

2. Deborah Burns Scott (hereinafter referred to as “Scott”) is a licensed producer in Oklahoma. Her producer license number is 40011835. (Ex. “C”). Scott is appointed to sell insurance products for Imperial in Oklahoma and several other states. (Ex. “F”).

3. Maximus Management II, LLC is a domestic limited liability company. Scott is one of its owners and president. Maximus is a licensed producer firm (license # 10003491) and managing general agency (license # 10003491). Scott is listed as Maximus’ responsible licensed person for each license. (Exs. “H” and “I”; R. at 47-51).

FINDINGS OF FACT

4. In 2007, the Oklahoma Insurance Department used paper applications for individuals seeking an Oklahoma producer license. (Ex. “A”; R. at 27, lls. 17- 24).

5. This application contains information relating to a statutorily required licensing exam. The application provides:

Examination Authorization. Applicants will receive notification of application approval or denial. Upon approval, a testing authorization letter will be mailed to the applicant, which will include instructions on how to schedule an examination. Test scores will be made available to the applicant immediately upon completion of the examination.

Id.

6. Deborah Burns Scott had submitted on her behalf an application for an Oklahoma resident producer license. (Ex. "B"; R. at 29; lls. 17-25). The application was signed by Deborah Burns Scott. (Ex. "B"; R. at 30; lls. 5-6).

7. An application signed by Respondent Scott contained the following information:

Examination Authorization. Applicants will receive notification of application approval or denial. Upon approval, a testing authorization letter will be mailed to the applicant, which will include instructions on how to schedule an examination. Test scores will be made available to the applicant immediately upon completion of the examination.

(Ex. "R").

8. Scott signed a blank application (Ex. "R") except for the first two lines. Scott's application was then filled out by Robert Thomas – Vice President and General Counsel for Imperial Casualty and Indemnity Insurance Company – which he submitted (without the last page containing information relative to the required testing) to his contact within the Insurance Department, Lalanía Cobb. (Exs. "K", "L", and "R"; R. at 138-40).

9. At all relevant times, Thomas was acting as Respondents' agent. (Exs. "K", "L", "M", "N", "O", "P", "Q", and "R"). There was no evidence of an attorney-client relationship having been created between Scott and Thomas.

10. In the application Scott listed her place of residence as [REDACTED] [REDACTED] (Ex. "B"). This address was a business address for Maximus, not Scott's place of residence. (Exs.

“H” and “I”).

11. Additionally, Scott’s application also provided that her business address was [REDACTED] Id. This is the address of Imperial Casualty and Indemnity Insurance Company.

12. Acting on Scott’s behalf, Thomas submitted Scott’s application to the Department via FedEx on July 17, 2007. (Exs. “K”, “L”, “N” and “R”; R. at 138-40; 194-95).

13. Thus, although Scott signed the application, she did not submit it, verify its contents, or make the required affirmations. Id. (R. at 195; lls. 9-17).

14. On July 18, 2007, the Department received Scott’s application for a producer license. (Ex. “B”; R. at 29; lls. 17-25).

15. The Department maintains producer application and licensing information on the Sircon database. (R. at 31; lls. 4-6). Sircon reports contain information concerning an individual applicant’s licenses, addresses, address, history, *etc.* Each Sircon reports also indicates which Department employee is the “Responsible Staff Member.”

16. Respondent Scott’s application was logged into Sircon. (Ex. “C”; R. at 32; lls. 6- 16).

17. On Scott’s Sircon application report, Lalaria Cobb – an employee of the Department – is listed as the “Responsible Staff Member.” Id.

18. Cobb worked in the Department’s Financial Division. As a member of the Financial Division, Cobb did not have any responsibilities for processing or

reviewing applications for resident producers. (R. at 33; lls. 9-15).

19. Only the person logged into Sircon using Cobb's Sircon username and password could designate her the "Responsible Staff member." (R. at 34; lls. 3-22).

20. In August 2007, Thomas contacted the Department on Scott's behalf to determine the status of Scott's application. (Ex. "M"; R. at 145-47). Thomas advised Scott, Jerry Lancaster, and Monica Santalla (a licensed producer employed by Scott) that Scott's application was being "expedited." Id.

21. On September 5, 2007, Thomas advised Scott, "I haven't heard from my contact in the Department who was working on this. However, I emailed her this morning to see where we were." Id.

22. In a separate e-mail dated September 5, 2007, Thomas explained to Scott that he was working to get Scott licensed without her being required to take the required examination. That e-mail – directed to Scott, Jerry Lancaster, and Santalla – provides in pertinent part:

Yes Deborah, that is correct that the application was/is being fast tracked. Keep in mind our idea of "fast track" and a state employee is mostly different. On top of that, since they are doing a favor for us, I am trying not to push them too hard. More importantly, we are trying to get the license without having to take the examination. Jerry [Lancaster] wanted you to get individual license so that it could go with you in the future...Jerry's directive to me was always to get you licensed as an agent individually and try to do it without an examination...Bob.

