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COMMISSIONER OF INSURANCE

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**Division of Insurance, Petitioner**

**v.**

**Glenn Paul Pearson, Respondent**

**Docket No. E2017-17**

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**Decision and Order**

***Introduction and Procedural History***

On August 4, 2017, the Division of Insurance (“Division”) filed an Order to Show Cause (“OTSC”) against Glenn Paul Pearson (“Pearson”) who is a licensed Massachusetts individual insurance producer and the owner and operator of CHC Insurance in Brockton, Massachusetts.<sup>1</sup> The Division seeks orders that Pearson has violated the provisions of the Massachusetts insurance laws, specifically M.G.L. c. 175, §§162R (a)(2), (a)(6), and (a)(8). The Division further alleges that Pearson failed to comply with M.G.L. c. 175, §162V(b), a statute requiring a producer to report to the Commissioner any criminal prosecution taken against him in any jurisdiction. It requests the revocation of his license, imposition of fines, and orders prohibiting him from engaging in the insurance business in Massachusetts and directing him to dispose of any interest he may have in any insurance business in Massachusetts.

As support for its claims, the Division relies on evidence that Pearson pleaded guilty to four felony charges in United States District Court for the District of Massachusetts (“U.S. District Court”) and failed to report the criminal prosecution to the Division.

Robert J. Kelly, Esq., the Division’s counsel, served the OTSC and a Notice of Action on Pearson by the United States Postal Service (“USPS”) certified mail and regular first-class mail

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<sup>1</sup> CHC Insurance was formerly located in Whitman, Massachusetts.

on August 4, 2017. Pearson filed his answer on August 16, 2017. A pre-hearing conference was held at the offices of the Division on September 15, 2017. Pearson appeared *pro se*. At this pre-hearing conference, Pearson did not dispute the material allegations in the OTSC, including his guilty pleas, but requested additional time to confer with an attorney. Another telephonic pre-hearing conference was convened on October 6, 2017. At this second pre-hearing conference, Attorney Kelly stated that since material facts were not in dispute, an evidentiary hearing was not required and that the matter could be resolved on summary decision.<sup>2</sup> However, Pearson requested an evidentiary hearing in order to present evidence of mitigating circumstances and offer character witnesses. On October 6, 2017, I scheduled an evidentiary hearing for October 24, 2017 and requested that witness lists and proffered evidence be submitted on or before October 20, 2017.<sup>3</sup>

### ***The Evidentiary Hearing***

Both parties attended the hearing. Pearson again appeared *pro se* and testified on his own behalf. He offered no witnesses.<sup>4</sup> Attorney Kelly represented the Division at the hearing and did not bring witnesses to testify.

The record consists of the OTSC and the following exhibits: A) the 41-count Indictment in *USA v. Pearson*, 16-cr-10216, filed July 28, 2016, B) the criminal docket in *USA v. Pearson*, 16-cr-10216, listing the U.S. District Court proceedings in this matter as of July 31, 2017, C) the plea agreement in *USA v. Pearson*, 16-cr-10216, dated April 4, 2017, D) a Motion for Order of Forfeiture in *USA v. Pearson*, 16-cr-10216, dated July 24, 2016, E) the Affidavit of Magnus Paul Carlberg, Director of Producer Licensing at the Division, and a copy of Pearson's licensing record at the Division, F) Preliminary Order of Forfeiture for Substitute Assets in Satisfaction of Money Judgment in *USA v. Pearson*, 16-cr-10216, dated October 13, 2017, and G) a U.S. Department of Justice Press Release announcing Pearson's guilty plea, dated May 16, 2017. At the evidentiary hearing, Pearson submitted unsworn statements from three individuals; two of

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<sup>2</sup> The Division did not file a motion for summary decision in this matter.

<sup>3</sup> On October 19, 2017, Pearson submitted a written request to postpone the hearing to a later date, which was treated as a Motion for Continuance. Because Pearson did not indicate a reason for his postponement request, the motion was denied absent a showing of good cause pursuant to 801 CMR § 1.01(7)(d).

<sup>4</sup> Pearson requested that an observer in attendance at the hearing, whom Pearson identified as a federal government employee involved in the prosecution of the case against him in U.S. District Court, be permitted to testify on his behalf. Pearson neither identified this individual as a potential witness nor requested a subpoena for this purpose prior to the hearing. Because this individual indicated that he did not wish to testify in this matter, I denied Pearson's request.

whom were customers of CHC Insurance Agency and one whom was a member of Pearson's church community, that were marked as Exhibit H.<sup>5</sup> Both parties submitted memoranda outlining their arguments in this matter.

