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DIVISION OF INSURANCE

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COMMISSIONER OF INSURANCE

Division of Insurance, Petitioner
v.
Hakima Helen Robinson-Rashad, Respondent

Docket No. E2009-09

Order and Decision on Petitioner's Motion for Summary Decision

Introduction and Procedural History

On April 10, 2009, the Massachusetts Division of Insurance (“Division”) filed an Order to Show Cause (“OTSC”) against Hakima Helen Robinson-Rashad (“Robinson-Rashad”), who first was licensed as a Massachusetts non-resident individual insurance producer on April 5, 2006. The Division alleges that Robinson-Rashad violated M.G.L. c. 175, § 162V(a) on five separate occasions by failing to report to the Massachusetts Commissioner of Insurance (“Commissioner”) five different administrative actions taken against Robinson-Rashad in five different jurisdictions. The OTSC also asserts that Robinson-Rashad should be sanctioned under M.G.L. c. 175, § 162R(a), for providing incorrect, misleading, incomplete or materially untrue information in her 2006 Massachusetts insurance license application; for obtaining her Massachusetts insurance license through misrepresentation or fraud; for violating insurance laws of five other states; for being convicted of a felony; for having another state deny her application for an insurance producer license, and for having four other states revoke her licensure by those states. The OTSC further alleges the Robinson-Rashad violated M.G.L. c. 176D, § 2, by engaging in an unfair or deceptive act or practice in the business of insurance by misrepresenting her criminal history in her 2006 application to the Division.

A Notice of Procedure issued on April 13, 2009 (“Notice”), advised Robinson-Rashad that a prehearing conference would take place on May 14, 2009, and a hearing on the OTSC would be held on June 4, 2009, 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 Robinson-Rashad to file an answer pursuant to 801 CMR 1.01(6)(d) within 21 days of her receipt of the OTSC 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 Robinson-Rashad 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.

On April 14, 2009, the Division served the Notice and OTSC by certified mail and by first-class mail, postage prepaid, to Robinson-Rashad at her mailing address and home address appearing in the Division’s records. Robinson-Rashad did not file an answer to the OTSC.

On May 14, 2009, a prehearing conference was held pursuant to 801 CMR 1.01(10)(a). Robert J. Kelly, Esq., appeared for the Division. Robinson-Rashad did not attend the prehearing conference, nor did any person on her behalf. Attorney Kelly stated that the Division had received back, marked as undeliverable as addressed and unable to be forwarded, both the certified and first-class mailings of the Notice and OTSC that it had sent to Robinson-Rashad’s mailing and home addresses. Attorney Kelly reported that he had received no communication from Robinson-Rashad or from any person purporting to represent her.

Following the prehearing conference, the Division filed a written motion for summary decision (“motion”). On May 14, 2009, an order issued that advised Robinson-Rashad to file any response to the motion by June 3, 2009, and further informed her that argument on the motion would be heard on June 4, 2009 (“Order”). The Order was mailed to Robinson-Rashad at her business and mailing addresses. Both posts were returned to the Hearings and Appeals office.

The hearing on the motion was convened, as scheduled in the Order, on June 4, 2009. Attorney Kelly appeared for the Division. Robinson-Rashad did not attend the hearing, nor did any person on her behalf. However, the envelope in which the Order was mailed to Robinson-Rashad at her home address, when returned to the Hearings and Appeals office, not only stated

that the time for forwarding mail had expired, but also stated a new address for Robinson-Rashad: "Robinson, 413 South Pine Avenue, Roswell, New Mexico 88203-1547." In light of this newly-learned address of Robinson-Rashad, an order rescheduling a hearing on the Division's motion ("Rescheduling Order"), together with copies of the Order, the OTSC and the Notice, was mailed by certified mail to Robinson-Rashad at 413 South Pine Avenue, Roswell, New Mexico 88203-1547 ("the June certified mailing to Robinson-Rashad"). An identical mailing was sent to Robinson-Rashad at the same address by first-class mail, postage prepaid. The Rescheduling Order advised Robinson-Rashad to file a written response to the motion no later than July 14, 2009, with argument on the motion to take place on July 16, 2009. The Rescheduling Order further advised Robinson-Rashad that failure to appear at the hearing on the motion could result in the entry of an order of default, summary decision or decision on the pleadings against her, granting the relief requested in the OTSC.

