

BEFORE THE IOWA INSURANCE COMMISSIONER

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IN THE MATTER OF:	)	SUMMARY CEASE AND
	)	DESIST ORDER
STATE ADJUSTERS, LLC	)	
DONALD SCHUETT	)	DIVISION DOCKET NO: 69194

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COMES NOW the Iowa Insurance Division (Division) pursuant to the provisions of Iowa Code Chapter 507A – Unauthorized Insurers Act, Iowa Code 507B – Iowa Insurance Trade Practices Act, and Iowa Code Chapter 522B – Iowa Licensing of Insurance Producers Act, and finds as follows:

**PARTIES AND JURISDICTION**

1. The Commissioner of Insurance, Susan Voss, administers Iowa Code Chapters 507A, 507B and 522B pursuant to Iowa Code section 505.8.
2. State Adjusters, LLC (State Adjusters) is an entity with a last known mailing address of 12023 Isanti Street NE, Minneapolis, MN 55449.
3. Donald Schuett (Schuett) is an individual with a last known mailing address of 12023 Isanti Street NE, Minneapolis, MN 55449.
4. State Adjusters and Schuett have engaged in acts and practices within the state of Iowa constituting a violation of Iowa Code Chapters 507A, 507B and 522C. The Commissioner of Insurance is authorized to issue this summary order directed to any person requiring the person to cease and desist from engaging in such acts or practices or take other affirmative action as in her judgment is necessary to comply with the requirements of Iowa Code Chapters 507 A, 507B and 522C pursuant to Iowa Code sections 507A.10, 507B.6A and 522B.17.

## **FACTUAL BACKGROUND**

5. State Adjusters and Schuett have used, distributed and/or placed in front of the public an authorization that places it within the definition of public adjuster according to Iowa Code Chapter 522C.

6. On February 26, 2010, Schuett signed a contract with an Iowa homeowner's insurance policyholder, wherein State Adjusters was to represent the policyholder as a public adjuster.

7. Schuett presented a business card to the policyholder that stated "State Adjusters, LLC, Licensed Public Adjusters."

8. On June 25, 2010, the Division requested that Schuett provide clarification as to why State Adjusters was not licensed and/or why it should not be considered a public adjuster within the definition of Iowa Code Chapter 522C.

9. As of December 16, 2010, neither State Adjusters nor Schuett has provided a response to the Division.

## **VIOLATIONS OF IOWA INSURANCE LAWS**

### **COUNT I**

#### **UNAUTHORIZED INSURER**

10. Paragraphs 1 through 9 are incorporated herein by reference.

11. State Adjusters and its principals, officers, directors, agents, representatives, and affiliates including, but not limited to, Schuett, have engaged in the doing of any kind of insurance business specifically recognized as constituting the doing of an insurance business within the meaning of the statutes relating to insurance, including acting as a public adjuster, in Iowa without a license or certificate of authority issued by the Division.

12. Acting as a public adjuster without being licensed under Iowa Code section 522C.4 involves doing an insurance business within the meaning of Iowa Code sections 507A.3 and 522C.2.

13. State Adjusters and Schuett have violated Iowa Code section 507A.3 and 507A.5, by acting as an unauthorized insurer and should be ordered to cease and desist.

## **COUNT II**

### **MISLEADING OR FALSE INFORMATION OR FALSE ADVERTISING**

14. Paragraphs 1 through 13 are incorporated herein by reference.

15. State Adjusters approved of, encouraged or acquiesced to agents, representatives, employees or affiliates to make misleading sales presentations to induce policyholders to sign forms authorizing representation as a public adjuster in violation of Iowa Code sections 507B.4(1)(a) and 507B.4(2)(a).

16. The violation of Iowa Code Chapter 507B and applicable rules is grounds for an order requiring such person to cease and desist from engaging in such method of competition, act, or practice pursuant to Iowa Code sections 507B.6 and 507B.7 and Iowa Administrative Rule 191-15.14.

## ORDERS

WHEREFORE, IT IS HEREBY ORDERED pursuant to the powers granted to the Commissioner of Insurance of Iowa Code sections 507A.10 and 507B.6A as follows:

A. State Adjusters, LLC and Donald Schuett shall Cease and Desist acting as a public adjuster without a license or certificate of authority as described herein or doing any other act or practice recognized as the doing of an insurance business in the state of Iowa in violation of Iowa Code sections 507A.3 and 507A.5.

B. State Adjusters, LLC and Donald Schuett shall Cease and Desist making misrepresentations of material facts with respect to the business of insurance in violation of Iowa Code section 507B.4.

C. State Adjusters, LLC and Donald Schuett shall Cease and Desist omitting material facts which, in light of the circumstances surrounding the business of insurance, are misleading in violation of Iowa Code section 507B.4.

D. State Adjusters, LLC and Donald Schuett shall Cease and Desist false or misleading advertising in violation of Iowa Code section 507B.4.

E. State Adjusters, LLC and Donald Schuett shall be assessed a civil penalty of \$5,000 for violating Iowa Code section 507A.10(1) and rules enacted thereunder.

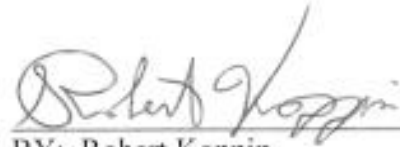
F. State Adjusters, LLC and Donald Schuett shall be assessed a civil penalty of \$5,000 for violating Iowa Code section 507B.7 and rules enacted thereunder.

