

BEFORE THE IOWA INSURANCE COMMISSIONER

IN THE MATTER OF)
) DIVISION FILE NO.: 81223
 TODD A. MILLER)

**DEFAULT ORDER OF REVOCATION, CEASE AND DESIST
AND CIVIL PENALTY**

Now therefore, the Commissioner of Insurance, being fully advised in the premises, issues the following findings of fact, conclusions of law and order of revocation, cease and desist and civil penalty:

Findings of Fact

1. On March 1, 2011, Respondent Todd A. Miller ("Miller") applied for a resident producer license by submitting through the National Insurance Producer Registry a Uniform Application for Individual Insurance Producer License ("Application").
2. In submitting the Application, Miller designated the Commissioner as an agent for service of process.
3. Miller initially received an insurance producer license from the State of Iowa on March 11, 1994 and was assigned national producer number 6858715. Miller's license was renewed on May 1, 2011.
4. As a licensed insurance producer, Miller is required to keep his address current. Miller's last recorded address in his license record is 501 NW Boulder Brook Drive, Ankeny, Iowa 50021.

5. From a date uncertain to at least July 17, 2012, Miller served as the treasurer of a professional association for which he was entrusted with and granted access to the bank account and funds of the association.

6. On various dates Miller misappropriated at least \$3,444.00 in funds from the professional association for his own personal benefit, including the use of funds to pay claims for insurance clients for which Miller had failed to obtain adequate insurance coverage.

7. After an internal investigation of the misappropriation by the Special Investigative Unit of Farm Bureau, on July 26, 2012, Miller's appointment to sell insurance products for Farm Bureau Life Insurance Company and Farm Bureau Property & Casualty Insurance Company (collectively "Farm Bureau") was terminated by those companies.

8. On August 12, 2013, the Division sent Miller a letter requiring a written explanation of his admission to Farm Bureau that Miller used his position as treasurer of the professional association to pay claims for Farm Bureau insurance customers out of the professional association bank account.

9. A written response to the Division's investigative request was due on or before August 23, 2013, but Miller did not respond.

10. On October 21, 2013, the Division filed a statement of charges against Miller.

11. Pursuant to Miller's consent to service of process, the Commissioner was served with the statement of charges on October 24, 2013. The Commissioner issued a Notice of Hearing scheduling a contested case for January 7, 2014.

12. The Commissioner mailed notification of the statement of charges and the notice of hearing to the last known address provided by Miller in his licensing record.

13. On October 25, 2013, Miller accepted the notice of hearing and statement of charges by restricted certified mail delivery from the United States Postal Service.

14. Miller has not filed an answer, nor any other responsive pleading to the statement of charges.

15. On November 20, 2013, the Insurance Division mailed a motion for entry of default judgment to Miller's address of record.

16. Miller has not filed any response to the motion for entry of default judgment.

Conclusions of Law

17. The Commissioner may consider a motion unresisted, if no response is timely filed. 191 IAC 3.15(2). Miller has not filed a timely written response to the Division's motion for entry of default judgment. The motion is unresisted.

18. 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. 191 IAC 3.22(2). Miller has not filed an answer and has not resisted the Division's motion for default judgment.

19. Under Miller's consent to service of process, Miller was properly served as required in 191 IAC 3.5(1). As a licensed producer, Miller is required to maintain a current address in his license record. 191 IAC 10.12(2).

20. The Division's motion for default should be granted.

21. Miller improperly withheld, misappropriated, or converted any moneys or properties received in the course of doing insurance business in violation of Iowa Code § 522B.11(1)(d) (2013).

22. The violation of Iowa Code Chapter 522B and applicable rules is grounds for revocation, suspension, censure, and/or the imposition of a civil penalty and an order requiring such person to cease and desist from the acts, methods or practices stated in this statement of charges pursuant to Iowa Code §§522B.11, 522B.17, 507B.6 and 507B.7 (2013).

23. Miller used fraudulent, coercive, or dishonest practices, or demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere in violation of Iowa Code § 522B.11(1)(h) (2013).

24. The violation of Iowa Code Chapters 507B and 522B and applicable rules is grounds for revocation, suspension, censure, and/or the imposition of a civil penalty and an order requiring such person to cease and desist from the acts, methods or practices stated in this statement of charges pursuant to Iowa Code §§522B.11, 522B.17, 507B.6 and 507B.7 (2013).

25. Miller failed or refused to cooperate in an investigation by the Division in violation of Iowa Code § 522B.11(1)(p) (2013).

26. The violation of Iowa Code Chapter 522B and applicable rules is grounds for revocation, suspension, censure, and/or the imposition of a civil penalty and an order requiring such person to cease and desist from the acts, methods or practices stated in this statement of charges pursuant to Iowa Code §§522B.11, 522B.17, 507B.6 and 507B.7 (2013).

27. This hearing procedure was governed by Iowa Code sections 17A.12, 522B.11, 522B.17, 507B.6 and 507B.7; and 191 IAC Ch. 3.

ORDER

IT IS HEREBY ORDERED that Todd A. Miller is in Default.

IT IS FURTHER ORDERED that an order of revocation is entered against Miller and his Iowa insurance producer license is hereby REVOKED. The Insurance Division shall take any steps necessary to implement this decision.

IT IS FURTHER ORDERED that Todd A. Miller shall cease and desist from engaging in any of the acts, methods or practices determined as violations herein or from transacting the business of insurance in this state.

IT IS FURTHER ORDERED that Todd A. Miller shall pay to the State of Iowa, Insurance Division, a civil penalty in the amount of \$5,000.

Dated this 23 date of December, 2013.



NICK GERHART
Commissioner of Insurance

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. 191 IAC 3.22(3). 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.