



CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

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>

MICHAEL KENNEALY
SECRETARY OF HOUSING AND
ECONOMIC DEVELOPMENT

EDWARD A. PALLESCHI
UNDERSECRETARY

GARY D. ANDERSON
COMMISSIONER OF INSURANCE

Division of Insurance, Petitioner

v.

Ryan Lewis, Respondent

Docket No. E2019-16

Order on Petitioner's Motion for Entry of Default and Summary Decision

On June 26, 2019, the Division of Insurance ("Division") filed an Order to Show Cause ("OTSC") against Ryan Lewis ("Lewis"), a licensed non-resident Massachusetts insurance producer. The Division alleges that, on or about October 2, 2017, Lewis voluntarily surrendered his Virginia insurance producer license to the Virginia State Corporation Commission to resolve allegations, including misrepresentation of the terms of an insurance policy. It further alleges that on or about November 1, 2017, Lewis failed to report that surrender on his application to renew his Massachusetts producer license. Subsequently, Wisconsin revoked Lewis's producer license and Louisiana imposed a fine on him. The Division alleges that Lewis failed to report administrative actions suspending or revoking his license to the Division within the time limit prescribed in M.G.L. c. 175, §162V(a).

The Division contends that Lewis is subject to disciplinary action for the reasons set out in M.G.L. c. 175, §162R (a)(1), (a)(2) and (a)(9). It seeks revocation of Lewis's Massachusetts producer license, a cease and desist order, fines, and orders requiring him to dispose of all interests as proprietor, partner, stockholder, officer or employee of any Massachusetts insurance producer, and prohibiting him from engaging in the business of insurance in Massachusetts in any capacity.

The certificate of service filed with the OTSC states that on June 26, 2019 it was served on Lewis by both certified and regular United States mail at the home, business mailing address appearing on the Division's records: 1324 SW Surrey Trace, Lees Summit, MO 64081. Lewis did not file an answer or other response to the OTSC. On September 13, 2019, the Division moved for entry of default and summary decision (the "Motion"). It attached to that motion a photocopy of a United States Postal Service document showing that the June 26, 2019 certified mailing was delivered to Lewis's address on June 29, 2019; the document included a copy of the receipt bearing a signature.

On September 13, an order was issued instructing Lewis to submit any response to the Motion by September 30 and scheduling a hearing for October 9, 2019. Lewis did not respond to the Motion in writing, but contacted Counsel for the Division, Robert Kelly, Esq., before the scheduled hearing date to discuss resolution of the matter. No resolution was reached and the Division, on October 22, 2019, renewed the Motion. An order issued on October 23, advising Lewis to respond to the Motion by November 6 and scheduling a hearing for November 12, 2019. Neither Lewis nor any person representing him appeared at the November 12 hearing. Attorney Kelly stated that, after filing the renewed Motion, he was not contacted by Lewis or any person representing him.

On the basis of the records attached to the Motion filed on September 13, 2019, I conclude that the OTSC was served on Lewis and that his failure to answer the OTSC or to respond to the renewed Motion, as well as his failure to appear at the hearing, warrant findings that he is in default. By his default, Lewis has waived his right to proceed further with an evidentiary hearing in this case and I may consider the Motion on the record.

The record in this proceeding consists of the OTSC and attached Exhibits A through F and the Motion and attached Exhibit G. The exhibits to the OTSC are: A) Lewis's voluntary surrender of his Virginia insurance agent license; B) Virginia State Corporation Commission acceptance of Lewis's proposed settlement; C) Lewis's renewal application for an individual producer license dated November 1, 2017; D) Wisconsin order fining Lewis for failure to comply with Wisconsin insurance laws and ordering future compliance; E) Agreement between Lewis and the Wisconsin Commissioner of

Insurance revoking his insurance intermediary authority, with related documents; F) Louisiana Department of Insurance December 21, 2018 Notice of Fine sent to Ryan Lewis. Exhibit G, attached to the Motion, is a document from the United States Postal Service showing the service of certified mail on Lewis in June, 2019.

Findings of Fact

1. Lewis was first licensed as a non-resident Massachusetts insurance producer on or about July 29, 2015.
2. On October 2, 2017, Lewis executed a document voluntarily surrendering his license to conduct the business of insurance or insurance consulting in the Commonwealth of Virginia for the purpose of settling an action alleging that he had violated provisions of Virginia insurance law.
3. On November 3, 2017, the Commonwealth of Virginia State Corporation Commission issued an order approving Lewis's offer of settlement and dismissing the administrative action.
4. On November 1, 2017, Lewis submitted a uniform application to renew his individual insurance producer license to the National Insurance Producer Registry ("NIPR"), an organization that performs insurance licensing functions for Massachusetts and other members of the National Association of Insurance Commissioners.
5. Background Question 2 on the NIPR application, in pertinent part, requires the licensee to report whether he or she has been "named or involved as a party in an administrative proceeding. . . regarding any professional or occupational license or registration."
6. Lewis answered "no" to Question 2.
7. On January 19, 2018, the Wisconsin Commissioner of Insurance issued an order finding that Lewis had failed to report the Virginia action to it and that he had failed to disclose the administrative action on his application to renew his Wisconsin non-resident intermediary license.
8. The Wisconsin Commissioner further ordered Lewis to pay a fine of \$1,000 and, in the future, to report matters required to be disclosed in timely fashion.

9. Because Lewis failed to pay the fine, on July 13, 2018, the Wisconsin Commissioner initiated an administrative proceeding naming him as a respondent.
10. On August 30, 2018, Lewis executed a settlement agreement with the Wisconsin Commissioner of Insurance, in which he agreed to pay the fine and to the revocation of all Wisconsin intermediary authority effective August 30, 2018.
11. The Wisconsin Commissioner approved the settlement on September 4, 2018.
12. On December 21, 2018, the Louisiana Department of Insurance fined Lewis \$250 for his failure to report the Wisconsin administrative actions.