On June 12, 2009, the June certified mailing to Robinson-Rashad was accepted and signed-for at the South Pine Avenue address. The identical first-class mailing sent to this address was not returned to the Hearings and Appeals office. No written response to the OTSC or motion was filed by Robinson-Rashad.

At the July 16, 2009, hearing on the motion, Attorney Kelly appeared for the Division. Robinson-Rashad did not attend the hearing, nor did any person representing her. Attorney Kelly stated that neither Robinson-Rashad nor anyone acting on her behalf had communicated with him. He requested action on the motion.

Finding of Default

The Division took appropriate steps to ensure proper service, and sufficient service was made. See M.G.L. c. 175, § 174A. Robinson-Rashad's failure to answer the OTSC or to respond to the motion, and her failure to appear at the prehearing conference or at the hearing on the motion, warrant finding that she is in default. By her default, Robinson-Rashad has waived her right to proceed further with an evidentiary hearing and I may consider the Division's motion for summary decision based solely upon the OTSC and its attached exhibits: (A) sentencing order in case number CR88-402, *Commonwealth of Virginia v. Helen Antongiorgi Robinson a/k/a/ Hakima Robinson*, in the Circuit Court of the City of Roanoke, Virginia; (B) Uniform Application for Individual Producer License submitted by Robinson-Rashad to the Division;

(C) letter to Robinson-Rashad dated May 18, 2006, from J. P. Schmidt, Insurance Commissioner for the State of Hawai'i; (D) letter dated March 30, 2009, from Sam Thomsen, Chief Investigator for the State of Hawai'i Insurance Division; (E) Order Revoking License filed September 18, 2006, by the State Corporation Commission of the Commonwealth of Virginia in case number INS-2006-00243, *Commonwealth of Virginia v. Hakima Helen Robinson-Rashad*; (F) Notice of Revocation of License dated December 11, 2006, from the Louisiana Department of Insurance; (G) e-mail dated April 2, 2009, from Beau Schexnaildre, Assistant Attorney General, Louisiana Department of Insurance; (H) Notice of Pending Administrative Action & Opportunity to Respond & Request Hearing dated November 21, 2006, from the Idaho Department of Insurance; (I) Proposed Decision and Final Decision in South Dakota Department of Revenue and Regulation case number INS 7-04, *In the Matter of Hakima Robinson-Rashad, Licensee*.

Findings of Fact

1. By order entered on June 22, 1988, Helen Antongiorgi Robinson a/k/a/ Hakima Robinson was sentenced to prison and probation for her conviction of the felony of welfare fraud in case number CR88-402 in the Circuit Court of the City of Roanoke, Virginia ("Virginia felony welfare fraud conviction").
2. The order entered on June 22, 1988, stated a birth date of August 16, 1956, for the convicted felon in that case, Helen Antongiorgi Robinson a/k/a/ Hakima Robinson.
3. Robinson-Rashad stated her birth date as August 16, 1956, on the Uniform Application for Individual Producer License that was submitted to the Division.
4. Robinson-Rashad is the person who was convicted in 1988 of Virginia felony welfare fraud in case number CR88-402 in the Circuit Court of the City of Roanoke, Virginia.
5. Robinson-Rashad on March 15, 2006, submitted to the Division a Uniform Application for Individual Producer License ("Application") under penalty of perjury as part of applying for a Massachusetts non-resident individual insurance producer license.
6. On the Application Robinson-Rashad answered "no" to question 1 of section 39: "Have you ever been convicted of, or are currently charged with, committing a crime, whether or not adjudication was withheld?" The term "crime" is defined in the Application to include a felony.

7. Robinson-Rashad first became licensed as a Massachusetts non-resident individual insurance producer on April 5, 2006.

8. On May 18, 2006, Robinson-Rashad's application for a Hawai'i Non-Resident Producer License was denied by the Insurance Division of the State of Hawai'i ("Hawai'i license denial").

