

**STATE OF NEW HAMPSHIRE  
INSURANCE DEPARTMENT**

**FINAL ORDER on HEARING**

**In Re: John W. Pribil**

**Docket No.: INS No. 14-020-EP**

Pursuant to the provisions of INS 204.26(a)(4), the Proposed Decision and Order for Default Judgment issued on **September 24, 2014** by **Hearing Officer James Fox**, in its entirety and without any modifications, is hereby **ACCEPTED** as a **FINAL ORDER** and DECISION.

This is the final action of the Department. You have the right to appeal by requesting reconsideration of this final action within 30 days in accordance with RSA 541.

**SO ORDERED.**

11-6-14  
Date

  
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Roger A. Sevigny, Commissioner

# THE STATE OF NEW HAMPSHIRE

## INSURANCE DEPARTMENT

In Re: John W. Pribil

14-020-EP

### PROPOSED DECISION AND ORDER

The New Hampshire Insurance Department (“the department”) issued a show cause order to John W. Pribil on July 11, 2014. Mr. Pribil was ordered to show cause why his New Hampshire non-resident insurance producer’s license should not be revoked. A hearing on this matter was held on August 13, 2014 and the record was left open until August 20, 2014 to permit the department time to submit requests for findings of fact and rulings of law.

The department alleges that Mr. Pribil violated: (a) RSA 402-J:12, I(h) when he used a deceased person’s social security number in connection with an appointment with Golden Rule Insurance Company; (b) RSA 402-J:12, I(i) by having his licensed revoked in ten states and suspended in Indiana; and (c) RSA 402-J:17, I by failing to timely notify the insurance department of the revocations and suspension.

As a preliminary matter, the hearing was conducted in Mr. Pribil’s absence because he did not appear even though he was properly noticed. More specifically, insurance department rules require that the delivery of all documents be made by personal delivery or by depositing a copy of the document, by first class mail, postage prepaid, in the United States mail, addressed to the party at the last address given to the department by the party. The show cause order was delivered by first class mail, postage prepaid, to 1890 NE 211<sup>th</sup> Terrace, Miami, Florida, which is the last address that the respondent gave to the insurance department. Mr. Pribil was, as such, on notice of the hearing through proper service. “The validity of any hearing held in accordance with the notice thereof . . . shall not be affected by the failure of any person to attend or remain in attendance.” RSA 400-A:19, VII.

**I. Factual Background.**

Mr. Pribil is a resident Florida insurance producer with a business address of 1890 NE 211<sup>TH</sup> TER, Miami Florida 33179-1527. Mr. Pribil holds a New Hampshire non-resident producer license, number 2060472. The license was issued by the insurance department on March 22, 2013 and it is set to expire on March 31, 2015.

**1. Respondent's Use of a Deceased Person's Social Security Number.**

On June 1, 2013, Mr. Pribil completed a Golden Rule Insurance Company prospective broker application. Golden Rule Insurance Company's investigations department opened an investigation into Mr. Pribil's application because it had come to the investigations department's attention that Mr. Pribil had previously submitted an employment application with a different social security number listed than the one he listed on the June 1, 2013 application. The social security number belonged to Heather Welch, a deceased woman.

The investigation included, among other things, a June 3, 2013 interview between David Grannan of Golden Rule Insurance Company and Mr. Pribil and a follow up interview on June 4, 2013. During the June 3, 2013 interview, Mr. Grannan stated that the application had "a social security number that [Mr. Grannan] could not associate with [Mr. Pribil]." Mr. Grannan asked Mr. Pribil where the number came from. Mr. Pribil stated that he had "made a mistake . . . ." Mr. Grannan alluded to the fact that it likely wasn't a mistake because the two numbers were "completely different. . . ." Mr. Pribil replied as follows.

I wasn't thinking, my . . . my brain just kind of checked out when I was doing that. So, I was probably doing ten different things at one time and just wasn't paying attention to what I was doing. That is, that is just . . . oh what is the word, um . . . incompetent or just ah, and you know, not paying attention.

