

STATE OF NEW JERSEY  
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF:

Proceedings by the Commissioner of ) **FINAL ORDER**  
Banking and Insurance, State of New )  
Jersey, to fine, suspend and/or )  
revoke the insurance producer )  
licenses of Rafael C. Agliata, Ref. )  
No. 9580741 and First Choice Bail )  
Bonds, LLC, Ref. No. 1314139 )

TO: Rafael C. Agliata  
44 Martin Lane  
Trenton, NJ 08619

-and-

First Choice Bail Bonds, LLC  
44 Martin Lane  
Trenton, NJ 08619

This matter, having been opened by the Commissioner of Banking and Insurance ("Commissioner"), State of New Jersey, upon information that Rafael C. Agliata ("Agliata"), and First Choice Bail Bonds, LLC ("First Choice"), (collectively, the "Respondents"), may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Agliata was licensed as a resident individual insurance producer pursuant to N.J.S.A. 17:22A-32, until his license expired on December 31, 2015; and

WHEREAS, First Choice is currently licensed as a resident business entity 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 of 2001, N.J.S.A. 17:22A-26 et seq. ("Producer Act"), Producer Licensing regulations, N.J.A.C. 11:17-1.1 et seq. and regulations governing Insurance Producer Standards of Conduct, N.J.A.C. 11:17A-1.1 et seq., N.J.A.C. 11:17C-1.1 et seq. and N.J.A.C. 11:17D-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; an

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 in this State or elsewhere; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(14), an insurance producer shall not fail to pay income tax or comply with any administrative or court order directing payment of income tax pursuant to Title 54A of the New Jersey Statutes; 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 authority to enforce the provisions of and to 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 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-42, an insurance producer shall abide by the terms of an agency agreement; and

WHEREAS, pursuant to N.J.S.A., 17:22A-45c, any person violating any provision of the Producer Act shall be liable for a civil penalty not exceeding \$5,000.00 for the first offense and not exceeding \$10,000.00 for each subsequent offense, as well as restitution and costs of investigation; 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 in said inquiry, or no later 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), 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(a), all premium funds shall be remitted to the insurer or other insurance producer within five (5) business days after receipt of said funds, except as otherwise required; and

WHEREAS, pursuant to N.J.A.C. 11:17-2.8(f), all licensees shall provide the Department with a complete and current business mailing address, and, if different, a street or location address, phone number and, if applicable, an email address; individual licensees shall also provide the Department with a complete and current residence address, phone number and,

if applicable, an email address; and all licensees must notify the Department of any change in the foregoing information within 30 days of a change; and

WHEREAS, pursuant to N.J.A.C. 11:17-2.8(f)3, any legal process issued pursuant to the statutory authority of the Commissioner including, but not limited to, subpoenas, orders and orders to show cause may be served by sending the documents to the business mailing or residence address of the licensee then on file with the Department; and

WHEREAS, pursuant to N.J.A.C. 11:17D-2.1(a)1 and 2, before imposing an administrative penalty, the Department shall direct a notice to the last known business or mailing address of the alleged violator, which notice shall include a reference to the statute, rule and/or administrative order alleged to be violated, a concise statement of the facts alleged to constitute the violation, a statement of the administrative penalty or penalties sought to be imposed and a statement advising the alleged violator of the right to a hearing and the procedure for requesting a hearing; and

WHEREAS, pursuant to N.J.A.C. 11:17D-2.1(a)3, the notice shall be served by personal delivery, or by certified mail, to the alleged violator's last known business or mailing address, according to the files maintained by the Department,

and service in this manner shall be considered lawful service on the alleged violator; and

WHEREAS, the Commissioner issued Order to Show Cause No. E16-69 (hereinafter, the "OTSC") on August 1, 2016, alleging violations of New Jersey insurance laws by Respondents as set forth in the following Counts:

**COUNT 1**

**(All Respondents)**

IT APPEARING that on or about November 1, 2011, Respondents entered into a Supervising Agent's Contract with Accredited Surety and Casualty Company, Inc. ("Accredited"); and

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

IT FURTHER APPEARING that Respondents failed to pay Accredited agency premiums on bonds in the amount of \$6,333.05; and

