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DANIEL R. JUDSON
COMMISSIONER OF INSURANCE

Division of Insurance, Petitioner

v.

Blenda V. Gamez, Respondent

Docket No. E2016-12

Order on Petitioner's Motion for Summary Decision

On October 20, 2016, the Division of Insurance ("Division") filed an Order to Show Cause ("OTSC") against Blenda V. Gamez ("Gamez"), who was licensed in 2009 as a Massachusetts non-resident insurance producer. Pursuant to the provisions of G.L. c.175, §162R (a)(9), the Division seeks revocation of Gamez's Massachusetts producer license on the grounds that four other jurisdictions, the states of Washington, Louisiana, and North Dakota and the Commonwealth of Virginia, have previously revoked her insurance producer licenses.

The Division alleges that Gamez failed timely to report to the Division the administrative actions revoking her licenses in Washington, Louisiana and North Dakota, as she is obligated to do so pursuant to G.L. c. 175, §162V (a). It asks that she be fined for that failure. In addition to revocation of Gamez's license and the imposition of fines, the Division seeks orders that, among other things, require Gamez to dispose of any insurance-related interests in Massachusetts and prohibit her from conducting business in the Commonwealth.

Gamez filed no answer or other response to the OTSC. On November 30, 2016, the Division filed a motion for summary decision. An order, entered on December 1, 2016, set a date for responding to the Division's motion and scheduled a hearing on the

motion for December 20, 2016. Robert Kelly, Esq. represented the Division in this matter. Neither Gamez nor any person representing her attended the hearing. Mr. Kelly reported that he had not been contacted by Gamez or any person purporting to represent her. He orally moved for entry of default.

Finding of Default

According to the certificate of service submitted with the OTSC, the Division served the documents on Gamez by certified and regular United States mail addressed to her mailing, business and residential address as shown on the Division's producer licensing records, 2214 E. Park Row Drive, #2214N, Arlington, TX 76010-4817. On November 30, 2016, the Division filed a Motion for Summary Decision ("Motion"), on the grounds that Gamez had failed to answer the OTSC. In that Motion, the Division stated that the documents sent to Gamez by regular first class mail had not been returned and that the United States Post Office had reported that the documents sent to her by certified mail were unclaimed. On the basis of the postal records, I conclude that the OTSC was served on Gamez by certified mail and that, pursuant to G.L. c. 175, §174A, service was sufficient.¹ I note that the first-class mail sent to Gamez was not returned.

I find that Gamez'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, Gamez has waived her right to proceed further with an evidentiary hearing in this case and I may consider the Division's 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 administrative actions revoking Gamez's insurance producer licenses that were initiated by the states of Washington, Louisiana and North Dakota and the Commonwealth of Virginia.

Findings of Fact

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

1. The Division first licensed Gamez as a non-resident insurance producer on or about November 6, 2009.

¹ M.G.L. c. 175, §174A, establishes a statutory process that determines when notice of a proposed revocation or suspension of a license is by law deemed sufficient. Service is to be made postpaid "by registered mail to the last business or residence of the licensee appearing on the records of the commissioner." For purposes of that statute, registered mail includes certified mail.

2. By order dated April 29, 2015, the State of Washington revoked Gamez's insurance producer license, effective May 21, 2015.
3. On or about August 6, 2015, the Commonwealth of Virginia State Corporation Commission revoked Gamez's insurance producer license.
4. On or about January 13, 2016, the Louisiana Department of Insurance revoked Gamez's insurance producer license.
5. On or about March 16, 2016, the North Dakota Insurance Commissioner revoked Gamez's insurance producer license.
6. Gamez failed to report to the Division the Washington, Louisiana and North Dakota administrative actions revoking her licenses.

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. Gamez has not contested the factual allegations in the OTSC or offered any defense to the Division's claims for relief. 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) identifies fourteen specific grounds on which the Commissioner may suspend or revoke a producer's license. The Division identifies §162R (a)(9) as grounds for revocation of Gamez's license. That subsection supports disciplinary action when another jurisdiction has revoked an insurance producer's license. The evidence submitted by the Division, copies of orders issued by Washington, Virginia, North Dakota and Louisiana revoking Gamez's insurance producer license in each of those jurisdictions fully supports disciplinary action under that section.

G.L. c. 175, §162V (a), requires a Massachusetts licensee to report to the Commissioner any administrative action taken against him or her by another jurisdiction. The record fully supports a conclusion that Gamez did not report to the Division the administrative actions initiated in three other jurisdictions, Washington, North Dakota and Louisiana, and thereby violated 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 fines authorized under G. L. c. 175, §194. The maximum fine allowed under that section is \$500 per violation. I find that Gamez committed three violations of G. L. c. 175, §162V (a) and impose the maximum fine for each.

The ground that the Division cites as a basis for disciplinary action against Gamez, prior revocation of producer licenses in four other jurisdictions, fully warrants revocation of her Massachusetts license. On this record, I find that, in addition to revocation of her license, Gamez 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.

ORDERS

Accordingly, after due notice, hearing and consideration it is

ORDERED: That any and all insurance producer licenses issued to Blenda V. Gamez by the Division are hereby revoked; and it is

FURTHER ORDERED: that Blenda V. Gamez shall return to the Division any licenses in her possession, custody or control; and it is

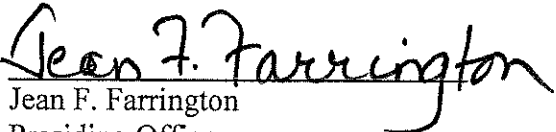
FURTHER ORDERED: that Blenda V. Gamez shall cease and desist from the conduct that gave rise to this Order to Show Cause; and it is

FURTHER ORDERED: that Blenda V. Gamez 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 Blenda V. Gamez 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 Blenda V. Gamez shall pay a fine of One Thousand Five Hundred Dollars (\$1,500) to the Division within 30 days of the entry of this order.

This decision has been filed this 26th day of January 2017, in the office of the Commissioner of Insurance. A copy shall be sent to Gamez by regular first class mail, postage prepaid.


Jean F. Farrington
Presiding Officer

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