



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

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**Sean Collins, Petitioner**

**v.**

**Division of Insurance, Respondent**

**Docket No.E2014-10**

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**Order on Respondent's Motion to Dismiss or for Summary Decision**

**I. Introduction and Procedural History**

On August 28, 2014, the Division of Insurance ("Division") received from Sean Collins ("Collins") a Notice of Claim for an Adjudicatory Proceeding ("Notice of Claim"), appealing the denial of his application for a Massachusetts resident insurance producer license. Collins submitted his producer license application on or about July 15, 2014; by letter dated July 22, 2014 (the "July 22 Letter"), the Division's Director of Producer Licensing ("Director") denied the application pursuant to Massachusetts General Laws Chapter 175, §162R (a)(1) ("§162R (a)(3)").

Those sections permit the Commissioner of Insurance ("Commissioner") to deny a license if evidence shows that the applicant has: 1) provided "incorrect, misleading, incomplete or materially untrue information in the license application..." or 2) has attempted to "obtain a license through misrepresentation or fraud..." As support for her decision, the Director relied on Collins's failure to disclose on his license application a prior disciplinary action initiated by the Division in 2002 that was settled by agreement (the "2002 Agreement"). In the 2002 Agreement, Collins consented to the immediate revocation of his insurance license and agreed not to reapply for a license for five years.

A notice of procedure, issued on September 10, 2014, scheduled a prehearing conference for October 14, 2014 and an evidentiary hearing for October 28, 2014. The Division timely filed its answer, which consisted of copies of Collins's 2014 application for a producer license, the July 22, 2014 Letter, a letter to counsel representing Collins in connection with the Division's 2002 disciplinary action, and the 2002 Agreement. .

Collins did not appear at the prehearing conference. Mary Ellen Thompson, Esq., counsel for the Division, reported that she had not been contacted by Collins or any person purporting to represent him. On October 15, 2014, the Division filed a motion to dismiss Collins's appeal for failure to prosecute or, in the alternative to enter summary decision for the Division. On that same date, an order issued advising Collins to submit any response to the Division's motion by October 24, 2014 and scheduling a hearing on the motion for October 28, 2014, the date initially scheduled for an evidentiary hearing. Collins filed no response to the Division's motion. At the hearing, Ms. Thompson reported that neither Collins nor any person purporting to represent him had communicated with her.

801 CMR 1.01(7)(g)(2) permits a party to move to dismiss a claim for failure to prosecute an appeal of an adverse administrative determination. Collins's failure to appear at the prehearing conference or to request a continuance support fully support the Division's motion. Because Collins subsequently failed to respond to the Division's motion, he has shown no cause why his claim should not be dismissed for failure to prosecute. The Division's motion to dismiss is hereby allowed.

801 CMR 1.01 (7)(h) also permits a party to move for summary decision when it appears that there is no genuine issue of fact relating to a claim or defense and the moving party is entitled to prevail as a matter of law. Because the substantive issue that Collins has raised in this appeal may recur, this decision also addresses the merits of his claim.

The Division bases its motion for summary decision on Collins's failure to report on his 2014 application a 2002 action in which he agreed to revocation of his Massachusetts insurance producer license. Collins admitted, on his Notice of Claim, that he did not report the 2002 matter, but argued that he did not intend to omit information because he "figured" the Division already knew about the action. His argument has no

merit. The Uniform Application for Individual Producer License that Collins submitted to the Division requires the applicant to report any administrative proceeding in which he or she has ever been named or involved; it provides no exclusion for proceedings that occurred in the state to which the applicant is submitting the application. The Uniform Application further required Collins to attest to his understanding that failure to omit pertinent or material information from the application is grounds for denial of a license.

Collins's undisputed failure to report the Division's 2002 action on the 2014 application fully supports the Director's action denying him a license for the reasons set forth in the July 22 Letter. For that reason, the Division's motion for summary decision is also allowed, and the Director's decision is affirmed.

DATED: October 30, 2014

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Jean F. Farrington  
Presiding Officer

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