G. The Division shall retain \$1,000 for costs from any penalty or payment.

IT IS FURTHER ORDERED pursuant to the powers granted to the Commissioner of Insurance by Iowa Code section 507A.8 that State Adjusters, LLC and Donald Schuett within thirty days of receipt of this Order, furnish the Division with a complete listing of all contracts and other documents evidencing acting in the insurance business with Iowa policyholders as a public adjuster as defined in Iowa Code section 522C.2(7).

Dated this 5<sup>th</sup> day of January, 2011

SUSAN E. VOSS  
IOWA INSURANCE COMMISSIONER



BY: Robert Koppin  
Enforcement Bureau Chief

COPY SENT BY CERTIFIED AND FIRST CLASS MAIL TO:

State Adjusters, LLC  
12023 Isanti Street NE  
Minneapolis, MN 55449

Donald Schuett  
12023 Isanti Street NE  
Minneapolis, MN 55449

### **NOTICE REGARDING FAILURE TO REQUEST A HEARING**

If you fail to request a hearing within thirty (30) days of the date of this Cease and Desist Order, the Order shall be a final Order of the Commissioner of Insurance and shall be enforceable by the Commissioner of Insurance in an administrative or court proceeding.

### **NOTICE REGARDING EXHAUSTION OF ADMINISTRATIVE REMEDIES AND RIGHT TO SEEK JUDICIAL REVIEW**

The failure to request a hearing can constitute a failure to exhaust your administrative remedies and limit the issues subject to judicial review. You may seek judicial review of this Order pursuant to Iowa Code Chapter 17A after the Order becomes final. The Order becomes final thirty (30) days after it is issued if you do not timely request a contested case hearing, or following hearing if you do timely request a contested case hearing.

### **NOTICE OF PENALTIES FOR WILLFUL VIOLATION OF THIS ORDER**

YOU ARE NOTIFIED that any person or insurer violating a summary order issued under section 507B.6A shall be deemed in contempt of that order. The commissioner may petition the district court to enforce the order as certified by the commissioner. The district court shall adjudge the person in contempt of the order if the court finds after hearing that the person or insurer is not in compliance with the order. The court may assess a civil penalty against the person or insurer and may issue further orders as it deems appropriate.

### **NOTICE REGARDING IMPACT OF ORDER ON EXISTING LICENSES**

A final Cease and Desist Order may adversely affect existing business or professional licensing and result in license revocation or disciplinary action. For example, a final Cease and Desist Order issued to a licensed insurance agent may subject the insurance agent to insurance license revocation or other disciplinary action. Further notice is given that the Iowa Insurance

Division may review this Cease and Desist Order for a potential license revocation or disciplinary action.

#### **NOTICE OF RIGHT TO REQUEST HEARING**

NOTICE IS HEREBY GIVEN that State Adjusters, LLC and Donald Schuett or any individual representing the Respondent may request a hearing in this matter. This request must be in writing and must be postmarked or received within thirty (30) calendar days of the date of this order to Michelle Engler, Attorney, Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa 50319. Upon receipt of a request for hearing, the matter will be scheduled for hearing within fifteen days. The hearing shall be set at least fifteen (15) days after the date of the notice of hearing unless the parties agree to an earlier date. The hearing shall be no longer than forty-five (45) days after the date of the notice of the hearing unless extended by the presiding officer for good cause with at least fifteen days notice to the parties. The resulting hearing will be held in accordance with Iowa Code Chapter 17A.

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. 11IID006  
)  
STATE ADJUSTERS, LLC AND ) **DEFAULT ORDER**  
DONALD SCHUETT, )  
)  
Respondents. )

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**FINDINGS OF FACT**

Respondent Donald Schuett is the principal for State Adjusters, LLC. On April 29, 2011, the Anoka County Sheriff's Department personally served Schuett with a Notice of Telephone Hearing with an attached Statement of Charges, Motion to Continue, and Order Continuing Hearing scheduling a contested case hearing for July 11, 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.

Schuett did not file an Answer in response to the Statement of Charges. On May 24, 2011, the Insurance Division served Schuett with a Motion for Entry of Default Judgment. Schuett has not responded to the Insurance Division's Motion.

**CONCLUSIONS OF LAW**

Schuett was served with the Notice of Telephone Hearing and Statement of Charges on April 29, 2011. Schuett 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 May 24, 2011, the Insurance Division served Schuett 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> Schuett has not filed a written response to the Insurance Division's Motion for Entry of 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.*

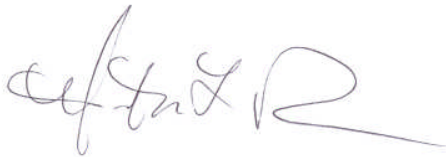


A party to a contested case action may move for default against a party when the party fails to file a required pleading or has failed to appear after proper service.<sup>4</sup> Schuett has not filed an Answer and has not resisted the Insurance Division's Motion for Entry of Default Judgment. Schuett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

### ORDER

A default order is entered against Schuett and State Adjusters, LLC. Schuett shall cease and desist from acting as a public adjuster in the state of Iowa without being licensed to do so.

Dated this 7th day of June, 2011.



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

cc: Michelle Engler and Christina Hazelbaker (electronic mail)  
State Adjusters and Donald Schuett (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).