

BEFORE THE IOWA INSURANCE COMMISSIONER

IN THE MATTER OF)	Division Case No. 92369
)	
JOSE M. TERRAZA)	FINAL FINDINGS OF FACT,
NPN 17326536,)	CONCLUSIONS OF LAW AND
DOB 07/14/XXXX,)	ORDER
Respondent)	

FINAL DECISION AND ORDER

A contested case hearing was held in the above-captioned matter on April 19, 2017 at 10:30 a.m. before Commissioner Douglas Ommen. The hearing was held at the offices of the Iowa Insurance Division, Two Ruan Center, 601 Locust St., 4th Floor, Des Moines, Iowa. The Respondent did not appear. The Iowa Insurance Division was represented by Enforcement Attorney John Leonhart.

On March 27, 2017, the Iowa Insurance Division (“Division”) filed a statement of charges against Jose M. Terraza (“Respondent”) for alleged violations of Iowa Code Chapters 507B and 522B. A notice of hearing was issued by the commissioner on March 27, 2017 setting a prehearing conference on April 5, 2017, and for hearing on April 19, 2017.

At hearing, the following witnesses appeared on behalf of the Division and were examined: Tammi Green, administrative assistant and paralegal for the Enforcement Bureau, and Craig Hayden, a compliance investigator for the Market Regulation Bureau, both employees of the Iowa Insurance Division.

At hearing, the following exhibits were entered into the record for the Division:

1. Division Mailings to Respondent’s Address on File (3 pages)
2. Division Mailings to Respondent’s Address on CLEAR (3 pages)
3. Craig Hayden’s Investigative Reports and Mailings (9 pages)
4. Investigative Report from Medico Corp (9 pages)
5. Medico Corp Spreadsheet (2 pages)

6-18. Applications and Bank Draft Authorization for Thirteen (13) insureds
(26 pages)

The record was kept open to receive evidence of the Division's costs of investigation and prosecution of the matter. Exhibit 19 has been received into evidence and the record is closed.

Respondent was not present at the hearing and the commissioner found Respondent in default and deemed all allegations contained in the statement of charges to be found in favor of the Division.

NOW THEREFORE, after reviewing the pleadings submitted in this case and the evidence received, we issue the following findings of fact, conclusions of law, and orders:

I. FINDINGS OF FACT

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 designated the Iowa Insurance Division to seek enforcement of these provisions. (Statement of Charges ¶ 1)
2. Jose M. Terraza, (“Respondent”), is an individual with a last-known residence address of 11315 Pratt Street, Apt. 1, Omaha, NE 68164-2725 (Statement of Charges ¶ 2)
3. Respondent has been licensed in the state of Iowa as a resident insurance producer since July 25, 2014. He is licensed under National Producer Number 17326536. (Statement of Charges ¶ 3)
4. Respondent applied for a nonresident insurance producer license with the Division by submitting through the National Insurance Producer Registry a Uniform Application on July 25,

2014. In submitting the Uniform Application, Respondent designated the Commissioner as an agent for service of process. (Statement of Charges ¶ 6)

5. The Division issued Respondent a license as a resident insurance producer on July 25, 2014 under National Producer License number 17326536. (Statement of Charges ¶ 7).

A. Notice of Hearing

6. As the Respondent designated the commissioner as his agent for service of process, personal service was made on March 27, 2017. As established by rule, the Division made substantial efforts to notify the Respondent by mailing at the address required to be maintained under his producer license. The Division sent notification of the hearing and the statement of charges to Respondent at his address on record with the Division by both first class mail and restricted certified mail, return receipt requested. The restricted certified mail was returned to the Division as “not deliverable as addressed.” The first class mail was not returned to the Division by the postal service. The Division then initiated an address search for Respondent using CLEAR online investigation software. A different address was found for Respondent and the notice of hearing and statement of charges was sent to this address by first class mail and restricted certified mail, return receipt requested. Both the first class mail and restricted certified mail were returned to the Division as “not deliverable as addressed.” As the Division has made significant attempts to notify the Respondent of this action, due process has been met and the service on the Respondent is effective.

