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

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**Division of Insurance, Petitioner**  
**v.**  
**Richard R. Coscia, Respondent**  
**Docket No. E2018-09**

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**Decision and Order on Petitioner's Motion  
for Entry of Default and Summary Decision**

*Introduction and Procedural History*

On May 30, 2018, the Division of Insurance (“Division”) filed an Order to Show Cause (“OTSC”) against Richard R. Coscia (“Coscia”) who is a licensed Massachusetts resident insurance producer and the sole proprietor of Richard Coscia Insurance Agency (“Coscia Insurance”) in Winthrop, Massachusetts. The Division alleges that Coscia continues to employ his son, Richard Coscia Jr. (“Richard Jr.”),<sup>1</sup> at his insurance business in violation of The Federal Violent Crime Control and Law Enforcement Act of 1994.<sup>2</sup> It seeks orders that Coscia has violated the provisions of the Massachusetts insurance laws, including M.G.L. c. 175, §§162R (a)(1), (a)(2) and (a)(8), three grounds on which the Commissioner may revoke an insurance producer’s license, M.G.L. c. 176D, §2, which prohibits unfair and deceptive acts or practices in the business of insurance, and M.G.L. c. 175, §162, which requires that the solicitation or negotiation of insurance policies must be undertaken under the “immediate direction and general supervision of a duly licensed broker or agent.” The Division further requests the revocation of Coscia’s license, imposition of fines, and orders prohibiting him from engaging in the insurance

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<sup>1</sup> In Exhibit A, Richard Jr. is also referred to as “Richard J. Coscia” and “RJC.” To avoid name confusion, the Respondent is referred to as “Coscia” and his son is referred to as “Richard Jr.” throughout this decision and order. Richard Jr. has never been licensed by the Division and there is no evidence in the record indicating that Richard Jr. has ever been disciplined by the Division.

<sup>2</sup> 18 U.S.C. § 1033.

business in Massachusetts and directing him to dispose of his interests in any insurance businesses in Massachusetts.

On May 30, 2018, the Division served the OTSC and a Notice of Action on Coscia by the United States Postal Service ("USPS") certified mail and regular first-class mail to his home and business addresses on file in the Division's licensing records. Coscia filed no answer or other response to the OTSC. On July 9, 2018, the Division filed a motion for summary decision in its favor against Coscia for failure to answer the OTSC. I issued an order on July 9, 2018 instructing Coscia to file any written response to the Division's motion by July 20, 2018 and scheduling a hearing on the motion for July 24, 2018.

Coscia did not respond to the Division's motion for summary decision. Neither he nor any person purporting to represent him appeared at the hearing on July 24, 2018. Robert J. Kelly, Esq. represented the Division at the hearing. He stated that he had not been contacted about this matter by Coscia or by any person purporting to represent him. He confirmed that the OTSC served on Coscia by certified mail at his home address was signed for and delivered on June 1, 2018 and the OTSC served on Coscia by certified mail at his business address was signed for and delivered on June 7, 2018. He also confirmed that the first class mailings to Coscia's home and business addresses were not returned to the Division by USPS.

***Finding of Default***

On the basis of the record before me, I conclude that the Division took appropriate actions to ensure proper service. The OTSC was served on Coscia by both first-class mail and certified mail to the home and business addresses on file at the Division and Coscia signed the certified mail receipts.

By his default, Coscia has waived his right to proceed further with an evidentiary hearing in this case and I may consider the Division's motion for summary decision based on the record. That record consists of the OTSC, the Motion for Summary Decision, and 11 exhibits. The following exhibits are attached to the OTSC: A) Division settlement agreement dated April 7, 2015 and executed by the Respondent on April 20, 2015 to resolve Special Investigations Unit ("SIU") Investigation No. 8996; B) Certified Public Docket Report for *Commonwealth v. Coscia, Jr., Richard*, 1184-CR-10016; C) Certified Public Docket Report for *Commonwealth v. Coscia, Jr., Richard*, 1605-CR-000645; D) Insurance Fraud Bureau ("IFB") of Massachusetts

