



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

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COMMISSIONER OF INSURANCE

Division of Insurance, Petitioner
v.
Craig Kendell Mason, Respondent
Docket No. E2008-06

Order on Petitioner's Motion for Summary Decision

Introduction and Procedural History

On March 18, 2008, the Massachusetts Division of Insurance ("Division") filed an Order to Show Cause ("OTSC") against Craig Kendell Mason ("Mason"), who is licensed as a Massachusetts insurance producer. The Division seeks orders that Mason has violated the provisions of the Massachusetts insurance laws, specifically M.G.L. c. 175, §162V(a), failing to notify the Division of administrative actions in another jurisdiction or by another governmental agency in the commonwealth within 30 days of the final disposition of the matter; M.G.L. c. 175, §162V(b), failing to notify the Division of any criminal prosecution taken in any jurisdiction within 30 days of the initial pretrial hearing date; and M.G.L. c. 175, §162R(a)(2), violating any insurance laws, or violating any regulation, subpoena or order of the commissioner or of another state's insurance commissioner. It asks for revocation of all licenses that the Division has granted to him, an order requiring him to cease and desist from the conduct alleged in the OTSC, an order requiring him to dispose of any interest he may have in any insurance-related business, an order to submit any and all Massachusetts insurance licenses in his

possession to the Division, an order prohibiting the direct or indirect transaction of insurance business or the acquisition of any insurance business in Massachusetts, and imposition of fines for the alleged violations.

The Division alleges that Mason was first licensed as an insurance agent on or about June 30, 2002, and that his license was converted to a producer license on or about May 16, 2003. This license is active. The Division asserts that Mason failed to notify the Division of administrative actions in Kentucky and New York within 30 days of the final disposition of these actions. The Division, further alleges, that Mason failed to report that he had been charged and pled to two misdemeanor crimes in Nebraska.

A Notice of Procedure ("Notice") was issued on March 21, 2008, advising Mason that a hearing on the OTSC would be held on April 29, 2008, at the offices of the Division, and a pre-hearing conference would take place on April 15, 2008. The hearing would be conducted pursuant to M.G.L c. 30A and the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.00, *et. seq.* The Notice advised Mason to file an answer pursuant to 801 CMR 1.01(6)(d) within 21 days of his receipt of the Notice and that, if he failed to file an answer, the Division could move for an order of default, summary decision, or decision on the pleadings granting it relief requested in the OTSC. It also notified Mason that, if he failed to appear at the pre-hearing conference or hearing, an order of default, summary decision, or decision on the pleadings might be entered against him. The Commissioner designated me as the presiding officer for this proceeding.

On March 24, 2008, the Notice and OTSC were sent by certified mail to Mason's business address, which the Division's records identify as SITEL Corporation, 5601 N. 103rd Street, Omaha, Nebraska 68135. The Domestic Return Receipt, signed by A. Polidy on March 26, 2008, was received by the Division on March 28, 2008. A copy was also sent to Mason's residence and business address, which the Division's records identify as 17217 T Circle, Omaha, Nebraska 68135, by first-class mail, postage prepaid. The mailings were not returned. The Division did not receive an answer or other responsive pleadings to the OTSC from Mason or any person representing him.

On April 15, 2008, a pre-hearing conference took place pursuant to 801 CMR 1.01(10)(a). Douglas Hale, Esq. appeared for the Division. Neither Mason nor any person representing him appeared. Mr. Hale reported that he had received no communication from

Mason or any person purporting to represent him, and stated that he would file a Motion for Summary Decision. Later that day, the Division filed a Motion for Summary Decision. An Order was issued on April 15, 2008, advising Mason to file any response to the motion by April 28, 2008, and setting April 29, 2008, as a date for argument on the motion. A hearing was held on April 29, 2008. Mason did not appear at the hearing and Mr. Hale reported that he received no communication from Mason or from any person representing him in this matter.

