



BEFORE THE IOWA INSURANCE COMMISSIONER

---

IN THE MATTER OF	)	Division Case No. 93238
	)	
BILLIE J. HOLMBERG,	)	<b>ORDER AND CONSENT</b>
NPN 6869918,	)	<b>TO ORDER</b>
DOB 01/02/XXXX,	)	
Respondent	)	

---

COMES NOW the Iowa Insurance Division (“Division”) pursuant to the provisions of Iowa Code Chapter 507B—Insurance Trade Practices and Iowa Code Chapter 522B—Licensing of Insurance Producers, the Commissioner enters the following consent order (“Order”):

**I. PARTIES AND JURISDICTION**

1. The Commissioner of Insurance, Doug Ommen, administers Iowa Code Chapter 507B—Insurance Trade Practices and Iowa Code Chapter 522B—Licensing of Insurance Producers pursuant to Iowa Code § 505.8. Commissioner Ommen has designated the Iowa Insurance Division to seek enforcement of these provisions.
2. Billie Holmberg (“Respondent”) is an individual with a last-known residence address of 4039 Kathleen Way, Davenport, Iowa 52807.
3. Respondent was licensed in the state of Iowa as a resident insurance producer from January 28, 1998 until January 31, 2017. She was licensed under National Producer Number 6869918.
4. Respondent was an appointed agent with American National Property and Casualty Company (“ANPAC”) from February 20, 2002 until January 15, 2013.
5. From on or about September 2008 to March 21, 2016, Respondent engaged in acts and practices within the state of Iowa constituting cause for probation, suspension, or revocation of her insurance producer license; cease and desist orders; and civil penalties

or other relief under Iowa Code Chapters 507B, 522B, and rules adopted pursuant to these chapters.

## **II. FINDINGS OF FACT**

6. Respondent applied for a resident insurance producer license with the Division by submitting through the National Insurance Producer Registry a Uniform Application for Individual Producer License (“Uniform Application”). In submitting the Uniform Application, Respondent designated the Commissioner as an agent for service of process.
7. The Division issued Respondent a license as a resident insurance producer on January 28, 1998 under National Producer Number 6869918.
8. Respondent’s resident insurance producer license expired on January 31, 2017.
9. Respondent was an independent insurance producer doing business as “Ballard Agency” with a last-known business address of 1823 Grant St., Bettendorf, Iowa 52722.

### **A. Respondent’s Actions While an Appointed Agent with ANPAC**

10. Respondent was an appointed agent with ANPAC from February 20, 2002 until January 14, 2013.
11. Per her agency agreement with ANPAC, Respondent was required to immediately transmit any premium money received to the insurer.
12. Respondent was investigated by ANPAC both in 2009 and 2011 for her handling of premium money.
13. On numerous occasions, Respondent failed to timely remit the full premium payments she received from consumers to the insurer. Instead, Respondent remitted partial and delayed payments to the insurer.

14. On at least one occasion in 2009, Respondent failed to remit premium payments she received from Consumer A to the insurer and as a result, the policy lapsed for non-payment.
15. ANPAC reinstated the policy after its investigation revealed that Consumer A had indeed timely delivered the premium payment to Respondent, expecting the payment to be forwarded to ANPAC.
16. ANPAC officially reprimanded Respondent in July of 2009 for failing to timely remit full premium payments to the insurer.
17. Due to ANPAC's discovery of additional instances of misconduct, Respondent was also issued a written warning in August of 2009 directing Respondent to cease her practice of delaying remittance of full premium payments received from consumers. In this letter, Respondent was once more instructed to remit payments directly to the insurer without endorsing, signing, or depositing premium checks into her own account.
18. ANPAC investigated Respondent in 2011, yet again, for her practice of failing to timely remit full premium payments to the insurer.
19. On at least one occasion in 2011, Respondent failed to remit any portion of a premium payment she received from Consumer B to the insurer and as a result, the policy lapsed for non-payment.
20. ANPAC reinstated the policy after its investigation revealed that Consumer B had indeed timely delivered the premium payment to Respondent, expecting the Respondent to forward the payment to ANPAC.
21. As a result of Respondent's continued practices, ANPAC terminated its approval of Respondent's Premium Trust Accounts, prohibited Respondent from accepting cash

premium payments, and advised Respondent that any further misconduct would result in termination of her agency agreement.

