



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

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DANIEL R. JUDSON
COMMISSIONER OF INSURANCE

Division of Insurance, Petitioner

v.

Cassandra L. Ott, Respondent

Docket No. E2015-11

**Decision and Order on Petitioner's
Motion for Summary Decision**

Introduction and Procedural History

On October 21, 2015, the Division of Insurance (“Division”) filed an Order to Show Cause (“OTSC”) against Cassandra L. Ott (“Ott”), a licensed Massachusetts non-resident insurance producer. The Division alleges that Ott failed to report to the Division administrative actions against her as an insurance producer by the states of Kentucky, North Dakota, South Dakota, Minnesota, Washington, Virginia and Idaho. According to the Division, each of those actions resulted in revocation of her license. The Division contends that Ott reported none of these actions to the Division within the thirty-day time frame prescribed by M.G.L. c. 175, §162V (a).

The Division further contends that these allegations support revocation of Ott’s Massachusetts producer license pursuant to the provisions of M.G.L. c. 175, §162R (a)(2), (a)(7) and (a)(9) as well as for violations of M.G.L. c. 175, §162V (a). In addition to license revocation, the Division seeks a cease and desist order and orders requiring Ott to dispose of any insurance-related interests in Massachusetts, prohibiting her from conducting any insurance business in the Commonwealth, and imposing fines for the alleged violations.

On October 21, 2015, The Division served the OTSC and a Notice of Action on Ott by both certified mail and first-class mail addressed to her at the residential and mailing address on file in the Division's licensing records. The United States Postal Service returned both the certified mail and the first class mail to the Division with the notation "return to sender-attempted-unable to forward." Ott filed no answer or other response to the OTSC. On November 23, 2015 the Division filed a motion for summary decision in its favor against Ott for failure to answer the OTSC. An order, issued on November 24, instructed Ott to file any written response to the Division's motion by December 9, 2015 and scheduled a hearing on the motion for December 11, 2015.

Ott did not respond to the Division's motion for summary decision. Neither she nor any person purporting to represent her appeared at the hearing on November 17, 2014. Robert Kelly, Esq. represented the Division at the hearing. He stated that he had not been contacted about this matter by Ott or by any person purporting to represent her. He orally moved to find Ott in default and at my request agreed to file documentation relating to her termination by her employer.

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 Ott by certified and by first-class mail sent to her residential and mailing address, as shown on the Division's records. The United States Postal Service returned both documents sent to the residential and mailing address with the notation that it had attempted delivery and was unable to forward the mailings. Because Ott's employer, Sutherland Global Services, Inc., notified the Division that it had terminated her, I find that service at her business address was not required. I conclude that service was sufficient and that Ott's failure to answer the OTSC, to respond to the Division's motion, or to appear at the hearing warrant a finding that she is in default.

By her default, Ott has waived her 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 the following exhibits attached to the OTSC: A) Order from the Kentucky Department of Insurance, dated September 22, 2014, revoking Ott's Kentucky insurance license; B) Order from the North Dakota Insurance Department, dated November 24, 2014, revoking Ott's North Dakota insurance license; C) Order from the South Dakota Division of Insurance, dated February 12, 2015, revoking Ott's

South Dakota insurance producer license; D) Order from the Minnesota Department of Commerce, dated March 2, 2015, revoking Ott's Minnesota insurance producer license; E) Order from the Washington Insurance Commissioner, dated March 6, 2015, revoking Ott's Washington insurance license; F) Order from the Virginia State Corporation Commission, dated March 20, 2015, revoking Ott's Virginia insurance license; and G) Order from the Idaho Department of Insurance, dated April 3, 2015, revoking Ott's Idaho insurance producer license.

Findings of Fact

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

1. The Division first licensed Ott as a non-resident insurance producer on or about February 8, 2014.
2. On September 22, 2014, the Kentucky Department of Insurance revoked Ott's Kentucky insurance producer license.
3. On November 24, 2014, the North Dakota Insurance Department revoked Ott's North Dakota insurance producer license.
4. On February 12, 2015, the South Dakota Division of Insurance revoked Ott's South Dakota insurance producer license.
5. On March 2, 2015, the Minnesota Department of Commerce revoked Ott's Minnesota insurance producer license.
6. On March 6, 2015, the Washington Insurance Commissioner revoked Ott's Washington insurance producer license.
7. On March 20, 2015, the Virginia State Corporation Commission revoked Ott's Virginia insurance license.
8. On April 3, 2015, the Idaho Department of Insurance revoked Ott's Idaho insurance producer license.
9. Ott did not report to the Division any of those administrative actions or the revocations of her producer licenses by Kentucky, North Dakota, South Dakota, Minnesota, Washington, Virginia or Idaho.

