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

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COMMISSIONER OF INSURANCE

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**Division of Insurance, Petitioner**  
**v.**  
**Samantha Jo Owens, Respondent**  
**Docket No. E2019-18**

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

On August 16, 2019, the Division of Insurance (“Division”) filed an Order to Show Cause (“OTSC”) against Samantha Jo Owens (“Owens”), who was first licensed as a Massachusetts non-resident insurance producer on or about July 28, 2015. The OTSC seeks revocation of Owens’s Massachusetts producer license on the grounds that she is subject to discipline pursuant to the provisions of M.G.L. c.175, §162R (a)(9). It also alleges that Owens failed to report to the Division administrative actions revoking producer licenses issued to her by her home state, Nebraska, and the states of Washington, Oregon and Idaho, as M.G.L. c. 175, §162V (a) obligates her to do. In addition to revocation of Owens’s license, the Division seeks orders that would, among other things, impose fines, require Owens to dispose of any insurance-related interests in Massachusetts and prohibit her from conducting business in the Commonwealth.

Owens filed no answer or other response to the OTSC. On January 17, 2020, the Division moved for entry of default and summary decision (“the Motion”). An order, entered on January 17, set a date for responding to the Motion and scheduled a hearing on the Motion for February 4, 2020. Robert Kelly, Esq. represented the Division in this matter. Neither Owens nor any person representing her attended the February 4 hearing. Mr. Kelly reported that he had not been contacted by Owens or any person purporting to represent her.

***Finding of Default***

According to the certificate of service submitted with the OTSC, the Division served the OTSC and Notice of Action on Owens by certified and regular first class United

States mail addressed to her at the home, business and mailing address shown on the Division's producer licensing records: 3950 N. 104<sup>th</sup> Plaza, Apt. 306, Omaha, NE 68134. The Division attached to the Motion photocopies of the envelopes containing the OTSC that the United States Post Office returned to the Division, marked "forwarding time expired." Pursuant to M.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 Owens was sufficient under §174A.

The Motion is grounded on Owens's failure to answer the OTSC. I find that Owens's failure to answer the OTSC or to respond to the Motion, and her failure to appear at the hearing warrant a finding that she is in default. By her default, Owens has waived her 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: A) consent order between Owens and the Nebraska Department of Insurance, revoking her resident producer license; B) Order from the Insurance Commissioner of the State of Washington revoking Owens's license; C) Order from the Idaho Department of Insurance, summarily revoking Owens's license; and D) Order from the Oregon Division of Financial Regulation revoking Owens's license. The exhibit to the Motion consisted of photocopies of envelopes that the Division sent to Owens that the United States Post Office returned.

### ***Findings of Fact***

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

1. The Division first licensed Owens as a non-resident insurance producer on or about July 28, 2015.
2. At that time, Owens was licensed as a resident insurance producer by the State of Nebraska.
3. By consent order dated December 17, 2018, Nebraska revoked Owens's insurance producer license.
4. As of December 17, 2018, Owens was no longer eligible to hold a Massachusetts non-resident producer license.<sup>2</sup>

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

<sup>2</sup> 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.

5. Owens failed to report to the Division, within 30 days after December 17, 2018, the Nebraska administrative action revoking her license.
6. By order dated February 5, 2019, the state of Washington revoked Owens's non-resident producer license, effective February 20, 2019.
7. Owens failed to report to the Division, within 30 days after February 20, 2019, the Washington administrative action revoking her license.
8. By order dated March 4, 2019, Idaho revoked Owens's non-resident producer license, effective immediately.
9. Owens failed to report to the Division, within 30 days after March 4, 2019, the Idaho administrative action revoking her license.
10. By order dated April 15, 2019, Oregon revoked Owens's non-resident producer license.
11. Owens failed to report to the Division, within 30 days after April 15, 2019, the Oregon administrative action revoking her 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. Owens 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 Owens's license, the Division relies on §162R (a)(9), the subsection that permits disciplinary action if another jurisdiction has revoked an insurance producer's license. The OTSC does not distinguish the effect of revocation by a non-resident producer's home state from that of revocation by other states in which the producer is licensed as a non-resident. The former renders the non-resident producer personally ineligible for a Massachusetts license; the latter is a statutory ground that permits revocation based solely on a decision to revoke issued by other jurisdictions. In this matter, the Division did not directly address Owens's ineligibility for a Massachusetts non-resident license but relies entirely on revocation orders issued by Nebraska, Washington, Idaho and Oregon. Those orders support disciplinary action pursuant to §162R (a)(9).

