

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

IN THE MATTER OF) Docket No. 11IID024
)
DAWN MICHELLE PECK.) **DEFAULT ORDER**

Dawn Michelle Peck submitted an Application for Sales Agent License under the Iowa Cemetery and Funeral Merchandise and Funeral Services Act (“License Application”) to the Iowa Insurance Division (“Division”). The Division found Peck had pleaded guilty to one count of third degree theft (forgery) in May 1993. The Division determined Peck did not disclose the conviction on her Application and denied her License Application. Peck requested a contested case hearing regarding the license denial.

A contested case hearing was scheduled for September 6, 2011 at 10:00 a.m. Attorney John Leonhart appeared on behalf of the Division. Peck did not appear. I waited 5 minutes for Peck to join the call before releasing Leonhart. The administrative file shows Peck was properly served in this matter.

CONCLUSIONS OF LAW

The Insurance Commissioner has general control, supervision, and direction over all insurance business transacted in Iowa, and is responsible for enforcing Iowa laws relating to insurance.¹ This case involves a license denial for a Sales Agent License under the Iowa Cemetery and Funeral Merchandise and Funeral Services Act. A sales agent is a person doing business in Iowa, “who is authorized by a seller to sell cemetery merchandise, funeral merchandise, funeral services, or a combination thereof, on behalf of a seller.”² A person may not sell or offer for sale any cemetery merchandise, funeral merchandise, funeral services, or any combination thereof, in Iowa, unless the person holds an active preneed seller license or sales agent license.³

The Division may deny a sales agent license application when a person has a “[c]onviction of a criminal offense involving dishonesty or a false statement including but not limited to fraud, theft, misappropriation of funds, falsification of documents, deceptive acts or practices, or other related offenses.”⁴ The Division may also deny a license application when a person fails to disclose a criminal conviction on an application.⁵

¹ Iowa Code § 505.8 (2011)

² *Id.* § 523A.102(26).

³ *Id.* § 523A.502(1); 191 IAC 103.1(1).

⁴ Iowa Code § 523A.503(1)*f*; 191 IAC 103.2(4)*d*, 103.2(4)*f*.

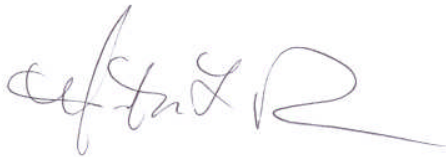
⁵ Iowa Code § 523A.503(1)*a*; 191 IAC 103.2(4)*f*, 105.6(1).

Peck received proper notice of the hearing, but did not appear. The administrative law judge may enter a default decision if a party fails to appear at a contested case hearing after receiving proper notice.⁶ The Division denied Peck's License Application because of her criminal history and failure to report her criminal history on her License Application. Based upon Peck's failure to appear at hearing after receiving proper notice, entry of default is proper.

ORDER

Peck is in default because he failed to appear at the September 6, 2011 contested case hearing. The Division's denial of her license is **AFFIRMED**. The Division shall take any steps necessary to implement this decision.

Dated this 6th day of September, 2011.



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

cc: Christina Hazelbaker and John Leonhart (*via* electronic mail)
Dawn Peck (*via* 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.⁷ 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.

⁶ 191 IAC 3.22(1).

⁷ *Id.* 3.22(3).