

**STATE OF NEW HAMPSHIRE
INSURANCE DEPARTMENT**

FINAL ORDER on HEARING

In Re: Geoffrey N. King

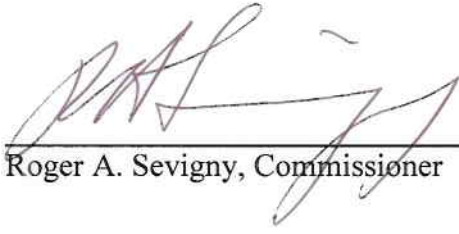
Docket No.: INS No. 14-031-EP

I. Pursuant to the provisions of INS 204.26(a)(4), the Proposed Decision and Order for Default Judgment issued on **March 27, 2015** by **Hearing Officer Chiara Dolcino**, 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.

5-8-15
Date



Roger A. Sevigny, Commissioner

**THE STATE OF NEW HAMPSHIRE
INSURANCE DEPARTMENT**

In Re: Geoffrey N. King

14-031-EP

PROPOSED DECISION AND ORDER

The New Hampshire Insurance Department (hereinafter "NHID") issued a show cause order to Geoffrey N. King on December 16, 2014. A hearing was conducted on February 6, 2015. Attorney Donald Belanger appeared as NHID's staff advocate (hereinafter "the department") for the hearing. The respondent did not appear.

The department alleged at hearing that Geoffrey N. King's felony bank fraud conviction constitutes good cause under RSA 402-B:12 to revoke his New Hampshire insurance claims adjuster's license.

I. Factual Findings.

The respondent is a resident of Kansas. NHID Exhibit 1. In October 2, 2012, Mr. King's nonresident insurance adjuster's license was renewed for a two-year period, to expire on October 1, 2014. NHID Exhibit 1. Mr. King reported to the NHID that his mailing address is: P. O. Box 29105, Shawnee Mission, Kansas, 66201. NHID Exhibit 1.

By letter dated September 5, 2013, the department communicated to Mr. King at his mailing address at P.O Box 29105, Shawnee Mission, Kansas, stating that it had opened an investigation and was requesting information concerning a pending criminal action against him in the United States District Court in Missouri. NHID Exhibit 2. On September 23, 2013, the department received back a communication from Mr. King with a copy of the indictment, and a handwritten note (written on the department's September 5th letter) that read: "This is all information available at this time." NHID Exhibit 2

In April of 2014 the department learned that Mr. King had been convicted in the matter pending before the US District Court in Missouri, and that the state of Texas had revoked

his insurance adjuster's license. NHID Exhibit 1. The department discovered that on September 10, 2014, Mr. King had in fact, pleaded guilty to felony bank fraud in connection with his part in a scheme to embezzle \$650,659.27 from UMB Bank, N.A. NHID Exhibit 6. The department indicated at hearing that Mr. King did not disclose the guilty plea to the department or communicate with the department subsequent to the communication in September of 2013.

Mr. King's license was in effect at the time he committed bank fraud, and at the time the department contacted Mr. King about the pending criminal proceeding against him for fraud, and at the time he pleaded guilty to fraud. NHID 1 and 2. Based on testimony received, the only sure means for the NHID to both prevent Mr. King from applying for and obtaining an adjuster's license in the future, and provide effective notice to the public that Mr. King is unqualified to act as an insurance claims adjuster, is for the NHID to issue an order permanently revoking Mr. King's insurance claims adjuster's license.

II. Burden and Standard of Proof.

The department bears the initial burden to show by evidence presented, that there is good cause to revoke Mr. King's insurance claims adjuster's license. To meet its burden, the department must establish a prima facie case. *See* Ins. 204:5 (b). The respondent bears the burden of persuasion to present evidence to rebut the department's position and show it 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 proved by the evidence presented, is more probable than not. *Id.* at (c).

Mr. King failed to respond to the Order to Show Cause. He did not appear at the hearing and no one appeared on Mr. King's behalf. There has been no evidence or argument presented controverting the department's case. Thus, because the respondent presented no evidence to rebut the department's evidence, the presiding officer is only required to consider whether the department has met its burden by showing by a preponderance of

the evidence, that there is good cause to revoke the respondent's insurance claims adjuster's license.

III. Legal Discussion.

The record demonstrates that the Order to Show Cause was properly served on Mr. King pursuant to the requirements of RSA 400-A:18 and Ins. 204.09. Notice was sent to the mailing address provided by Mr. King; the same addresses used in September to successfully communicate with him. NHID Exhibit 2. The Order to Show Cause was accepted at this mailing address and was not returned to the department. There is no evidence to indicate Mr. King did not receive the Show Cause Order. Mr. King did not appear at the hearing on February 6, 2014, and the hearing was conducted in his absence, but this is permissible by law as the validity of hearing not affected by respondent's absence under these circumstances. RSA 400-A:19, VII.

RSA 402-B:12 provides that the commissioner may, after hearing and for good cause shown, revoke an insurance claims adjuster's license or subject the licensee to a fine not exceeding \$2,500. It is a condition of licensure that the applicant be of good character and issuance of the license be in the public interest. RSA 400-B:7. Evidence establishing that a licensee lacks good character would provide good cause to revoke an insurance claims adjuster's license, and revoking a license if the applicant does not meet this requirement, is in the public interest.

