

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 Anthony M. )  
Costello, Reference No. )  
9253241; Lisa R. Costello, )  
Reference No. 9720148; and AGA )  
& Associates Insurance Group, )  
Inc., Reference No. 1069221 )

**ORDER TO SHOW CAUSE**

TO:

ANTHONY M. COSTELLO  
787 Ontario Court  
Franklin Lakes, NJ 07417

LISA R. COSTELLO  
787 Ontario Court  
Franklin Lakes, NJ 07417

AGA & Associates Insurance  
Group, Inc.  
787 Ontario Court  
Franklin Lakes, NJ 07417

This matter, having been opened by the Commissioner of Banking and Insurance ("Commissioner"), State of New Jersey, upon information that Anthony M. Costello ("Anthony Costello"), Lisa R. Costello ("Lisa Costello"), and AGA & Associates Insurance Group, Inc. ("AGA Associates") (collectively, "Respondents") may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Anthony Costello is licensed as a resident insurance producer in the State of New Jersey pursuant to N.J.S.A. 17:22A-32; and

WHEREAS, Lisa Costello is licensed as a resident insurance producer in the State of New Jersey pursuant to N.J.S.A. 17:22A-32; and

WHEREAS, AGA Associates is licensed as a resident business entity insurance producer in the State of New Jersey 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"), the Producer Licensing regulations, N.J.A.C. 11:17-1.1 et seq., and the regulations governing Insurance Producer Standards of Conduct, N.J.A.C. 11:17A-1.1 et seq., 11:17B-1.1 et seq., and 11:17C-1.1 et seq.; and

WHEREAS, pursuant to N.J.S.A. 17:22A-32b(2), a business entity acting as an insurance producer shall designate a licensed insurance producer or producers responsible for the business entity's compliance with the insurance laws, rules and regulations of this State; and

WHEREAS, at all times relevant hereto, Anthony Costello and Lisa Costello were the Designated Responsible Licensed Producers ("DRLP") and responsible for the activities of AGA Associates and compliance of AGA Associates with the insurance laws, rules, and

regulations of this State pursuant to N.J.S.A. 17:22A-32b(2); and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(2), an insurance producer shall not violate any insurance law, regulation, subpoena, or order of the Commissioner; 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 in this State or elsewhere; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(10), an insurance producer shall not forge another's name to an application for insurance or to any document related to an insurance transaction; 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.A.C. 11:17A-1.6(a), each place of business maintained by an insurance producer for the purpose of

transacting the business of insurance shall be under the direct supervision of an insurance producer; and

WHEREAS, pursuant to N.J.A.C. 11:17A-1.6(c), licensed partners, officers, and directors, and all owners with an ownership interest of 10 percent or more in the organization shall be held responsible for all insurance-related conduct of the organization licensee, any of its branch offices, its other licensed officers or partners, and its employees; 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-2.1a, 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-2.2(a), all premium funds shall be remitted to the insurer or other insurance producer, as applicable, within five business days after receipt of the funds except as otherwise required or provided by any of the following: (1) the insurance producer's contract with the insurer or written agreement with the insured; (2) any controlling statute or administrative rule; or (3) the rules of any residual market mechanism created by or pursuant to any statute; and

WHEREAS, pursuant to N.J.A.C. 11:17C-2.2(b), all premium due the insured shall be paid to the insured or credited to the insured's account within five business days after receipt by the insurance producer from the insurer or other insurance producer or premium finance company; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40c, the producer license of a business entity may be suspended, revoked, or refused if the Commissioner finds after a hearing that an individual licensee's violation was known or should have been known by one or more of the partners, officers, or managers acting on behalf of the business entity and the violation was neither reported to the Commissioner nor corrective action taken; and

WHEREAS, pursuant to N.J.A.C. 11:17-2.10(b)4, an employer shall be responsible for the insurance-related conduct of an employee; and

WHEREAS, pursuant to N.J.A.C. 11:17B-3.1(b), an insurance producer charging a fee to an insured or prospective insured shall first obtain from the insured or prospective insured a written agreement, which shall be separate and apart from all other agreements and applications, and shall contain the following provisions and no other provisions:

