

STATE OF MAINE
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION
BUREAU OF INSURANCE

In re: Harold J. Rose

National Producer No. 18935103
Maine License No. PRN 436157
Docket No. INS-24-218

DECISION AND ORDER

I. PROCEDURAL HISTORY

On October 10, 2024, Maine Superintendent of Insurance Robert Carey issued an Order revoking Harold J. Rose's Maine nonresident insurance producer license due to the revocation of Mr. Rose's nonresident producer licenses in the states of Utah, Minnesota, and Arkansas. The Order was subject to Mr. Rose's right to request a hearing. Mr. Rose timely requested a hearing. Superintendent Carey issued a delegation order, delegating to me the authority to serve as the hearing officer for this matter. The hearing was originally scheduled for December 3, 2024. On November 26, 2024, Bureau staff filed a motion in which Bureau staff and Mr. Rose both requested that the hearing be rescheduled to December 16, 2024. A hearing was held on December 16, 2024 at the offices of the Maine Bureau of Insurance in Gardiner, Maine. Mr. Rose was permitted to appear remotely.

Bureau licensing staff and staff from the Office of the Maine Attorney General participated in the hearing and presented evidence.

The Superintendent's October 10, 2024 Order cited the revocation of Mr. Rose's nonresident producer licenses in three other jurisdictions as the grounds for the revocation, stating:

1. On January 11, 2024, the Utah Insurance Department issued a Notice of Agency Action and Order that had the effect of revoking Mr. Rose's Utah nonresident insurance producer license.

2. On March 21, 2024, Mr. Rose entered into a consent agreement with the Minnesota Department of Commerce, which had the effect of revoking his Minnesota nonresident insurance producer license.
3. On July 25, 2024, the Arkansas Insurance Department issued an order that had the effect of revoking Mr. Rose's nonresident insurance producer license.

The Superintendent's Order stated that the actions of other state insurance regulators described in Paragraphs 1 through 3 constituted grounds for the revocation of Mr. Rose's nonresident Maine insurance license pursuant to 24-A M.R.S. §§ 1417, 1420-K(1)(I).

Prior to the hearing, Bureau staff submitted six exhibits. At the hearing, Mr. Rose submitted six exhibits. All exhibits were admitted into evidence.

II. STANDARD OF REVIEW

Under 24-A M.R.S. § 1420-K(1), the Superintendent of Insurance may "place on probation, suspend, revoke or refuse to issue or renew an insurance producer's license or may levy a civil penalty in accordance with section 12-A or take any combination of such actions" for any one of several causes.

One of the causes which may warrant disciplinary action is "Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory." 24-A M.R.S. § 1420-K(1)(I). This proceeding is to determine two issues: (1) whether Mr. Rose's nonresident producer license has been revoked in other states as alleged; and, if so, (2) what sanction, if any, is appropriate.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Utah Revocation

On January 11, 2024, the Utah Insurance Department issued an order revoking Mr. Rose's nonresident Utah producer license, subject to his right to request a hearing within 15 days after the issuance of the order. The Order included the results of an investigation by a Utah Insurance Department market conduct examiner, which

concluded that Mr. Rose impersonated an applicant for insurance to UnitedHealthcareOne, and misrepresented the applicant's medical history. The investigation summary also included information from UnitedHealthcare that Mr. Rose impersonated seven different clients in calls in which he answered underwriting questions, changed a client's payment method and cancelled or reinstated a client's plan. The investigation summary also found that Mr. Rose was terminated for cause from Golden Rule Insurance Company and UnitedHealthcare Life Insurance Company, due to the improper phone calls.

Minnesota Revocation

Mr. Rose's nonresident Minnesota producer license was revoked through a Consent Order with the State of Minnesota Department of Commerce on March 21, 2024. According to the Consent Order, Mr. Rose agreed to the revocation rather than exercise his right to a hearing on allegations that he impersonated multiple individuals and misrepresented the extent of an insurance applicant's medical condition in violation of Minn. Stat. 45.027, subd. 7(3)-(4) and 60k.43, subd. 1(5), (8)(2022). In addition to the license revocation, Mr. Rose agreed to pay to the State of Minnesota investigative costs of \$112.50.

Arkansas Revocation

On July 25, 2024 the Arkansas Insurance Commissioner revoked Mr. Rose's Arkansas nonresident producer license. The revocation order followed a hearing and a recommendation to the Insurance Commissioner by the hearing officer that Mr. Rose's license be revoked. The hearing officer determined that in August 2023, Golden Rule Insurance Company and UnitedHealthcare Life Insurance Company terminated Mr. Rose's appointments for cause based upon the results of an internal investigation. According to the hearing officer's recommendation, Mr. Rose admitted that he impersonated existing and potential insureds in phone calls to UnitedHealthOne and that Mr. Rose impersonated seven different members between March 3, 2023 and June 28, 2023.