Analysis and Discussion

Chapter 175, §§162G through 162X sets out, among other things, the requirements for obtaining and maintaining a Massachusetts insurance producer license. Chapter 175, §162R (a) specifies fourteen grounds on which the Commissioner may suspend or revoke a producer's license. The Division identifies subsections §162R (a)(1), (a)(2), and (a)(9) as grounds for revocation of Lewis's license.²

Subsection 162R (a)(1) supports disciplinary action if an applicant has provided "incorrect, misleading, incomplete or materially untrue information on the license application." The record in this case indicates that, on the application Lewis submitted on November 1, 2017 to renew his Massachusetts non-resident producer license, he answered "No" to the question about his involvement in an administrative proceeding relating to a professional license. Documents from the Commonwealth of Virginia indicate that, 30 days earlier, Lewis surrendered his insurance producer license in that state to resolve allegations that he violated Virginia insurance law. The record amply supports a finding that Lewis engaged in conduct that supports disciplinary action under §162R (a)(1). Failure to comply with the requirements of that section is a serious offense that deprives the Division of information that is directly relevant to assessing the merits of an application for an insurance producer license and may allow the applicant to engage

in the insurance business when otherwise he or should not¹ I find that revocation of Lewis's license is appropriate discipline for failure to comply with §162R (a)(1).

Subsection 162R (a)(2), in pertinent part, permits disciplinary action if the applicant has violated any insurance laws. The Division, relying on statements in the January 19, 2018 Wisconsin order specifying the statutes that Lewis violated, and a Louisiana order based on Lewis's failure to report administrative actions to that state's commissioner of insurance, seeks to discipline Lewis pursuant to §162R (a)(2). The grounds for the Wisconsin administrative proceeding against Lewis, failing to report an administrative action on a license renewal application and to notify the Wisconsin commissioner of that action in timely fashion, as well as the ground for the Louisiana action, are identical to the grounds for the Division's OTSC. The Division does not seek to discipline Lewis under §162R (a)(2) for his alleged violations of Massachusetts law. I am not persuaded that it is appropriate to impose discipline on a Massachusetts licensee for violations of statutes in other jurisdictions when the record would have supported a claim that the respondent's conduct violated parallel Massachusetts statutes.

Subsection 162R (a)(9) supports disciplinary action if the licensee has had a producer license, or its equivalent, suspended or revoked in any other state. Although the record indicates that in 2018 Wisconsin revoked Lewis's "intermediary agent's insurance license," it is not clear whether that license is the statutory equivalent to an insurance producer license. For that reason, I decline to impose discipline pursuant to §162R (a)(9).

The Division also asserts that Lewis violated M.G.L. c. 175, §162V (a) by failing to report the administrative actions taken by Virginia and Wisconsin within 30 days after the final disposition of those matters. It states that the order settling the Virginia administrative action is dated November 3, 2017, but that Lewis did not report it to the Division until December 14, 2017. Similarly, the Wisconsin order revoking Lewis's license was executed by the Wisconsin Commissioner's office on September 4, 2018; Lewis reported it to the Division on October 31. While the record supports a conclusion

¹ In this case, Virginia initiated an administrative action against Lewis for misrepresenting the benefits of a health insurance policy to a Virginia consumer and for selling policies for an insurer that had not appointed him as its agent. To protect Massachusetts consumers, it is critical that such information be available for review in the licensing process.

that Lewis did not report those two administrative actions to the Division within the statutory time frame, it also acknowledges that he did report them within two months. On this record, it is reasonable to view Lewis's delayed compliance with §162V (a) as technical violations.

The Division requests fines for alleged violations of §162R (a)(1), (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"). Providing "incorrect, misleading, incomplete or materially untrue information" on an application for an insurance license is a serious offense that has effectively permitted Lewis to remain licensed in Massachusetts. I will therefore impose the maximum fine authorized under Chapter 176D, §7, \$1,000. Because the Division's requests for disciplinary action pursuant to §162R (a)(2) and (a)(9) are denied, its requests for fines related to those sections are denied as well. 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 alleged violations of §162V (a) are technical and do not justify fines.

I also find that, in addition to revocation of his license, Lewis 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.

Conclusion

The Division's request to revoke Lewis's Massachusetts insurance producer license is hereby allowed. On this record, I find that, in addition to revocation of his license, Lewis should be prohibited from transacting any insurance business, directly or indirectly, in Massachusetts, and should 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 Ryan Lewis by the Division are hereby revoked; and it is

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

FURTHER ORDERED: that Ryan Lewis is, from the date of this order, prohibited from directly or indirectly transacting any insurance business in or acquiring, in any capacity whatsoever, any insurance business in the Commonwealth of Massachusetts; and it is

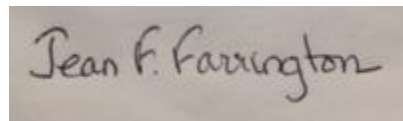
FURTHER ORDERED: that Ryan Lewis shall comply with the provisions of Chapter 175, §166B and dispose of any and all interests in Massachusetts as proprietor, partner, stockholder, officer or employee of any licensed insurance producer; and it is

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

FURTHER ORDERED: that Ryan Lewis shall pay a fine of One Thousand Dollars (\$1,000.00) 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 12th day of August 2020.

A copy shall be sent to Lewis by electronic mail at the address appearing on the records of the Division.

A rectangular box containing a handwritten signature in dark ink. The signature is written in a cursive style and reads "Jean F. Farrington".

Jean F. Farrington
Presiding Officer

Pursuant to Chapter 26, §7, this decision may be appealed to the Commissioner of Insurance.