



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

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UNDERSECRETARY

GARY D. ANDERSON
COMMISSIONER OF INSURANCE

Division of Insurance, Petitioner

v.

Alex Belfort, Respondent

Docket No. E2019-06

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 Alex Belfort ("Belfort"), who was licensed as a Massachusetts non-resident insurance producer between March 17, 2016 and October 19, 2018. The OTSC seeks revocation of Belfort'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 Belfort failed to report to the Division administrative actions revoking or suspending producer licenses issued to him by his home state, Pennsylvania, and by Arkansas, Washington, Indiana and Mississippi, as M.G.L. c. 175, §162V (a) obligates him to do. In addition to revocation of Belfort'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.

Belfort 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 May 30, set a date for responding to the Motion and scheduled a hearing on the Motion for June 25, 2019. Matthew Burke, Esq. represented the Division in this matter. Neither Belfort nor any person representing him attended the June 25 hearing. Mr. Burke reported that he had not been contacted by Belfort 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 Belfort 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: 3010 Regency Drive, Sinking Spring, PA 19608. The Division attached to the Motion a photocopy of a signed receipt for certified mail indicating that the OTSC was delivered to and accepted at Belfort's address on April 6, 2019. I conclude that the OTSC was served on Belfort by certified United States mail.

The Motion is grounded on Belfort's failure to answer the OTSC. I find that Belfort'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, Belfort 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 Insurance Commissioner of the Commonwealth of Pennsylvania revoking Belfort's license, an order from the Arkansas Department of Insurance suspending his license, an order from the State of Washington revoking his license, an order from the Indiana Commissioner of Insurance suspending his license, and an order from the Mississippi Insurance Department 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 Belfort as a non-resident insurance producer on or about March 17, 2016.
2. At that time, Belfort was licensed as a resident insurance producer by the Commonwealth of Pennsylvania.
3. By order dated May 11, 2018, the Commonwealth of Pennsylvania revoked Belfort's insurance producer license.
4. As of May 11, 2018, Belfort was no longer eligible to hold a Massachusetts non-resident producer license.
5. Belfort did not renew his Massachusetts non-resident producer license, and it was terminated on October 19, 2018.
6. Belfort failed to report to the Division, within 30 days after May 11, 2018, the Pennsylvania administrative action revoking his license.

7. By order dated June 14, 2018, the Arkansas Insurance Department suspended Belfort's non-resident producer license.
8. Belfort did not report to the Division, within 30 days after June 14, 2018, the Arkansas suspension of his license.
9. By order dated June 26, 2018, the State of Washington Insurance Commissioner revoked Belfort's non-resident producer license, effective July 11, 2018.
10. Belfort failed to report to the Division, within 30 days after June 26, 2018, the State of Washington revocation of his producer license.
11. By order dated November 2, 2018, the Indiana Commissioner of Insurance suspended Belfort's Indiana producer license.
12. Belfort failed to report to the Division, within 30 days after November 2, 2018, the suspension of his Indiana producer license.
13. By order dated January 17, 2019, the Mississippi Insurance Department revoked Belfort's Mississippi producer license.
14. Belfort failed to report to the Division, within 30 days after January 17, 2019, the revocation of his Mississippi producer license.

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. Belfort 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 Belfort'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 Belfort violated M.G.L. c. 175, §162V (a) ("§162V (a)") by failing to report the administrative actions taken by Pennsylvania, Arkansas, Washington, Indiana and Mississippi within 30 days after they were issued. The Division's claim that Belfort 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, Belfort did not renew his Massachusetts license in 2018; it was therefore terminated as a matter of law on October 19,

