



STATE OF CONNECTICUT

INSURANCE DEPARTMENT

IN THE MATTER OF:)
)
GOLF MARKETING WORLDWIDE, LLC,) **Docket No. MC 08-111**
HOLE-IN-WON WORLDWIDE, and)
KEVIN KOLENDA)
Respondents)

ORDER FOR DEFAULT JUDGMENT

The Insurance Commissioner, hereinafter referred to as Commissioner, is charged with the administration and enforcement of the insurance laws and regulations pertaining to insurance and makes certain that the provision of Title 38a of the general statutes are faithfully executed. Pursuant to section 38a-8 of the general statutes the Commissioner is vested with all the powers that are reasonable and necessary to enable the Commissioner to protect the public interest, in accordance with the provisions of the insurance laws of the State of Connecticut.

Section 38a-272 of the general statutes provides in pertinent part: "No person or insurer shall directly or indirectly do any acts of an insurance business set forth in subsection (a) of section 38a-271 except as authorized by the general statutes". Subsection (a) of section 38a-271 of the general statutes defines the term "acts of an insurance business" as any of the following acts effected in this state:

(1) The making of or proposing to make, as an insurer, an insurance contract . . . (3) the taking or receiving of any application for insurance; (4) the receiving or collection of any premium, commission, membership fees, assessments, dues or other consideration for any insurance or any part thereof; (5) the issuance or delivery of contracts of insurance to residents of this state or to persons authorized to do business in this state; (6) directly or indirectly acting as an agent for or otherwise representing or aiding on behalf of another any person or insurer in the solicitation, negotiation, procurement or effectuation of insurance or renewals thereof or in the dissemination of information as to coverage or rates, or forwarding of applications, or delivery of policies or contracts, or inspection of risks, a filing of rates or investigation or adjustment of claims or losses or in the transaction of matters subsequent to effectuation of the contract and arising out of it, or in any other manner representing or assisting a person or insurer in the transaction of insurance with respect to subjects of insurance

resident, located or to be performed in this state. . . . (7) the doing of or proposing to do any insurance business in substance equivalent to any of the foregoing in a manner designed to evade the provisions of the general statutes relating to insurance; and (8) any other transactions of business in this state by an insurer.

Moreover, section 38a-278 of the general statutes, as amended by Section 11 of Public Act 08-178, provides that any insurer who does any acts of an insurance business without having received the proper authority from the Commissioner shall be fined fifty thousand dollars for each such act. In addition to such penalty in the amount of fifty thousand dollars, any person or insurer who or which engages in any acts of an insurance business without the proper authorization shall be fined two thousand five hundred dollars for the first offense and two thousand five hundred dollars for each month during which such person or insurer continues engaging in such acts. Section 38a-817 of the general statutes, as amended by Section 39 of Public Act 08-178, provides that any person who knowingly engages in unfair or deceptive practices relating to an insurance business can be subject to a monetary penalty in the amount of twenty five thousand dollars for each violation, not to exceed two hundred and fifty thousand dollars in any six-month period.

The Commissioner has conducted an investigation of the activities of the above captioned Respondents and, as a result of that investigation, on October 31, 2008 issued a Complaint, Docket No. MC 08-111, a copy of which is attached as Exhibit A, alleging facts that constitute cause for the imposition of fines pursuant to sections 38a-41, 38a-278, 38a-817 and 38a-818 of the general statutes. As of this date the Respondents have failed to appear and file an answer in response to the allegations of the October 31, 2008 Complaint.

The rules governing procedures applicable to enforcement proceedings before the Commissioner are set forth in the Insurance Department Rules of Practice, section 38a-8-54 et seq. of the Regulations of Connecticut State Agencies. Section 38a-8-61 of the Regulations of Connecticut State Agencies provides in pertinent part:

The respondent in any enforcement proceeding shall file an answer to the complaint with the Commissioner no later than twenty days after service of the complaint. An answer shall specifically admit, deny, or state that the respondent does not have and is unable to obtain sufficient information to admit or deny each allegation in the complaint.