22. Respondent resigned as an appointed ANPAC agent on January 14, 2013.

**B. Respondent's Actions While Employed at Belk Agency**

23. After her departure from ANPAC, Respondent worked as an office assistant and customer service representative for Fred Belk Insurance Agency ("Belk Agency") from February 2013 until she was terminated for her handling of premium money on March 21, 2016.
24. During that time period, Fred Belk was an authorized agent for ANPAC.
25. During her time at Belk Agency, Respondent continued her practice of accepting premium payments from consumers and then failing to timely remit the full payment to the insurer.
26. Consumers expected that Respondent would promptly remit their premium payments to ANPAC. However, when Respondent accepted premium payments from consumers, she deposited the payments into her own account and then later remitted partial payments to the insurer using personal checks, web payments, and money orders.
27. During her tenure at Belk Agency, Respondent received premium payments from at least eleven (11) consumers which she remitted to the insurer in smaller, partial payments.
28. Out of those eleven, six consumers had outstanding missing payments on their accounts despite having provided Respondent with the full premium payment. Respondent failed to remit to the insurer at least \$2,011.00 in premium money she had previously received from consumers.
29. Respondent converted at least \$2,011.00 of premium money for her own personal use as this amount has yet to be remitted to ANPAC.

30. Not only did Respondent fail to timely remit the full premium payments she received, but she also fraudulently endorsed and deposited the premium checks into her own account.
31. Respondent fraudulently altered numerous checks by forging the “pay to the order of” line to include her own name, “Ballard Agency,” “Ballard Insurance Agency,” or “Ballard Insurance.”
32. Furthermore, after forging the details of the premium checks, Respondent endorsed these altered checks “Ballard Agency” with her own account number listed below. Respondent was not authorized by ANPAC to endorse these premium checks.
33. More often, instead of altering the “pay to the order of” line, she improperly endorsed checks as payable to “Ballard Agency” with her own account number listed.
34. Respondent improperly endorsed hundreds of checks and deposited the premium money into her personal account.
35. Respondent altered, endorsed, and negotiated premium checks without authorization from the consumers or ANPAC.
36. Respondent was terminated by Belk Agency for her handling of premium money.
37. From about September 2008 to March 21, 2016, Respondent failed to timely remit premium payments for at least thirteen (13) consumers.
38. From about September 2008 to March 21, 2016, Respondent regularly endorsed and deposited hundreds of premium checks made payable to ANPAC into her own account.
39. ANPAC covered any lapses in coverage, late fees assessed, and amounts of premium money consumers entrusted to Respondent, but which were never remitted to the insurer, that occurred as a result of Respondent’s practices.

### C. Respondent's Actions Post-Termination

40. Even after Respondent's termination from Belk Agency, Respondent continued to submit partial payments to ANPAC via web payments, personal checks, and money orders for those accounts for which she had previously collected premium money.
41. On May 18, 2016, months after Respondent's termination from Belk Agency, ANPAC issued a cease and desist letter to Respondent stating that "the Company continues to receive information indicating that you continue to purport to transact the business of insurance, including the solicitation and acceptance of premium payments from consumers on behalf of the Company." The letter admonished Respondent to immediately cease her practice of accepting premium payments from consumers.
42. An investigator, on behalf of the Division, sent Respondent a letter dated December 2, 2016 by certified mail, first-class mail, and email notifying her that the Division was conducting an investigation relating to her handling of premium payments and requesting that she call the Division to arrange an interview in furtherance of the investigation. The Respondent failed to respond to any of the December 2<sup>nd</sup> methods of communication.
43. The Division's investigator also attempted to contact the Respondent by telephone on December 2<sup>nd</sup> and December 6<sup>th</sup>. A voicemail was left for Respondent on each occasion requesting a return call. Respondent never returned the Division's calls.
44. The Division's investigator sent a letter dated December 16, 2016 by certified mail, first-class mail, and by email requesting again that Respondent contact the Division to arrange an interview to discuss its investigation of Respondent's acts and practices regarding her handling of premium payments.

