

Iowa Department of Inspections and Appeals
Division of Administrative Hearings
Wallace State Office Building – Third Floor
Des Moines, Iowa 50319

IN THE MATTER OF) Docket No. 13IID028
)
JARED M. CROSS,) **DEFAULT ORDER**
)
Respondent.)

The Iowa Insurance Division (“Division”) granted the Respondent, Jared M. Cross, a license as a pre-need sales agent on May 23, 2011, pursuant to the Iowa Cemetery and Funeral Merchandise and Funeral Services Act, Iowa Code Chapter 523A. On September 10, 2013, Notice of Telephone Hearing and Statement of Charges were sent to the Respondent by certified mail and delivered on September 16, 2013 to Mr. Cross’s most recent address. In the Statement of Charges prepared by the Division, it is alleged that Mr. Cross failed to file a mandatory annual report.

The Division regulates Chapter 523A. The Division sent a notice to Mr. Cross on January 25, 2013 regarding the requirement that preneed sales agents file an Annual Report on or before April 1, 2013. Mr. Cross did not respond to the notice. He did not respond to a follow-up reminder from the Division sent to him on April 17, 2013.

The Division filed a Statement of Charges against Mr. Cross, to which Mr. Cross filed no Answer, alleging that Mr. Cross has failed to file the mandatory Annual Report and has failed to pay the late filing penalty fee. The Division asks that this administrative tribunal revoke Mr. Cross’s preneed sales agent license and impose the \$500 civil penalty against Mr. Cross.

A contested case hearing was scheduled for November 1, 2013 at 8:00 a.m. Attorney Emily Zach appeared on behalf of the Insurance Division. Mr. Cross did not appear. The administrative file shows that he was properly served in this matter.

CONCLUSIONS OF LAW

The Insurance Commissioner has general control, supervision, and direction over all insurance business transacted in Iowa, and is responsible for enforcing Iowa laws relating to insurance. Iowa Code § 505.8 (2013). This case involves a license revocation for a Sales Agent License under the Iowa Cemetery and Funeral Merchandise and Funeral Services Act. A sales agent is a person doing business in Iowa, “who is authorized by a seller to sell cemetery merchandise, funeral merchandise, funeral services, or a combination thereof, on behalf of a seller.” Iowa Code § 523A.102(26) (2013). A person may not sell or offer for sale any cemetery merchandise, funeral merchandise, funeral services, or any combination thereof, in Iowa, unless the person holds an active preneed seller license or sales agent license. Iowa Code § 523A.502(1); 191—Iowa Administrative Code (IAC) 103.1(1).

The Division may revoke the license of a preneed sales agent when the sales agent has failed to file an annual report with the commissioner. See Iowa Code § 523A.502A(1); 191—IAC 105.4 and 105.6(8). In addition, the “commissioner shall levy an administrative penalty in the

amount of up to five hundred dollars against a sales agent who fails to file an annual report when due.” Iowa Code § 523A.502A(3).

Mr. Cross received proper notice of the hearing, but did not appear. Pursuant to 191—IAC 3.22(1), the administrative law judge may enter a default decision if a party fails to appear at a contested case hearing after receiving proper notice. The Division seeks revocation of Mr. Cross’s license because of his failure to file the mandatory annual report. Based upon his failure to appear at hearing after receiving proper notice, entry of default judgment against Mr. Cross is proper.

ORDER

Mr. Cross is in default because he failed to appear at the November 1, 2013 contested case hearing. Mr. Cross violated the governing statute and the Insurance Division’s rules by failing to file a timely annual report. Mr. Cross’s Preneed Sales Agent License is hereby **revoked**, and he is **ordered to pay a \$500 civil penalty**. The Insurance Division shall take any steps necessary to implement this decision.

Dated this 1st day of November, 2013.



Carol J. Greta
Administrative Law Judge

cc: Jared M. Cross
Emily Zach & Irene Vega

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.