

BEFORE THE IOWA INSURANCE COMMISSIONER

IN THE MATTER OF)	
)	Division Case No. 100395
)	
APRIL ARIES ANDERSON,)	DEFAULT ORDER, FINDINGS OF
NPN 17338629,)	FACT, CONCLUSIONS OF LAW
DOB 04/28/XXXX,)	AND ORDER
)	
Respondent)	

The Commissioner has taken up for consideration the Division’s motion for default, filed by Ms. Tracy Swalwell as the attorney representing the Iowa Insurance Division (“Division”). A hearing on the Division’s motion for default was held on May 15, 2019. Evidence was received and the motion for default was sustained.

NOW THEREFORE, Douglas Ommen, Iowa Insurance Commissioner, being fully informed of the matter, issues the following findings of facts, conclusions of law, and orders:

I. PARTIES AND JURISDICTION

1. The Commissioner of Insurance, Douglas Ommen, directly and through his designees, administers and enforces Iowa Code Chapter 507B—Insurance Trade Practices and Iowa Code Chapter 522B—Licensing of Insurance Producers pursuant to Iowa Code § 505.8.
2. April A. Anderson (“Anderson”) is an individual with a last-reported mailing address of 1832 West 58th St., Davenport, IA 52806 but a last-known mailing address of 630 E. Central Park Ave., Davenport, IA 52803.
3. Anderson is and has been licensed in the state of Iowa as a resident insurance producer since August 6, 2014. She is licensed under National Producer Number 17338629.
4. Pursuant to Iowa Code § 505.28, Anderson has consented to the jurisdiction of the Commissioner of Insurance by committing acts governed by chapters 507B and 522B.

5. From on or about January 2015 to December 2016, Anderson has 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 505, 507B, 522B, and rules adopted pursuant to these chapters.

II. FINDINGS OF FACT

6. Anderson 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, Anderson designated the Commissioner as an agent for service of process.

7. The Division issued Anderson a license as an insurance producer on August 6, 2014 and assigned to her National Producer Number 17338629.

8. Anderson was appointed with Company A from July 10, 2015 until she was terminated on November 30, 2016.

9. Anderson’s own address was listed as the proposed insured’s address on the applications for Consumers A.B., D.P., P.P., and C.C. and on two applications for Consumer K.H.

Misrepresented Payor Information

10. On Company A’s applications for whole life insurance, there is a section for “Payor Information” which is to be completed by checking the box for “Proposed Insured,” “Owner,” or “Other.” If “Other” is selected, contact information and the relationship to the insured must be provided.

11. For thirteen policies, a bank account was listed on the policy application that did not belong to the proposed insured even though the “Proposed Insured” box was checked.

12. Anderson's own bank account was listed on the policy application for the following policies but Anderson was not identified as the payor:

- a. Policy number ending in 6297 for Consumer A.B.;
- b. Policy number ending in 9286 for Consumer K.H.; and
- c. Policy number ending in 3239 for Consumer K.H.

13. A business bank account for "Tony an Tony LLC" was listed on the policy application for the following policies but the business was not identified as the payor:

- a. Policy number ending in 1284 for Consumer C.RC.;
- b. Policy number ending in 0264 for Consumer C.C;
- c. Policy number ending in 3043 for Consumer K.F.;
- d. Policy number ending in 3905 for Consumer C.L.;
- e. Policy number ending in 5333 for Consumer J.N.;
- f. Policy number ending in 3802 for Consumer D.P.;
- g. Policy number ending in 5172 for Consumer P.P.;
- h. Policy number ending in 6000 for Consumer S.R.; and
- i. Policy number ending in 6008 for Consumer C.W.

14. Consumer A.B.'s bank account was listed on the policy application for policy number ending in 0888 for Consumer M.J., a seemingly unrelated individual to Consumer A.B., but Consumer A.B. was not identified as the payor.

15. Anderson received \$10,369.93 in commissions by submitting these thirteen applications, which included the application for Consumer M.J.

Consumer M.J.

16. On or about November 18, 2016, Anderson completed a policy application for a \$50,000 whole life insurance policy from Company A for Consumer M.J. which listed, in addition to the incorrect bank account information identified above, an incorrect address and incorrect phone number.

17. Consumer M.J. did not sign the policy application.

18. Anderson signed Consumer M.J.'s name to the application without Consumer M.J.'s knowledge or consent.

19. Anderson attested in the Agent's Report section of Consumer M.J.'s application that she "truly and accurately recorded on this application the information as supplied by the Owner and the proposed Insured."