45. Respondent responded to the Division's December 16, 2016 communication, stating she no longer wished to be licensed in Iowa as a producer and that she did not plan to renew her license when it expired on January 31, 2017.
46. In his reply to Respondent, the Division's investigator emphasized the need to still obtain a statement from her, despite Respondent's intent not to renew her producer license at the end of January.

### **III. CONCLUSIONS OF LAW**

#### **COUNT I**

#### **Withholding, Misappropriating, and Converting of Funds**

47. Under Iowa Code § 522B.11(1)(d), a license may be subject to probation, suspension, revocation, and civil penalties may be levied as provided in section 522B.17, for "improperly withholding, misappropriating, or converting any moneys or properties received in the course of doing insurance business."
48. Respondent withheld funds by depositing premium money into her personal account and by failing to promptly remit the full and proper payment to ANPAC.
49. Respondent misappropriated and converted consumers' funds by depositing premium money into her personal account, remitting partial payments instead of full and proper payments to ANPAC on a timely basis, and by using premium money for personal expenditures.
50. Respondent converted at least \$2,011.00 she received in premium money by failing to ever remit this money to ANPAC and by using the money for her own personal use.
51. Respondent's acts and practices have been in violation of Iowa Code § 522B.11(1)(d) subjecting Respondent to probation, suspension or revocation of Respondent's insurance producer license, the imposition of a civil penalty, and an order requiring Respondent to

cease and desist from engaging in such act or practice pursuant to Iowa Code §§ 522B.11 and 522B.17.

52. Iowa Code § 522B.11(5) authorizes the enforcement of provisions and imposition of any penalty or remedy authorized under Chapter 522B even if the person's license has been surrendered or has lapsed by operation of law.

## **COUNT II**

### **Using Fraudulent and Dishonest Practices and Demonstrating Untrustworthiness**

53. Under Iowa Code § 522B.11(1)(h), a license may be a subject to probation, suspension, or revocation and civil penalties may be levied, as provided in section 522B.17, for using fraudulent or dishonest practices and for demonstrating untrustworthiness in the conduct of business.
54. Respondent engaged in fraudulent practices by forging the "pay to the order of" line on numerous premium checks entrusted to her by consumers who expected Respondent to timely and properly remit their payments to the insurer specified by them on the checks.
55. Respondent forged the details of premium checks without the knowledge, consent, or authorization of the consumers.
56. Respondent demonstrated untrustworthiness in the insurance business by depositing premium money into her personal account and by failing to timely remit full and proper payments to ANPAC.
57. Respondent demonstrated untrustworthiness by continuing to submit partial payments to ANPAC after being terminated from Belk Agency.
58. Respondent acted dishonestly by purporting to transact the business of insurance and accepting premium payments on behalf of ANPAC after she was no longer an appointed agent and after she was terminated from Belk Agency.



59. Respondent continued to hold herself out as an individual authorized to accept premium payments on behalf of ANPAC even after the termination of her agency contract with ANPAC and after her termination from Belk Agency, thereby engaging in dishonest practices and demonstrating untrustworthiness.
60. Respondent's conduct in paragraphs 42 – 46 demonstrates untrustworthiness in the conduct of business.
61. Respondent's acts and practices have been in violation of Iowa Code § 522B.11(1)(h) subjecting Respondent to probation, suspension, or revocation of Respondent's insurance producer license, the imposition of a civil penalty, and an order requiring Respondent to cease and desist from engaging in such act or practice pursuant to Iowa Code §§ 522B.11 and 522B.17.
62. Iowa Code § 522B.11(5) authorizes the enforcement of provisions and imposition of any penalty or remedy authorized under Chapter 522B and 507B even if the person's license has been surrendered or has lapsed by operation of law.