IT FURTHER APPEARING that Accredited terminated its contract with Respondents due to, *inter alia*, their failure to pay premiums; and

IT FURTHER APPEARING that Respondents Agliata and First Choice failed to abide by the terms of their agency agreement, improperly withheld, misappropriated and converted bail bond premiums 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-42, N.J.S.A. 17:22A-40a(2), (4), (8) and (16), N.J.A.C. 11:17C-2.1(a), N.J.A.C. 11:17A-4.10 and N.J.A.C. 11:17C-2.2(b); and

**COUNT 2**

**(ALL RESPONDENTS)**

IT FURTHER APPEARING that on or about November 1, 2011, Respondents entered into a Supervising Agent's Contract with Accredited; and

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

IT FURTHER APPEARING that Respondents posted bonds through Accredited pursuant to their contract with Accredited; and

IT FURTHER APPEARING that certain of those bonds were forfeited; and

IT FURTHER APPEARING that pursuant to the contract, upon forfeiture of a bond, Respondents are required to, *inter alia*, pay Accredited the amount of the forfeited bonds; and

IT FURTHER APPEARING that Respondents failed to pay forfeited bonds to Accredited in the amount of \$60,407.50; and

IT FURTHER APPEARING that Accredited terminated its contract with Respondents due to, *inter alia*, their failure to pay forfeited bonds; and

IT FURTHER APPEARING that Agliata is the Designated Responsible Licensed Producer ("DRLP"), and is responsible for the conduct of First Choice; and

IT FURTHER APPEARING that Respondents Agliata and First Choice failed to abide by the terms of their agency agreement and failed to pay Accredited forfeited bonds in violation of N.J.S.A. 17:22A-42, N.J.S.A. 17:22A-40a(2), (4), and (8) and N.J.A.C. 11:17A-4.10; and

**COUNT 3**

**(ALL RESPONDENTS)**

IT FURTHER APPEARING that on or about November 14, 2014, an investigator from the Department of Banking and Insurance sent a letter to Agliata via certified mail return receipt requested and first class mail requesting that he respond to allegations made by Accredited and provide proof that he had paid the agency premium on bonds in the amount of \$6,333.05 and the forfeited bonds in the amount of \$69,407.50 [sic]; and

IT FURTHER APPEARING that Agliata was required to respond to the November 14 letter with supporting documents by December 1, 2014; and

IT FURTHER APPEARING that Agliata failed to respond to the November 14 letter; and

IT FURTHER APPEARING that on or about December 10, 2014, the investigator sent a letter to Agliata certified mail return receipt requested and first class mail informing him, *inter alia*, that his failure to respond would constitute an additional violation; and

IT FURTHER APPEARING that Agliata failed to respond to the December 10 letter; and

IT FURTHER APPEARING that on or about January 5, 2015, an investigator from the Department of Banking and Insurance sent a



letter to First Choice via certified mail return receipt requested and first class mail requesting that it respond to allegations made by Accredited and provide proof that it had paid the agency premium on bonds in the amount of \$6,333.05 and the forfeited bonds in the amount of \$69,407.50 [sic]; and

IT FURTHER APPEARING that First Choice was to respond to the January 5 letter by January 15, 2015; and

IT FURTHER APPEARING that First Choice failed to respond to the January 5 letter; and

IT FURTHER APPEARING that Agliata's and First Choice's failure to respond to inquiries from the Department of Banking and Insurance demonstrates incompetence in the conduct of insurance business in violation of N.J.S.A. 17:22A-40a(8) and N.J.A.C. 11:17A-4.8; and

**COUNT 4**  
**(AGLIATA)**

IT FURTHER APPEARING that in 2013, the Division of Taxation obtained a judgment against Agliata in the amount of \$3,985.30 for failure to pay income tax; and

IT FURTHER APPEARING that in 2014, the Division of Taxation obtained a judgment against Agliata in the amount of \$13,946.58 for failure to pay income tax; and

IT FURTHER APPEARING that Agliata's failure to pay income tax and/or comply with a court order directing payment of income tax is in violation of N.J.S.A. 17:22A-40a(14); and

