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GARY D. ANDERSON
COMMISSIONER OF INSURANCE

Division of Insurance, Petitioner
v.
Danielle Halfon, Respondent
Docket No. E2017-09

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

Introduction and Procedural History

On April 4, 2017, the Division of Insurance ("Division") filed an Order to Show Cause ("OTSC") against Danielle Halfon ("Halfon") who was a licensed Massachusetts non-resident insurance producer at the time of filing.¹ The Division alleges that Halfon failed to report the revocation of her Florida insurance agent's license and that her failure to report is in violation of M.G.L. c. 175, §162V (a). The Division further contends that the Florida administrative action supports revocation of Halfon's Massachusetts producer license pursuant to M.G.L. c. 175, §162R (a)(9). The Division also seeks a cease and desist order and orders requiring Halfon to dispose of any insurance-related interests in Massachusetts, prohibiting her from conducting any insurance business in Massachusetts, and imposing fines.

On April 4, 2017, the Division served the OTSC and a Notice of Action on Halfon by the United States Postal Service ("USPS") certified mail and regular first-class mail to her at the residential and business addresses on file in the Division's licensing records. Halfon filed no answer or other response to the OTSC. On May 4, 2017, the Division filed a motion for summary decision in its favor against Halfon for failure to answer the OTSC. I issued an order

¹ Halfon's Massachusetts non-resident producer license terminated by operation of law on July 23, 2017 for failure to renew. Pursuant to M.G.L. c. 175, §162R (e), the Commissioner retains the authority to enforce the producer licensing statute against Halfon.

on May 5, 2017 instructing Halfon to file any written response to the Division's motion by May 17, 2017 and scheduling a hearing on the motion for May 19, 2017.

Halfon did not respond to the Division's motion for summary decision. Neither she nor any person purporting to represent her appeared at the hearing on May 19, 2017. Robert J. Kelly, Esq. represented the Division at the hearing. He confirmed that the OTSC served on Halfon by certified mail at her residential address was delivered on April 20, 2017. He stated that he had not been contacted by Halfon or by any person purporting to represent her.

Finding of Default

On the basis of the record before me, I conclude that the Division took appropriate actions to ensure proper service. The OTSC was served on Halfon by both first-class mail and certified mail to the residential and business addresses on file at the Division. Attached to the Division's Motion for Summary Decision is Exhibit B, a USPS Certified Mail Receipt confirming delivery of the OTSC to Halfon's residential address on April 20, 2017.

By her default, Halfon has waived her right to proceed further with an evidentiary hearing in this case and I may consider the Division's motion for summary decision based on the record. That record consists of the OTSC, the Motion for Summary Decision, and the following exhibit attached to the OTSC: A) Order of Revocation by the Chief Financial Officer of the State of Florida, dated September 30, 2016.

Findings of Fact

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

1. The Division first licensed Halfon as a non-resident insurance producer on or about September 30, 2014.
2. On September 30, 2016, the Department of Financial Services Bureau of Licensing revoked Halfon's Florida insurance agent's license.
3. Halfon did not report to the Division the Florida administrative action revoking her insurance agent's license.

Analysis and Conclusions of Law

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. Halfon 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 describe the requirements for

obtaining and maintaining a Massachusetts insurance producer license. M.G.L. c. 175, §162R (a) specifies 14 grounds on which the Commissioner may initiate disciplinary action against a licensed producer. The Division identifies M.G.L. c. 175, §162R (a)(9) as grounds for revocation of Halfon's license due to her failure to comply with M.G.L. c. 175, §162V(a), a statute requiring a producer to report to the Commissioner any administrative action taken against her by another jurisdiction within 30 days of the final disposition of the matter.

M.G.L. c. 175, §162R (a)(9) supports disciplinary action when an insurance producer's license has been revoked by another jurisdiction. The administrative action revoking Halfon's insurance agent license in Florida therefore fully supports revocation of her Massachusetts license under subsection (a)(9). On this record, I find that, in addition to revocation of her license, Halfon should be prohibited from transacting or acquiring, in any capacity whatsoever, any insurance business in Massachusetts and shall dispose of any interests she may have in any insurance business in Massachusetts.

M.G.L. c. 175, §162R (a) also permits the Commissioner to levy a civil penalty in accordance with Chapter 176D, §7 ("Section 7 fines") for the reasons that support disciplinary action against a producer under §162R (a). The maximum penalty permitted under M.G.L. c. 176D, §7 is \$1,000 per violation. The Division requests Section 7 fines for the ground that it relies on to support revocation of Halfon's producer license, the revocation of her insurance agent's license in Florida.

Decisions in administrative proceedings seeking license revocation distinguish grounds for disciplinary action that arise from the respondent's affirmative acts from grounds arising from administrative or judicial actions initiated by third parties to revoke or suspend the respondent's license. Because the ground on which the Division seeks to discipline Halfon, §162R (a)(9), is based entirely on the administrative action against her in Florida, I decline to impose Section 7 fines.

The Division also requests a fine for Halfon's violation of M.G.L. c. 175, §162V(a). Halfon, by failing to report an administrative action against her, committed one violation of M.G.L. c. 175, §162V. Because that section does not include a specific penalty for non-compliance, violators are subject to fines imposed in accordance with M.G.L. c. 175, §194. The maximum fine allowed under that section is \$500 per violation. The facts in the OTSC relating to Halfon's failure to report the Florida administrative action are undisputed. Her failure

effectively enabled her to avoid prompt enforcement action in Massachusetts. Therefore, I will impose the maximum \$500 fine.

For the reasons set forth above, the Division's Motion for Summary Decision is hereby allowed.

ORDERS

Accordingly, after due notice, hearing, and consideration it is

ORDERED: That the insurance producer license issued to Danielle Halfon by the Division is hereby revoked; and it is


FURTHER ORDERED: that Danielle Halfon shall return to the Division any license in her possession, custody or control; and it is

FURTHER ORDERED: that Danielle Halfon is, 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 Massachusetts; and it is

FURTHER ORDERED: that Danielle Halfon shall comply with the provisions of M.G.L. c. 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 Danielle Halfon shall pay a fine of Five Hundred Dollars (\$500) to the Division within 30 days of the date of this decision and order.

This decision has been filed this 6th day of December 2017, in the office of the Commissioner of Insurance. A copy shall be sent to Danielle Halfon by regular first class mail, postage prepaid.


Kristina A. Gasson
Presiding Officer

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