Case Summary Report in Case File Number 2015-08-031, dated October 13, 2015 and Certified Public Docket Report for *Commonwealth v. Coscia, Richard*, 1586-CR-000439;<sup>3</sup> E) Affidavit of Matthew M. Burke, Counsel to the Commissioner at the Division; F) Affidavit of Shannon Anderson, a customer of Coscia Insurance; G) Affidavit of Peter Vitale, Special Investigator at the Division; H) Respondent's Uniform Renewal Application for Individual Producer License, dated September 8, 2016. Attached to the motion for summary decision are the following exhibits: I) USPS Certified Mail Receipt and tracking confirming delivery of the OTSC to Coscia's home address on June 1, 2018, and J) USPS Certified Mail Receipt and tracking confirming delivery of the OTSC to Coscia's business address on June 7, 2018. Exhibit K, a copy of Coscia's licensing history at the Division, was entered into the record at the hearing on July 24, 2018.

### ***Findings of Fact***

Based on my review of the record, I make the following findings of fact.

1. The Division first licensed Coscia as an insurance agent on July 13, 1981. Coscia's insurance agent license was converted to a resident individual insurance producer license on May 16, 2003.
2. Coscia currently has two agent appointments with the Foremost Insurance Company and the Stillwater Property and Casualty Insurance Company.
3. Coscia owns and operates Richard Coscia Insurance Agency ("Coscia Insurance"), which is located in Winthrop, Massachusetts.
4. On January 18, 2011, Coscia's son, Richard Coscia Jr. was arraigned in Suffolk County Superior Court on 11 felony counts of Motor Vehicle Insurance Fraud (M.G.L. c. 266, §111B), ten felony counts of Larceny Over \$250 (M.G.L. c. 266, §30), and four felony counts of Larceny Under \$250 (M.G.L. c. 266, §30) (*Commonwealth v. Coscia, Jr., Richard*, 1184-CR-10016). On this date, Richard Jr. pleaded guilty to all 25 felony counts. He was sentenced to two years' probation and was order to pay restitution to his victims.
5. Beginning on January 18, 2011, Richard Jr. was barred from engaging or participating in the business of insurance due to his felony convictions for larceny and Motor Vehicle Insurance Fraud, unless he received written consent from the Commissioner.<sup>4</sup>

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<sup>3</sup> Richard Jr. is named in the criminal docket as "Richard Coscia." The date of birth and other identifying information in the record clarifies that the defendant is Richard Jr.

<sup>4</sup> 18 U.S.C. §1033(e)(1)(A). "Any individual who has been convicted of any criminal felony involving dishonesty or a breach of trust, or who has been convicted of an offense under this section, and who willfully engages in the business of insurance whose activities affect interstate commerce or participates in such business, shall be fined as provided in this title or imprisoned not more than 5 years, or both." Pursuant to 18 U.S.C. §1033(e)(2), "[a] person described in paragraph (1)(A) may engage in the business of insurance or participate in such business if such person has the written consent of any insurance regulatory official authorized to regulate the insurer."

6. Beginning on January 18, 2011, Coscia was prohibited from willfully permitting Richard Jr.'s participation in the business of insurance without his son first obtaining written consent from the Commissioner.<sup>5</sup>
7. Richard Jr. has neither applied for nor has been granted written consent from the Commissioner to engage or participate in the business of insurance.
8. On August 2, 2011, Coscia executed a settlement agreement with the Division by which he agreed to pay a \$3,000 fine in order to resolve allegations of changing the garaging address or license date on automobile insurance policies without the knowledge of the policyholders. In this settlement agreement, Coscia agreed to report the settlement agreement as an administrative action on his next Massachusetts license renewal application.
9. On August 24, 2013, Coscia renewed his individual producer license and did not report the August 2, 2011 administrative action on his Uniform Renewal Application for Individual Producer License.
10. On April 20, 2015, Coscia executed a settlement agreement with the Division by which he agreed to pay a \$5,000 fine in in order to resolve SIU investigation no. 8996. In this matter, the Division alleged that Coscia allowed Richard Jr. to work at Coscia Insurance after his 2011 insurance fraud and larceny felony convictions. The administrative action also resolved allegations related to Coscia's failure to report the 2011 settlement agreement when he renewed his license on August 24, 2013. Coscia agreed to cease and desist from employing Richard Jr. at his insurance business and to report the settlement agreement as an administrative action on his next Massachusetts license renewal application. Coscia subsequently paid the \$5,000 fine to the Division.
11. On August 14, 2015, a fraud allegation was referred to the Insurance Fraud Bureau of Massachusetts ("IFB") (Case File Number 2015-08-031). On October 13, 2015, the investigation concluded that "Richard Coscia" did not remit insurance premium payments received from a business in Peabody, Massachusetts. The matter was referred to the Office of the Essex County District Attorney for prosecution.<sup>6</sup>
12. On September 8, 2016, Coscia renewed his individual producer license and did not report the August 2, 2011 and April 20, 2015 administrative actions to the Division on his Uniform Renewal Application for Individual Producer License.
13. On January 26, 2017, Richard Jr. plead guilty to two felony counts of Larceny Over \$250 (M.G.L. c. 266, §30) and one felony count of Fraud by Insurance Agent/Broker (M.G.L. c. 175 §170) (*Commonwealth v. Coscia, Richard*, 1586-CR-000439).<sup>7</sup> Richard Jr. was sentenced to three months in the house of corrections for each

