

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

IN RE:)
)
JEANNIE MARIE CHUTE)
Maine License No. PRR 31794)
National Producer No. 3681847)
)
Docket No. INS-13-205)
)
)

NOTICE OF HEARING

On August 14, 2013, pursuant to 24-A M.R.S. §§ 229 through 236 and § 1417, the Superintendent of Insurance will conduct a public hearing to consider the allegations in the Petition for Enforcement filed by Bureau Staff, dated June 7, 2013, against Jeannie Marie Chute (the Respondent). The purpose of the hearing is to decide whether the Respondent violated 24-A M.R.S. §220(2) of the Maine Insurance Code, or other applicable laws, and if Respondent is found to be in violation, to decide the remedy to be imposed. A copy of the Petition is attached. This Notice supersedes the Order and Notice of Opportunity for Hearing issued by the Superintendent on October 30, 2012, under Docket No. INS 12-218.

The hearing will commence at 9:00 a.m. and will take place at the Bureau of Insurance at 76 Northern Avenue, Gardiner, Maine. The hearing will be held in accordance with the provisions of the Maine Administrative Procedure Act, 5 M.R.S. §§ 9051 through 9064 and Maine Bureau of Insurance Rules, Chapter 350. You may be represented by an attorney. You may call witnesses to testify on your behalf and may cross-examine any witnesses who testify against you. All testimony will be taken under oath and the hearing will be recorded. You may present written evidence and may make oral or written arguments at hearing. Applications for intervention pursuant to 5 M.R.S. § 9054 will be accepted up to the commencement of the hearing.

The Bureau Staff member prosecuting this matter is Dyan Dyttmer. While this matter is pending before the Superintendent, Bureau Staff and the Respondent shall not communicate

with me or anyone I may appoint to assist me on this matter except in accordance with 5 M.R.S. § 9055.

Information obtained during the hearing may be used in subsequent legal proceedings. Failure to appear at the hearing may result in a disposition by default, which may be set aside only if good cause is demonstrated to the satisfaction of the Superintendent.

Bureau Staff and the Respondent shall exchange exhibits and witness lists at least two weeks before the hearing. Copies of the witness lists must be provided to the Superintendent. Motions and correspondence relating to this proceeding shall be filed with the Superintendent at the following address, with a copy to all parties or their counsel of record:

c/o Elena Crowley
Maine Bureau of Insurance
34 State House Station
Augusta, Maine 04333-0034

or by e-mail at elena.i.crowley@maine.gov

The Department of Professional and Financial Regulation does not discriminate on the basis of disability. Persons who need any sort of assistance or accommodation for effective participation in this hearing should make their needs known to the hearing officer sufficiently in advance of the hearing that appropriate arrangements can be made.

Dated: June 27, 2013


ERIC CIOPPA
SUPERINTENDENT OF INSURANCE

Attachments

cc: James Bowie, Assistant Attorney General
Mark Randlett, Assistant Attorney General

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

In re:

**JEANNIE MARIE CHUTE
Maine License No. PRR 31794
National Producer No. 3681847**

Docket No. INS-13-205

PETITION FOR ENFORCEMENT

INTRODUCTION

1. Under the Maine Insurance Code, the Superintendent of Insurance may take enforcement action against any person licensed by the Maine Bureau of Insurance to conduct the business of insurance in the State of Maine. 10 M.R.S. § 8003(5)(A-1) and 24-A M.R.S. §§ 12-A and 211.

2. Jeannie Marie Chute ("Ms. Chute") is a licensee of the Maine Bureau of Insurance. She holds Maine License No. PRR 31794 and National Producer License No. 3681847. She is the sole proprietor of Chute Insurance in Naples, Maine.

3. On February 2, 2012, the Bureau of Insurance received a consumer complaint against Ms. Chute. The complaint included allegations regarding her handling of sales and administration of several insurance policies.

4. In response to the consumer complaint against Ms. Chute's license, Bureau of Insurance Staff commenced an investigation. That investigation included inquiries to Ms. Chute for responses to the complaint's allegations and requests for production of documentary evidence.