### **COUNT III**

#### **Deceptive Acts or Practices in the Business of Insurance**

63. Iowa Code § 507B.3 prohibits a person from engaging in any trade or practice which is determined to be an unfair or deceptive act or practice in the business of insurance.
64. Under Iowa Code § 507B.6, a statement of charges may be served and a hearing held “whenever the commissioner believes that any person has been engaged or is engaging in this state in any unfair method of competition or any unfair or deceptive act or practice whether or not defined in section 507B.4, 507B.4A, or 507B.5.”
65. Iowa Code § 507B.6 prohibits deceptive acts or practices and is not limited to the enumerated practices in Iowa Code § 507B.4.

66. Respondent's practice of collecting money for premium payments, which she then promptly deposited into her personal account, but failed to timely remit the full and proper payments to ANPAC was deceptive. This practice had the capacity to mislead the consumers because they thought that Respondent was accepting their premium payments on behalf of ANPAC and would immediately remit the full amount to the insurer.
67. The consumers who entrusted Respondent with their premium payments did not know or authorize Respondent to remit the money to ANPAC in delayed, partial payments.
68. Respondent's practices were also deceptive to ANPAC. They had the capacity to mislead ANPAC into believing that consumer payments were partial payments, were late payments, or were never paid by the consumer potentially resulting in lost coverage.
69. Respondent's practice of endorsing checks, made payable to ANPAC, with her own name, "Ballard Agency," "Ballard Insurance Agency," or "Ballard Insurance" and with her personal account number listed without the knowledge, consent, or authorization of ANPAC was deceptive.
70. Respondent's practice of altering the details of the premium checks she received from consumers without their knowledge, consent, or authorization was deceptive.
71. Respondent's acts and practices have been in violation of Iowa Code §§ 507B.3 and 507B.6 subjecting Respondent to the suspension or revocation of Respondent's insurance producer license, the imposition of a civil penalty, an order requiring Respondent to cease and desist from engaging in the acts or practices alleged herein pursuant to Iowa Code § 507B.7.
72. Iowa Code § 522B.11(5) authorizes the enforcement of provisions and imposition of any penalty or remedy authorized under Chapters 522B and 507B, for violations of either

chapter, even if the person's license has been surrendered or has lapsed by operation of law.

**COUNT IV**  
**Failure to Cooperate**

73. Under Iowa Code § 522B.11(1)(p), a license may be a subject to probation, suspension, or revocation and civil penalties may be levied, as provided in section 522B.17, for failing to cooperate in an investigation.
74. Iowa Code § 505.8(12) states that the Commissioner or the Commissioner's designee may require the filing of a statement for the purposes of an investigation and according to Iowa Code § 505.8(13), if a person does not file a statement, the Commissioner may assess penalties and make an application to a district court to enforce compliance.
75. Respondent failed to cooperate in an investigation by refusing to schedule an interview with the Division's investigator, failing to return any of the Division's calls regarding the investigation, and failing to provide a written statement to the Division's investigator.
76. Respondent's acts and practices have been in violation of Iowa Code §§ 505.8(13) and 522B.11(1)(p) subjecting Respondent to probation, suspension, or revocation of Respondent's insurance producer license, the imposition of a civil penalty, and an order requiring Respondent to cease and desist from engaging in such act or practice pursuant to Iowa Code §§ 505.7A, 522B.11, and 522B.17.
77. Iowa Code § 522B.11(5) authorizes the enforcement of provisions and imposition of any penalty or remedy authorized under Chapters 522B and 507B even if the person's license has been surrendered or has lapsed by operation of law.

**COUNT V**  
**Failure to Update Address**

78. Under Iowa Code § 522B.6(7) a licensee shall inform the Commissioner of a change of address within thirty days of the change.
79. Respondent did not inform the Commissioner of the change to her mailing address.
80. Respondent's failure to update her address has been a violation of Iowa Code § 522B.6(7) subjecting Respondent to an order to cease and desist and civil penalties as provided in Iowa Code § 522B.17.
81. Iowa Code § 522B.11(5) authorizes the enforcement of provisions and imposition of any penalty or remedy authorized under Chapter 522B even if the person's license has been surrendered or has lapsed by operation of law.