2018. Although the Commissioner of Insurance retains authority, under §162R (e) to enforce the provisions of c. 175, §§162H through 162X, that authority is limited to actions against any person who is under investigation for or charged with a violation of those sections, even if the person's license has lapsed. The Division's claims against Belfort 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 One, Four and Seven, seek revocation of Belfort's Massachusetts license pursuant to §162R (a)(9) as the consequence of the revocation or suspension of his licenses in Pennsylvania, Arkansas and the State of Washington. The orders from those three jurisdictions support revocation of Belfort's license pursuant to §162R (a)(9). The Tenth and Thirteenth claims in the OTSC are based on revocations of Belfort's producer license in Indiana and Mississippi, both of which occurred after he was no longer licensed in Massachusetts. Although the orders from those jurisdictions would support revocation of Belfort's license pursuant to §162R (a)(9), were he still licensed in Massachusetts, their timing, in this matter, in essence renders them moot.¹

In connection with each of 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, Eighth, Eleventh and Fourteenth claims are based on allegations that Belfort violated §162V (a) because he did not report administrative actions against him within the statutory time frame. Section 162V (a) applies to a producer's obligation to report. No statutory language suggests that the reporting obligation remains after the person is no longer licensed. Claims Eleven and Fourteen of the OTSC, however, are founded on the premise that, although Belfort was no longer licensed in Massachusetts, he was still obligated to report the administrative actions taken in Indiana and Mississippi. The Division offers no support for that position. Of the other three claims alleging violations of §162V (a), the Second and Eighth refer to revocations of Belfort's license in Pennsylvania and Washington and are fully supported by the orders in question. The Fifth refers to an action in Arkansas that summarily

¹ The rationale for expanding an OTSC to include revocations that occur after a producer is no longer licensed in Massachusetts is unclear; the desired outcome has already been achieved.

suspended Belfort's license until he was again licensed in a home state.² Section 162V (a) only requires reports of the final disposition of an administrative matter. The record does not indicate the final disposition of an Arkansas action that imposes suspension contingent upon Belfort's compliance with certain conditions. On this record, then, I find that Belfort, while licensed as a Massachusetts producer, failed to report two final decisions in administrative proceedings against him and thereby violated §162V (a). The Division contends that those violations of Massachusetts law also are grounds for disciplinary action pursuant to §162R (a)(2).

The Division 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, §194. On this record, I conclude that the following §194 fines are appropriate. M.G.L. c. 175, §162N provides that a producer is not eligible for a non-resident license in Massachusetts unless he or she is licensed as a resident in a home state and in good standing in that state. As of May 11, 2018, Belfort was neither licensed in his home state, Pennsylvania, nor in good standing there and therefore, by operation of law, ineligible to hold a Massachusetts producer license. His failure to report the Pennsylvania revocation effectively enabled him to retain his status as a non-resident Massachusetts licensed producer for approximately five months after he was ineligible to hold that license, to the potential detriment of Massachusetts consumers.⁰ For that reason, I find that he should be fined \$500 for failure timely to report the Pennsylvania revocation. The Washington revocation, occurring approximately two weeks

² Chapter 175, §162H defines home state as the state in which the producer maintains a principal place of residence or principal place of business and is licensed as an insurance producer.

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, and our enforcement decisions decline to impose multiple fines for a particular violation.

after the Pennsylvania action, unlike Belfort's failure to report the Pennsylvania revocation, did not have a similar immediate direct effect on his status as a Massachusetts licensee or on Massachusetts consumers.⁴ I will therefore impose a fine of \$250 for Belfort's failure to report the Washington administrative action in timely fashion. I also find that, in addition to revocation of his license, Belfort 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 Alex Belfort by the Division are hereby revoked; and it is

FURTHER ORDERED: that Alex Belfort shall return to the Division any licenses in his possession, custody or control; and it is

FURTHER ORDERED: that Alex Belfort shall cease and desist from the conduct that gave rise to this Order to Show Cause; and it is

FURTHER ORDERED: that Alex Belfort, 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 Alex Belfort 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 Alex Belfort shall pay a fine of Seven Hundred Fifty Dollars (\$750.00) 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 21st day of October 2019. A copy shall be sent to Belfort by regular first class mail, postage prepaid.

Jean F. Farrington
Presiding Officer

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

⁴ The Washington decision notes that the Washington Insurance Commissioner received notice of the Pennsylvania administrative action against Belfort from the National Association of Insurance Commissioners on May 14, 2018. The record does not state when or whether Massachusetts received that notice.