

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

1000 Washington Street • Suite 810 • Boston, MA 02118-6200
(617) 521-7794 • FAX (617) 521-7475
<http://www.mass.gov/doi>

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CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

MIKE KENNEALY
SECRETARY OF HOUSING AND
ECONOMIC DEVELOPMENT

EDWARD A. PALLESCHI
UNDERSECRETARY

GARY D. ANDERSON
COMMISSIONER OF INSURANCE

Division of Insurance, Petitioner
v.
Deandre Maze-Carter, Respondent
Docket No. E2019-05

Order on Petitioner's Motion for Summary Decision

On April 2, 2019, the Division of Insurance ("Division") filed an Order to Show Cause ("OTSC") against Deandre Maze-Carter ("Maze-Carter"), who was licensed as a Massachusetts non-resident insurance producer between May 5, 2016 and December 13, 2018. The OTSC seeks revocation of Maze-Carter's Massachusetts producer license on the grounds that he is subject to discipline pursuant to the provisions of M.G.L. c.175, §162R (a)(2) and (a)(9). It also alleges that Maze-Carter failed to report to the Division administrative actions suspending or revoking producer licenses issued to him by Utah, Indiana, North Dakota, Maine and Nebraska, as M.G.L. c. 175, §162V (a) obligates him to do. In addition to revocation of Maze-Carter's license and the imposition of fines, the Division seeks orders that, among other things, require him to dispose of any insurance-related interests in Massachusetts and prohibit him from conducting business in the Commonwealth.

Maze-Carter filed no answer or other response to the OTSC. On May 24, 2019, the Division moved for entry of default and summary decision ("the Motion"). An order, entered on June 20, set a date for responding to the Motion and scheduled a hearing on the Motion for July 12, 2019. Matthew Burke, Esq. represented the Division in this matter. Neither Maze-Carter nor any person representing him attended the July 12 hearing. Mr. Burke reported that he had not been contacted by Maze-Carter or any person purporting to represent him.

Finding of Default

According to the certificate of service submitted with the OTSC, the Division served the OTSC and Notice of Action on Maze-Carter by certified and regular first class United

States mail addressed to him at the home, business and mailing address shown on the Division's producer licensing records: 8809 S. Pointe PKWY E, Apt. 2096, Phoenix, Arizona 85044. The Division attached to the Motion an unsigned receipt for certified mail returned by the United States Postal Service to the Division. Mr. Burke also stated that the Postal Service returned the OTSC sent by regular first class mail to the Division. Pursuant to G.L.c. 175, §174A, notice of a hearing required under §162R is deemed sufficient if sent postpaid by registered mail to the last business or residence address appearing on the records of the Commissioner.¹ On this record, I conclude that service of the OTSC on Maze-Carter was sufficient under §174A.

The Motion is grounded on Maze-Carter's failure to answer the OTSC. I find that Maze-Carter's failure to answer the OTSC or to respond to the Motion, and his failure to appear at the hearing warrant a finding that he is in default. By his default, Maze-Carter has waived his right to proceed further with an evidentiary hearing in this case and I may consider the Motion based on the record.

The record in this proceeding consists of the OTSC, the Motion, and the exhibits attached to them. The exhibits to the OTSC consist of an order from the Utah Insurance Commissioner revoking Maze-Carter's license, an order from the Indiana Commissioner of Insurance suspending his license, an order from the North Dakota Insurance Commissioner revoking his license, an order from the Maine Bureau of Insurance prospectively revoking his license, and an order from the Nebraska Department of Insurance revoking his license.

Findings of Fact

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

1. The Division first licensed Maze-Carter as a non-resident insurance producer on or about May 5, 2016.
2. The Division terminated Maze-Carter's non-resident producer license on December 13, 2018 for failure to renew.
3. On August 22, 2018, Utah revoked Maze-Carter's license for failure to comply with that state's procedural requirements for retaining his license.
4. Maze-Carter did not report the revocation of his Utah license to the Division within 30 days.
5. By order dated August 30, 2018, the Indiana Insurance Department suspended Maze-Carter's non-resident producer license for failure to comply with an Indiana procedural requirement.

¹ For purposes of this section, certified mail includes registered mail.