Mr. Grannan then asked Mr. Pribil if he knew whose social security number was actually on the application. Mr. Pribil responded as follows.

Um, no, no I don't know. Obviously it is not mine (laughing). I did not do it intentional and it wasn't to try to, you know, mislead you

guys in any way shape or form, because I don't think I am in any type of bad standings with you guys, am I?

Mr. Grannan conducted a follow up interview with Mr. Pribil on June 4, 2013.

During this interview, Mr. Pribil offered a different explanation for the discrepancy as to the social security number listed on the application. Mr. Pribil stated :

Yea, hey listen, about what, what I talked to you about yesterday, I was just kind of embarrassed because I had paid somebody money to, you know, fix my credit and he told me that, you know, for \$400 more that he could get me an additional social and that was the reason why I ...I put it on the application. I was just kind of embarrassed to tell you.

Mr. Grannan then stated that the handwritten application "look[ed] like in the particular spot where it is asking for the social security number, it looks like there was something there before and somebody used some white out or correction fluid and gone through and removed the information and inputted the new information." Mr. Pribil evaded the question and ultimately stated as follows.

I may have but um, I just don't know that, I mean, the truth of what the social that was on there, the incorrect one, I you know, I was told that it was an alternative social that I could use for any type of, um, you know, credit purposes, so you know, that is why I put it on there not thinking it would cause any problems. I mean not really trying to, you know, do anything that was sneaky or anything like that. You know, I paid somebody money and was told that this was legal. But uh, you know, I found out from Fran in our licensing department that, you know, I had been scammed.

Mr. Pribil went on later in the interview to explain the person from whom he purchased the social security number had told him that it now actually somehow belonged to Mr. Pribil.

Mr. Pribil had a 2011 final judgment against him in favor of Plaintiff Capital One Bank NA in the amount of \$2,245.02 plus court costs. The judgment is signed by Mr. Pribil, the plaintiff's attorney, and a Miami, Dade County Judge.

## **2. Mr. Pribil's Prior Revocations and Suspensions.**

The department submitted several revocation orders: (1) Arkansas Insurance Commission revocation order dated December 3, 2013; (2) California Department

of Insurance revocation order dated 2014 (no month or day provided); (3) Illinois revocation order dated November 21, 2013; (4) Kansas Commissioner of Insurance revocation order dated August 27, 2013; (5) Kentucky Department of Insurance revocation order dated September 20, 2013; (6) Louisiana Department of Insurance revocation order dated February 14, 2014; (7) Maine Department of Professional and Financial Regulation, Bureau of Insurance revocation order dated January 10, 2014; (8) Nebraska Department of Insurance revocation order dated May 16, 2014; (9) Texas Commissioner of Insurance revocation order dated January 22, 2014; (10) West Virginia Insurance Commissioner revocation order dated January 24, 2014; and (11) Indiana Commissioner of Insurance suspension order dated May 28, 2014. The department submitted an affidavit by insurance department's supervisor of producer licensing, Joan LaCourse, in which she swears that Mr. Pribil never reported any of the above disciplinary actions to the insurance department.

## **II. Burden and Standard of Proof.**

### **A. Revocation and Suspension.**

The department bears the initial burden of going forward by establishing a prima facie case of a violation. The respondent then bears the burden of persuasion to present evidence that the department's position should not be upheld. The standard of proof for both the department and the respondent is proof by a preponderance of the evidence, which means that what is sought to be provided by the evidence is more probable than not.

### **B. Administrative Fines.**

The department bears the overall burden of proof. The standard of proof is, again as detailed in Section II(A), proof by a preponderance of the evidence.

