

FILED

SEP 17 2014

COMMISSION OF INSURANCE
INSURANCE DIVISION OF IOWA

BEFORE THE IOWA INSURANCE COMMISSIONER

IN THE MATTER OF)

MARK SEBASTIAN MITCHELL)

) DIVISION FILE NO.: 84468
)

**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 September 18, 2013, Respondent Mark Sebastian Mitchell ("Mitchell") 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, Mitchell designated the Commissioner as an agent for service of process.
3. Mitchell was issued his non-resident insurance producer license from the State of Iowa on September 19, 2013 and was assigned national producer number 496238.
4. As a licensed insurance producer, Mitchell is required to keep his address current. Mitchell's last recorded address in his license record is 2571A Coral Way E, Daytona Beach, FL 32118-5517.

5. On June 12, 2014, the Division was notified that the Louisiana Department of Insurance had issued an order fining Mitchell \$250 on April 21, 2014. The action was taken against Mitchell for his failure to report within thirty days administrative actions taken against him by the Wisconsin Department of Insurance on November 11, 2013 and the South Dakota Department of Insurance on December 9, 2012.

6. On June 12, 2014, the Division sent a letter to Mitchell notifying him of his failure to report the administrative action taken against him within 30 calendar days of the final disposition of an administrative action pursuant to Iowa Code § 522B.16 (2013) and Iowa Administrative Rule 191-10.13. A written response to the letter was required on or before June 27, 2014, but as of the date of this filing Mitchell has not responded.

7. On July 18, 2014, the Division filed a statement of charges against Mitchell.

8. Pursuant to Mitchell's consent to service of process, the Commissioner was served with the statement of charges on July 21, 2014. The Commissioner issued a Notice of Hearing scheduling a contested case for September 19, 2014.

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

10. On August 11, 2014, the Commissioner's restricted certified mailing, containing the Notice of Hearing and Statement of Charges, sent to Mitchell's last known home mailing address was returned as unclaimed and unable to forward.

11. On August 13, 2014, a First Amended Statement of Charges was mailed by first class mail at his last known mailing address in accordance with Iowa Administrative Rule 191-3.5(1)(a).

12. On September 9, 2014, the Insurance Division mailed a motion for entry of default judgment to Mitchell's address of record.
13. Mitchell has not filed any response to the motion for entry of default judgment.

Conclusions of Law

14. The Commissioner may consider a motion unresisted, if no response is timely filed. 191 IAC 3.15(2). Mitchell has not filed a timely written response to the Division's motion for entry of default judgment. The motion is unresisted.
15. 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). Mitchell has not filed an answer and has not resisted the Division's motion for default judgment.
16. Under Mitchell's consent to service of process, Mitchell was properly served as required by 191 IAC 3.5(1). As a licensed producer, Mitchell is required to maintain a current address in his license record. 191 IAC 10.12(2).
17. The Division's motion for default should be granted.
18. Mitchell failed to notify the Division within thirty days of an address change as required by Iowa Administrative Rule 191-10.12(2).
19. Mitchell failed to report to the commissioner an administrative action taken against him in another jurisdiction within thirty days of the final disposition of the matter in violation of Iowa Code § 522B.16 (2013) and Iowa Administrative Rule 191-10.13.
20. Mitchell failed or refused to cooperate in an investigation by the Division in violation of Iowa Code § 522B.11(1)(p) (2013).

21. 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.16 and 522B.17.

22. 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 Mark Sebastian Mitchell is in Default.

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

Dated this 17 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.