

FINAL ORDER NO. E14-145

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 and revoke)
the insurance producer licenses of)
RICHARD CECERE, Reference No.)
8059313, and BUYER DEFENDER INC.,)
Reference No, 1187839)

FINAL ORDER

TO: Richard Cecere
166 Highland Avenue
Montclair, NJ 07042

Buyer Defender Inc.
2 Erie Street
Montclair, NJ 07042

Buyer Defender Inc.
c/o Richard Cecere
166 Highland Avenue
Montclair, NJ 07042

This matter, having been opened by the Commissioner of Banking and Insurance ("Commissioner"), State of New Jersey, upon information that RICHARD CECERE ("Cecere") and BUYER DEFENDER, INC. ("BDI") may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Cecere is actively licensed as a resident insurance producer pursuant to N.J.S.A. 17:22A-32; and

WHEREAS, BDI was previously licensed as a resident insurance producer pursuant to N.J.S.A. 17:22A-32; and

WHEREAS, 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 New Jersey Title Insurance Companies Act ("Title Act"), N.J.S.A. 17:46B-1 et seq., and the New Jersey Insurance Producer Standards of Conduct ("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

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(2), an insurance producer shall not violate any insurance laws, regulations, subpoenas or orders of the Commissioner or of another state's insurance regulator; 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 business practices, or demonstrate incompetence, untrustworthiness or financial irresponsibility in the conduct of 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-40d, the Commissioner shall retain the authority to enforce the provisions of, and impose any penalty or remedy authorized by, the Producer Act

against any person who is under investigation for or charged with a violation of the Producer Act 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-42a, an agent shall abide by the terms of its written agency contract with an insurer; and

WHEREAS, pursuant to N.J.S.A. 17:46B-10.1, 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-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, or no less than 15 calendar days from the date the inquiry was made or mailed in cases where no response time is given; 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. 11:17C-2.1(a), all premium funds shall be held by an insurance producer in a fiduciary capacity and shall not be misappropriated, improperly converted to the insurance producer's own use, or illegally withheld by the licensee; and

WHEREAS, pursuant to N.J.A.C. 11:17C-2.1(b), all premium funds shall be segregated and not in any manner commingled with any other funds of the insurance producer, except as permitted; and

WHEREAS, pursuant to N.J.A.C. 11:17C-2.2(a), all premium funds shall be remitted to the insurer, within five business days after receipt of the funds, except as otherwise required by the insurance producer's contract with the insurer; and

WHEREAS, pursuant to N.J.A.C. 11:17C-2.5(b), all licensed insurance producers shall maintain a register of all monies received, deposited, disbursed or withdrawn in connection with premium fees, and are required to maintain in the register the policy numbers or binder numbers associated with the premium fees; and

IT APPEARING that Respondent Cecere was the President, owner and sole Designated Responsible Licensed Producer ("DRLP") of BDI; and

IT FURTHER APPEARING that New Jersey Title Insurance

Company ("NJTIC") was a title insurance company doing business in New Jersey; and

IT FURTHER APPEARING that, on or about July 31, 2008, NJTIC and Respondents Cecere and BDI entered into an Agency Agreement, whereby Respondents were appointed as title insurance agents for NJTIC; and

IT FURTHER APPEARING that, pursuant the Agency Agreement, Respondents Cecere and BDI were appointed an agent of NJTIC "to originate and solicit applications for title insurance, to examine and issue commitments to insure, and issue and countersign Policies of Title Insurance and to close title (hold settlement) pursuant thereto . . . in the State of New Jersey"; and

IT FURTHER APPEARING that, pursuant to the Agency Agreement, Respondents Cecere and BDI agreed to "[r]ender a monthly report, no later than the 15th day of the month, to insurer reflecting premium fees due insurer, together with Agent's check in full payment of the premium fees" to NJTIC; and

IT FURTHER APPEARING that, pursuant to the Agency Agreement, Respondents Cecere and BDI agreed to collect all premium and reinsurance fees, which, until remitted to the insurer on a monthly basis, were to be segregated from the funds belonging to Respondents and maintained in a premium trust account or in a settlement trust account; and