**COUNT 5**  
**(FIRST CHOICE)**

IT FURTHER APPEARING that First Choice has approximately 32 open judgments against it for forfeited bonds totaling approximately \$35,000.00; and

IT FURTHER APPEARING that First Choice's failure to satisfy numerous civil judgments against it demonstrates incompetence, untrustworthiness, and financial irresponsibility in the conduct of insurance business, in violation of N.J.S.A. 17:22A-40a(8); and

IT FURTHER APPEARING that as set forth in the certification of service of Brian R. Fitzgerald, Deputy Attorney General, attached hereto as Exhibit A, Agliata and First Choice were given notice of the aforesaid charges and an opportunity to contest the charges at a hearing pursuant to the OTSC, which were duly served by certified and regular mail to the addresses listed in this Final Order in accordance with N.J.A.C. 11:17D-2.1(a)3; and

IT FURTHER APPEARING that as set forth in the certification of service of Brian R. Fitzgerald, Deputy Attorney General, attached hereto as Exhibit A, under cover letter dated January 18, 2017, the OTSC was sent by certified and regular mail to Agliata at the address listed in the OTSC, and the mailing was successfully delivered to Agliata at his residential address at 44 Martin Lane, Trenton, New Jersey 08619 as

evidenced by the fact that the regular mailing was not returned by the U.S. Postal Service and the certified mail service was accepted; and

IT FURTHER APPEARING that as set forth in the certification of service of Brian R. Fitzgerald, Deputy Attorney General, attached hereto as Exhibit A, under cover letter dated January 18, 2017, the OTSC was sent by certified and regular mail to First Choice at the address listed in the OTSC, and the mailing was successfully delivered to First Choice, at Agliata's residential address at 44 Martin Lane, Trenton, New Jersey 08619 as evidenced by the fact that the regular mailing was not returned by the U.S. Postal Service and the certified mail service was accepted; and

IT FURTHER APPEARING that, although due notice of the charges provided an opportunity to oppose the allegations, Agliata and First Choice failed to provide a written response to the charges contained in the OTSC within 20 days as provided by N.J.A.C. 11:17D-2.1(d), and therefore Agliata and First Choice 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 1<sup>st</sup> day of MAY

, 2017:

ORDERED that the charges contained in Order to Show Cause No. E16-69 are deemed admitted by Agliata and First Choice 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 insurance producer licenses of Agliata and First Choice are 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-45c, Agliata and First Choice shall be responsible, jointly and severally, for the payment of \$25,000.00 in fines and Agliata and First Choice shall each be solely responsible for an additional \$10,000 in fines assessed as follows: Agliata and First Choice, jointly and severally, \$5,000.00 for the violation of the Producer Act contained in the Count 1, \$10,000.00 for the violation of the Producer Act contained in Count 2 and \$10,000.00 for the violation of the Producer Act contained in Count 3; Agliata solely for an additional \$10,000.00 fine for the violation of the Producer Act contained in Count 4; and First Choice solely for an additional \$10,000.00 for the violation of the Producer Act contained in Count 5; and

IT IS FURTHER ORDERED that, pursuant to N.J.A.C. 11:1-32.4(b)20, Agliata and First Choice shall reimburse the Department of Banking and Insurance for the costs associated with the investigation of this matter, as evidenced by the Certification of Investigator Daxesh Patel, attached hereto as Exhibit B, totaling \$200.00; and

IT IS FURTHER ORDERED that Agliata and First Choice shall pay the above fines and costs totaling \$45,200.00 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 in the event full payment of the fines and costs are 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. E16-69.



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Peter L. Hartt  
Director of Insurance

EXHIBIT A

STATE OF NEW JERSEY  
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF:

Proceedings by the Commissioner	)	CERTIFICATION OF DEPUTY
of Banking and Insurance, State	)	ATTORNEY GENERAL BRIAN
of New Jersey, to fine and revoke	)	R. FITZGERALD
insurance licenses of Rafael C.	)	
Agliata, Ref. No. 9580741, and	)	
First Choice Bail Bonds, LLC,	)	
Ref. No. 1314139.	)	

I, Brian R. Fitzgerald, 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 Commissioner of Banking and Insurance, State of New Jersey, ("the Commissioner"), in the above-captioned matter. I make this certification in support of entry of the Final Order in the above-captioned case against Respondents Rafael C. Agliata and First Choice Bail Bonds, LLC.

