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GARY D. ANDERSON
COMMISSIONER OF INSURANCE

Division of Insurance, Petitioner
v.
Dawn Marie Crowder, Respondent
Docket No. E2017-08

**Decision and Order on Petitioner's Motion
for Entry of Default and Summary Decision**

Introduction and Procedural History

On March 21, 2017, the Division of Insurance (“Division”) filed an Order to Show Cause (“OTSC”) against Dawn Marie Crowder (“Crowder”) who was a licensed Massachusetts non-resident insurance producer at the time of filing.¹ The Division seeks orders that Crowder has violated the provisions of the Massachusetts insurance laws, specifically M.G.L. c. 175, §§162R (a)(2) and (a)(9). The Division further alleges that Crowder failed to comply with M.G.L. c. 175, §162V (a), a statute requiring a producer to report to the Commissioner any administrative actions taken against her license in other jurisdictions, and M.G.L. c. 175, §162V(b), a statute requiring a producer to report to the Commissioner any criminal prosecution taken against her in any jurisdiction. It requests the revocation of her license, imposition of fines, and orders prohibiting her from engaging in the insurance business in Massachusetts and directing her to dispose of any interest she may have in any insurance business in Massachusetts.

On March 21, 2017, the Division served the OTSC and a Notice of Action on Crowder by the United States Postal Service (“USPS”) certified mail and regular first-class mail to her at the

¹ Crowder’s Massachusetts non-resident producer license terminated by operation of law on December 19, 2017 for failure to renew. Pursuant to M.G.L. c. 175, §162R (e), the Commissioner retains the authority to enforce the producer licensing statute against Crowder.

mailing address on file in the Division's licensing records. Crowder filed no answer or other response to the OTSC. On May 23, 2017, the Division filed a motion for summary decision in its favor against Crowder for failure to answer the OTSC. I issued an order on May 24, 2017 instructing Crowder to file any written response to the Division's motion by June 7, 2017 and scheduling a hearing on the motion for June 9, 2017.

Crowder did not respond to the Division's motion for summary decision. Neither she nor any person purporting to represent her appeared at the hearing on June 9, 2017. Matthew M. Burke, Esq. represented the Division at the hearing. He stated that he had not been contacted about this matter by Crowder or by any person purporting to represent her. He confirmed that the OTSC served on Crowder by certified mail at her mailing address was signed for and delivered on March 31, 2017 and that the first class mail sent to this address was not returned to the Division by USPS.

Finding of Default

On the basis of the record before me, I conclude that the Division took appropriate actions to ensure proper service. The OTSC was served on Crowder by both first-class mail and certified mail to the mailing address on file at the Division.

By her default, Crowder 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, the Motion for Summary Decision, and the following exhibits attached to the OTSC: A) Register of Actions for Case No. 15-08055CF, State of Florida vs. Crowder, Dawn Marie, detailing court disposition information for two felony charges of Possession of Controlled Substance and Possession of Cocaine and one misdemeanor charge of Disorderly Conduct; B) Order Revoking License of the State of Washington Office of the Insurance Commissioner, dated March 16, 2016; C) Findings of Fact and Suspension Order of the Indiana Commissioner of Insurance, dated June 7, 2016; D) Order of License Suspension of the State of Georgia Office of Commissioner of Insurance, dated July 14, 2016. Attached to the Division's Motion for Summary Decision is a USPS Certified Mail Receipt confirming delivery of the OTSC to Dobie's residential address on March 31, 2017 and Crowder's licensing record at the Division.

Findings of Fact

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

1. The Division first licensed Crowder as a non-resident insurance producer on or about February 11, 2015. Crowder's producer license terminated for non-renewal on December 19, 2017.
2. On or about July 20, 2015, Crowder was charged with one felony count of possession of a controlled substance, one felony count of possession of cocaine, and one misdemeanor count of disorderly conduct in the Sixth Judicial Circuit Court of Florida.
3. On March 16, 2016, the State of Washington Office of the Insurance Commissioner revoked Crowder's insurance producer license, effective April 7, 2016.
4. On June 7, 2016, the Indiana Commissioner of Insurance suspended Crowder's insurance producer license.
5. On July 14, 2016, the Office of the Commissioner of Insurance in Georgia suspended Crowder's insurance producer license effective August 3, 2016.
6. Crowder did not report the pending criminal case in the in the Sixth Judicial Circuit Court of Florida, Florida vs. Crowder, Dawn Marie (Case No. 15-08055-CF) to the Division.
7. Crowder did not report to the Division the administrative actions taken against her license in Washington, Indiana, and Georgia.

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. Crowder has not contested the factual allegations in the OTSC or offered any defense to the Division's claims for relief. M.G.L. c. 175, §§162G through 162X describe the requirements for obtaining and maintaining a Massachusetts insurance producer license. M.G.L. c. 175, §162R (a) specifies 14 grounds on which the Commissioner may initiate disciplinary action against a licensed producer. The Division identifies M.G.L. c. 175, §162R (a)(2) and (a)(9) as grounds for revocation of Crowder's license due to her failure to comply with M.G.L. c. 175, §162V(a), a statute requiring a producer to report to the Commissioner any administrative action taken against her by another jurisdiction within 30 days of the final disposition of the matter, and M.G.L. c. 175, §162V (b), a statute requiring a producer to report to the Commissioner any criminal prosecution taken against her in any jurisdiction.

