

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

MICHAEL KENNEALY
SECRETARY OF HOUSING AND
ECONOMIC DEVELOPMENT

EDWARD A. PALLESCHI
UNDERSECRETARY

GARY D. ANDERSON
COMMISSIONER OF INSURANCE

Division of Insurance, Petitioner
v.
Henri-Bernard Courbin, Respondent
Docket No. E2019-17

Order on Petitioner's Motion for Summary Decision

On July 1, 2019, the Division of Insurance ("Division") filed an Order to Show Cause ("OTSC") against Henri-Bernard Courbin ("Courbin"), who was first licensed as a Massachusetts non-resident insurance producer on or about October 17, 2014. The OTSC seeks revocation of Courbin's Massachusetts producer license on the ground that he is subject to discipline pursuant to the provisions of M.G.L. c.175, §162R (a)(9). It also alleges that Courbin failed to report to the Division administrative actions revoking producer licenses issued to him by Nebraska, Mississippi and Idaho, as M.G.L. c. 175, §162V (a) obligates him to do. In addition to revocation of Courbin'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.

Courbin filed no answer or other response to the OTSC. On November 20, 2019, the Division moved for entry of default and summary decision ("the Motion"). An order, entered on November 22, set a date for responding to the Motion and scheduled a hearing on the Motion for December 20, 2019. Robert Kelly, Esq. represented the Division in this matter. Neither Courbin nor any person representing him attended the December 20 hearing. Mr. Kelly reported that he had not been contacted by Courbin 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 Courbin 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, 5701 JFK Blvd. #1501, N. Little Rock, AR 72116 and at the business and mailing address on those records, 2402 Wildwood Ave., Suite 200, Sherwood AR 72120. The Division attached to the Motion photocopies of the envelopes for the certified copies sent to each address. The certified mail sent to the business address was marked as unclaimed and the copy sent to the home address was marked as "vacant unable to forward." The Postal Service also returned to the Division the first class mail to the home address. First class mail to the business address was not returned and is presumed to have been received. Further, 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 Courbin was sufficient.

The Motion is grounded on Courbin's failure to answer the OTSC. I find that Courbin'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, Courbin 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 Nebraska Department of Insurance revoking Courbin's license, and orders from the Mississippi Insurance Department and the Idaho Insurance Department revoking his licenses in those jurisdictions. Attached to the Motion were 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 For purposes of this section, registered mail includes certified mail.

1. The Division first licensed Courbin as a non-resident insurance producer on or about October 17, 2014.
2. By order dated October 3, 2018, the Nebraska Department of Insurance revoked Courbin's non-resident producer license on the ground that his producer license in his home state, Arkansas, had expired in February, 2018.
3. By order dated October 24, 2018, the Mississippi Insurance Department revoked Courbin's non-resident producer license because he was no longer licensed in his home state.
4. By order dated October 24, 2018, the Idaho Department revoked Courbin's license because he was no longer licensed in his home state.
5. Courbin did not report the Nebraska, Mississippi or Idaho administrative actions to the Division.
6. Courbin did not renew his Arkansas producer license in 2018 and it lapsed on or about February 1, 2018.

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. Courbin did not contest the factual allegations in the OTSC or offer 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 Courbin'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 Courbin violated M.G.L. c. 175, §162V (a) ("§162V (a)") by failing to report the administrative actions taken by Nebraska, Mississippi and Idaho. The Division's claim that Courbin is subject to discipline under §162R (a)(2) is based on his alleged violations of §162V (a). The Division seeks to revoke Courbin's Massachusetts license pursuant to §162R (a)(9) as the consequence of revocation by Nebraska, Mississippi and Idaho.

The Nebraska, Mississippi and Idaho orders are each based on the expiration of Courbin's resident producer license in his home state, Arkansas, an event that rendered him ineligible to hold a non-resident producer in any of those jurisdictions. Both the Nebraska

and Idaho orders indicate that he failed to renew that license and that it lapsed as of February 1, 2018. As of that date, Courbin also became ineligible, pursuant to G.L. c.175, §162N (a) to hold a Massachusetts non-resident producer license. The OTSC, however, did not request revocation on that basis. I find that the Nebraska, Mississippi and Idaho revocations of Courbin's license are sufficient support for revocation of Courbin's 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). Because Courbin's Massachusetts license was still in effect thirty days after each of the Nebraska, Mississippi and Idaho revocations, he was obligated to report those actions but did not do so. The record supports a finding that Courbin failed to report administrative actions in other states.² Although the Division seeks to fine Courbin for three violations of §162V (a), in the circumstances of this matter, I am not persuaded that multiple fines are appropriate. A timely report of the first of the administrative actions, by Nebraska, would have been sufficient to notify the Division that Courbin was no longer licensed in his home state, and rendered the subsequent actions repetitive. Courbin's failure to comply allowed him to remain licensed in Massachusetts long after he was eligible to hold such a license, and I will therefore impose a fine of \$500, the maximum available for a violation of §162V (a).

In addition, I find that Courbin 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 Henri-Bernard Courbin by the Division are hereby revoked; and it is

FURTHER ORDERED: that Henri-Bernard Courbin shall return to the Division any licenses in his possession, custody or control; and it is

FURTHER ORDERED: that Henri-Bernard Courbin, 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

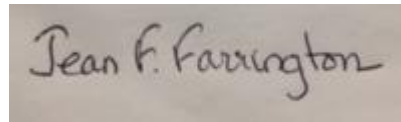
² The record contains no information about the lapse of Courbin's Arkansas license. Unless it occurred in the context of an administrative proceeding, he was not obligated under §162V (a) to report it.

FURTHER ORDERED: that Henri-Bernard Courbin 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 Henri-Bernard Courbin shall pay a fine of Five Hundred Dollars (\$500) 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 15th day of July 2020.

A copy shall be sent to Henri-Bernard Courbin by electronic mail at the address appearing on the records of the Division.

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

Jean F. Farrington
Presiding Officer

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