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. Ott 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 set out, among other things, the requirements for obtaining and maintaining a Massachusetts insurance producer license. Chapter 175, §162R (a) specifies fourteen grounds on which the Commissioner may initiate disciplinary action against a licensed producer. The Division identifies subsections §162R , (a)(2), (a)(7) and (a)(9) as grounds for revocation of Ott's license, as well a failure to comply with Chapter 175, §162V(a),

a statute requiring a producer to report to the Commissioner any administrative proceeding relating to a license in any jurisdiction within 30 days of the final disposition.

Subsection 162R (a)(2), in pertinent part, permits revocation for violating any insurance laws or regulation, subpoena or order of the Commissioner or of another state's insurance commissioner. Ott failed to notify the Division of the administrative actions against her in Kentucky, North Dakota, South Dakota, Minnesota, Washington, Virginia and Idaho, as she is required to do under Chapter 175, §162V(a). The record fully supports the Division's claim that Ott violated Massachusetts insurance law.

Subsection 162R (a)(7) permits revocation if a producer has admitted or been found to have committed any insurance unfair trade practice or fraud. I find that the actions underlying license revocations by Kentucky, North Dakota, South Dakota and Minnesota fully support the Division's assertion that Ott's license may be revoked on the grounds set out in Subsection 162R (a)(7.) Each of those decisions states that Ott, while acting as a agent for Metropolitan Property and Casualty Insurance Company, improperly rated drivers, provided discounts to insureds who did not qualify to receive them, provided inaccurate information to insureds, and failed to document transactions properly. Such misrepresentations support a conclusion that Ott engaged in fraudulent practices and committed unfair trade practices in the business of insurance. .

Subsection 162R (a)(9) supports disciplinary action when an insurance producer's license has been revoked in another jurisdiction. The administrative actions that resulted in revocation of Ott's insurance producer licenses in Kentucky, North Dakota, South Dakota, Minnesota, Washington, Virginia and Idaho therefore support revocation of her Massachusetts license.

Failure to report administrative actions by other jurisdictions limits the Division's capacity effectively to protect Massachusetts consumers through oversight of its licensees. The Kentucky administrative action that led to revocation of Ott's license was issued approximately seven months after she obtained her Massachusetts insurance producer license, and the North Dakota license revocation ten months after she was licensed in Massachusetts. Ott's failure to report these events to the Division on a timely basis allowed her to remain fully qualified for many months to sell insurance in Massachusetts and deprived the Division of an opportunity promptly to reassess her qualifications for licensure.

The number and the seriousness of the grounds relied on by the Division to support its disciplinary action fully warrant revocation of Ott's license. On this record, I find that, in

addition to revocation of her license, Ott 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 she may have in any insurance business in Massachusetts.

Chapter 175, §162R (a) also permits the Commissioner to levy a civil penalty in accordance with Chapter 176D, §7 for violations of the insurance laws and regulations. The maximum penalty permitted under Chapter 176D, §7 is \$1,000 per violation. Ott, by failing to report to the Division any of seven administrative actions revoking her license, committed seven violations of Chapter 175, §162V(a). Because these actions constitute serious violations of the insurance laws, I impose the maximum fine for each of them.

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 any insurance producer license issued to Cassandra L. Ott by the Division is hereby revoked; and it is

FURTHER ORDERED: that Cassandra L. Ott shall return to the Division any license in her possession, custody or control; and it is

FURTHER ORDERED: that Cassandra L. Ott 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 Cassandra L. Ott shall comply with the provisions of Chapter 175, §166B and dispose of any and all interests in Massachusetts as proprietor, partner, stockholder, officer or employee of any licensed insurance producer; and it is

FURTHER ORDERED: that Cassandra L. Ott shall pay a fine of Seven Thousand (\$7,000) to the Division within 30 days of the entry of this order.

This decision has been filed this 28th day of December 2015, in the office of the Commissioner of Insurance. A copy shall be sent to Cassandra L. Ott by regular first class mail, postage prepaid.

Jean F. Farrington
Presiding Officer

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