

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 public adjuster)
license of Kenneth M. Choseed, Reference)
No. 9469187)

ORDER TO SHOW CAUSE

TO: KENNETH M. CHOSEED
c/o Ronald DeSimone, Esq.
900 North Kings Highway
Suite 307
Cherry Hill, NJ 080834

THIS MATTER, having been opened by the Commissioner of Banking and Insurance (“Commissioner”), State of New Jersey, upon information that Kenneth M. Choseed (“Respondent”) may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Respondent at all relevant times was and is licensed as a public adjuster 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

WHEREAS, pursuant to N.J.S.A. 17:22B-14a(1) and N.J.A.C. 11:1-37.14(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-14a(4) and N.J.A.C. 11:1-37.14(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)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 seeks to cancel the contract, including any requirement of 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), 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 (1) violated any provision of this State's insurance laws, including any rules promulgated thereunder; or (4) demonstrated the licensee's lack of integrity, incompetency, bad faith, dishonesty, financial irresponsibility, or untrustworthiness to act as a public adjuster; and

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; and

IT APPEARING, that on April 25, 2016, MV entered into a public adjuster contract with Respondent for a water loss claim in Mays Landing, N.J.; and

IT FURTHER APPEARING, that the claim was adjusted by Farmers Mutual Fire Insurance; and

IT FURTHER APPEARING, that the contract failed to include: (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, as required by N.J.A.C. 11:1-37.13(b)5i-iii; and

IT FURTHER APPEARING, that, by failing to include the aforementioned provisions in the contract, Respondent violated N.J.S.A 17:22B-14a(1) and -14a(4), N.J.A.C. 11:1-37.13(b)5i-iii and N.J.A.C. 11:1-37.14(a)(1) and -.14(a)4; and

NOW, THEREFORE, IT IS, on this 20th day of August, 2018

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 and -17 and N.J.A.C. 11:1-37.14(a)1, and 11:1-37.14(b); and

IT IS FURTHER ORDERED, that Respondent appear and show cause why he should not be subject to additional penalties including restitution, as authorized under N.J.S.A. 17:22B-17; 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, 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, 25 Market Street, Box 117, Trenton, NJ 08625. The request shall contain:

- (a) Respondent's full 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 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 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