

STATE OF NEW JERSEY  
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF:

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Proceedings by the Commissioner of Banking )  
and Insurance, State of New Jersey, to fine, )  
suspend and/or revoke the insurance license of )  
Brian Lee Verling, Reference No. 1301374. )  
\_\_\_\_\_ )

**ORDER TO SHOW CAUSE**

TO: Brian Lee Verling  
34 Saint Moritz Drive  
Sicklerville, NJ 08081-3210

THIS MATTER, having been opened by the Commissioner of Banking and Insurance ("Commissioner"), State of New Jersey, upon information that Brian Lee Verling ("Respondent"), may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Respondent is currently licensed as a public adjuster in the State of New Jersey pursuant to N.J.S.A. 17:22B-5; and

WHEREAS, Respondent is subject to the Public Adjusters' Licensing Act, N.J.S.A. 17:22B-1 to -20 ("Public Adjusters' Act") and the regulations promulgated thereunder, N.J.A.C. 11:1-37.1 to -37.19, and the New Jersey Insurance Fraud Prevention Act, N.J.S.A. 17:33A-1 to -30 ("Fraud Act") and the regulations implementing the Fraud Act, N.J.A.C. 11:16-1.1 to -7.10; and; and

WHEREAS, pursuant to N.J.S.A. 17:22B-14(a)(1), the Commissioner may suspend or revoke a public adjuster's license if, after notice and opportunity for a hearing, the Commissioner

determines that a licensee has violated any provision of the insurance law, including any rules promulgated by the Commissioner, or has violated any law in the course of his dealing as an adjuster; and;

WHEREAS, pursuant to N.J.S.A. 17:22B-14(a)(3), the Commissioner may suspend or revoke a public adjuster's license if, after notice and opportunity for a hearing, the Commissioner determines that a licensee has committed a fraudulent or dishonest act; and

WHEREAS, pursuant to N.J.S.A. 17:22B-14(a)(4), the Commissioner may suspend or revoke a public adjuster's license if, after notice and opportunity for a hearing, the Commissioner determines that a licensee has demonstrated incompetency, lack of integrity, bad faith, dishonesty, financial irresponsibility, or untrustworthiness to act as an adjuster; and

WHEREAS, pursuant to N.J.A.C. 11:1-37.13(a), no individual, firm, partnership, association or corporation licensed under the Public Adjusters' Act shall have any right to compensation from any insured for or on account of services rendered to an insured as a public adjuster unless the right to compensation is based upon a written contract or memorandum between the adjuster and the insured that specifies or clearly defines the services to be rendered and the amount or extent of the compensation; and

WHEREAS, pursuant to N.J.A.C. 11:1-37.13(b)(3)(ii), 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 charged, which fees shall be reasonably related to services rendered; 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, among other things: (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), the Commissioner may deny, suspend, revoke, or refuse to renew a public adjuster's license based on any violation of the Public Adjusters' Act or the regulations promulgated thereunder, or for the commission or omission of any act by a public adjuster which demonstrates that the applicant or licensee is not competent or trustworthy to act as a public adjuster, or where the person has, among other things: (1) violated any provision of this State's insurance laws, including any rules promulgated thereunder; (3) committed a fraudulent or dishonest act; (4) demonstrated the licensee's lack of integrity, incompetency, bad faith, dishonesty, financial irresponsibility, or untrustworthiness to act as a public adjuster; or (13) made any misrepresentation of facts in conjunction with the business as a public adjuster; and

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WHEREAS, pursuant to N.J.S.A. 17:22B-17 and N.J.A.C. 11:1-37.14(b), any person violating any provision of the Public Adjusters' Act or the regulations promulgated thereunder shall, in addition to any other sanctions provided by law, be liable for a civil penalty of not more than \$2,500.00 for the first offense and not more than \$5,000.00 for the second and each subsequent offense. Each transaction or statutory violation shall constitute a separate offense and the Commissioner may order payment of costs; and

WHEREAS, pursuant to N.J.S.A. 17:33A-4(a)(1), no person shall present or cause to be presented any written or oral statement as part of, or in support of a claim for payment or other benefit pursuant to the insurance policy, knowing that the statement contains any false or misleading information concerning any fact or thing material to the claim; and

WHEREAS, pursuant to N.J.S.A. 17:33A-5(a) and (c), violations of the Fraud Act subject the violator to a civil and administrative penalty not to exceed \$5,000.00 for the first offense, not

to exceed \$10,000.00 for the second offense and not to exceed \$15,000.00 for each subsequent offense; moreover, the Commissioner may issue a final order recovering costs of prosecution, including attorneys' fees, as well as restitution to any insurance company or other person who has suffered a loss as a result of a violation in accordance with N.J.A.C. 11:16-7.9(a) and -7.9(c); and

WHEREAS, pursuant to N.J.S.A. 17:33A-5.1, any person who is found in any legal proceeding to have committed insurance fraud shall be subject to a surcharge in the amount of \$1,000.00; and

**COUNT ONE**  
**(PRODUCER ACT)**

IT APPEARING, that on or about June 19, 2016, Respondent entered into a public adjuster's contract with individual "S.V." for the adjustment of a loss that occurred on or about May 30, 2016; and

