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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.
Corrina R. Allen, Respondent
Docket No. E2008-08

Order on Petitioner's Motion for Summary Decision

Introduction and Procedural History

On April 28, 2008, the Massachusetts Division of Insurance ("Division") filed an Order to Show Cause ("OTSC") against Corrina R. Allen ("Allen"), who is currently licensed as a resident insurance producer. The Division seeks orders that Allen has violated the provisions of the Massachusetts insurance laws, specifically M.G.L. c. 175, §177E(G), by failing to provide written certification to the Commissioner documenting compliance with Continuing Education Credits ("CEC") requirements. It asks for suspension of all licenses granted to her by the Division until Allen has complied with all requirements of M.G.L. c. 175, §177E, and any other orders deemed just and fair.

The Division alleges that Allen was first licensed as a resident producer on or about October 4, 2004. This license is active. It asserts that on November 9, 2007, and December 11, 2007, Richard Kirkpatrick ("Kirkpatrick"), an investigator with the Division, sent Allen a demand letter requesting proof of completion of CECs. She did not respond to said requests. The Division asserts that her failure to respond to Kirkpatrick's demands violates M.G.L. c. 175, §162R(a)(2), as she failed to comply with an order of the commissioner.

A Notice of Procedure ("Notice") was issued on April 29, 2008, advising Allen that a hearing on the OTSC would be held on June 10, 2008, at the offices of the Division, and a pre-hearing conference would take place on May 30, 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 Allen to file an answer pursuant to 801 CMR 1.01(6)(d) within 21 days of her receipt of the Notice and that, if she failed to file an answer, the Division may move for an order of default, summary decision, or decision on the pleadings granting it relief requested in the OTSC. It also notified Allen that, if she 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 her. The Commissioner designated me as the presiding officer for the proceeding.

On May 2, 2008, the Notice and OTSC were sent by certified mail to Allen's residential and business addresses, which the Division's records list as 26 Hall Street, Plymouth, Massachusetts 02325 and 650 Plymouth Street, Suite 13, East Bridgewater, Massachusetts 02333. A copy also was sent to her business and residential address, by first-class mail, postage prepaid. The Respondent did not claim the letters sent by certified mail. The letters sent by first-class mail were not returned to the Division. The Division did not receive an answer or other responsive pleadings to the OTSC from Allen or any person representing her.

On May 30, 2008, a pre-hearing conference took place, pursuant to 801 CMR 1.01(10)(a). Mary Lou Moran, Esq. appeared for the Division. Neither Allen nor any person representing her appeared. Ms. Moran reported that she had a conversation with Allen, the week prior to the pre-hearing conference, and they discussed resolution of the matter.¹ Ms. Moran tried to contact her again, and Allen did not respond. Ms. Moran 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 June 4, 2008², advising Allen to file a response to the motion by June 9, 2008, and setting June 10, 2008, as a date for any argument on the motion. A hearing was held on June 10, 2008. Allen neither filed a response to the motion nor appeared at the hearing. Ms. Moran reported that she received no further communication from Allen or from any person representing her in the 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

¹ Allen told Ms. Moran that she no longer utilized her license as she changed careers and is now involved in the restaurant industry.

to Allen at the addresses shown on the Division's licensing records. Allen did not claim the certified mailings. The first class mailings, however, were not returned. Ms. Moran's conversation with Allen confirms that she received notice. I conclude that Allen's failure to answer the OTSC or to respond to the Division's motion, and her 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 she is in default. By her default, Allen waived her right to proceed further with an evidentiary hearing in her 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 Allen was first licensed by the Division in October 4, 2004. Her resident Producer License remains active; she holds two active appointments at this time.
2. On or about November 9, 2007, Richard Kirkpatrick ("Kirkpatrick"), an investigator with the Divisions' Special Investigative Unit ("SIU"), sent Allen a Demand Letter ("Demand") via United States Postal Service.
3. The Demand stated that within 10 days of receipt of the request, Allen must provide the Division with copies of course completion certificates as proof of compliance with the CEC requirements.
4. Allen neither responded to the Demand nor provided the requested information.
5. On December 11, 2007, Kirkpatrick sent a second Demand to Allen at her residential address by certified mail via the United States Postal Service.
6. The Domestic Return Receipt was signed by an individual, Corrina Knights, on January 9, 2008. It was returned to the Division January 10, 2008.
7. Allen did not respond to the December 11, 2007 Demand, nor did she provide the requested information.

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

² The order informed Allen that she was allowed to file her answer by facsimile due to time constraints.

raised in connection with the Division's claims. I find that the Division is entitled to prevail as a matter of law.

The Division seeks relief under M.G.L. c. 175, §177E(H), which mandates,

Any person failing to meet the requirements imposed upon him by this section and who has not been granted an extension of time within which to comply pursuant to subsection G. hereof, or who has submitted to the commissioner a false or fraudulent certificate of compliance therewith shall, after a hearing thereon, which hearing may be waived by said person, be subjected to the suspension of all licenses issued for any and all kind or kinds of insurance until such time as such person shall have demonstrated to the satisfaction of the commissioner that he has complied with all of the requirements of this regulation and all other laws applicable to such licensing.

Allen did not dispute the Division's allegation that she failed to meet the CEC requirements. I find that M.G.L. c. 175, §177E(H) warrants the immediate suspension of Allen's producer license.

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. Under M.G.L. c. 175, §162R(a)(2), a person shall not violate an order of the commissioner. Allen failed to respond to the November 9, 2007, and the December 11, 2007, Demands by Kirkpatrick, an agent for the commissioner. I find that Allen's failure to respond to Kirkpatrick's requests and her failure to appear at the pre-hearing conference, to respond to the Motion for Summary Decision, and to appear at the June 10, 2008, hearing violates M.G.L. c. 175, §162R(a)(2). I find that the violations of M.G.L. c. 175, §162R(a)(2), support the revocation of Allen's license.

ORDERS

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

ORDERED: That any and all licenses issued to Corinna R. Allen by the Massachusetts Division of Insurance are hereby revoked; and it is

FURTHER ORDERED: that Corinna R. Allen shall return to the Division any licenses in her possession, custody, or control; and it is

FURTHER ORDERED: that Corinna R. Allen 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 Corinna R. Allen 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 Corinna R. Allen shall cease and desist from the conduct that gave rise to the Order to Show Cause, and it is

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

Tesha M. Scolaro
Presiding Officer

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