



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

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DANIEL C. CRANE
DIRECTOR

NONNIE S. BURNES
COMMISSIONER OF INSURANCE

Division of Insurance, Petitioner

v.

Cheryl D. Williams, Respondent

Docket No. E2008-19

Order and Decision on Petitioner's Motion for Summary Decision

Introduction and Procedural History

On September 12, 2008, the Massachusetts Division of Insurance (“Division”) filed an Order to Show Cause (“OTSC”) against Cheryl D. Williams (“Williams”), who currently holds an active insurance producer license and has two active appointments. The Division seeks orders that Williams violated M.G.L. c. 175, §§ 162V(a) and 162R(a)(2). It alleges that Williams did not inform the Division, as required by M.G.L. c. 175, § 162V(a), of administrative actions involving her taken by two other states. For her failures, the Division seeks sanctions pursuant to M.G.L. c. 175, § 162R(a)(2). It asks for a cease and desist order, revocation of her license, an order requiring her to dispose of any insurance-related interests in Massachusetts, an order requiring her to submit all Massachusetts insurance licenses in her possession to the Division, an order prohibiting her from directly or indirectly transacting any insurance business or acquiring any insurance business in Massachusetts and imposition of fines for the alleged violations.

A Notice of Procedure (“Notice”) was issued on September 16, 2008, advising Williams that a prehearing conference would take place on October 16, 2008 and that a hearing on the OTSC would be held on November 6, 2008, both at the offices of the Division. It further

advised her that 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 Williams to file an answer pursuant to 801 CMR 1.01(6)(d) and that, if she 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 Williams that, if she failed to appear at the prehearing conference or hearing, an order of default, summary decision or decision on the pleadings might be entered against her. The Commissioner of Insurance designated me as presiding officer for the proceeding.

On September 16, 2008, the Division sent the Notice and OTSC by certified mail to Williams at her business and mailing address appearing on the Division's records: 3600 Ecommerce Place, Orlando, Florida 32808. The Division as of November 6, 2008, had not received the green receipt card back, but also had not received back the mailing. Copies of the Notice and OTSC also were sent to Williams by first-class mail, postage prepaid, to her home address appearing on the Division's records: 3666 Baronette Drive, Orlando, Florida 32818. This mailing was not returned to the Division.

On October 16, 2008, a prehearing conference was held pursuant to 801 CMR 1.01(10)(a). Robert Kelly, Esq., appeared for the Division. Neither Williams nor any person representing her appeared. Mr. Kelly reported that he had received no communication from Williams or from any person purporting to represent her. On that same date, following the prehearing conference, the Division filed a written motion for summary decision ("motion"). See 801 CMR 1.01(7)(h).

On October 16, 2008, an order issued advising Williams to file any response to the motion by November 3, 2008, and stating that argument on the motion would be heard on November 6, 2008, at the time set in the Notice for the evidentiary hearing. The order was sent to Williams' business and residential address and her home address by first-class mail, postage prepaid. Neither mailing has been returned to the Division. Neither Williams nor any person representing her appeared at the November 6 hearing on the motion. Mr. Kelly again appeared for the Division and confirmed that there had been no communication with Williams or with anyone acting on her behalf.

Finding of Default

The Division took appropriate actions to ensure proper service, and sufficient service was made. See M.G.L. c. 175, § 174A. The OTSC and Notice were sent to Williams at two addresses in the Division's licensing records. Williams' failure to answer the OTSC or to respond to the Division's motion, and her failure to appear at the prehearing conference or at the hearing on the Division's motion, warrant finding that she is in default. By her default, Williams has waived her 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 to it.

Findings of Fact

On the basis of the record, consisting of the OTSC and the exhibits attached to it, I find the following facts:

1. Respondent Williams was first licensed in Massachusetts as a non-resident individual producer on August 22, 2006.
2. Williams currently holds an active insurance producer license and has two active appointments.
3. Williams entered into a Consent Order with the Georgia Department of Insurance, effective December 19, 2006, which ordered that she be issued a nonresident license for twelve months on a probationary status because she had been charged with felony obtaining public assistance by fraud in October 1982 in Orange County, Florida, and, with adjudication of guilt withheld, was placed on probation for five years and was ordered to pay restitution of \$582.
4. Williams did not notify the Division of the administrative action taken by the Georgia Department of Insurance.
5. The Virginia Bureau of Insurance revoked Williams' Virginia insurance license on May 16, 2007, on the grounds that she failed to report to the Virginia Bureau of Insurance within thirty days the administrative action taken against her by the Georgia Department of Insurance, in violation of § 38.2-1826 C of the Code of Virginia.
6. Williams did not inform the Division of the administrative action taken by the Virginia Bureau of Insurance.

Analysis and Conclusions of Law

Williams was the subject of administrative actions by two other states and did not report either administrative action to the Division. Her failure to report the administrative actions violated M.G.L. c. 175, § 162V(a), which requires a Massachusetts licensed producer to report to the Commissioner of Insurance any administrative action taken by another jurisdiction. M.G.L. c. 175, § 162R(a)(2) authorizes the suspension or revocation of an insurance producer's license for violating any insurance law and the levying of civil penalties in accordance with M.G.L. c. 176D, § 7.

I find, on this record, that the Massachusetts non-resident individual producer license issued to Cheryl D. Williams should be revoked, and that a fine should be imposed for each violation of Massachusetts insurance law. The maximum fine permitted by statute is \$1,000 per violation. Williams committed two acts that violated Massachusetts insurance laws: she failed to report the Georgia administrative action and she failed to report the Virginia administrative action. I therefore impose a fine of \$2,000.

ORDERS

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

1. That any and all insurance licenses issued to Cheryl D. Williams by the Division are hereby revoked;
2. That Cheryl D. Williams shall submit to the Division any and all Massachusetts licenses in her possession, custody or control;
3. That Cheryl D. Williams 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;
4. That Cheryl D. Williams shall comply with the provisions of M.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;
5. That Cheryl D. Williams shall cease and desist from the conduct complained of in the Division's Order to Show Cause;

6. That Cheryl D. Williams shall pay a fine of Two Thousand Dollars (\$2,000) to the Division within 30 days of the entry of this order; and

7. That the Division shall send a copy of this Order and Decision to every insurance company for which Cheryl D. Williams holds an appointment to act as an insurance producer in the Commonwealth of Massachusetts.

This Order and Decision has been filed this 12th day of November, 2008, in the office of the Commissioner of Insurance. A copy shall be sent to Cheryl D. Williams by certified mail, return receipt requested, to her business and mailing address, as well as by regular first class mail, postage prepaid, to both her business and mailing address and to her residential address.

Filed: November 12, 2008

Stephen M. Sumner, Esq.
Presiding Officer

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