

**STATE OF NEW HAMPSHIRE  
INSURANCE DEPARTMENT**

**In Re: James Joseph Dillon**

**Docket No.: INS No. 14-016-EP**

**ORDER TO SHOW CAUSE  
AND  
NOTICE OF HEARING**

The New Hampshire Insurance Department (“NHID”) orders James J. Dillon (“Respondent”) to show cause why the NHID should not suspend or revoke his resident insurance producer’s license, or levy an administrative fine, or both. In support of this Order to Show Cause and pursuant to RSA 541-A:31, RSA 400-A:17 and Ins Part 200, the NHID states as follows:

**I. STATEMENT OF FACTS**

The Respondent is a resident New Hampshire insurance producer. The NHID’s records indicate his residential, business and mailing address is 38 Winrow Drive, Merrimack, NH 03054.

In June of 2007, the Respondent sold Edward Krauss, at the time a seventy-nine year old resident of Salem, New Hampshire, two ten-year indexed annuity products issued by Great American Life Insurance Company (“GALIC”). The Respondent also sold Margaret Krauss, Mr. Krauss’s seventy-seven year old spouse, one ten-year GALIC annuity. The three GALIC annuities the Respondent sold Mr. and Mrs. Krauss replaced three John Hancock annuities that the Krausses had purchased from an insurance producer not associated with the Respondent. During the application process, the Respondent disclosed to GALIC that each of the GALIC annuities was replacing a John Hancock annuity.

In 2013, the Respondent replaced the three GALIC annuities described in the preceding paragraph with two annuities issued by Forethought Life Insurance Company (“Forethought”) and one annuity issued by National Western Life Insurance Company (“National Western”). At the time, Mr. and Mrs. Strauss were eighty-five years old and eighty-three years old, respectively. The Respondent specifically stated on the Forethought and National Western applications that the Forethought and National Western annuities were not replacing existing annuities. The Respondent’s representation that the Forethought and National Western annuities were not replacing existing annuities was false.

National Western paid the Respondent a commission of \$3,058.20 for the sale of its annuity to Mr. Krauss, and Forethought paid the Respondent commissions in the amounts of \$1,617.44 and \$1,867.20 for the sale of its annuities to Mr. and Mrs. Krauss.

The NHID reserves the right to amend this Statement of Facts upon reasonable notice to the Commissioner (or his designated representative) and the Respondent.

## **II. STATEMENT OF ISSUES**

1. Whether the Respondent violated RSA 417:4, II by making false or fraudulent statements or representations on the National Western and Forethought applications forms for the purpose of obtaining a commission.
2. Whether the Respondent used dishonest practices or demonstrated untrustworthiness in the conduct of business in violation of RSA 402-J:12, I (h) by failing to disclose to Forethought and National Western that the annuities they respectively issued to Mr. and Mrs. Krauss were replacing existing annuities issued by GALIC.

3. Whether the Respondent's undisclosed replacement of Mr. and Mrs. Krauss's GALIC annuities with annuities issued by National Western and Forethought violated the disclosure requirements set forth in Ins 302.04.

4. The NHID reserves the right to amend this Statement of Issues upon reasonable notice to the Commissioner (or his designated representative) and the Respondent.

### **III. NEW HAMPSHIRE INSURANCE LAWS VIOLATED BY RESPONDENT**

The NHID maintains that Respondent has violated New Hampshire's insurance statutes and rules, including RSA 417:4, II; RSA 402-J:12, I (h); and Ins 302.04.

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.

### **IV. NOTICE OF HEARING**

Pursuant to RSA 541-A:31 and Chapter Ins 200, the hearing in this matter shall commence on August 28, 2014 at 9:00 a.m. at the offices of the NHID, which are located at 21 South Fruit Street, Suite 14 in Concord, New Hampshire.

James Fox, Esquire 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

The Respondent has the right to be represented by counsel at his expense. Should the Respondent elect to obtain counsel, the Respondent's counsel shall file a notice of appearance with Ms. Prescott, at the earliest possible date. A copy of the NHID Notice of Appearance is enclosed with this Order.

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 ten 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.

Richard P. McCaffrey shall appear as staff advocate, representing the interests of the NHID.

It is **SO ORDERED**.

**NEW HAMPSHIRE INSURANCE DEPARTMENT**

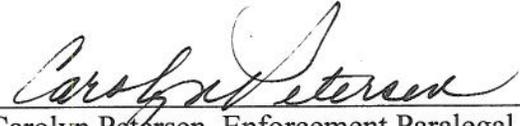
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Roger A. Sevigny, Commissioner

**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 James Joseph Dillon, 38 Winrow Drive, Merrimack, NH 03054, this being his mailing address on file with the NHID.

Date: 7.11.14

  
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Carolyn Petersen, Enforcement Paralegal