



BEFORE THE IOWA INSURANCE COMMISSIONER

IN THE MATTER OF)	Division Case No. 93324
)	
STEPHEN W. MATGEN,)	ORDER, CONSENT TO ORDER,
NPN 275220,)	AND AGREEMENT TO SUPERVISE
DOB 04/16/XXXX,)	
)	
Respondent.)	

NOW THEREFORE, upon motion of the Iowa Insurance Division (“Division”) and consent of Respondent Stephen W. Matgen, pursuant to the provisions of 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 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. Stephen W. Matgen (“Respondent”) is an individual with a last-known residence address of 315 Beck Ave., Remsen, IA 51050.
3. Respondent is and has been licensed in the state of Iowa as a resident insurance producer since February 11, 1978 under National Producer Number 275220.
4. From on or about May 1, 2005 to the present, Respondent has engaged in acts and practices within the state of Iowa constituting cause for probation, suspension, or revocation of his insurance producer license; cease and desist orders; and civil penalties or other relief under Iowa Code Chapters 505, 522B, and rules adopted pursuant to these chapters.

II. FINDINGS OF FACT

5. Respondent admits as true the findings of fact contained herein.

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. Respondent was appointed by Employers Mutual Casualty Company (“EMC”) on April 1, 1978 and has been appointed by EMC ever since.

8. As an ordinary course of business, EMC estimates workers compensation premiums for its commercial clients. EMC audits the businesses of its workers compensation policies to confirm that the premiums assessed accurately reflect the risk associated with the business.

9. EMC often completes audits of its workers compensation policies by mailing audit paperwork to the insured to complete and return to EMC.

Conduct Related to Client A

10. On or about May 1, 2005, Respondent assisted a client, referred to herein as “Client A,” with an application for commercial insurance with EMC.

11. On Client A’s commercial insurance application to EMC, the applicant failed to disclose that it used subcontractors for installations in its business operations.

12. From May 31, 2005 to May 16, 2014, Respondent assisted Client A, a business, with its mail audits and often completed them himself. In several instances, Respondent signed on behalf of Client A’s owner, referred to herein as “Owner A,” in Owner A’s name, with Owner A’s authorization. When Respondent signed Owner A’s name on the audit forms, he failed to indicate that he was signing on behalf of Owner A and with Owner A’s authorization.

13. Respondent's acts of signing Owner A's name to audit forms without indicating that he was signing on Owner A's behalf and with Owner A's authorization misled EMC to believe that Owner A had signed the audit forms.

14. Client A's mail audits failed to disclose that Client A uses subcontractors for installation of its products.

15. Respondent's acts of failing to disclose that Client A uses subcontractors misled EMC to believe that Owner A did not use subcontractors.

16. Initially, EMC believed that it had incorrectly assessed the risk and undercharged Client A for its workers compensation insurance due to the failure to disclose the subcontractors, but EMC eventually determined that it accurately assessed the risks and premiums for Client A.

17. Respondent cooperated with the Division and admitted that although he had authorization to do so, he signed Owner A's name to audit forms without indicating that he was signing on Owner A's behalf.

Conduct Related to Client B

18. On or about January 16, 2006, another of Respondent's clients, referred to herein as "Client B," a business, applied for a commercial policy with EMC and disclosed that it used a laborer for installation of its products.

19. When Client B received mail audit paperwork, it routinely failed to complete the paperwork and return it to EMC. EMC sent second and past due mail audit notices to Client B and Respondent.

20. From February 2008 through February 2015, Respondent completed mail audits for Client B and signed on behalf of one of Client B's owners, referred to herein as "Owner B," in Owner B's name and with Owner B's authorization. When Respondent signed Owner B's name

on the audit forms, he failed to indicate that he was signing on behalf of Owner B and with Owner B's authorization.

21. Respondent's acts of signing Owner B's name to audit forms without indicating that he was signing on Owner B's behalf and with Owner B's authorization misled EMC to believe that Owner B had signed the audit forms.

22. At some point in approximately 2012, Client B hired an additional laborer, referred to herein as "Employee B," for installation of its products. Respondent failed to disclose Employee B as an employee of Client B on any of Client B's mail audits.

23. Respondent simply forgot to include Employee B on the mail audits after Employee B was hired as a full-time employee of Client B.

24. Respondent's acts of failing to disclose that Employee B was an employee of Client B misled EMC to believe that Client B did not employ Employee B.

25. On June 6, 2014, Employee B suffered an injury while working for Client B and on June 12, 2014 EMC received a claim against Client B's workers compensation policy for this injury.

26. Once EMC became aware of Employee B's employment at Client B, EMC increased the workers compensation premium for Client B and investigated all workers compensation policies produced by Respondent.

27. Respondent cooperated with the Division and admitted that although he had authorization to do so, he signed Owner B's name to audit forms without indicating that he was signing on Owner B's behalf.

Conduct Related to Municipality C

28. Another of Respondent's clients, referred to herein as "Municipality C," had a roster of thirteen volunteer firefighters in 2011.

29. Respondent asserts that he reached an agreement with EMC, whereby EMC would only charge Municipality C for eight volunteer firefighters, but EMC has no record of such agreement.