The department has presented convincing evidence that Mr. King has pleaded guilty to felony bank fraud in connection with his role in embezzling \$650,659.27. NHID Exhibits 2 and 6. This is a serious violation that demonstrates a lack of honesty and trustworthiness in connection with financial transactions. As such, Mr. King's guilty plea to this felony is strong and compelling evidence that he lacks the good character necessary to qualify for an insurance claims adjuster's license. Furthermore, Mr. King did not report to the department that he entered a guilty plea for felony bank fraud, he did not contact the department after receiving the Order to Show Cause, nor did Mr. King

appear at the administrative hearing. This too demonstrates a lack of responsibility and the good character necessary to act as an insurance claims adjuster.

It is noted that Mr. King allowed his license to expire on October 1, 2014, just prior to the issuance of the Show Cause Order and the public hearing. NHID Exhibit 1. Mr. King's license was in effect at the time he committed bank fraud, at the time the department contacted Mr. King about the pending criminal proceeding against him for fraud, and at the time he pleaded guilty to fraud. If Mr. King's license had been in effect at the time of the issuance of a final administrative order in this matter, his license would be subject to revocation.

At hearing the department testified that the only sure means of preventing Mr. King from applying for and obtaining an adjuster's license in the future is to issue an order permanently revoking his insurance claims adjuster's license. An order imposing a permanent revocation based on the felony conviction is also the primary means of communicating to the consumers, to insurance companies, and to regulators in other states, that Mr. King has been found to not be of good character and thus unqualified to act as an insurance claims adjuster. Under these circumstances, the department asserts, protection of the public is paramount.

However, it is the case that Mr. King's license has expired, and this raises the question whether the expiration of the license strips the NHID of authority to bring an action to permanently revoke Mr. King's license. The statute is silent as to the appropriate action that is available in the event a licensee either surrenders or allows a license to lapse prior to administrative prosecution. The department argues that because the statute does not prohibit permanent revocation of an expired license, it is appropriate to order permanent revocation. RSA 402-B:7 supports this position since only permanent revocation will protect the public from a convicted criminal and the plain language of the statute would prohibit licensure when the applicant is not of good character. If under these circumstances presented, the NHID cannot place a license in a "permanent revoke" status, it would be possible for a convicted felon to remain silent or to actively prevent

detection of criminal acts until his license expires—or could avoid an order permanently revoking his license by simply surrendering the license before prosecution. To find that there can be no permanent revocation of a lapsed license would mean that by his silence and failure to report his guilty plea, and his failure to renew his license (resulting in its expiration before the NHID could act to issue the Order to Show Cause) Mr. King can effectively insulate himself from being permanently barred for holding an insurance claims adjuster's license in New Hampshire. The happenstance as to when a license expires, or worse, as to whether the felon chooses to surrender his license before prosecution, should not control whether the NHID can permanently revoke a license.

The underlying public interest at stake is protection from unscrupulous insurance claims adjusters—those that are not worthy of trust, and who will not or cannot responsibly manage insurance claims in accordance with state law. There is no evidence presented to refute the department's position that revocation is the only certain way to ensure this respondent cannot apply for and secure an insurance claims adjuster's license and to communicate to the public and to regulators in other states, that Mr. King is not of good character and is not qualified to act as an insurance claims adjuster. The Supreme Court has ruled that when a license expires during the pendency of an appeal without being renewed by the licensee, this does not prevent the licensee from continuing to appeal violations related to the license, because such violations would have a detrimental effect on the licensee's future application for a license. In re Donovan, 137 N.H. 78 (1993). Similarly then, the expiration of Mr. King's license should not thwart the public's interest in ensuring Mr. King cannot make a future license application.

The fact that Mr. King avoided NHID prosecution until his license expired should not shield him and expose the public to risk of harm. In light of the clear and convincing evidence of criminal fraud in his participation in a scheme to steal hundreds of thousands of dollars, there is good cause to permanently revoke Mr. King's insurance claims adjuster's license and prevent him from again securing a license in New Hampshire. The department has established by clear and convincing evidence that Mr. King is not properly qualified and of good character, and permanent revocation of Mr. King's license

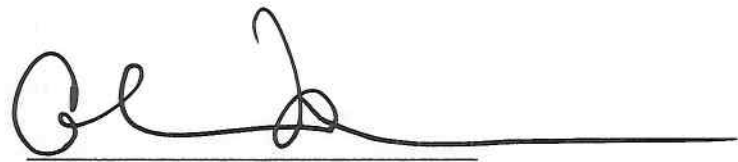
under these circumstances is in the public interest. Therefore, the records of the NHID should show that Mr. King's insurance claims adjuster's license is permanently revoked and shall not be reissued.

The law does not provide for both the permanent revocation of license and a fine, therefore, no fine will be imposed in light of the determination that Mr. King's license shall be permanently revoked.

IV. Conclusion.

The presiding officer finds that the department has met its burden of showing by clear and convincing evidence that as a result of Mr. King having pleaded guilty to bank fraud in the United States District Court in Missouri for his role in the embezzlement of \$650,659.27, permanent revocation of Mr. King's insurance claims adjuster's license is in the public interest. Based upon the forgoing, the hearings officer recommends that the respondent's license be permanently revoked, and the NHID indicate in its records that Mr. King's insurance claims adjuster's license is permanently revoked and shall not be reissued.

Dated: 3.17.15


Chiara Dolcino, Presiding Officer