



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

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**Division of Insurance, Petitioner**

**v.**

**Edna D. Duvall, Respondent**

**Docket No. E2014-03**

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**Decision on Petitioner's Motion  
For Summary Decision**

On April 7, 2014, the Division of Insurance (“Division”) filed an Order to Show Cause (“OTSC”) against Edna D. Duvall (“Duvall”) who was, until August 9, 2012, licensed as a non-resident Massachusetts insurance producer.<sup>1</sup> In the OTSC, the Division alleges that in February 2010, the Office of the Washington Insurance Commissioner revoked Duvall’s non-resident Washington insurance producer license for failure to comply with that state’s insurance statutes. In September 2010, the Division alleges, the South Dakota Department of Revenue and Regulation, Division of Insurance, revoked Duvall’s South Dakota non-resident insurance producer license for failure to report the Washington administrative action and failure to respond in timely fashion to inquiries from the South Dakota Division of Insurance. The Division further alleges that, in July 2011 the Utah Insurance Department revoked Duvall’s non-resident insurance producer license for failure to disclose the Washington and South Dakota actions to it and to respond to inquiries from the Utah Insurance Department. Finally, the Division alleges that in January 2012, the New York Insurance Department revoked Duvall’s non-resident

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<sup>1</sup> The Division alleges that it first licensed Duvall as a producer on October 16, 2009. The license was terminated, effective August 9, 2012, for failure to renew.

insurance producer license for failure to report the Washington and South Dakota administrative actions.

The Division asserts that the administrative action against Duvall in Washington was based on her failure to comply with that state's licensing requirements; the subsequent actions by South Dakota, Utah and New York all arose from Duvall's failure to report prior administrative actions to them. The Division contends that Duvall's failure to disclose to Massachusetts the administrative actions taken by the states of Washington, South Dakota, Utah and New York violated Massachusetts General Laws Chapter ("Chapter") 175, §162V (a). It seeks revocation of Duvall's license and orders requiring her to dispose of any insurance-related interests in Massachusetts, prohibiting her from conducting any insurance business in the Commonwealth, and imposing fines for the alleged violations.

The Division served the OTSC on Respondent by certified and by first class mail, postage prepaid, addressed to her at her home and mailing address as shown on the Division's licensing records, 3803 Crescent Road, Charlestown, Indiana 47111 and her business address as shown on those records, 3600 Ecommerce Place, Orlando Florida 32808. On May 9, 2014 the Division filed a motion for summary decision in its favor against Duvall for failure to answer the OTSC. An order, issued on May 9, 2014 instructed Duvall to file any written response to the Division's motion by May 23, 2014 and scheduled a hearing on the motion for June 3, 2014. Duvall did not respond to the Division's motion and did not appear at the June 3 hearing. Robert Kelly, Esq., counsel to the Division in this matter stated that he had not been contacted by Duvall or by any person purporting to represent her in this matter. He requested that she be found in default.

***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. The OTSC sent to Duvall's business address by certified mail was received, as evidenced by a return receipt from the United States Post Office. The first-class mail sent to Duvall's residence, business and mailing addresses, as shown on the Division's records, was not returned. I conclude that Duvall's failure to answer the OTSC or to respond to the Division's motion, and her failure to appear at the hearing warrant a finding that she is in default. By her default, Duvall 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 on the record. That record consists of the OTSC and the four exhibits attached to it, documenting revocation of her insurance producer licenses in Washington, South Dakota, Utah and New York.

***Findings of Fact***

Based on my review of the record, I make the following findings of fact.

1. The Division first licensed Duvall as an insurance producer on October 16, 2009.
2. Duvall failed to renew her producer license and, for that reason, it terminated by operation of law, effective August 9, 2012.
3. On or about February 12, 2010, the office of the Insurance Commissioner in the state of Washington revoked Duvall's Washington insurance producer license because, in violation of Washington law, she failed to provide replacement fingerprint cards and failed to respond to communications from the insurance Commissioner's office.
4. On or about September 29, 2010, the Insurance Division of the South Dakota Department of Revenue and Regulation revoked Duvall's South Dakota insurance producer license because, in violation of South Dakota law, she failed to report the Washington administrative action to it and to respond to communications from the South Dakota Insurance Division.
5. On July 19, 2011, the Utah Insurance Department revoked Duvall's Utah insurance producer license because, in violation of Utah law, she failed to respond to communications from the Utah Insurance Department requesting information on the Washington and South Dakota administrative actions revoking her producer licenses in those states.
6. On January 17, 2012, the New York Insurance Department revoked Duvall's insurance producer license because, in violation of New York law, she failed to report the Washington and South Dakota administrative actions to the New York Insurance Department it and to respond to communications from it.
7. Duvall did not report the administrative actions taken by Washington, South Dakota, Utah or New York to the Massachusetts Division of Insurance.