20. On January 30, 2017, Consumer M.J. called the customer service department of Company A stating that the application contained an incorrect address, phone number, and bank account information and that she considered the application to be fraudulent.

Division's Investigation

21. The Division's investigator sent a letter requesting an interview with Anderson by email. Anderson called the investigator indicating a willingness to be interviewed but failed to schedule the interview.

22. The Division's investigator sent additional correspondence to Anderson by email, regular mail, and certified mail in order to schedule an interview. The Division's investigator also tried calling Anderson. Anderson did not respond and ultimately failed to discuss the complaint and investigation with the Division's investigator.

Respondent's Default

23. The Division filed a statement of charges against April A. Anderson (“Anderson”) on March 7, 2019 alleging violations of law and grounds for license discipline under Iowa Code Chapters 507B and 522B.

24. A notice of hearing was issued by the Commissioner on March 22, 2019.

25. In accordance with Iowa Administrative Code 191—3.5, the statement of charges and notice of hearing were sent via certified restricted mail to Anderson at the address the Division had on file, 1832 W 58th St., Davenport, IA 52806. The mailing was returned to the Division as “Unable to Forward.”

26. The Division subsequently sent the statement of charges, notice of hearing, and an order resetting prehearing via certified restricted mail to Anderson at 630 E Central Park Ave, Davenport, IA 52803, an address found through a public records search. The Division received confirmation from USPS that the statement of charges, notice of hearing, and order resetting prehearing were delivered on April 3, 2019 and Anderson signed for them. The USPS signed returned receipt is attached as Default Motion Exhibit A.

27. At the time of the default hearing, Anderson had not filed an answer to the statement of charges and thus failed to participate in a contested case proceeding as required by Iowa Administrative Code rule 191—3.5(3).

28. Anderson did not request, nor did the Division consent to, Anderson filing an answer beyond the 20 days of the service of the notice of hearing and statement of charges.

29. The Division filed a motion for default on April 29, 2019. The motion for default was sent via first class mail to Anderson’s last known mailing address of 630 E Central Park Ave., Davenport, IA 52803.

30. Anderson failed to respond to the Division’s motion for default within ten days as required by Iowa Administrative Code rule 191—3.15(2).

III. CONCLUSIONS OF LAW

31. A motion may be considered unresisted if no response is timely filed. 191 IAC 3.15(2). Anderson has not filed a timely written response to the Division’s motion for default order. The motion is unresisted.

32. 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). Anderson has not filed an answer to the statement of charges and has not timely filed a response to the Division’s motion for default.

33. Under Anderson’s consent to service of process and her acceptance of the statement of charges by restricted certified mail, Anderson was properly served as required by Iowa Administrative Code rule 191—3.5(1).

34. The Division’s motion for default should be granted.

COUNT ONE

Misrepresentation in Insurance Applications

35. 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.”

36. Anderson misrepresented identifying information in the application for Consumer M.J. when she provided an incorrect address and phone number.

37. Anderson misrepresented the payor on thirteen applications by indicating on the policy that the payor was the proposed insured.

38. Anderson received \$10,369.93 in commissions by submitting these fourteen applications, which included the application for Consumer M.J.

39. Anderson's acts and practices have been in violation of Iowa Code § 507B.3(n) subjecting Anderson to suspension or revocation of Anderson's insurance producer license, to the imposition of a civil penalty, an order requiring Anderson to cease and desist from engaging in such acts or practices, the imposition of costs of the investigation and prosecution of the matter, and any other corrective action the Commissioner deems necessary and appropriate pursuant to Iowa Code §§ 507B.7 and 505.8.

COUNT TWO
Forging Another's Name

40. Under Iowa Code § 522B.11(1)(j), a license may be subject to probation, suspension, or revocation and civil penalties may be levied, as provided in Iowa Code § 522B.17, for forging another's name to an application for insurance or to any document related to an insurance transaction.

41. Anderson affixed Consumer M.J.'s signature on the policy application without her knowledge or consent.

42. Anderson's acts and practices have been in violation of Iowa Code § 522B.11(1)(j) subjecting Anderson to probation, suspension, or revocation of Anderson's insurance producer license, the imposition of a civil penalty, an order requiring Anderson to cease and desist from engaging in such acts or practices, the imposition of costs of the investigation and prosecution of the matter, and any other corrective action the Commissioner deems necessary and appropriate pursuant to Iowa Code §§ 522B.11, 522B.17, and 505.8.