IT FURTHER APPEARING that, pursuant to the Agency Agreement, Respondents Cecere and BDI agreed to "[k]eep safely and segregated in a bank trust account all money entrusted to Agent by Insurer or others in the course of Agent's operation under this agreement, and keep safely any property entrusted to Agent"; and

IT FURTHER APPEARING that, pursuant to the Agency Agreement, Respondents Cecere and BDI agreed to keep appropriate records of all funds and property; and

IT FURTHER APPEARING that, on or about August 24, 2011, NJTIC attempted to perform an Agency Closeout Review with Respondents Cecere and BDI, however, Respondents failed to provide NJTIC the proper records or bank account records at that time to prepare a final Remittance Report to NJTIC; and

IT FURTHER APPEARING that, on or about December 1, 2011, NJTIC performed an Agency Closeout Review of Respondent BDI, and at that time received a Policy Premium Report prepared by Respondents Cecere and BDI, showing that from in or around September of 2009, until in or around May of 2011, Respondents Cecere and BDI wrote 199 (one hundred ninety-nine) title policies pursuant to the Agency Agreement with NJTIC and collected premiums on behalf of and due NJTIC totaling \$79,086.21; and

IT FURTHER APPEARING that Respondents have acknowledged

their obligation to remit these premium funds to NJTIC totaling \$79,086.21; and

WHEREAS, the Commissioner issued Order to Show Cause No. E13-64 on July 8, 2013 ("OTSC") alleging violations of the New Jersey Insurance laws, to Respondent Cecere and Respondent BDI as set forth in the following Counts:

COUNT 1

IT FURTHER APPEARING that Respondents Cecere and BDI failed to timely remit premium to NJTIC in the amount of \$79,086.21, which were premium funds collected for the issuance of 199 (one hundred ninety-nine) title insurance policies, and due to NJTIC within the time frame prescribed by the Agency Agreement, constituting violations of N.J.S.A. 17:22A-40a(2), (4), (8), (16), N.J.S.A. 17:22A-42a and N.J.A.C. 11:17C-2.2(a); and

COUNT 2

IT FURTHER APPEARING that the premium funds in the amount of \$79,086.21, which were premium funds collected for the issuance of 199 (one hundred ninety-nine) title insurance policies, were never paid to NJTIC and Respondents Cecere and BDI misappropriated or improperly converted the funds, received in the course of conducting insurance business, for the Respondents' own use, demonstrating incompetence, untrustworthiness and financial irresponsibility in the conduct of insurance business, in violation of N.J.S.A. 17:22A-40a(2), (4), (8), (16), N.J.S.A. 17:22A-42a and N.J.A.C. 11:17C-2.2(a); and

COUNT 3

IT FURTHER APPEARING that, during NJTIC's Agency Closeout Review on December 1, 2011, Respondents Cecere and BDI submitted an incomplete Policy Register, which did not contain Policy Jacket numbers for policies issued by Respondents or Policy Jacket numbers for unissued policies; and

IT FURTHER APPEARING that, from December 1, 2011 through January 16, 2013, NJTIC and the New Jersey Department of Banking and Insurance ("Department") made numerous requests to Respondents Cecere and BDI for a reconciliation of its Policy Register and a return of all unused policy jackets; and

IT FURTHER APPEARING that, on or about January 16, 2013, Respondents Cecere and BDI advised that they could not fulfill NJTIC's or the Department's request for information regarding the policy numbers issued; and

IT FURTHER APPEARING that Respondents Cecere and BDI failed to maintain a register containing relevant information regarding policies issued, premium fees collected and policy jackets, used or unused, demonstrating incompetence, untrustworthiness and financial irresponsibility in the conduct of insurance business, in violation of N.J.S.A. 17:22A-40a(2), (8), N.J.S.A. 17:22A-42a, N.J.A.C. 11:17C-2.5(b), and N.J.S.A. 17:46B-10.1; and