Attorney Kelly reiterated his request for relief outlined in the OTSC and stated that Pearson should be disciplined under M.G.L. c. 175 because he voluntarily pleaded guilty to four felony counts: Wire Fraud,<sup>6</sup> Misappropriation of Veterans' Benefits by a Fiduciary,<sup>7</sup> Aiding and Assisting in the Preparation of a False Income Tax Return,<sup>8</sup> and Corruptly Endeavoring to Impede and Impair the Internal Revenue Service,<sup>9</sup> all felonies punishable for imprisonment for more than one year. Attorney Kelly further stated that Pearson failed to report his indictment or convictions to the Division, putting Massachusetts insurance consumers at risk.

Pearson admitted to all of the allegations in the OTSC at the hearing. He testified that he desired to retain his insurance producer license in order to be able to pay restitution to his victims and testified to his own good character, his ordination as a minister in the Christian faith, and his otherwise clean criminal record, with no prior convictions before *USA v. Pearson*, 16-cr-10216. He further testified that since the felony convictions did not implicate his work as an insurance producer or at CHC Insurance, he should not be disciplined by the Division. Pearson testified that he did not report the criminal matter to the Division because he was unaware of his obligation to do so.

### ***Findings of Fact***

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

1. The Division first licensed Pearson as a resident insurance producer on January 11, 2012. According to the Division's licensing records, his license was most recently renewed in September 2017. Pearson is an appointed agent for several insurance companies.
2. Pearson owns and operates CHC Insurance Agency, which is located in Brockton, Massachusetts.

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<sup>5</sup> No weight was given to the Pearson's submitted statements from customers of CHC Insurance and Pearson's church acquaintance. The statements were unsworn and are unrelated to the allegations in the OTSC, which outline specific felony convictions and business practices. Although given the opportunity to provide the names of witnesses orally at the pre-hearing conferences and in writing at the time of scheduling the evidentiary hearing, Pearson did not do so.

<sup>6</sup> 18 U.S.C. § 1343.

<sup>7</sup> 26 U.S.C. § 6101.

<sup>8</sup> 38 U.S.C. § 7206(2).

<sup>9</sup> 26 U.S.C. § 7212(a).

3. Pearson previously owned and operated a Massachusetts tax preparation business, FTS Tax Services, where he represented clients during Internal Revenue Service (“IRS”) audits and prepared federal income tax forms and documents for clients.
4. Pearson was appointed as a fiduciary by the U.S. Department of Veterans Affairs (“VA”) and was tasked with managing the financial affairs of disabled veterans receiving VA benefits.
5. On July 28, 2016, Pearson was indicted by a grand jury sitting in United States District Court, District of Massachusetts in *USA v. Pearson*, 16-cr-10216. The U.S. government alleged 41 criminal counts, alleging violations of federal law in connection with his tax preparation business and his duties as a VA-appointed fiduciary.
6. On May 16, 2017, Pearson pleaded guilty to four counts in the indictment:
  - Wire Fraud, involving an unauthorized withdrawal of \$400 from an automated teller machine (“ATM”) (18 U.S.C. § 1343) on or about September 14, 2011,
  - Misappropriation of Veterans’ Benefits by a Fiduciary (26 U.S.C. § 6101), for knowingly having borrowed, used, embezzled, and misappropriated \$4,000 in money and property in the execution of his duties as a fiduciary in 2011.
  - Aiding and Assisting in the Preparation of a False Income Tax Return (26 U.S.C. § 7206(2)), for filing a false and fraudulent federal income tax return on or about March 7, 2014.
  - Corruptly Endeavoring to Impede and Impair the Internal Revenue Service (“IRS”) (26 U.S.C. § 7212(a)), for using a false Tax Identification Number (“TIN”), by preparing and submitting false forms and documents to the IRS in order to obtain refunds and represent clients at IRS audits from 2012 until July 2016.
7. On May 16, 2017, Pearson agreed to forfeit \$207,800 to the United States government as a part of his plea agreement.
8. Pearson did not report the pending criminal case in U.S. District Court (*USA v. Pearson*, 16-cr-10216) to the Division.

### ***Analysis and Conclusions of Law***

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 discipline a licensed producer. The Division identifies three subsections of M.G.L. c. 175, §162R (a) as grounds for its OTSC. Subsection (a)(2), in pertinent part, permits revocation for “violating any insurance laws or regulations,” subsection (a)(6) for “having been convicted of a felony,” and subsection (a)(8) for “using fraudulent, coercive or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in the commonwealth or elsewhere.” The Division also alleges that Pearson violated M.G.L. c. 175, §162V(b), a statute requiring a producer to report to the Commissioner any criminal prosecution of the producer taken in any jurisdiction.

M.G.L. c. 175, §162R (a)(6) supports disciplinary action when an insurance producer has been convicted of a felony. Both the documentary exhibits and Pearson's own testimony demonstrate that Pearson was convicted of multiple felonies. I find that Pearson may be disciplined pursuant to subsection (a)(6).

