



**The State of New Hampshire
Insurance Department**

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Alexander K. Feldvebel
Acting Commissioner

State of New Hampshire
Insurance Department

In re John Lord

Docket No.: 19-017-EP

FINAL DECISION and ORDER

Pursuant to the provisions of Ins 204.26(a)(4), the Proposed Decision and Order issued on December 4, 2019, by Hearing Officer Michelle Heaton is hereby ACCEPTED as a FINAL DECISION and ORDER, with the following MODIFICATIONS:

1. In Section II (Findings of Fact), page 4, footnote 24, footnote 24 is modified to read as follows:

Ex. 1, p. 4.
2. On page 5, at the beginning of Section III, Legal Analysis and Discussion, four (4) paragraphs are inserted into that section *before* the paragraph that begins, "As an insurance producer, Respondent is bound by the provisions of RSA 402-J." Those four (4) paragraphs shall read as follows:

Although the Respondent did not attend his hearing on November 5, 2019, the validity of a hearing held in accordance with the Department's notice requirements shall not be affected by the failure of a person to attend a hearing. See RSA 400-A:19, VII. As discussed in Appeal of City of Concord, a government body may provide notice by first class mail without violating due process rights of interested parties and such notice is presumed to have been received by those interested parties. See Appeal of City of Concord, 161 N.H. 169, 173-174 (2010). Exhibits 1-3 support the Department's position that notice requirements were satisfied. As such, the validity of the Respondent's hearing is not affected by his failure to appear. See RSA 400-A:19, VII.

In hearings where the Department seeks to revoke an insurance producer's license, as here, the Department bears the initial burden of going forward. To meet its burden, the Department must establish a prima facie case with evidence for each violation. See Ins. 204:05 (b). The Respondent then bears the burden of persuasion to present evidence that the Department's position should not be upheld. See id.

The standard of proof for both the Department and the Respondent is proof by a "preponderance of the evidence," which means that what is sought to be proved by the evidence is more probable than not. Ins. 204:05 (a); (c).

The Respondent did not appear at his hearing and no one appeared on his behalf. As such, there is no evidence or argument presented in the record to dispute the Department's evidence.

3. Respondent's New Hampshire insurance producer license is permanently revoked. This is the final action of the Department. You have the right to appeal by requesting reconsideration of this final action within 30 days in accordance with RSA 541.

SO ORDERED.

1/30/2020
Date

Alexander K. Feldvebel
Alex Feldvebel, Acting Commissioner



THE STATE OF NEW HAMPSHIRE
INSURANCE DEPARTMENT

21 SOUTH FRUIT STREET SUITE 14
CONCORD, NEW HAMPSHIRE 03301

John Elias
Commissioner

Alexander K. Feldvebel
Deputy Commissioner

December 4, 2019

John Elias
Commissioner
New Hampshire Insurance Department
21 South Fruit Street, Suite 14
Concord, NH 03301

Re: John Lord
Docket No.: 19-017-EP

Dear Commissioner Elias,

Please find enclosed my Proposed Decision and Order in the above referenced matter in accordance with Ins 204.26 (a)(1).

Sincerely,

A handwritten signature in cursive script that reads "Michelle Heaton".

Michelle Heaton, Esq.

Enclosure

Copy to: Mary Bleier, Esq.
John Lord

THE STATE OF NEW HAMPSHIRE
INSURANCE DEPARTMENT

In re: John Lord

Docket No.: 19-017-EP

PROPOSED DECISION AND ORDER

Appearance for Petitioner:

No Appearance

Appearance for Department:

Mary Bleier, Esq.
Enforcement Counsel
NH Insurance Department

Hearing Officer:

Michelle Heaton, Esq.
Administrative Hearings Judge
NH Insurance Department

I. Background

John Lord (“Respondent”) is a licensed non-resident insurance producer licensed to sell life, accident, and health or sickness insurance products.¹ The Insurance Department (“Department”) first issued Respondent a license in New Hampshire on May 4, 2018, and his current license expires on May 31, 2020.² On August 8, 2019, the Department issued an Order to Show Cause and Notice of Hearing (“Notice of Hearing”) to Respondent in accordance with RSA 400-A:17, II(a) and 402-J:12, III.³ In the Notice of Hearing, the Department alleged that on June 29, 2018, and November 9, 2018, Respondent was denied a non-resident producer license in

¹ Ex. 3.

² *Id.*

³ Ex. 1.

South Dakota and Indiana respectively.⁴ Respondent's non-resident producer license was revoked in Louisiana on January 17, 2019, and in Washington on May 7, 2019.⁵ It is alleged that Respondent failed to report these administrative actions within the required time period and failed to respond to the Department's request to provide additional information.⁶ The Department sought revocation of Respondent's non-resident insurance producer license and imposition of an administrative fine not to exceed \$2,500 per violation.⁷

On September 23, 2019, the hearing scheduled for September 24, 2019, was continued until November 5, 2019, at the request of Respondent in order to allow settlement negotiations. No settlement was reached and a hearing was held at the Department on November 5, 2019. Respondent was not present for the hearing. Enforcement Counsel provided an offer of proof and submitted the following exhibits:

Department's Exhibits:

- Exhibit 1 – Order to Show Cause with cover letter
- Exhibit 2 – Notice Information
- Exhibit 3 – NH Licensing Information
- Exhibit 4 – South Dakota Denial
- Exhibit 5 – Indiana Order
- Exhibit 6 – Louisiana Order
- Exhibit 7 – Washington Order
- Exhibit 8 – RIRS Actions Summary
- Exhibit 9 – NHID First Request for Information with Email
- Exhibit 10 – NHID Second Request for Information with Email

At the conclusion of the hearing, the record was held open until November 8, 2019, to allow either party to file additional documents, argument, or proposed findings. No further documents were received.

