

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)	CONSENT
Associated Property Loss Consultants, LLC,)	ORDER
Reference No. 1526797, and Barry Lee)	
Malamed, Reference No. 1533825)	

To:	Associated Property Loss Consultants, LLC	Barry Lee Malamed
	15 Beiderman Ave, Ste. 101	5045 Main St.
	Cherry Hill, NJ 08002	Voorhees, NJ 08043

This matter, having been opened by the Commissioner of Banking and Insurance (“Commissioner”), State of New Jersey, upon information that Associated Property Loss Consultants, LLC (“APLC”), currently licensed as a resident public adjuster business entity and Barry Lee Malamed (“Malamed”), currently licensed as a resident public adjuster, pursuant to N.J.S.A. 17:22B-5, may have violated the laws of the State of New Jersey; and

WHEREAS, APLC and Malamed (collectively the “Respondents”) are subject to the Public Adjusters’ Licensing Act, N.J.S.A. 17:22B-1 to -20 (the “Public Adjusters’ Act”) and the regulations governing the licensing of public adjusters, N.J.A.C. 11:1-37.1 to -19; and

WHEREAS, pursuant to N.J.S.A. 17:22B-14a(1) and N.J.A.C. 11:1-37.14(a)1 and 2, a public adjuster shall not violate any provision of the insurance law, including any rules promulgated by the Commissioner, or violate any law in the course of his, or its, dealings as an adjuster; and

WHEREAS, pursuant to N.J.S.A. 17:22B-14a(3) and N.J.A.C. 11:1-37.14(a)3, a public adjuster shall not commit a fraudulent or dishonest act; and

WHEREAS, pursuant to N.J.S.A. 17:22B-14a(4) and N.J.A.C. 11:1-37.14(a)4, a public adjuster shall not demonstrate his, or its, incompetency, lack of integrity, bad faith, dishonesty, financial irresponsibility or untrustworthiness to act as an adjuster; and

WHEREAS, pursuant to N.J.S.A. 17:22B-13f and N.J.A.C. 11:1.37.11(a) & (b), no individual, firm, association or corporation licensed the Public Adjusters' Act shall receive, accept or hold any moneys towards the settlement of a claim for loss or damage on behalf of an insured unless the public adjuster deposits the moneys in an interest bearing escrow account or trust account in a banking institution or savings and loan association in this State insured by an agency of the federal government. Any funds held in an escrow or trust account together with interest accruing thereon shall be the property of the insured until disbursement thereof pursuant to a written memorandum, signed by the insured and by the adjuster, specifying or clearly defining the services rendered and the amount of any compensation to be paid from the escrowed funds; and

WHEREAS, pursuant to N.J.A.C. 11:1-37.13(b)3ii and iii, the written memorandum or contract between a licensed public adjuster and an insured shall contain a list of services to be rendered and the maximum fees to be charges, which fees shall be reasonably related to services rendered, and the time and date of execution of the contract (day, month, year) by each party; and

WHEREAS, pursuant to N.J.A.C. 11:1-37.13(b)5, the written memorandum or contract between a licensed public adjuster and an insured shall prominently include a section which specifies: (i) the procedures to be followed by the insured if he or she seeks to cancel the contract, including any requirement for a written notice; (ii) the rights and obligations of the parties if the contract is cancelled at any time; and (iii) the costs to the insured or the formula for the calculation of costs to the insured for services rendered in whole or in part; and

WHEREAS, pursuant to N.J.A.C. 11:1-37.14(a)9, a public adjuster shall not misappropriate; convert, or illegally withhold, money which was received in the conduct of business that belonged to insurers, clients or others; and

WHEREAS, the Respondents entered into Public Adjuster contracts with New Jersey insured's F.F. and S.B. on or about September 29, 2017 through October 14, 2017 for the adjustment of their insurance claims; and

WHEREAS, the Respondents received three settlement checks from Stillwell Property and Casualty and MetLife Auto and Home Insurance Companies on various dates for insureds F.F. and S.B., respectively, which funds were deposited into the Respondent's TD Bank business checking account, which was not designated as an interest-bearing escrow or trust account, pursuant to and in violation of N.J.S.A. 17:22B-13f, N.J.S.A. 17:22B-14a(1) and (4), N.J.A.C. 11:1-37.11(a) and (b) and N.J.A.C. 11:1-37.14(a)4; and

WHEREAS, Respondents did not timely remit settlement funds received on November 21, 2017 for insured S.B. until January 15, 2018, in violation of N.J.S.A. 17:22B-14a(1) and (4) and N.J.A.C. 11:1-37.14(a)4 and 9; and

WHEREAS, Respondents signed the insured's, S.B. and F.F., names onto the aforementioned settlement checks without authorization from the insureds, in violation of N.J.S.A. 17:22B-14a(1), (3) and (4) and N.J.A.C. 11:1-37.14(a)1, 2, 3 and 4; and

WHEREAS, the written public adjusters' contract completed for insured's S.B. and F.F. failed to include a date and time of contract execution, a complete list of services to be provided, the proper procedure to be followed for cancelling the contract, the rights and obligations of the parties if the contract is cancelled at any time, and the costs to the insured or the formula used for the calculation of cost to the insured for services rendered in whole or in part, pursuant to and in violation of N.J.S.A. 17:22B-14a(1)

and (4), N.J.A.C. 11:1-37.13(b)3ii and iii, N.J.A.C. 11:1-37.13(b)5i, ii and iii and N.J.A.C. 11:1-37.14(a)1, 2 and 4; and

WHEREAS, the Respondents:

- 1) Have admitted responsibility for the aforementioned violations; and
- 2) Have cooperated with the investigation conducted by the New Jersey Department of Banking and Insurance (“Department”); and
- 3) Have asserted that the violations cited in this Consent Order were not willful; and

WHEREAS, cause does exist under N.J.S.A. 17:22B-17 to impose a fine; and

WHEREAS, the Respondents have waived their right to a hearing on the aforementioned violations and consented to the payment of a fine in the amount of ten thousand dollars (\$10,000.00); and

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

NOW, THEREFORE, IT IS on this 26th day of SEPTEMBER, 2018

ORDERED AND AGREED, that the Respondents pay a fine in the amount of \$10,000.00 to the Department; and

IT IS FURTHER ORDERED AND AGREED, that said fine shall be paid by certified check, cashier’s check or money order made payable to the “State of New Jersey, General Treasury,” due immediately upon the execution of this Consent Order by the Respondents; and


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

New Jersey Department of Banking and Insurance
Attention: Virgil Downtin- Chief of Investigations
9th Floor, Consumer Protection Services, Enforcement
P.O. Box 329
Trenton, New Jersey 08625

and

IT IS FURTHER ORDERED AND AGREED, that the provisions of this Consent Order represent a final agency decision and constitute a final resolution of the violations contained herein; and

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


Peter L. Hartt
Director of Insurance

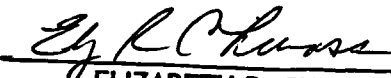
Consented to as to Form,
Entry and Content

Associated Property Loss Consultants, LLC

By: Barry Lee Malamed
Barry Lee Malamed, Owner of
Associated Property Loss Consultants, LLC

Barry Lee Malamed
Barry Lee Malamed, Individually

Sworn to and subscribed before me
this 21 day of SEPT. 2018.


ELIZABETH R. CHWASTEK
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES JAN. 15, 2023

Date: 9-21-18