



CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

COMMONWEALTH OF MASSACHUSETTS
Office of Consumer Affairs and Business Regulation
DIVISION OF INSURANCE

1000 Washington Street • Suite 810 • Boston, MA 02118-6200
(617) 521-7794 • FAX (617) 521-7475
<http://www.mass.gov/doi>

JAY ASH
SECRETARY OF HOUSING AND
ECONOMIC DEVELOPMENT

JOHN C. CHAPMAN
UNDERSECRETARY

DANIEL R. JUDSON
COMMISSIONER OF INSURANCE

February 18, 2016

Brian McMahan
P.O. Box 290
263 Winn Street
Burlington, MA 01803

RE: Brian McMahan
Massachusetts License Number: 1723429
National Producer License Number: 5421774

VIA REGISTERED MAIL AND EMAIL

Dear Mr. McMahan:

I represent the Massachusetts Division of Insurance (Division) with regard to the above-captioned investigation. The Division has cause to believe that you violated the Massachusetts insurance laws as set forth below.

The Division opened an investigation after receiving a complaint from Steven Austerer, a member of 130 Arlington House Condominium Trust ("130 Arlington House") – a former client of yours. Mr. Austerer's complaint alleged that you failed to notify 130 Arlington House representatives that their commercial insurance policy issued by Norfolk & Dedham Mutual Fire was not going to be renewed upon the expiration of the policy on December 29, 2015.

The Division alleges that you violated M.G.L. c. 175, § 193P by failing to provide notice of the nonrenewal to 130 Arlington House within 15 days from your receipt of notice of nonrenewal sent to you by Norfolk & Dedham. The Division further alleges that you violated M.G.L. c. 175, § 162R (a)(8) by demonstrating incompetence in the conduct of business. The penalty for violating M.G.L. c. 175, § 193P is a fine up to \$500. See M.G.L. c. 175, § 194. The penalty for violating M.G.L. c. 175, § 162R is a fine up to \$1000 and/or the revocation, suspension or refusal to issue or renew your insurance producer license.

The Division is authorized to issue an order requiring you to show cause why you should not be made to: (1) cease and desist from the above alleged conduct; (2) have your Massachusetts resident insurance producer license revoked or suspended; and/or (3) pay a fine.

If, after a public hearing, the Commissioner of Insurance finds that you did commit the alleged violations, he may impose a fine up to the amounts listed above, and order that your Massachusetts insurance producer license be suspended or revoked.

The Division proposes at this time to resolve the matter with a \$1,000 fine. If you choose to accept the Division's offer, please sign the enclosed Settlement Agreement where provided and return to my attention by **March 25, 2016**.

If this matter is not resolved by March 25, 2016, the Division will proceed to an Order to Show Cause and will notify you of the hearing date.

Sincerely,

A handwritten signature in black ink, appearing to read "S. J. Peary", written in a cursive style.

Scott J. Peary
Chief Enforcement Counsel
Division of Insurance
Commonwealth of Massachusetts
1000 Washington Street, Suite 810
Boston, MA

Enclosure



CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

COMMONWEALTH OF MASSACHUSETTS
Office of Consumer Affairs and Business Regulation
DIVISION OF INSURANCE

1000 Washington Street • Suite 810 • Boston, MA 02118-6200
(617) 521-7794 • FAX (617) 521-7475
<http://www.mass.gov/doi>

JAY ASH
SECRETARY OF HOUSING AND
ECONOMIC DEVELOPMENT

JOHN C. CHAPMAN
UNDERSECRETARY

DANIEL R. JUDSON
COMMISSIONER OF INSURANCE

SETTLEMENT AGREEMENT

Brian McMahon, SIU Investigation # 9217

This Settlement Agreement (Agreement) is made by and between the Commonwealth of Massachusetts Division of Insurance (Division) with offices at 1000 Washington Street, Boston, Massachusetts 02118 and Brian McMahon (McMahon), a licensed producer under the laws of the Commonwealth of Massachusetts (Commonwealth), with a mailing address of P.O. Box 290, 263 Winn Street, Burlington, MA 01803.

WHEREAS, McMahon is currently licensed by the Division as a nonresident insurance producer pursuant to M.G.L. c. 175, §162N *et seq.*; and

WHEREAS, an insurance producer licensed in the Commonwealth must uphold the standards in M.G.L. c. 175, §162H *et seq.* and must comply with the Commonwealth's insurance laws, including without limitation, those set forth in M.G.L. c. 175 and M.G.L. c. 176D; the Code of Massachusetts Regulations; and any other regulatory requirements; each of which give the Commissioner of Insurance review, approval, and enforcement authority of licensees; and

WHEREAS, the Division has conducted an investigation, *Special Investigation Number 9217*, and contends that the alleged acts and conduct of McMahon as set forth in part in the Division's correspondence dated March 11, 2016, constitute grounds for revocation of McMahon's Massachusetts resident insurance producer license. A copy of the March 11, 2016, correspondence is attached and is incorporated by reference, and thereby made a part of this Agreement; and

WHEREAS, if after a public hearing the Commissioner of Insurance (Commissioner), were to find sufficient evidence to determine that McMahon did commit the alleged violations, the Commissioner could order the revocation of McMahon's insurance producer license(s) pursuant to M.G.L. c. 175, §162R(a) and c. 176D and order McMahon to pay a civil fine; and

WHEREAS McMahon is aware of his rights to notice and to a public administrative hearing with respect to the alleged violations of Massachusetts insurance laws in these matters, and hereby waives those rights.

NOW THEREFORE, in consideration of the foregoing and the covenants, warranties, representations and agreements contain herein, it is mutually agreed as follows:

1. McMahon agrees to immediately cease and desist from the conduct outlined in the Division's March 11, 2016 correspondence.
2. McMahon agrees to pay a \$500 fine by March 25, 2016. Such check shall be made payable to the Commonwealth of Massachusetts and returned, along with an original signed version of the instant settlement agreement, to:

Massachusetts Division of Insurance
C/O Scott Peary, Chief Enforcement Counsel
1000 Washington Street, Suite 810
Boston, MA 02118

3. Except as expressly set forth in this Agreement, the failure of the Division at any time to require strict performance by McMahon of any terms, provisions, or conditions hereof shall in no way affect the right thereafter to enforce the same, nor shall the waiver by the Division of any breach of any of the terms, provisions, and conditions hereof be construed or deemed a waiver of any succeeding breach of any term, provision, or condition thereof.

4. In the event that the Division finds that there has been a breach of any provision of this Agreement, the Division may, in its discretion, pursue any and all legal remedies permitted by the Massachusetts insurance laws as well as any other appropriate law of the Commonwealth.

5. The provisions of this Agreement may be amended, modified, or expanded solely in writing by joint consent of the Division and McMahon.

SIGNED:

Brian McMahon



Commonwealth of Massachusetts
Division of Insurance
Scott Peary
Chief Enforcement Counsel

Dated: _____

Dated: 3/11/2016