Next, M.G.L. c. 175, §162R (a)(8) supports disciplinary action for "using fraudulent, coercive or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in the commonwealth or elsewhere." Pearson's criminal conduct is outlined in Exhibit A, the Indictment in *USA v. Pearson*, 16-cr-10216. There, the U.S. government outlines a pattern of fraudulent, coercive, and dishonest and financially irresponsible behavior both in Pearson's Massachusetts tax preparation business and as a VA fiduciary to disabled U.S. military veterans.<sup>10</sup> The record shows that Pearson embezzled client funds for his own personal benefit, filed a false and fraudulent federal income tax return, and prepared and submitted false forms and documents to the IRS during in order to obtain refunds for clients at IRS audits. At the hearing, Pearson could not testify with particularity with respect to the illegal actions described in each of the four counts to which he pleaded guilty. Although Pearson testified at the hearing that he "made mistakes" as a tax preparer and fiduciary, his characterization of his actions as "mistakes" is unpersuasive, as the record demonstrates a pattern of dishonest and fraudulent actions, including the preparation of false tax returns and documents from 2012 to 2016.<sup>11</sup>

Pearson argues that because this pattern of misconduct did not occur in connection with his insurance business, he is not subject to discipline by the Division. Pearson's illegal activities in connection with his tax preparation business and as VA fiduciary demonstrate that he used fraudulent, coercive or dishonest practices, or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business, thereby violating subsection (a)(8). The statute does not require that the activities supporting an action against a licensee arise specifically in connection with the business of insurance nor within the Commonwealth. The request to revoke Pearson's license is consistent with prior Division decisions and disciplinary actions supporting the denial and revocation of insurance licenses to those who have engaged in

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<sup>10</sup> In the plea agreement (Exhibit C), Pearson "expressly and unequivocally admits that he committed the crimes charged in the four counts of the indictment [listed in ¶ 6 of the above Findings of Fact] and did so knowingly and willfully and is in fact guilty of those offenses."

<sup>11</sup> See Exhibit A, p. 30-31, detailing Pearson's attempts to interfere with the IRS (26 U.S.C. § 7212(a)).

dishonest or fraudulent practices in connection with other financial transactions or consumer affairs.<sup>12</sup>

Finally, M.G.L. c. 175, §162R (a)(2) supports disciplinary action for “violating any insurance laws or regulations.” The Division cites Pearson’s violation of M.G.L. c. 175, §162V(b), a statute requiring a licensee to report to the Division within 30 days any criminal prosecution of the producer taken in any jurisdiction, as grounds for discipline under subsection (a)(2). It is undisputed that Pearson did not report the criminal prosecution in U.S. District Court to the Division at any point prior to the filing of the OTSC. The record fully supports that Pearson may be disciplined under subsection (a)(2) for his violation of the Massachusetts insurance reporting statute.

The grounds that the Division cites as basis for disciplinary action against Pearson are extremely serious, involving misappropriation of consumer funds and violation of fiduciary duties which demand the utmost trustworthiness. Pearson’s illegal actions in connection with his business as a tax professional and a VA fiduciary undermine confidence in his integrity and are relevant to his fitness to continue to conduct insurance business in Massachusetts. His record with customers in his other business operations support a conclusion that permitting him to continue in the insurance business would put Massachusetts consumers at risk, and fully warrant the revocation of Pearson’s Massachusetts producer license.

On this record, I find that, in addition to revocation of his license, Pearson should be prohibited from transacting or acquiring, in any capacity whatsoever, any insurance business in Massachusetts and shall dispose of any interests he may have in any insurance business in Massachusetts, including CHC Insurance in Brockton, 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 grounds that it relies on to support the revocation of Pearson’s producer license. However, while revocation of Pearson’s insurance license is fully warranted based upon his actions as a tax preparer and VA fiduciary, because the grounds on which the Division seeks to discipline Pearson under §162R (a) are

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<sup>12</sup> The cases that the Division cites in its memorandum indicate that wrongdoing in non-insurance related business transactions has long been sufficient reason to deny an application for an insurance license or for revocation.

based entirely on judicial actions against him, I find no basis for imposing Section 7 fines on him.

The Division also requests a fine for Pearson's violation of M.G.L. c. 175, §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. Pearson's failure to report the criminal indictment in U.S. District Court effectively enabled him to avoid any enforcement action in the Commonwealth for more than one year. Pearson failed to report the indictment to the Division and committed one violation of M.G.L. c. 175, §162V. Therefore, I will impose the maximum \$500 fine.

### **ORDERS**

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

**ORDERED:** That the insurance producer license issued to Glenn Paul Pearson by the Division is hereby revoked; and it is

**FURTHER ORDERED:** that, within ten (10) days of this decision, Glenn Paul Pearson shall return to the Division any license in his possession, custody or control; and it is

**FURTHER ORDERED:** that Glenn Paul Pearson 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 Glenn Paul Pearson shall promptly 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 Glenn Paul Pearson 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 22<sup>nd</sup> day of January 2018, in the office of the Commissioner of Insurance. A copy shall be sent to Glenn Paul Pearson by regular first class mail, postage prepaid.

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Kristina A. Gasson  
Presiding Officer

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