

**STATE OF NEW HAMPSHIRE
INSURANCE DEPARTMENT**

In Re: Michael A. Mandravelis

Docket No.: INS No. 08-061-EP

Order to Show Cause and Notice of Hearing

Pursuant to New Hampshire Revised Statutes (“RSA”) 400-A:17, Michael A.

Mandravelis (“Respondent”) is hereby notified that a hearing will be conducted on June 15, 2009 at 10:00 a.m. in the offices of the New Hampshire Insurance Department (“NHID”), 21 South Fruit Street, Suite 14, Concord, New Hampshire. This hearing is scheduled for purpose of giving the Respondent the opportunity to show cause why the Respondent should not have his producer license suspended, revoked and/or be administratively fined under RSA 417:10 and RSA 402-J:12. In support of this Order to Show Cause, the NHID alleges that:

1. In 2004, a New Hampshire consumer, Steve Ducharme d/b/a Finish One Carpentry (“Ducharme”) submitted a bid for certain work to a general contractor, Cobb Hill Construction. As a condition of Cobb Hill Construction’s acceptance of Ducharme’s bid, Ducharme was required to provide Cobb Hill Construction with a Certificate of Insurance demonstrating that Ducharme carried certain coverages, including workers compensation coverage.
2. Ducharme subsequently approached the Respondent about the insurance coverages required by Cobb Hill Construction. At all relevant times, the Respondent was a licensed New Hampshire insurance producer employed by The Bergeron Agency at the Agency’s office in York, Maine.
3. On August 12, 2004, the Respondent issued a Certificate of Insurance on Ducharme’s behalf indicating that Nationwide Insurance Company (“Nationwide”) was providing the workers compensation coverage required by Cobb Hill Construction.

4. On September 16, 2004, an employee of Ducharme's sustained serious personal injuries while working within the scope of his employment. However, when the injured employee's workers compensation claim was submitted to Nationwide, Nationwide denied the claim, asserting it had no record of any workers compensation policy ever being purchased by or issued to Ducharme.

5. As it turned out, although the Respondent had issued a Certificate of Insurance indicating Nationwide was providing workers compensation coverage for Ducharme, the Respondent had failed to take any steps whatsoever toward actually securing workers compensation insurance coverage for Ducharme.

6. As a result of the Respondent's failure to obtain workers compensation coverage for Ducharme, the New Hampshire Department of Labor later ordered Ducharme personally to pay his injured employee's workers compensation indemnity and medical benefits.¹

7. RSA 417:3 provides that: "*No person shall engage in this state in any trade practice which is defined in this chapter or determined pursuant to this chapter as an unfair method of competition or an unfair or deceptive act or practice in the business of insurance.*"

8. RSA 417:4, III (a) provides that:

Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to any insurer, its financial condition, or the terms of any contracts issued or to be issued or the benefits or advantages promised thereby, or the dividends or share of the surplus to be received thereon or with respect to any person in the conduct of such person's insurance business, which is untrue, incomplete, deceptive or misleading.

9. RSA 417:4, II (b) provides that:

¹ Ducharme subsequently brought suit against The Bergeron Agency in Superior Court alleging, in essence, that it had negligently failed to secure the workers compensation coverage. The Agency's errors and omission carrier eventually settled the claims against the Agency for \$50,000.

The burden of establishing truth and completeness shall be on the person making, publishing, circulating or placing said advertisement, announcement, or statement before the public.

10. RSA 417:10, I provides, in pertinent part, that the Commissioner “*may suspend, revoke or refuse to renew the license*” of any person or entity who violates RSA 417:3. RSA 417:10 further provides that the Commissioner may impose “*an administrative penalty of not more than \$2,500 for each method of competition, act, or practice found to be in violation of RSA 417:3.*”

11. RSA 471:10, II provides, in pertinent part that “[i]n lieu of the monetary penalties provided for under paragraph I, the commissioner . . . may order relief for the actual economic losses to restore in whole or in part, any individual consumer . . . in interest to the position that the consumer formerly occupied either by the return of that which the consumer formerly had or receipt of its equivalent.”

12. RSA 402-J:12, I provides, in pertinent part, that:

I. The commissioner may place on probation, suspend, revoke, or refuse to issue or renew an insurance producer's license, or may levy a penalty in accordance with RSA 400-A:15, III or any combination of actions for any one or more of the following causes:

* * *

(b) Violating any insurance laws, or violating any rule, regulation, subpoena, or order of the commissioner or of another state's insurance commissioner.

* * *

(h) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere.

13. The Respondent violated the insurance laws cited above by knowingly issuing, or causing to be issued, a Certificate of Insurance indicating that Nationwide was providing workers compensation coverage for Ducharme when, in reality, the Respondent had failed to obtain workers compensation insurance coverage for Ducharme.

14. The Respondent has the right to be represented by counsel at his expense. Should the Respondent elect to obtain counsel, Respondent's counsel shall file a notice of appearance with the Hearing Officer at the earliest possible date.

15. Any party may request a transcript of the proceeding. The costs incurred for the services of a certified court reporter shall be borne by the requesting party. 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.

16. As provided under Ins 202.01, the Commissioner shall appoint the Hearing Officer. The Hearing Officer shall issue a decision in this matter in accordance with Ins 204.27.

17. Richard P. McCaffrey, Compliance and Enforcement Counsel, shall appear as staff advocate, representing the interests of the NHID pursuant to Ins 203.06. The contact information for the Department is:

New Hampshire Insurance Department
21 South Fruit Street, Suite 14
Concord, NH 03301
271-7973

18. These proceedings shall be conducted in accordance with the provisions of RSA 541-A and Ins 200. Copies of Department rules may be obtained through the Department's website, www.state.nh.us/insurance.

NEW HAMPSHIRE INSURANCE DEPARTMENT

Date: 3-10-09


By: Roger Sevigny, Insurance Commissioner