

CONSENT ORDER NO. E15-34

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, suspend and/or)
revoke the insurance producer)
licenses of RMJ Title Agency,)
Ref. No. 9947719, Meredith A.)
Miller, Ref. No. 1019223 and)
Spectrum Title Agency, LLC,)
Ref. No. 1022319.)

CONSENT ORDER

TO: Meredith A. Miller
1166 Sawmill Road
Brick, New Jersey 08724

-and-

RMJ Title Agency
111 Tree Top Circle
Freehold, New Jersey 07728

-and-

RMJ Title Agency
c/o Meredith A. Miller
111 Tree Top Circle
Freehold, New Jersey 07728

-and-

Spectrum Title Agency, LLC
1166 Sawmill Road
Brick, New Jersey 08724

THIS MATTER, having been opened to the Commissioner of
Banking and Insurance ("Commissioner"), State of New

Jersey, upon information that Meredith A. Miller ("Miller"), RMJ Title Agency ("RMJ") and Spectrum Title Agency, LLC ("Spectrum") may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Miller was previously licensed as a resident insurance producer pursuant to N.J.S.A. 17:22A-32 before her license expired on April 30, 2008; and

WHEREAS, RMJ was previously licensed as a resident insurance producer pursuant to N.J.S.A. 17:22A-32 before its license expired on January 31, 2007; and

WHEREAS, Spectrum was previously licensed as a resident insurance producer pursuant to N.J.S.A. 17:22A-32 before its license expired on April 30, 2008; and

WHEREAS, pursuant to N.J.S.A. 17:22A-32b(2), Miller is the Designated Responsible Licensed Producer ("DRLP"), owner of Spectrum and responsible for the conduct of Spectrum; and

WHEREAS, Miller, RMJ and Spectrum 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 Title Insurance Act of 1974 ("Title Act"), N.J.S.A. 17:46B-1 et seq., the regulations governing Producer Licensing, N.J.A.C. 11:17-1 et seq. and the regulations governing

Insurance Producer 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 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-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-40a(17), an insurance producer shall not knowingly facilitate or assist another person in violating any insurance laws ; 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. 17:46B-10.1a, every title insurance producer licensed pursuant to the Producer Act shall maintain a separate record of all receipts and disbursements as a depository for funds representing closing and 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. 11:17-2.14(c), submitting a license for cancellation or allowing a license to expire shall not void or terminate any disciplinary proceedings against the licensee, nor prevent imposition of any penalty, ordered restitution or costs; 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), an insurance producer shall hold all premium funds in a fiduciary capacity and shall not misappropriate, improperly convert to the insurance producer's own use or illegally

withhold premium funds; and

WHEREAS, pursuant to N.J.A.C. 11:17C-2.2(c), all title insurance settlement funds shall be disbursed within five business days after settlement except as determined by the parties; and

WHEREAS, pursuant to N.J.A.C. 11:17C-2.3(i), an insurance producer's trust account balance in a financial institution shall at all times be at least equal to the amount deposited less lawful withdrawals; and

IT APPEARING that the Commissioner issued Order to Show Cause No. E14-51 on April 23, 2014, alleging violations of the New Jersey insurance laws by Miller, RMJ and Spectrum, as follows:

COUNT 1

(Miller and Spectrum)

IT APPEARING that between November 23, 2002 and March 31, 2005, L.P. refinanced the mortgage on his home with Chase Mortgage; and

IT FURTHER APPEARING that Respondents Miller and Spectrum issued a check to L.P. in the amount of \$14,607.46 at the refinance mortgage settlement pursuant to the HUD-1 settlement statement; and

IT FURTHER APPEARING that the check was returned from the bank to L.P. for insufficient funds; and

IT FURTHER APPEARING Respondents Miller and Spectrum never replaced the check or paid L.P.

the amount of \$14,607.46 owed to him from the refinance mortgage settlement;

IT FURTHER APPEARING that Respondents Miller and Spectrum issued a check to an insured or which was dishonored because of insufficient funds and never replaced, in violation of N.J.S.A. 17:22A-40a(2), (4), (8), and (16), N.J.A.C. 11:17A-4.10, N.J.A.C. 11:17C-2.3(i); and

