

**STATE OF MAINE
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION
BUREAU OF INSURANCE**

**IN RE:
CYNTHIA ANN RULMAN**

Docket No. INS-04-502

**ORDER OF
REVOCAION OF
PRODUCER'S
LICENSE**

On April 22, 2004, Superintendent of Insurance Alessandro A. Iuppa issued an Emergency Cease and Desist Order to Cynthia Ann Rulman of Portland, Maine. Ms. Rulman is the principal and sole affiliated insurance producer of Rulman Specialty Lines Insurance Brokers, also of Portland, Maine. The Emergency Cease and Desist Order, which was issued pursuant to 24-A M.R.S.A. §12-A, prohibited Ms. Rulman "from accepting any insurance business of any type whatsoever under her insurance producer license, or accepting any payments in connection with the placement of coverage under or through any license or licensed authority currently or formerly held by her, or stopping payment on any check which she has issued in connection with such business". The Emergency Cease and Desist Order had been issued upon the submission to the Superintendent of an April 22, 2004 Verified Complaint by Bureau of Insurance Staff Attorney Arthur C. Hosford, Jr.

Title 24-A M.R.S.A. §12-A (2-A)(C) requires that, upon issuance of an Emergency Cease and Desist Order, the Superintendent will hold a hearing within 10 days. Hearing in this matter was held on May 3, 2004. Title 24-A M.R.S.A. §12-A (2-A)(D) provides that at the hearing, the superintendent shall affirm, modify or set aside, in whole or in part, the emergency cease and desist order and may combine and employ any other enforcement or penalty provisions available to the Superintendent to arrive at a final order.

The Staff of the Bureau of Insurance (hereinafter "Staff") was represented at the hearing by Staff Attorney Arthur G. Hosford, Jr. Although provided notice of the hearing by both certified and regular mail, Cynthia Ann Rulman did not attend the hearing, nor did she otherwise participate or contest the charges against her. Title 24-A M.R.S.A. §231 (7) provides "(t)he validity of any hearing held in accordance with the notice thereof, or waiver of notice, shall not be affected by the failure of any person to attend or remain in attendance."

Upon receipt and consideration of the evidence as discussed herein, it is the judgment of this office that good cause exists for the immediate revocation of Ms. Cynthia Ann Rulman's Maine insurance producer's license.

Staff's presented evidence alleging misconduct and violation of numerous provisions of the Maine Insurance Code by Ms. Rulman in connection with two series of transactions. The first series of transactions involves Ms. Rulman's handling of Employers Professional Liability Insurance and School Board Professional Liability Insurance issued to School Union 96. School Union 96 is comprised of a number of towns located on and near the Schoodic Peninsula in Hancock County. For several years Paul Tracy of the Winter Harbor Agency in South Gouldsboro, the School Union's local insurance producer, had secured this coverage for the schools in the union through the surplus lines insurance market. Cynthia Ann Rulman was the surplus lines producer through whom that market was accessed. Under this arrangement, Ms. Rulman would typically provide premium invoices to Mr. Tracy. Mr. Tracy would collect portions of the premium from each of the member schools in Union 96 and remit to Ms. Rulman, who was then expected to remit to the insurance carrier or, in this case, to a managing general agent for the carrier. Mr. Tracy testified that this arrangement had proceeded smoothly without incident for several years until February 2004.

On February 19, 2004, Ms. Rulman invoiced the Winter Harbor Agency \$4853.53 and \$5236.77 as annual renewal premium for the two policies. Exhibit 26, pages 6 and 8 of document. Coverage was to be underwritten by Northfield Insurance Company, whose business was managed by U.S. Risk Underwriters, Inc. Exhibit 26, pages 6-9 of document. Mark Dillard of U.S. Risk Underwriters, Inc. was the authorized representative of that firm responsible for the account. Exhibit 27. Winter Harbor remitted the premium for the two policies to Ms. Rulman per check dated February 25, 2004.1 Exhibit 26, pages 2-3 of document.

Ms. Rulman originally remitted premium, net of her commission, to U.S. Risk Underwriters, Inc. with a Rulman Specialty Lines Insurance Brokers check for \$8991.24 dated March 31, 2004 drawn on KeyBank. Exhibit 30. On April 9, 2004, Bank of America notified U.S. Risk Underwriters, Inc. that this check, which U.S. Risk Underwriters had deposited in its Bank of America account, had been returned unpaid. The copy of that check introduced into the record of this proceeding is stamped "Payment Stopped". Exhibit 30. Principal Bank Examiner Christine Pearson of the Maine Bureau of Financial Institutions, presented as an expert witness by staff, testified that only an authorized signatory on the account could cause a stop payment order to be made in this fashion.

Mr. Dillard issued Notice of Cancellation on both policies to Union 96. Those notices dated April 22, 2004 were mailed to Union 96 as well as the Winter Harbor Agency. Cancellation was to be effective as of May 10, 2004. Mr. Tracy testified that he has remitted the necessary premium directly to U.S. Risk Underwriters, Inc. to prevent the cancellation from becoming effective. He attempted to contact Ms. Rulman to find out the premium has not been remitted, but has been unable to contact her.

Apart from the failure to satisfactorily remit premium funds with respect to the two Union 96 policies, the impropriety of Ms. Rulman's actions is further compounded by the fact that her authority to act as a surplus lines insurance producer in Maine had terminated on February 17, 2004, two days before her invoice to the Winter Harbor Agency. Termination was due to Ms. Rulman's security bond having been cancelled and not replaced. Nevertheless she continued to act in the capacity of a surplus lines broker in connection with School Union 96 policies. Exhibit 5.

