
Division of Insurance, Petitioner
v.
Roger Dale Crooke, Respondent

Docket No. E2005-13

Order on Petitioner's Motion for Decision on the Pleadings

Introduction and Procedural History

On September 28, 2005 the Massachusetts Division of Insurance ("Division") filed an Order to Show Cause ("OTSC") against Roger Dale Crooke ("Crooke"), who is currently licensed as a non-resident Massachusetts insurance producer. The Division seeks orders that Crooke has violated G.L. c. 175, §§162R (a) (2) and (9). It asks for revocation of his license, an order requiring him 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 Crooke as an insurance producer on or about October 31, 2003, and states that he currently holds no active appointments to represent insurance companies. The Division alleges that, on or about September 12, 2003, Crooke sent an application for a non-resident insurance license to the state of Washington, Office of the Insurance Commissioner ("Washington OIC"), in which he failed to disclose his arrest of July 28, 2003 for writing worthless checks. The Washington OIC issued him a property/casualty license with an effective date of December 10, 2003. After checking his criminal record and discovering the July 28, 2003 arrest, the Washington OIC sent him three letters requesting information about his arrest. When he failed to respond to the letters, his license was revoked on or about July 11, 2004. The Division alleges that Crooke did not report this Washington OIC administrative action to the Division within 30 days of the final disposition of the matter.

A Notice of Procedure ("Notice"), issued on October 4, advising Crooke that a prehearing conference would take place on October 31 at the offices of the Division, a hearing on the OTSC would be held on November 14, 2005, also at the Division, and that the proceeding 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 Crooke to file an answer pursuant to 801 CMR 1.01(6)(d) and that, if he 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 Crooke that, if he failed to appear at the prehearing conference or hearing, an order of default, summary decision or decision on the pleadings might be entered against him. The Commissioner designated me as presiding officer for this proceeding.

On October 4, the Division sent the Notice and OTSC by certified mail to respondent at his mailing address as it appears on the Division's records: 902 Friends Station Rd., New Market, TN 37820. The post office attempted delivery of the certified mail at Crooke's address on October 8. Crooke filed no answer or other responsive pleading.

On October 31, a prehearing conference was held, pursuant to 801 CMR 1.01(10)(a). Douglas Perry, Esq. appeared for the Division. Neither Crooke nor any person representing him appeared. Mr. Perry reported that he had received no communication from the respondent or from any person purporting to represent him. The Division filed a motion for a decision on the pleadings, which it served on respondent by first class mail. An order issued on October 31 advising Crooke to file any response to the motion by November 10, stated that any argument on the motion would be heard on November 14, at the time initially set for an evidentiary hearing. Crooke filed no response to the Division's motion. At the hearing on November 14, Mr. Perry stated that he had received no communications from the respondent or any person representing him. Neither Crooke nor any representative of his appeared at the November 14 hearing.

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. The OTSC and Notice were sent to respondent at the mailing address shown on the Division's licensing

records. I conclude that Crooke's failure to answer the OTSC or to respond to the Division's motion, and his failure to appear at the scheduled prehearing conference and at the hearing warrant findings that he is in default. By his default, Crooke has waived his 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 Crooke was first licensed in Massachusetts as a producer on October 31, 2003.
2. The state of Washington revoked Garcia's insurance producer license on July 11, 2004.
3. Crooke failed to report the license revocation to the Division within 30 days.

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 his failure to appear at the scheduled prehearing conference. It is undisputed that Crooke failed to respond to the OTSC or to the Division's motion, and that he did not appear in this proceeding.

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 violating any insurance laws, and revocation of a producer's license by any other state. G.L. c. 175, §162V(a) requires a producer to report to the Division any disciplinary action taken by another state.

On the basis of these findings and the OTSC, I conclude that there is sufficient support for revocation of Crooke's Massachusetts producer license pursuant to §162R (a)(2) and (9). By failing to report his license revocation to the Division, Crooke also violated G.L. c. 175, §162V(a).

I find, on this record, that the Massachusetts producer license issued to Roger Dale Crooke should be revoked for one violation of §162R(a)(2) and (9), and that he should be fined \$1,000 for failure to comply with G.L. c. 175, §162V(a). The maximum fine is \$1000 per violation.

ORDERS

Accordingly, after due notice, hearing and consideration it is

ORDERED: That any and all insurance producer licenses issued to Roger Dale Crooke by the Massachusetts Division of Insurance are hereby revoked; and it is

FURTHER ORDERED: that Roger Dale Crooke shall return to the Massachusetts Division of Insurance any licenses in his possession, custody or control; and it is

FURTHER ORDERED: that Roger Dale Crooke 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 Roger Dale Crooke 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 Roger Dale Crooke shall pay a fine of One Thousand Dollars (\$1,000) to the Massachusetts Division of Insurance within 30 days.

This decision has been filed this 3rd day of January 2005, in the office of the Commissioner of Insurance. A copy shall be sent to Crooke by certified mail, return receipt requested, as well as by regular first class mail, postage prepaid.

Amma A. Kokro, Esq.
Presiding Officer

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