

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE

OAL DOCKET NO.: BKI 07444-2015
AGENCY DOCKET NO.: E15-44

MARLENE CARIDE,¹)
COMMISSIONER, NEW JERSEY)
DEPARTMENT OF BANKING)
AND INSURANCE,)
)
Petitioner,)
)
)
v.)
)
CATARINA YOUNG AND)
ELITE BENEFITS CORP.,)
)
Respondents.)

ORDER AMENDING FINAL DECISION
AND ORDER NO. E18-63 ON REMAND
FROM APPELLATE DIVISION TO
VACATE CERTAIN MONETARY
PENALTIES

This matter comes before the Commissioner of Banking and Insurance ("Commissioner") pursuant to the October 25, 2019 opinion of the Superior Court of New Jersey, Appellate Division, No. A-5419-17T4 (App. Div. Oct. 25, 2019) remanding the matter to vacate certain monetary penalties that fell outside of the 10 year statute of limitations under N.J.S.A. 2A:14-1.2(a) as found in Final Decision and Order No. E18-63 issued on June 11, 2018 ("Final Decision"). In the Final Decision, the Commissioner adopted the grant of Summary Decision as recommended in the December 12, 2017 Initial Decision ("Initial Decision") of Administrative Law Judge Julio C.

¹ Pursuant to R. 4:34-4, Commissioner Marlene Caride has been substituted in place of former Commissioner Kenneth E. Kobylowski in the caption.

Morejon ("ALJ"). The Final Decision also provided that the insurance producer licenses of Catarina Young ("Young") and Elite Benefits Corp.² ("Elite") (collectively, "Respondents"), be revoked. The Commissioner also imposed a fine of \$20,000 as to the Respondents, jointly and severally, for the violations in Count One of the of the Department of Banking and Insurance's ("Department") Amended Order to Show Cause No. E15-81 ("AOTSC") for illegally enrolling Young's parents in an employee health care plan in violation of the New Jersey Producer Licensing Act of 2001, N.J.S.A. 17:22A-26 to -57 ("Producer Act"), the New Jersey Insurance Fraud Prevention Act, N.J.S.A. 17:33A-1 to -34 ("Fraud Act"). The Commissioner also imposed costs and attorneys' fees in the amount of \$22,864.50 on the Respondents jointly and severally; and a \$1,000 surcharge as to Young, individually, and Elite, individually. The Commissioner also ordered that Young be assessed a monetary penalty in the amount of \$255,000 for violations in Count Two of the AOTSC for violating N.J.S.A. 17:22A-40a(2), (4), (8), and (16) of the Producer Act and for violating N.J.A.C. 11:17A-4.10. The Final Decision concluded that Young misappropriated approximately \$462,341.78 from the Multi-Skilled Employees and Employers Welfare Trust Fund ("Fund") between November 17, 2003, and December 26, 2006, by means of 86 checks and 16 wire transfers from the Fund. The Final Decision also ordered that Young be fined in the amount of \$2,500 for each of the 102 misappropriations from the Fund, for a total of \$255,000.

Young appealed the Final Decision to the Appellate Division arguing that the Department's claims were barred by the statute of limitations,³ the Commissioner erred in granting Summary


² Elite Benefits Corp. was not a party to the Appeal.

³ Young did not file exceptions to the Initial Decision and did not raise the issue of the Statute of Limitations with the Commissioner.

Judgment because Young had presented an issue of fact, and that the Commissioner imposed excessive fines.

The Appellate Division found that 41 of the 102 misappropriations from the Fund occurred after the statute of limitations had tolled and Ordered that the matter be remanded to the Commissioner to vacate \$102,500 in penalties that were imposed for the 41 transactions that occurred outside of the statute of limitations (those between November 17, 2003 and April 25, 2005). The Appellate Division rejected Young's other arguments and affirmed the Final Decision, except as set forth above.

THEREFORE, IT IS ORDERED on this 31ST day of October, 2019 that Final Decision and Order No. E18-63 is amended to provide that Young be fined \$152,500 for the violations of Count Two of the AOTSC, that is \$2,500 for each of the 61 misappropriations from the Fund that occurred before the statute of limitations had tolled. All other fines, penalties, and costs imposed in Final Decision and Order E18-63 upon Respondents remain unchanged.



Marlene Caride
Commissioner

JD Young on remand from App Div/Final Orders-Insurance