

**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>

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.**  
**Lorenzo R. Ballard, Respondent**  
**Docket No. E2019-14**

---

**Order on Petitioner's Motion for Summary Decision**

On May 30, 2019, the Division of Insurance (“Division”) filed an Order to Show Cause (“OTSC”) against Lorenzo R. Ballard (“Ballard”), who was licensed as a Massachusetts non-resident insurance producer between March 28, 2016 and December 30, 2018. The OTSC seeks revocation of Ballard’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 Ballard failed to report to the Division administrative actions suspending or revoking producer licenses issued to him by Indiana, South Dakota and Louisiana, as M.G.L. c. 175, §162V (a) obligates him to do. In addition to revocation of Ballard’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.

Ballard filed no answer or other response to the OTSC. On July 19, 2019, the Division moved for entry of default and summary decision (“the Motion”). An order, entered on July 25, set a date for responding to the Motion and scheduled a hearing on the Motion for August 20, 2019. Matthew Burke, Esq. represented the Division in this matter. Neither Ballard nor any person representing him attended the August 20 hearing. Mr. Burke reported that he had not been contacted by Ballard 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 Ballard 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: 801 N. 48<sup>th</sup> Street, Apt. 7, Omaha NE 68132. The Division attached to the Motion photocopies of the envelopes for both the certified and regular mail that were returned to the Division by the United States Postal Service bearing labels stating that Ballard had moved and left no address. The Postal Service therefore was unable to forward the mail. 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.<sup>1</sup> On this record, I conclude that service of the OTSC on Ballard was sufficient under §174A.

The Motion is grounded on Ballard's failure to answer the OTSC. I find that Ballard'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, Ballard 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 Indiana Commissioner of Insurance suspending Ballard's license, and orders from the South Dakota Division of Insurance and the Louisiana Department of Insurance revoking his license. Attached to the Motion were a copy of Ballard's Massachusetts licensing record contained in the Division's Consolidated Licensing and Registration Information System ("CLARIS") and copies of documents relating to service of the OTSC.

***Findings of Fact***

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

1. The Division first licensed Ballard as a non-resident insurance producer on or about March 28, 2016.
2. The Division terminated Ballard's non-resident producer license on December 30, 2018 for failure to renew.

---

<sup>1</sup> For purposes of this section, certified mail includes registered mail.

3. By order dated January 5, 2018, the Indiana Insurance Department suspended Ballard's non-resident producer license for failure to comply with an Indiana procedural requirement.
4. Ballard did not report the Indiana suspension of his license to the Division within 30 days.
5. By order dated July 10, 2018, Louisiana revoked Ballard's license for failure to report the Indiana administrative action to it and to respond to the request for information sent to Ballard by the Louisiana Department of Insurance.
6. Ballard did not report the revocation of his Louisiana license to the Division within 30 days.
7. By order dated December 5, 2018, South Dakota revoked Ballard's non-resident producer license for failure to report an administrative action and to respond to an inquiry from the South Dakota Division of Insurance.
8. Ballard failed to report the South Dakota revocation of his producer license 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. Ballard 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 Ballard'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 Ballard violated M.G.L. c. 175, §162V (a) ("§162V (a)") by failing to report the administrative actions taken by Indiana, Louisiana and South Dakota within 30 days after they were issued. The Division's claim that Ballard 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, Ballard did not renew his Massachusetts license in 2018; it was therefore terminated as a matter of law on December

30, 2018.<sup>2</sup> The Division seeks to revoke Ballard's Massachusetts license pursuant to §162R (a)(9) as the consequence of revocation or suspension in Indiana, Louisiana and South Dakota. 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 revocation in Massachusetts. Indiana suspended Ballard's license for non-compliance with that state's requirement that a producer provide the Commissioner with a list of appointments to insurance companies, an action that would not support discipline under Massachusetts law. Furthermore, the suspension is, by its terms, a temporary act. Absent evidence that suspension of Ballard's license was succeeded by revocation, I am not persuaded that it would support revocation of Ballard's Massachusetts license, even if it were now in effect. In contrast, the Louisiana and South Dakota revocations are based on failure to respond to inquiries from regulatory authorities about administrative actions by other jurisdictions, a ground that is analogous to failure to respond to an OTSC. I find that the Louisiana and South Dakota revocations of Ballard's license support disciplinary action against him, including revocation of his Massachusetts license pursuant to §162R (a)(9).

In connection with the state administrative actions, the Division asserts claims based on alleged violations of §162V (a). 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. I find that Ballard's failure to report the Indiana action did not violate §162V (a). The Louisiana order is dated July 10, 2018 and the South Dakota order December 5, 2018; with respect to the latter order compliance with §162V (a) would have required him to report it by January 5, 2019. As of December 30, 2018, when Ballard's Massachusetts license was terminated, he was no longer obligated to report the South Dakota action. On this record, then, I find that Ballard, while licensed as a Massachusetts producer, failed timely to report one final decision in an administrative proceeding against him and thereby violated §162V (a).

---

<sup>2</sup> Pursuant to M.G.L. c. 175, §162R (e) the Commissioner retains authority to enforce the provisions of §§162H through 162X against a person who is under investigation for or charged with a violation of those sections even if the person is no longer licensed, or a license has lapsed by operation of law.

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.<sup>3</sup>

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. As noted above, I find that Ballard violated §162V (a) on one occasion but, because the revocation was not the outcome of an action taken by his home state or based on acts that affected consumers, it is reasonable to impose a fine that is less than the maximum permitted by statute. 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, Ballard 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 Lorenzo R. Ballard by the Division are hereby revoked; and it is

**FURTHER ORDERED:** that Lorenzo R. Ballard shall return to the Division any licenses in his possession, custody or control; and it is

**FURTHER ORDERED:** that Lorenzo R. Ballard shall cease and desist from the conduct that gave rise to this Order to Show Cause; and it is

**FURTHER ORDERED:** that Lorenzo R. Ballard, 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 Lorenzo R. Ballard 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

---

<sup>3</sup> 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 expand a specific violation of a reporting statute into a ground for revoking a license and imposing a second fine.

**FURTHER ORDERED:** that Lorenzo R. Ballard 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 4th day of December 2019. A copy shall be sent to Lorenzo R. Ballard 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.