

**STATE OF NEW HAMPSHIRE
INSURANCE DEPARTMENT**

In Re: Gregory Abreu

Docket No. 24-007-EP

PROPOSED DECISION AND ORDER

Appearance for Petitioner:

Joshua Hilliard, Esq.

Enforcement Counsel NH Insurance Department (the "NHID").

Appearance for Respondent:

Gregory Abreu ("Abreu").

Hearing Officer appointed by Commissioner:

Steven M. Notinger, Esq.

1. Summary

Abreu was an insurance producer in New Hampshire with National Producer License number 20261764. The NHID requests that Abreu's New Hampshire license not be renewed¹ and that he be fined: (1) under RSA 402-J:12, I(h) for engaging in "fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility" by

¹ The license is already expired.

electronically signing three applications for insurance on his own cell phone without the consent of the applicants; (2) Abreu also failed to respond to NHID requests for information under RSA 400-A:16, II and the NHID seeks fines for these alleged violations.

2. Procedural and Jurisdictional Background.

The NHID brought this enforcement action (the "Complaint") after receiving a referral from Americo Financial Life and Annuity Insurance Company ("Americo") on December 11, 2023. The NHID has the authority to pursue the Complaint pursuant to RSA 402-J:12, I, 400-A:15, III, 400-A:16, II, 541-A:31 and Ins 200 et seq. "The Commissioner may place on probation, suspend, revoke, or refuse to issue or renew an insurance producer's license, and may levy an administrative fine not to exceed \$2,500 per violation, in accordance with RSA 400-A:15, III" against any producer that violates the provisions of RSA 402-J:12, I. There are also two claims for penalties for failure to respond to an NHID written request for information under RSA 400-A:16, II.

An evidentiary hearing was held on March 5, 2024, in front of Steven M. Notinger, Administrative Hearings Officer. The

NHID appeared and offered the testimony of several witnesses.

Abreu appeared as well.

The following exhibits were admitted into evidence at the hearing:

Ex no.

1. Order to Show Cause and Notice of Hearing ("Show Cause Order")
2. Service of Notice Information
3. NHID Licensing Demographics
4. December 11, 2023, report from insurance carrier, Americo
5. December 18, 2023, NHID email to Respondent
6. December 18, 2023, NHID Information Request to Respondent
7. January 4, 2024, NHID second email to Respondent
8. January 4, 2024, NHID second Information Request to Respondent

During the hearing, NHID presented the testimony of the following witnesses:

Sarah Prescott, Enforcement Paralegal for the NHID.
Steven Hittner, Regulatory Compliance Department,
Americo ("Hittner")

Abreu presented his own testimony both under oath and in argument.

3. Standard of Review.

The NHID has the burden of proof on all issues in this matter by a preponderance of the evidence. Ins 206.05.

4. Findings of Fact.

Abreu was a licensed broker until January 31, 2024, at which time his license expired. Exhibit 3, page 18. Abreu was an

agent for Americo. See Exhibit 4, page 22. Americo accepts electronic signatures for its products. See Testimony of Hittner. When an application is to be signed the software sends a text message to the phone number of the signatory. Id. On three different occasions Abreu signed Americo insurance contracts electronically through his own cell phone for customers without their consent. Testimony of Hittner, Exhibit 4, page 36, 37, 44, 53-55. Hittner testified that the phone numbers on pages 36, 37, 44, 53 and 54, which are electronic receipts for an insurance application signatures, matched Abreu's cell phone number. Testimony of Hittner, Exhibit 4. Hittner knows this fact because in Abreu's "Agency Application", Abreu wrote in his cell phone number, and it matches the number used for the electronic signature on the applications. Exhibit 4, page 25. Hittner said it was highly unusual for an agent to use his own phone number on applications. Testimony of Hittner.

Americo received an e-mail from a customer stating that they met with an agent but did not decide to purchase insurance. This e-mail was for one of the policies signed by Abreu through his cell phone. See Exhibit 4, page 55. Hittner opened a fraud investigation and tried to contact Abreu. Id. at 56. Hittner was unsuccessful contacting Abreu about the alleged

fraud. Testimony of Hittner. Americo terminated Abreu for his conduct. Id. at page 22.