IT FURTHER APPEARING that Respondents Miller and Spectrum improperly withheld, misappropriated and converted escrow funds belonging to insureds and/or property owners, received in the course of conducting insurance business, which constitutes fraudulent and dishonest practices and demonstrates incompetence, untrustworthiness and financial irresponsibility in the conduct of insurance business, in violation of N.J.S.A. 17:22A-40a(2), (4), (8) and (16), N.J.A.C. 11:17A-4.10, N.J.A.C. 11:17C-2.1(a), N.J.A.C. 11:17C-2.2(c) and N.J.S.A. 17:46B-10.1a; and

COUNT 2

(Miller and RMJ)

IT APPEARING that between November 23, 2002 and March 31, 2005, E.B. refinanced the mortgage on her home; and

IT FURTHER APPEARING that that Respondents Miller and RMJ were to pay and issue a check to E.B. in the amount of \$33,282.29 at her refinance mortgage settlement pursuant to the HUD-1 settlement statement; and

IT FURTHER APPEARING Respondents Miller and RMJ never paid E.B. the amount of \$33,282.29 owed to her from the refinance mortgage settlement; and

IT FURTHER APPEARING that Respondents Miller and RMJ improperly withheld, misappropriated

and converted escrow funds belonging to insureds and/or property owners, received in the course of conducting insurance business, which constitutes fraudulent and dishonest practices and demonstrates incompetence, untrustworthiness and financial irresponsibility in the conduct of insurance business, in violation of N.J.S.A. 17:22A-40a(2), (4), (8) and (16), N.J.A.C. 11:17A-4.10, N.J.A.C. 11:17C-2.1(a), N.J.A.C. 11:17C-2.2(c) and N.J.S.A. 17:46B-10.1a; and

COUNT 3

(Miller)

IT FURTHER APPEARING that on December 28, 2009 Respondent Miller was indicted pursuant to Indictment No. 09-122458 in the County of Monmouth for, among other crimes, for the crime of Misapplication of Entrusted Property, by purposely or knowingly applying or disposing of property that was entrusted to her as a fiduciary; and

IT FURTHER APPEARING that between November 23, 2002 and March 31, 2005 that Respondent Miller misappropriated funds valued at \$75,000 or more, belonging to J.A. and/or A.P. and/or U.P. and/or E.B. and/or R.B. and/or J.D. and/or D.D. and/or R.D. and/or L.P. and/or C.P. and/or S.Z. and/or F.T. and/or A.T. and/or B.G. and/or M.E. and/or J.F. and/or L.F. and/or P.P. and/or L.P. and/or Lawyers Title Insurance Corporation, in a manner which she knew was unlawful and involved substantial risk of loss or detriment to the owner or another for whose benefit the property was entrusted; and

IT FURTHER APPEARING that Respondent Miller plead guilty to the charge of Misapplication of Entrusted Property in the Third Degree in the County of Monmouth on October 1, 2010; and

IT FURTHER APPEARING that Respondent Miller

was sentenced to probation subject to the terms of a cooperation agreement in the County of Monmouth on October 28, 2010; and

IT FURTHER APPEARING that Respondent Miller was accepted into a Pretrial Intervention Program on March 2, 2012; and

IT FURTHER APPEARING that Respondents Miller, RMJ and Spectrum improperly withheld, misappropriated and converted escrow funds belonging to the above insureds and/or property owners, received in the course of conducting insurance business, which constitutes fraudulent and dishonest practices and demonstrates incompetence, untrustworthiness and financial irresponsibility in the conduct of insurance business, in violation of N.J.S.A. 17:22A-40a(2), (4), (8) and (16), N.J.A.C. 11:17A-4.10, N.J.A.C. 11:17C-2.1(a) N.J.A.C. 11:17C-2.2(c) and N.J.S.A. 17:46B-10.1a; and

COUNT 4

(Miller)

IT APPEARING that between November 23, 2002 and March 31, 2005, Respondent Miller, with her sister, Rebecca Marchese-Deperi-Grande, RMJ and Spectrum conducted mortgage settlements and mortgage refinancing settlement for several property owners within the State of New Jersey; and

IT FURTHER APPEARING that between November 23, 2002 and March 31, 2005 that Respondent Miller, with her sister, Rebecca Marchese-Deperi-Grande, RMJ and Spectrum failed to disburse payments to various escrow accounts in accordance with the closing procedures set forth in the HUD-1 settlement statements; and

IT FURTHER APPEARING that between November 23, 2002 and March 31, 2005 that Respondents Miller, with her sister, Rebecca Marchese-Deperi-Grande, RMJ and Spectrum

misappropriated payments in the total amount of \$786,152.62 for their own use; and