1. A clear statement of the amount of the fee to be charged and the nature of the service to be provided therefor;

2. A statement that such fees are not a part of the premium charged by the insurance company and that such fees can be charged only if the insured or prospective insured so consents in writing;

3. A clear statement as to whether a commission will be received from the purchase of insurance; and

4. The signature of the insured or prospective insured and the licensed insurance producer and the date of execution of the agreement; and

WHEREAS, pursuant to N.J.A.C. 11:17B-3.1(c), any fee charged by an insurance producer shall bear a reasonable relationship to the services provided and shall not be discriminatory; and

WHEREAS, pursuant to N.J.S.A. 17:22A-45c, any person violating any provisions of the Producer Act shall be liable to a penalty not exceeding \$5,000.00 for the first offense and not exceeding \$10,000.00 for each subsequent offense to be recovered in a summary proceeding in accordance with the "Penalty Enforcement Law of 1999," P.L. 1999, c. 274 (C.2A:58-10, et seq.); in addition, the Commissioner may order restitution of moneys owed any person and reimbursement of the costs of investigation and prosecution; and

#### COUNT 1

#### **(RESPONDENTS ANTHONY COSTELLO AND AGA ASSOCIATES)**

IT APPEARING, that at all times relative hereto, Anthony Costello was the owner and DRLP of AGA Associates; and

IT FURTHER APPEARING, that in or around May 2011, MR, the owner of a taxi company, contacted AGA Associates to procure

commercial auto liability and commercial liability excess insurance policies on behalf of the taxi company; and

IT FURTHER APPEARING, that AGA Associates procured for the taxi company a commercial auto liability insurance with Knightbrook Insurance ("Knightbrook"), and a commercial liability excess insurance policy with Scottsdale Insurance Company ("Scottsdale"); and

IT FURTHER APPEARING, that a premium finance agreement was completed for the taxi company by AGA Associates employee RV for the premiums for the Knightbrook and Scottsdale policies; and

IT FURTHER APPEARING, that RV, under the direction and supervision of Anthony Costello, signed MR's signature on the premium finance agreement without MR's knowledge or consent; and

IT FURTHER APPEARING, that Anthony Costello, as an owner and DRLP of AGA Associates, was responsible for the actions of RV; and

IT FURTHER APPEARING, that Anthony Costello's negligent or inappropriate supervision of RV resulted in the forgery of MR's signature by RV, in violation of N.J.S.A. 17:22A-40a(2), (8), (10), and (16), and N.J.A.C. 11:17A-4.10; and

**COUNT 2**  
**(RESPONDENTS ANTHONY COSTELLO and AGA ASSOCIATES)**

IT FURTHER APPEARING, that among other monies provided by MR to Anthony Costello and AGA Associates, MR provided \$20,000.00 to

Anthony Costello and AGA Associates, intended for premium payment(s) on a Knightbrook policy; and

IT FURTHER APPEARING, that when asked to explain the \$20,000.00 payment, Anthony Costello told investigators from the Department of Banking and Insurance ("Department") that the payment was made pursuant to an alleged "Referral Fee Agreement" between MR and RV; and

IT FURTHER APPEARING, that MR never saw or signed the alleged Referral Fee Agreement; and

IT FURTHER APPEARING, that RV never saw or signed the alleged Referral Fee Agreement; and

IT FURTHER APPEARING, that Respondents did not obtain from MR a written agreement as required by N.J.A.C. 11:17B-3.1(b); and

IT FURTHER APPEARING, that Knightbrook never received the \$20,000.00; and

IT FURTHER APPEARING, that Anthony Costello retained the \$20,000.00; and

IT FURTHER APPEARING, that by receiving and retaining the \$20,000.00 without completing the appropriate written agreements, Anthony Costello and AGA Associates violated N.J.S.A. 17:22A-40a(2), (4), and (8); N.J.A.C. 11:17A-4.10; and N.J.A.C. 11:17B-3.1(b) and (c); and



