

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 Sherrica Octavia )  
McDonald, Reference No. 1136382, and )  
Octavia Global Investment, LLC d/b/a )  
Octavia Bail Bonds, Reference No. 1144370. )  
\_\_\_\_\_

**CONSENT ORDER**

TO: Sherrica Octavia McDonald  
1 Amparo Way  
Neptune, NJ 07753-3781

Octavia Global Investment, LLC  
d/b/a Octavia Bail Bonds  
c/o Sherrica Octavia McDonald  
1 Amparo Way  
Neptune, NJ 07753-3781

THIS MATTER, having been opened by the Commissioner of Banking and Insurance (“Commissioner”), State of New Jersey, upon information that Sherrica Octavia McDonald (“McDonald”), and Octavia Global Investment, LLC d/b/a Octavia Bail Bonds (“OBB”) (collectively, “Respondents”), may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, McDonald was formerly licensed as a resident individual insurance producer in the State of New Jersey, pursuant to N.J.S.A. 17:22A-32a, until October 31, 2015, when her license expired; and

WHEREAS, OBB was formerly licensed as a resident business entity insurance producer in the State of New Jersey, pursuant to N.J.S.A. 17:22A-32b, until May 31, 2016, when its license expired; and

WHEREAS, at all relevant times, McDonald was an owner with an ownership interest of 10 percent or more and the Designated Responsible Licensed Producer (“DRLP”) of OBB, and responsible for the insurance related conduct of OBB and its compliance with the insurance laws, rules and regulations of this State, pursuant to N.J.S.A. 17:22A-32b(2) and N.J.A.C. 11:17A-1.6(c); and

WHEREAS, McDonald filed a petition under chapter 7 of the Bankruptcy Code on June 6, 2017, in the United States Bankruptcy Court for the District of New Jersey, and an Order of Discharge was entered on September 15, 2017; 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 to -48 (“Producer Act”), and 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-40d, 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-40a(2), an insurance producer shall not violate any insurance laws, regulation, subpoena or order of the Commissioner or of another state’s insurance regulator; 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 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(16), an insurance producer shall not commit any fraudulent act; and

WHEREAS, pursuant to N.J.A.C. 11:17A-4.8, an insurance producer shall reply, in writing, to any inquiry of the New Jersey Department of Banking and Insurance (“Department”) relative to the business of insurance within the time requested in said inquiry, or no later than 15 calendar days from the date of inquiry was made or mailed in cases where no response time is given; 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-2.1(a), 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 contract 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-2.3(a)(1), an insurance producer shall establish and maintain a trust account into which shall be deposited cash, checks and other instruments payable to the insurance producer when an insurance producer holds any premiums for more than five business days before remitting the premiums to an insurer or other insurance producer, pursuant to N.J.A.C. 11:17C-2.2(a)(1) through (3); and

WHEREAS, pursuant to N.J.A.C. 11:17C-2.5(a), an insurance producer shall maintain accurate books and records reflecting all insurance-related transactions in which the insurance producer or his employees take part; and

WHEREAS, pursuant to N.J.A.C. 11:17C-2.5(b), each licensee shall maintain a register of all monies received, deposited, disbursed or withdrawn in connection with an insurance transaction; and

WHEREAS, pursuant to N.J.A.C. 11:17C-2.5(c), if the premium amount received or disbursed differs with the amount billed, the insurance producer shall prepare a written record of the discrepancy which shall be maintained with the relevant entry in the register for the period of time required by N.J.A.C. 11:17C-2.6(a); and

WHEREAS, pursuant to N.J.A.C. 11:17C-2.5(d), for each disbursement, the number of the check shall be recorded in the register; and

WHEREAS, pursuant to N.J.A.C. 11:17C-2.6(a), all required books and records of account, including bank records, shall be maintained for a period of five years after the termination of coverage; and

WHEREAS, pursuant to N.J.A.C. 11:17C-2.6(b), all records, books and documents required to be maintained by the provisions of N.J.A.C. 11:17C-1.1 to -2.6 shall, upon his or her

request, be produced for examination by the Commissioner or his or her duly authorized representatives; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a, the Commissioner may place on probation, suspend, revoke or refuse to issue or renew an insurance producer's license, and may levy a civil penalty, for a violation of the Producer Act; and

