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GARY D. ANDERSON
ACTING COMMISSIONER OF INSURANCE

Division of Insurance, Petitioner

v.

Eugene Laronzo Bazemore, Respondent

Docket No. E2016-15

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

Introduction and Procedural History

On November 22, 2016, the Division of Insurance ("Division") filed an Order to Show Cause ("OTSC") against Eugene Laronzo Bazemore ("Bazemore"), who is a licensed Massachusetts non-resident insurance producer. The Division alleges that Bazemore failed to report a misdemeanor criminal charge on his Uniform Application for Individual Producer License in violation of M.G.L. c. 175, §162R (a)(1). The Division further alleges that Bazemore failed to report administrative actions against him by the Commonwealth of Virginia and the state of New York that resulted in revocation of his insurance producer licenses in those jurisdictions. The Division contends that Bazemore, by failing to timely report those actions, violated M.G.L. c. 175, §162V(a) and that these allegations support revocation of Bazemore's Massachusetts producer license pursuant to the provisions of M.G.L. c. 175, §162R (a)(2) and (a)(9). In addition to license revocation, the Division seeks a cease and desist order and orders requiring Bazemore to dispose of any insurance-related interests in Massachusetts, prohibiting him from conducting any insurance business in Massachusetts, and imposing fines for the alleged violations.

On November 22, 2016, the Division served the OTSC and a Notice of Action on Bazemore by the United States Postal Service ("USPS") certified mail addressed to him at the

residential address on file in the Division's licensing records. On December 15, 2016, the Division again served the OTSC and a Notice of Action on Bazemore by USPS regular first-class mail to his residential address of record. Bazemore filed no answer or other response to the OTSC. On January 11, 2017, the Division filed a motion for summary decision in its favor against Bazemore for failure to answer the OTSC. I issued an order on January 26, 2017 instructing Bazemore to file any written response to the Division's motion by February 22, 2017 and scheduling a hearing on the motion for February 24, 2017.

Bazemore did not respond to the Division's motion for summary decision. Neither he nor any person purporting to represent him appeared at the hearing on February 24, 2017. Matthew Burke, Esq. represented the Division at the hearing. He stated that he had not been contacted about this matter by Bazemore or by any person purporting to represent him. He confirmed that the OTSC served on Bazemore by certified mail was returned undelivered on December 14, 2016 and that the OTSC served by first-class mail was returned undelivered on January 9, 2017.

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 Bazemore by both first-class mail and certified mail to the residential address on file in the Division's licensing records. In the OTSC, Attorney Burke indicated that because Bazemore was no longer employed at the business address on file in the Division's licensing records, he did not attempt service to this address. M.G.L. c. 175, §174A states that notices of hearings seeking revocations of producer licenses are deemed sufficient when sent postpaid by registered mail¹ to the last business or residence address of the licensee appearing on the records of the commissioner. I conclude that service was sufficient and that Bazemore's failure to answer the OTSC, to respond to the Division's motion, or to appear at the hearing warrant a finding that he is in default.

By his default, Bazemore has waived his 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 exhibits attached to the OTSC: A) Bazemore's National Association of Insurance

¹ For purposes of giving notice, M.G.L. c. 4, §7, Clause 44 provides that certified mail is equivalent to registered mail.

Commissioners ("NAIC") Uniform Application for Individual Producer License, dated October 29, 2014; B) Letter from Bazemore's former employer, the Government Employees Insurance Company ("GEICO"), to the Commonwealth of Massachusetts Producer Licensing Department with two attachments: 1) a signed statement from Bazemore, dated December 9, 2014 and 2) a printout of the Norfolk General District Court Online Case Information System (as of December 9, 2014), listing Bazemore's arrest for trespassing on April 3, 2014 and a pending misdemeanor charge for this alleged offense; C) New York State Department of Financial Services notice of disciplinary actions against agents, dated April 4, 2016, indicating that Bazemore's New York insurance agent's license was revoked on February 18, 2016, and D) Commonwealth of Virginia State Corporation Commission Order Revoking License, date stamped October 17, 2016. Attached to the Division's Motion for Summary Decision is a copy of Bazemore's licensing record at the Division.

Findings of Fact

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

1. On or about October 29, 2014, Bazemore completed a NAIC Uniform Application for Individual Producer License.
2. Question 38/1 a. of the NAIC Uniform Application asks "Have you ever been convicted of a misdemeanor, had a judgment withheld or deferred, or are you currently charged with committing a misdemeanor?" Bazemore answered "No" to Question 38/1 a.
3. On or about October 29, 2014 the Division approved Bazemore's application for a nonresident Massachusetts producer license. According to the Division's licensing records, Bazemore's Massachusetts insurance producer license is active.
4. On or about November 5, 2014, GEICO requested an individual property and casualty insurance producer appointment for Bazemore from the Division. The appointment ended on or about March 16, 2015.
5. On December 9, 2014, a licensing technician at GEICO sent a letter to the Division's Producer Licensing Department indicating that it obtained additional background information with respect to Bazemore's criminal record, which included a pending misdemeanor trespassing charge from April 3, 2014.
6. Attached to the GEICO letter was criminal case details for the Norfolk General District Court in Norfolk, Virginia and a signed statement from Bazemore. In the statement, Bazemore wrote that he did not report the misdemeanor charge because he believed it was dismissed and no longer pending.
7. Bazemore was scheduled to attend a court hearing on January 30, 2015. The disposition of Bazemore's trespassing case is unknown.
8. On or about April 4, 2016, the New York State Department of Financial Services revoked Bazemore's insurance agent's license.