COUNT THREE
**Using Fraudulent or Dishonest Practices and
Demonstrating Incompetence or Untrustworthiness**

43. 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 Iowa Code § 522B.17, for using fraudulent, coercive, or dishonest practices or demonstrating incompetence or untrustworthiness.

44. Anderson attested in the Agent's Report section of Consumer M.J.'s application that she "truly and accurately recorded on this application the information as supplied by the Owner and the proposed Insured" despite providing incorrect information for Consumer M.J. on the application.

45. Anderson's own address was listed as the proposed insured's address on the applications for Consumers A.B., D.P., P.P., and C.C. and on two applications for Consumer K.H.

46. Anderson's acts and practices have been in violation of Iowa Code § 522B.11(1)(h) subjecting Anderson to probation, suspension, or revocation of Anderson's insurance producer license, the imposition of a civil penalty, an order requiring Anderson to cease and desist from engaging in such acts or practices, the imposition of costs of the investigation and prosecution of the matter, and any other corrective action the Commissioner deems necessary and appropriate pursuant to Iowa Code §§ 522B.11, 522B.17, and 505.8.

COUNT FOUR
Failure to Respond

47. Iowa Code § 522B.11(1)(p) states that an insurance producer's license may be placed on probation, suspended, or revoked or civil penalties may be levied as provided in Iowa Code § 522B.17 for failing to cooperate in an investigation.

48. The Division's investigator sent a letter requesting an interview with Anderson by email. Anderson called the investigator indicating a willingness to be interviewed but failed to schedule the interview.

49. The Division's investigator sent additional correspondence to Anderson by email, regular mail, and certified mail in order to schedule an interview. The Division's investigator also tried calling Anderson. Anderson did not respond and ultimately failed to discuss the complaint and investigation with the Division's investigator.

50. Anderson's acts and practices have been in violation of Iowa Code § 522B.11(1)(p) subjecting Anderson to revocation or suspension of Anderson's insurance producer license, the imposition of a civil penalty, and an order requiring Anderson to cease and desist from engaging or participating in the business of insurance pursuant to Iowa Code §§ 522B.11 and 522B.17.

VI. ORDERS

IT IS HEREBY ORDERED that April A. Anderson is in default pursuant to Iowa Administrative Code rule 191—3.22.

IT IS FURTHER ORDERED that April A. Anderson's Iowa resident insurance producer license shall be revoked effective on June 18, 2019 pursuant to Iowa Code §§ 522B.17 and 522B.11.

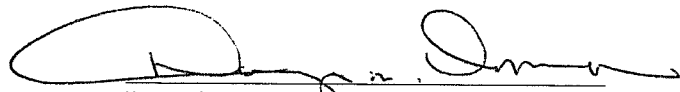
IT IS FURTHER ORDERED that April A. Anderson is prohibited from applying for an Iowa insurance producer license for five years from the date of this order.

IT IS FURTHER ORDERED that April A. Anderson shall, within forty-five (45) days of this Order, pay the amount of \$500.00 for costs of investigation and prosecution pursuant to Iowa Code § 505.8. Payment shall be made payable to the Iowa Insurance Division, to be

credited to the Iowa Enforcement Fund to provide funds for insurance enforcement and education.

IT IS FURTHER ORDERED that April A. Anderson shall cease and desist from engaging in any of the acts, methods, or practices determined as violations herein pursuant to Iowa Code §§ 522B.17 and 522B.11.

SO ORDERED on this 31st day of May, 2019.



Douglas Ommen
Iowa Insurance Commissioner

Copies of this order shall be sent by both certified and first class mail to:

April Anderson
630 E Central Park Ave.
Davenport, IA 52803

NOTICE OF FINAL ORDER

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.

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 REISSUANCE

When this Order becomes final, your insurance producer license will become inactive due to revocation. While your license is inactive, you are prohibited from conducting the business of insurance. Your license will not be active until the Division makes the determination to reissue your insurance producer license by order pursuant to Iowa Administrative Code 191—10.10.

Reissuance of your insurance producer license is subject to the discretion of the Commissioner. Additionally, it will not be granted unless and until you have complied with the terms of this Order, made the appropriate Application for Reissuance with the Division, and paid all applicable fees. If applicable, you may also be required to apply for licensure through the National Insurance Producer Registry (NIPR) and pay all applicable fees.

NOTICE OF FINAL ORDER IMPACT

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

A final order in an administrative action does not resolve any potential criminal or civil violations or causes of action that might arise from the same or similar conduct that is the subject of this order. It may result in criminal law enforcement authorities, including the fraud bureau of the Iowa Insurance Division, pursuing a criminal investigation or prosecution of potential criminal law violations.