WHEREAS, pursuant to N.J.S.A. 17:22A-45c, any person violating the Producer Act is subject to a penalty not exceeding \$5,000.00 for the first offense and not exceeding \$10,000.00 for each subsequent offense; moreover, the Commissioner may order restitution of moneys owed any person and reimbursement of costs of investigation and prosecution, as appropriate; and

WHEREAS, on March 19, 2018, the Commissioner issued an Order to Show Cause, Order No. E18-22, alleging violations of New Jersey's insurance laws by Respondents as follows:

**COUNT 1**

IT APPEARING that American Surety Co. ("ASC") is organized in the State of Indiana and is a licensed insurer for bail surety; and

IT FURTHER APPEARING that OBB signed a Bail Bond Agreement with ASC on January 14, 2011 (the "ASC Agreement"), wherein OBB was appointed as the representative of ASC for the purpose of executing bail bonds and binding ASC on said bail bonds; and

IT FURTHER APPEARING that ASC supplied OBB with powers of attorney pursuant to the ASC Agreement so that OBB could execute bail bonds in the name of ASC; and

IT FURTHER APPEARING, that OBB was responsible for receiving and remitting to the ASC the premiums for bail bonds issued under the powers of attorney, and for delivering any unused power of attorney to ASC at the request of ASC; and

IT FURTHER APPEARING, that ASC terminated the ASC Agreement with OBB on December 1, 2011 for the failure of OBB to remit premiums due on executed bail bonds and to return unused powers of attorney; and

IT FURTHER APPEARING, that in a letter dated December 1, 2011, ASC advised Respondents that \$11,800 was due for unused powers of attorney that Respondents failed to return, and that the total amount due to ASC under the ASC Agreement was \$82,577.78; and

IT FURTHER APPEARING, that on September 8, 2011, Respondents issued check number 1034 from an OBB account drawn on Unity Bank in the amount of \$22,345.73, payable to ASC, to pay premiums; and

IT FURTHER APPEARING, that Respondents then placed a stop payment on check number 1034; and

IT FURTHER APPEARING, that Respondents failed to replace check number 1034; and

IT FURTHER APPEARING, that Respondents' failure to remit to ASC funds due to ASC under the ASC Agreement constituted violations of N.J.S.A. 17:22A-40a(2), (4), (8) and (16), N.J.A.C. 11:17C-2.1(a) and 2.2(a), and N.J.A.C. 11:17A-4.10; and

### COUNT 2

IT FURTHER APPEARING, that Respondents wrote check number 1034, in the amount of \$22,345.73, to ASC from an account drawn on Unity Bank that was not designated as a "Trust Account" on the bank records; and

IT FURTHER APPEARING, that the words "Trust Account" were not displayed on the face of check number 1034; and

IT FURTHER APPEARING, that Respondents' failure to establish and maintain a trust account for bail bond premiums when Respondents held premiums for more than five business days before remitting the premiums to an insurer constituted violations of N.J.S.A. 17:22A-40a(2) and (8) and N.J.A.C. 11:17C-2.3(a)1; and

### COUNT 3

IT FURTHER APPEARING, that Respondents failed to return to ASC Power of Attorney No. AS1-0293784, issued on January 28, 2011, and that expired on October 28, 2011; and

IT FURTHER APPEARING, that Respondents failed to return to ASC Power of Attorney No. AS5-0788311, issued on June 13, 2011, and that expired on March 13, 2012; and

IT FURTHER APPEARING, that Respondents' failure to return two unused powers of attorney constituted violations of N.J.S.A. 17:22A-40(a)(2) and (8); and

#### COUNT 4

IT FURTHER APPEARING, that on or about October 1, 2012, the Department requested that Respondents provide bank records demonstrating that Respondents had sufficient funds when Respondents issued check number 1034 to ASC from an OBB account drawn on Unity Bank in the amount of \$22,345.73; and

IT FURTHER APPEARING, that on or about October 22, 2012, the Department sent a letter to Respondents again requesting that Respondents provide bank records demonstrating that Respondents had sufficient funds when Respondents issued check number 1034 to ASC from an OBB account drawn on Unity Bank in the amount of \$22,345.73; and

IT FURTHER APPEARING, that Respondents failed to respond to the Department's requests; and

IT FURTHER APPEARING, that Respondents have repeatedly failed to respond to the Department's inquiries, including not producing requested bail bond and bank account records for OBB; and