9. On or about October 17, 2016, the Commonwealth of Virginia revoked Bazemore's insurance agent's license.
10. Bazemore did not report to the Division the administrative actions by New York and Virginia that resulted in the revocation of his producer licenses in those jurisdictions.

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. Bazemore 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 subsections §162R (a)(1), (a)(2), and (a)(9) as grounds for revocation of Bazemore's license, as well a 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 him by another jurisdiction within 30 days of the final disposition of the matter.

Subsection 162R (a)(1), in pertinent part, supports disciplinary action if a licensee has provided incorrect, misleading, incomplete or materially untrue information on a license application. Here, the record shows that Bazemore failed to report a pending misdemeanor charge for trespassing on his application for an insurance producer's license. By failing to report this misdemeanor on his October 29, 2014 application, Bazemore provided incorrect and materially untrue information to the Division in violation of subsection (a)(1).

Next, §162R (a)(2), in pertinent part, supports disciplinary action for violating any insurance laws or regulation, subpoena or order of the Commissioner or of another state's insurance commissioner. Here, Bazemore failed to notify the Division of the administrative actions against him in New York and Virginia as he is required to do under M.G.L. c. 175, §162V(a). The record fully supports the Division's claim that Bazemore violated a Massachusetts insurance law and is therefore subject to discipline under subsection (a)(2).

Finally, §162R (a)(9) supports disciplinary action when an insurance producer's license has been revoked by another jurisdiction. Furthermore, the administrative actions that resulted in the revocation of Bazemore's insurance producer licenses in New York and Virginia therefore support revocation of his Massachusetts license under subsection (a)(9).

The number and the seriousness of the grounds the Division cites for taking disciplinary action against Bazemore fully warrant its request to revoke his Massachusetts producer license. On this record, I find that, in addition to revocation of his license, Bazemore should be prohibited from transacting any insurance business or acquiring, in any capacity whatsoever in Massachusetts, any insurance business in Massachusetts and shall dispose of any interests he 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 M.G.L. c. 176D, §7 for actions 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 also requests fines for each of Bazemore's violations of M.G.L. c. 175, §162V(a). For violations of law that are not listed as grounds for disciplinary action under §162R (a), M.G. L. c. 175, §194 permits a fine of not more than \$500 per violation.²

The Division's requests, if allowed, would impose two fines, derived from two statutory sources, upon Bazemore. I am not persuaded, that in these circumstances it is appropriate to impose fines as permitted under M.G.L. c. 176D, §7. First, it is clear from the record that Bazemore attempted to rectify his error in not reporting the pending misdemeanor trespassing charge on his October 29, 2014 license application. On December 9, 2014, his former employer, GEICO, submitted a letter to the Division's Producer Licensing Department which included a statement from Bazemore indicating his belief that at the time of his application, the trespassing charge was dismissed and was therefore unaware that he needed to report it. It is unknown why the Division did not take further action at the time it received this information from Bazemore and GEICO in 2014. Therefore, I conclude that license revocation under subsection (a)(1) is appropriate and sufficient discipline for providing incorrect information to the Division at the time of his initial application for a Massachusetts producer license.

Secondly, the remaining allegations in the OTSC are based primarily on undisputed facts relating to Bazemore's failure to notify the Division of administrative actions against his insurance producer license in two other jurisdictions. Because there is no evidence that the

² That section specifically states that "[w]hoever violates any provision of this chapter, the penalty whereof is not specifically provided herein, shall be punished by a fine of not more than five hundred dollars."

violation of insurance laws in other jurisdictions pursuant to §162R (a)(2) and (a)(9) affected Massachusetts residents, I will impose no additional fines based on those activities.³

Bazemore, by failing to report two administrative actions against him in New York and Virginia, committed two violations of c. 175, §162V (a). Failure to report administrative actions by other jurisdictions limits the Division's capacity to protect Massachusetts consumers through oversight of its licensees. Because these actions constitute serious violations of the insurance laws, in addition to license revocation for the reasons set out in c. 175, §162R (a)(1), (a)(2), and (a)(9), I will impose the maximum \$500 fine for each of Bazemore's failures to report an administrative action.

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 any insurance producer license issued to Eugene Laronzo Bazemore by the Division is hereby revoked; and it is

FURTHER ORDERED: that Eugene Laronzo Bazemore shall return to the Division any license in his possession, custody or control; and it is

FURTHER ORDERED: that Eugene Laronzo Bazemore 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 Eugene Laronzo Bazemore shall comply with the provisions of Chapter 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 Eugene Laronzo Bazemore shall pay a fine of One Thousand Dollars (\$1,000) to the Division within 30 days of the date of this decision and order.

This decision has been filed this 31st day of May 2017, in the office of the Commissioner of Insurance. A copy shall be sent to Eugene Laronzo Bazemore by regular first class mail, postage prepaid.

³ The record does not indicate that Bazemore violated any other Massachusetts insurance law or regulation that supports discipline under §162R (a)(2) and (a)(9).

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Kristina A. Gasson
Presiding Officer

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