

**STATE OF NEW HAMPSHIRE
INSURANCE DEPARTMENT**

In re: James E. Knee

Docket No.: INS No. 19-020-EP

**ORDER TO SHOW CAUSE
AND
NOTICE OF HEARING**

The New Hampshire Insurance Department (“NHID”) orders James E. Knee (“Respondent”) to show cause why the New Hampshire Insurance Commissioner should not revoke his New Hampshire insurance producer license and levy an administrative fine in the maximum amount allowed by law. In support of the Order to Show Cause and pursuant to RSA 541-A:31, RSA 400-A:17 and Ins Part 200, the NHID states as follows:

STATEMENT OF FACTS

1. The Respondent is a former resident New Hampshire insurance producer licensed to sell Life, Accident & Health and Variable Contracts insurance products. He was first licensed on August 30, 2004 and continued to be licensed with the NHID until August 31, 2016 when his license expired for non-renewal.
2. On August 29, 2016, the New Hampshire Bureau of Securities issued an Interim Consent Order as a result of an investigation in which it was alleged that Mr. Knee stole money from an elderly client.
3. On April 27, 2018 the Respondent was indicted by the Merrimack County Superior Court Grand Jury for the following eleven felony offenses:
 - a. Theft by Misapplication occurring between September 2, 2014 and July 27, 2016;

- b. Investment Advisor Fraud occurring between September 2, 2014 and December 23, 2015;
 - c. Investment Advisor Fraud occurring between January 12, 2016 and July 27, 2016;
 - d. Financial Exploitation of an Elderly Adult occurring between January 12, 2016 and July 27, 2016;
 - e. Theft by Deception occurring on August 4, 2016;
 - f. Theft by Deception occurring on August 8, 2016;
 - g. Theft by Deception occurring on August 15, 2016;
 - h. Violation of a Cease & Desist Order between August 29, 2016 and October 2017;
 - i. Perjury on September 2, 2016;
 - j. Witness Tampering between July 1, 2017 and October 31, 2017;
and
 - k. Witness Tampering between July 1, 2017 and October 31, 2017.
4. The crimes alleged in the indictments involved Mr. Knee's relationship with an elderly investment client, "Investor A," and a subsequent investigation conducted the New Hampshire Securities Regulation Bureau.
5. All conduct alleged within subparagraphs 3 a-g, above, occurred during the period of time in which Mr. Knee's New Hampshire insurance producer was active.
6. On July 24, 2019, the Respondent pled guilty to three of the above indictments: Financial Exploitation of an Elderly Adult from January 12, 2016 through July 27, 2016, Perjury and Witness Tampering.

7. On August 29, 2019, the Respondent was sentenced to the New Hampshire State Prison to serve a 4-10 year state prison sentence.
8. NH RSA 402-J:12 provides that specific misconduct enumerated under sections I (a) through (m) are grounds to deny an initial application for licensure and are grounds for suspension or revocation of an already issued license.
9. The statute goes on to specifically provide at NH RSA 402-J:12, V that, “(t)he commissioner shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by this chapter and title XXXVII against any person who is under investigation for or charged with a violation of this chapter or title XXXVII even if such person's license or registration has been surrendered or has lapsed by operation of law.”.
10. Thus, the statute works to prevent a licensee from escaping administrative action because either the misconduct is not discovered prior to lapse or surrender, or the investigation and administrative action cannot be completed during the time the license was active.

STATEMENT OF ISSUES

11. Whether the Respondent demonstrated untrustworthiness or used dishonesty or both in the conduct of business in New Hampshire in violation of RSA 402-J, I (h), by pleading guilty to the crime of Financial Exploitation in which he admitted to taking money from an elderly client.
12. Whether the Respondent has admitted or been found to have committed fraud by pleading guilty the crime of Financial Exploitation of an Elderly Adult, in which he admitted to using a scheme or course of conduct to deprive an elderly client of money, without the client's authorization, in violation of RSA 402-J, I (g).

13. Whether the Respondent, having been convicted of a felony for which the acts supporting the conviction occurred during the period of his licensure, violated RSA 402-J, I (f).
14. The NHID reserves the right to amend this statement of issues upon reasonable notice to the Commissioner (or his designated Representative) and the Respondent.

NEW HAMPSHIRE INSURANCE LAWS VIOLATED BY RESPONDENT

15. The NHID maintains the Respondent violated the following New Hampshire insurance law statutes: RSA 402-J:12, I (f); RSA 402-J:12, I (g) and RSA 402-J:12, I (h)
16. The NHID reserves the right to amend this list of insurance laws violated by the Respondent upon reasonable notice to the Commissioner (or his designated Representative) and the Respondent.

PENALTY REQUESTED

17. In the event the Hearing Officer determines after evidentiary hearing that the NHID sustained its burden of proof with respect to the allegations of fact and violations of law outlined above, the NHID requests that the Hearing Officer impose the following sanctions on the Respondent:
 - a. Pursuant to RSA 402-J:12, I and RSA 400-A:15, III, order the permanent revocation of the Respondent's New Hampshire insurance producer license.


NOTICE OF HEARING

- A. Pursuant to RSA 541-A:31 and Ins Part 200, the hearing in this matter shall commence on October 15, 2019 at 10:30 a.m. at the offices of the New Hampshire Insurance Department, 21 South Fruit Street, Suite 14, Concord, New Hampshire.
- B. Michelle Heaton Esq. shall preside as the Hearing Officer in this matter.
- C. Sandra Barlow shall serve as clerk to the Hearing Officer. The parties should direct all communications to Ms. Barlow, whose contact information is:
- Sandra Barlow, Clerk
New Hampshire Insurance Department
21 South Fruit Street, Suite 14
Concord, NH 03301
Tel: (603) 271-2261
Fax: (603)271-1406
Email: sandra.barlow@ins.nh.gov
- D. The Respondent has the right to be represented by a lawyer in this proceeding. However, the Respondent shall bear the cost of retaining said lawyer. Should the Respondent elect to retain a lawyer, his lawyer shall file a Notice of Appearance with Ms. Barlow, and said lawyer should do so at the earliest possible date. A copy of the NHID's Notice of Appearance form is enclosed with this Order.
- E. Any party may request a transcript of the proceeding. The party requesting a transcript of the proceedings shall file a written request for a certified court reporter with the Hearing Officer at least 10 days prior to the scheduled hearing date. The costs incurred for the services of a certified court reporter shall be borne by the requesting party.
- F. Mary C. Bleier, Esq. shall serve as staff advocates representing the interests of the NHID.

It is **SO ORDERED**.

NEW HAMPSHIRE INSURANCE DEPARTMENT

Date: 9/5/19



John Elias, Insurance Commissioner

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing Order to Show Cause and Notice of Hearing was sent this date by first-class mail, postage prepaid, and by certified mail, return receipt requested, to James E. Knee 4 Jones Ave. Bow, NH 03304 this being his last mailing address on file with the Department.

Date: 9/5/19



Mary C. Bleier, Esq.