B. Merits of the Matter

7. Respondent submitted 13 insurance applications in the names of 13 different insureds to Medico Corp Life Insurance Company (“Medico”) between April 29, 2015 and July 2, 2015. (Statement of Charges ¶ 8)

8. All 13 policies were to be paid by bank draft authorizations in the names of two individuals, Associate A and Associate B. (Statement of Charges ¶ 9)
9. Medico found the following discrepancies in the policy applications: some of the social security numbers did not appear to be connected to the applicant (4 cases); some of the addresses did not appear to be connected to the applicants (10 cases); some of the telephone numbers were not connected to the applicants (7 cases) and some of the applications contained false banking information (11 cases). (Statement of Charges ¶ 10, Exhibits 4-18)
10. Medico attempted to contact the insureds regarding their policies but was largely unsuccessful in reaching them due to incorrect telephone numbers and addresses. The few insureds that Medico was able to contact wanted their policies cancelled. (Statement of Charges ¶ 12, Exhibits 4 and 5)
11. Medico determined that Respondent deliberately falsified applications in order to obtain commissions in the amount of \$4,268.96.(Testimony of Craig Hayden, Exhibit 5)
12. Medico eventually cancelled all the policies and returned all the premiums directly to the victimized consumers. (Exhibit 4)
13. Respondent was contacted by the Division by telephone on August 31, 2016. (Statement of Charges ¶ 15, Testimony of Craig Hayden, Exhibit 4)
14. Respondent told the Division that he did not have time to be interviewed and did not need his insurance license as he was no longer in the business. (Testimony of Craig Hayden, Exhibit 4)
15. The Division informed Respondent that written communication would be sent to him with a request to be formally interviewed regarding the allegations and outlining his legal requirement to cooperate. (Testimony of Craig Hayden, Exhibit 4)

16. Correspondence was sent to Respondent both by certified mail and email on August 31, 2016, requesting a formal interview. (Testimony of Craig Hayden, Exhibit 4).

17. The Division also left a voice mail message with Respondent on September 7, 2016 requesting a call or email to schedule an interview. (Testimony of Craig Hayden)

18. Respondent failed to respond to any of the Division's contacts regarding the allegations (Statement of Charges ¶ 15, Testimony of Craig Hayden, Exhibit 4)

19. The Division incurred \$1680.00 in costs during the course of the investigation and prosecution of the Respondent.

II. CONCLUSIONS OF LAW

COUNT 1

507B.4(3)(n) Misrepresentation in Insurance Applications

20. Under Iowa Code § 507B.4(3)(n) a person is prohibited from “[m]aking false or fraudulent statements or representations on or relative to an application for an insurance policy, for the purpose of obtaining a fee, commission, money, or other benefit from any insurer, agent, broker, or individual.”

21. Respondent violated Iowa Code § 507B.4(3)(n) by making false or fraudulent statements on 13 applications for insurance for the purpose of obtaining a commission.

22. The violations of Iowa Code § 507B.4(3)(n) are grounds for suspension or revocation of Respondent's insurance producer license, the imposition of a civil penalty, and an order requiring such person to cease and desist from engaging in such act or practice pursuant to Iowa Code § 507B.7 and to pay the costs and administrative expenses related to the investigation, such costs and expenses to include reasonable attorneys fees, pursuant to Iowa Administrative Code 191-15.14(1)(e).

COUNT II
**522B.11(1)(h) Using Fraudulent, Coercive, or Dishonest Practices or
Demonstrating Untrustworthiness**

23. Under Iowa Code § 522B.11(1)(h), a producer is prohibited from using fraudulent, coercive, or dishonest practices or demonstrating untrustworthiness in the conduct of business.

24. Respondent violated Iowa Code § 522B.11(1)(h) by submitting 13 false or fraudulent applications to an insurance company.

25. The violations of Iowa Code § 522B.11(1)(h) are grounds for 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 acts or practices pursuant to Iowa Code §§ 522B.11 and 522B.17.