IT FURTHER APPEARING, that the contract failed to include (i) the rights and obligations of the parties if the contract is canceled at any time, and (ii) 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

IT FURTHER APPEARING, that, by failing to include the aforementioned provisions in the contract, Respondent violated N.J.S.A 17:22B-14(a)(1); N.J.A.C. 11:1-37.13(b)(5)(ii) and (iii); and N.J.A.C. 11:1-37.14(a)(1); and

**COUNT TWO**  
**(PRODUCER ACT)**

IT FURTHER APPEARING, that in or around June 2016, in support of S.V.'s claim, Respondent submitted an invoice, dated June 6, 2016, to CSAA Mid-Atlantic Insurance Company of New Jersey ("CSAA") purporting to represent remediation services provided by third party "E.T.C.R." in connection with S.V.'s loss; and

IT FURTHER APPEARING, that E.T.C.R. went out of business in February 2016; and

IT FURTHER APPEARING, that no employee of E.T.C.R. performed any work in connection with S.V.'s loss; and

IT FURTHER APPEARING, that E.T.C.R. did not issue the invoice; and

IT FURTHER APPEARING, that none of the services listed on the invoice were ever performed; and

IT FURTHER APPEARING, by submitting a fraudulent invoice to CSAA, Respondent violated N.J.S.A. 17:22B-14(a)(1), (3), and (4), and N.J.A.C. 11:1-37.14(a)(1), (3), (4), and (13); and

**COUNT THREE**  
**(FRAUD ACT)**

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IT FURTHER APPEARING, that by submitting the fraudulent invoice to CSAA in support of S.V.'s insurance claim, thereby presenting or causing to be presented a written statement as part of, or in support of, a claim for payment or other benefit pursuant to an insurance policy, knowing that the statement contained false or misleading information concerning any fact or thing material to the claim, Respondent violated N.J.S.A. 17:33A-4(a)(1); and

NOW, THEREFORE, IT IS, on this 10<sup>th</sup> day of June, 2019

ORDERED, that Respondent appear and show cause why the Commissioner should not suspend or revoke the New Jersey public adjuster license issued to him and assess a civil penalty up to \$2,500.00 for the first offense and up to \$5,000.00 for the second and each subsequent offense, pursuant to N.J.S.A. 17:22B-14(a) and -17, and N.J.A.C. 11:1-37.14(a) and -37.14(b); and

IT IS FURTHER ORDERED, that Respondent appear and show cause why he should not be subject to additional penalties including costs, as authorized under N.J.S.A. 17:22B-17; and

IT IS FURTHER ORDERED, that Respondent appear and show cause why he should not be required to reimburse the Department for the cost of the investigation and prosecution, including attorneys' fees, as authorized pursuant to N.J.S.A. 17:22B-17; N.J.S.A. 17:33A-5(c); and N.J.A.C. 11:16-7.9(c); and

IT IS FURTHER ORDERED, that Respondent appear and show cause why the Commissioner should not assess a civil penalty of up to \$5,000.00 for the first offense, up to \$10,000.00 for the second offense, and up to \$15,000 for each subsequent offense of the Fraud Act pursuant to N.J.S.A. 17:33A-5(c) and N.J.A.C. 11:16-7.9(a); and

IT IS FURTHER ORDERED, that Respondent appear and show cause why the Commissioner should not order the payment of restitution to any insurance company or other person who has suffered a loss as a result of a violation pursuant to N.J.A.C. 11:16-7.9(a); and

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IT IS FURTHER ORDERED, that Respondent appear and show cause why the Commissioner should not impose a \$1,000.00 surcharge against him in accordance with N.J.S.A. 17:33A-5.1; and

IT IS PROVIDED, that Respondent has the right to request an administrative hearing, to be represented by counsel or other qualified representative, at his own expense, to take testimony, to call or cross-examine witnesses, to have subpoenas issued, and to present evidence or argument if a hearing is requested; and

IT IS FURTHER PROVIDED, that unless a request for a hearing is received within twenty (20) days of the service of this Order to Show Cause, the right to a hearing in this matter shall be deemed to have been waived by Respondent, and the Commissioner shall dispose of this matter in accordance with law. A hearing may be requested by mailing the request to Virgil Downtin, Chief of Investigations, Department of Banking and Insurance, P.O. Box 329, Trenton, New Jersey

08625, or by faxing the hearing request to the Department at (609) 292-5337. A copy of the request for a hearing shall also be sent to Deputy Attorney General Brian R. Fitzgerald at: Division of Law, P.O. Box 117, Trenton, NJ 08625. The request shall contain the following:

- (a) Respondent's full name, current address, and daytime telephone number;
  - (b) A statement referring to each charge alleged in this Order to Show Cause and identifying any defense intended to be asserted in response to each charge. Where the defense relies on facts not contained in the Order to Show Cause, those specific facts must be stated;
  - (c) A specific admission or denial of each fact alleged in this Order to Show Cause. Where Respondent has no specific knowledge regarding a fact alleged in the Order to Show Cause, a statement to that effect must be contained in the hearing request. Allegations of this Order to Show Cause not answered in the manner set forth above shall be deemed to have been admitted; and
  - (d) A statement requesting the hearing.
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Marlene Caride  
Commissioner