

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 license )  
of Gina L. Marcella, Reference No. 9727069, )  
and Champion Insurance Agency Inc., )  
Reference No. 9476948. )

**FINAL ORDER**

TO: Gina L. Marcella  
321 Arline Avenue  
Deptford, New Jersey 08016

Champion Insurance Agency, Inc.  
c/o Gina L. Marcella  
321 Arline Avenue  
Deptford, New Jersey 08016

THIS MATTER, having been opened by the Commissioner of Banking and Insurance (“Commissioner”), State of New Jersey, upon issuance of Order to Show Cause E24-41 (the “OTSC”) alleging that Gina L. Marcella (“Marcella”), and Champion Insurance Agency Inc. (“Champion”) (collectively, “Respondents”) may have violated various provisions of the insurance laws of the State of New Jersey; and

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

WHEREAS, Champion is licensed as a resident business entity producer, pursuant to N.J.S.A. 17:22A-32(b); and

WHEREAS, Respondents are subject to the provisions of the New Jersey Insurance Producer Licensing Act, N.J.S.A. 17:22A-1 to -57 (the “Producer Act”), the regulations governing Insurance Producer Standards of Conduct, N.J.A.C. 11:17A-1.1 to 11:17D-2.8; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40(d), the Commissioner shall retain the authority to enforce the provisions of and 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-40(a)(2), an insurance producer shall not violate any insurance laws, or violate any regulation, subpoena or order of the Commissioner or of another state's insurance regulator; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40(a)(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-40(a)(8), an insurance producer shall not use fraudulent, coercive or dishonest 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.A.C. 11:17C-2.2(a), an insurance producer shall remit premium funds to the insurer within five business days after receipt of the funds; and

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

WHEREAS, pursuant to N.J.A.C. 11:1-12.2(a), active officers shall be held individually responsible for all insurance related conduct of the corporate licensee; 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.S.A. 17:22A-40(a), the Commissioner may place on probation, suspend, revoke or refuse to issue or renew an insurance producer's license or may levy a civil penalty for violating the Producer Act; and

WHEREAS, pursuant to N.J.S.A. 17:22A-45(c), any person violating the Producer Act is subject to a penalty of \$5,000.00 for the first offense and up to \$10,000.00 for each subsequent offense; additionally the Commissioner may order restitution of moneys owed any person and reimbursement of costs of the investigation and prosecution; and

WHEREAS, on July 31, 2024, the Commissioner issued the OTSC, alleging that Respondents violated various New Jersey insurance laws by as set forth in the following:

**ALLEGATIONS COMMON TO ALL COUNTS**

IT APPEARING, that, at all relevant times, Champion was the insurance agency for "A.M."; and

IT FURTHER APPEARING, that, on October 9, 2018, A.M. sent a check totaling \$1,662.80 to Champion in order to pay for the renewal of A.M.'s homeowner's insurance policy; and

IT FURTHER APPEARING, that, on October 16, 2018, Champion deposited A.M.'s check; and

IT FURTHER APPEARING, that Champion never forwarded A.M.'s \$1,662.80 to Scottsdale Insurance Company as payment of premium for A.M.'s homeowner's policy; and

IT FURTHER APPEARING, that, as a result of Champion's failure to forward A.M.'s premium, A.M.'s homeowner's policy expired on October 11, 2018; and

IT FURTHER APPEARING, that, following the commencement an investigation into the depositing of A.M.'s premium into Champion's bank account, Champion, by check dated November 5, 2019, reimbursed A.M. the \$1,662.80 for the premium that was not forwarded for renewal; and

**COUNT ONE**

IT FURTHER APPEARING, that Respondents failed to issue payment for an insured's renewal of a policy, causing the policy to not renew, in violation of N.J.S.A. 17:22A-40(a)(2), (4), and (8) and N.J.A.C. 11:17C-2.2(a); and

**COUNT TWO**

IT FURTHER APPEARING, that Marcella, as Champion's DLRP, owner and/or manager, is responsible for the violations alleged of Champion pursuant to N.J.S.A. 17:22A-32(b)(2), N.J.A.C. 11:1-12.2(a), and N.J.A.C. 11:17A-1.6(c); and

