

BEFORE JAMES A. DODRILL, INSURANCE COMMISSIONER  
OF THE STATE OF WEST VIRGINIA

*In the Matter of:*

**SERG PANFILOV (NP #181017667)**


Administrative Proceeding No. 20-PLTER-02014

FINAL ORDER

On a prior day, to-wit, November 11, 2020, the Hearing Examiner in this matter submitted his Recommended Decision, appended hereto, containing findings of fact, discussion, analysis and conclusions of law. After review and consideration thereof, it is ORDERED as follows:

1. The said Recommended Decision is adopted as the decision of the Commissioner in this matter and is, by this reference, incorporated herein and made a part hereof;
2. Inasmuch as Serg Panfilov has been found to have violated *W. Va. Code* §33-12C-7(f), the West Virginia non-resident surplus lines producer license of Serg Panfilov is hereby **REVOKED**;
3. Serg Panfilov is assessed and shall pay a civil penalty in the amount of one thousand dollars (\$1,000.00); and
4. Serg Panfilov is further assessed and shall pay the costs of this proceeding in the amount of eight hundred thirty-five dollars and eighty cents (\$835.80).

**ENTERED** this 19<sup>th</sup> day of November, 2020.

  
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JAMES A. DODRILL  
Insurance Commissioner  
State of West Virginia

**BEFORE JAMES A. DODRILL  
INSURANCE COMMISSIONER  
STATE OF WEST VIRGINIA**

**IN RE:           SERG PANFILOV (NP # 181017667)  
                  ADMINISTRATIVE NO.: 20-PLTER-02014**

**RECOMMENDED DECISION  
OF THE HEARING EXAMINER**

On October 14, 2020, a hearing was held before Hearing Examiner Mark W. Carbone, Esquire, by telephone. There then being present on behalf of the West Virginia Offices of the Insurance Commissioner: Gregory Elam, Esquire, Associate Counsel, Robert Grishaber, Director of Licensing and Education and Drema Goolsby, Tax Unit Supervisor. Serg Panfilov did not make an appearance<sup>1</sup>

Statement of the Case

This matter is about the Administrative Complaint filed against Serg Panfilov concerning his failure to file tax forms for the second and third quarter of 2019, which is required for surplus lines producers in the State of West Virginia.

Findings of Fact

1.       Serg Panfilov(hereinafter “Respondent”) resides at 375 Dewpoint Lane, Johns Creek, Georgia. The Respondent held an active non resident surplus lines producer license, license number

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<sup>1</sup>Due to the Covid 19 Pandemic, which was scheduled to be in person, was held telephonically. Mr. Panfilov was sent a letter requesting a telephone number to call for the hearing. Mr. Panfilov did not provide a number.

181017667.<sup>2</sup>

2. Under West Virginia Code § 33-12C-7(f), the Respondent is required to file quarterly tax forms in order to maintain his non resident surplus lines producer license.

3. Robert Grishaber, as Director of Licensing and Education, is the custodian of records for agent licensing. (Tr. P. 6) Mr. Grishaber testified that the Respondent was licensed as a non resident surplus lines producer in 2019. (Tr. 6; Ex. 1).

4. Drema Goolsby, Tax Unit Supervisor, testified that her records indicated that the Respondent had not filed quarterly tax forms for the second and third quarters of 2019. (Tr. 8)

5. Ms. Goolsby went on to testify that her department attempted to contact the Respondent on several occasions. One of these attempts was to send the Respondent a certified letter. The respondent did not respond to any of these attempts. (Tr. 8)<sup>3</sup>

6. On March 11, 2020, the West Virginia Offices of the Insurance Commissioner sent the Respondent an Administrative packet containing an Administrative Complaint, Consent Order, a Notice of Hearing and a Notice of Rights. (See Administrative Packet)<sup>4</sup>

7. The Administrative Complaint alleged that the Respondent failed to file his quarterly tax forms for the second and third quarters of 2019. The Complaint stated that the Respondent's failure to file these forms is a violation of West Virginia Code § 33-12C-7(f). (See Administrative Packet)

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<sup>2</sup>The Respondent's non resident surplus lines producer license expired on May 31, 2020. It was not renewed. (Tr. 6)

<sup>3</sup>The Respondent signed for the certified letter, but did not contact the West Virginia Offices of the Insurance Commissioner. (Tr. 8)

<sup>4</sup>The Administrative Packet is automatically incorporated as an Exhibit in this proceeding.

Issue

Whether the Respondent violated West Virginia Code § 33-12C-7(f), and if so, what should be the remedy.

Burden of Proof

The West Virginia Offices of the Insurance Commissioner has the burden of proof to prove, by a preponderance of the evidence, that the Respondent violated West Virginia Code § 33-12C-7(f).

Jurisdiction

The West Virginia Offices of the Insurance Commissioner has jurisdiction over matters arising under West Virginia Code § 33-12C-7(f) pursuant to West Virginia Code Chapter 33-12C-9.

