



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

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EDWARD A. PALLESCHI
UNDERSECRETARY

GARY D. ANDERSON
COMMISSIONER OF INSURANCE

Division of Insurance, Petitioner

v.

Alan C. Redmond, Respondent

Docket No. E2019-19

Order on Petitioner's Motion for Summary Decision

On September 13, 2019, the Division of Insurance ("Division") filed an Order to Show Cause ("OTSC") against Alan C. Redmond ("Redmond"), who was licensed as a Massachusetts non-resident insurance producer between June 17, 2016 and October 2, 2018. The OTSC seeks revocation of Redmond'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 Redmond failed to report to the Division administrative actions initiated against him by insurance regulators in Oregon, Nebraska, Minnesota, South Dakota, Virginia and Arkansas, as required by M.G.L. c. 175, §162V (a). In addition to revocation of Redmond'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.

Redmond filed no answer or other response to the OTSC. On November 1, 2019, the Division moved for entry of default and summary decision ("the Motion"). An order, entered on November 4, set a date for responding to the Motion and scheduled a hearing on the Motion for November 14, 2019. Matthew Burke, Esq. represented the Division in this matter, but was unavailable to attend the November 14 hearing; at his request Robert Kelly, Esq. appeared for him. Neither Redmond nor any person representing him attended the November 14 hearing. Attorney Kelly reported that, to the best of his knowledge, neither Redmond nor any person purporting to represent him had contacted Attorney Burke.

Finding of Default

According to the certificate of service submitted with the OTSC, the Division served the OTSC and Notice of Action on Redmond by certified and regular first class United States mail addressed to him at the business address shown on the Division's producer licensing records: 630 Fairmont Avenue NE, Warren, Ohio 44483.¹ The Division attached to the Motion a photocopy of the certified mail envelope bearing the notation "unclaimed" that the United States Postal Service returned to the Division. The Division also reported that the documents sent by regular first class mail were not returned. On this record, I conclude that service of the OTSC on Redmond was sufficient.

The Motion is grounded on Redmond's failure to answer the OTSC. I find that Redmond's failure to answer or otherwise respond to 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, Redmond 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 Oregon Division of Financial Regulation; B) the Nebraska Department of Insurance; C) the Minnesota Department of Commerce; D) the South Dakota Department of Labor & Regulation ; E) the Virginia State Corporation Commission; and F) the Arkansas Insurance Commissioner. Attached to the Motion were copies of Redmond's Massachusetts licensing record contained in the Division's Consolidated Licensing and Registration Information System ("CLARIS") and 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 Redmond as a non-resident insurance producer on or about June 17, 2016.
2. The Division terminated Redmond's non-resident producer license on October 2, 2018 for failure to renew.
3. By order dated June 29, 2017, the Oregon Division of Financial Regulation issued a decision revoking the producer licenses held by a business entity, National

¹ The Certificate of Service notes that the Fairmont Avenue address is shown as Redmond's mailing address on file with the Ohio Department of Insurance. Division records show additional mailing and home addresses for Redmond; the mailing address was for National Brokers of America, a business entity that, according to the OTSC, has never been licensed in Massachusetts.

Brokers of America, Inc. ("NBOA") and Redmond, identified as the Designated Responsible Licensed Producer for NBOA.