The Division also asserts that Owens violated M.G.L. c. 175, §162V (a) by failing to report the administrative actions taken by Nebraska, Washington, Idaho and Oregon

within 30 days after the final disposition of those matters. The record supports a conclusion that Owens did not report those administrative actions to the Division and thereby violated M.G.L. c. 175, §162V (a). Section 162V (a) does not specify a penalty for failure to comply with that statute. Violations of the section are therefore subject to a \$500 fine authorized under M.G. L. c. 175, §194. The Division seeks the maximum fine authorized by law for each failure to report an administrative action. For the following reasons, I conclude that it is appropriate to calibrate a fine to reflect the seriousness of the failure to report.

As of December 17, 2018, Owens was neither licensed in her home state, Nebraska, nor in good standing there and, by operation of law, ineligible to hold a Massachusetts producer license. Her failure to report the Nebraska revocation effectively enabled her to retain her status as a non-resident Massachusetts licensed producer after she was ineligible to hold that license, to the potential detriment of Massachusetts consumers. The grounds for the Nebraska consent order, making false or fraudulent statements on at least eleven insurance applications, demonstrate that Owens engaged in activities that directly harm consumers. For that reason, I find that she should be fined \$500 for failure timely to report the Nebraska revocation.

The three subsequent revocations are all based on Owens's failure to be licensed in her home state. Owens's failure to report those later revocations, unlike her failure to report the Nebraska revocation, did not immediately affect her status as a producer authorized to conduct business in the Commonwealth, but her compliance with §162V (a). would have timely provided information essential to the Division's efforts to protect Massachusetts consumers.<sup>3</sup> Because of her failure to do so, I am imposing a fine of \$250 for each of those three violations of §162V (a).

I also find that, in addition to revocation of her license, Owens should be prohibited from transacting any insurance business, directly or indirectly, in Massachusetts, and be required to dispose of any interests she may have in any insurance business in Massachusetts.

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<sup>3</sup> The Washington and Oregon orders both report that, on or about December 28, 2018, they were notified of the Nebraska revocation through the Regulatory Information Retrieval System maintained by the National Association of Insurance Commissioners. The record includes no information on Massachusetts' receipt of that notice.

**ORDERS**

Accordingly, after due notice, hearing and consideration it is

**ORDERED:** That any and all insurance producer licenses issued to Samantha Jo Owens by the Division are hereby revoked; and it is

**FURTHER ORDERED:** that Samantha Jo Owens shall return to the Division any licenses in her possession, custody or control; and it is

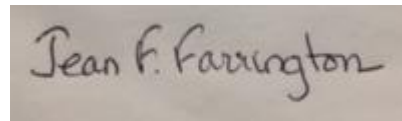
**FURTHER ORDERED:** that Samantha Jo Owens shall cease and desist from the conduct that gave rise to this Order to Show Cause; and it is

**FURTHER ORDERED:** that Samantha Jo Owens, from the date of this order, 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 Samantha Jo Owens 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 Samantha Jo Owens shall pay a fine of One thousand two hundred fifty Dollars (\$1,250) 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 18th day of June 2020. A copy shall be sent to Owens by electronic mail addressed to her at the address shown in the Division's licensing records.



Jean F. Farrington  
Presiding Officer

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