Id.

23. Thomas – a former Department attorney representing its Agents' Licensing Division – knew that to obtain a producer license, Scott would be required to submit to and pass a written examination.

24. Scott's Sircon application report showed that she did not take the statutorily required examination for a producer license. (Ex. "C"; R. at 34; IIs. 1-4). If she had taken an examination, her Sircon application report would have included exam details, exam ID, whether she passed, the score, and other background information. (Ex. "D"; R. at 36; IIs. 10-13).

25. The fact that Scott did not take the statutorily required examination was independently verified by a review of the Department's records and by contacting the test provider. (R. at 40; IIs. 2-18).

26. Scott's application was approved by Cobb on September 13, 2007. (Ex. "E"; R. at 39; IIs. 19-23).

27. In 2007, it was the Department's practice to send an applicant a letter advising of test requirements, the test provider's name, and how to make reservations to take the test. (Ex. "G"; R. at 45, IIs. 23-25; R. at 46, IIs. 1-6).

28. On September 13, 2007, a copy of this letter – Ex. G – was sent to the address that was provided on Scott's application; thereby notifying her of the testing requirements. (Ex. "G"; R. at 45; IIs. 7-18).

29. Scott knew that she was required to take an examination and that the plan was to get her licensed without having to submit to one. (Ex. "M"; R. at 142-47; 149-151; 159-160; 172, lls. 4-11).

30. Scott was knowingly and intentionally engaged in the scheme to become licensed without submitting to the required examination. Id.

31. On September 13, 2007, an Oklahoma license producer number was assigned to Respondent Scott and her license was sent to Imperial's address in Texas. (Exs. "D", "F", "K", "N", and "P").

32. In November 2007, Santalla attempted to obtain Scott's original license and application from Imperial and Thomas for Scott's records. (Exs. "K", "P", and "Q").

33. Thomas instructed Santalla that he would "take care" of all issues with Scott's license and application and that Santalla should "not follow up with the Insurance Department." (Exs. "O" and "P"; R. at 157-60).

34. Further, Scott routinely sought Thomas' consent before making any changes to her license. Id.

35. After Scott received her license, she and Santalla stated on several occasions that Thomas was responsible and instrumental in procuring Scott's license. Id. (Ex. "Q"; R. at 160-62).

36. Scott is the responsible licensed individual for Respondent Maximus Management II, LLC's managing general agency and producer firm licenses. (Exs. "H" and "I"; R. at 47-51).

37. Scott is also the President of Respondent Maximus Management, LLC and Monica Santalla is its Director of Operations. Id.

38. Thomas was required to explain to Scott her duties and responsibilities. (Ex. "Q"). In explaining her duties and responsibilities, Thomas was required to instruct Scott on basic concepts, including, but not limited to continuing education requirements, how to obtain continuing education credits, and that she could now sell insurance for carriers. Id.

39. Scott used her Oklahoma license to procure a managing general agency license, a license for her firm, and numerous producer licenses in other states. (Exs. "C", "D", "F", "H", "I", and "J").

40. It is established by clear and convincing evidence that Scott's license was procured fraudulently under the plan of Robert Thomas and his use of an employee of the Department outside the Licensing Division to avoid Scott having to be tested.

41. Any Proposed Finding of Fact submitted by Petitioner or Respondent not incorporated herein is expressly rejected.

CONCLUSIONS OF LAW

42. Oklahoma law specifically provides that no person shall transact the business of insurance in Oklahoma without complying with the provisions of the Oklahoma Insurance Code. 36 O.S. § 109.

43. By procuring a license without taking the required examination, Scott engaged in the business of insurance in Oklahoma without complying with the Oklahoma Producer Licensing Act, 36 O.S. § 1435.1 – 1435.40.

44. Oklahoma law requires that a resident individual applying for an insurance producer license pass a written examination, testing the individual's knowledge concerning the lines of authority for which application is made, the duties and responsibilities of an insurance producer, and the insurance laws and regulations of this state. 36 O.S. § 1435.6(A).

45. Further, Oklahoma law prohibits the Department from approving a producer license application until the Department finds that the individual has successfully passed the examinations for the lines of authority for which the person has applied. 36 O.S. § 1435.7(A)(5).

46. Because Scott has not satisfied 36 O.S. § 1435.6(A)'s requirements, she is not statutorily competent or qualified to be a licensed insurance producer in the State of Oklahoma. Thus, as a matter of law, Scott cannot satisfy the requirements necessary to maintain an insurance producer license in the State of Oklahoma.

47. The Department did not have the statutory authority to approve Scott's application since there was no demonstration that she successfully passed the licensing examination.

