



BEFORE THE IOWA INSURANCE COMMISSIONER

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IN THE MATTER OF	)	Division Case No. 102164
	)	
DARRON W. DEAN,	)	<b>FINDINGS OF FACT,</b>
NPN 18865172,	)	<b>CONCLUSIONS OF LAW AND</b>
d/o/b: 10/04/xxxx	)	<b>ORDERS TO CEASE AND DESIST,</b>
	)	<b>AND OTHER RELIEF</b>
Respondent	)	
	)	

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**DECISION**

The Commissioner orders Darron W. Dean (“Dean”), national producer number (“NPN”) 18865172, to immediately cease and desist doing insurance business in the state of Iowa without first obtaining appropriate authorization from the Commissioner.

On July 16, 2019, the Iowa Insurance Division (“Division”) submitted a statement of charges against Dean for alleged violations of Iowa law pertaining to the business of insurance. We issued a notice of hearing on July 18, 2019. Dean failed to file an answer to any of the charges, and failed to appear at the prehearing conference.

The Commissioner presided over a hearing on September 26, 2019 at the offices of the Iowa Insurance Division, Two Ruan Center, 601 Locust St., 4<sup>th</sup> Floor, Des Moines, Iowa. The Iowa Insurance Division was represented by Vincent R. Ledlow of the Enforcement Bureau. When the hearing commenced at 9:00 a.m., Dean was not present. The Commissioner attempted to contact Dean by telephone, but Dean did not appear until 10:00 a.m. when he returned the Commissioner’s call and appeared by telephone. After the Division resumed its presentation of evidence, Dean advised the Commissioner he wished to be represented by counsel. Attorney Stephen Scott of Dubuque, Iowa then entered his appearance, also by telephone, on behalf of Dean at 10:30 a.m.

At the hearing, the following witnesses appeared on behalf of the Division and were examined: Jackie Russo, a licensing clerk specialist with the Product and Producer Regulation Bureau, Brad Billings, a consumer complaint analyst with the Market Regulation Bureau, and Darron Dean, the respondent. The Division offered documentary evidence. Dean did not call any witnesses.

NOW THEREFORE, after reviewing the pleadings submitted in the 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, Douglas Ommen, pursuant to Iowa Code § 505.8, directly and through his designees, administers and enforces Iowa Code chapters 507A—Iowa Unauthorized Insurers Act; 507B—Iowa Trade Practices; and 522B—Licensing of Insurance Producers.
2. Dean is an individual resident of the state of Iowa.
3. On June 15, 2017, Dean, as incorporator, filed articles of incorporation for First Priority Bail Bonds, Inc. with the Secretary of State of the state of Iowa.
4. On July 10, 2017, First Priority Bail Bonds, Inc. was licensed as a business entity insurance producer in the state of Iowa.
5. On or about July 23, 2018, Dean sat for the examination required to obtain an individual producer license that would allow him to sell surety bonds in the state of Iowa.

6. On August 1, 2018, Dean 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”).

7. In submitting the Uniform Application, Dean designated the Commissioner as an agent for service of process.

8. Question 1A of the Uniform Application included the following question: “Have you ever been convicted of a misdemeanor, had a judgment withheld or deferred, or are you currently charged with committing a misdemeanor?”

9. Question 1B of the Uniform Application included the following question: “Have you ever been convicted of a felony, had a judgment withheld or deferred, or are you currently charged with committing a felony?”

10. Question 1 of the Uniform Application included the following instruction:

Note: For questions 1a, 1b and 1c, “Convicted” includes, but is not limited to, having been found guilty by verdict of a judge or jury, having entered a plea of guilty or nolo contendere or no contest, or having been given probation, a suspended sentence, or a fine. If you answer yes to any of these questions, you must attach to this application: (a) a written statement explaining the circumstances of each incident, (b) a copy of the charging document, and (c) a copy of the official document, which demonstrates the resolution of the charges or any final judgment.

11. Dean answered “No” to Question 1A of the Uniform Application.

12. Dean answered “No” to Question 1B of the Uniform Application.

13. The Uniform Application represents that it was submitted by Dean, as the “producer,” and further bears the following attestation:

I hereby certify that, under penalty of perjury, all of the information submitted in this application and attachments is true and complete. I am aware that submitting false information or omitting pertinent or material information in connection with

this application is grounds for license revocation or denial of the license and may subject me to civil or criminal penalties.

14. As of August 1, 2018, Dean had been convicted of prior misdemeanors on at least 20 different occasions.

15. As of August 1, 2018, Dean had been convicted of prior felonies on at least 2 different occasions.

16. Dean did not provide to the Division as part of his Uniform Application written explanations, copies of the charging documents, nor copies of final judgments for any of his 22 prior criminal convictions.

17. We find that Dean's answer of "No" to Question 1A of the Uniform Application provided incorrect, misleading, incomplete, and materially untrue information because he had at least 20 prior misdemeanor convictions.