IT FURTHER APPEARING, that Respondents' failures to maintain accurate books and records reflecting all insurance related transactions, and failure to provide those records for examination by the Commissioner, constituted violations of N.J.S.A. 17:22A-40a(2) and (8), N.J.A.C. 11:17A-4.8, N.J.A.C. 11:17C-2.5(a), (b), (c) and (d), and N.J.A.C. 11:17C-2.6(a) and (b); and

#### COUNT 5

IT FURTHER APPEARING, that Bankers Insurance Company ("BIC") is organized in the State of Florida and is a licensed insurer for bail surety; and

IT FURTHER APPEARING, that OBB signed a Supervising Producer Agreement with BIC, with an effective date of June 21, 2011

(the "Supervising Producer Agreement"), wherein OBB was responsible to receive from sub-agents and transmit to BIC the premiums for bail bonds issued through BIC; and

IT FURTHER APPEARING, that Article V of the Supervising Producer Agreement required bond premiums to be forwarded to BIC within forty-five (45) days; and

IT FURTHER APPEARING, that on February 2, 2012, OBB issued check number 1119 in the amount of \$19,960.00 to BIC for the payment of premiums due BIC for twenty-six (26) bail bonds issued by OBB and sub-agents; and

IT FURTHER APPEARING, that check number 1119 was returned on February 9, 2012 for Non-Sufficient Funds; and

IT FURTHER APPEARING, that BIC subsequently conducted an audit of bail bond premiums owed by OBB and identified fifty-four (54) bail bonds for which OBB had not forwarded the premiums, for a total of \$36,135.00; and

IT FURTHER APPEARING, that the total amount of premiums owed to BIC by OBB after all payments and credits is \$21,631.00; and

IT FURTHER APPEARING, that Respondents' failure to abide by all the terms of a contract between OBB and BIC, Respondents' failure to remit to BIC bail bond premiums, and the issuance by Respondents of a check returned for Non-Sufficient Funds, constituted violations 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-2.1(a); and

#### COUNT 6

IT FURTHER APPEARING, that Financial Casualty & Surety, Inc. ("FCS") is organized in the State of Texas and is a licensed insurer for bail surety; and

IT FURTHER APPEARING, that OBB signed a Supervising Agent/Sub-Producer Bail Bond Agreement with FCS on February 28, 2012 (the "FCS Agreement"), wherein OBB was appointed as the representative of FCS for the purpose of executing bail bonds and binding FCS on said bail bonds; and



IT FURTHER APPEARING, that FCS supplied OBB with powers of attorney pursuant to the FCS Agreement so that OBB could execute bail bonds in the name of FCS; and

IT FURTHER APPEARING, that OBB was responsible to receive and remit to FCS the premiums for bail bonds issued under the powers of attorney, and to deliver any unused power of attorney to FCS at the request of FCS; and

IT FURTHER APPEARING, that Article 8 of the FCS Agreement required bail bond premiums of 1.5% for each \$1,000.00 of liability to be forwarded to FCS within seven (7) days; and

IT FURTHER APPEARING, that Article 19 of the FCS Agreement required OBB to submit a 1% contribution for each bail bond issued to the Build Up Fund ("BUF"), a reserve account maintained by FCS; and

IT FURTHER APPEARING, that OBB issued thirty-four (34) FCS powers of attorney for bail bonds between April 8, 2012 and August 15, 2012; and

IT FURTHER APPEARING, that OBB failed to pay FCS the required premium and that OBB failed to make the BUF contribution for the thirty-four (34) bail bonds; and

IT FURTHER APPEARING, that OBB failed to remit to FCS \$29,937.50 in premiums and to make \$19,952.50 in contributions to the BUF; and

IT FURTHER APPEARING, that Respondents' failures to remit to FCS insurance premiums in the amount of \$29,937.50 and to make contributions to the BUF in the amount of \$19,952.50, constituted violations of N.J.S.A. 17:22A-40a(2), (4), and (8), N.J.A.C. 11:17C-2.1(a), and N.J.A.C. 11:17A-4.10.

