



**The State of New Hampshire
Insurance Department**

21 South Fruit Street, Suite 14
Concord, NH 03301

**David J. Bettencourt
Commissioner**

**Keith E. Nyhan
Deputy Commissioner**

January 31, 2024

VIA EMAIL: diann.pruitt@y2yc.com; ryan.rush@y2yc.com

VIA FIRST-CLASS & CERTIFIED MAIL: 7011 2000 0001 8842 8244

Merit Administration, LLC
100 Mall Parkway, Suite 101
Wentzville, MO 63385

Re: Order to Show Cause & Notice of Hearing, Docket No.: INS No. 24-008-EP

Dear Merit Administration, LLC.,

Enclosed please find an Order to Show Cause and Notice of Hearing issued by Commissioner D.J. Bettencourt.

A hearing in this matter has been scheduled on March 14, 2024 at 1:30 PM at the New Hampshire Insurance Department located at 21 South Fruit Street, Suite 14, Concord, NH. You may find driving directions and additional information on our website at <http://www.nh.gov/insurance>

Sincerely,

A handwritten signature in blue ink, appearing to read "Joshua S. Hilliard".

Joshua S. Hilliard, Esq.
Compliance and Enforcement Counsel
New Hampshire Insurance Department
Telephone: (603) 271-2482
Email: joshua.s.hilliard@ins.nh.gov

STATE OF NEW HAMPSHIRE INSURANCE DEPARTMENT

In Re: Merit Administration, LLC
Docket No.: Ins. No. 24-008-EP

ORDER TO SHOW CAUSE AND NOTICE OF HEARING

The New Hampshire Insurance Department ("NHID") orders Merit Administration, LLC ("Respondent") to show cause why the New Hampshire Insurance Commissioner should not levy an administrative fine against it, revoke its consumer guaranty registration, and order Respondent to cease and desist from further consumer guaranty contract operations in this state. In support of the Order to Show Cause and pursuant to RSA 541-A:31, RSA 400-A:17 *et seq.* and Ins Chapter 200, the NHID states as follows:

STATEMENT OF FACTS

1. Respondent is a Missouri based consumer guaranty contract obligor registered with the NHID to do business in NH.
2. In late 2023, the NHID received a consumer complaint about a mailer that consumer received. That mailer stated that it was "EXTREMELY URGENT AND TIME SENSITIVE", and that previously the company had "spoke with you regarding the activation" of a vehicle protection plan "in order to guarantee" the vehicle's "continued safe operation."
3. Though unbranded, investigators at the NHID were able to identify the telephone number provided as that belonging to the Respondent.
4. On or about November 30, 2023, the NHID sent a request via e-mail pursuant to NH RSA 400-A:16 to Respondent requesting information related to the mailer and its business. Respondent did not respond to that request.
5. On or about December 29, 2023, the NHID sent a request via e-mail and mail pursuant to NH RSA 400-A:16 to Respondent requesting information related to the mailer and its business. Respondent did not respond to that request.
6. To date, Respondent has not provided a response to either request by the NHID.

STATEMENT OF ISSUES

7. Whether Respondent violated NH RSA 415-C:7 I (a) by making, publishing, printing, distributing, issuing, circulating, advertising or placing before the public a statement or representation that is false or misleading.
8. Whether Respondent violated NH RSA 415-C:7 I (b) by misleading by permitting or causing the omission of a material statement that under the circumstances should have been made in order to make the statements that were made not misleading.
9. Whether Respondent violated NH RSA 415-C:7 I (d) by creating or maintaining a fraud.
10. Whether Respondent violated NH RSA 400-A:16, II by failing to respond within 10 working days to the NHID's November 30, 2023, request.
11. Whether Respondent violated NH RSA 400-A:16, II by failing to respond within 10 working days to the NHID's December 29, 2023, request.
12. The NHID reserves the right to amend this statement of issues upon reasonable notice to the Commissioner (or his designated Representative) and the Respondent.