***Analysis and Conclusions of Law***

801 CMR 1.01(7)(h) permits a party to move for summary decision when, in its opinion, there is no genuine issue of fact relating to a claim and it is entitled to prevail as a matter of law. Duvall has not contested the factual allegations in the OTSC or offered any defense to the Division's claims for relief. Although Duvall's Massachusetts insurance producer license lapsed by operation of law in 2012, the Commissioner, pursuant to Chapter 175, §162R (e) retains the authority to enforce against her the provisions of Chapter 175, §§162H through 162X and Chapter 176D.

Chapter 175, §§162G through 162X sets out, among other things, the requirements for obtaining and maintaining a Massachusetts insurance producer license. Chapter 175, §162R (a)

specifies fourteen grounds on which the Commissioner may suspend or revoke a producer's license. The Division identifies subsections §162R (a)(2) and (a)(9) as grounds for revocation of Duvall's license, as well a failure to comply with Chapter 175 §162V(a)(1), a statute requiring a producer to report to the Commissioner any administrative proceedings in any jurisdiction within 30 days of the final disposition of the matter.

Subsection 162R (a)(2), in pertinent part, supports disciplinary against a licensee for violating any insurance laws or regulation, subpoena or order of the Commissioner or of another state's insurance commissioner. Duvall's failure to respond to the May 9, 2014 order and her failure to report administrative actions to the Division constitute a violation of orders issued in this proceeding and a violation of a Massachusetts insurance law. Further, each of the administrative actions in Washington, South Dakota, Utah and New York is based on violations of the particular state's insurance laws or regulations. For that reason, I find that the record supports the Division's argument that Duvall's insurance producer license should be revoked pursuant to subsection 162R (a)(2).

Subsection 162R (a)(9) supports disciplinary action against a licensee for, in pertinent part, having an insurance producer license revoked in any other state. The administrative actions revoking Duvall's insurance producer licenses in Washington, South Dakota, Utah and New York fully support the Division's argument that Duvall's insurance producer license should be revoked pursuant to subsection 162R (a)(9). Duvall's failure to report those four administrative actions to the Division is, as well, a violation of Chapter 175, 162V (a).

Within less than a year from October 16, 2009, the date Duvall received a Massachusetts insurance producer license, Washington and South Dakota had revoked her licenses. Both Utah and New York revoked her licenses while she still held a Massachusetts license. Duvall's failure to report these revocations allowed her to remain fully qualified to sell insurance in Massachusetts for three years and deprived the Division of an opportunity to reassess her qualifications for licensure while she held a license that permitted her to market to Massachusetts consumers.

I am persuaded that failure to report the revocation of an insurance producer to the Division on a timely basis is a serious violation that warrants revocation of Duvall's license. On this record, I find that, in addition to revocation of her license, Duvall should be prohibited from

transacting any insurance business, directly or indirectly, in Massachusetts, and should be required to dispose of any interest she may have in any insurance business in Massachusetts.

Chapter 175, §162R (a) also permits the Commissioner to levy a civil penalty in accordance with Chapter 176D, §7 for violations of the insurance laws and regulations. The maximum penalty permitted under Chapter 176D, §7 is \$1,000 per violation. I find that the evidence supports a finding that Duvall failed on four occasions to report an administrative action to the Division and will therefore impose a fine for four statutory violations. Because Duvall's acts were serious violations of the laws relating to the transaction of insurance business, I impose the maximum fine for each of those violations.

### **ORDERS**

Accordingly, after due notice, hearing and consideration it is

**ORDERED:** That any and all insurance producer licenses issued to Edna D. Duvall by the Division are hereby revoked; and it is

**FURTHER ORDERED:** that Edna D. Duvall shall return to the Division any licenses in hers possession, custody or control; and it is

**FURTHER ORDERED:** that Edna D. Duvall is, from the date of this order, prohibited from directly or indirectly transacting any insurance business or acquiring, in any capacity whatsoever, any insurance business in the Commonwealth of Massachusetts; and it is

**FURTHER ORDERED:** that Edna D. Duvall shall comply with the provisions of Chapter 175, §166B and dispose of any and all interests in Massachusetts as proprietor, partner, stockholder, officer or employee of any licensed insurance producer; and it is

**FURTHER ORDERED:** that Edna D. Duvall shall pay a fine of Four Thousand (\$4,000) to the Division within 30 days of the entry of this order.

This decision has been filed this 4<sup>th</sup> day of June 2014, in the office of the Commissioner of Insurance. A copy shall be sent to Edna D. Duvall by regular first class mail, postage prepaid.

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Jean F. Farrington  
Presiding Officer

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