
Division of Insurance, Petitioner

v.

Michael Segal, Respondent

Docket No. E2005-12

Order on Petitioner's Motion for Decision on the Pleadings

Introduction and Procedural History

On September 14, 2005 the Massachusetts Division of Insurance (“Division”) filed an Order to Show Cause (“OTSC”) against Michael Segal (“Segal”), who is currently licensed as a non-resident Massachusetts insurance producer. The Division seeks orders that Segal has violated G.L. c. 175, §§162R (a) (6) and (8). It asks for revocation of his license, an order requiring him to dispose of any insurance-related interests in Massachusetts, and imposition of fines for the alleged violations.

The Division states in the OTSC that Massachusetts first licensed Segal as an insurance agent on August 31, 1987 and as a broker on July 12, 1990; his license was converted to a producer license on May 16, 2003. It states that he currently holds four active appointments to represent insurance companies. The Division alleges that, on or about June 21, 2004, the United States District Court, Northern District of Illinois, Eastern Division convicted Segal of 13 counts of false statements, three counts of embezzlement, and one count of tax conspiracy, all in relation to his insurance business. Further, it alleges, Segal did not report these convictions to the Division within 30 days of the final disposition of the matter.

A Notice of Procedure (“Notice”), issued on September 14, advised Segal that a prehearing conference would take place on October 20 at the offices of the Division, a

hearing on the OTSC would be held on October 27, 2005, also at the Division, and that the proceeding would be conducted pursuant to G.L. c. 30A and the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.00, *et seq.* The Notice advised Segal to file an answer pursuant to 801 CMR 1.01(6)(d) and that, if he failed to do so, the Division might move for an order of default, summary decision or decision on the pleadings granting it the relief requested in the OTSC. It also notified Segal that, if he failed to appear at the prehearing conference or hearing, an order of default, summary decision or decision on the pleadings might be entered against him. The Commissioner designated me as presiding officer for this proceeding.

On September 20, the Division sent the Notice and OTSC by certified mail to respondent at his mailing address as it appears on the Division's records: 1040 Lake Shore Drive, Chicago, IL 60611 and Chicago MCC, 71 West Van Buren Street, Chicago, IL 60605. The post office returned to the Division a signed green receipt for certified mail that showed a delivery date of September 30, 2005. Segal filed no answer or other responsive pleading.

On October 20, a prehearing conference was held, pursuant to 801 CMR 1.01(10)(a). Douglas Perry, Esq. appeared for the Division. Neither Segal nor any person representing him appeared. Mr. Perry reported that he had received no communication from the respondent or from any person purporting to represent him. The Division filed a motion for a decision on the pleadings, which it served on respondent by first class mail. An order issued on October 25 advising Segal to file any response to the motion by November 2, stated that any argument on the motion would be heard on November 10, at the time set for an evidentiary hearing in the September 19, 2005 Notice. Segal filed no response to the Division's motion. At the hearing on November 10, Mr. Perry stated that he had received no communications from the respondent or any person representing him. Neither Segal nor any representative of his appeared at the November 10 hearing.

Finding of Default

On the basis of the record before me, I conclude that the Division took appropriate actions to ensure proper service, and that sufficient service was made. The OTSC and Notice were sent to respondent at the mailing address shown on the Division's licensing records, and were signed for by a person at that address. I conclude that Segal's failure to answer the OTSC or to respond to the Division's motion, and his failure to appear at the scheduled prehearing conference and at the hearing warrant findings that he is in default. By his default, Segal has waived his right to proceed further with an evidentiary hearing in

this case and I may consider the Division's motion for a decision on the pleadings based solely upon the OTSC.

Findings of Fact and Conclusions of Law

On the record before me, consisting of the OTSC, I find the following facts:

1. Respondent Segal was first licensed in Massachusetts as an individual insurance agent on August 31, 1987 and as a broker on or about July 12, 1990. His license was converted to a Massachusetts producer license effective May 16, 2003.

2. On or about June 21, 2004, the United States District Court, Northern District of Illinois, Eastern Division convicted Segal of 13 counts of false statements, three counts of embezzlement, and one count of tax conspiracy, all in relation to his insurance business.

3. Segal failed to report the license revocation to the Commissioner within 30 days of its final disposition.

The grounds for the Division's motion are respondent's failure to file an answer to the OTSC within the time prescribed by the Standard Adjudicatory Rules of Practice and Procedure and his failure to appear at the scheduled prehearing conference. It is undisputed that Segal failed to respond to the OTSC or to the Division's motion, and that he did not appear in this proceeding.

G.L. c. 175, §162R (a), in pertinent part, permits the Commissioner to suspend or revoke an insurance producer's license and to levy civil penalties in accordance with G.L. c. 176D, §7 for reasons that include violating any insurance laws, and revocation of a producer's license by any other state. G.L. c. 175, §162V requires a producer to report to the Commissioner any disciplinary action taken by another state.

On the basis of these findings of fact, I conclude that on June 21, 2004 the United States District Court, Northern District of Illinois, Eastern Division convicted Segal of 13 counts of false statements, three counts of embezzlement, and one count of tax conspiracy, all in relation to his insurance business. The facts alleged in the OTSC are sufficient to support revocation of Segal's Massachusetts producer license pursuant to §162R (a)(6) and (8). By failing to report his license revocation to the Commissioner, Segal also violated G.L. c. 175, §162V.

I find, on this record, that the Massachusetts producer license issued to Michael Segal should be revoked, and that he should be fined for failure to comply with G.L. c. 175, §162V.¹ The maximum fine is \$1000.

¹ In determining a fine, I note that the OTSC does not allege that the misconduct that resulted in Segal's convictions involved violations of Massachusetts law.

ORDERS

Accordingly, after due notice, hearing and consideration it is

ORDERED: That any and all insurance producer licenses issued to Michael Segal by the Massachusetts Division of Insurance are hereby revoked; and it is

FURTHER ORDERED: that Michael Segal shall return to the Massachusetts Division of Insurance any licenses in his possession, custody or control; and it is

FURTHER ORDERED: that Michael Segal 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 the Commonwealth of Massachusetts; and it is

FURTHER ORDERED: that Michael Segal shall comply with the provisions of 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; and it is

FURTHER ORDERED: that Michael Segal shall pay a fine of One Thousand Dollars (\$1,000) to the Massachusetts Division of Insurance within 30 days.

This decision has been filed this 23rd day of November 2005, in the office of the Commissioner of Insurance. A copy shall be sent to Segal by certified mail, return receipt requested, as well as by regular first class mail, postage prepaid.

Amma A. Kokro, Esq.
Presiding Officer

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