**COUNT 3**  
**(RESPONDENTS ANTHONY COSTELLO AND AGA ASSOCIATES)**

IT FURTHER APPEARING, that by misappropriating the \$20,000.00 described in Count 2, Respondents violated N.J.S.A. 17:22A-40a(2), (4), and (8); and N.J.A.C. 11:17C-2.1(a); and

**COUNT 4**  
**(RESPONDENTS ANTHONY COSTELLO AND AGA ASSOCIATES)**

IT FURTHER APPEARING, that by providing the purported Referral Fee Agreement referred to in Count 2 to Department investigators, Anthony Costello and AGA Associates submitted false documents to a Department investigator in violation of N.J.S.A. 17:22A-40a(2), (8), and (16); and

**COUNT 5**  
**(RESPONDENTS ANTHONY COSTELLO AND AGA ASSOCIATES)**

IT FURTHER APPEARING, that by failing to remit within five days the \$20,000.00 premium described in Count 2 to Knightbrook, Respondents violated N.J.S.A. 17:22A-40a(2), (4), and (8); and N.J.A.C. 11:17C-2.2(a); and

**COUNT 6**  
**(ALL RESPONDENTS)**

IT FURTHER APPEARING, that, in or around May 2012, MR obtained another commercial excess liability policy with Scottsdale (the "Scottsdale Policy") for MR's taxi company through AGA Associates; and

IT FURTHER APPEARING, that the total premium and fees for the Scottsdale Policy were \$9,711.70; and

IT FURTHER APPEARING, that Anthony Costello provided a premium quote of \$25,000.00 to MR for the Scottsdale Policy; and

IT FURTHER APPEARING, that, in or around May 22, 2012, MR paid \$13,000.00 to AGA Associates, believing it would be applied toward the premium for the Scottsdale Policy; and

IT FURTHER APPEARING, that AGA Associates failed to remit the \$13,000.00 to Scottsdale; and

IT FURTHER APPEARING, that, in or around October 2012, MR was requested by Anthony Costello and/or AGA Associates to submit a second payment of \$9,000.00, which MR paid to AGA Associates on or about October 3, 2012; and

IT FURTHER APPEARING, that, between June 7, 2012 and August 6, 2012, the wholesale insurance broker who handled the Scottsdale Policy advised Anthony Costello and/or Lisa Costello that the Scottsdale Policy would be cancelled due to nonpayment of the premium; and

IT FURTHER APPEARING, that, due to nonpayment of premium, the Scottsdale Policy was cancelled on August 6, 2012; and

IT FURTHER APPEARING, that Anthony Costello forwarded the full premium payment for the Scottsdale Policy to the wholesale broker on October 5, 2012, but it was too late to reinstate the policy; and

IT FURTHER APPEARING, that the wholesale broker retained the earned premium portion of the payment for May through August 2012 and returned the unearned premium to AGA Associates; and

IT FURTHER APPEARING, that by failing to remit the premium for the Scottsdale Policy to the wholesale broker within five days, Respondents violated N.J.S.A. 17:22A-40a(2), (4), and (8); N.J.A.C. 11:17C-2.1(a); N.J.A.C. 11:17C-2.2(a); and N.J.A.C. 11:17A-4.10; and

**COUNT 7**  
**(ALL RESPONDENTS)**

IT FURTHER APPEARING, that Respondents failed to return to MR the unearned portion of the premium on the Scottsdale Policy in the amount of \$6,644.30, in violation of N.J.S.A. 17:22A-40a(2), (4), (8), and (16); N.J.A.C. 11:17A-4.10; and N.J.A.C. 11:17C-2.2(b); and

**COUNT 8**  
**(ALL RESPONDENTS)**

IT FURTHER APPEARING, that AGA Associates procured for MK commercial taxicab liability insurance for his taxi company ("Company One"), which insurance was placed with Knightbrook; and

IT FURTHER APPEARING, that, in or around September 2012, MK requested that AGA Associates obtain a new and separate policy for his new taxi company ("Company Two"), separate from the first policy for the purpose of limiting liability; and

IT FURTHER APPEARING, that MK specifically requested a policy with the named insured as Company Two because regulators require that a taxi cab company have an insurance policy in the company name; and