Findings of Fact

On the basis of the record before me, consisting of the OTSC and the exhibits attached to it, I find the following facts:

1. Respondent Mason was first licensed by the Division as an insurance agent on or about June 30, 2002. His license was converted to a Massachusetts Producer License on or about May 16, 2003. This license remains active; he does not hold any active agent appointments at this time.
2. On November 5, 2003, the Kentucky Department of Insurance issued an Order Levying Civil Penalty against Mason because he failed to disclose his 1996 misdemeanor conviction in Nebraska on his license application.
3. On March 2, 2004, the Kentucky Environmental and Public Protection Cabinet, Office of Insurance, issued an Order of Revocation against Mason for his failure to pay the civil penalty levied by the Kentucky Department of Insurance on November 5, 2003.
4. Mason failed to notify the Division of the Kentucky administrative action within 30 days of the action's disposition.
5. On February 16, 2005, Mason entered into a Stipulation with the New York Insurance Department, admitting that he provided materially incorrect and untrue information on his application for an agent's license by failing to disclose his license revocation in Kentucky.
6. Mason failed to notify the Division of the New York action within 30 days of the action's disposition.
7. On October 13, 2006, the Division received a letter, dated October 5, 2006, from the SITEL Corporation, located in Nebraska, disclosing that Mason had been charged with two misdemeanors, operating a vehicle without a registration and

operating a motor vehicle without proof of insurance; he pled guilty to the charges on September 17, 2004.

8. Mason failed to notify the Division of the Nebraska criminal action within 30 days of the initial pre-hearing date.

Analysis and Conclusions of Law

801 CMR 1.01(7)(h) authorizes a party to file a Motion for Summary Decision, with or without supporting affidavits, when the party is of the opinion that there is no genuine issues of fact relating to a claim and that he or she is entitled to prevail as a matter of law. The Division's Motion for Summary Decision notes that the Respondent failed to file an answer to the OTSC and failed to appear at the scheduled pre-hearing conference. The Respondent did not file a response to the Division's Motion for Summary Decision. No genuine issue of fact has been raised in connection with the Division's claims. I find that the Division is entitled to prevail as a matter of law.

The Division seeks relief under M.G.L. c. 175, §162V(a) which mandates that a producer notify the Division of administrative actions in another jurisdiction or by another governmental agency in the commonwealth within 30 days of the final disposition of the matter. I find that Mason failed to notify the Division of his administrative actions in Kentucky and New York within 30 days of the final disposition of these actions.

The Division cites to M.G.L. c. 175, §162V(b), a producer shall report to the commissioner any criminal prosecution of the producer taken in any jurisdiction within 30 days of the initial pretrial hearing date. The report shall include a copy of the initial complaint filed, the order resulting from the hearing and any other relevant legal documents. I find that Mason failed to notify the Division of his criminal action within 30 days of the initial pretrial hearing date.

The Division asserts that violations of M.G.L. c. 175, §162V(a) and (b) constitute a violation of M.G.L. c. 175, §162R(a)(2). Pursuant to M.G.L. c. 175, §162R(a)(2), a producer is subject to disciplinary action for violating any insurance laws, or violating any regulation, subpoena or order of the commissioner or of another state's insurance commissioner. I conclude that Mason's actions violate the statute.

I find that these violations support revocation of Mason's license. Pursuant to M.G.L. c. 175, §162R(a), the Commissioner may levy civil penalties in accordance with c. 176D,

§7. I find that the maximum fine should be imposed on Mason for each violation, resulting in a fine of Three Thousand Dollars (\$3,000).

ORDERS

Accordingly, after due notice, hearing, and consideration, it is

ORDERED: That any and all licenses issued to Craig Kendall Mason by the Massachusetts Division of Insurance are hereby revoked; and it is

FURTHER ORDERED: that Craig Kendall Mason shall return to the Division any licenses in his possession, custody, or control; and it is

FURTHER ORDERED: that Craig Kendall Mason shall comply with the provision of M.G.L. c. 175, §166B and dispose of any and all interests as proprietor, stockholder, officer or employee of any licensed producer in Massachusetts; and it is

FURTHER ORDERED: that Craig Kendall Mason is, from the date of this order, prohibited from directly or indirectly transacting any insurance business or acquiring any insurance business in the Commonwealth of Massachusetts in any capacity, and it is

FURTHER ORDERED: that Craig Kendall Mason shall cease and desist from the conduct that gave rise to the Order to Show Cause, and it is

FURTHER ORDERED: that Craig Kendall Mason shall pay a fine of Three Thousand Hundred Dollars (\$3,000) to the Division of Insurance within 30 days of the issuance of this order.

This decision has been filed this ____ day of May 2008 in the office of the Commissioner of Insurance. A copy shall be sent to Mason by certified mail, return receipt requested, as well as by regular first class mail, postage prepaid.

Tesha M. Scolaro
Presiding Officer

Pursuant to M.G.L. c. 26, §7, this decision may be appealed to the Commissioner of insurance.