

**STATE OF NEW HAMPSHIRE
INSURANCE DEPARTMENT**

**In Re: Superior Home Protection USA
Docket No.: Ins. No. 22-045-EP**

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

The New Hampshire Insurance Department (“NHID”) orders Superior Home Protection USA (“Respondent”) to show cause why the New Hampshire Insurance Commissioner should not levy an administrative fine against it. In support of the Order to Show Cause and pursuant to NH RSA 541-A:31, NH RSA 400-A:17 *et seq.* and INS Chapter 200, the NHID states as follows:

STATEMENT OF FACTS

1. The Respondent is a Missouri based company which sells and administers consumer guaranty contracts – namely home warranties – to NH consumers.
2. Respondent advertises to NH residents through direct mailers, and in the last two years has sent at least 17,597 mailers to NH consumers.
3. Some of those mailers state that a consumer’s “home warranty... may be expiring or may have already expired.”
4. Respondent mails these advertisements to NH consumers without confirming whether the property has a home warranty and has mailed these advertisements to NH consumers who do not have a home warranty.
5. Such statements made in advertisements to persons without a home warranty are false and misleading.

STATEMENT OF ISSUES

6. Whether Respondent violated NH RSA 415-C:7 I (a) by making, publishing, printing, distributing, issuing, circulating, advertising, or placing before the public any statement or representation which was false or misleading.
7. The NHID reserves the right to amend this statement of issues upon reasonable notice to the Commissioner (or his designated Representative) and the Respondent.

INSURANCE LAWS VIOLATED BY RESPONDENT

8. The NHID maintains the Respondent violated the following New Hampshire insurance statute: NH RSA 415-C:7 I (a).
9. 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

10. In the event that the Hearing Officer determines after an 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 the Respondent to pay a fine in an amount not to exceed \$1,000 per each violation of New Hampshire law, or \$10,000 per each willful violation, per RSA 415-C:10 III.

NOTICE OF HEARING

11. An adjudicatory proceeding shall be commenced for the purpose of resolving the issues articulated above pursuant to NH RSA 541-A:31, NH RSA 400-A:17 *et seq.*, and NH INS 200. To the extent that the Department's rules do not address an issue of policy or procedures, the Department shall apply the N.H. Department of Justice Rules, Part 800.
12. The Respondent shall appear at Department on **October 18, 2022, at 1 PM** at the Department's office located at 21 South Fruit Street, Suite 14, in Concord New Hampshire to participate in this adjudicatory proceeding and, if deemed appropriate, be subject to sanctions pursuant to RSA 415-C:10 III. Respondent's failure to appear at the time and place specified above may result in the hearing being held *in absentia* pursuant to RSA 400-A:19, VII, and sanctions may be imposed without further notice or an opportunity to be heard.
13. Steven Notinger, Esq. is appointed to act as Hearing Officer in this matter with all the authority within the scope of RSA 400-A:19 and Ins 203.01.
14. Sandra Barlow shall serve as clerk to the Hearing Officer. The parties should direct all communications to Ms. Barlow, whose contact information is:

Sandra Barlow, Clerk
New Hampshire Insurance Department
21 South Fruit Street, Suite 14
Concord, NH 03301
Tel: (603) 271-2033; Fax: (603)271-1406
Email: sandra.l.barlow@ins.nh.gov

15. 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, its lawyer shall file a Notice of Appearance with Ms. Barlow, and said lawyer should do so at the earliest possible date. A copy of the NHID's Notice of Appearance form is enclosed with this Order.
16. 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.
17. Joshua Hilliard, Esq. shall serve as staff advocate representing the interests of the NHID.
18. All routine procedural inquiries may be made by contacting Sandra Barlow, Hearing Clerk, New Hampshire Insurance Department, 21 South Fruit Street, Suite 14, Concord NH 03301, (603) 271-2033, but that all other communications with the Hearing Officer and the Commissioner shall be in writing and filed as provided above. *Ex parte* communications are forbidden by statute and the Department's regulations.
19. A copy of this hearing notice shall be served upon Respondent by certified mail addressed to the mailing address on file with New Hampshire Insurance Department. *See*, RSA 400-A:14.

It is **SO ORDERED**.
NEW HAMPSHIRE INSURANCE DEPARTMENT

Date:

9/2/2022




Christopher Nicolopoulos
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 2163 W Terra Ln, O Fallon, MO 63366 and to its counsel at Franklin.Homer@gmlaw.com.

Date: 9/2/22



Joshua S. Hilliard, Esq.
Compliance & Enforcement Counsel

NEW HAMPSHIRE INSURANCE DEPARTMENT

ATTORNEY APPEARANCE or WITHDRAWAL

Docket No. (if known): _____

Respondent Name or Case Name: _____

APPEARANCE

WITHDRAWAL

Please **ENTER** my appearance as
Counsel for _____

Please **WITHDRAW** my appearance as
Counsel for _____

I confirm that neither I nor any member of my
law firm have been retained by the Department
of Insurance or the Commissioner of Insurance.

Notice of Withdrawal sent to my client on:
_____ at the following address:

I hereby certify that I provided a copy of this original request to the Department and a copy to all other known parties to this matter in accordance with Ins 204.09.

Signed: _____

Name: _____ NH Bar #: _____

Firm Name: _____ Email: *(see also below)* _____

Physical Address: _____

Mailing Address *(if different)*: _____

Phone: _____

Email Consent: By checking this box, I consent to delivery by email in accordance with Ins 204.09(c). Please send communications and documents to the above email address.

Date: _____ Signature: _____

If you do not consent to delivery by email, all communications will be sent to you by personal delivery at your physical address or by United States Postal Service first class mail to your mailing address.