



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

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NONNIE S. BURNES
COMMISSIONER OF INSURANCE

Division of Insurance, Petitioner
v.
Terrence Scott Haddix, Respondent

Docket No. E2007-03

Order on Petitioner's Motion for Summary Decision

Introduction and Procedural History

On March 21, 2007, the Massachusetts Division of Insurance (“Division”) filed an Order to Show Cause (“OTSC”) against Terrence Scott Haddix (“Haddix”) who was first licensed in Massachusetts as a non-resident individual producer on August 13, 2004, and whose license was cancelled for non-renewal effective August 23, 2006.¹ The Division seeks orders that Haddix violated G.L. c. 175, §§ 162V(a), 162R(a)(2) and 162R(a)(9) and G.L. c. 176D, §2. It asks for a cease and desist order, revocation of his license, an order requiring him to dispose of any insurance-related interests in Massachusetts, an order requiring him to submit all Massachusetts insurance licenses in his possession to the Division, an order prohibiting him from directly or indirectly transacting any insurance business or acquiring any insurance business in Massachusetts and imposition of fines for the alleged violations.

The Division alleges that the North Carolina Department of Insurance, by letter dated August 27, 2004, denied Haddix’s application for licensing as a nonresident Life and Health

¹ G.L. c. 175, §162R(e) authorizes the Commissioner of Insurance to enforce the provisions of the licensing statutes, and to impose remedies or penalties pursuant to those statutes and to G.L. c. 176D, even if a respondent’s license has lapsed by operation of law.

insurance agent for failure to comply with a child support order. It alleges further that the Michigan Department of Labor and Economic Growth, Office of Financial and Insurance Services revoked Haddix's Michigan non-resident producer's license on November 22, 2005, on the grounds that he violated Section 1239(1)(m) of the Michigan Insurance Code of 1956 by failing to comply with an order imposing child support obligations and that he violated Section 1239(1)(i) of the Michigan Insurance Code of 1956 by having an insurance producer license denied in another state.

The Division asserts that Haddix did not notify the Division of the revocation of his Michigan non-resident producer's license. Furthermore, the Division alleges that Haddix never provided information about the status of his child support obligations in response to a request by the Division on August 9, 2006 pursuant to G.L. c. 176D, §5.

A Notice of Procedure ("Notice") was issued on March 21, 2007, advising Haddix that a prehearing conference would take place on April 26, 2007 and that a hearing on the OTSC would be held on May 16, 2007, both at the offices of the Division. It further advised him that the hearing 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 Haddix 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 Haddix 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 March 22, 2007, the Division sent the Notice and OTSC by certified mail to respondent at his business and mailing address appearing on the Division's records: 833 West Lincoln Highway, Suite 200, Schererville, Indiana 46375. The Division as of April 26, 2007, had not received the green card back, but also had not received the mailing back. Copies of the Notice and OTSC also were sent to Haddix by first-class mail, postage prepaid, to the address in Schererville and to the residential address stated on the Division's records: 50538 Dusty Trail Court, Granger, Indiana 46530. The mailing sent to the Schererville address was returned with the legend "undeliverable as addressed." The mailing sent to the Granger address was not returned to the Division.

On April 26, 2007, a prehearing conference was held pursuant to 801 CMR 1.01(10)(a). Douglas Hale, Esq. appeared for the Division. Neither Haddix nor any person representing him appeared. Mr. Hale reported that he had received no communication from Haddix or from any person purporting to represent him. On that same date, following the prehearing conference, the Division filed a written motion for summary decision ("motion").

On April 30, 2007, an order issued advising Haddix to file any response to the motion by May 11, and stating that argument on the motion would be heard on May 16, at the time set in the Notice for the evidentiary hearing. The order was sent to Haddix's business and residential addresses by first-class mail, postage prepaid. Neither mailing has been returned to the Division. Neither Haddix nor any person representing him appeared at the May 16 hearing on the motion. Mr. Hale again appeared for the Division and confirmed that there had been no communications with the respondent or with anyone acting on his behalf.

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.² The OTSC and Notice were sent to Haddix at two addresses in the Division's licensing records, which incorporate information on license applications. The Schererville, Indiana address is shown as his business and mailing address and the Granger, Indiana address as his residential address. I conclude that Haddix's failure to answer the OTSC or to respond to the Division's motion, and his failure to appear at the prehearing conference or at the hearing on the Division's motion warrant findings that he is in default. By his default, Haddix 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 solely upon the OTSC and the exhibits attached thereto.