COUNT 4

IT FURTHER APPEARING that Respondents Cecere and BDI commingled premium funds, received in the course of conducting insurance business, with personal funds and failed to deposit premium funds due NJTIC in an escrow account and failed to hold these funds in a fiduciary capacity, in violation of N.J.S.A. 17:22A-40a(2), (4), (8) and (16), N.J.S.A. 17:22A-42a, N.J.A.C. 11:17C-2.1(a) and (b),

and N.J.S.A. 17:46B-10.1;

COUNT 5

IT FURTHER APPEARING that on January 25, 2012 and March 26, 2012, pursuant to N.J.S.A. 17:22A-45a, the Department requested Respondents Cecere and BDI to provide a written response detailing all title policies issued by Respondents from September 2009 through the present date, as well as a return of all unused title policy jackets to NJTIC; and

IT FURTHER APPEARING that Respondents Cecere and BDI failed to respond to the Department's inquiry in writing, or by any other method, in violation of N.J.S.A. 17:22A-40a(2) and (8) and N.J.A.C. 11:17A-4.8; and

IT FURTHER APPEARING, that as set forth in the Certification of Service of Ryan S. Schaffer, Deputy Attorney General, attached hereto as Exhibit A, Respondents were given notice of the aforesaid charges and an opportunity to contest the charges at a hearing pursuant to Order to Show Cause No. E13-64, which was duly served by certified and regular mail to the addresses listed in the OTSC and this Final Order, in accordance with N.J.A.C. 11:17D-2.1(a)3; and

IT FURTHER APPEARING, that although due notice of the charges provided an opportunity to oppose the allegations, Respondents failed to provide a written response to the charges contained in Order to Show Cause No. E13-64 within 20 days as provided by N.J.A.C. 11:17D-2.1(d), and therefore, Respondents

have waived their right to a hearing to contest these charges and the charges are deemed admitted, pursuant to N.J.A.C. 11:17D-2.1(b).

NOW, THEREFORE, IT IS on this 10th day of December 2014

ORDERED, that the charges contained in Order to Show Cause No. E13-64 are deemed admitted by Respondents, pursuant to N.J.A.C. 11:17D-2.1(b); 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 Respondent Cecere and the expired resident insurance producer license of Respondent BDI are 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-45c, Respondent Cecere and Respondent BDI shall be responsible, jointly and severally, for the payment of civil penalties totaling \$1,015,000.00 to the Commissioner for the violations contained in Order to Show Cause No. E13-64, which aggregate amount has been determined as follows:

- a. \$995,000.00 consisting of \$5,000.00 for each of the 199 violations of the Producer Act, described in Count 1 and Count 2 of Order to Show Cause No. E13-64, for failing to timely remit premium funds collected for the issuance of 199 title insurance

policies due to the insurer within the time frame prescribed by the agency agreement, and for the misappropriation or conversion, for their own use, of the premium funds totaling \$79,086.21, which were received in the course of conducting insurance business, and for demonstrating incompetence, untrustworthiness and financial irresponsibility in the conduct of insurance business; and

b. \$5,000.00 for violations of the Producer Act, described in Count 3 of Order to Show Cause No. E13-64, for failing to maintain a register containing relevant information regarding policies issued, premium fees collected and policy jackets, used or unused, and for demonstrating incompetence, untrustworthiness and financial irresponsibility in the conduct of insurance business; and

c. \$5,000.00 for violations of the Producer Act, described in Count 4 of Order to Show Cause No. E13-64, for commingling premium funds, received in the course of conducting insurance business, with personal funds, and failing to deposit premium funds due NJTIC in an escrow account, and

failing to hold these funds in a fiduciary capacity; and

- d. \$5,000.00 for violations of the Producer Act, described in Count 5 of Order to Show Cause No. E13-64, for failing to respond to two (2) Department inquiry letters, dated January 25, 2012, and March 26, 2012; and

IT IS FURTHER ORDERED, that pursuant to N.J.S.A. 17:22A-45c, Respondent Cecere and Respondent BDI shall be responsible for the reimbursement to the Commissioner of the costs of investigation totaling \$1,375.00. A true and exact copy of the Certification of Natalie Mintchwarner, Department of Banking and Insurance Investigator, is attached hereto as Exhibit B; and