5. As alleged below in Paragraphs 12 through 57, Ms. Chute failed to respond adequately to numerous inquiries from Bureau Staff and otherwise engaged in activity that obstructed the Staff's investigation.

APPLICABLE LAW

6. Title 24-A M.R.S. § 220(2) of the Maine Insurance Code provides that all

persons required to be licensed pursuant to

[the Code] shall respond to all lawful inquiries of the superintendent that relate to resolution of consumer complaints involving the licensee within 14 days of receipt of the inquiry and to all other lawful inquiries of the superintendent within 30 days of receipt. If a substantive response can not in good faith be provided within the time period, the person required to respond shall so advise the superintendent and provide the reason for the inability to respond.

7. Pursuant to 24-A M.R.S. § 215, a knowing violation of any order of the Superintendent of Insurance subjects a Bureau of Insurance licensee to possible suspension or revocation of licensure.

8. Pursuant to 24-A M.R.S. §§ 12-A(1)(A) and 12-A(1)(C), violation of any provision of, respectively, the Maine Insurance Code or an order of the Superintendent subjects a Bureau of Insurance licensee to possible imposition of a monetary penalty.

9. Pursuant to 24-A M.R.S. § 1420-K(1)(B), violation of the Maine Insurance Code or a subpoena issued by the Superintendent subjects a Bureau of Insurance licensee to possible discipline including license probation, license suspension, license revocation, and a monetary penalty.

10. Pursuant to 24-A M.R.S. § 1420-K(1)(H), a demonstration of untrustworthiness in the conduct of the insurance business subjects a Bureau of Insurance licensee to possible discipline including license probation, license suspension, license revocation, and a monetary penalty.

11. Pursuant to 10 M.R.S. § 8003(5)(A-1), a violation of any statute or rule of the Bureau of Insurance subjects a licensee to possible warning, censure, reprimand, license suspension, license revocation, license probation, or a monetary penalty.

ALLEGATIONS

Count I

The February 3, 2012 Inquiry

12. By letter dated February 3, 2012, Bureau Staff requested that Ms. Chute respond to “each specific allegation” in the consumer complaint thoroughly and paraphrased those allegations.

13. Bureau Staff's February 3, 2012 letter specified that, as required by 24-A M.R.S. §220(2), Ms. Chute was to respond within 14 days after receiving Staff's request.

14. On March 1, 2012, having received no response to its February 3, 2012 request, Bureau Staff sent a copy of the February 3, 2012 letter to Ms. Chute. The copy of the letter was stamped "Second Request."

15. In a letter sent by facsimile transmission, on March 30, 2012, Ms. Chute reported that an alleged response to Staff's February 3, 2012 letter had been sent February 25, 2012 but had been damaged en route by the U.S. Postal Service and therefore was not delivered.

16. Ms. Chute stated in her March 30, 2012 facsimile that she had received Staff's March 1, 2012 inquiry on March 9, 2012.

17. Subsequent to March 9, 2012 until March 30, 2012, Ms. Chute had not resent her February 25, 2012 response to Staff's February 3, 2012 inquiry.

18. March 30, 2012 was 21 days after March 9, 2012.

19. Ms. Chute did not respond to Bureau Staff's February 3, 2012 inquiry within 14 days after receiving that inquiry and thereby violated 24-A M.R.S. § 220(2).

Count II

The March 1, 2012 Inquiry

20. As noted above, on March 1, 2012, having received no response to its February 3, 2012 request to that date, Bureau Staff sent a copy of the February 3, 2012 letter to Ms. Chute. The copy of the letter was stamped "Second Request."

21. In a facsimile transmission, on March 30, 2012, Ms. Chute reported that documents constituting a response to Staff's February 3, 2012 had been damaged en route by the U.S. Postal Service and therefore was not delivered.

22. March 30, 2012 was 21 days after March 9, 2012.

23. Ms. Chute did not respond to Bureau Staff's March 1, 2012 inquiry within 14 days after receiving that inquiry and thereby violated 24-A M.R.S. § 220(2).

