

**STATE OF NEW HAMPSHIRE  
INSURANCE DEPARTMENT**

**FINAL ORDER on HEARING**

**In Re: Paula S. Wilbanks**

**Docket No.: INS No. 14-024-EP**

I. Pursuant to the provisions of INS 204.26(a)(4), the Proposed Decision and Order for Default Judgment issued on **December 10, 2014** by **Hearing Officer James Fox**, in its entirety and without any modifications, is hereby ACCEPTED as a FINAL ORDER and DECISION.

II. 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.**

2-3-15  
Date

  
\_\_\_\_\_  
Roger A. Sevigny, Commissioner

# THE STATE OF NEW HAMPSHIRE

## INSURANCE DEPARTMENT

In Re: Paula S. Wilbanks

14-024-EP

### PROPOSED DECISION AND ORDER

The New Hampshire Insurance Department (hereinafter "NHID") issued a show cause order to Paula S. Wilbanks on September 12, 2014. Attorney Donald Belanger appeared as NHID's staff advocate (hereinafter "the department") for the hearing. The respondent did not appear.

The department alleges that Ms. Wilbanks: (1) failed to report her producer license revocations in California, Virginia, and Washington which should result in an RSA 402-J:12, I(i) suspension or revocation; (2) violated RSA 402-J:12, I(h)'s trustworthiness standards by failing to report five administrative actions to NHID; and (3) violated RSA 402-J:17, I by failing to report certain administration actions to NHID.

The record demonstrates that the order to show cause was properly served on Ms. Wilbanks pursuant to the requirements of RSA 400-A:18 and Ins. 204.09. Ins. Ex. 2. Ms. Wilbanks did not appear and the hearing was conducted in her absence. *See* RSA 400-A:19, VII (validity of hearing not affected by respondent's absence).

The hearings officer proposes that the respondent's license be given **permanent refuse to issue/renew status**<sup>1</sup> pursuant to RSA 402-J:12 which provides that the "commissioner may place on probation, suspend, revoke, or refuse to issue or renew an insurance producer's license." *Id.* A total RSA 402-J:1, I fine is levied in the amount of **1,500 dollars** as detailed below.

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<sup>1</sup> The respondent's license lapsed on October 31, 2014 and she has not sought renewal. **If the respondent's license had been in effect at the time of this proposed order, it would have been permanently revoked and the permanent refusal to issue/renew status should be viewed as the equivalent of a permanent revocation.**

## **I. Factual Findings.**

The respondent is a resident Georgia insurance producer. As of the date of the show cause order, she held a nonresident insurance producers' license which was set to and did expire on October 31, 2014.

The Virginia State Corporation Commission revoked the respondent's producer's license effective June 25, 2013 for her actions or lack of action in relation to payment of insurance taxes, assessments and/or fines for the year 2012. Due to the failure to report this revocation, the Washington Insurance Department revoked respondent's Washington producer's license on November 4, 2013 and the California Insurance Department revoked her California producer's license on April 5, 2014.

On October 14, 2013, the respondent entered into a Consent Order with the Delaware Insurance Department in which she accepted a fine of 500 dollars for failing to report the Virginia revocation. On February 21, 2014, the respondent entered into a consent order with the Florida Insurance Department, agreeing to voluntarily surrender her license.

On June 3, 2014, NHID's licensing division notified the respondent that she was required to report the above-detailed actions to the NHID. In its correspondence, NHID provided the respondent with specific instructions on how to report the actions through the National Insurance Producer's Registry. The respondent failed to report any of the prior actions.

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

### **A. Refusal to Issue/Renew.**

The department bears the initial burden of "going forward." To meet its burden, the department must establish a prima facie case. *See* Ins. 204.5 (b). The respondent then bears the burden of "persuasion" to present evidence that the department's position should not be upheld. *Id.*

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. *Id.* at (c). However, as the respondent failed to appear, the inquiry collapses into whether the department has met its

burden of going forward as there is no one to put on evidence or argue that the department's position should not be upheld.

**B. Administrative Fines.**

The department bears the overall burden of proof. *Id.* at (d). The standard of proof is proof by a preponderance of the evidence. *Id.*

**III. Legal Discussion.**

**A. Untrustworthy Allegation under 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: . . . demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere.” *Id.*

The hearing officer finds two related violations of RSA 402-J:12. First, the facts demonstrate that respondent was financially irresponsible in the business of insurance by failing to adhere to her financial obligations in Virginia. Second, she further demonstrated her lack of trustworthiness in the conduct of business in New Hampshire by failing to report any of the administrative actions to NHID. Her conduct is particularly inexcusable when one considers that NHID reached out to her and showed her exactly how to comply with New Hampshire reporting laws.

The hearing officer proposes a **250 dollar fine** for the “trustworthiness” violation and that **the respondent be permanently barred from any renewal or new issuance of a New Hampshire producer's license.**

**B. Out-of-State Revocations Issue under 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.*

The respondent’s license has been revoked in Virginia, California and Washington. The respondent was asked by NHID to respond to these allegations and she failed to do so. The respondent further failed to report the violations to NHID even after being requested to do so.

The hearing officer finds three violations. The hearing officer proposes 250 dollar fines for the each revocation for a total of **750 dollar fine** and further proposes that each violation result in a ruling that the respondent be **permanently barred from any renewal or new issuance of her New Hampshire producer’s license.**

#### **C. Reporting Requirement under RSA 402-J:17, I.**

RSA 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.*

The respondent has had three revocation actions taken against her and two other state actions in which she entered into consent decrees. The respondent failed to report any of these actions to the department within the time frames set forth in RSA 402-J:17 and, in fact, has never reported the actions.

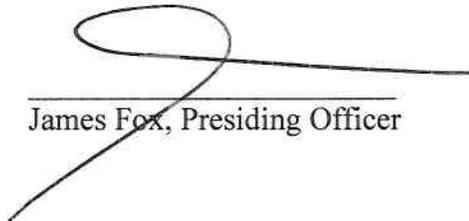
The hearing officer proposes 250 dollar fines for failing to report the consent decree actions for a total fine of **500 dollars**. The 750 dollar RSA 402-J:12, I(h) fine is also grounded in the RSA 402-J:17 violation but no additional monetary amount is warranted. Lastly, based upon the five violations of RSA 402-J:17, I, the hearing officer proposes that the respondent be **permanently barred from any renewal or new issuance of her New Hampshire producer’s license.**

#### **IV. Conclusion.**

The hearings officer finds that the department met its burdens on all issues. Based upon the forgoing, the hearings officer proposes that the

respondent's license be given **permanent refuse to issue/renew status** pursuant to RSA 402-J:12. The hearing officer further proposes a fine levied in the amount of **1,500 dollars**.

Dated: 12/10/14



James Fox, Presiding Officer