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**Office of Consumer Affairs and Business Regulation**  
**DIVISION OF INSURANCE**

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**Division of Insurance, Petitioner**  
**v.**  
**Peter Tzamalal, Respondent**  
**Docket No. E2008-07**

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

***Introduction and Procedural History***

On April 23, 2008, the Massachusetts Division of Insurance ("Division") filed an Order to Show Cause ("OTSC") against Peter Tzamalal ("Tzamalal"), who is currently licensed as a resident insurance producer. The Division seeks orders that Tzamalal has violated the provisions of the Massachusetts insurance laws, specifically M.G.L. c. 175, §162V(a), failing to notify the Division of administrative actions in another jurisdiction or by another governmental agency in the commonwealth within 30 days of the final disposition of the matter; and M.G.L. c. 175, §162R(a)(8), using fraudulent, coercive or dishonest practices, or demonstrating untrustworthiness or financial irresponsibility in the conduct of business in the Commonwealth or elsewhere. It asks for revocation of all licenses granted to him by the Division, an order requiring him to dispose of any interest he may have in any insurance-related business, an order to submit any and all Massachusetts insurance licenses in his possession to the Division, an order prohibiting the direct or indirect transaction of insurance business or the

acquisition of any insurance business in Massachusetts, and imposition of fines for the alleged violations.

The Division alleges that Tzamalal was first licensed as a resident producer on or about June 17, 2003. This license is active. It asserts that on November 9, 2007, the Massachusetts Securities Division of the Office of the Secretary of the Commonwealth (the "Enforcement Section" and the "Secretary", respectively) entered an Order of Default against Tzamalal. It, further, alleges, that Tzamalal failed to report the administrative action to the Division within 30 days of disposition.

A Notice of Procedure ("Notice") was issued on April 25, 2008, advising Tzamalal that a hearing on the OTSC would be held on June 4, 2008, at the offices of the Division, and that a pre-hearing conference would take place on May 20, 2008. The hearing would be conducted pursuant to M.G.L. c. 30A and the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.00, *et. seq.* The Notice advised Tzamalal to file an answer pursuant to 801 CMR 1.01(6)(d) within 21 days of his receipt of the Notice and that, if he failed to file an answer, the Division could move for an order of default, summary decision, or decision on the pleadings granting it relief requested in the OTSC. It also notified Tzamalal that, if he failed to appear at the pre-hearing conference or hearing, an order of default, summary decision, or decision on the pleadings could be entered against him. The Commissioner designated me as the presiding officer for this proceeding.

On April 30, 2008, the Notice and OTSC were sent by certified mail to Tzamalal's business address, which Division's records list as 185 Dean Street, Norwood, Massachusetts 02062. A copy also was sent by certified mail to his residential address, which Division's records list as 71 Devon Road, Norwood, Massachusetts 02062. Tzamalal did not claim either letter sent by certified mail. A copy also was sent to his business and residential address, by first-class mail, postage prepaid. The letters were returned to the Division. The Division did not receive an answer or other responsive pleadings to the OTSC from Tzamalal or any person representing him.

On May 20, 2008, a pre-hearing conference took place, pursuant to 801 CMR 1.01 (10)(a). Jean F. Farrington presided in my absence. Mary Lou Moran, Esq.

appeared for the Division. Neither Tzamalal nor any person representing him appeared. Ms. Moran reported that she had received no communication from Tzamalal or any person purporting to represent him, and stated that she would file a Motion for Summary Decision. Later that day, the Division filed a Motion for Summary Decision. An Order was issued on May 20, 2008, advising Tzamalal to file a response to the motion by June 3, 2008, and setting June 4, 2008, as a date for any argument on the motion.<sup>1</sup> A hearing was held on June 4, 2008. Tzamalal neither filed a response to the motion nor appeared at the hearing. Ms. Moran reported that she received no communication from Tzamalal or from any person representing him in this matter.

### ***Finding of Default***

On the basis of the record before me, I conclude the Division took appropriate actions to ensure proper service, and that sufficient service was made. The OTSC and Notice were sent to Tzamalal at the addresses shown on the Division's licensing records. Tzamalal has an obligation, pursuant to M.G.L. c. 175, §162M(8)(f), to report any change of address to the commissioner within 30 days. I conclude that Tzamalal's failure to answer the OTSC or to respond to the Division's motion, and his failure to appear at the scheduled pre-hearing conference or at the hearing, either *pro se* or through counsel or other personal representative, warrant findings that he is in default. By his default, Tzamalal 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.