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<sup>5</sup> 18 U.S.C. §1033(e)(1)(B). "Any individual who is engaged in the business of insurance whose activities affect interstate commerce and who willfully permits the participation described in subparagraph (A) shall be fined as provided in this title or imprisoned not more than 5 years, or both."

<sup>6</sup> The IFB Case Summary Report indicates that "Richard Coscia of Richard Coscia Insurance Agency was involved in possible pocketing of money intended for premium." The report does not specify whether it was Coscia, the Respondent, who was suspected of larceny or his son, Richard Jr. However, it appears charges were filed against Richard Jr. in this matter, who was eventually convicted of larceny and insurance fraud. Despite the findings of the IFB, the Division did not pursue discipline against either Coscia or Richard Jr. at that time. See Exhibit D.

<sup>7</sup> See FN3.

- conviction and was ordered to pay \$6,000 in restitution to the owners of the defrauded Peabody, Massachusetts business.
14. Following Richard Jr.'s convictions, Coscia continued to allow Richard Jr. to participate in the insurance business at Coscia Insurance.
  15. On September 1, 2017, a Massachusetts consumer filed a complaint with the Division alleging that Coscia was allowing Richard Jr. to work at Coscia insurance and that Richard Jr. failed to process her car insurance paperwork properly.
  16. On September 21, 2017, Coscia admitted to the Division's SIU that Richard Jr. continues to work at Coscia Insurance.

### ***Analysis and Conclusions of Law***

801 CMR 1.01(7)(h) permits a party to move for summary decision when, in its opinion, there is no genuine issue of fact relating to a claim and it is entitled to prevail as a matter of law. Coscia has not contested the factual allegations in the OTSC or offered any defense to the Division's claims for relief. M.G.L. c. 175, §§162G through 162X describe the requirements for obtaining and maintaining a Massachusetts insurance producer license. M.G.L. c. 175, §162R (a) specifies 14 grounds on which the Commissioner may initiate disciplinary action against a licensed producer. The Division identifies M.G.L. c. 175, §162R (a)(1), (a)(2) and (a)(8) as grounds for revocation of Coscia's license.

M.G.L. c. 175, §162R (a)(1) supports disciplinary action for "providing incorrect, misleading, incomplete or materially untrue information in the license application." Here, Coscia failed to report the most recent Division administrative action against his producer license (the April 20, 2015 settlement agreement) on his September 8, 2016 license renewal.<sup>8</sup> It is clear that Coscia was aware of this reporting requirement because he paid a fine to settle an identical allegation that he did not report an administrative action when he renewed his license on August 24, 2013.<sup>9</sup> Furthermore, Coscia accepted the terms of settlement agreement which stated that "[t]he 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."<sup>10</sup> The record fully supports the Division's claim that Coscia provided

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<sup>8</sup> See Exhibit H. Question 2 on the Uniform Renewal Application for Individual Producer License states "Have you been named or involved as a party in an administrative proceeding, including a FINRA sanction or arbitration proceeding regarding any professional or occupational license or registration, which has not been previously reported to this insurance department?" Coscia answered "No" to this question.

<sup>9</sup> Exhibit A, p. 2.

<sup>10</sup> *Id.* Although the settlement agreement refers to a "Massachusetts producer license renewal application," the renewal application is no longer unique to Massachusetts. Insurance producers renew their licenses triennially on

incorrect, incomplete, and materially untrue information on his September 8, 2016 license renewal application and is therefore subject to discipline under subsection (a)(1).

