

BEFORE THE IOWA INSURANCE COMMISSIONER

IN THE MATTER OF
BRIAN HENTON

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DIVISION FILE NO.: 83574

**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 April 17, 2013, Respondent Brian Henton ("Henton") 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, Henton designated the Commissioner as an agent for service of process.
3. Henton was issued his non-resident insurance producer license from the State of Iowa on April 17, 2013 and was assigned national producer number 8395306.
4. As a licensed insurance producer, Henton is required to keep his address current. Henton's last recorded address in his license record is 17129 Chula Vista Dr., Belton, MO 64012.
5. On April 28, 2014, the Division received information that states on January 4, 2006 Henton was sentenced in Anoka County, MN to 10 years probation on the felony charge of Theft over \$2,500 in violation of Minnesota statues 609.52 and 609.101.

6. A review of the Application completed by Henton and filed on April 17, 2013 indicates that Henton failed or refused to report his felony conviction. Additionally, since the charge involved felony theft, a crime involving dishonesty, Henton was required to obtain a Consent to Work in the Business of Insurance ("Consent") under Iowa Code § 522B.16B (2013) from the Iowa Commissioner of Insurance to engage or participate in the business of insurance in this state.

7. On May 1, 2014, the Division sent a letter to Henton which required a written explanation of the conviction along with evidence that he disclosed his criminal conviction and obtained a Consent to Work in the Business of Insurance. A written response to the letter was required on or before May 9, 2014, but as of the date of this filing Henton has not responded.

8. On June 10, 2014, the Division filed a statement of charges against Henton.

9. Pursuant to Henton'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 12, 2014.

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

11. On July 21, 2014, the Commissioner's restricted certified mailing, containing the Notice of Hearing and Statement of Charges, sent to Henton's last known mailing address was returned as undeliverable with no known forwarding address.

12. On July 25, 2014, an Order Granting Motion to Continue and Setting In-Person Hearing (the "Order") was issued by the Commissioner to allow Henton an opportunity to file an answer and set a new hearing date of September 5, 2014. The Order and

First Amended State of Charges were mailed by restricted certified and first class mail at his last known mailing address in accordance with Iowa Administrative Rule 191-3.5(1)(a). In addition, a second restricted certified mailing was sent to an alternative mailing address identified as a possible location for Henton. The restricted certified mailings were returned to the Division as undeliverable on August 6th and August 7th, 2014.

13. On August 11, 2014, the Insurance Division mailed a motion for entry of default judgment to Henton's address of record.

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

17. Under Henton's consent to service of process, Henton was properly served as required by 191 IAC 3.5(1). As a licensed producer, Henton 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. Henton failed or refused to cooperate in an investigation by the Division in violation of Iowa Code § 522B.11(1)(p) (2013).
20. Henton provided incorrect, misleading, incomplete, or materially untrue information in the licensure application in violation of Iowa Code § 522B.11(1)(a) (2013).
21. Henton had been convicted of a felony in violation of Iowa Code § 522B.11(1)(f) (2013).
22. Henton failed to obtain the written consent from the commissioner to engage or participate in the business of insurance in this state based on his conviction for a felony involving dishonesty in violation of Iowa Code § 522B.16B (2013).
23. Henton failed to notify the Division within thirty days of an address change as required by Iowa Administrative Rule 191-10.12(2).
24. 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.16B and 522B.17.
25. 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 Brian Henton is in Default.

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

Dated this 4th date of September, 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.