### ***Findings of Fact***

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

1. Respondent Tzamalal was first licensed by the Division on or about June 17, 2003. His resident Producer License remains active; he does not hold any active appointments at this time.
2. Beginning on or before December 2004, Tzamalal, a registered ING representative, approached clients and suggested they give him money, in the form of personal loans, and he would re-invest it in securities that were

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<sup>1</sup> A copy of the order sent to his business and residential address. Both were returned.

"great investment opportunities" but often only available after the market closed or on weekends.

3. Tzamalal converted his clients' funds into bank checks made payable to himself or withdrew the funds in cash instead of investing the monies.
4. He deposited approximately \$425,000 into accounts belonging to Foxwoods Resort, the Mohegan Sun and Trump Casinos, and made payments on at least 15 personal credit cards.
5. In September 2006, after defaulting on loan obligations, Tzamalal vacated his Norwood office leaving at least 12 clients in financial distress.
6. It was later determined that he left the United States and returned to Greece.
7. Tzamalal resigned from ING after he left the United States.
8. On or about March 21, 2007, the Enforcement Section of the Massachusetts Sureties Division of the Office of the Secretary of the Commonwealth, filed an Administrative Complaint against Tzamalal and ING Financial Partners, Inc. ("ING").
9. The Complaint alleged that between December 1, 2004 and September 22, 2006, Tzamalal, a registered ING Representative, instituted a Ponzi scheme to defraud his Greek clients of at least half a million dollars.
10. On November 9, 2007, the Secretary entered an Order of Default against Tzamalal.
11. Tzamalal failed to notify the Division of the administrative action within 30 days of final disposition.

### ***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 the Respondent failed to file an answer to the OTSC and failed to appear at the scheduled pre-hearing conference. The Respondent did not file a response to the Division's

Motion for Summary Decision. 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.

M.G.L. c. 175, §162R(a), identifies grounds on which the Commissioner may, among other things, revoke a producer's license and levy civil penalties in accordance with M.G.L. c. 176D, §7. The Division relies on M.G.L. c. 175, §162R(a)(8), which permits revocation of a license for "using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in the commonwealth or elsewhere." The complaint filed by the Secretary involves dishonest practices in the conduct of business in the commonwealth. Tzamalal's misappropriation of clients funds supports a determination that Tzamalal violated M.G.L. c. 175, §162R(a)(8).

The Division seeks relief under M.G.L. c. 175, §162V(a), which mandates that a producer notify the Division of administrative actions in another jurisdiction or by another governmental agency in the commonwealth within 30 days of the final disposition of the matter. I find that Tzamalal did not notify the Division of his administrative action within 30 days of final disposition of such action.

I find that these violations support revocation of Tzamalal's license. Pursuant to M.G.L. c. 175, §162R(a), the Commissioner may levy civil penalties in accordance with c. 176D, §7. I find that the maximum fine should be imposed on Tzamalal for each violation of the statute, resulting in a fine of One Thousand Dollars (\$1,000).

## **ORDERS**

Accordingly, after due notice, hearing, and consideration, it is

**ORDERED:** That any and all licenses issued to Peter Tzamalal by the Massachusetts Division of Insurance are hereby revoked; and it is

**FURTHER ORDERED:** that Peter Tzamalal shall return to the Division any licenses in his possession, custody, or control; and it is

**FURTHER ORDERED:** that Peter Tzamalal shall comply with the provision of M.G.L. c. 175, §166B, and dispose of any and all interests as proprietor, stockholder, officer or employee of any licensed producer in Massachusetts; and it is

**FURTHER ORDERED:** that Peter Tzamalal is, from the date of this order, prohibited from directly or indirectly transacting any insurance business or acquiring any insurance business in the Commonwealth of Massachusetts in any capacity, and it is

**FURTHER ORDERED:** that Peter Tzamalal shall cease and desist from the conduct that gave rise to the Order to Show Cause, and it is

**FURTHER ORDERED:** that Peter Tzamalal shall pay a fine of One Thousand Dollars (\$1,000) to the Division of Insurance within 30 days of issuance of this order.

This decision has been filed this \_\_\_\_ day of June 2008 in the office of the Commissioner of Insurance. A copy shall be sent to Tzamalal by certified mail, return receipt requested, as well as by regular first class mail, postage prepaid.

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Tesha M. Scolaro  
Presiding Officer

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