4. Redmond did not report the Oregon revocation of his license to the Division within 30 days.
5. On or about June 6, 2017, the Nebraska Department of Insurance initiated an administrative action against NBOA and Redmond for failure to report that the state of Louisiana revoked NBOA's producer license on or about January 6, 2017.
6. NBOA notified the Nebraska Department of Insurance of that revocation on or about April 19, 2017.
7. On or about July 5, 2017 Redmond, on behalf of NBOA, entered into a consent order with the Nebraska Department, under which a \$500 fine was jointly imposed on the respondents.
8. Redmond did not report the Nebraska administrative action to the Division within 30 days.
9. On or about January 26, 2017 the Minnesota Department of Commerce filed an OTSC, assigning separate case numbers to NBOA, Redmond, and a third Minnesota licensee.
10. The OTSC alleged that NBOA had violated Minnesota law relating to health insurance sales and marketing and that the two individual licensees were aware of and responsible for those violations.
11. In a separate letter dated January 27, 2017, Minnesota issued an administrative order to NBOA, notifying it that "your non-resident insurance producer license and non-resident insurance agency are revoked" and imposing a \$50,000 civil penalty.
12. NBOA did not request a hearing and, on July 13, 2017, Minnesota issued a Final Order revoking NBOA's licenses.
13. On March 2, 2018, South Dakota notified Redmond that it was not renewing his nonresident produce license because he had not reported the Oregon and Nebraska administrative actions to South Dakota on a license renewal application submitted to South Dakota on October 2, 2017.
14. Redmond failed to report the South Dakota denial of his producer license application to the Division within 30 days.
15. On March 9, 2018, the Virginia State Corporation Commission, in a final order, revoked Redmond's license for failure to report to it the final disposition of an administrative action taken against him in another jurisdiction within thirty days.
16. Redmond failed to report the Virginia revocation of his producer license to the Division within 30 days.
17. On July 16, 2019, the Arkansas Insurance Commissioner issued an emergency order suspending Redmond's Arkansas nonresident producer license, alleging that Virginia, Minnesota and Oregon had revoked his producer licenses and that he had failed to disclose a 2019 bankruptcy and his criminal history to Arkansas.

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. Redmond has not contested the factual allegations in the OTSC. 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 Redmond'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 or denied an application for a license. The Division assert as well that Redmond violated M.G.L. c. 175, §162V (a) ("§162V (a)") by failing to report six administrative actions in other jurisdictions within 30 days after final decisions were issued in those actions. The Division's claim that Redmond is subject to discipline under §162R (a)(2) is derived from his alleged violations of §162V (a).

The Division seeks to revoke Redmond's Massachusetts license pursuant to §162R (a)(9) as the consequence of alleged revocations of his producer licenses by Oregon, Minnesota, and Virginia, denial by South Dakota of his application to renew his producer license, and suspension by Arkansas of his nonresident producer license. Each of those orders will be addressed chronologically.

On January 26, 2017, the Minnesota Department of Commerce filed an OTSC that assigned a single collective file number to three separately numbered cases against individual respondents. One case named NBOA as the respondent, the second named Redmond and the third named the licensee listed with Minnesota as the responsible individual for NBOA. The following day, January 27, 2017, in a separate letter to NBOA, Minnesota issued an administrative order notifying it that "your non-resident insurance producer license and non-resident insurance agency are revoked" and imposed a \$50,000 civil penalty. NBOA did not request a hearing and, on July 13, 2017, Minnesota issued a final order. That order, in its caption, lists three case numbers, but identifies only NBOA as the Respondent addressed in that order. It concludes that because NBOA did not timely request a hearing on the OTSC,

the OTSC became final against it. The penalties identified in the administrative order sent to NBOA, revocation of its licenses and a fine, therefore took effect. The Minnesota documents in the record do not revoke Redmond's license or impose any other penalty on him.

On June 29, 2017, Oregon revoked the producer licenses issued to NBOA for marketing insurance in Oregon before obtaining a license to do so and the license issued to Redmond as the designated producer responsible for NBOA's compliance with the Oregon Insurance Code. On March 2, 2018, South Dakota notified Redmond that it was not renewing his nonresident producer license because he did not report the Oregon revocation and a Nebraska administrative action either directly to it or on a license renewal application he had submitted to South Dakota on October 2, 2017.² On March 9, 2018, Virginia revoked Redmond's producer license for failure to report an administrative action by another jurisdiction, noting that it ordered revocation after Redmond was given an opportunity to be heard but did not do so.

On July 16, 2019, Arkansas issued an order summarily suspending Redmond's license and notifying him that an administrative hearing would be held promptly. Although suspension is a reason for imposing discipline under §162V (a) (9), it occurred well after Redmond's Massachusetts license had expired by operation of law.³

On this record, I find that the three administrative orders issued by Oregon, South Dakota and Virginia fully support disciplinary action revoking Redmond's producer license pursuant to §162R (a) (9). For the reasons stated above, I conclude that the Minnesota and Arkansas orders do not support revocation under that section.

The Division alleges six violations of §162V (a), contending that Redmond was obligated to report administrative actions by Oregon, Nebraska, Minnesota, South Dakota, Virginia and Arkansas to the Division, but failed to do so. Section 162V (a) requires a producer to report any administrative action taken against the producer in another jurisdiction within 30 days of the final disposition of the matter. After review of the record, I find the following with respect to each alleged violation of §162V (a).

