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GARY D. ANDERSON
COMMISSIONER OF INSURANCE

Division of Insurance, Petitioner
v.
Ledarius Dobie, Respondent
Docket No. E2017-10

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

Introduction and Procedural History

On May 25, 2017, the Division of Insurance (“Division”) filed an Order to Show Cause (“OTSC”) against Ledarius Dobie (“Dobie”) who was a licensed Massachusetts non-resident insurance producer.¹ The Division seeks orders that Dobie has violated the provisions of the Massachusetts insurance laws, specifically M.G.L. c. 175, §§162R (a)(2), (a)(6), and (a)(9). The Division further alleges that Dobie failed to comply with M.G.L. c. 175, §162V (a), a statute requiring a producer to report to the Commissioner any administrative actions taken against his license in other jurisdictions and M.G.L. c. 175, §162V (b), a statute requiring a producer to report to the Commissioner any criminal prosecution taken against him in any jurisdiction. It requests the revocation of his license, imposition of fines, and orders prohibiting him from engaging in the insurance business in Massachusetts and directing him to dispose of any interest he may have in any insurance business in Massachusetts.

On May 25, 2017, the Division served the OTSC and a Notice of Action on Dobie by the United States Postal Service (“USPS”) certified mail and regular first-class mail to him at the residential/ mailing address on file in the Division’s licensing records. Dobie filed no answer or

¹ According to Division licensing records, Dobie’s non-resident producer license was terminated for non-renewal on May 19, 2017.

other response to the OTSC. On June 16, 2017, the Division filed a motion for summary decision in its favor against Dobie for failure to answer the OTSC. I issued an order on June 20, 2017 instructing Dobie to file any written response to the Division's motion by July 7, 2017 and scheduling a hearing on the motion for July 11, 2017.

Dobie 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 July 11, 2017. Matthew M. Burke, Esq. represented the Division at the hearing. He stated that he had not been contacted about this matter by Dobie or by any person purporting to represent him. Attorney Burke confirmed that the OTSC served on Dobie by certified mail at his residential/ mailing address was signed for and delivered on May 31, 2017 and that the first class mail sent to this address was not returned to the Division by USPS.

Pursuant to M.G.L. c. 175, §162R (e) the Commissioner of Insurance retains the authority to enforce the provisions of and impose penalties or remedies against a person charged with violations of M.G.L. c. 175, §§162H through 162X even if the person's license has lapsed by operation of law. Therefore, although Dobie did not renew his non-resident producer license in 2017, he is still subject to disciplinary action by the Division.

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 Dobie by both first-class mail and certified mail to the residential/ mailing address on file at the Division and delivery was confirmed by USPS.²

By his default, Dobie 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) Documents from the Polk County Clerk of Court in Docket # 1604305, including an Order Following (Remote) First Appearance Hearing detailing criminal charges for false imprisonment and domestic violence battery, dated May 29, 2016, a Lakeland, Florida Police Department affidavit and report, and a sentencing report; B) Notice of Fine from

² Attorney Burke indicated in the Motion for Entry of Default and Summary Decision that he did not serve the OTSC to Dobie's recorded business address because he confirmed that he was no longer employed at that location.

the Louisiana Department of Insurance, dated April 20, 2016; C) Default Decision and Order of Revocation from the State of California Department of Insurance, dated November 16, 2016; D) Order Revoking License from the Commonwealth of Virginia State Corporation Commission, timestamped January 20, 2017. Attached to the Division's Motion for Summary Decision is a USPS Certified Mail Receipt confirming delivery of the OTSC to Dobie's residential address on May 31, 2017 and Dobie's licensing record at the Division.

Findings of Fact

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

1. The Division first licensed Dobie as a non-resident insurance producer on or about February 20, 2015. Dobie's license was terminated for nonrenewal on May 19, 2017.
2. On April 20, 2016, the Louisiana Department of Insurance imposed a fine of \$250.00 upon Dobie for providing misleading, incomplete or materially false information on a licensing application.
3. On May 29, 2016, Dobie was charged with one felony count of false imprisonment and one misdemeanor count of domestic violence battery in the Tenth Judicial Circuit Court of Florida (Docket # 1604305).
4. On or about November 18, 2016, Dobie entered into a plea bargain and was sentenced 48 months' probation for one felony count of false imprisonment and one misdemeanor count of domestic violence battery.
5. On November 16, 2016, the California Department of Insurance revoked Dobie's California personal-lines, broker-agent license.
6. On or about January 20, 2017, the Commonwealth of Virginia State Corporation Commission revoked Dobie's Virginia insurance agent's license.
7. Dobie did not report to the Division the administrative actions by California and Virginia that resulted in the revocation of his insurance licenses in those jurisdictions.
8. Dobie did not report to the Division the administrative action by Louisiana imposing a \$250 fine for providing misleading, incomplete or materially false information on a licensing application.
9. Dobie did not report to the Division the pending criminal case in the Tenth Judicial Circuit Court of Florida (Docket # 1604305).