M.G.L. c. 175, §162R (a)(8) supports disciplinary action for “using fraudulent, coercive or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in the commonwealth or elsewhere.” It is clear from the record that since at least April 20, 2015, Coscia was aware that Richard Jr. was barred from obtaining employment in the insurance business pursuant to 18 U.S.C. §1033(e)(1)(A) unless he received written consent from the Commissioner.<sup>11</sup> Neither Coscia nor Richard Jr. applied for consent from the Division.<sup>12</sup> Furthermore, Coscia was warned that employing Richard Jr. at Coscia Insurance in any capacity may result in the revocation of his insurance producer's license.<sup>13</sup> Finally, in an interview with the Division's Special Investigations Unit on September 21, 2017, Coscia admitted to employing his son at his insurance agency.<sup>14</sup> In willfully permitting his son to continue to participate in the insurance business on multiple instances following his criminal convictions, Coscia placed Massachusetts insurance consumers at risk and has demonstrated incompetence, untrustworthiness, and financial irresponsibility in the conduct of business. He is therefore subject to discipline under subsection (a)(8).

Finally, M.G.L. c. 175, §162R (a)(2), in pertinent part, supports disciplinary action for violating any insurance laws or regulation, subpoena or order of the Commissioner or of another state's insurance commissioner. The Division alleges that Coscia violated M.G.L. c. 175, §162,

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the National Insurance Producer Registry (“NIPR”) website. It is particularly important that a producer report any administrative proceedings against his or her license in order to maintain an accurate producer database accessible by other states' insurance departments. *See* Exhibit H.

<sup>11</sup> Exhibit A. The settlement agreement which Coscia executed on April 20, 2015 states that the IFB received a complaint from an insurance company stating that Coscia Insurance “employed [Richard Jr.], who acted as a licensed producer, despite being barred from working in insurance because of a criminal insurance fraud conviction. . . [Richard Jr.'s] involvement occurred after his January 5, 2011 conviction for insurance fraud and larceny, a conviction that prohibits him from working in the insurance industry under the Federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. §1033. Under the Act, it is a criminal offense for anyone engaged in the business of insurance to willfully permit a prohibited person to conduct insurance activity. Furthermore, should the Division receive additional information of [Richard Jr.'s] current or future employment in any capacity within [Coscia Insurance] it will move to revoke your insurance producer license.” In total, Richard Jr. was convicted of 11 felony counts of Motor Vehicle Insurance Fraud (M.G.L. c. 266, §111B), 12 felony counts of Larceny Over \$250 (M.G.L. c. 266, §30), 4 felony counts of Larceny Under \$250 (M.G.L. c. 266, §30), and one felony count of Fraud by Insurance Agent/Broker (M.G.L. c. 175 §170). *See* Exhibits B and D.

<sup>12</sup> Exhibit E. The procedure for seeking consent to engage in the business of insurance pursuant to 18 U.S.C. §1033 is outlined on the Division's website at <https://www.mass.gov/service-details/1033-consent-application-procedure>.

<sup>13</sup> Exhibit A.

<sup>14</sup> Exhibit G.

which provides: "Solicitation or negotiation of policies of insurance performed on the premises of an insurance broker, agent or company, may be done by an employee insofar as such solicitation or negotiation is under the immediate direction and general supervision of a duly licensed broker or agent." The OTSC also alleges that discipline under subsection (a)(2) is supported by failure to comply with the 2015 settlement agreement in which he agreed to cease and desist from employing Richard Jr. at Coscia Insurance.<sup>15</sup>

As stated previously, the facts demonstrate that Coscia knowingly and willfully continued to employ Richard Jr., at Coscia Insurance until at least September 21, 2017, despite Richard Jr.'s multiple convictions for insurance fraud and larceny. Although there is no evidence in the record showing that the Division has pursued discipline against Richard Jr. for unlicensed employment as an insurance producer, there is ample evidence to demonstrate that Richard Jr. dealt with insurance consumers directly. Based on his convictions for larceny and insurance fraud, it is clear that Richard Jr., and not his father, accepted premium payments from consumers and he alone was found legally responsible for failing to remit these premiums to insurers.<sup>16</sup> Furthermore, a Massachusetts consumer, in a sworn affidavit, attested that she mainly communicated with Richard Jr. when she obtained automobile insurance from Coscia Insurance in August 2017.<sup>17</sup> The affidavit indicates that Richard Jr. was the primary contact at Coscia Insurance when she had questions about his communication with the Registry of Motor Vehicles in an attempt to insure her vehicle and her previous premium payments to her insurance company.<sup>18</sup> There is sufficient evidence to conclude that Coscia did not exercise immediate direction and general supervision over Richard Jr.'s solicitation or negotiation of insurance policies at Coscia Insurance. He is therefore subject to discipline under subsection (a)(2).