No explanations have been presented by Ms. Rulman on the record in any way regarding the nonpayments.

The second series of transactions which Bureau staff presented evidence with respect to and which represent violations of the Maine Insurance Code relate to Ms. Rulman's lack of cooperation with Bureau Staff's efforts to review her insurance producer and surplus lines producer records. Staff Exhibits 6 through 25 as supplemented by the testimony of Carolee B. Nichols, a Bureau Market Conduct Examiner, document Staff's efforts to review her records from March 24, 2004 through April 13, 2004. This evidence reflects staff efforts to visit her place of business on several occasions and to obtain copies of records related to her conduct of the business of insurance through the use of an administrative Subpoena Duces Tecum for the Production of Documents issued on March 31, 2004. Ms. Rulman operates her business out of a residence. The records and Ms. Nichol's testimony reflect that Bureau representatives were only intermittently allowed access to the premises. In response to the Subpoena, some records were left on the Bureau's doorstep prior to business hours on April 9, 2004 and other records were provided to the Bureau on April 16, 2004. The Bureau still not has received or been allowed access to a number of records demanded including the agency's general ledger, check registers, cancelled checks, bank statements, cash receipts or complete account current statements with placement brokers, brokerage houses, agencies or companies. No explanation is given for Ms. Rulman's ongoing lack of cooperation or attention to this matter except for a 7:49 pm. April 5, 2004 e-mail in which she asserts that she did not keep an appointment with Bureau staff due to "serious medical problems". No explanation is given for her failure to at any time provide Bureau staff with copies of or access to the records enumerated above.

I find that uncontroverted evidence establishes that Cynthia Ann Rulman, doing business as Rulman Specialty Lines Insurance Brokers, has violated numerous provisions of the Maine Insurance Code, to wit:

1. her failure to make proper remittance to U.S. Risk Underwriters, Inc. of the School Union 96 premium constitutes a breach of fiduciary trust in violation of 24-A M.R.S.A §1449;
2. her failure to make proper remittance to U.S. Risk Underwriters, Inc. of the School Union 96 premium constitutes the improper withholding, misappropriation or conversion of monies received in the conduct of the insurance business in violation of 24-A M.R.S.A. §1420-K (1)(D);
3. her failure to make proper remittance to U.S. Risk Underwriters, Inc. of the School Union 96 premium constitutes a dishonest practice and incompetence, untrustworthiness and financial irresponsibility in violation of 24-A M.R.S.A. §1420-K (1)(H);
4. her continuing to act as a surplus lines insurance producer after the February 17, 2004 effective date of the termination of her authority constitutes a violation of 24-A M.R.S.A. §1420-K (1)(B);
5. her failure to either keep or make accessible, after repeated requests, demands and a Subpoena Duces Tecum, her agency's general ledger, check registers, cancelled checks, bank statements, cash receipts or complete account current statements with placement brokers, brokerage houses, agencies or companies constitutes a violation of 24-A M.R.S.A. §1447; and
6. her only partial compliance with the March 31, 2004 Subpoena Duces Tecum for the Production of Documents constitutes a violation of 24-A M.R.S.A. §1420-K(1)(B).

Additionally, it strongly appears that, in acting as a surplus lines producer without authority with respect to the School Union 96 policies, Ms. Rulman also violated 24-A M.R.S.A. §2014; however, since that statute was not referenced in the Notice of Hearing of this proceeding, I do not make a specific finding with respect to that statute or utilize it as a basis for this Order.

In considering these violations, I am impressed by the seriousness of the charges against Ms. Rulman and by her apparent lack of regard or appreciation for their seriousness. She has made no effort at any point in the process to provide any explanation for her failure to properly remit funds or to make restitution to the Winter Harbor Agency after they remitted premiums a second time and, even after repeated efforts by Bureau Staff, has made only half-hearted efforts to provide a full accounting of transactions under her license. When provided an opportunity to present evidence and argument in her behalf at hearing, she defaulted. As discussed in the Emergency Cease and Desist Order and Notice of Hearing, this office may employ any of the enforcement and penalty provisions available to the Superintendent in arriving at a final order. I find no reason that allows me to believe other than that Ms. Rulman has been a source of injury and loss to the public or that in good

conscience should allow her to maintain a license to act as an insurance producer.

ORDER

The Maine insurance producer's license of Cynthia Ann Rulman of Portland, Maine is hereby revoked effective immediately. Insofar as Cynthia Ann Rulman is noted on Bureau of Insurance license records of Rulman Specialty Lines Insurance Brokers as the sole responsible person for that license and no other licensee is affiliated with that agency, the Maine insurance agency license of Rulman Specialty Lines Insurance Brokers is likewise revoked effective immediately.

NOTICE OF APPEAL RIGHTS

This Decision and Order is a final agency action of the Superintendent of Insurance within the meaning of the Maine Administrative Procedure Act. It may be appealed to the Superior Court in the manner provided in 24-A M.R.S.A. §236 and M.R. Civ. P. 80C. Any party to the hearing may initiate an appeal within thirty days after receiving this notice. Any aggrieved non-party whose interests are substantially and directly affected by this Decision and Order may initiate an appeal on or before 40 days after the date appearing below.

1 The remittance check for \$10,369.16 also includes a \$278.86 payment for Bunkers Wharf, another account through which the Winter Harbor Agency had secured coverage through Ms. Rulman.

May 5, 2004

Thomas M. Record
Senior Staff Attorney
Designated Presiding Officer