9. Robinson-Rashad's application for a Hawai'i insurance license was denied because of her Virginia felony welfare fraud conviction and because she provided incorrect, misleading, incomplete or materially untrue information on her Hawai'i license application and attempted to obtain a Hawai'i insurance license through misrepresentation or fraud, which acts violated Hawai'i insurance law.

10. Robinson-Rashad did not request a hearing regarding the Hawai'i license denial.

11. On September 18, 2006, all of Robinson-Rashad's licenses to transact the business of insurance in Virginia were revoked by the State Corporation Commission of the Commonwealth of Virginia ("Virginia license revocations").

12. Robinson-Rashad's licenses to transact the business of insurance in Virginia were revoked for failing to report her Hawai'i license denial, which act violated Virginia insurance law.

13. On December 11, 2006, Robinson-Rashad's Louisiana Health & Accident license was revoked by the Louisiana Department of Insurance ("Louisiana license revocation").

14. Robinson-Rashad's Louisiana Health & Accident license was revoked for failing to disclose on her application for a Louisiana insurance license her Virginia felony welfare fraud conviction, which act violated Louisiana insurance law.

15. Robinson-Rashad never requested a hearing regarding her Louisiana license revocation.

16. Effective December 15, 2006, Robinson-Rashad's Idaho Non-Resident Producer License was revoked by a final order of the Idaho Department of Insurance ("Idaho license revocation").

17. Robinson-Rashad's Idaho Non-Resident Producer License was revoked for failing to report her Virginia license revocations and Hawai'i license denial, and for failing to respond to inquiries from the Idaho Department of Insurance, which acts violated Idaho insurance law.

18. Effective March 26, 2007, Robinson-Rashad's South Dakota producer license was revoked by a Final Decision of the South Dakota Division of Insurance ("South Dakota license revocation").

19. Robinson-Rashad's South Dakota producer license was revoked for failing to respond to written inquiries from the South Dakota Division of Insurance, failing to report her Virginia license revocations and Hawai'i license denial, providing false information on her South Dakota license application, and failing to timely notify the South Dakota Division of Insurance of a change of her address, which acts violated South Dakota insurance law.

20. Robinson-Rashad never reported to the Commissioner information about her Hawai'i license denial, Virginia license revocations, Louisiana license revocation, Idaho license revocation or South Dakota license revocation.

21. Robinson-Rashad's Massachusetts non-resident individual insurance producer license was terminated effective August 16, 2008, for failure to renew it.

Analysis and Conclusions of Law

The Commissioner maintains jurisdiction over Robinson-Rashad even though currently she is not licensed in Massachusetts. M.G.L. c. 175, § 162R(e). 801 CMR 1.01(7)(h) allows a party to file a motion for summary decision, with or without supporting affidavits, when the party believes that there is no genuine issue of fact relating to a claim and that the party is entitled to prevail as a matter of law. No genuine issue of fact has been raised in connection with the Division's claims, and I find that it is entitled to prevail as a matter of law.

M.G.L. c. 175, § 162V(a) requires a Massachusetts insurance producer to report to the Commissioner any administrative action taken against the producer in another jurisdiction within 30 days of the final disposition of the matter. Robinson-Rashad never reported to the Commissioner information regarding five different administrative actions concerning her: (1) Hawai'i license denial, (2) Virginia license revocations, (3) Louisiana license revocation, (4) Idaho license revocation and (5) South Dakota license revocation. Robinson-Rashad thereby violated M.G.L. c. 175, § 162V(a) on five separate occasions. Each one of these actions justifies revocation of Robinson-Rashad's Massachusetts insurance license under M.G.L. c. 175, § 162V(a). In addition to revocation of a license, M.G.L. c. 175, § 162R(d) provides that a person may, after hearing, be subject to a civil penalty in accordance with M.G.L. c. 176D, § 7. I

impose the maximum civil penalty authorized under M.G.L. c. 176D, § 7 for each of these five discrete violations of M.G.L. c. 175, § 162V(a).

M.G.L. c. 175, § 162R(a) authorizes the Commissioner to take disciplinary action against an insurance producer and levy a civil penalty in accordance with M.G.L. c. 176D, § 7, when the producer has committed certain acts.

