



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

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<http://www.mass.gov/doi>

CHARLES D. BAKER
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ECONOMIC DEVELOPMENT

JOHN C. CHAPMAN
UNDERSECRETARY

DANIEL R. JUDSON
COMMISSIONER OF INSURANCE

November 10, 2016

Prestige Insurance Agency
C/O Deborah Sierra-Erwin
14 North Main Street
Middleton, MA 01949

RE: Prestige Insurance Agency– Massachusetts License No. 1782763
SIU Investigation No. 9259

VIA Via E-Mail

Dear Mrs.Sierra-Erwin:

I represent the Massachusetts Division of Insurance (“Division”) with regard to the above-captioned investigation. Pursuant to an investigation conducted by the Division’s Special Investigations Unit, the Division has cause to believe that Prestige Insurance Agency violated the Massachusetts insurance laws set forth below by the conduct detailed in this settlement letter.

This case was opened on June 3, 2016, after the Division discovered that employee of Prestige Insurance Agency mishandled client funds and account information. The employee was not licensed to sell, solicit or negotiate insurance in Massachusetts. While cooperating in the instant investigation, the Division learned that approximately twenty-one (21) instances involved unauthorized and improper behavior by this employee, including but not limited to: (1) failure to renew policies as directed by Prestige Clients; and (2) misappropriation of premiums.

The conduct described above is evidence of the following violations:

M.G.L. c. 175, § 162R (a)(2) . . . [t]he commissioner may place on probation, suspend, revoke or refuse to issue or renew an insurance producer’s license or may levy a civil penalty for . . . violating any insurance laws. Additionally, a violation is punishable by a fine up to one thousand dollars. M.G.L. c. 176D, § 7.

M.G.L. c. 175, § 162R (a)(4) . . . [t]he commissioner may place on probation, suspend, revoke or refuse to issue or renew an insurance producer’s license or may levy a civil penalty for . . . improperly withholding, misappropriating or converting any monies or properties received in the

course of doing business. Additionally, a violation is punishable by a fine up to one thousand dollars. M.G.L. c. 176D, § 7.

M.G.L. c. 175, § 162R (a)(8) . . . [t]he commissioner may place on probation, suspend, revoke or refuse to issue or renew an insurance producer's license or may levy a civil penalty for . . . using fraudulent, coercive or dishonest practices in the conduct of business. Additionally, a violation is punishable by a fine up to one thousand dollars. M.G.L. c. 176D, § 7.

M.G.L. c. 176D, §2 – No person shall engage in this commonwealth in any trade practice which is defined in this chapter as, or determined pursuant to section six of this chapter to be, an unfair method of competition or an unfair or deceptive act or practice in the business of insurance. A violation is punishable by a fine up to one thousand dollars. M.G.L. c. 176D, § 7.

As the employer, Prestige Insurance Agency can be held liable for violations of the insurance laws by its employees. See Theos & Son, Inc. v. Mack Trucks, Inc., 431 Mass 736, 735 (2000) (quoting Restatement (Second of Agency § 27); See also Hudson v. Massachusetts Prop. Ins. Underwriting Ass'n, 386 Mass 450, 457 (1982).

The Division is authorized to issue an order requiring you to show cause as to why Prestige Insurance Agency should not be made to cease and desist from the above alleged conduct. If, after a public hearing, the Commissioner of Insurance finds that Prestige Insurance Agency 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 placed on probation, suspended or revoked.

The Division proposes to resolve this matter through a settlement if you agree to waive the right to a public hearing, agree to cease and desist from the above-alleged conduct and agree to pay a **fine of \$2,500.00**. If you choose to accept the Division's offer, please have an authorized individual sign this settlement letter where provided below and return it to my attention along with the first \$500 installment payment check made payable to the Commonwealth of Massachusetts, no later than **December 9, 2016**.

The Division considers the acceptance of this settlement to constitute a reportable administrative event which should be included on your next Massachusetts producer license renewal application. You also may be required to report this action in other jurisdictions where you hold an insurance producer license. This Agreement shall be construed under and governed by the laws of the Commonwealth of Massachusetts.

Although this correspondence does not constitute the required statutory notice of a public hearing, if this matter is not resolved by **December 9, 2016**, the Division intends to file its Order to Show Cause and will notify you of the hearing date.

Thank you for your prompt attention to this matter. Should you have any questions or wish to discuss this matter further, I may be reached at (617) 521-7471 or Scott.Peary@state.ma.us.

Sincerely,

Scott J. Peary
Chief Enforcement Counsel

Enclosure



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OF

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between the Commonwealth of Massachusetts, Division of Insurance (“Division”), and Prestige Insurance Agency, licensed as an insurance producer licensed under the laws of the Commonwealth of Massachusetts (“Commonwealth”) and with an address of 14 North Main Street, Middleton, MA 01949.

WHEREAS, Prestige Insurance Agency was licensed by the Division as an insurance producer pursuant to M.G.L. c. 175, § 162H *et seq.*;

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 & 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 over licensees;

WHEREAS, the Division has conducted an investigation, Special Investigation Number 9259, and contends that the acts and conduct of Prestige Insurance Agency as set forth in the Division’s correspondence dated November 10, 2016, a copy of which is attached hereto, constitute grounds for revocation of Prestige Insurance Agency’s insurance license and the imposition of fines;

WHEREAS, Prestige Insurance Agency is aware of its rights to notice and to an administrative hearing with respect to the alleged violations of Massachusetts insurance laws in these matters, and hereby waives those rights.

WHEREAS, Prestige Insurance Agency acknowledges discussing with its attorney Federal Rule of Evidence 410 and Massachusetts Rule of Evidence 410, rules which ordinarily limit the admissibility of statements made in the course of settlement discussions. You knowingly and voluntarily waive the rights which arise under these rules.

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

1. Prestige Insurance Agency agrees to immediately cease and desist from the conduct outlined in the Division’s November 10, 2016 correspondence.

2. Prestige Insurance Agency agrees to pay a \$2,500.00 fine according to the following schedule:

December 9, 2016 -- \$500
January 9, 2017 -- \$500
February 9, 2017 -- \$500
March 9, 2016 -- \$500
April 9, 2016 -- \$500

Failure to pay according to the schedule above is a violation of this agreement and shall void the entire agreement herein. Such checks shall be made payable to the Commonwealth of Massachusetts and returned to:

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

The initial December 9, 2016 payment shall be accompanied by an original executed copy of the agreement herein.


3. Except as expressly set forth in this Agreement, the failure of the Division at any time to require strict performance by Prestige Insurance Agency 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 Sierra-Erwin.

SIGNED:

Deborah Sierra-Erwin
Prestige Insurance Agency



Commonwealth of Massachusetts
Division of Insurance
Scott Peary
Chief Enforcement Counsel

Dated: _____

Dated: November 10, 2016