

STATE OF VERMONT
DEPARTMENT OF FINANCIAL REGULATION



IN RE: DEBORAH LEFAIVRE

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Docket No. 16-036-I

DEFAULT JUDGMENT AND ORDER

Findings of Fact

1. Deborah Lefairvre (“Respondent”) holds Vermont resident producer license #90350, which was issued by the Vermont Department of Financial Regulation (the “Department”) pursuant to the licensing requirements set forth in Chapter 131 of Vermont Statutes Annotated Title 8.
2. At times relevant to this Motion, Respondent owned and operated Caledonia Insurance Agency, Inc. in St. Johnsbury, Vermont (the “Agency”). Respondent purchased the Agency in January 2008 (“Agency purchase”).
3. On or about September 7, 2016, the Insurance Division of the Department received a consumer complaint against Respondent (“the Complaint”). The complainant (“Complainant”) stated that he was an insurance customer of the Agency and holds three Business Owner’s Policies through Union Mutual Insurance Company (“Union Mutual”) for which Respondent served as the agent. He further stated that he believed that Respondent was not remitting his premium payments to Union Mutual. The Complaint included copies of invoice statement sent by Respondent for the three policies that directed the complainant to send premium payments directly to the Agency.
4. The Department initiated an investigation of Respondent following receipt of the Complaint. The Department’s investigation revealed, among other things, that:

a.) Respondent signed binders for the Complainant which represented that Complainant had insurance coverage through Union Mutual (“fabricated binders”). Respondent faxed a copy of a fabricated binder to Passumpsic Bank, and sent two emails to Passumpsic Bank that attached copies of fabricated binders.

b.) Union Mutual never issued a policy of any kind for the Complainant.

c.) The Agency was not authorized to accept premium payments on behalf of Union Mutual. Despite this, the Agency instructed the Complainant to send premium payments directly to the Agency.

d.) Respondent paid approximately \$32,000.00 out of the Agency checking account to the Complainant in response to a claim that the Complainant filed pursuant to one or more of the fabricated policies.

e.) Respondent is the subject of a default judgment for a breach of contract lawsuit filed in April 2016 in Vermont Superior Court, Civil Division, Caledonia Unit (the “lawsuit”) related to her failure to make payments as required by the purchase and sale agreement for the Agency purchase. As a result, Respondent owes monetary damages exceeding \$284,000 and a writ of possession was awarded to the plaintiff in the lawsuit that includes all of the assets of the Agency.

5. On September 13, 2016, the Commissioner issued an Ex Parte Summary Suspension Order suspending Respondent’s resident producer license #90350 (“Suspension Order”). The Order found, among other things, reason to believe that Respondent violated Vermont insurance law when she: knowingly falsified insurance documents by issuing fabricated binders of coverage and reimbursing claims when in fact no coverage existed, failed to make required payments for purchase of the Agency and is the subject of a default judgment.

6. Respondent was served by Sheriff on September 18, 2016, and by certified mail on September 22, 2016, with copies of the Department's Motion for Ex Parte Order for Summary Suspension, Suspension Order, and Notice of Right to Request Hearing.

7. Respondent did not request a hearing or otherwise respond to the Suspension Order. By law, the Suspension Order became final.

8. The Department continued to investigate Respondent's insurance business and conduct as a producer following issuance of the Suspension Order ("post-suspension investigation"). The Department's post-suspension investigation revealed, among other things, that:

(a) Respondent signed and issued a Certificate of Liability Insurance dated June 30, 2016 purporting to show that an insured had effective commercial general liability insurance coverage through New England Excess Exchange ("NEEE") with a policy expiration date of March 16, 2017. In reality, the insured's NEEE policy was cancelled on May 19, 2011, for non-payment of premium.

(b) Respondent signed and issued an insurance binder and insurance identification card dated March 30, 2015 purporting to show that an insured had effective business automobile insurance coverage through Concord General Mutual for the period of March 30, 2015 through September 1, 2015. In fact, the insured's business automobile policy through Concord General Mutual expired on December 26, 2012 for non-payment of premium.

(c) Respondent maintained a file for an insured that had a lapse of coverage for worker's compensation insurance from May 12, 2013 through January 30, 2016. On November 12, 2014, one of the insured's employees was injured at work. On April 20, 2015, Respondent signed and mailed a check for \$2,025.00 directly to the injured employee. Notes in Respondent's

file indicate that the \$2,025.00 was for “15 weeks [at] \$135.” The check was paid out of the Agency’s operating account.