IT FURTHER APPEARING, that MK provided AGA Associates with a check payable to Knightbrook for the initial premium of \$1,200.00 in or around September 2012; and

IT FURTHER APPEARING, that Knightbrook terminated its business relationship with AGA Associates in or around August 2012, and notified AGA Associates of the termination by telephone; and

IT FURTHER APPEARING, that Respondents failed to place insurance for MK with Knightbrook; and

IT FURTHER APPEARING, that by attempting to place insurance with an insurer that had terminated business with Respondents, Respondents failed to place insurance, and demonstrated incompetence, untrustworthiness, and/or financial irresponsibility in the conduct of insurance business, in violation of N.J.S.A. 17:22A-40a(2), (4), and (8); and

**COUNT 9**  
**(ALL RESPONDENTS)**

IT FURTHER APPEARING, that RV, an employee of AGA Associates from March 2008 to November 2012, was not a licensed insurance producer in the State of New Jersey; and

IT FURTHER APPEARING, that RV handled the insurance business for the entire Company Two account despite not being a licensed insurance producer; and

IT FURTHER APPEARING, that RV was paid several commissions by AGA Associates for insurance business placed with AGA Associates; and

IT FURTHER APPEARING, that both Anthony Costello and Lisa Costello were aware that RV did not have a license; and

IT FURTHER APPEARING, that by allowing RV to conduct the business of insurance for the Company Two account, Respondents allowed an unlicensed individual to conduct the business of insurance in violation of N.J.S.A. 17:22A-40a(2), (8), and (17), and N.J.A.C. 11:17A-1.6(a) and (c); and

**COUNT 10**  
**(RESPONDENTS ANTHONY COSTELLO and AGA ASSOCIATES)**

IT FURTHER APPEARING, that AGA Associates client LB requested that AGA Associates obtain commercial liability insurance to cover a construction project that LB was handling at a New York location; and

IT FURTHER APPEARING, that Anthony Costello procured a policy for LB from Northfield Insurance Company ("Northfield"); and

IT FURTHER APPEARING, that the Northfield policy contained an endorsement that excluded coverage for incidents that occurred in New York; and

IT FURTHER APPEARING, that Anthony Costello was aware that the construction project was located in New York; and

IT FURTHER APPEARING, that Anthony Costello failed to obtain a policy for LB that would cover the New York-based construction project; and

IT FURTHER APPEARING, that when LB filed a claim with Northfield concerning an incident that occurred at the construction project in New York, Northfield denied the claim based on the endorsement; and

IT FURTHER APPEARING, that by failing to procure insurance for LB that covered the New York construction project, Respondents failed to place insurance, and demonstrated incompetence, untrustworthiness, and/or financial irresponsibility in the conduct of insurance business, in violation of N.J.S.A. 17:22A-40a(2) and (8); and

NOW, THEREFORE, IT IS, on this 17<sup>th</sup> day of *NOVEMBER*, 2017

ORDERED, that Respondents shall appear and show cause why the New Jersey insurance producer licenses issued to them should not be suspended or revoked by the Commissioner, and why they should not be fined up to \$5,000.00 for the first violation and not more than \$10,000.00 for the second and each subsequent violation of the Producer Act, pursuant to N.J.S.A. 17:22A-40a and N.J.S.A. 17:22A-45c; and

IT IS FURTHER ORDERED, that Respondents appear and show cause why they should not be ordered to pay restitution and the reimbursement of the costs of investigation and prosecution pursuant to the provisions of N.J.S.A. 17:22A-45c; and

IT IS PROVIDED, that Respondents have the right to request an administrative hearing, to be represented by counsel or other qualified representative, at their 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, from each Respondent, each such Respondent's right to a hearing in this matter shall be deemed to have been waived by the 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, N.J. 08625 or by faxing the 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 fax number (609) 777-3503. The request shall contain:

- (A) The licensee's name, 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 the 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 the Respondent has no specific knowledge regarding a fact alleged in this 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 a hearing.



---

PETER L. HARTT  
DIRECTOR OF INSURANCE