Findings of Fact

On the basis of the record, consisting of the OTSC and the exhibits thereto, I find the following facts:

² I note that G.L. c. 175, §174A provides that notices of hearings in matters involving revocation of licenses "shall be deemed sufficient when sent postpaid by registered mail to the last business or residence address of the licensee appearing on the records of the commissioner. . . ." This section, however, does not require that notices of hearing must be sent by registered mail; nor does it provide that registered mail is the only method of service that may be found to be sufficient.

1. Respondent Haddix was first licensed in Massachusetts as a non-resident individual producer on August 13, 2004.

2. Haddix did not renew his license and it was cancelled for non-renewal effective August 23, 2006.

3. The North Carolina Department of Insurance by letter dated August 27, 2004, denied Haddix's application for licensing as a nonresident Life and Health insurance agent for failure to comply with a child support order.

4. The Michigan Department of Labor and Economic Growth, Office of Financial and Insurance Services revoked Haddix's Michigan non-resident producer's license on November 22, 2005, on the grounds that he failed to comply with an order imposing child support obligations in violation of Section 1239(1)(m) of the Michigan Insurance Code of 1956 and that he violated Section 1239(1)(i) of the Michigan Insurance Code of 1956 by having an insurance producer license denied in another state.

5. Haddix did not notify the Division of the revocation of his Michigan non-resident producer's license.

6. Haddix never provided information about the status of his child support obligations in response to a request by the Division on August 9, 2006 pursuant to G.L. c. 176D, §5.

Analysis and Conclusions of Law

801 CMR 1.01(7)(h) authorizes a party to file a motion for summary decision, with or without supporting affidavits, when the party is of the opinion that there is no genuine issue of fact relating to a claim and that he or she is entitled to prevail as a matter of law. The Division's motion for summary decision notes that respondent failed to file an answer to the OTSC and failed to appear at the scheduled prehearing conference. As noted above, respondent's failure to comply with the directives in the Notice warrant a finding that he is in default. No genuine issue of fact has been raised in connection with the Division's claims. I find that the Division is entitled to prevail as a matter of law.

G.L. c. 175, §162R(a)(2) 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 violating any insurance laws. G.L. c. 175, §162V(a) requires a Massachusetts licensed producer to report to the Commissioner any disciplinary action taken by another state. The above findings of fact

indicate that the Michigan Department of Labor and Economic Growth, Office of Financial and Insurance Services revoked Haddix's Michigan non-resident producer's license on November 22, 2005, on the grounds that he failed to comply with an order imposing child support obligations in violation of Section 1239(1)(m) of the Michigan Insurance Code of 1956 and that he violated Section 1239(1)(i) of the Michigan Insurance Code of 1956 by having an insurance producer license denied in another state. Because G.L. c. 175, §162V(a) obligated Haddix to report the outcome of the Michigan administrative action to the Commissioner, I conclude that his failure to do so violates Massachusetts law. Haddix also failed to cooperate in the Commissioner's investigation of him by not responding to the information request made pursuant to G.L. c. 176D, §5. His violation of these statutes support the Division's position that his actions also are bases for revocation of his license pursuant to G.L. c. 175, §162R(a)(2).

I find, on this record, that the Massachusetts producer license issued to Terrence Scott Haddix should be revoked, and that a fine should be imposed for each violation of the statute. The maximum fine permitted by statute is \$1,000 per violation. The allegations in the OTSC indicate that Haddix committed two acts that violated Massachusetts insurance laws: he failed to report the Michigan administrative action and he failed to cooperate in the Commissioner's investigation pursuant to G.L. c. 176D, §5. I therefore will impose a fine of \$2,000.

ORDERS

Accordingly, after due notice, hearing and consideration it is

ORDERED: That any and all insurance licenses issued to Terrence Scott Haddix by the Division are hereby revoked; and it is

FURTHER ORDERED: that Terrence Scott Haddix shall submit to the Division any and all Massachusetts licenses in his possession, custody or control; and it is

FURTHER ORDERED: that Terrence Scott Haddix is, from the date of this order, prohibited, in any capacity whatsoever, from directly or indirectly transacting any insurance business or acquiring any insurance business in the Commonwealth of Massachusetts; and it is

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

FURTHER ORDERED: that Terrence Scott Haddix shall cease and desist from the conduct complained of in the Division's Order to Show Cause; and it is

FURTHER ORDERED: that Terrence Scott Haddix shall pay a fine of Two Thousand Dollars (\$2,000) to the Division within 30 days of the entry of this order.

This decision has been filed this 23rd day of May 2007, in the office of the Commissioner of Insurance. A copy shall be sent to Haddix by certified mail, return receipt requested to his business and mailing address, as well as by regular first class mail, postage prepaid, to both his business and mailing address and to his residential address.

Filed: May 23, 2007

Stephen M. Sumner, Esq.
Presiding Officer

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