M.G.L. c. 175, § 162R(a)(1) authorizes sanctions when an insurance producer provides incorrect, misleading, incomplete or materially untrue information in the license application. Robinson-Rashad provided incorrect, misleading, incomplete and materially untrue information when she submitted to the Division in 2006 a Uniform Application for Individual Producer License in which she claimed never to have been convicted of a crime, despite her Virginia felony welfare fraud conviction. This conduct justifies revocation of Robinson-Rashad's Massachusetts insurance license under M.G.L. c. 175, § 162R(a)(1). In addition, I impose the maximum civil penalty authorized under M.G.L. c. 176D, § 7 for this violation of Massachusetts insurance law.

M.G.L. c. 175, § 162R(a)(2) authorizes sanctions when an insurance producer violates any insurance laws of another state. Robinson-Rashad violated the insurance laws of Hawai'i, Virginia, Louisiana, Idaho and South Dakota. Each one of these actions justifies revocation of Robinson-Rashad's Massachusetts insurance license under M.G.L. c. 175, § 162R(a)(2). I impose no monetary sanctions under this subsection.

M.G.L. c. 175, § 162R(a)(3) authorizes sanctions when an insurance producer obtains or attempts to obtain a license through misrepresentation or fraud. Robinson-Rashad obtained her 2006 Massachusetts non-resident individual insurance producer license through misrepresentation and fraud when she submitted to the Division a Uniform Application for Individual Producer License in which she denied having been convicted of a crime, despite her Virginia felony welfare fraud conviction. This conduct justifies revocation of Robinson-Rashad's Massachusetts insurance license under M.G.L. c. 175, § 162R(a)(3). In addition, I impose the maximum civil penalty authorized under M.G.L. c. 176D, § 7 against Robinson-Rashad for obtaining her Massachusetts insurance license through misrepresentation or fraud.

M.G.L. c. 175, § 162R(a)(6) authorizes sanctions for having been convicted of a felony. Robinson-Rashad's Virginia felony welfare fraud conviction justifies revocation of Robinson-

Rashad's Massachusetts insurance license under M.G.L. c. 175, § 162R(a)(6). I impose no monetary sanctions under this subsection.

M.G.L. c. 175, § 162R(a)(9) authorizes sanctions when an insurance producer has had an insurance producer license denied or revoked in any other state. After she became licensed in Massachusetts, the states of Virginia, Louisiana, Idaho and South Dakota revoked their insurance licensure of Robinson-Rashad, and the state of Hawai'i denied her application for an insurance producer license. Each one of these actions justifies revocation of Robinson-Rashad's Massachusetts insurance license under M.G.L. c. 175, § 162R(a)(9). I impose no monetary sanctions under this subsection.

M.G.L. c. 176D, § 2 proscribes any trade practice that constitutes an unfair or deceptive act or practice in the business of insurance. By misrepresenting her criminal history in her 2006 application to the Division, Robinson-Rashad violated M.G.L. c. 176D, § 2. I impose no monetary sanctions under this statute.

ORDERS

After due notice, hearing and consideration, it is hereby ordered:

1. Any and all insurance licenses issued to Hakima Helen Robinson-Rashad by the Division are hereby revoked;
2. Hakima Helen Robinson-Rashad shall submit to the Division any and all Massachusetts insurance licenses in her possession, custody or control;
3. Hakima Helen Robinson-Rashad 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. Hakima Helen Robinson-Rashad 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. Hakima Helen Robinson-Rashad shall cease and desist from the conduct complained of in the Division's Order to Show Cause; and
6. Hakima Helen Robinson-Rashad shall pay a fine of Seven Thousand Dollars (\$7,000.00) to the Division within 30 days of the entry of this order.

This Order and Decision has been filed this 5th day of October, 2009, in the office of the Commissioner of Insurance. A copy shall be sent to Hakima Helen Robinson-Rashad by certified mail, return receipt requested, as well as by regular first class mail, postage prepaid, to 413 South Pine Avenue, Roswell, New Mexico 88203-1547.

Filed: October 5, 2009

Stephen M. Sumner, Esq.
Presiding Officer

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

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