INSURANCE LAWS VIOLATED BY RESPONDENT

13. The NHID maintains the Respondent violated the following New Hampshire insurance law statutes: NH RSA 415-C I (a), (b) and (d), NH RSA 400-A:16, II.
14. 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

15. In the event that the Hearing Officer determines after an 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. Order Respondent to pay a penalty of \$35,000;
 - b. Order that Respondent's registration be revoked; and

- c. Order Respondent to cease and desist from further consumer guaranty contract operations in this state.
16. The NHID reserves the right to amend penalty requested upon reasonable notice to the Commissioner (or his designated Representative) and the Respondent.

NOTICE OF HEARING

17. An adjudicatory proceeding shall be commenced for the purpose of resolving the issues articulated above pursuant to RSA 541-A:31, RSA 400-A:17, *et seq.*, and Ins 200. To the extent that the Department's rules do not address an issue of policy or procedures, the Department shall apply the N.H. Department of Justice Rules, Part 800.
18. The Respondent shall appear at Department on **March 14, 2024, at 1:30 PM** at the Department's office located at 21 South Fruit Street, Suite 14, in Concord New Hampshire to participate in this adjudicatory proceeding and, if deemed appropriate, be subject to sanctions pursuant to RSA 400-A:15, III. Respondent's failure to appear at the time and place specified above may result in the hearing being held *in absentia* and sanctions may be imposed without further notice or an opportunity to be heard.
19. Steve M. Notinger, Esq. is appointed to act as Hearing Officer in this matter with all the authority within the scope of RSA 400-A:19 and Ins 203.01.
20. 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) 271-2033
Fax: (603) 271-1406
Email: sandra.l.barlow@ins.nh.gov

21. Respondent has the right to be represented by a lawyer in this proceeding. However, Respondent shall bear the cost of retaining said lawyer. Should Respondent elect to retain a lawyer, its 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.
22. 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.
23. Joshua Hilliard, Esq. shall serve as staff advocate representing the interests of the NHID.
24. All routine procedural inquiries may be made by contacting Sandra Barlow, Hearing Clerk, New Hampshire Insurance Department, 21 South Fruit Street, Suite 14, Concord NH 03301, (603) 271-2033, but that all other communications with the Hearing Officer and the Commissioner shall be in writing and filed as provided above. *Ex parte* communications are forbidden by statute and the Department's regulations.
25. A copy of this hearing notice shall be served upon Respondent by certified mail addressed to the mailing address on file with New Hampshire Insurance Department. *See*, RSA 400-A:14.

It is **SO ORDERED**.

NEW HAMPSHIRE INSURANCE DEPARTMENT

Date: _____

1/30/24



David J. Bettencourt
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 Respondent at 100 Mall Parkway, Suite 121 Wentzville, MO 63385 and diann.pruitt@y2yc.com, the mailing

and e-mail addresses the Respondent has on file with the NHID, as well as ryan.rush@y2yc.com, the registered agent for Respondent.

Date: 1/30/24



Joshua S. Hilliard, Esq.
Compliance & Enforcement Counsel

NEW HAMPSHIRE INSURANCE DEPARTMENT

ATTORNEY APPEARANCE or WITHDRAWAL

Docket No. (if known): _____

Respondent Name or Case Name: _____

☐ **APPEARANCE**

Please **ENTER** my appearance as
Counsel for _____

☐ I confirm that neither I nor any member of my
law firm have been retained by the Department
of Insurance or the Commissioner of Insurance.

☐ **WITHDRAWAL**

Please **WITHDRAW** my appearance as
Counsel for _____

☐ Notice of Withdrawal sent to my client on:
_____ at the following address:

I hereby certify that I provided a copy of this original request to the Department and a copy to all other
known parties to this matter in accordance with Ins 204.09.

Signed: _____

Name: _____ NH Bar #: _____

Firm Name: _____ Email: (see also below) _____

Physical Address: _____

Mailing Address (if different): _____

Phone: _____

Email Consent: ☐ By checking this box, I consent to delivery by email in accordance with Ins 204.09(c).
Please send communications and documents to the above email address.

Date: _____ **Signature:** _____

***If you do not consent to delivery by email, all communications will be sent to you by personal delivery
at your physical address or by United States Postal Service first class mail to your mailing address.***