Coscia, since at least 2015, has been advised that he cannot employ his son without obtaining permission from the Commissioner. Since that time he has deliberately violated Massachusetts insurance laws and ignored his obligations. The number and the seriousness of

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<sup>15</sup> While it is undisputed that Coscia violated the terms of the of the settlement agreement by failing to cease and desist from employing Richard Jr., it must be noted that the settlement agreement is not a "regulation, subpoena or order of the commissioner" as specified in M.G.L. c. 175, §162R (a)(2).

<sup>16</sup> Exhibts B-D. Richard Jr. most recently pleaded guilty to two counts of larceny and insurance fraud on January 26, 2017 for failing to remit insurance premiums received from a Peabody, Massachusetts business.

<sup>17</sup> Exhibit F.

<sup>18</sup> *Id.*

the grounds the Division cites for taking disciplinary action against Coscia fully warrant its request to revoke his Massachusetts producer license. On this record, I find that, in addition to revocation of his license, Coscia should be prohibited from transacting any insurance business or acquiring, in any capacity whatsoever in Massachusetts, any insurance business in Massachusetts and shall dispose of any interests he may have in any insurance business in Massachusetts, including all interests in Coscia Insurance in Winthrop, Massachusetts.

M.G.L. c. 175, §162R (a) also permits the Commissioner to levy a civil penalty in accordance with Chapter 176D, §7 ("Section 7 fines") for unfair and deceptive acts and practices in the business of insurance. The maximum penalty permitted under M.G.L. c. 176D, §7 is \$1,000 per violation. The Division requests Section 7 fines for each of the three grounds it relies on to support revocation of Coscia's license: 1) providing incorrect, misleading, incomplete or materially untrue information in the license application; 2) violations of federal and Massachusetts insurance laws and administrative agreements; and 3) using fraudulent, coercive or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business.

Given the serious nature of the Respondent's infractions, the pattern of willful misconduct, and the resulting negative effects on Massachusetts insurance consumers, it is entirely appropriate to impose Section 7 fines on the Respondent. For that reason, I will impose the maximum penalty of \$1,000 for each the three grounds upon which Coscia's license is revoked.<sup>19</sup>

For the reasons set forth above, the Division's Motion for Summary Decision is hereby allowed.

## **ORDERS**

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

**ORDERED:** That the insurance producer license issued to Richard R. Coscia by the Division is hereby revoked; and it is

**FURTHER ORDERED:** that, within ten (10) days of this decision, Richard R. Coscia shall return to the Division any license in his possession, custody or control; and it is

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<sup>19</sup> As the number of instances that Coscia has employed Richard Jr. at Coscia Insurance cannot be ascertained from the record, it cannot be determined how many violations of law have been committed.



**FURTHER ORDERED:** that Richard R. Coscia is, from the date of this order, prohibited from directly or indirectly transacting any insurance business or acquiring, in any capacity whatsoever, any insurance business in Massachusetts; and it is

**FURTHER ORDERED:** that Richard R. Coscia shall promptly comply with the provisions of M.G.L. c. 175, §166B and dispose of any and all interests in Massachusetts as proprietor, partner, stockholder, officer or employee of any licensed insurance producer, including the Richard Coscia Insurance Agency at 157 Veterans Rd, Winthrop, MA 02152, within sixty (60) days of the date of this order.

**FURTHER ORDERED:** that Richard R. Coscia shall pay a fine of Three Thousand Dollars (\$3,000) to the Division within thirty (30) days of the date of this decision and order.

This decision has been filed this 12<sup>th</sup> day of September 2018, in the office of the Commissioner of Insurance. Copies shall be sent to Richard R. Coscia by regular first class mail, postage prepaid, to the home and business addresses on file at the Division.

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Kristina A. Gasson  
Presiding Officer

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