**IV. ORDER**

**WHEREFORE, IT IS ORDERED** pursuant to the powers granted the Commissioner of Insurance by Iowa Code Chapters 522B and 507B:

- A. Respondent's Iowa resident insurance producer license is permanently revoked and Respondent is permanently prohibited from engaging in the business of insurance in this state pursuant to Iowa Code §§ 522B.11 and 507B.7;
- B. Respondent, pursuant to Iowa Code §§ 522B.17 and 507B.7, shall immediately cease and desist engaging in the practice of insurance in this state;
- C. Respondent shall within thirty (30) days of this Order pay a civil penalty, in the amount of \$3,000.00, payable to order of the Iowa Insurance Division, to be credited to the Iowa Enforcement Fund, to provide funds for insurance enforcement and education pursuant to Iowa Code §§ 505.8, 522B.11, 522B.17, and 507B.7; and
- D. Respondent shall within thirty (30) days of this Order pay the amount of \$1,560.00 for costs of investigation and prosecution pursuant to Iowa Code § 505.8. Payment

shall be made payable to the order of the Iowa Insurance Division, to be credited to the Iowa Enforcement Fund to provide funds for insurance enforcement and education.

SO ORDERED on the 12<sup>th</sup> day of April, 2017.



DOUGLAS M. OMMEN  
Iowa Insurance Commissioner

Respectfully submitted,



JOHANNA NAGEL  
Compliance Attorney  
Two Ruan Center  
601 Locust St., 4<sup>th</sup> Floor  
Des Moines, IA 50309  
johanna.nagel@iid.iowa.gov  
515.725.1255  
**Attorney for Iowa Insurance Division**

Copy by email to:  
steve@stevemarshlaw.com  
**Attorney for Respondent**

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause, or their attorney, at their respective addresses disclosed on the pleadings on April 12, 2017

By:  First Class Mail  Personal Service  
 Restricted certified mail, return receipt  Email, by consent  
 Certified mail, return receipt  \_\_\_\_\_

Signature: Tammi L. Green  
Tammi L. Green

**NOTICE OF PENALTIES FOR WILLFUL VIOLATION OF THIS ORDER**

**YOU ARE NOTIFIED** that acting as an insurance producer, as defined in Iowa Code Chapter 522B, in violation of this Order, is a felony under Iowa Code § 507A.10, subjecting you to punishment of imprisonment, jail, fines, or any combination of custody and fines.

**YOU ARE ALSO NOTIFIED** that if you violate this order, you may be subject to administrative and civil penalties pursuant to Iowa Code § 522B.17(3). The commissioner may petition the district court to hold a hearing to enforce the order as certified by the commissioner. The district court may assess a civil penalty against you in an amount not less than three thousand dollars but not greater than ten thousand dollars for each violation, and may issue further orders as it deems appropriate.

**NOTICE REGARDING IMPACT OF ORDER ON EXISTING LICENSES**

A final order of license revocation or a cease and desist order may adversely affect other existing business or professional licenses and result in license revocation or disciplinary action.

**CONSENT TO ORDER AND AGREEMENT**

I, Billie J. Holmberg, Respondent in this matter, have read, understood, and do knowingly consent to this Order in its entirety. By executing this consent, I understand that I am waiving my rights to a hearing, to confront and cross-examine witnesses, to produce evidence, and to judicial review.

I further understand that this Order is considered a final administrative action that may be reported by the Division to the National Association of Insurance Commissioners and to other regulatory agencies. I also understand that this Order is a public record under Iowa Code Chapter 22, which will be disclosed to other state regulatory authorities, upon request, pursuant to Iowa Code § 505.8(8)(d). I also understand that this Order will be posted to the Division's website and a notation will be made to the publicly available website record that administrative action has been taken against me.

Dated this 30<sup>th</sup> day of MARCH, 2017.

Billie J. Holmberg  
Billie J. Holmberg

4039 KATHLEEN WAY, DAV., IA. 52807  
Address of Signatory

Subscribed and sworn before me by Billie J. Holmberg on this 30<sup>th</sup> day of MARCH, 2017.

Jami Shibley  
Notary Public

**OFFICIAL SEAL  
JAMI SHIBLEY  
NOTARY PUBLIC-STATE OF ILLINOIS  
MY COMMISSION EXPIRES 1-11-2021**