² The order also noted that Redmond had not responded to inquiries from South Dakota asking him for additional information.

³ Furthermore, summary suspension without a hearing is not a final order that would provide a reliable evidentiary ground for disciplinary action.

The Oregon order named Redmond as a respondent, was issued on June 29, 2017, a year after Redmond was licensed in Massachusetts, and is, on its face, a final order. The South Dakota order was addressed only to Redmond and is also a final order following Redmond's failure to respond to inquiries from that jurisdiction; similarly the Virginia order related only to Redmond's individual producer license and noted that Redmond did not request a hearing on issues relating to his license. In July 2017 Nebraska issued a final order in an administrative action that named NBOA and Redmond as respondents. That final order accepted a consent order between Nebraska and both respondents. Although the consent order refers only to NBOA's actions, a failure to report on a timely basis a license revocation in another state, it imposed a joint fine on both respondents. For that reason, I conclude that Redmond should have reported the Nebraska action pursuant to §162V (a).

The final order in the Minnesota administrative action, discussed above, related solely to NBOA, one of three respondents. The record includes no order or other document relating to a final decision in that action with respect to Redmond. For that reason, I am not persuaded that he was obligated under §162V (a) to report the Minnesota action against NBOA.⁴ As stated above, Redmond was no longer licensed in Massachusetts in 2019 and was not obligated to report the Arkansas suspension. The record supports the Division's claims that Redmond failed to report four final decisions in administrative actions by Oregon, Nebraska, South Dakota and Virginia.

The Division contends that that violations of §162V (a) are grounds for disciplinary action pursuant to §162R (a)(2), and requests fines for alleged violations of §162R (a)(2) and (a)(9) pursuant to M.G.L. c. 176D, §7 ("Section 7 fines"). It also requests fines for violations of §162V (a) pursuant to M.G.L. c. 175, §194 ("§194"). For the reasons stated above, I conclude that although the record supports revocation of Redmond's license as permitted by §162R (a)(9) the Division's request to impose Section 7 fines is denied for reasons set out at length in previous decisions in enforcement actions.⁵ Similarly, our decisions decline to

⁴ The Division asserts, in paragraph 8 of the OTSC, that NBOA "has never held a nonresident business entity insurance producer license with the Division."

⁵ 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

escalate specific violations of §162V (a) into a basis for revoking a license pursuant to §162R (a)(2) and requesting Section 7 fines. Section 162V (a) does not specify a penalty for failure to comply with the statute, and violations of the section are therefore subject to a \$500 fine authorized under M.G. L. c. 175, §194. Redmond was licensed in Massachusetts in June 2016. His failure to report the Oregon June 2017 revocation permitted him to remain licensed in Massachusetts for well over a year before it was not renewed. I therefore impose the maximum fine of \$500 for that violation, and fines of \$250 each for failure to report the subsequent administrative actions in Nebraska, South Dakota and Virginia.

ORDERS

Accordingly, after due notice, hearing and consideration it is

ORDERED: That any and all insurance producer licenses issued to Alan C. Redmond by the Division are hereby revoked; and it is

FURTHER ORDERED: that Alan C. Redmond shall return to the Division any licenses in his possession, custody or control; and it is

FURTHER ORDERED: that Alan C. Redmond shall cease and desist from the conduct that gave rise to this Order to Show Cause; and it is

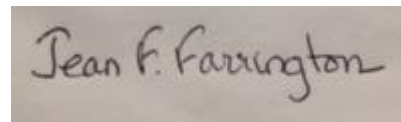
FURTHER ORDERED: that Alan C. Redmond, from the date of this order, is prohibited from directly or indirectly transacting any insurance business or acquiring, in any capacity whatsoever, any insurance business in the Commonwealth of Massachusetts; and it is

FURTHER ORDERED: that Alan C. Redmond shall comply with the provisions of M.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 Alan C. Redmond 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 24th day of February 2022.

A copy shall be sent to Redmond by electronic mail at the address appearing on the records of National Insurance Producer Registry: alanredmond23@gmail.com.

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.

the fine specified in §194. Our enforcement decisions decline to expand specific violations of a reporting statute into a ground for revoking a license pursuant to §162R (a)(2) and imposing Section 7 fines.