

Iowa Department of Inspections and Appeals  
Division of Administrative Hearings  
Wallace State Office Building – Third Floor  
Des Moines, Iowa 50319

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IN THE MATTER OF ) Docket No. 11IID021  
 )  
RANDY STITES, ) **DEFAULT ORDER**  
 )  
Respondent. )

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**FINDINGS OF FACT**

On June 30, 2011, Respondent Randy Stites accepted a certified mail delivery from the United States Postal Service, which included a Notice of Telephone Hearing and a Statement of Charges scheduling a contested case hearing for August 10, 2011. The Statement of Charges prepared by the Insurance Division provided “a written answer must be filed with the Division within twenty days of service of the Notice of Hearing unless otherwise ordered. . . . Your failure to file an answer within the twenty-day period or as otherwise ordered shall result in entry of a default decision against you.” The Notice of Telephone Hearing stated that the hearing procedures are governed by Iowa Code section 17A.12 and 191 IAC chapter 3.

Stites did not file an Answer in response to the Statement of Charges. On July 25, 2011, the Insurance Division served Stites with a Motion for Default Judgment. Stites has not responded to the Insurance Division’s Motion. Stites has not filed an Answer.

**CONCLUSIONS OF LAW**

Stites was served with the Notice of Telephone Hearing and Statement of Charges on June 30, 2011. Stites was required to file an Answer within 20 days of the date he was served with the Notice of Hearing and Statement of Charges.<sup>1</sup> He has not filed an Answer.

On July 25, 2011, the Insurance Division served Stites with a Motion for Entry of Default Judgment. A party may file a written response to a motion within 10 days after the motion is served.<sup>2</sup> The administrative law judge may consider the motion unresisted, if no response is timely filed.<sup>3</sup> Stites has not filed a written response to the Insurance Division’s Motion for Default Judgment. The Motion is unresisted.

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<sup>1</sup> Iowa Code § 17A.12(d)(3); 191 IAC 3.5(3).

<sup>2</sup> 191 IAC 3.15(2).

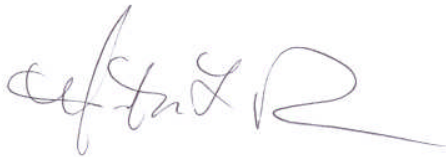
<sup>3</sup> *Id.*

A party to a contested case action may move for default against a party when the party fails to file a required pleading or has failed to appear after proper service.<sup>4</sup> Stites has not filed an Answer and has not resisted the Insurance Division's Motion for Default Judgment. Stites has been properly served. The Insurance Division's Motion should be granted.

### **ORDER**

A default order is entered against Stites. Stites' Iowa insurance producer's license is hereby revoked. The Insurance Division shall take any steps necessary to implement this decision.

Dated this 5th day of August, 2011.



Heather L. Palmer  
Administrative Law Judge  
515-281-7183

cc: Michelle Engler and Christina Hazelbaker (electronic mail)  
Randy Stites (first class mail)

### **NOTICE**

A default decision becomes final agency action 15 days from the date the decision was mailed unless a motion to vacate the default decision is filed within that time period.<sup>5</sup> A motion to vacate must state all the facts upon which the moving party relies to establish good cause for failure to appear or participate at the contested case proceeding. Each fact must be substantiated by at least one affidavit by a person with personal knowledge of the fact, and the affidavit must be attached to the motion.

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<sup>4</sup> *Id.* 3.22(2).

<sup>5</sup> *Id.* 3.22(3).