed, as a business entity insurance producer in New Jersey, or any other state; and

WHEREAS, pursuant to N.J.S.A. 17:22A-29, a person shall not sell, solicit or negotiate insurance in this State unless the person is licensed for that line of authority in accordance with the 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)(7), an insurance producer shall not be found to have committed 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. 17B:30-4, no person shall make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance and annuities or with respect to any person in the conduct of his insurance and annuity business, which is untrue, deceptive or misleading; and

WHEREAS, pursuant to N.J.A.C. 11:2-23.4(a), advertisements shall be truthful and not misleading in fact or by implication. Words or phrases the meaning of which is clear only by implication or by familiar with insurance terminology shall not be used. The form and content of an advertisement of a policy shall be sufficiently complete and clear so as to avoid deception. The advertisement shall not have the capacity or tendency to mislead or deceive; and

WHEREAS, pursuant to N.J.A.C. 11:2-23.6(a), the name of the insurer shall be clearly identified, and if any specific or

individual policy is advertised it shall be identified either by form number other appropriate description; and

WHEREAS, the Commissioner issued Order to Show Cause E23-06 ("OTSC E23-06") on February 14, 2023, alleging violations of New Jersey insurance laws by Respondents as set forth in the following Counts:

FACTS COMMON TO ALL COUNTS

IT APPEARING, that at all relevant times Dufficy was the owner, CEO and/or Managing Director of FinAuction.com LLC a/k/a Financialize.com LLC; and

IT FURTHER APPEARING, that FinAuction.com LLC a/k/a Financialize.com LLC owns and/or controls the web sites Annuity.com, Annuities.com and InfoInvestments.com ("Websites"); and

IT FURTHER APPEARING, that the content of the Websites was available to all residents of the State of New Jersey; and

IT FURTHER APPEARING, that on or about November 1, 2016, FinAuction.com LLC a/k/a Financialize.com LLC advertised on the Websites "guaranteed returns" of "up to 7%" with "no market risk;" and

IT FURTHER APPEARING, that FinAuction.com LLC a/k/a Financialize.com LLC encouraged viewers of its Websites' advertisements to input their information to receive personalized comparison reports about annuities; and

IT FURTHER APPEARING, that after consumers inputted their information to a Website, a representative of FinAuction.com LLC a/k/a Financialize.com initiated contact with prospective insureds by telephone and

inquired about the "amount of funds to be invested" by the prospective insured; and

COUNT ONE

IT FURTHER APPEARING THAT, Respondents advertised on their Websites for "guaranteed returns" of "up to 7%" with "no market risk," and failed to specify on their Websites the insurers or annuity policies that would produce such results, constituting violations of N.J.S.A. 17:22A-40(a)(2), (7), and (8); N.J.S.A. 17B:30-4, N.J.A.C. 11:2-23.4(a), and N.J.A.C. 11:2-23.6(a); and

COUNT TWO

IT FURTHER APPEARING, Respondents solicited insurance without a license in the State of New Jersey by advertising for insurance on their Websites and by initiating contact with prospective insureds by telephone and inquiring about the "amount of funds to be invested," constituting violations of N.J.S.A. 17:22A-40(a)(2), (8), and N.J.S.A. 17:22A-29; and

WHEREAS, Respondents were given notice of the aforesaid allegations and an opportunity to contest them at a hearing; and

WHEREAS, on March 2, 2023, Respondents filed an Answer and Request for a Hearing, and this matter was transmitted to the Office of Administrative Law as a contested matter; and

WHEREAS, Respondents admit and take responsibility for the violations of the above-cited statutes and regulations; and

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

WHEREAS, Respondents have waived their right to a hearing;
and

NOW, THEREFORE, IT IS on this 19th day of October, 2023,

ORDERED that Respondents shall pay a civil penalty of ten thousand dollars (\$10,000.00); and

IT IS FURTHER ORDERED AND AGREED, that the \$10,000 shall be paid by wire transfer, certified check, cashier's check or money order made payable to the "**Commissioner, New Jersey Department of Banking and Insurance**" and the full amount shall be paid immediately upon execution of this Consent Order by Respondents;
and

IT IS FURTHER ORDERED AND AGREED, that the signed Consent Order together with the payment of \$10,000.00 shall be remitted to:

Chandra M. Arkema, Deputy Attorney General
State of New Jersey, Division of Law
R.J. Hughes Justice Complex
25 Market Street
P.O. Box 117
Trenton, New Jersey 08625

and

IT IS FURTHER ORDERED AND AGREED, that Respondents shall cease and desist engaging in the conduct that gave rise to this Consent Order; and

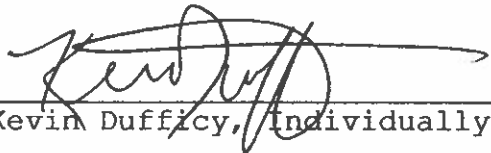
IT IS FURTHER ORDERED AND AGREED, that any future violation of the Act shall be considered a subsequent violation; and

IT IS FURTHER ORDERED AND AGREED, that the provisions of this Consent Order represent a final agency decision and constitute final resolution of the violations cited in OTSC E23-06.



Justin Zimmerman
Acting Commissioner

**Consented to as to
Form, Content and
Entry:**

Date: 10/3/23



Kevin Dufficy, Individually

Date: 10/3/23


Kevin Dufficy, as Owner &
CEO/Managing Director of
FinAuction.com LLC a/k/a
Financialize.com LLC

MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY

Date: 10/16/2023


Chandra M. Arkema
Deputy Attorney General
Attorney for the New Jersey
Department of Banking and
Insurance