M.G.L. c. 175, §162R (a)(2), in pertinent part, supports disciplinary action for violating any insurance laws or regulation, subpoena or order of the Commissioner or of another state's insurance commissioner. Here, Crowder failed to notify the Division of the administrative actions against her in Washington, Indiana, and Georgia as she is required to do under M.G.L. c. 175, §162V (a) and failed to report the criminal prosecution against her in the Sixth Judicial

Circuit Court of Florida as she is required to do under M.G.L. c. 175, §162V (b). The record fully supports the Division's claim that Crowder violated Massachusetts insurance laws and is therefore subject to discipline under subsection (a)(2).

M.G.L. c. 175, §162R (a)(9) supports disciplinary action when an insurance producer's license has been revoked or suspended by another jurisdiction. The administrative actions revoking Crowder's insurance producer license in Washington and suspending Crowder's producer licenses in Indiana and Georgia therefore fully support discipline under subsection (a)(9).

The number and the seriousness of the grounds the Division cites for taking disciplinary action against Crowder fully warrant its request to revoke her Massachusetts producer license. On this record, I find that, in addition to revocation of her license, Crowder should be prohibited from transacting any insurance business or acquiring, in any capacity whatsoever in Massachusetts, any insurance business in Massachusetts and shall dispose of any interests he may have in any insurance business in Massachusetts.

M.G.L. c. 175, §162R (a) also permits the Commissioner to levy a civil penalty in accordance with Chapter 176D, §7 ("Section 7 fines") for unfair and deceptive acts and practices in the business of insurance. The maximum penalty permitted under M.G.L. c. 176D, §7 is \$1,000 per violation. The Division requests Section 7 fines for each of the two grounds it relies on to support revocation of Crowder's license: 1) violations of Massachusetts law; and 2) revocation or suspension of her producer license in other jurisdictions.

Decisions in administrative proceedings seeking license revocation distinguish grounds for disciplinary action that arise from the respondent's affirmative acts from grounds arising from administrative or judicial actions initiated by third parties to revoke or suspend the respondent's license. Because one of the grounds on which the Division seeks to discipline Crowder, M.G.L. c. 175, §162R (a)(9) is based entirely on administrative actions against her by other jurisdictions, I will not impose Section 7 fines on her under that section.

In addition to Section 7 fines under M.G.L. c. 175, §162R (a)(2) for Crowder's violations of Massachusetts law, the Division also requests fines for each of her violations of M.G.L. c. 175, §162V(a) and 162V(b). Because that section does not include a specific penalty for non-compliance, violators are subject to fines imposed in accordance with M.G.L. c. 175, §194. The

maximum fine allowed under that section is \$500 per violation. The Division's requests, if allowed, would impose two fines, derived from two statutory sources, on the respondent for her failure to report as required by M.G.L. c. 175, §162V (a) and 162V (b). M.G.L. c. 175, §162V prescribes a reporting obligation; failure to comply is not, by itself, a basis for disciplinary action but, as a violation of Massachusetts law, supports a request for disciplinary action under M.G.L. c. 175, §162R (a)(2).

I am not persuaded that in these circumstances it is appropriate to impose Section 7 fines on the Respondent. The OTSC is based, in part, on undisputed facts relating to Crowder's failure to notify the Division of administrative actions against her insurance producer licenses in three other jurisdictions and her failure to notify the Division of a pending criminal prosecution against her in Florida. That a licensee's violations of Massachusetts also support disciplinary action under M.G.L. c. 175, §162R (a)(2) intensifies the potential consequences of Crowder's actions, but does not alter the underlying events. However, Crowder's failure to report those three administrative actions and the criminal prosecution effectively enabled her to avoid prompt enforcement action in the Commonwealth. For that reason, I will impose the maximum penalty of \$500 for each of Crowder's three failures to report an administrative action and her one failure to report a criminal prosecution.

For the reasons set forth above, the Division's Motion for Summary Decision is hereby allowed.

ORDERS

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

ORDERED: That any insurance producer license issued to Dawn Marie Crowder by the Division is hereby revoked; and it is

FURTHER ORDERED: that Dawn Marie Crowder shall return to the Division any license in her possession, custody or control; and it is

FURTHER ORDERED: that Dawn Marie Crowder 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 Massachusetts; and it is

FURTHER ORDERED: that Dawn Marie Crowder shall comply with the provisions of M.G.L. c. 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 Dawn Marie Crowder shall pay a fine of Two Thousand Dollars (\$2,000) to the Division within 30 days of the date of this decision and order.

This decision has been filed this 10th day of July 2018, in the office of the Commissioner of Insurance. A copy shall be sent to Dawn Marie Crowder by regular first class mail, postage prepaid.

Kristina A. Gasson
Presiding Officer

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