IT FURTHER APPEARING, Respondents were given notice of the aforesaid charges and an opportunity to contest the charges at a hearing pursuant to the OTSC and failed to do so; and

IT FURTHER APPEARING, as set forth in the Certification of William Vaughan, attached as Exhibit A, by cover letter dated August 1, 2024, the Order to Show Cause No. E24-41 was mailed to Marcella via certified mail, return receipt requested, and regular mail to Marcella's then-current home address, based on a public information search, at 321 Arline Avenue, Deptford, New Jersey 08016, and neither was returned as undeliverable; and

IT FURTHER APPEARING, as set forth in the Certification of William Vaughan, attached as Exhibit A, by cover letter dated August 1, 2024, the Order to Show Cause No. E24-41 was mailed to Champion via certified mail, return receipt requested, and regular mail to Marcella's then-current home address, based on a public information search, at 321 Arline Avenue, Deptford, New Jersey 08016, and neither was returned as undeliverable; and

IT FURTHER APPEARING, mailing of the OTSC by regular and certified mail to Respondents constitute lawful service, pursuant to N.J.A.C. 11:17D-2.1(a)3; and

IT FURTHER APPEARING, Respondents failed to provide a written response to the charges contained in the OTSC within twenty days as provided by N.J.A.C. 11:17D-2.1(d)1, and therefore have waived their right to a hearing to contest these charges and the charges are deemed admitted under N.J.A.C. 11:17D-2.1(b)1; and

IT FURTHER APPEARING, in Kimmelman v. Henkels & McCoy, Inc., 108 N.J. 123 (1987) the Supreme Court established seven factors to be considered in determining the imposition of civil fines in administrative proceedings (“Kimmelman factors”); and

IT FURTHER APPEARING, the seven Kimmelman factors are as follows: (1) the good or bad faith of the defendant; (2) defendant’s ability to pay a civil fine; (3) the amount of profits obtained from the illegal activity; (4) the injury to the public; (5) the duration of the misconduct; (6) the existence of criminal or treble damages actions; and (7) the past violations of defendant; and

IT FURTHER APPEARING, the Kimmelman factors apply to this matter as follows: (1) Respondents showed bad faith by retaining A.M.’s premium payment of \$1,662.80 for over one (1) year causing his homeowner’s policy to expire; (2) Respondents have not provided any evidence of their inability to pay a civil fine; (3) Respondents retained \$1,662.80 to which they were not entitled; (4) there was injury to the public because these actions causes a lack of confidence in insurance producers; (5) Respondents’ misconduct occurred from October 16, 2018 to November 5, 2019; (6) there are no criminal or treble damages actions resulting from Respondents’ misconduct; and (7) Respondents had no past violations; and

NOW, THEREFORE, IT IS on this 16<sup>th</sup> day of September, 2024:

ORDERED, that the charges contained in the OTSC are deemed admitted by Respondents due to their failure to respond to the charges, 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 license of Marcella is **REVOKED** effective upon the execution of this Final Order; 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 license of Champion is **REVOKED** effective upon the execution of this Final Order; and

IT IS FURTHER ORDERED, that Respondents, jointly and severally, shall be responsible for the payment of civil penalties totaling \$5,000.00 for the Producer Act violations as described in Count One of the Order to Show Cause; and

IT IS FURTHER ORDERED, that pursuant to N.J.S.A. 17:22A-45(c) and N.J.A.C. 11:1-32.4(b)(20), Respondents shall reimburse the Department of Banking and Insurance, Division of Insurance Enforcement, for the costs associated with the investigation and prosecution of this matter, as evidenced by the Certification of Costs by Investigator Drew Gowen, attached as Exhibit B, totaling \$750.00. The Commissioner has reviewed the investigative costs application and finds the amount of time to be reasonable; and

IT IS FURTHER ORDERED, that Respondents, jointly and severally, shall pay the above fines and costs totaling \$5,750.00 by remitting full 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: Eugene Shannon, Supervisor 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 civil penalty, restitution and costs is 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 of 1999, N.J.S.A. 2A:58-10 to -12; and

IT IS FURTHER ORDERED, that the civil penalty in this Final Order is 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 is not intended to constitute a debt 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 the OTSC.



Justin Zimmerman  
Acting Commissioner