WHEREAS, Respondents admit and agree to take responsibility for the violations described in Order No. E18-22 and this Consent Order; and

WHEREAS, Respondents waive their right to a hearing on the above violations and consent to the revocation of their insurance producer licenses, and the payment of a civil penalty totaling five thousand dollars (\$5,000.00); and

WHEREAS, it appearing that this matter should be resolved upon the consent of the parties without resort to a formal hearing; and

WHEREAS, good cause exists to enter into this Consent Order, to revoke Respondents' insurance producer licenses pursuant to N.J.S.A. 17:22A-40a, and to impose a civil penalty pursuant to N.J.S.A. 17:22A-45c; and

NOW, THEREFORE, IT IS on this 9<sup>th</sup> day of September, 2019

ORDERED AND AGREED, that Respondents admit to the violations of the Producer Act as described in Order No. E18-22 and this Consent Order; and

IT IS FURTHER ORDERED AND AGREED, that the New Jersey insurance producer license of Sherrica Octavia McDonald is hereby REVOKED, pursuant to N.J.S.A. 17:22A-40a; and

IT IS FURTHER ORDERED AND AGREED, that the New Jersey insurance producer license of Octavia Global Investment, LLC d/b/a Octavia Bail Bonds, is hereby REVOKED, pursuant to N.J.S.A. 17:22A-40a; and

IT IS FURTHER ORDERED AND AGREED, that Respondents shall pay a civil penalty in the amount of \$5,000.00, jointly and severally, for the violations admitted to herein; and

IT IS FURTHER ORDERED AND AGREED, that said civil penalty shall be paid by certified check, cashier's check or money order made payable to "State of New Jersey, General Treasury," with an initial payment of \$500.00 due and payable immediately upon the execution of this Consent Order by Respondents, and with twenty-four (24) subsequent monthly payments of \$187.50 due and payable on or before the 25<sup>th</sup> day of each month thereafter; and

IT IS FURTHER ORDERED AND AGREED, that the signed Consent Order together with Respondents' initial payment of \$500.00 by certified check, official bank check, or money order made payable to the "State of New Jersey, General Treasury" shall be remitted to:

Jeffrey S. Posta, Deputy Attorney General  
State of New Jersey, Division of Law  
R.J. Hughes Justice Complex  
25 Market Street  
P.O. Box 117  
Trenton, New Jersey 08625-0117

and

IT IS FURTHER ORDERED AND AGREED, that the twenty-four (24) subsequent monthly installment payments of \$187.50 due and payable on or before the 25<sup>th</sup> day of each month thereafter shall be remitted to the Department of Banking and Insurance by certified check, official bank check, or money order made payable to the "State of New Jersey, General Treasury" and sent to:

Rose V. McGill  
Collections Department  
New Jersey Department of Banking and Insurance  
20 West State Street, 10th Floor  
P.O. Box 325  
Trenton, New Jersey 08625


and

IT IS FURTHER ORDERED AND AGREED, that in the event that full payment of the civil penalty is not made in accordance with this Consent Order, the Commissioner may exercise any and all remedies available by law, including, but not limited to, recovery of any unpaid penalty in a summary proceeding, pursuant to the Penalty Enforcement Law of 1999, N.J.S.A. 2A:58-10 to -12; and

IT IS FURTHER ORDERED AND AGREED, that the civil penalty imposed herein is 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 that may be limited or discharged in a bankruptcy proceeding; and

IT IS FURTHER ORDERED AND AGREED, that the provisions of this Consent Order represent a final agency decision and constitute final resolution of the violations contained in Order No. E18-22 and this Consent Order; and

IT IS FURTHER ORDERED AND AGREED, that Respondents shall cease and desist from engaging in the conduct that gave rise to Order No. E18-22 and this Consent Order.

  
\_\_\_\_\_  
Marlene Caride  
Commissioner

**Consented to as to Form, Content and Entry:**

  
\_\_\_\_\_  
Sherrida Octavia McDonald, Individually


Date: 6/20/19, 2019

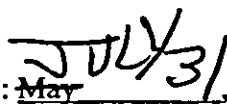
Octavia Global Investment, LLC

By:   
\_\_\_\_\_  
Sherrica Octavia McDonald, Owner

Date: 6/20/19, 2019

GURBIR S. GREWAL  
ATTORNEY GENERAL OF NEW JERSEY  
Attorney for the New Jersey  
Department of Banking and Insurance

By:   
\_\_\_\_\_  
Jeffrey S. Posta  
Deputy Attorney General

Date: ~~May~~ , 2019