6. Maze-Carter did not report the Indiana suspension of his license to the Division within 30 days.
7. By order dated October 18, 2018, North Dakota revoked Maze-Carter's non-resident producer license for failure to respond to an inquiry from the Commissioner.
8. Maze-Carter failed to report the North Dakota revocation of his producer license to the Division within 30 days.
9. By order dated November 1, 2018, the Maine Commissioner of Insurance notified Maze-Carter that his producer license would be revoked on December 6, unless he requested a hearing .
10. Maze-Carter failed to report the Maine revocation to the Division, within 30 days.
11. By order dated December 18, 2018, Nebraska revoked Maze-Carter's Nebraska producer license.
12. Maze-Carter failed to report the Nebraska revocation to the Division within 30 days.

Analysis and Discussion

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. Maze-Carter 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 set out, among other things, the requirements for obtaining and maintaining a Massachusetts insurance producer license. Section 162R (a) specifies fourteen grounds on which the Commissioner may suspend or revoke a producer's license.

As grounds for revocation of Maze-Carter's license, the Division relies on §162R (a)(2) and (a)(9). Subsection (a)(2), in relevant part, permits disciplinary action for violating any insurance laws, or violating any regulations, subpoena or order of the commissioner; (a)(9) permits disciplinary action if another jurisdiction has suspended or revoked an insurance producer's license. The Division also asserts that Maze-Carter violated M.G.L. c. 175, §162V (a) ("§162V (a)") by failing to report the administrative actions taken by Utah, Indiana, Maine and Nebraska within 30 days after they were issued. The Division's claim that Maze-Carter is subject to discipline under §162R (a)(2) is based on his alleged violations of §162V (a).

According to Division records, as noted in the OTSC, Maze-Carter did not renew his Massachusetts license in 2018; it was therefore terminated as a matter of law on December 13, 2018. Although the Commissioner of Insurance retains authority, under §162R (e) to enforce the provisions of c. 175, §§162H through 162X after a licensee is no longer licensed,

that authority is limited to actions against a person who is under investigation for or charged with violating those sections. The Division's claims against Maze-Carter are based, in part, on events that occurred while he held a Massachusetts license and in part on allegations stemming from events that occurred after his license had lapsed. Claims Ten through Twelve seek to discipline Maze-Carter based on Nebraska's revocation of his license. However, that revocation is dated December 18, 2018, after Maze-Carter was no longer licensed in Massachusetts. For that reason, Claims Ten through Twelve are hereby dismissed. Further, the OTSC recites facts relating to the North Dakota revocation of Maze-Carter's producer license, but includes no claims for relief based on that revocation. For that reason, no disciplinary action will be taken as a result of the North Dakota administrative action.

Claims One through Three derive from on Utah's revocation of Maze-Carter's license, Four through Six from Indiana's suspension of his license, and Seven through Nine from Maine's revocation order. One, Four and Seven seek to revoke Maze-Carter's Massachusetts license pursuant to §162R (a)(9) as the consequence of revocation or suspension in those three jurisdictions. A review of the orders from those jurisdictions raises concerns about the reasonableness of automatically considering revocation or suspension by another jurisdiction, whatever the reason, as the basis for imposing similar disciplinary action in Massachusetts. The Utah order revoked Maze-Carter's license for failure to maintain a valid e-mail address, a valid telephone number, and failure to reply promptly to an inquiry from the Utah Commissioner; none of which is a statutory basis for a Massachusetts administrative action. Indiana suspended his license for non-compliance with a requirement for providing the Commissioner with a list of appointments to insurance companies. In contrast, both North Dakota and Maine took action based on the receipt of notice from the QBE Insurance Corporation that it had terminated Maze-Carter for cause.² It is reasonable to revoke a nonresident's license because of revocation or suspension by another jurisdiction when those revocations relate to matters of consumer protection. I find that Maine's revocation of Maze-Carter's license fully supports revocation of his Massachusetts license pursuant to §162R (a)(9).

² Maine, furthermore, contacted Maze-Carter, using an address it had found by searching public records, and received an admission from him that he had falsified a proof of insurance.

