

BEFORE THE IOWA INSURANCE COMMISSIONER
330 MAPLE
DES MOINES, IOWA 50319

IN THE MATTER OF)	APPEAL DECISION
)	
)	DIA NO: 11IID012
)	
PAMELA ARMSTRONG)	DIVISION FILE NO: 70284
)	

An appeal hearing was scheduled for the above captioned matter on January 25, 2012, before presiding officer, Assistant Commissioner Angela Burke Boston. This appeal is governed by Iowa Code section 17A.12 (2011) and 191 Administrative Code Chapter 3 and rules promulgated thereunder. The parties to this proceeding are the Iowa Insurance Division ("Division") and Respondent Pamela Armstrong ("Armstrong"). Armstrong was represented by counsel, Roberta Anderson, and both appeared at the hearing. Attorney John Leonhart and Terra Mason appeared on behalf of the Division.

ISSUES

Whether the administrative law judge erred in finding no substantive evidence exists for the alleged violations advanced by the Division at the initial hearing.

Whether the administrative law judge erred in providing an appropriate sanction given the evidence produced at the initial hearing.

FACTS

The parties do not disagree with the Findings of Fact set forth by the administrative law judge. The entire basis for this appeal by the Division is specific objections regarding the Conclusions of Law set forth by Administrative Law Judge Heather L. Palmer on October 14, 2011.

The Division alleged multiple charges against Armstrong arising out of a broker relationship between Mason City All Risk Insurance and Integrated Risk Management and insurance transactions that arose from that relationship resulting in violations of Iowa insurance laws and regulations.

The administrative law judge found that the Division failed to prove that Armstrong made false or fraudulent statements or representations to receive a fee or commission; that there was no evidence that Armstrong failed to make a required disclosure to purchasers; that the Division failed to prove Armstrong intentionally misrepresented the terms of an actual or proposed insurance contract or application for insurance; that the Division failed to prove that Armstrong engaged in any fraudulent or dishonest practices in the conduct of the business of insurance; and that the Division failed to prove Armstrong failed to respond to inquiries from the Commissioner. The administrative law judge did find that the Division proved that Armstrong failed to designate on an insurance policy application the licensee who solicited and wrote the policy. Hence, the administrative law judge concluded that Armstrong should be assessed a \$1,000 civil penalty, her license suspended for fourteen days, and following the suspension, Armstrong's license shall be placed on probation for one year.

ANALYSIS AND CONCLUSIONS

On appeal from or review of the proposed decision, the agency may reverse or modify any finding of fact if a preponderance of the evidence will support a determination to reverse or modify such a finding, or may reverse or modify any conclusion of law that the agency finds to be in error. Iowa Code §17A.15(3).

The standard of review to reverse or modify any conclusion of law: unreasonable, arbitrary or capricious, or characterized by an abuse of discretion.

The administrative law judge clearly stated the evidence relied upon and detailed the reasons for the conclusions reached. The actual violations found by the administrative law judge in the Conclusions of Law dictate the sufficiency of the sanctions given the Findings of Fact.

The presiding officer's review of the file indicates that the administrative law judge did not err in finding a lack of substantive evidence exists for some of the alleged violations.

The administrative law judge was unconvinced by the Division's request that Armstrong's actions warranted revocation of her license and imposition of a \$25,000 penalty. Such a penalty is not supported by the evidence. Furthermore, during this proceeding the Division argued for the revival of Count III relating to Armstrong's Consent for Prohibited Persons to Engage in the Business of Insurance despite having been dismissed at the request of the Division.

While adverse to the Division, the decision of the administrative law judge carefully set out the facts, thoroughly considered the evidence and reflects her judicial discretion in applying the facts to the law.

No finding exists that the administrative law judge was unreasonable, arbitrary or capricious, or abused her discretion.

ORDER

The Proposed Decision of the administrative law judge is affirmed. Armstrong's Iowa insurance producer's license is suspended for fourteen days. Armstrong is also placed on probation for one year. This is effective on the date of this appeal decision. Armstrong is assessed a civil penalty of \$1,000 and shall cease and desist from any actions in violation of this order. The Division shall take any necessary steps to implement this decision.

Signed this 13th day of April, 2012.



Angela Burke Boston
Hearing Officer
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