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. Dobie 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)(2), (a)(6), and (a)(9) as grounds for revocation of Dobie's license due to 1) his 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, and M.G.L. c. 175, §162V (b), a statute requiring a producer to report to the Commissioner any criminal prosecution taken against him in any jurisdiction; 2) his felony conviction in Florida, and 3) the revocation of his insurance producer license or its equivalent in any other state.

M.G.L. c. 175, §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, Dobie failed to notify the Division of the administrative actions against him in Louisiana, California, and Virginia as he is required to do under M.G.L. c. 175, §162V (a) and failed to report the criminal prosecution against him in the Tenth Judicial Circuit Court of Florida as he is required to do under M.G.L. c. 175, §162V (b). The record fully supports the Division's claim that Dobie violated Massachusetts insurance laws and is therefore subject to discipline under subsection (a)(2).

M.G.L. c. 175, §162R (a)(6) supports disciplinary action when an insurance producer has been convicted of a felony. According to court documents, Dobie was convicted of one count of felony false imprisonment in Florida in November 2016.³ Therefore, I find that Dobie may be disciplined pursuant to subsection (a)(6).

Finally, 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 Dobie's insurance licenses in California and Virginia therefore fully support discipline under subsection (a)(9).

The number and the seriousness of the grounds the Division cites for taking disciplinary action against Dobie fully warrant its request to revoke his Massachusetts producer license. On this record, I find that, in addition to revocation of his license, Dobie should be prohibited from transacting any insurance business or acquiring, in any capacity whatsoever in Massachusetts,

³ Exhibit A to the OTSC.

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 Chapter 176D, §7 ("Section 7 fines") for unfair and deceptive acts and practices in the business of insurance. The maximum penalty permitted under M.G.L. c. 176D, §7 is \$1,000 per violation. The Division requests Section 7 fines for each of the three grounds it relies on to support revocation of Dobie's license: 1) violations of Massachusetts law; 2) his felony conviction in Florida; and 3) revocation of his insurance license in other jurisdictions.

In addition to Section 7 fines under M.G.L. c. 175, §162R (a)(2) for Dobie's violations of Massachusetts law, the Division also requests fines for each of his violations of M.G.L. c. 175, §§162V (a) and 162V (b). 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 Division's requests, if allowed, would impose two fines, derived from two statutory sources, on the respondent for his failure to report as required by M.G.L. c. 175, §§162V (a) and 162V (b). M.G.L. c. 175, §162V prescribes a reporting obligation; failure to comply is not, by itself, a basis for disciplinary action but, as a violation of Massachusetts law, supports a request for disciplinary action under M.G.L. c. 175, §162R (a)(2).

Dobie's failure to report the three administrative actions and the Florida criminal prosecution effectively enabled him to avoid prompt enforcement action in the Commonwealth. For that reason, I will impose the maximum penalty of \$500 for each of Dobie's three failures to report an administrative action and his one failure to report a criminal prosecution pursuant to M.G.L. c. 175, §§162V (a) and 162V (b).

However, I am not persuaded that in these circumstances it is appropriate to impose Section 7 fines on the Respondent. 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 one of the grounds on which the Division seeks to discipline Dobie, M.G.L. c. 175, §162R (a)(9) is based entirely on administrative actions against him by other jurisdictions, I will not impose Section 7 fines on him under that section.

Additionally, the OTSC is based, in part, on undisputed facts relating to Dobie's failure to notify the Division of administrative actions against his licenses in three other jurisdictions and his failure to notify the Division of a pending criminal prosecution against him in Florida. The notion that a licensee's violations of Massachusetts law also support disciplinary action under M.G.L. c. 175, §§162R (a)(2) and (a)(6) intensifies the potential consequences of Dobie's actions, but does not alter the underlying events. As discussed previously, I will impose fines upon Dobie for his failure to report the three administrative actions and the criminal prosecution for this felony under M.G.L. c. 175, §§162V (a) and 162V (b). Therefore, I find that imposing Section 7 fines under M.G.L. c. 175, §§162R (a)(2) and (a)(6) would be duplicative.

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 Ledarius Dobie by the Division is hereby revoked; and it is

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

FURTHER ORDERED: that Ledarius Dobie 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 Ledarius Dobie 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 Ledarius Dobie shall pay a fine of Two Thousand Dollars (\$2,000) to the Division within 30 days of the date of this decision and order.

This decision has been filed this 26th day of December 2018, in the office of the Commissioner of Insurance. A copy shall be sent to Ledarius Dobie 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.