

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

IN RE: )  
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Lindsay M. Lippl )  
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Docket No. INS-18-221 ) DECISION AND ORDER  
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I. PROCEDURAL HISTORY

On November 1, 2018, Maine Bureau of Insurance Superintendent Eric A. Cioppa issued an Order of Revocation of respondent Lindsay M. Lippl’s nonresident producer license. The Order was based upon Ms. Lippl’s conviction of two counts of shoplifting in Spotsylvania, Virginia District Court, Case Numbers C18-12052 and C18-12051 in August of 2018.

The Order stated that these convictions are grounds for revocation of Ms. Lippl’s non-resident producer license pursuant to 24-A M.R.S. § 1420-K(1)(F), for having been convicted of a criminal offense as provided in 5 M.R.S. § 5301(2)(A). The Order was subject to Ms. Lippl’s right to request a hearing in this matter. Ms. Lippl timely requested a hearing. The hearing was originally scheduled for January 18, 2019. Prior to the hearing, Ms. Lippl requested a continuance. The continuance was granted, and the rescheduled hearing was held on January 25, 2019 at the offices of the Maine Department of Professional and Financial Regulation in Gardiner, Maine. Ms. Lippl appeared via videoconference. Lyndsay Laxon, Bureau Licensing Attorney, participated on behalf of Bureau staff as permitted by Bureau Rule 350.

Prior to the hearing, exhibits were jointly submitted by Ms. Lippl and Bureau staff. Ms. Lippl submitted 10 exhibits, including records of a civil penalty imposed by the Indiana Department of Insurance, requests for information regarding her license in Virginia and other states, work records from her employer, GEICO, and evidence of completion of anti-theft educational courses she has taken since her conviction. Bureau staff submitted five exhibits, including court records related to her arrest and conviction for the shoplifting charges, Ms. Lippl's written explanation to the Bureau regarding her conviction, and records from the National Association of Insurance Commissioners, showing her license status in other states. All of the exhibits were admitted into the record.

## II. STANDARD OF REVIEW

The Superintendent of Insurance may revoke a producer license under the conditions set out in 24-A M.R.S. §§ 1417, 1420-K(1)(F), and 5 M.R.S. §§ 5301-5303. Under 5 M.R.S. § 5301(1), the Superintendent may consider criminal history record information "which ha[s] not been set aside or for which a full and free pardon has not been granted, but the existence of such information shall not operate as an automatic bar to being licensed...or permitted to practice any profession, trade or occupation."

5 M.R.S. § 5301(2) sets out certain categories of criminal history information which may be considered by a licensing agency in considering a license application. Included in this list are "Convictions for which incarceration for less than one year may be imposed and which involve dishonesty or false statement." 5 M.R.S. § 5301(2)(A). Under 5 M.R.S. §§ 5303(1), a licensing agency may consider a criminal conviction prior to "3 years of the applicant's or licensee's final discharge, if any, from the correctional system."

If the conduct in question is conduct that is properly considered under the sections described above, the licensing agency may revoke a license if it determines the applicant “has not been sufficiently rehabilitated to warrant the public trust.” 5 M.R.S. § 5302(1). When contesting a license revocation, the applicant bears the burden of proof of sufficient rehabilitation to warrant the public trust. Id.

### III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

On August 5, 2018, Ms. Lippl was charged with five counts of misdemeanor theft, all involving allegations of shoplifting at a Target store in Spotsylvania, Virginia. The shoplifting incidents were alleged to have taken place on July 4, 2018, July 8, 2018, July 21, 2018, July 29, 2018, and August 5, 2018. Both Ms. Lippl and her husband were charged with identical charges. On August 16, 2018, as part of a plea agreement, Ms. Lippl pled guilty to the theft charges from July 4 and July 8, and the remaining three charges were dismissed. She testified that her husband pled guilty to identical charges. She was sentenced to 60 days in jail on each charge, with the jail time suspended as a condition of probation. She was also ordered to pay a \$100 fine on each charge, was ordered to pay restitution of \$444.25 to Target, and was barred for two years from the Target store where the thefts occurred. She was placed on an unsupervised probation for a period of two years, with conditions of probation including good behavior and payment of the fines and restitution. She has since paid the fines and restitution.