2. On August 1, 2016, the Commissioner issued Order to Show Cause No. E16-69 against Respondents Rafael C. Agliata and First Choice Bail Bonds, LLC charging them with violations of the insurance laws of this State pursuant N.J.S.A. 17:22A-26 et seq.

3. Under cover letter dated January 18, 2017, our office served Respondent Agliata with Order to Show Cause No. E16-69 at Respondent Agliata's residential address. Specifically, the cover letter and Order to Show Cause were sent via certified mail, return receipt requested, and regular mail to Respondent Agliata's residential address at 44 Martin Lane, Trenton, New Jersey 08619.

4. Respondent Agliata was successfully served at 44 Martin Lane, Trenton, New Jersey 08619 as evidenced by the fact that the regular mail was not returned and the certified mail was accepted.

5. Under cover letter dated January 18, 2017, our office served Respondent First Choice Bail Bonds, LLC with Order to Show Cause No. E16-69 at Respondent Agliata's residential address. Specifically, the cover letter and Order to Show Cause were sent via certified mail, return receipt requested, and regular mail to Respondent Agliata's residential address at 44 Martin Lane, Trenton, New Jersey 08619.

6. Respondent First Choice was successfully served at 44 Martin Lane, Trenton, New Jersey 08619 as evidenced by the fact that the regular mail was not returned and the certified mail was accepted.

7. Pursuant to N.J.A.C. 11:17-2.8(f)3, service of the Order to Show Cause in this manner constitutes lawful service



upon Agliata and First Choice.

8. The successful service of the Order to Show Cause to Respondent Agliata, who was the owner of First Choice, provided Respondents with an opportunity to contest the charges of Order to Show Cause No. E16-69 at a hearing, and provided that Respondents must file with the Commissioner an Answer to the charges of the Order to Show Cause, including a Request for a Hearing, within twenty (20) days of service of the Order to Show Cause upon Respondents.

9. To date, Respondent Rafael C. Agliata and Respondent First Choice Bail Bonds, LLC have failed to provide sufficient written response to the charges contained in Order to Show Cause No. E16-69 within 20 days as provided by N.J.A.C. 11:17D-2.1(d).

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.

  
\_\_\_\_\_  
Brian R. Fitzgerald  
Deputy Attorney General

Dated: May 1, 2017

EXHIBIT B

Proceedings by the Commissioner of )  
Banking and Insurance, State of New ) **CERTIFICATION OF COSTS**  
Jersey, to fine and revoke ) **BY INVESTIGATOR**  
the insurance producer licenses of ) **DAXESH PATEL**  
Rafael C. Agliata, Ref. No. 9580741 )  
and First Choice Bail Bonds, LLC, )  
Ref. No. 1314139. )

I, Daxesh Patel, 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 Insurance; Office of 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-45(c).

3. On or about October 8, 2014, Natalie Mintchwarner, Investigator 2 was assigned responsibility and on July 8, 2016, it was reassigned to Daxesh M. Patel, Investigator 2 for conducting an investigation to determine whether Rafael C. Agliata and First Choice Bail Bonds, LLC, 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 we spent in the investigation and prosecution of this matter, I reviewed my files relative to this matter, including our time records. On the basis of this review, I have prepared the below schedule of costs:

DATE	TIME IN HRS.	PHONE	CASE PREP.	COMMENTS
10/14/2014 and 11/14/2014	0.50	X		Sent requests to producer Agliata
12/10/2014	1.00		X	Prepared IR No.1
1/5/2015	2.00		X	Prepared F & E
3/10/2017	0.50		X	Prepared schedule of cost
<b>TOTAL TIME</b>	<b>4.00</b>	<b>● \$50.00 per hour</b>		<b>-TOTAL COSTS OF INVESTIGATION - \$200.00</b>

5. As this schedule reflects, the investigative efforts expended by the Department of Insurance concerning this matter total four hours. 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 \$200.00.

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.



Daxesh Patel

Dated: March 13, 2017

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