IT IS FURTHER ORDERED, that Respondent shall pay the above fines and costs of investigation totaling \$1,016,375.00 in full by remitting payment to the Commissioner of Banking and Insurance, State of New Jersey, 20 West State Street, 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 (10) days from the date of service of this Order; and

IT IS FURTHER ORDERED, that Respondents shall make restitution to NJTIC in the total amount of \$79,086.21 consisting of insurance premium due NJTIC; and

IT IS FURTHER ORDERED, that in the event full payment of the fines 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, in accordance with The Penalty Enforcement Law, N.J.S.A. 2A:58-10 et seq.; and

IT IS FURTHER ORDERED, that the fines in this Final Order are 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 are 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. E13-64 as to Respondent Cecere and Respondent BDI.



Peter L. Hartt
Acting Director of Insurance

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiff
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P. O. Box 117
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By: Ryan S. Schaffer
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STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE

Proceedings by the Commissioner of)	
Banking and Insurance, State of)	
New Jersey to fine and revoke)	CERTIFICATION OF
the insurance producer licenses of)	DEPUTY ATTORNEY GENERAL
RICHARD CECERE, Reference No.)	RYAN S. SCHAFFER
8059313, and BUYER DEFENDER INC.,)	
Reference No, 1187839)	

I, Ryan S. Schaffer, of full age, do of my own personal knowledge make the following statements by way of certification in lieu of affidavit pursuant to R. 1:4-4(b):

1. I am a Deputy Attorney General assigned as counsel for the New Jersey Department of Banking and Insurance ("Department") in the above matter. I submit this certification in support of the Department's request that a Final Order be entered against Richard Cecere ("Cecere") and Buyer Defender,

Inc. ("BDI"), and specifically to establish that proper service of Order to Show Cause No. E13-64 was made upon Cecere and BDI.

2. The Commissioner of the Department issued Order to Show Cause No. E13-64 on July 8, 2013.

3. By letter dated July 10, 2013, my office attempted to serve a copy of the OTSC No. E13-64 upon Respondent Cecere and Respondent BDI via regular and certified mail, return receipt requested, at the following last known home address for Cecere on file with the Department:

166 Highland Avenue
Montclair, NJ 07042

4. The Certified mailing sent to Respondent Cecere's home address was not returned to this office. The regular mailing sent to Respondent Cecere's home address was not returned to this office.

5. By letter dated July 10, 2013, my office attempted to serve a copy of the OTSC No. E13-64 upon Respondent Cecere and Respondent BDI via regular and certified mail, return receipt requested, at the following last known business address for BDI and Cecere on file with the Department:

2 Erie Street
Montclair, NJ 07042

6. The Certified mailing sent to Respondents Cecere's and BDI's business address was accepted and the signed mailer was returned to this office. The regular mailing sent to Respondents

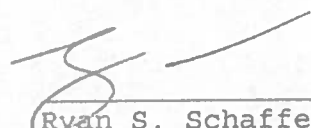
business address was not returned to this office.

7. Pursuant to N.J.A.C. 11:17D-2.1(a)3, service of the Order to Show Cause in this manner constitutes lawful service upon Respondent Cecere and Respondent BDI.

8. To date, neither Respondent Cecere nor Respondent BDI have filed an answer nor requested a hearing to contest the allegations set forth in Order to Show Cause No. E13-64.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: 12/5/14



Ryan S. Schaffer
Deputy Attorney General

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE

Proceedings by the Commissioner of) Banking and Insurance, State of New) Jersey, to fine, suspend and/or) revoke the insurance producer) licenses of RICHARD CECERE,) Reference No. 8059313 and) BUYER DEFENDER, INC.,) Reference No. 1187839)	CERTIFICATION OF COSTS BY INVESTIGATOR NATALIE M. MINTCHWARNER
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I, Natalie M. Mintchwarner, of full age, do of my own personal knowledge make the following statements by way of certification in lieu of affidavit pursuant to R. 1:4-4(b):

1. I am an investigator with the New Jersey Department of Banking and Insurance, Division of Enforcement and Consumer Protection ("Department").

2. This certification is submitted in support of the Department's application for reimbursement of its costs of investigation and prosecution, in accordance with N.J.S.A. 17:22A-45c.

