

THE STATE OF NEW HAMPSHIRE
NH INSURANCE DEPARTMENT

SUPREME COURT 2012 DEC -3 PM 2:11

In Case No. 2012-0253, Appeal of Thomas F. DeSteph, the court on December 3, 2012, issued the following order:

Having reviewed the parties' briefs and the record submitted on appeal, we conclude that a formal written opinion is unnecessary in this case. The respondent, Thomas F. DeSteph, appeals a decision of the petitioner, the Commissioner of the New Hampshire Department of Insurance, to revoke his insurance producer's license pursuant to RSA 402-J:12, I(h) (2006). We affirm.

On appeal, the respondent has fully briefed three arguments: (1) the petitioner erred when he relied upon facts found by the bankruptcy court in the respondent's bankruptcy proceeding and gave those facts collateral estoppel effect; (2) the petitioner acted unreasonably when he revoked the respondent's license given that he has no criminal record and has an otherwise unblemished professional record; and (3) the statute under which the respondent's license was revoked is unconstitutional. We deem the respondent's remaining arguments, including his assertion that revocation of his license violated certain constitutional provisions, insufficiently developed for our review. See Sabinson v. Trustees of Dartmouth College, 160 N.H. 452, 459 (2010); Keenan v. Fearon, 130 N.H. 494, 499 (1988) ("off-hand invocations" of constitutional rights supported by neither argument nor authority warrant no extended consideration).

Of the three arguments that the respondent has fully briefed, only the second is preserved for our review. The other two arguments are not preserved for our review because the respondent did not include them in his motion for rehearing. See RSA 541:4 (2007) (issues not raised on rehearing may not be raised on appeal); RSA 400-A:24 (2006) (RSA chapter 541 governs appeals from decisions of insurance department commissioner).

We review the petitioner's decision deferentially. See RSA 541:13 (2007). The petitioner's findings of fact are deemed prima facie lawful and reasonable. Id. To prevail in this appeal, the respondent must demonstrate that the petitioner's decision was "clearly unreasonable or unlawful." Id. We will not set aside the decision on appeal except for errors of law or if we are satisfied "by a clear preponderance of the evidence" that it "is unjust or unreasonable." Id. When, as in this case, we lack a transcript, we must assume that the evidence was sufficient to support the result reached. See Bean v. Red Oak Prop. Mgmt.,

151 N.H. 248, 250 (2004); Sup. Ct. R. 10(2). In light of the evidence that the respondent defrauded a client of more than \$100,000, we are not persuaded that the decision to revoke the respondent's license was unjust or unreasonable.

Affirmed.

Dalianis, C.J., and Hicks, Conboy, Lynn, and Bassett, JJ., concurred.

**Eileen Fox,
Clerk**

Distribution:

New Hampshire Insurance Department, INS 11-023-EP

Mr. Thomas DeSteph

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File