

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. 13IID003  
)  
JESSICA R. KASTNER, ) **DEFAULT ORDER**  
Respondent. )

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The Insurance Division issued Respondent Jessica R. Kastner a pre-need sales agent license on June 26, 2012. The Insurance Division learned that as of October 22, 2012, Kastner was no longer employed with Memorial Park Cemetery in Sioux City, Iowa and was no longer appointed to sell pre-need products or services. The Insurance Division contacted Kastner by electronic mail on November 28, 2012 regarding the termination of her appointment with Memorial Park Cemetery. The Insurance Division notified Kastner sales agents are required to inform the Insurance Division of any changes in the required information on the license application within 30 days of the change. The Insurance Division told Kastner that if she was no longer working in the preneed funeral industry, she could either inactivate her sales agent license for up to 12 months or cancel it. Kastner did not respond to the Insurance Division.

On March 1, 2013, the Insurance Division served Kastner with a Notice of Hearing and Statement of Charges. The Statement of Charges alleges Kastner failed to notify the Insurance Division of a change in her information within 30 days in violation of Iowa Code section 523A.502(7) and 191 Iowa Administrative Code 103.2(2)(b) and 103.4(6)(d). The Insurance Division seeks revocation of Kastner's license and imposition of a \$500 civil penalty.

A contested case hearing was scheduled for April 3, 2013 at 9:00 a.m. Attorney Robert Koppin appeared on behalf of the Insurance Division. Kastner did not appear. I waited 5 minutes for Kastner to join the call before releasing Koppin. I also waited an additional 10 minutes to accommodate a late call from Kastner. She did not call.

### **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.<sup>1</sup> This case involves a sales agent license issued to Kastner.

“A sales agent licensee shall inform the commissioner of any changes in the information required to be provided in the application within thirty days of the change.”<sup>2</sup> The

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<sup>1</sup> Iowa Code § 505.8 (2011).

<sup>2</sup> Iowa Code § 523A.502(7).

Insurance Division has also adopted rules setting forth the grounds for discipline under Iowa Code chapter 523A.<sup>3</sup> One such ground is the “failure to submit to an examination, failure to comply with a reasonable request of an examiner, or failure to cooperate with an investigation conducted by the commissioner . . . .”<sup>4</sup>

The Insurance Commissioner may suspend, revoke, or otherwise impose disciplinary action related to any license issued under Iowa Code sections 523A.501 and 523A.502 for violating any provision of Iowa Code chapter 523A, the Insurance Division’s administrative rules, or an order of the Insurance Division.<sup>5</sup> If a licensee violates Iowa Code sections 523A.201, 523A.202, 523A.401, 523A.402, 523A.403, 523A.404, 523A.405, 523A.501, 523A.502, or 523A.504, or any rules adopted under the listed sections, the Insurance Division may order the licensee to pay a civil penalty of not more than \$1,000 for each violation, but not exceeding an aggregate of \$10,000 during any six month period, unless the Insurance Commissioner finds the person knew or reasonably should have known that the person was in violation of the provisions or rules adopted under the provisions of the Iowa Code, warranting a greater penalty.<sup>6</sup>

Kastner 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.<sup>7</sup> The Insurance Division seeks revocation of Kastner’s sales agent license and imposition of a \$500 fine. Based upon Kastner’s failure to appear at hearing after receiving proper notice, entry of default is proper.

### **ORDER**

Kastner is in default because she failed to appear at the April 3, 2013 contested case hearing. Kastner’s sales agent license is hereby revoked and Kastner is assessed a \$500 civil penalty. The Insurance Division shall take any steps necessary to implement this decision.

Dated this 3rd day of April, 2013.



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

cc: Robert Koppin and Irene Vega (*via electronic mail*)  
Jessica Kastner

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<sup>3</sup> 191 IAC 105.6.

<sup>4</sup> *Id.* 105.6(7).

<sup>5</sup> Iowa Code § 523A.503.

<sup>6</sup> *Id.* § 523A.807(3)a.

<sup>7</sup> 191 IAC 3.22(1).

## 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>8</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>8</sup> *Id.* 3.22(3).