In addition, if the Respondent does not file an answer within the time required, the Department is required to send a second notice requiring that the Respondent file an answer within fourteen days after the date of such notice.

Additionally, section 38a-8-62 of the Regulations of Connecticut State Agencies provides:

The Commissioner or presiding officer may issue a default decision against a respondent that fails to answer the complaint within the time afforded under section 38a-8-61 of the Regulations of Connecticut State Agencies, or a party that fails to appear at a pre-hearing conference held pursuant to section 38a-8-38 of the Regulations of Connecticut State Agencies of which the party has due notice, or a party that fails to appear at any duly noticed hearing. If the defaulting party is the respondent, the Commissioner or presiding officer may deem the allegations against the respondent admitted.

IN ACCORDANCE WITH THE FOREGOING:

I FIND, in light of the foregoing, that the Complaint and Notice of Hearing was received by the Respondents on or about November 7, 2008, as attested by a signed Certificate of Service signed by Lawrence F. Cafero, Connecticut State Marshall, attached herein as Exhibit B. The Complaint and Notice of Hearing was also mailed to the Respondents, by certified mail, Number 7004 2510 0003 6573 6331, with the proper postage as follows:

Kevin Kolenda
1 Timberline Road
Norwalk, CT 06854

Certified Mail Number 7004 2510 0003 6573 6331 was returned to the Department marked "Unclaimed", as evidenced by Exhibit C.

From the date of this Order, the Notice of Hearing was received by the Respondent fifty-two days ago. Accordingly, I find that the Respondent received service and reasonable notice of the Complaint in accordance with the Regulations of Connecticut State Agencies, Sections 38a-8-18 and 38a-8-59 et seq.

I FURTHER FIND, that the Department, on December 2, 2008, sent a second notice to the Respondent, as evidenced by Exhibit D, requesting that the Respondent file an answer to the Complaint within fourteen days from the date of such second notice.

I FURTHER FIND, that the Respondent has not filed an answer in accordance with the Regulations of Connecticut State Agencies Section 38a-8-61 and, accordingly, all of the allegations as set forth in the Complaint, attached hereto, are hereby deemed admitted.

IT IS HEREBY ORDERED, in accordance with the above findings and pursuant to Section 38a-8-61 of the Regulations of Connecticut State Agencies, that:

1. A decision by default enters against the Respondents, Kevin Kolenda, Hole-in-Won Worldwide and Golf Marketing Worldwide.
2. That the Respondents' conduct and violations have been committed knowingly, given that Kevin Kolenda and Golf Marketing Worldwide had been

previously subject to administrative proceedings for engaging in the same conduct alleged in the Department's current Complaint and fines under Docket No. MC 01-77.

3. That the Respondents have been conducting an insurance business in Connecticut at least since September 16, 2002 in violation of the Commissioner's Order in Docket No. MC 01-77 dated September 20, 2001.

4. That the Respondents, pursuant to Sections 38a-278 and 38a-817 of the Connecticut General Statutes, as amended by Public Act 08-178, are hereby fined five million nine hundred and eighty five thousand dollars (\$5,985,000.00) and that the Hearing originally scheduled for December 4, 2008 is cancelled.

5. That the Respondents shall make restitution to affected insureds in accordance with the Commissioner's Order in this matter dated November 13, 2008.

6. That, pursuant to Section 38a-8-63 of the Regulations of Connecticut State Agencies, the Respondent may move to reopen a decision rendered by default within sixty (60) days of the entry thereof, upon a showing of good cause. The motion shall be in writing and shall state the reasons for the failure of the respondent to answer or appear. If a default was entered for failure of the respondent to file an answer, the respondent shall submit said answer with the motion to reopen. If good cause appears for the failure of the respondent to answer or appear, the Commissioner may grant said motion and shall schedule the hearing at the earliest date convenient to the Commissioner.

So ordered this 29th day of December, 2008.

A handwritten signature in black ink, appearing to read "Thomas R. Sullivan", written over a horizontal line.

Thomas R. Sullivan
Insurance Commissioner