48. Scott's conduct violates 36 O.S. § 1435.13.

49. Under 36 O.S. § 1435.13, the Insurance Commissioner may suspend or revoke a producer license if the licensee:

- a. Provides incorrect, misleading, incomplete or materially untrue information in the license application;
- b. Violates any insurance laws, or any regulation, subpoena or order of the Insurance Commissioner or of another state's Insurance Commissioner;
- c. Obtains or attempts to obtain a license through misrepresentation or fraud; and
- d. Uses fraudulent, coercive, or dishonest practices, or demonstrates incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere.

50. By allowing another to submit her application and failing to affirm its contents, Scott provided incorrect, misleading, incomplete or materially untrue information in her license application. As such, Scott violated 36 O.S. § 1435.13(1).

51. Scott knowingly (1) procured an Oklahoma insurance producer license without satisfying Oklahoma's examination requirements and (2) allowed Thomas to procure her license in circumvention of Oklahoma's licensing requirements. This conduct constitutes violations of those laws requiring that an individual successfully pass examination before obtaining a producer license or acting as a producer. This conduct also violates 36 O.S. § 109.

52. Therefore, Scott violated 36 O.S. § 1435.13(2).

53. Scott had specific knowledge that Thomas, acting on her behalf, was attempting to procure Scott's license without requiring her to submit to examination by using Thomas' contacts within the Department. Moreover, Scott specifically knew that Thomas procured her license without her having to submit to examination.

54. Thus, Scott procured her license using fraud or other misrepresentations. As such, Scott violated 36 O.S. § 1435.13(3).

55. Scott's conduct further shows that she used fraud, coercion, and dishonest practices in the conduct of business.

56. Her failure to pass the statutorily required examination demonstrates, as a matter of law, her incompetency to engage in an insurance business in this state.

57. Scott's use of fraud, misrepresentation, coercion, and dishonest practices demonstrate her untrustworthiness in the conduct of business in this state.

58. Therefore, Scott violated 36 O.S. § 1435.13(8).

59. Under 36 O.S. § 1435.13(B), a business entity's license may be suspended or revoked if its owner, manager, or officer knows that one of its licensees violated Oklahoma law.

60. Maximus had knowledge that Scott – its President – was violating Oklahoma law.

61. As its President and responsible licensed person, all of Scott's conduct is imputed to Maximus. Therefore, every violation of law by Scott constitutes a violation by Maximus.

62. Oklahoma law empowers the Oklahoma Insurance Commissioner to issue an emergency suspension order if she finds that public health, safety, or welfare imperatively requires emergency action. 75 O.S. § 314(B)(2).

63. The Insurance Commissioner finding that Respondents' conduct constituted a threat to public health, safety, or welfare and that emergency action should be taken against their licenses was sufficiently established by clear and convincing evidence.

64. Any Proposed Conclusion of Law submitted by Petitioner or Respondent not expressly incorporated herein is expressly rejected.

ORDER

IT IS THEREFORE ORDERED, in light of the above and foregoing Findings of Fact and Conclusions of Law that:

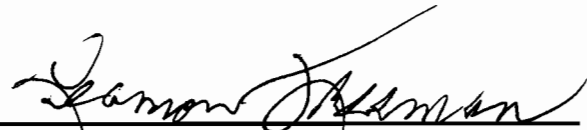
1. Respondent Scott's Oklahoma producer and managing general agent licenses are **REVOKED**.
2. Respondent Scott's Oklahoma producer license is **RESCINDED AB INITIO**.
3. Respondent Maximus' Oklahoma producer firm and managing general agency licenses are **REVOKED**.

4. Respondent Scott is **FINED** in the amount of Four Thousand Dollars (\$4,000).

5. Respondent Maximus is **FINED** in the amount of Four Thousand Dollars (\$4,000).

6. Respondents shall pay Three Thousand One Hundred Dollars (\$3,100) in costs.

DATED this 29th day of March 2010.



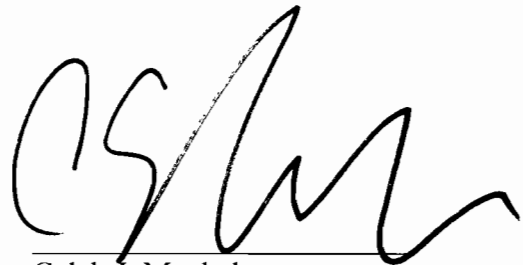
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CERTIFICATE OF MAILING

I hereby certify that on this 29th day of March 2010, I mailed a true and correct copy of the above and foregoing *Final Order* was mailed via certified mail, with postage pre-paid, with return receipt requested to the following:

Stephen L. McCaleb
Derryberry & Naifeh
4800 N. Lincoln Blvd.
Oklahoma City, Oklahoma 73105
Attorney for Respondents

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Caleb J. Muckala