30. Respondent sent an email to an EMC underwriter in which he represented that Municipality C had eight volunteer firefighters.

31. Respondents act of emailing an EMC underwriter and claiming that Municipality C had eight volunteer firefighters misled EMC to believe that Municipality C only had eight volunteer firefighters.

32. After completing a physical audit of Municipality C, EMC increased the workers compensation premium for Municipality C.

Additional Findings of Fact

33. Since EMC became aware of the facts found herein, EMC has changed all workers compensation accounts produced by Respondent from mail audits to physical audits.

34. Ann Bohnenkamp, a licensed insurance producer and coworker of Respondent, has agreed to supervise Respondent pursuant to the terms of the Agreement to Supervise attached hereto and incorporated herein, by reference.

35. Respondent does not dispute the conclusions of law that follow.

III. CONCLUSIONS OF LAW

COUNT I

Dishonest Practices in the Conduct of Business

36. Under Iowa Code § 522B.11(1)(h), a license may be subject to probation, suspension, or revocation and civil penalties may be levied, as provided in § 522B.17 for using dishonest practices in the conduct of business in this state.

37. Respondent used dishonest practices in the conduct of business in this state by signing Owner A's name to mail audit forms and submitting them to EMC without indicating that he was signing on behalf of Owner A.

38. Respondent used dishonest practices in the conduct of business in this state by failing to disclose on mail audit forms that Client A uses subcontractors for installation of its products.

39. Respondent used dishonest practices in the conduct of business in this state by signing mail audit forms in the name of Owner B and submitting them to EMC without indicating that he was signing on behalf of Owner B.

40. Respondent used dishonest practices in the conduct of business in this state by failing to disclose on mail audit forms that Client B employed Employee B.

41. Respondent used dishonest practices in the conduct of business in this state by failing to disclose to EMC the correct number of volunteer firefighters for Municipality C.

42. Respondent's practices have been in violation of Iowa Code § 522B.(11)(1)(h). Such violations subject Respondent to probation, suspension, or revocation of his insurance producer license, the imposition of a civil penalty, the imposition of costs of investigation and administrative expenses, and an order requiring Respondent to cease and desist from engaging in such practices pursuant to Iowa Code §§ 505.8, 522B.11, and 522B.17.

IV. ORDER

WHEREFORE, IT IS ORDERED pursuant to the powers granted the Commissioner of Insurance by Iowa Code Chapters 505, 522B and 507B:

- A. Respondent's Iowa resident insurance producer license is placed on probation from the date of this Order through May 31, 2018 and all documents Respondent submits

to insurance companies shall first be provided to and reviewed by Ann Bohnenkamp pursuant to Iowa Code § 522B.11;

- B. If, prior to the time that Respondent's probation has terminated, Ann Bohnenkamp is unable or unwilling to review all such documents, Respondent and Ann Bohnenkamp must notify the Division within seven days that such circumstance becomes known so that the Division may arrange different probationary terms for Respondent;
- C. Respondent, pursuant to Iowa Code § 522B.17, shall immediately cease and desist signing documents in other peoples' names and submitting them to insurance companies;
- D. Respondent, pursuant to Iowa Code § 522B.17, shall immediately cease and desist submitting misleading information to insurance companies; and
- E. Respondent shall remit, contemporaneous with this Order, a check payable to the Iowa Insurance Division in the amount of \$2,500.00, to be credited to the Enforcement Fund as reimbursement for the costs of investigation, to provide funds for insurance enforcement and education, pursuant to Iowa Code § 505.8.

SO ORDERED on the 11th day of September, 2017.



DOUGLAS M. OMMEN
Iowa Insurance Commissioner

NOTICE OF PENALTIES FOR WILLFUL VIOLATION OF THIS ORDER

YOU ARE 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, Stephen W. Matgen, 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 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 section 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: 9-6-17

Stephen W. Matgen
Stephen W. Matgen, Respondent

315 BECK AVE REMSEN IA 51050
Address of Signatory

Subscribed and sworn before me by Stephen W. Matgen on this 6th day of Sept., 2017.

Karen Bartolozzi
Notary Public for the State of Iowa



AGREEMENT TO SUPERVISE

I, Ann Bohnenkamp, have read and understood the order entered against Stephen W. Matgen. I hereby agree to review all documents Stephen W. Matgen intends to submit to any insurance company prior to their submission to the company from the date of the Consent Order until May 31, 2018. Additionally, I agree to notify the Iowa Insurance Division ("Division") if, prior to May 31, 2018, I am unable or unwilling to review such documents.

Furthermore, I understand that if I violate the terms of the Consent Order, I may be subject to administrative and civil penalties pursuant to Iowa Code § 522B.17(3). I understand that the Commissioner may petition the district court to hold a hearing to enforce the order as certified by the Commissioner. I understand that the district court may assess a civil penalty against me 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.

Dated: 9-6-2017

Ann Bohnenkamp
Ann Bohnenkamp

618 Celebrity Dr Remsen, IA 51050
Address of Signatory

Subscribed and sworn before me by Ann Bohnenkamp on this 6th day of Sept., 2017.

Karen Bartolozzi
Notary Public for the State of Iowa