Analysis

The West Virginia Offices of the Insurance Commissioner has brought an Administrative Complaint against the Respondent alleging that he violated West Virginia Code § 33-12C-7(f) by failing to file tax forms for the second and third quarters of 2019.

West Virginia Code § 33-12C-7(f) states as follows:

(f)(1) This tax is imposed for the purpose of providing additional revenue for municipal policemen's and firemen's pension and relief funds and additional revenue for volunteer and part-volunteer fire companies and departments. This tax is required to be paid and remitted, on a calendar year basis and in quarterly estimated installments due and payable on or before the twenty-fifth day of the month succeeding the close of the quarter in which they accrued, except for the fourth quarter, in respect of which taxes shall be due and payable and final computation of actual total liability for the prior calendar year shall be made, less credit for the three quarterly estimated payments prior made, and filed with the annual return to be made on or before March 1 of the succeeding year. Provisions of this chapter relating to the levy, imposition and collection of the regular premium tax are applicable to the levy, imposition and collection of this tax to the extent that the provisions are not in conflict with this section.

If it is determined that the Respondent violated W. Va. Code § 33-12C-7(f), then W. Va. Code

§ 33-12C-9 would determine the possible penalties. This Code section states as follows:

33-12C-9. Suspension, revocation or nonrenewal of surplus lines licensee's license.

(a) The commissioner may examine and investigate the business affairs of every individual applying for or holding a surplus lines insurance license to determine whether such individual has been or is engaged in unfair or deceptive practices in any state.

(b) The commissioner may place on probation, suspend, revoke or refuse to issue or renew the license of a surplus lines licensee or may levy a civil penalty in a sum not to exceed \$5,000 or any combination of actions after notice and hearing pursuant to section thirteen, article two of this chapter upon one or more of the following grounds:

- (1) Removal of the resident surplus lines licensee's office from this state;
- (2) Removal of the resident surplus lines licensee's office accounts and records from this state during the period during which the accounts and records are required to be maintained under section sixteen of this article;
- (3) Closing of the surplus lines licensee's office for a period of more than thirty business days, unless permission is granted by the commissioner;
- (4) Failure to make and file required reports;
- (5) Failure to transmit required tax on surplus lines premiums to this state or a reciprocal state to which a tax is owing;
- (6) Violation of any provision of this article; or
- (7) For any cause for which an insurance license could be denied, revoked, suspended or renewal refused pursuant to section twenty-four, article twelve of this chapter.

Robert Grishaber, Director of Licensing and Education for the West Virginia Offices of the Insurance Commissioner, testified that the Respondent held a non resident surplus lines producer license in West Virginia in 2019.

Ms. Drema Goolsby, Supervisor of the West Virginia Offices of the Insurance Commissioner Tax Unit, testified that Under West Virginia Code § 33-12C-7(f) a surplus lines producer must file

quarterly tax forms with the West Virginia Offices of the Insurance Commissioner. Ms. Goolsby also stated that records maintained by her office indicated that the Respondent did not file tax forms for the second and third quarters of 2019.

By presenting evidence that the Respondent was a non resident surplus lines producer in 2019, that he was required to file quarterly tax forms for that year, and that he did not file tax forms for the second and third quarters, the West Virginia Offices of the Insurance Commissioner proved that the Respondent violated West Virginia Code § 33-12C-7(f).

Since the West Virginia Offices of the Insurance Commissioner proved that the Respondent violated West Virginia Code § 33-12C-7(f), then it can apply sanctions found in West Virginia Code § 33-12C-9. These sanctions include probation, suspension and revocation of the Respondent's license and a fine up to \$5,000.00.

#### Conclusions of Law

1. The West Virginia Offices of the Insurance Commissioner has jurisdiction over non resident producers by virtue of West Virginia Code Chapter 33-12C-9.
2. The West Virginia Offices of the Insurance Commissioner has the burden of proof to prove, by a preponderance of the evidence, that the Respondent violated the insurance laws of West Virginia.
3. The West Virginia Offices of the Insurance Commissioner proved, by a preponderance of the evidence, that the Respondent was a licensed surplus lines producer in 2019 and was required to file tax forms for that year.
4. The West Virginia Offices of the Insurance Commissioner proved, by a preponderance of the evidence, that the Respondent did not file tax forms for the second and third

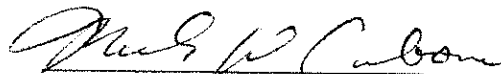
quarters of 2019, therefore, proving that the Respondent violated West Virginia Code § 33-12C-7(f).

5. West Virginia Code § 33-12C-9 allows the West Virginia Offices of the Insurance Commissioner to examine the business affairs of every producer holding a surplus lines license. This statute allows the Commissioner to suspend or revoke a producer's license or levy a civil penalty.

Decision

It is recommended that Serg Panfilov be found to have violated West Virginia Code § 33-12C-7(f), that his non resident surplus lines producer license be revoked, and that he be fined \$1,000.00 and the taxable costs of this proceeding.

Respectfully recommended,



MARK W. CARBONE  
HEARING EXAMINER

Date: Nov. 5, 2020