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GARY D. ANDERSON
COMMISSIONER OF INSURANCE

Division of Insurance, Petitioner
v.
Sherika Brantley, Respondent
Docket No. E2017-05

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

Introduction and Procedural History

On March 1, 2017, the Division of Insurance (“Division”) filed an Order to Show Cause (“OTSC”) against Sherika Brantley (“Brantley”) who is a licensed Massachusetts non-resident insurance producer. The Division alleges that Brantley failed to report administrative actions against her by the states of North Dakota and Louisiana that resulted in revocation of her insurance producer licenses in those jurisdictions. The Division contends that Brantley, by failing timely to report those actions, violated M.G.L. c. 175, §162V (a). The Division further contends that these administrative actions support revocation of Brantley’s Massachusetts producer license pursuant to the provisions of M.G.L. c. 175, §162R (a)(9). In addition to license revocation, the Division seeks a cease and desist order and orders requiring Brantley to dispose of any insurance-related interests in Massachusetts, prohibiting her from conducting any insurance business in Massachusetts, and imposing fines for the alleged violations.

On March 1, 2017, the Division served the OTSC and a Notice of Action on Brantley 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. Brantley filed no answer or other response to the OTSC. On March 28, 2017, the Division filed a motion for summary decision in its favor against Brantley for failure to answer the OTSC. I issued an order

on March 28, 2017 instructing Brantley to file any written response to the Division's motion by April 12, 2017 and scheduling a hearing on the motion for April 14, 2017.

Brantley 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 April 14, 2017. Robert J. Kelly, Esq. represented the Division at the hearing. He stated that he had not been contacted about this matter by Brantley or by any person purporting to represent her. He confirmed that the OTSC served on Brantley by certified mail at her residential address was signed for and that the OTSC sent by first class mail was not returned to the Division by USPS.

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 Brantley by both first-class mail and certified mail to the residential and business addresses on file at the Division.

By her default, Brantley 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 exhibits attached to the OTSC: A) Default Order of the State of North Dakota Insurance Commissioner, dated October 17, 2016 and B) Notice of Regulatory Action of the Louisiana Department of Insurance, dated November 22, 2016. Attached to the Division's Motion for Summary Decision is Exhibit C), a USPS Certified Mail Receipt confirming delivery of the OTSC to Brantley's residential address.

Findings of Fact

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

1. The Division first licensed Brantley as a non-resident insurance producer on or about October 16, 2015.
2. On October 17, 2016, the North Dakota Insurance Commissioner issued an order revoking Brantley's North Dakota insurance producer license.
3. On November 22, 2016, the Louisiana Department of Insurance revoked Brantley's Louisiana insurance producer license.
4. Brantley did not report to the Division the administrative actions by North Dakota and Louisiana that resulted in the revocation of her 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. Brantley 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 Brantley'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 actions revoking Brantley's insurance producer licenses in North Dakota and Louisiana therefore fully support revocation of her Massachusetts license under subsection (a)(9). On this record, I find that, in addition to revocation of her license, Brantley 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 M.G.L. c. 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 Brantley's producer license, the revocation of her insurance agent's license in North Dakota and Louisiana.

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 Brantley, §162R (a)(9), is based entirely on the administrative actions against her in North Dakota and Louisiana, I decline to impose Section 7 fines.

The facts in the OTSC relating to Brantley's failure to report the North Dakota and Louisiana administrative actions are undisputed. Her failure effectively enabled her to avoid prompt enforcement action in Massachusetts. The Division requests a fine for Brantley's violation of M.G.L. c. 175, §162V(a). Brantley, by failing to report two administrative actions against her, committed two violations of M.G.L. c. 175, §162V(a). Therefore, in addition to license revocation for the reasons set out in M.G.L. c. 175, §162R (a)(9), I will impose the maximum \$500 fine for each of Brantley'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 Sherika Brantley by the Division is hereby revoked; and it is

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

FURTHER ORDERED: that Sherika Brantley 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 Sherika Brantley 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 Sherika Brantley 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 6th day of December 2017, in the office of the Commissioner of Insurance. A copy shall be sent to Sherika Brantley by regular first class mail, postage prepaid.

Kristina A. Gasson
Presiding Officer

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