3. On or about October 25, 2012, I was assigned responsibility for conducting an investigation to determine whether RICHARD CECERE ("Cecere") and BUYER DEFENDER, INC. ("BDI"), may have violated certain provisions of the New Jersey Producer Licensing Act of 2001, N.J.S.A. 17:22A-26, et seq., and related insurance regulations.

4. To determine the amount of time that I spent in the investigation and prosecution of this matter, I reviewed my files relative to this matter, including my time records. On the basis of this review, I have prepared the below schedule of costs:

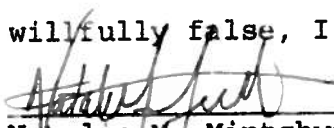
DATE	TIME IN HRS.	PHONE	CASE PREP.	COMMENTS
10/25/12	2		X	Reviewed file and applicable laws and regulations.
10/26/12	3		X	Prepared Factual and Evidence Summary and exhibits
11/19/12	.50		X	Reviewed email from Richard Corr and attached contract
11/29/12	.25		X	Updated SBS
12/07/12	.25		X	Prepared email to Richard Corr and reviewed response email
12/07/12	1		X	Prepared letter and certification of mailing to Richard Cecere
12/11/12	.25		X	Updated SBS
12/13/12	.25	X	X	Richard Cecere
12/13/12	1		X	Reviewed email from Richard Corr and attached documents
12/13/12	.25		X	Updated SBS
12/13/12	.50		X	Prepared email to Richard Cecere
12/13/12	.25		X	Prepared email to Richard Corr
12/13/12	.25		X	Prepared email to DAG Snow and reviewed response email
12/13/12	.25		X	Prepared email to Richard Cecere and reviewed response email
12/18/12	.25		X	Prepared email to Richard Corr and reviewed response email
12/18/12	1		X	Reviewed email from Richard Corr and attached documents
12/19/12	1		X	Reviewed email from Richard Corr and prepared response
12/20/12	.25		X	Prepared email to Richard Cecere and reviewed response email
12/21/12	2		X	Prepared Investigative Report
12/21/12	.25		X	Updated SBS
01/16/13	.25		X	Prepared email to Richard Cecere
01/16/13	.50		X	Reviewed email from Frank Cozzarelli, Esq. and prepared response
01/16/13	.50		X	Prepared letter to Frank Cozzarelli, Esq.
01/16/13	.25		X	Updated SBS
01/24/13	.25		X	Prepared email to Frank Cozzarelli, Esq. and reviewed response
01/24/13	1		X	Reviewed letter from Frank Cozzarelli, Esq.
01/28/13	.25		X	Updated SBS

01/31/13	.50		X	Reviewed email from Richard Corr and attached letter
01/31/13	1		X	Prepared letter to Frank Cozzarelli, Esq.
01/31/13	.25		X	Updated SBS
02/05/13	4		X	Prepared Factual and Evidence Summary and exhibits
02/25/13	.25			Updated SBS
03/11/13	.25		X	Reviewed assignment memo from asst. Section Chief Maurer
03/15/13	.25		X	Updated SBS
06/11/13	.25		X	Reviewed email from DAG Snow and prepared response
07/05/13	.50		X	Reviewed Order to Show Cause
07/08/13	.25		X	Updated SBS
07/23/13	.25		X	Updated SBS
12/05/14	2		X	Prepared Certification of Costs
TOTAL TIME	27.50 hours	@ \$50.00 per hour		=TOTAL COSTS OF INVESTIGATION - \$1,375.00

5. As this schedule reflects, the investigative efforts expended by the Department of Insurance concerning this matter total 27 hours and 30 minutes. Pursuant to N.J.A.C. 11:1-32.4(b)(20), costs to the Department for the investigation and prosecution for violations of the New Jersey Insurance Producer Licensing Act, N.J.S.A. 17:22A-40, are reimbursable at the rate of \$50.00 per hour, rounded to the nearest quarter hour.

6. I therefore request that the Department's costs of investigation and prosecution be reimbursed in the amount of \$1,375.00.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.


 Natalie M. Mintchwarner
 Dated: December 5, 2014.