

BEFORE THE IOWA INSURANCE COMMISSIONER

IN THE MATTER OF

RODRIGO DIAZ

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DIVISION FILE NO.: 84186

**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 21, 2012, Respondent Rodrigo Diaz ("Diaz") 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, Diaz designated the Commissioner as an agent for service of process.
3. Diaz was issued his non-resident insurance producer license from the State of Iowa on November 21, 2012 and was assigned national producer number 16832030.
4. As a licensed insurance producer, Diaz is required to keep his address current. Diaz's last recorded address in his license record is 1463 Frio Run, San Antonio, TX 78245-9585.
5. On April 30, 2014, the Division was notified by letter that Diaz was terminated for cause by his insurers, Nationwide Mutual Insurance Company and affiliated companies (collectively "Nationwide"). The stated reason for his termination was that Diaz had

improperly withheld, misappropriated or converted money received during the course of doing insurance business.

6. On June 4, 2014, the Division received additional information from Nationwide on Diaz's termination. According to Nationwide, on March 7, 2014, a Pennsylvania resident called the Nationwide service center in San Antonio, Texas to purchase an insurance policy. The Pennsylvania resident was serviced telephonically by Diaz.

7. On March 14, 2014, the Pennsylvania resident contacted a supervisor at the Nationwide service center to complain that two unauthorized charges had been made to the credit card used to pay for the insurance policy by Diaz.

8. Diaz subsequently admitted to Nationwide that he used the customer's credit card to pay for personal charges totaling \$1,100. Nationwide terminated Diaz's employment on April 2, 2014.

9. On May 7, 2014, the Division sent a letter to Diaz which stated that Nationwide had terminated his producer appointment for cause and required him to file a written response concerning the notification received from Nationwide. A written response to the letter was required on or before May 27, 2014, but as of the date of this filing Diaz has not responded.

10. On June 27, 2014, the Division filed a statement of charges against Diaz.

11. Pursuant to Diaz's consent to service of process, the Commissioner was served with the statement of charges on July 1, 2014. The Commissioner issued a Notice of Hearing scheduling a contested case for August 21, 2014.

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

13. On July 5, 2014, Diaz accepted the notice of hearing and statement of charges by restricted certified mail delivery from the United States Postal Service.

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

15. On July 28, 2014, the Insurance Division mailed a motion for entry of default judgment to Diaz's address of record.

16. Diaz 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). Diaz 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). Diaz has not filed an answer and has not resisted the Division's motion for default judgment.

19. Under Diaz's consent to service of process, Diaz was properly served as required by 191 IAC 3.5(1). As a licensed producer, Diaz 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. Diaz failed or refused to cooperate in an investigation by the Division in violation of Iowa Code § 522B.11(1)(p) (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 and 522B.17.

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

ORDER

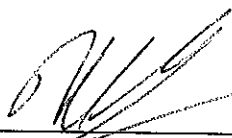
IT IS HEREBY ORDERED that Rodrigo Diaz is in Default.

IT IS FURTHER ORDERED that an order of revocation is entered against Rodrigo Diaz 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 Rodrigo Diaz 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 Rodrigo Diaz shall pay to the State of Iowa, Insurance Division, a civil penalty in the amount of \$1,000.

Dated this 20th date of August, 2014.



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.