Mr. Rose properly reported the three license revocations to the Maine Bureau of Insurance. Mr. Rose is a Florida resident, and as of the date of the hearing in this matter held a valid Florida resident producer license, and a number of nonresident state producer licenses, including Maine.

Mr. Rose does not dispute that his nonresident producer licenses have been revoked in Utah, Minnesota, and Arkansas. He does dispute some of the underlying findings in the Utah and Arkansas revocations. He presented what he purports to be emails from four persons, presumably four of the seven former clients mentioned in the Utah and Arkansas proceedings. The emails all basically state that Mr. Rose had permission to update the clients' accounts in various ways, including updating the payment methods. The emails are brief and do not provide detailed, specific information, such as whether Mr. Rose had permission to *impersonate* the clients during calls to the insurer. Neither Mr. Rose nor Bureau staff presented testimony of any of the former clients. The emails presented by Mr. Rose do not include information from Mr. Fung, the former client whose medical information was inaccurately provided to the insurer by Mr. Rose, according to the Utah market conduct examiner's report.

Mr. Rose also submitted a letter sent to Bureau staff attorney Hancock Fenton, in which he asserts that rather than impersonating Mr. Fung, he was merely answering questions on his behalf, and that this occurred in a three way call in which Mr. Fung participated. Neither Mr. Rose nor Bureau staff presented testimony from Mr. Fung or introduced the recording of the phone call where the alleged impersonation occurred.

Regarding the Utah revocation, Mr. Rose states that the notice of the pending revocation went to his junk email folder, and that he was not aware of the pending revocation until it was too late to request a hearing. In support of this assertion, Mr. Rose presented a document titled "Complainant's Objection to Ex Parte Communications, Form of Order, and Granting of Leave to file Motion." Although it is not entirely clear, this document appears to be an objection from the Utah Insurance Department to the hearing officer's consideration of Mr. Rose's request for a hearing despite missing the deadline to request a hearing. Other evidence in the record shows that the revocation has not been rescinded and is still in force, so it appears that the late request for a hearing was ultimately denied.

Mr. Rose admitted that he violated UnitedHealthcare's rules by updating his clients' information, but he did not admit in the hearing to impersonating his clients. The Utah market conduct examiner's report states that the investigation found that Mr. Rose impersonated seven different clients during eleven recorded telephone calls that were reviewed, so the emails presented by Mr. Rose do not address all of the clients who the Utah market conduct examiner's report states were impersonated.

Regarding the Minnesota Consent Order, Mr. Rose negotiated the terms of the Consent Order and agreed to the revocation, in part to avoid a potentially higher civil penalty.

The Superintendent may revoke a producer license for any of the reasons stated in 24-A M.R.S. § 1420-K. One of those reasons is "having an insurance producer license...revoked in any other state." 24-A M.R.S. § 1420-K(1)(I). The Superintendent's October 10, 2024 Order specifically alleged the revocations in Utah, Minnesota and Arkansas as grounds for revocation of Mr. Rose's Maine nonresident producer license. The Order does not allege additional grounds, such as "using fraudulent, coercive or dishonest practices...in the conduct of business in this State or elsewhere." 24-A M.R.S. § 1420-K(1)(H).

It has been proven by a preponderance of the evidence that Mr. Rose's nonresident producer licenses have been revoked in Utah, Minnesota, and Arkansas. Mr. Rose had the opportunity for a hearing in all three states. He voluntarily entered into an agreement for revocation of his nonresident producer license in Minnesota. The revocations in Utah and Arkansas were not voluntary, but the evidence is clear that his licenses in those states were also revoked.

The revocations in Utah and Arkansas were based upon findings of serious misconduct. Mr. Rose voluntarily agreed to the license revocation in Minnesota. All three revocations occurred recently, and each is a valid cause for revocation under 24-A M.R.S. § 1420-K(1)(I). Revocation is an appropriate sanction in this matter.

IV. CONCLUSION AND ORDER

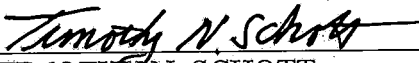
It is therefore ordered that Mr. Rose's Maine nonresident producer license is hereby REVOKED. No civil penalty is imposed.

V. NOTICE OF APPEAL RIGHTS

This Decision and Order is a final agency action of the Superintendent of Insurance within the meaning of the Maine Administrative Procedure Act. It may be appealed to the Superior Court in the manner provided by 24-A M.R.S. § 236, 5 M.R.S. § 11001, et seq. and M.R. Civ. P. 80C. Any party to the proceeding may initiate an appeal within thirty days after receiving this notice. Any aggrieved non-party whose interests are substantially and directly affected by this Decision and Order may initiate an appeal within forty days of the issuance of this decision. There is no automatic stay pending appeal; application for stay may be made in the manner provided in 5 M.R.S. § 11004.

PER ORDER OF THE SUPERINTENDENT OF INSURANCE

January 13, 2025



TIMOTHY N. SCHOTT
Deputy Superintendent of Insurance