IT FURTHER APPEARING that Rebecca Marchese-Deperi-Grande was indicted, along with her sister, Miller, in the County of Monmouth on December 28, 2009, among other crimes, for the crime of Misapplication of Entrusted Property, by purposely or knowingly applying or disposing of property that was entrusted to her as a fiduciary; and

IT FURTHER APPEARING that Rebecca Marchese-Deperi-Grande was convicted in the County of Monmouth for the crime of Misapplication of Entrusted Property pursuant to a Judgment of Conviction dated February 9, 2012; and

IT FURTHER APPEARING that Rebecca Marchese-Deperi-Grande's resident insurance producer license was revoked pursuant to Order by the Commissioner of Banking and Insurance dated October 12, 2012; and

IT FURTHER APPEARING that Respondent Miller knowingly facilitated or assisted another person in violating insurance laws as set forth above, in violation of N.J.S.A. 17:22A-40a(17); and

IT FURTHER APPEARING that on July 18, 2014, Respondent Miller answered the charges of the Order to Show Cause; and

IT FURTHER APPEARING that on August 7, 2014, Respondents RMJ and Spectrum answered the charges of the Order to Show Cause; and

IT FURTHER APPEARING that on or about September 5, 2014 this matter was filed as a contested case with the Office of Administrative Law, OAL Docket No. BKI 11143-2014 S; and

IT FURTHER APPEARING that on or about March 16, 2015, Respondent RMJ's answer to the Order to Show Cause was withdrawn; and

IT FURTHER APPEARING that Respondents Miller and Spectrum agree to take responsibility for the violations contained in Count 1, Count 3 and Count 4 in the Order to Show Cause; and

IT FURTHER APPEARING that cause does exist under N.J.S.A. 17:22A-40a and N.J.S.A 17:22A-45c for imposition of a fine upon Respondents Miller and Spectrum; and

IT FURTHER APPEARING that Respondents Miller and Spectrum have waived their right to a hearing on the aforementioned violations and consent, jointly and severally, to the payment of a fine to the Commissioner in the amount of \$5,000.00 and to the revocations of their respective expired insurance producer licenses; and

IT FURTHER APPEARING that this matter should be resolved upon the consent of the parties without resort to a formal hearing.

NOW, THEREFORE, IT IS on this 8th day of APRIL , 2015,

ORDERED AND AGREED that the charges contained in Count 1, Count 3 and Count 4 in Order to Show Cause No. E14-51 are admitted by Respondents Miller and Spectrum; and

IT IS FURTHER ORDERED AND AGREED that, pursuant to N.J.S.A. 17:22A-40, the expired resident insurance producer licenses of Respondents Miller and Spectrum are hereby REVOKED effective upon the execution of this Consent Order by the Commissioner or his designee for violations of the insurance laws of this State; and

IT IS FURTHER ORDERED AND AGREED that, pursuant to N.J.S.A. 17:22A-45c, Respondents Miller and Spectrum, jointly and severally, shall pay a fine of \$5,000.00 to the Commissioner for violations admitted herein and described in the Order to Show Cause No. E14-51; and

IT IS FURTHER ORDERED AND AGREED that said fine shall be paid by certified check, cashier's check, money order or other certified funds made payable to the "State of New Jersey - General Treasury," due and payable in full immediately upon execution of this Consent Order by Respondent Meredith A. Miller; and

IT IS FURTHER ORDERED AND AGREED that the signed Consent Order together with the fine of \$5,000.00 shall be remitted to:

Carl M. Bornmann, 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


IT IS FURTHER ORDERED AND AGREED that the provisions of this Consent Order represent a final agency decision and constitute final resolution of only the violations contained in Order to Show Cause No. E14-51 related to Respondents Miller and Spectrum; and


IT IS FURTHER ORDERED AND AGREED that Respondents Miller and Spectrum shall cease and desist from engaging in the conduct that gave rise to this Consent Order.




PETER L. HARTT
Director of Insurance


Consented to as to Form,
Content and Entry:


Date: 3/26/15
Meredith A. Miller
Individually


Date: 3/26/15
Meredith A. Miller
Owner and Designated Responsible
License Producer of
Spectrum Title Agency, LLC


Date: 3/26/15
Richard E. Incremona, Esq.
Attorney for Respondents
Meredith A. Miller
and Spectrum Title Agency, LLC

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY


Date: 4/1/15
By: Carl M. Bornmann
Deputy Attorney General
Attorney for the New Jersey
Dept. of Banking and Insurance