Count III

The July 5, 2012 Inquiry

24. On July 5, 2012, as a result of information obtained from the complainant against Ms. Chute's license, Bureau Staff sent Ms. Chute a certified letter requesting information about the disposition of three checks tendered to her as insurance premium payments and drawn on a Norway Savings Bank account.

25. One the checks about which Staff inquired in in its July 5, 2012 letter is a check made out to "Jeanie [sic] Chute Insurance" in the amount of \$825.00 and dated June 3, 2010. It is numbered 308 ("Check 308").

26. Bureau Staff's July 5, 2012 letter informed Ms. Chute that she was obligated to respond to Staff's letter within 14 days of its receipt.

27. Ms. Chute received Staff's July 5, 2012 inquiry on July 10, 2012.

28. On July 12, 2012, Ms. Chute responded to Staff's July 5, 2012 inquiry by email. The email did not include information about Check 308. Ms. Chute provided no explanation as to why the email did not include information about Check 308.

29. On July 13, 2012, by both email and First Class U.S. Mail, Bureau Staff reminded Ms. Chute that Staff's July 5, 2012 letter requested information about Check 308.

30. On July 26, 2012, Ms. Chute sent Bureau Staff an email enclosing a copy of Check 308. The email did not include any information about Check 308's disposition. The email did not include an explanation of why there was no information about Check 308's disposition.

31. July 26, 2012 was 16 days after July 10, 2012.

32. Ms. Chute did not respond in full to Bureau Staff's July 5, 2012 request within 14 days after receiving that request and thereby violated 24-A M.R.S. §220(2).

Count IV

The September 13, 2012 Inquiry

33. On September 13, 2012, Bureau Staff informed Ms. Chute by certified letter that the insurer entitled to the premium payment

represented by Check 308 had informed the Bureau that the insurer could not find evidence of having received that premium payment.

34. Bureau Staff's September 13, 2012 letter requested that Ms. Chute provide an explanation of why there apparently was no evidence that the \$825.00 premium payment represented by Check 308 had been made.

35. Staff's September 13, 2012 letter advised Ms. Chute that she was obligated to respond to that letter within 14 days of receiving it.

36. Ms. Chute received Bureau Staff's September 13, 2012 letter on September 21, 2012.

37. On October 18 and December 3, 2012, having received no reply to its September 13, 2012 letter, Bureau Staff left Ms. Chute voice mail messages asking her to call the Bureau at her earliest opportunity.

38. On December 3, 2012, Bureau Staff sent Ms. Chute two emails, one of which reminded her that she had not responded to Staff's September 13, 2012 request and one of which asked her to contact Staff at her earliest opportunity.

39. On December 4, 2012, Ms. Chute left a voice mail message with Bureau Staff, in which she stated that she would contact Staff later that day or on December 5, 2012. Contrary to her representation, Ms. Chute did not call Bureau Staff.

40. As of January 13, 2013, Bureau Staff had not received a response from Ms. Chute to its September 13, 2012 request for information about Check 308.

41. January 13, 2013 was 114 days after September 21, 2012, the date on which Ms. Chute received Bureau Staff's September 13, 2012 inquiry.

42. Ms. Chute did not respond to Bureau Staff's September 13, 2012 request within 14 days after receiving that request and thereby violated 24-A M.R.S. §220(2). Her failure to fulfill her promise to call Bureau Staff demonstrated her untrustworthiness.

Count V

The January 14, 2013 Deposition

43. On January 14, 2013 and pursuant to a subpoena obtained by Bureau Staff, Ms. Chute appeared at the Bureau of Insurance for

deposition. Staff's subpoena ordered, among other things, that she produce at deposition "[a]ny evidence in whatever form of receipt and/or disposition of check number 308 referenced in [Staff's] September 13, 2012 letter." A copy of the September 13, 2012 letter was attached to the subpoena.

44. At her January 14, 2013 deposition, Ms. Chute identified Check No. 308 as having been received as a premium payment, acknowledged her endorsement on the reverse side of Check 308, and testified that an account number on the reverse side of Check 308 was that of her insurance agency's premium trust account at Norway Savings Bank.