## **III. Legal Analysis.**

### **A. RSA 402-J:12, I(h).**

RSA 402-J:12, I(h) provides that "[t]he 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: . . . [u]sing fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere.” *Id.*

The practice at issue is Mr. Pribil’s use of Ms. Welch’s social security number on a Golden Rule Insurance Company broker application. The hearings officer finds that Mr. Pribil’s use of Ms. Welch’s social security number constitutes a dishonest practice and that the use demonstrates that Mr. Pribil is untrustworthy. The use was no mistake and Mr. Pribil, as demonstrated by his evasive answers on two separate interviews, knew that it was improper to use a deceased person’s social security number or any other social security number as an “alternative” to his own number. Mr. Pribil further lied to the Golden Rule Insurance Company’s investigator regarding his knowledge of the social security number. His lie is further evidence of a lack of trustworthiness. Lastly, Mr. Pribil’s subsequent claim that he thought that the use of the social security number was permissible as a valid “alternative” social security number is not credible and amounts to yet another dishonest act that demonstrates a lack of trustworthiness. No person with sufficient intelligence to become an insurance producer would hold such beliefs regarding the use of social security numbers.

The record is, in fact, devoid of any evidence that would indicate that Mr. Pribil has ever taken real responsibility for the misuse of Ms. Welch’s social security number. The use of Ms. Welch’s social security number was obviously an ill-conceived attempt to avoid any ill effects from Mr. Pribil’s own history, such as the above detailed Florida default judgment.

Mr. Pribil’s initial decision to lie and to continue lying and change stories leads the hearings officer to the conclusion that the department has met its burden of going forward as to revocation. Mr. Pribil did not appear to rebut the department’s position. The department has further met its burden as to the fine issue and a fine is levied, based upon the above, in the amount of **\$2,000**.

Mr. Pribil’s non-resident’s producer’s license is permanently **REVOKED** to ensure that the public is protected.

**B. RSA 402-J:12, I(i).**

RSA 402-J:12, I(i) provides that “[t]he 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: . . . [h]aving an insurance producer license, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory.” *Id.*

Mr. Pribil has had producer licenses revoked in ten states and one producer license suspended in another state. The hearings officer finds and rules that the department has met its burden of going forward with respect to whether Mr. Pribil’s New Hampshire producer’s license should be **revoked** for eleven violations of RSA 402-J:12, I(i). Mr. Pribil, who did not appear, failed to meet his burden of persuasion. As a result of the RSA 402-J:17 ruling below and the intertwined nature of RSA 402-J:17, I and RSA 402-J:12, I(i), the hearings officer does not believe that an RSA 402-J:12, I(i) fine is warranted.

**C. RSA 402-J:17, I.**

402-J:17, I provides that “[a] producer shall report to the commissioner any administrative action taken against the producer in another jurisdiction or by another governmental agency in this state within 30 days of the final disposition of the matter. This report shall include a copy of the order, consent to order, or other relevant legal documents.” *Id.*

Mr. Pribil has had producer licenses revoked in ten states and one producer license suspended in another state. He failed to report any of these disciplinary actions to the insurance department at all. The hearings officer finds and rules that the department has met its burden of going forward that Mr. Pribil’s New Hampshire producer’s license should be **revoked** for eleven violations of RSA 402-J:17, I and Mr. Pribil, who did not appear, failed to meet his burden of persuasion. Mr. Pribil is fined \$100 for each RSA 402-J:17, I violation for total of **\$1,100**.

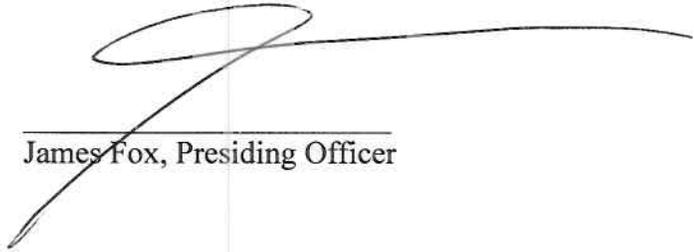
**D. Department's Requests for Findings of Fact and Rulings of Law.**

Granted: 1-21.  
Denied: None.

**E. Conclusion.**

Based upon the forgoing, the respondent's producer's license is permanently **REVOKED** for each of the above-detailed violations and a fine is levied in the total amount of \$3,100.

Dated: 9/24/14



James Fox, Presiding Officer