

**State of New Hampshire
Insurance Department**

In Re: Josephine D. Rich

Docket No. Ins. 10-035-EP

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

Pursuant to New Hampshire Revised Statutes Annotated (“RSA”) 400-A-17, Josephine D. Rich (“Respondent”) is hereby notified that a hearing will be conducted on December 7, 2010 at 9:00am in the offices of the New Hampshire Insurance Department (“NHID”), 21 South Fruit Street, Suite 14, Concord, New Hampshire. This hearing is scheduled to show cause why the New Hampshire Insurance Commissioner should not revoke the Respondent’s insurance producer license for failure to properly transmit client premium payments to the insurer in violation of RSA 402-J:12 I (h). In support of this Order to Show Cause and pursuant to RSA 541-A:31, the NHID states as follows:

1. The Respondent is a licensed New Hampshire insurance producer. At all relevant times, the Respondent was employed by the Everett B. Rich Agency (“Rich Agency”), which is located business at 181 Dorchester Road, Lyme Center, NH.
2. On July 21, 2008, Robert Green of Green Woodlands, LLC (“Woodlands”) contacted the Respondent to renew five commercial insurance policies for Woodlands with Harleysville Worcester Insurance Company (“Harleysville”). Mr. Green wrote a check payable to Harleysville and the Rich Agency in the amount of \$31,224, the total annual premium for the five policies. Mr. Green gave the \$31,224 check to the Respondent, and the Respondent deposited the check in the Rich Agency premium trust account.

3. In September 2008, Harleysville began sending billing invoices to Woodlands, advising that Woodlands owed Harleysville additional premiums for the five policies. Believing Woodlands had already fully paid the premiums for the five Harleysville policies, Mr. Green contacted the Respondent, who advised Mr. Green that Harleysville had sent the invoices in error and that Woodlands could ignore them.

4. However, in November 2008, Woodlands received cancellation notices from Harleysville for non-payment of premium. The notices stated the five policies would be cancelled on November 19, 2008 unless Woodlands paid the additional premiums.

5. On December 19, 2008, Mr. Green contacted the Rich Agency and asked to speak to the Respondent, who, Mr. Green was informed, was not in the office. In the Respondent's absence, Mr. Green spoke to a customer service representative who advised Mr. Green that in order to keep the Harleysville policies in force, Woodlands needed to remit an additional \$8,430 in premiums. Although he questioned the need for the additional premium, Mr. Green nevertheless sent the Rich Agency a check made payable to Rich Insurance in the amount of \$8,430, and the check was deposited in the Rich Agency premium trust account.

6. In subsequent conversations between the Respondent and Mr. Green, the Respondent informed Mr. Green that the customer service representative had been mistaken when she advised him that Woodlands owed Harleysville additional premiums. The Respondent also advised Mr. Green, although the Rich Agency had already transmitted the additional \$8,430 to Harleysville, Harleysville would refund the funds to Woodlands.

7. Despite the Respondent's assurances, Woodlands never received a premium refund. Instead, Mr. Green discovered that Harleystown had cancelled Woodlands' five policies on November 19, 2008 for non-payment of premium. Mr. Green also discovered that, contrary to the Respondent's representation the Rich Agency had transmitted the \$8,430 in additional premium to Harleystown, neither the Rich Agency nor the Respondent had sent that premium payment to Harleystown.

8. In fact, the Respondent has admitted she used all or most of Mr. Green's premium payments to pay personal expenses.

9. As a result of the above conduct, the NHID maintains that Respondent violated New Hampshire's insurance statutes and rules, including RSA 402-J:12 I (h).

10. Pursuant to RSA 400-A:15, III, the NHID requests that the Respondent have her license revoked and she receive a fine of not less than \$5,000.

11. The Commissioner of Insurance or his representative shall act as Hearing Officer at the hearing.

12. Respondent has the right to be represented by counsel at her expense. Should the Respondent elect to obtain counsel, Respondent's counsel shall file a notice of appearance with the Commissioner at the earliest possible date.

13. 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.

14. John Talley shall appear as staff advocate representing the interests of the NHID.

IT IS SO ORDERED.

NEW HAMPSHIRE INSURANCE DEPARTMENT

Dated: 10/18/10

Alexander R. Felchler, Deputy Commissioner, for
Roger Sevigny, Commissioner