

**STATE OF NEW HAMPSHIRE
INSURANCE DEPARTMENT**

**In Re: Accredited Surety & Casualty Co., Inc.
Docket No.: Ins. No. 24-070-EP**

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

The New Hampshire Insurance Department ("NHID") orders Accredited Surety & Casualty Co., Inc. ("Respondent") to show cause as to why the New Hampshire Insurance Commissioner should not levy an administrative fine against it and suspend its certificate of authority to operate in this state. In support of the Order to Show Cause and pursuant to RSA 541-A:31, RSA 400-A:17 *et seq.* and Ins Chapter 200, the NHID states as follows:

STATEMENT OF FACTS

1. Respondent is a Florida domiciled insurance company which is authorized to write business in NH in the lines of Property & Casualty and Accident & Health.
2. Respondent is required to submit a General Premium Tax Report on or before March 15 of each year. Respondent submitted this information but failed to include amounts for retaliatory Workers' Compensation Fund Administration and Special Disability Fund assessments, or the amount of the corresponding prepayment requirements.
3. Based upon Respondent's initial submission, Respondent's tax liability payment of \$13,190.00 was due in full no later than March 15, 2024. On March 15, 2024, the NHID received payment in the amount of \$13,190.00.
4. On April 19, 2024, in the process of auditing Respondent's Tax Return, NHID requested "copies of invoices and retaliatory calculations for both Florida Statutes §440.51(1)b), Workers' Compensation Administration fund ("WCAA"), as well as §440.49(8)(b), Special Disability Trust Fund ("SDTF")" assessments. In this correspondence, NHID reminded Respondent of its obligations pursuant to RSA 400-A:16, requiring compliance with the request within ten (10) business days.
5. Respondent failed to reply.
6. On May 8, 2024, the NHID conducted a further review of Respondent and revised the Tax Return to include both the WCAA and SDTF assessments as subject to retaliation under RSA 400-A:35. The NHID provided explanations and notified Respondent that an amended Tax Return should be filed. The NHID attached an invoice showing the balance due along with a 6% late penalty, pursuant to RSA 400-A:32. The NHID notified

Respondent that if payment was not received by May 15, 2024, the late penalty would increase to 12%.

7. This e-mail correspondence was "read" by Mr. Lee Ho. However, the NHID did not receive payment or a response.
8. On June 13, 2024, the NHID submitted an updated invoice to Respondent which incorporated the increased 12% late penalty, resulting in a total balance as of that date of \$922.88. The NHID requested information regarding when payment would be made, and again reminded Respondent of its obligations under RSA 400-A:16.
9. Respondent failed to reply or pay the invoice.
10. On July 30, 2024, the NHID submitted correspondence to Respondent, instructing Respondent to issue payment within thirty (30) days to avoid referring the case to the Enforcement Unit.
11. The NHID received notice that Mr. Lee Ho "read" the e-mail communication on July 31, 2024.
12. On August 6, 2024, Respondent replied to the July 30, 2024, correspondence from the NHID, and disputed the calculation made as contrary to Florida law.
13. On August 20, 2024, the NHID contacted the Florida Department of Financial Services ("FDFS") to confirm statutory interpretation as it relates to the above calculations.
14. On August 22, 2024, the FDFS responded with a positive confirmation of the calculations used by the NHID.
15. On August 23, 2024, the NHID notified Respondent of FDFS's confirmation of the application of Florida Law. The NHID provided a further explanation along with another copy of the Invoice in the amount of \$922.88, inclusive of the 12% late penalty. The NHID further stated that Respondent was still required to provide a copy of its 2023 Florida Premium Tax Return to NHID if Respondent wanted to claim credit of the retaliatory WCAA against its 2023 premium tax liability in New Hampshire. Respondent was instructed that it had ten (10) business days to either provide the requested information or issue payment on the invoice, pursuant to RSA 400-A:16.
16. Respondent failed to reply or issue payment or provide the documentation requested.
17. The case was referred to Compliance and Enforcement, which issued a letter requesting payment in full by October 18, 2024. Additionally, Enforcement issued a follow up request for the documentation previously discussed.

18. Payment in full was received by the NHID on October 16, 2024.
19. Enforcement issued an e-mail correspondence to Respondent on October 23, 2024, addressing the violations of RSA 400-A:16, requesting a response to a proposed Consent Order to be provided.
20. As of November 19, 2024, Respondent has failed to reply.

STATEMENT OF ISSUES

21. Whether Respondent violated NH RSA 400-A:16, II by failing to respond within 10 working days to the NHID's April 19, 2024, Request For Information.
22. Whether Respondent violated NH RSA 400-A:16, II by failing to respond within 10 working days to the NHID's May 8, 2024, Request For Information.
23. Whether Respondent violated NH RSA 400-A:16, II by failing to respond within 10 working days to the NHID's June 13, 2024, Request For Information.
24. Whether Respondent violated NH RSA 400-A:16, II by failing to respond within 10 working days to the NHID's August 23, 2024, Request For Information.
25. Whether Respondent violated NH RSA 400-A:16, II by failing to respond within 10 working days to the NHID's October 23, 2024, Request For Information.
26. 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

27. The NHID maintains the Respondent violated the following New Hampshire insurance law statutes: NH RSA 400-A:16, II.
28. 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

29. 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 Respondent to pay a penalty of \$12,500; and
 - b. Order Respondent's certificate of authority to operate in this state be suspended until such time as it has complied with any Administrative Order resulting from this hearing.
30. The NHID reserves the right to amend penalty requested upon reasonable notice to the Commissioner (or his designated Representative) and the Respondent.

NOTICE OF HEARING

31. An adjudicatory proceeding shall be commenced for the purpose of resolving the issues articulated above pursuant to RSA 541-A:31, RSA 400-A:17, *et seq.*, and 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.
32. The Respondent shall appear at Department on **January 14, 2025, 1:30 p.m. – 3:00 p.m.**, 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 400-A:15, III. Respondent's failure to appear at the time and place specified above may result in the hearing being held *in absentia* and sanctions may be imposed without further notice or an opportunity to be heard.
33. Sheri Phillips, 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.
34. 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

35. Respondent has the right to be represented by a lawyer in this proceeding. However, Respondent shall bear the cost of retaining said lawyer. Should 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.

36. 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.
37. Tracy L. McGraw, Esq. shall serve as staff advocate representing the interests of the NHID.
38. 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.
39. 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**.

Date:

11/19/2024

NEW HAMPSHIRE INSURANCE DEPARTMENT



Keith E. Nyhan
Deputy 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 Respondent at P.O. Box 140855, Orlando, FL 32814, and Chris.Reichow@accreditedinsurance.com; Lee.Ho@accredited-inc.com; Reg.filing@accredited-inc.com; premium.taxes@accredited-inc.com, the mailing and e-mail addresses the Respondent has on file with the NHID.

Date:

11/19/24



Tracy L. McGraw, Esq.
Deputy Compliance & Enforcement Counsel