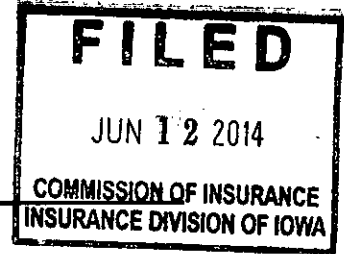


BEFORE THE IOWA INSURANCE COMMISSIONER




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IN THE MATTER OF	)	
	)	
	)	DIVISION FILE NO.: 83030
NYATEN GAYE,	)	
NPN# 16555755,	)	
	)	
Respondent	)	

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**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 November 13, 2013, Respondent Nyaten Gaye ("Gaye") applied for a non-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, Gaye designated the Commissioner as an agent for service of process.
3. Gaye received an insurance producer license from the State of Iowa on November 13, 2013 and was assigned national producer number 16555755.
4. As a licensed insurance producer, Gaye is required to keep his address current. Gaye's last recorded address in his license record is 218 Highland Avenue, Johnston, RI 02919.

5. On February 24, 2014, the Division was notified by letter that Gaye was terminated for cause by his insurers, Metropolitan Property and Casualty Insurance Company and Metropolitan Group Property & Casualty Insurance Company (collectively "MetLife"). The stated reason for his termination was that he did not disclose required information on the Application.
6. On March 11, 2014, the Division received an email from MetLife stating that Gaye had completed the Application and answered "no" to question number 1 dealing with whether he had been convicted of a crime, had a judgment withheld or deferred, or was currently charged with committing a crime. As part of the background check on Gaye, the Florida Insurance Department had uncovered an arrest from April 18, 2003 which involved theft by unauthorized taking or transfer.
7. On March 11, 2014, the Division sent a letter to Gaye which stated that MetLife had terminated his producer appointment for cause because he failed to disclose criminal history on his Application. A written response to the letter was required on or before March 28, 2014, but Gaye did not respond.
8. On April 22, 2014, the Division filed a statement of charges against Gaye.
9. Pursuant to Gaye's consent to service of process, the Commissioner was served with the statement of charges on April 28, 2014. The Commissioner issued a Notice of Hearing scheduling a contested case for June 13, 2014.
10. The Commissioner mailed notification of the statement of charges and the notice of hearing to the last known address provided by Gaye in his licensing record.
11. On May 2, 2014, Gaye accepted the notice of hearing and statement of charges by restricted certified mail delivery from the United States Postal Service.

12. Gaye has not filed an answer, nor any other responsive pleading to the statement of charges.
13. On May 23, 2014, the Insurance Division mailed a motion for entry of default judgment to Gaye's address of record.
14. Gaye has not filed any response to the motion for entry of default judgment.

### **Conclusions of Law**

15. The Commissioner may consider a motion unresisted, if no response is timely filed. 191 IAC 3.15(2). Gaye has not filed a timely written response to the Division's motion for entry of default judgment. The motion is unresisted.
16. 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). Gaye has not filed an answer and has not resisted the Division's motion for default judgment.
17. Under Gaye's consent to service of process, Gaye was properly served as required by 191 IAC 3.5(1). As a licensed producer, Gaye is required to maintain a current address in his license record. 191 IAC 10.12(2).
18. The Division's motion for default should be granted.
19. Gaye failed or refused to cooperate in an investigation by the Division in violation of Iowa Code § 522B.11(1)(q) (2013).
20. 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 and 522B.17.

21. This hearing procedure was governed by Iowa Code §§ 17A.12, 522B.11 and 522B.17; and 191 IAC Ch. 3.

**Order**

IT IS HEREBY ORDERED that Nyaten Gaye is in Default.

IT IS FURTHER ORDERED that an order of revocation is entered against Nyaten Gaye 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 Nyaten Gaye 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 Nyaten Gaye shall pay to the State of Iowa, Insurance Division, a civil penalty in the amount of \$500.

Dated this 12 date of June, 2014.

  
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NICK GERHART  
Commissioner of Insurance

## NOTICE

A default decision becomes final agency action 15 days from the date of 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.