45. At her January 14, 2013 deposition, Ms. Chute testified that she had deposited Check 308 in her premium trust account and that she had proof that the Check 308 premium payment had been made to the insurer. She testified that she would provide that proof to Bureau Staff.

46. On January 16, 2013, Bureau Staff received a five-page facsimile from Ms. Chute's son. The only mention of Check 308 in that facsimile of January 16, 2013 --- alleged by Ms. Chute to have been originally provided September 24, 2012 --- is a copy of Bureau Staff's September 13, 2012 letter requesting information about Check 308.

47. Up to the date of this petition, in response to the subpoena for her January 13, 2013 deposition and contrary to her representations at deposition, Ms. Chute has failed to produce requested information about Check 308.

48. By failing to produce subpoenaed information about Check 308 as promised at her January 13, 2013 deposition, Ms. Chute violated 24-A M.R.S. §220(2), has disobeyed an order/subpoena of the Superintendent, and demonstrated her untrustworthiness.

Count VI

The February 12, 2013 Inquiry from Staff Counsel

49. On February 12, 2013, counsel for Bureau Staff had a telephone conversation with Ms. Chute, again requesting production of information relating to Check 308. In that conversation Ms. Chute promised that she would produce her banking records for June, July, and August 2010. (Check 308 was dated June 3, 2010.)

50. On February 13, 2013, Staff counsel followed up his February 12, 2013 conversation with Ms. Chute with an email confirming that in

response to his request she had promised that she would produce her banking records for June, July, and August 2010.

51. Up to the date of this petition and contrary to her representations to Staff counsel on February 12, 2013, Ms. Chute has failed to produce her banking records for June, July, and August 2010.

52. By failing to produce her banking records for June, July, and August 2010 as promised, Ms. Chute violated 24-A M.R.S. §220(2) and demonstrated her untrustworthiness.

Count VII

The March 14, 2013 Subpoena

53. On March 14, 2013, Bureau Staff obtained a subpoena *duces tecum*, for the purpose of obtaining from Ms. Chute previously promised but withheld banking records for June, July, and August 2010. The subpoena identifies all bank and credit union records relating to Check 308 as among the materials sought. The subpoena warns that disobedience of its commands may result in “consequences as provided by law.”

54. On March 29, 2013, a Cumberland County Deputy Sheriff served Ms. Chute in-hand with Staff’s subpoena *duces tecum*.

55. April 15, 2013 was the deadline for compliance with Staff’s subpoena *duces tecum*.

56. Up to the date of this petition, Ms. Chute has neither produced materials requested by Staff’s subpoena *duces tecum* nor filed any objection to the subpoena.

57. By failing to respond to Staff’s subpoena *duces tecum*, Ms. Chute violated 24-A M.R.S. §220(2), disobeyed an order/subpoena of the Superintendent, and demonstrated her untrustworthiness.

CONCLUSIONS

58. Bureau Staff alleges that from February 2012 up to the time of this petition Jeannie Marie Chute has repeatedly violated provisions of the Maine Insurance Code and orders/subpoenas of the Superintendent of Insurance. Ms. Chute’s misconduct constitutes an intentional obstruction of an investigation by the Bureau of Insurance, demonstrates a lack of respect for the law and the authority of the Superintendent,

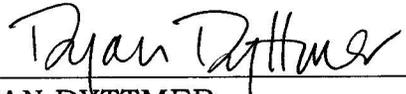
manifests untrustworthiness and a lack of fitness to hold licensure by the Bureau of Insurance, and is grounds for disciplinary action against her pursuant to statutes cited in Paragraphs 6 through 11 above.

REQUESTED ACTION

59. For all of the foregoing reasons, Bureau Staff requests that the Superintendent of Insurance commence an adjudicatory proceeding to determine, after affording an opportunity for hearing, what legal sanctions should be imposed against Jeannie Marie Chute as a consequence of the misconduct alleged above in Paragraphs 12 through 57.

Respectfully submitted,

June 7, 2013



DYAN DYTTER
Staff Attorney
Maine Bureau of Insurance