

Russell F. Hilliard
James F. Raymond
Barton L. Mayer
Heather M. Burns
Lauren Simon Irwin
Justin C. Richardson
Michael S. McGrath*
Jeanne S. Saffan**
Peter W. Leberman
Sabrina C. Beavens***
Susan Aileen Lowry
Nathan C. Midolo****
Michael P. Courtney*
Brooke Lovett Shilo



Serving New Hampshire since 1908

Of Counsel
Douglas S. Hatfield
Gary B. Richardson
John F. Teague
Charles W. Grau
Thomas W. Morse
Norman H. Makechnie
Jeffrey R. Crocker

* Also admitted in MA
** Also admitted in MA & NY
*** Also admitted in FL
**** Also admitted in MN

December 5, 2018

Via Electronic and U.S. Mail

Karen Cassin, Hearings Clerk
Deputy Commissioner's Assistant
21 S. Fruit Street; Suite 14
Concord, NH 03301

Re: In re: Jeremy Miller; # INS No. 18-053-EP

Dear Ms. Cassin:

I am enclosing the Hearing Officer's Proposed Findings and Order.

Thank you, and please let me know if you have any questions.

Very truly yours,

Russell F. Hilliard
rhilliard@uptonhatfield.com
(603) 436-7046

RFH/sem
Enclosure(s)

**STATE OF NEW HAMPSHIRE
INSURANCE DEPARTMENT**

In re: Jeremey Miller

Docket No. INS No. 18-053-EP

HEARING OFFICER'S PROPOSED FINDINGS AND ORDER

I. Introduction.

The Department denied Jeremey Miller's application for a producer's license on September 24, 2018, and Mr. Miller has appealed this determination pursuant to RSA 400-A:17.

The Commissioner appointed the undersigned Hearing Officer to hear the matter, and set a hearing for November 7, 2018.

Prior to the hearing, the Department moved for a determination as to the appropriate allocation of the burden of proof, and such motion was granted without objection, in accordance with the applicable statute and rule.

The hearing went forward on November 7, 2018, and the Hearing Officer received evidence in the form of testimony, exhibits, and offers of proof.

II. Standard of Review and Burden of Proof.

In this appeal concerning the denial of an application of a producer's license, Mr. Miller bears the burden of proof, Rule 204.05, to demonstrate that the Department's decision was not reasonable, RSA 400-A:17.

III. Discussion.

The bases for the Department's denial of Mr. Miller's application for a producer's license are set forth in its September 24, 2018 letter, and are summarized as follows:

- a. Failure to disclose disciplinary proceedings in both New Hampshire and Maine regarding Mr. Miller's law license;
- b. Failure to report such proceedings at a time when Mr. Miller was licensed by the Department; and
- c. Engaging in conduct that raises questions regarding honesty and reliability.

See RSA 402-J:12, I(a) & (b). Each of these grounds has its own degree of significance.

In his application, Mr. Miller did disclose the ultimate disbarment order from the New Hampshire Supreme Court in 2017, but not all of the prior and related proceedings, or those reciprocal proceedings in Maine where he was also licensed to practice law. While the Department's concern with the lack of complete disclosure in the application is understandable, all of these proceedings are referenced in, or readily determinable from, the public records from the proceedings, and Mr. Miller did, in his application, offer to confer with the Department in order to provide any additional information. Under these circumstances, if it were the only ground for denial of the application, the reasonableness of the determination would be questionable.

The second ground addressed the failure to disclose the pendency and resolution of these proceedings involving Mr. Miller during the time he was licensed, as required by RSA 402-J:17. This provides a more substantial ground for denial, as the Department would not otherwise be on notice of the pendency and resolution of these proceedings unless Mr. Miller provided the required notice. Whether, combined with the incomplete disclosure on the application, this would cause a reasonable basis to deny the application, need not be addressed.

The third ground, questions of honesty and reliability, is based upon the allegations and findings of the various bar disciplinary proceedings, and the civil litigation to which Mr. Miller

was a party. They are all in evidence, but suffice it to say that, in numerous instances, there were findings (and sometimes admissions) of dishonest conduct, and breaches of fiduciary duty.

While not meaning to find or even imply that the circumstances create a permanent barrier to licensure, the recency and seriousness of these actions establish a reasonable basis for the Department's denial of the license application, and Mr. Miller has not met his burden of proving otherwise.

The Department should consider entertaining a new application at some reasonable time in the future upon a showing of productive, reliable, and sustained employment, and other evidence of rehabilitation.

IV. Proposed Findings and Order.

Based on the foregoing, the undersigned Hearing Officer makes the following recommendations:

1. Mr. Miller has not carried his burden of proving the unreasonableness of the Department's denial of his application for a producer's license; and
2. The appeal should be denied, without prejudice to a new application under the conditions outlined above.

Date: December 5, 2018



Russell F. Hilliard
Hearing Officer