On January 10, 2019, Ms. Lippl entered into an Agreed Entry with the Indiana Department of Insurance, in which she agreed to pay a \$250 civil penalty. She was also placed on probation for two years. She stated that other states had asked for additional information regarding the convictions, but at the time of the hearing in this matter, no other states had taken action against her license, including her resident state of Virginia.

The shoplifting charges involved Ms. Lippl and her husband using a self-checkout lane at Target and either not scanning items or on some occasions using an altered tag or a tag from different merchandise to obtain lower prices on items. The convictions were ones for which punishment of less than one year may be imposed, and they involved dishonesty or false statement. The convictions occurred in August of 2018 and Ms. Lippl will be on probation until August of 2020, so the convictions are well within the three-year time limitation for their consideration. The convictions were properly considered by the Superintendent in his Order for license revocation.

The remaining question is whether Ms. Lippl has established that there “exists sufficient rehabilitation to warrant the public trust” as required by 5 M.R.S. § 5302(1).

Ms. Lippl is a Virginia resident licensed producer, with Property & Casualty authority. After an absence of several years, she began working for GEICO a second time in June 2017. Ms. Lippl explained that in the Spring and Summer of 2018, her family was facing financial difficulties due to medical bills for her son and Ms. Lippl’s complications related to her pregnancy. In addition, her husband changed jobs and his paychecks were delayed. Ms. Lippl and her husband’s incomes did not return to normal again until July or early August of 2018. It was during July and August that the thefts occurred. According to Ms. Lippl, the thefts were primarily committed by her husband, although she was with him during the thefts. In a written statement to the Bureau, she said “Some cases (of theft) were clearly obliviousness on my part, some were unintentional-but there is no getting around that what was done was wrong.” She stated that the items that were tag-altered were “pure necessities – diapers and formula.”

Since the convictions, Ms. Lippl has continued to work at GEICO, and her employer appears to be satisfied with her work, although her employer did not testify on her behalf or

submit any written statement of support. Ms. Lippl did submit a memo from her employer complimenting the entire sales floor team and a print-out of a message from a customer who was very pleased with Ms. Lippl's service. Ms. Lippl has taken some positive steps toward rehabilitation, including taking two anti-theft classes. She has paid the fines and restitution that she owed. Ms. Lippl presented herself as a good employee, and she was very passionate in her assurances that she is an honest person and that the conduct resulting in the theft convictions would not be repeated. It is also to her credit that she has completed two theft prevention related courses.

Weighted against the positive evidence in this matter is her hesitancy to take responsibility for her actions. Ms. Lippl stated repeatedly that the thefts were primarily her husband's doing, even though they pled guilty to the same charges. She stated, "...I want to mention that these convictions that I'm currently, you know, that I admitted, I pled guilty to, I felt as though I shouldn't have, but I did due to the legal advice I was given at the time."

In addition, although the overall dollar amount of the thefts was not large, it is concerning that the convictions involved thefts on two different occasions. The convictions are also very recent. She was convicted of the offenses approximately five months prior to the hearing in this matter. She is currently banned from the Target store where the thefts occurred. At the time of the hearing, she was approximately five months into her probation for the charges, and she will be on probation until August 2020. Overall, although she has taken positive steps toward her rehabilitation, she has not shown at this still recent date from the time of the thefts that she has been sufficiently rehabilitated to warrant the public trust in the form of an active nonresident Maine license. She does, however, appear to be on a positive course toward rehabilitation, so a sanction less than revocation is appropriate.

#### IV. CONCLUSION AND ORDER

It is therefore ordered that Ms. Lippl's Maine nonresident producer license is hereby SUSPENDED until August 16, 2020, which is the scheduled end of her probation in the theft cases. If Ms. Lippl commits no further violations of the law either criminally or related to her insurance licenses, and continues to meet all Maine licensing requirements, her license will be reinstated at that time. In the event that her probation is terminated prior to August 16, 2020, she may request an earlier reinstatement of her license. The Superintendent's Order of Revocation is therefore modified to an Order of Suspension. 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

February 22, 2019

  
TIMOTHY N. SCHOTT  
Deputy Superintendent of Insurance