II. Findings of Fact

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

On June 29, 2018, the South Dakota Department of Labor and Regulation denied Respondent's non-resident insurance producer license application for providing false or misleading information in response to background questions.⁸ The denial letter from South Dakota informed Respondent that such a denial was an administrative action and may need to be reported to states in which he is licensed.⁹ Respondent notified the Department about the South Dakota action by uploading a copy of the South Dakota denial to the National Insurance Producer Registry ("NIPR") Attachment Warehouse on January 18, 2019.¹⁰

On November 9, 2018, the Indiana Commissioner of Insurance denied Respondent's non-resident insurance producer license application for providing incorrect, misleading, incomplete, or materially untrue information in a licensure application.¹¹ It was also determined that Respondent did not meet the licensure requirements in Indiana due to a 2007 misdemeanor theft conviction, the circumstances surrounding his disbarment from the practice of law in Ohio, and his failure to disclose the South Dakota denial of licensure.¹² Respondent failed to report this action to the Department and did not upload a copy to the NIPR Attachment Warehouse.

On January 17, 2019, the Louisiana Department of Insurance revoked Respondent's non-resident producer license.¹³ This action was a result of Respondent's denial of license in South Dakota and his failure to disclose criminal and administrative actions on his producer application.¹⁴ Respondent also failed to submit responses to two requests from the Louisiana Department of Insurance to provide an explanation regarding his failure to disclose the actions

⁸ Ex. 4, p. 21.

⁹ *Id.*

¹⁰ Ex. 4, p. 20.

¹¹ Ex. 5, p. 23.

¹² *Id.*

¹³ Ex. 6.

¹⁴ Ex. 6, p. 26.

on his application.¹⁵ In the Notice of Revocation Order, Respondent was advised that the order constituted an administrative action that may need to be reported to states in which he is licensed.¹⁶ Respondent failed to report this action to the Department and did not upload a copy to the NIPR Attachment Warehouse.¹⁷

On May 7, 2019, the Washington Office of the Insurance Commissioner revoked Respondent's non-resident producer license for failing to report the Louisiana action and failing to provide a timely response to an inquiry from the Insurance Commissioner.¹⁸ Respondent failed to report this action to the Department and did not upload a copy to the NIPR Attachment Warehouse.¹⁹

On June 27, 2019, the Department sent Respondent a letter by U.S. Postal Service and email directing Respondent to provide an explanation regarding his failure to report the administrative actions in South Dakota, Indiana, Louisiana, and Washington.²⁰ The Department requested Respondent submit a response no later than July 10, 2019.²¹ Respondent failed to submit a response by the required deadline.²² The Department sent Respondent a second letter by U.S. Postal Service and email on July 23, 2019, again directing Respondent submit a response by August 7, 2019.²³ Respondent failed to submit a response by the required deadline.²⁴

III. Legal Analysis and Discussion

¹⁵ *Id.* at 25.

¹⁶ *Id.* at 26.

¹⁷ Ex. 4, p. 19.

¹⁸ Ex. 7.

¹⁹ Ex. 4, p. 19.

²⁰ Ex. 9.

²¹ Ex. 9, p. 38A.

²² Ex. 10.

²³ *Id.*

²⁴

As an insurance producer, Respondent is bound by the provisions of RSA 402-J.²⁵ RSA 402-J:12 allows the commissioner to impose a penalty against a producer for “violating any insurance laws, or violating any rule, regulation, subpoena, or order of the commissioner or of another state's insurance commissioner.”²⁶ “Having an insurance producer license, or its equivalent, denied, suspended, or revoked in any other state.” is also a violation that could lead to regulatory action by the commissioner.²⁷ South Dakota, Indiana, Louisiana, and Washington each denied or revoked Respondent's producer license after finding that Respondent violated insurance laws in each respective state. Each of the denials and revocations constitutes a violation of RSA 402-J:12, I(i) and each of the underlying violations leading to the denial or revocation constitutes a violation of RSA 402-J:12, I(b).

Producers are required to report to the Department any administrative action taken against the producer in any jurisdiction within 30 days of the final disposition.²⁸ Respondent failed to report to the Department the administrative actions taken against him in Indiana, Louisiana, and Washington in violation of RSA 402-J:12, I(b) and 402-J-17, I. Respondent waited more than six months before reporting the administrative action taken by South Dakota. Therefore, Respondent failed to report to the Department the administrative action taken against him by South Dakota within 30 days in violation of RSA 402-J:12, I(b) and 402-J:17, I.

Individuals subject to the authority of the commissioner are required to respond within 10 working days to a request from the commissioner.²⁹ Respondent violated RSA 400-A:16, II and

²⁵ RSA 402-J:1.

²⁶ RSA 402-J:12, I(b).

²⁷ RSA 402-J:12, I(i).

²⁸ RSA 402-J:17, I.

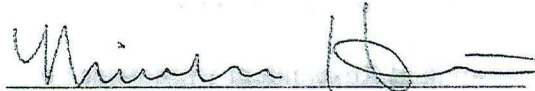
²⁹ RSA 400-A:16, II.

RSA 402-J:12, I(b) by failing to respond to the Department's request for a response each time he failed to submit his response by the required deadline.

IV: Conclusion

Based on the foregoing, I propose that Respondent's producer license be PERMANENTLY REVOKED as a result of each of the violations as specified above.

Date: 12/4/19


Michelle Heaton, Hearing Officer