COUNT III
522B.11(1)(p) Failure to Respond

26. Under Iowa Code § 522B.11(1)(p), an insurance producer is prohibited from failing to cooperate in an investigation by the Division.

27. Respondent violated Iowa Code § 522B.11(1)(p) by failing to respond to emails, certified mail and voice mail that was sent to the Respondent by the Division requesting an interview.

28. The violations of Iowa Code 522B.11(1)(p) are grounds for probation, suspension, or revocation of Respondent's insurance producer license, the imposition of a civil penalty, and order requiring Respondent to cease and desist from engaging in such acts or practices pursuant to Iowa Code §§ 522B.11 and 522B.17.

III. FINAL ORDERS

IT IS THEREFORE ORDERED that Terraza's Iowa resident insurance producer license is revoked effective immediately pursuant to Iowa Code §§ 507B.7 and 522B.11.

IT IS FURTHER ORDERED that Terraza, pursuant to Iowa Code §§ 507B.6, 507B.7, 522B.11(1)(h), and 522B.17, must cease and desist using any fraudulent or dishonest practice, or engaging in any unfair or deceptive act or practice, or making any statement containing any assertion with respect to the business of insurance, which is untrue, deceptive or misleading.

IT IS FURTHER ORDERED that Terraza shall within 30 days of this Order pay to the State of Iowa, Insurance Division, costs of investigation and prosecution in the amount of \$1680.00 payable to the Iowa Enforcement Fund to provide funds for insurance enforcement and education pursuant to Iowa Code § 505.8 and Iowa Administrative Code 191-15.14(1)(e). Payment shall be made by check payable to the State of Iowa and received by the Iowa Insurance Division within thirty days of this Order. This payment may be paid with the payment of the civil penalty ordered below.

IT IS FURTHER ORDERED that Terraza shall within 30 days of this Order pay to the State of Iowa, Insurance Division a civil penalty in amount of \$5,000 payable to the Iowa Enforcement Fund to provide funds for insurance enforcement and education pursuant to Iowa Code §§ 507B.7 and 522B.11. Payment shall be made by check payable to the State of Iowa and received by the Iowa Insurance Division within sixty days of this Order.

THIS DECISION IS FINAL on this date.

Dated this 19th day of June, 2017.



DOUGLAS M. OMMEN
Insurance Commissioner

Copy to: (by certified and first class mail)

Jose M. Terraza
11315 Pratt Street, Apt. 1
Omaha, NE 68164-2725

NOTICE OF FINAL AGENCY ACTION UNLESS MOTION TO VACATE

YOU ARE NOTIFIED that decisions rendered on the merits after a party has failed to appear or participate become final agency action unless, within 15 days after the date of notification or mailing of the decision, a motion to vacate is filed and served on all parties or an appeal of a decision on the merits is timely initiated with the time provided by rule 3.27(17A). A motion to vacate must state all facts relied upon by the moving party which establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated must be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit must be attached to the motion.

NOTICE OF PENALTIES FOR WILLFUL VIOLATION OF THIS ORDER

YOU ARE NOTIFIED that any person who violates this order 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 the person 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

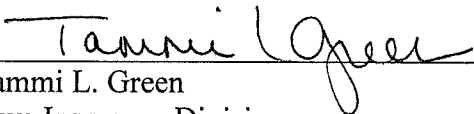
A final order of license suspension or revocation, or a cease and desist order may adversely affect other existing business or professional licenses and result in license revocation or disciplinary action. For example, a final cease and desist order issued to a licensed insurance agent may subject the insurance agent to insurance license revocation or other disciplinary action. Further notice is given that the Iowa Insurance Division may review this order for a potential license revocation or disciplinary action.

CERTIFICATE OF SERVICE

County of Polk)
)
State of Iowa)

The undersigned affiant certifies under penalty of perjury and pursuant to the laws of Iowa, on the 20th day of June, 2017, the foregoing order was delivered to the United States Postal Service, postage prepaid, for certified and first class mail service to:

Respondent:
Jose M. Terraza
11315 Pratt Street, Apt. 1
Omaha, NE 68164-2725



Tammi L. Green
Iowa Insurance Division