

STATE OF NEW HAMPSHIRE

INSURANCE DEPARTMENT

In re: Diana Wisniewski

Docket No.: INS No. 16-031-EP

ORDER TO SHOW CAUSE

AND

NOTICE OF HEARING

The New Hampshire Insurance Department ("NHID") orders Diana Wisniewski ("Respondent") to show cause why the New Hampshire Insurance Commissioner should not suspend or revoke her New Hampshire insurance producer license, or levy an administrative fine, or both. In support of the Order to Show Cause and pursuant to RSA 541-A:31, RSA 400-A:17 and Ins Part 200, the NHID states as follows:

STATEMENT OF FACTS

1. The Respondent is a non- resident New Hampshire insurance producer licensed to sell accident, health and life insurance. She has been continuously licensed in New Hampshire since December 29, 2011. Her license is currently set to expire on April 30, 2017.
2. On February 26, 2015 the Respondent executed a plea agreement in the United States District Court, District of New Jersey, involving a charge of conspiracy to commit wire fraud.
3. On March 6, 2015 the Respondent was convicted of Conspiracy to Commit Wire Fraud in violation of 18 U.S.C. 371 (18 U.S.C. 1343). She was subsequently sentenced on January 13, 2016. On January 19, 2016 the Respondent uploaded a copy of the sentencing documents to the National Producer Registry Attachment Warehouse.

4. On March 5, 2015 the Respondent executed a renewal application for her non-resident New Hampshire insurance producer license and failed to report her pending criminal matter by answering "NO" to Background Question #1 which asks, "Have you been convicted of a crime, had a judgment withheld or deferred, or are you currently charged with committing a crime, which has not been previously reported to this insurance department?" (emphasis added)
5. On May 24, 2016 the Respondent admitted responsibility for violating New Jersey insurance law, based upon the same facts recited above, in a Consent Order entered into with State of New Jersey Department of Banking and Insurance. The Respondent failed to report this Order to the NHID within 30 days of the final disposition.
6. On May 17, 2016 the State of California, Department of Insurance issued an Order of Summary Revocation, effective within 30 days of the Order. The Respondent failed to report this Order to the NHID within 30 days of the final disposition.
7. On August 16, 2016, the Office of the Commissioner of Insurance, State of Georgia issued an Order of License Suspension against the Respondent effectively suspending her Georgia producer license. The Respondent failed to report this Order to the NHID within 30 days of the final disposition.
8. On August 25, 2015 the State of Washington, Office of the Insurance Commissioner issued an Order revoking the Respondent's license effective September 9, 2016. The Respondent failed to report this Order to the NHID.

STATEMENT OF ISSUES

9. Whether the Respondent violated 402-J:17, II, which requires, *"Within 30 days of the initial pretrial hearing date, a producer shall report to the commissioner any criminal prosecution of the producer taken in any jurisdiction. The report shall include a copy of the*

initial complaint filed, the order resulting from the hearing, and any other relevant legal documents."

10. Whether the Respondent violated RSA 402-J:12,I, (a) for providing incorrect, misleading, incomplete or materially untrue information on her March 5, 2015 renewal application by incorrectly answering Background Question #1 which inquires whether the applicant is currently charged with committing a crime.
11. Whether the Respondent violated RSA 402-J:12, I, (f) by being convicted of a felony, specifically 18 U.S.C. 371 (18 U.S.C. 1343), Conspiracy to Commit Wire Fraud.
12. Whether the Respondent violated RSA 402-J:17, I, for failing to timely report four administrative actions undertaken by the State of New Jersey Department of Banking and Insurance ; State of California, Department of Insurance; the Office of the Commissioner of Insurance, State of Georgia; and the State of Washington, Office of the Insurance Commissioner, within 30 (thirty) days of their final disposition.
13. Whether the Respondent violated RSA 402-J:12, I, (i) by having her insurance producer license revoked or suspended in New Jersey, California, Georgia and Washington.
14. The NHID reserves the right to amend this statement of issues upon reasonable notice to the Commissioner (or his designated Representative) and the Respondent.

NEW HAMPSHIRE INSURANCE LAWS VIOLATED BY RESPONDENT

15. The NHID maintains the Respondent violated the following New Hampshire insurance law statutes: and RSA 402-J:17, I; RSA 402-J:17, II; RSA 402-J:12, I,(a); RSA 402-J:12, I, (f) ; and RSA 402-J:12, I, (i).
16. 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

17. In the event the Hearing Officer determines after 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 suspension or revocation of the Respondent's New Hampshire insurance producer license; and
- b. Order the Respondent to pay a fine in the amount of \$2,500 per violation, for a total fine of \$12,500.

NOTICE OF HEARING

A. Pursuant to RSA 541-A:31 and Ins Part 200, the hearing in this matter shall commence on November 29, 2016 at 9:00 a.m. at the offices of the Department, which are located at 21 South Fruit Street, Suite 14 in Concord, New Hampshire.

B. The Commissioner or his designated Representative shall preside as the Hearing Officer in this matter. Sarah Prescott shall serve as clerk to the Hearing Officer. The parties should direct all communications to Ms. Prescott, whose contact information is:

Sarah Prescott, Clerk
New Hampshire Insurance Department
21 South Fruit Street, Suite 14
Concord, NH 03301
Tel: (603) 271-2261
Fax: (603) 271-1406
Email: sarah.prescott@ins.nh.gov

C. The Respondent has the right to be represented by a lawyer in this proceeding. However, the Respondent shall bear the cost of retaining said lawyer. Should the

Respondent elect to retain a lawyer, his lawyer shall file a Notice of Appearance with Ms. Prescott, and said lawyer should do so at the earliest possible date. A copy of the Department's Notice of Appearance is enclosed with this Order.

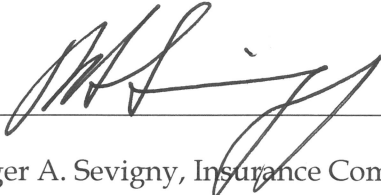
D. Any party may request a transcript of the proceeding. The party requesting a transcript of the proceedings shall file a written request for a certified court reporter with the Hearing Officer at least 10 days prior to the scheduled hearing date. The costs incurred for the services of a certified court reporter shall be borne by the requesting party.

E. Mary C. Bleier, Esq. shall serve as staff advocate representing the interests of the NHID.

It is **SO ORDERED**.

NEW HAMPSHIRE INSURANCE DEPARTMENT

Date: 10-21-16

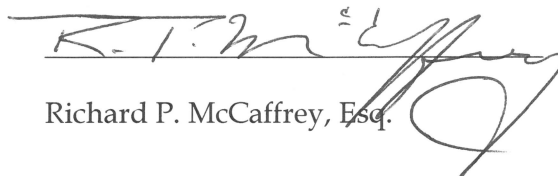


Roger A. Sevigny, Insurance Commissioner

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 Diana Wisniewski at 20 Spring Meadow Drive, Kings Park, NY11754-4603, this being his mailing address on file with the Department.

Date: 10/21/16


Richard P. McCaffrey, Esq.