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JOHN C. CHAPMAN
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GARY D. ANDERSON
COMMISSIONER OF INSURANCE

Division of Insurance, Petitioner

v.

Chandra Barr, Respondent

Docket No. E2017-13

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

Introduction and Procedural History

On May 1, 2017, the Division of Insurance ("Division") filed an Order to Show Cause ("OTSC") against Chandra Barr ("Barr") who, at the time of filing, was a licensed Massachusetts non-resident insurance producer.¹ The Division alleges that Barr failed to report administrative actions that resulted in revocation of her insurance producer license in Kansas. The Division contends that Barr, by failing to timely report the revocation, violated M.G.L. c. 175, §162V (a), which supports revocation of Barr's Massachusetts producer license pursuant to M.G.L. c. 175, §162R (a)(9). The Division further alleges that Barr knowingly participated in binding renters' insurance policies without customers' consent, and that in doing so violated M.G.L. c. 175, §162R (a)(7) by engaging in unfair trade practices or fraud and M.G.L. c. 175, §162R (a)(8), by using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business. In addition to license revocation, the Division seeks a cease and desist order and orders requiring Barr to dispose of any insurance-related interests in Massachusetts, prohibiting her from conducting any insurance business in Massachusetts, and imposing fines for the alleged violations.

¹ Barr's license was cancelled for nonrenewal on August 6, 2017.

On May 1, 2017, the Division served the OTSC and a Notice of Action on Barr by the United States Postal Service ("USPS") certified mail and regular first-class mail to her at the residential and business addresses on file in the Division's licensing records. Barr filed no answer or other response to the OTSC. On May 26, 2017, the Division filed a motion for summary decision in its favor against Barr for failure to answer the OTSC. I issued an order on May 31, 2017 instructing Barr to file any written response to the Division's motion by June 9, 2017 and scheduling a hearing on the motion for June 13, 2017.

Barr 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 13, 2017. Robert J. Kelly, Esq. represented the Division at the hearing. He stated that he had not been contacted about this matter by Barr or by any person purporting to represent her. He confirmed that the OTSC served on Barr by certified mail at her business address was signed for and delivered on May 5, 2017 and that the first class mail sent to this address and to her residential address was not returned to the Division by USPS.

Pursuant to M.G.L. c. 175, §162R (e) the Commissioner of Insurance retains the authority to enforce the provisions of and impose penalties or remedies against a person charged with violations of M.G.L. c. 175, §§162H through 162X even if the person's license has lapsed by operation of law. Therefore, although Barr did not renew her non-resident producer license in 2017, she is still subject to disciplinary action by the Division.

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 Barr by both first-class mail and certified mail to the residential and business addresses on file at the Division.

By her default, Barr 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) Allstate Insurance Termination Request, dated October 27, 2016, detailing Allstate's allegations that Barr improperly wrote renter's insurance policies without customers' consent; B) a letter from Allstate insurance indicating that Barr was terminated for cause for "Falsification of Application"; C) Summary Order from the Kansas Commissioner of Insurance revoking Barr's nonresident producer license as of February 15, 2017. Attached to the

Division's Motion for Summary Decision is Exhibit D), a USPS Certified Mail Receipt confirming delivery of the OTSC to Barr's business address on May 5, 2017 and Exhibit E) USPS tracking information for an address in Charlotte, North Carolina.

Findings of Fact

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

1. The Division first licensed Barr as a non-resident insurance producer on or about September 20, 2014. Barr's license was cancelled for nonrenewal on August 6, 2017.
2. Barr was previously employed at Allstate Insurance Company in Charlotte, North Carolina ("Allstate").
3. On October 7, 2016, Allstate initiated a disciplinary investigation regarding allegations that Barr was improperly writing renter's insurance policies for customers.
4. During a recorded interview on October 10, 2016, Barr admitted to knowingly participating in the binding of renter's insurance policies without customers' knowledge and consent.
5. Barr was terminated from her employment for cause on or about October 29, 2016.
6. On February 15, 2017, the Kansas Commissioner of Insurance revoked Barr's Kansas insurance producer license.
7. Barr did not report to the Division the administrative action by the Kansas Insurance Department that resulted in the revocation of her producer license.

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. Barr 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)(7), (a)(8), and (a)(9) as grounds for revocation of Barr's license and 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.

M.G.L. c. 175, §162R (a)(7) supports disciplinary action when an insurance producer is found to have committed any insurance unfair trade practice or fraud. M.G.L. c. 175, §162R (a)(8) permits revocation when an insurance producer has used fraudulent, coercive or dishonest practices, or has demonstrated incompetence, untrustworthiness or financial irresponsibility in

the conduct of business. As support for its position that each of these sections is a ground for disciplining Barr, the Division cites the Kansas summary order revoking Barr's non-resident producer license as well as employment termination business records from Allstate. The Allstate business records and the February 15, 2017 order indicate that in a recorded interview Barr admitted to knowingly binding renter's insurance policies without customers' knowledge or consent. Barr did not contest the Kansas allegations or appear in the administrative proceeding. I find that the Kansas order is sufficiently reliable to support revocation of Barr's insurance producer license under subsections (a)(7) and (a)(8).

M.G.L. c. 175, §162R (a)(9) supports disciplinary action when an insurance producer's license has been revoked by another jurisdiction. The administrative action revoking Barr's insurance producer license in Kansas therefore fully supports revocation of her Massachusetts license under subsection (a)(9). On this record, I find that, in addition to revocation of her license, Barr should be prohibited from transacting or acquiring, in any capacity whatsoever, any insurance business in Massachusetts and shall dispose of any interests she 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 on the three grounds that it relies on to support the revocation of Barr's producer license. Although revocation of Barr's insurance license is fully warranted under M.G.L. c. 175, §162R (a)(7) and (a)(8) due to Barr's fraudulent, coercive, and dishonest business practices while employed at Allstate, there is no evidence in the record to show that these actions affected Massachusetts consumers.² Furthermore, 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. Here, the basis for disciplining Barr under M.G.L. c. 175, (a)(9) is based entirely on the administrative action in Kansas. For these reasons, I decline to impose Section 7 fines on Barr.

² See Exhibits A-C to the OTSC. Barr was employed at Allstate in Charlotte, North Carolina. The information in the record identifies three examples of fraudulent renter's policies, identified only by an identification number, and does not indicate where these customers were located.

The Division also requests a fine for Barr's violation of M.G.L. c. 175, §162V(a), which prescribes a reporting obligation on licensed producers in the Commonwealth of Massachusetts. For violations of law not listed as grounds for disciplinary action under §162R (a), M.G.L. c. 175, §194 permits a fine of not more than \$500 for each violation.³ The OTSC includes undisputed facts relating to Barr's failure to report the Kansas administrative action revoking her insurance producer license, which effectively enabled her to avoid prompt enforcement action in Massachusetts. Barr, by failing to report the administrative action against her, violated M.G.L. c. 175, §162V, and I will impose the maximum \$500 fine.

For these reasons, 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 Chandra Barr by the Division is hereby revoked; and it is

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

FURTHER ORDERED: that Chandra Barr 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 Chandra Barr 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 Chandra Barr shall pay a fine of Five Hundred Dollars (\$500) to the Division within 30 days of the date of this decision and order.

This decision has been filed this 27th day of December 2018, in the office of the Commissioner of Insurance. A copy shall be sent to Chandra Barr 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.

³ That section specifically states that "[w]hoever violates any provision of this chapter, the penalty whereof is not specifically provided herein, shall be punished by a fine of not more than five hundred dollars."