In connection with the state administrative actions, the Division asserts claims based on alleged violations of §162V (a) that it then asserts are violations of §162R (a)(2). Those two statutes impose obligations on licensed producers: 1) in relevant part, to report to the Commissioner any administrative action against the producer in another jurisdiction within 30 days of the final disposition of the matter; and 2) to comply with insurance laws. The Second, Fifth, and Ninth claims are based on allegations that Maze-Carter violated §162V (a) because he did not report administrative actions against him within the statutory time frame. The Second and Ninth refer to the Utah and Maine revocations of Maze-Carter's license. The Utah revocation occurred in August 2018; the Maine revocation was issued in November 2018, with an effective date of December 6, 2018. The record therefore supports a finding that Maze-Carter's failure to report the Utah action violated §162V (a). The Maine action, however, became final on December 6, a week before Maze-Carter's Massachusetts license was terminated for failure to renew. Maze-Carter's obligation to report that action stopped as of December 13, weeks before the end of the statutory 30-day reporting period. Section §162V (a) only requires reports of the final disposition of an administrative matter. The Indiana action was a suspension that was contingent upon compliance with a particular condition. The record does not indicate the final disposition of that action. On this record, then, I find that Maze-Carter, while licensed as a Massachusetts producer, failed timely to report one final decision in an administrative proceeding against him and thereby violated §162V (a).

The Division contends that that violations of §162V (a) also are grounds for disciplinary action pursuant to §162R (a)(2). It requests fines for alleged violations of §162R (a)(2) and (a)(9) pursuant to M.G.L. c. 176D, §7, and for alleged violations of §162V (a) pursuant to M.G.L. c. 175, §194 ("§194"). Chapter 176D, §7 fines are denied for reasons set out at length in previous decisions in enforcement actions.³

Section 162V (a) does not specify a penalty for failure to comply with the statute. Violations of the section are therefore subject to a \$500 fine authorized under M.G. L. c. 175,

³ Although the Division persistently refers to revocation or suspension of a producer's license in another jurisdiction, an event that under §162R (a)(9) supports revocation or suspension of a Massachusetts license, as a "violation", it is appropriately referred to as a statutory ground for an enforcement action. Prior decisions in enforcement actions decline to impose fines on producers because of their status as respondents in administrative actions in other jurisdictions. The "violation" associated with revocations or suspensions by those jurisdictions is the producer's obligation to report that action to Massachusetts in timely fashion. That violation is subject to the fine specified in §194. Our enforcement decisions decline to impose multiple fines for a particular violation.

§194. As noted above, I find that Maze-Carter violated §162V (a) on one occasion but, because the revocation did not occur in his home state, it had no immediate direct effect on his status as a Massachusetts licensee or on Massachusetts consumers. I will therefore impose a fine of \$250, to be paid within thirty days of the date of this decision. I also find that, in addition to revocation of his license, Maze-Carter should be prohibited from transacting any insurance business, directly or indirectly, in Massachusetts, and be required to dispose of any interests he may have in any insurance business in Massachusetts.

ORDERS

Accordingly, after due notice, hearing and consideration it is

ORDERED: That any and all insurance producer licenses issued to Deandre Maze-Carter by the Division are hereby revoked; and it is

FURTHER ORDERED: that Deandre Maze-Carter shall return to the Division any licenses in his possession, custody or control; and it is

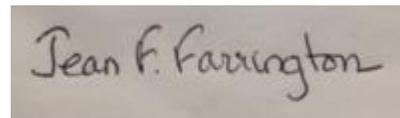
FURTHER ORDERED: that Deandre Maze-Carter shall cease and desist from the conduct that gave rise to this Order to Show Cause; and it is

FURTHER ORDERED: that Deandre Maze-Carter, from the date of this order, is 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 Deandre Maze-Carter shall comply with the provisions of G. L. c. 175, §166B and dispose of any and all interests in Massachusetts as a proprietor, partner, stockholder, officer or employee of any licensed insurance producer; and it is

FURTHER ORDERED: that Deandre Maze-Carter shall pay a fine of Two Hundred Fifty Dollars (\$250.00) to the Division within 30 days of the entry of this order.

This decision has been filed in the office of the Commissioner of Insurance this 17th day of June 2020. A copy shall be sent to Deandre Maze-Carter by electronic mail at the address on the Division's records.



Jean F. Farrington
Presiding Officer

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