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COMMISSIONER OF INSURANCE

Division of Insurance, Petitioner
v.
Pankaj Chatwani, Respondent
Docket No. E2019-12

Order on Petitioner's Motion for Summary Decision

On March 28, 2019, the Division of Insurance ("Division") filed an Order to Show Cause ("OTSC") against Pankaj Chatwani ("Chatwani") who, on or about March 26, 2014, was licensed as a Massachusetts non-resident insurance producer. The OTSC seeks revocation of Chatwani'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 Chatwani failed to report to the Division administrative actions suspending or revoking producer licenses issued to him by Minnesota, Maryland and Idaho, as M.G.L. c. 175, §162V (a) obligates him to do. In addition to revocation of Chatwani'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.

Chatwani 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 October 23, 2019 set dates for responding to the Motion and a hearing on the Motion for November 12, 2019. Matthew Burke, Esq. represented the Division in this matter. Neither Chatwani nor any person representing him attended the November 12 hearing. Mr. Burke reported that he had not been contacted by Chatwani 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 Chatwani by certified and regular first class United States mail addressed to him at the home and mailing address shown on the Division's producer licensing records: 10116 Lever Street, NE, Circle Pines, MN 55014. The Division attached to the Motion a photocopy of a signed receipt, dated April 1, 2019 for certified mail returned by the United States Postal Service to the Division. On this record, I conclude that service of the OTSC on Chatwani was sufficient.

The Motion is grounded on Chatwani's failure to answer the OTSC. I find that Chatwani'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, Chatwani 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 orders from: A) the Minnesota Commissioner of Commerce summarily suspending Chatwani's insurance producer license; B) the Maryland Insurance Commissioner revoking Chatwani's license and imposing an administrative penalty; and C) the Idaho Commissioner of Insurance summarily revoking Chatwani's license. The exhibits attached to the Motion are copies of A) the certified mail receipt as evidence of service; B) information on Chatwani in the Division's Consolidated Licensing and Regulation Information System (CLARIS); and C) copies of the Notice of Action and Certificate of Service dated March 28, 2019.

Findings of Fact

Based on the documentary record, I make the following findings:

1. The Division first licensed Chatwani as a non-resident insurance producer on or about March 26, 2014.
2. As of March 28, 2019, Chatwani's non-resident producer license was still active.
3. On April 10, 2017, the Minnesota Commissioner of Commerce summarily suspended Chatwani's producer license on the ground that, according to the Minnesota Department of Revenue, Chatwani owed delinquent taxes.
4. On November 1, 2017, the Maryland Insurance Commissioner revoked Chatwani's license on the basis of that suspension and Chatwani's failure to respond to a request to explain why he did not report the suspension to Maryland.
5. On July 19, 2017, the Director of the Idaho Department of Insurance entered an order summarily revoking Chatwani's license.

6. Chatwani did not report the Minnesota, Maryland or Idaho actions 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. Chatwani 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 Chatwani'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 Chatwani violated M.G.L. c. 175, §162V (a) ("§162V (a)") by failing to report the administrative actions taken by Minnesota, Maryland and Idaho within 30 days after they were issued. The Division's claim that Chatwani is subject to discipline under §162R (a)(2) is based on his alleged violations of §162V (a). For the following reasons, I find that the record does not support the Division's requests for relief.

At the hearing on the Motion, counsel for the Division reported that Minnesota reinstated Chatwani's license on October 12, 2017.¹ Therefore Chatwani's suspension, which was grounded solely on a determination by the Minnesota Department of Revenue that he was delinquent in the payment of state taxes, was resolved some eighteen months before the Division filed its OTSC.² I find that the Division had insufficient grounds to initiate disciplinary action against Chatwani based on a suspension by Minnesota that had been

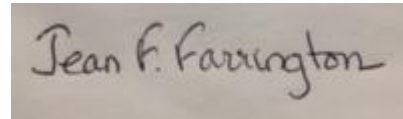
¹ Mr. Burke also reported that Chatwani had not renewed either his Minnesota or his Massachusetts license in 2019. According to the CLARIS report attached to the motion, Chatwani's most recent license renewal was processed on July 27, 2016; unless renewed it would automatically terminate three years later, in July 2019.

²The Minnesota order indicated that the matter would be resolved by satisfying the alleged debt and presenting to the Commissioner a letter of clearance from the Department of Revenue.

resolved in the licensee's favor over eighteen months before the OTSC was filed.³ I am also not persuaded that administrative actions in Maryland and Idaho that arose from that same temporary suspension are a reasonable basis for the Division's additional claims for relief.⁴ The Minnesota suspension order established specific conditions for reinstatement of Chatwani's license; an inquiry into whether those conditions were satisfied should have been conducted before relying on a suspension as a basis for disciplinary action.⁵

The fact that the Minnesota suspension was lifted in October, 2017 effectively mooted the basis for the allegations and claims in the OTSC. In these circumstances, I conclude that the documents do not support the Division's claims. The OTSC is hereby dismissed. This decision is sent by electronic mail to the Respondent at the address on file with the Division.

Dated: June 17, 2020

A rectangular box containing a handwritten signature in dark ink that reads "Jean F. Farrington".

Jean F. Farrington
Presiding Officer

³ Because of the Minnesota suspension, Chatwani was ineligible for a Massachusetts producer license for six months, from April to October, 2017. The Maryland order states that it received notice of Chatwani's suspension from the National Association of Insurance Commissioners Regulatory Information Retrieval System on August 17, 2017. The record does not indicate whether the Division was notified of the Minnesota suspension, but it took no action on the basis of Chatwani's ineligibility to hold a Massachusetts nonresident producer license while the Minnesota suspension was in effect.

⁴ The Maryland revocation was dated after the ground for Chatwani's home state suspension was resolved. The Idaho revocation was issued pursuant to an Idaho statute that permits summary revocation without a hearing, a process that is inconsistent with M. G.L. c. 30A, §13.

⁵ It is not unreasonable to expect that a licensee whose home state suspends a license because of an alleged tax delinquency will be motivated to resolve that issue promptly. Particularly in light of the long interval between the Minnesota order and the OTSC, further inquiry into the status of that suspension would have been useful.