
Division of Insurance, Petitioner

v.

Angela R. Robles, Respondent

Docket No. E2004-20

Order on Petitioner's Motion for Summary Decision

Introduction and Procedural History

On October 4, 2004, the Massachusetts Division of Insurance (“Division”) filed an Order to Show Cause (“OTSC”) against Angela R. Robles (“Robles”), who is currently licensed as a Massachusetts non-resident individual producer. The Division seeks orders that Robles has violated G.L. c. 175, §§162R and 162V(a) and (b). It asks for revocation of her license, an order requiring her to dispose of any insurance-related interests in Massachusetts, and imposition of fines for the alleged violations.

The Division states in the OTSC that Massachusetts first licensed Robles as an insurance agent in 2000; her license was converted to a producer license in 2003. Division alleges that on December 5, 2003, the Superior Court of Los Angeles County, California convicted Robles of two felonies: making or passing a fictitious check and possession of a controlled substance, and that on February 4, 2004, the California Department of Insurance, by summary order, revoked her license to act as a life insurance agent in that state. The Division asserts that Robles never reported the California felony prosecutions and license revocation to the Division.

A Notice of Procedure (“Notice”), issued on October 4, advised Robles that a hearing on the OTSC would be held on November 18, 2004, at the offices of the Division, that a prehearing conference would take place on November 4, also at the Division, and

that the hearing would be conducted pursuant to G.L. c. 30A and the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.00, *et seq.* The Notice advised Robles to file an answer pursuant to 801 CMR 1.01(6)(d) and that, if she failed to do so, the Division might move for an order of default, summary decision or decision on the pleadings granting it the relief requested in the OTSC. It also notified Robles that, if she failed to appear at the prehearing conference or hearing, an order of default, summary decision or decision on the pleadings might be entered against her. The Commissioner designated me as presiding officer for this proceeding.

On October 6, the Division sent the Notice and OTSC by certified mail to respondent at her last mailing addresses appearing on the Division's records: 1) a residence address at 2609 S. Broderick Avenue, Duarte, California; and 2) a mailing address at P.O. Box 4487, Covina, California 91723. The post office returned to the Division a green receipt for certified mail sent to the Duarte address, that showed that it had been received on October 7, and signed for by Mary Robles. Robles filed no answer or other responsive pleading.

On November 4, a prehearing conference was held, pursuant to 801 CMR 1.01(10)(a). Douglas Perry, Esq. appeared for the Division. Neither Robles nor any person representing her appeared. Mr. Perry stated that the order and notice sent to Ms. Robles's post office box were returned marked unclaimed/refused. He further reported that he had received no communication from the respondent or from any person purporting to represent her, and stated that the Division would file a dispositive motion. On November 8, the Division filed a motion for a decision on the pleadings, which it served on respondent by certified mail. On that same date, an order issued advising Robles to file any response to the motion by November 17, and stating that any argument on the motion would be heard on November 18, at the time set for an evidentiary hearing.

A receipt for certified mail shows that Robles received the motion for decision on the pleadings on November 10. She filed no response to the motion. At the hearing on November 18, Mr. Perry stated that he had received no communications from the respondent or any person representing her.

Finding of Default

On the basis of the record before me, I conclude that the Division took appropriate actions to ensure proper service, and that sufficient service was made.¹ The OTSC and

¹ I note that G.L. c. 175, §174A provides that notices of hearings in matters involving revocation of licenses "shall be deemed sufficient when sent postpaid by registered mail to the last business or residence address of the licensee appearing on the records of the commissioner. . . ." This section, however, does not require that

Notice were sent to respondent at two different addresses shown on the Division's licensing records. Those documents, and the copy of the motion for decision on the pleadings, sent to respondent's residential address were signed for by a person with the same surname. I conclude that Robles's failure to answer the OTSC or to respond to the Division's motion, and her failure to appear at the scheduled prehearing conference and at the hearing warrant findings that she is in default. By her default, Robles has waived her right to proceed further with an evidentiary hearing in this case and I may consider the Division's motion for a decision on the pleadings based solely upon the OTSC.

Findings of Fact and Conclusions of Law

On the record before me, consisting of the OTSC, I find the following facts:

1. Respondent Robles was first licensed in Massachusetts as an individual insurance agent on or about October 20, 2000. Her license was converted to a Massachusetts producer license effective June 4, 2003.
2. On December 5, 2003, Robles was convicted in California of two felonies, making or passing a fictitious check and possession of a controlled substance.
3. On February 4, 2004, the California Department of Insurance issued an order of summary revocation that revoked Robles's license to act as an insurance agent in that state.
4. Robles failed to report the convictions or the license revocation to the Massachusetts Division of Insurance.

The grounds for the Division's motion are respondent's failure to file an answer to the OTSC within the time prescribed by the Standard Adjudicatory Rules of Practice and Procedure and her failure to appear at any of the scheduled prehearing conferences.

G.L. c. 175, §162R (a), in pertinent part, permits the Commissioner to suspend or revoke an insurance producer's license and to levy civil penalties in accordance with G.L. c. 176D, §7 for reasons that include conviction of a felony and denial or revocation of a producer's license by any other state. G.L. c. 175, §162V requires a producer to report to the Commissioner any disciplinary taken by another state and any criminal prosecution.

On the basis of these findings of fact, I conclude that Robles was convicted of two felonies in 2003 and that in February 2004 the California Department of Insurance revoked her license to act as an insurance agent in that state. One of those felonies is a crime arising out of a financial transaction. The facts alleged in the OTSC are sufficient to support revocation of Robles's Massachusetts producer license. By failing to report to the

notices of hearing must be sent by registered mail; nor does it provide that registered mail is the only method of service which may be found to be sufficient.

Commissioner her convictions and license revocation, Robles also violated G.L. c. 175, §162V.

I find, on this record, that the Massachusetts producer license issued to Angela Robles should be revoked, and that a fine should be imposed for each violation of the statute.

ORDERS

Accordingly, after due notice, hearing and consideration it is

ORDERED: That any and all insurance producer licenses issued to Angela R. Robles by the Massachusetts Division of Insurance are hereby revoked; and it is

FURTHER ORDERED: that Angela R. Robles shall return to the Massachusetts Division of Insurance any licenses in her possession, custody or control; and it is

FURTHER ORDERED: that Angela R. Robles 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 the Commonwealth of Massachusetts; and it is

FURTHER ORDERED: that Angela R. Robles shall comply with the provisions of 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 Angela R. Robles shall pay a fine of Three Thousand Dollars (\$3,000) to the Massachusetts Division of Insurance.

This decision has been filed this 6th day of January 2005, in the office of the Commissioner of Insurance. A copy shall be sent to Robles by certified mail, return receipt requested, as well as by regular first class mail, postage prepaid.

Jean F. Farrington
Presiding Officer

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