(d) Respondent signed and issued at least nine separate Certificates of Liability Insurance to various certificate holders, all that purported to show that an insured had effective commercial general liability insurance coverage through NEEE for coverage dates ranging through March 31, 2012 to March 31, 2017. In reality, the insured’s commercial general liability coverage through NEEE expired on March 31st, 2011, and renewal was never effected.

(e) Respondent failed to keep accurate electronic records in the Agency’s central Agency Management System, and failed to remit premium checks from insureds to insurers. For example, the Department reviewed an insured’s file held by the Agency that contained at least one uncashed premium check that referenced a homeowners policy through Concord General Mutual. The Agency Management System did not reflect that the insured had any homeowners policy. After further investigation, the Department confirmed with Concord General Mutual that the insured had an active homeowners policy effective February 17, 2016.

9. On March 15, 2017, the Department served upon Respondent the Petition to Revoke Resident Producer License (“Petition”) and Notice of Right to Request Hearing (“Notice”) in this action by sending copies of same to Respondent at her address of last record by certified mail, return receipt requested, as required by Regulation No. 82-I (Revised) (“Regulation 82-I”).

10. Respondent provided a signature confirming receipt of the Petition and Notice on March 17, 2017.

11. Respondent failed to file an answer or otherwise respond to the Petition within 30 days of the date on which the Petition was served, as required by Section 12 of Regulation 82-I.

12. On June 1, 2017, the Department served upon Respondent the Department's Motion for Default Judgment ("Motion"). Respondent has not responded to or otherwise contacted the Department regarding the Motion.

Conclusions of Law

13. 8 V.S.A. § 4804(a)(6) provides that the Commissioner may revoke a license if he finds that the licensee misrepresented the terms of any actual or proposed insurance contract. Respondent misrepresented the terms of actual insurance contracts because she misled customers and certificate holders to believe that coverage existed under specific policies.

14. 8 V.S.A. § 4804(a)(9) provides that the Commissioner may revoke a license if he finds that the licensee has used fraudulent, coercive, or dishonest practices, or has shown herself to be incompetent, untrustworthy or financially irresponsible. Respondent failed to keep accurate electronic records in the Agency's central Agency Management System, paid claims related to non-existent policies directly out of the Agency operating account, failed to remit premium checks from insureds to insurers, and certified on at least twelve occasions that a customer had effective insurance coverage when, in fact, no such coverage existed. Respondent's conduct demonstrates that she is incompetent, untrustworthy, and/or financially irresponsible in her business as a licensee.

15. The existence of the conditions set out in 8 V.S.A. §§ 4804(a)(6) and (9) subjects Respondent's license to revocation in Vermont.

16. Section 12 of Regulation 82-1 provides that where a Respondent, against whom a pleading initiating a contested case has been properly served, fails to answer within the time period required or otherwise fails to defend the charge, the Petitioner may move for a decision by default. The Commissioner may render a decision by default at any time after the passage of ten

days from the date of filing and service of the motion for default, whereupon the Commissioner may issue any applicable order.

17. Section 5(b) of Regulation 82-1 provides that if a Respondent fails to serve a timely answer, the allegations contained in the pleading which initiated the contested case will be treated as proven and a default judgment may be entered as provided in Section 12 of Regulation 82-1. Respondent failed to respond to the properly served Petition in this action. The allegations contained in the Petition will therefore be treated as proven and a default judgment may be entered.

18. Respondent failed to respond to the Motion for Default Judgment, and more than ten days have passed since the time of filing and service of the motion. Therefore, the Commissioner may enter a default judgment and issue a decision by default.

ORDER

IT IS ORDERED THAT:

19. A Default Judgment is entered against Respondent pursuant to Section 12 of Regulation No. 82-1 and a decision by default is rendered.

20. The resident producer license # 90350 of Respondent DEBORAH LEFAIVRE is revoked, effective immediately.

21. Respondent shall forthwith deliver her license to the Department, pursuant to 8 V.S.A. § 4806.

Dated at Montpelier, Vermont this 26th day of June, 2017.



Michael Pieciak, Commissioner
Vermont Department of Financial Regulation