The NHID was notified of the fraud inquiry and opened its own investigation. Both on December 18, 2023, and January 4, 2024, the NHID sent letters to Abreu at the address of record for him by e-mail and first-class mail. Testimony of Sarah Prescott; Exhibit 6, page 60; Exhibit 8, page 64. Id. Abreu did not respond to the letters. Exhibit 1, page 2.

The NHID issued a Show Cause Order dated January 31, 2024. Exhibit 1, page 1. In the Show Cause Order, the NHID requested revocation of Abreu's license and penalties. Id.

The hearing was scheduled for March 5, 2024. The hearing commenced without Abreu's presence. Then about 10 minutes later, Abreu appeared.

5. Analysis.

The NHID alleges that when Abreu signed policies from his own phone that were not authorized, he violated RSA 402-J:12, I(h). RSA 402-J:12, I(h) states "[u]sing fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility whether directly, as an individual, or through activities for an entity, in the conduct of any business activity, or fraud, misappropriation or conversion of

funds, misrepresentation or breach of fiduciary duty involving any activity in this state or elsewhere” is a violation of RSA 402-J:12, I. Any violation of RSA 402-J:12, I must be knowingly made. See RSA 400-A:15, III. Appeal of Metropolitan Property & Liab. Co., 120 N.H. 733, 735 (N.H. 1980). (The legal definition of knowingly is “that the acts complained of are done voluntarily rather than through mistake or inadvertence.”)

The best evidence that the acts in question were done voluntarily comes from Abreu himself. He stated several times at the hearing that what he did was wrong and that he takes full responsibility for it. Abreu Testimony (“I take full responsibility for the way I messed up.”) He admitted several times that he signed the contracts with his phone without consent and that he knew it was wrong. Abreu Testimony (“not saying its anyone else’s fault, it’s my fault.”) As for a motive, Abreu said he needed to pay the rent. Id. Abreu also said that he was just following instructions from his boss, which is not believable based upon the reaction of Americo to his conduct. Abreu’s actions at a minimum demonstrate incompetence and untrustworthiness. Abreu would not agree at the hearing that he committed fraud, but signing an insurance policy, with your own electronic signature when it is not authorized, is a voluntary act

that at a minimum demonstrates incompetence and untrustworthiness. RSA 402-J:12, I (h).

There is also evidence the signings were not authorized through the e mail reproduced in Exhibit 4, page 55 where a customer complained to Americo that he did not authorize the purchase of a life policy. This policy was electronically signed by Abreu on his phone without the customer's consent. Testimony of Hittner; Exhibit 4, page 55.

Americo also provided proof all three applications were signed through Abreu's phone. Exhibit 4, page 36, 37, 44, 53, 54. Based on this information, Hittner flagged the file for fraud. Exhibit 4, page 23 and Americo fired Abreu. Id. at page 22. With Abreu's statements and Hittner's evidence there is no factual dispute in this case. Abreu used his own phone to sign customers' applications for insurance without their consent and Abreu, through his own statements at the hearing, knew this was wrong. Testimony of Abreu. This is the essence of knowing untrustworthiness or incompetence. See RSA 402-J:12, I (h). Any contrary testimony of Abreu is not believable.

Abreu showed up at the hearing. He received at least the Show Cause Order. The Show Cause Order has the same address as the two letter inquiries from the NHID requesting

information dated December 18, 2023, and January 4, 2024, Exhibit 1, page 1; Exhibit 6, page 60; Exhibit 8, page 64, and the same e-mail address. It is highly likely Abreu received these letters and did not respond to them. He responded when a hearing was scheduled. It is more likely than not Abreu received the requests for information and ignored them.

6. Revocation and Penalties.

Abreu's license has expired. It expired on January 31, 2024. RSA 402-J:12, V states "[t]he commissioner shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by this chapter and title XXXVII against any person who is under investigation for or charged with a violation of this chapter or title XXXVII even if such person's license or registration has been surrendered or has lapsed by operation of law." Abreu's license is denied renewal for a period of 7 years, at which time he can re-apply as a producer².

As for the monetary penalty, the NHID requests \$500.00 for each violation (three violations of RSA 402-J:12, I (h) and


² Abreu agreed at the hearing that his license should be revoked. See Testimony of Abreu.

two violations of RSA 400-A:16, II.) This request seems appropriate. Abreu shall pay \$2,500.00 penalties for his actions.

All other requests for penalties are denied.

SO ORDERED,

3/27/24


Steven M. Notinger, Hearings
Officer