18. We find that Dean's answer of "No" to Question 1B of the Uniform Application provided incorrect, misleading, incomplete, and materially untrue information because he had at least 2 prior felony convictions.

19. We find that Dean reasonably should have known and did know that his incorrect, misleading, incomplete, and materially untrue answers of "No" to Question 1A and 1B of the Uniform Application would violate Iowa law.

20. Throughout all relevant times and from at least July 10, 2017, Dean through First Priority Bail Bonds, Inc. offered bonds underwritten by Bankers Insurance Company.

21. Throughout all relevant times and from at least July 10, 2017, Dean through First Priority Bail Bonds, Inc. was engaged in the business of providing bonds in forms and amounts acceptable to certain judicial and law enforcement officials to induce them to release from custody persons incarcerated in various places within the state of Iowa.

22. Bankers Insurance Company is an insurer licensed with the Division to engage in the business of insurance in the state of Iowa under a certificate of authority to issue surety bail bonds as described above.

23. Throughout all relevant times and from at least July 10, 2017, Dean answered telephone calls to First Priority Bail Bonds, Inc. In these telephone calls and in person, Dean routinely conferred with and offered advice to prospective and actual surety bond purchasers concerning the substantive benefits, terms and conditions of the surety bail bonds and received premium from surety bail bond purchasers. Dean described to purchasers and prospective purchasers the process for the bond, documentation that was required, collateral that might be required, fees and premium for the surety bail bonds, and the identity of and arranged location for the person who would meet with the purchaser to complete the bail bond transaction.

24. Dean solicited and negotiated surety bail bonds in the state of Iowa without an insurance producer license in the state of Iowa.

25. First Priority Bail Bonds, Inc. was administratively dissolved on August 8, 2018, by the Iowa Secretary of State.

26. Iowa District Court Judge Deborah Farmer Minot for Iowa's Sixth Judicial District, which includes Johnson County, Iowa, issued an order on August 24, 2018, directing the Johnson County jail to not to accept bonds from First Priority Bail Bonds, Inc. because it had outstanding debts with the Johnson County court system.

27. Ms. Sheniece Shannon called First Priority Bail Bonds, Inc. on September 10, 2018, and spoke to Dean about requesting a surety bail bond for a friend who had been incarcerated pending court appearance.

28. During the telephone call on September 10, 2018, Dean conferred directly with Ms. Shannon and offered her advice regarding the substantive benefits, terms, and conditions of the bond she sought to purchase.

29. During the telephone call on September 10, 2018, Dean attempted to sell the surety bail bond to Ms. Shannon and urged her to apply for that bond from Bankers Insurance Company.

30. During the telephone call on September 10, 2018, Ms. Shannon agreed to purchase the surety bail bond from Bankers Insurance Company on the terms and conditions she had been quoted based upon her conversation with Dean, and his advice and encouragement to purchase the surety bail bond from Bankers Insurance Company.

31. After Ms. Shannon agreed to purchase the bond, Dean directed her to go to the Johnson County, Iowa jail and to meet an individual named Morgan Hughes (“Hughes”) to complete the purchase of the bond.

32. Hughes is a resident of the state of Iowa and holds a resident insurance producer license issued by the Division.

33. When they met at the Johnson County jail, Ms. Shannon and Hughes completed two of the four forms required for the issuance of the bond. Dean arrived shortly thereafter, and he, Hughes and Ms. Shannon completed the remaining two forms necessary for issuance of the bond.

34. When the four necessary forms had been completed, Ms. Shannon gave Dean \$1,350.00 in cash as payment in full of the surety bail bond premium.

35. As compensation for her involvement in the transaction, Dean gave Hughes \$250.00 of the cash he had received.

36. Dean then left the Johnson County jail with the remaining money he had received.

37. By accepting the premium for the bond from Ms. Shannon, Dean exchanged a contract of insurance for money on behalf of Bankers Insurance Company.

38. After Dean had left the Johnson County jail, Ms. Shannon and Hughes took the completed bond forms to the proper jail personnel to secure the release of the incarcerated individual for whom the bond was purchased. At that time, Ms. Shannon and Hughes were informed about the district court's order, and the bond they presented was rejected and refused.

39. Dean was then informed that the bond was rejected and refused and was asked to return the bond premium to Ms. Shannon. As of the date of September 26, 2019, Dean had not returned the bond premium to Ms. Shannon.

40. Although First Priority Bail Bonds, Inc. had already been administratively dissolved by the Iowa Secretary of State, its business entity insurance producer license was terminated on October 19, 2018, by the Division because the individual insurance producer license of its designated licensed responsible producer, Michael Anthony, NPN 252493, had been suspended by the Commissioner on May 16, 2018.

41. Dean's individual insurance producer Uniform Application was denied by the Division on February 21, 2019.

42. Dean and First Priority Bail Bonds, Inc. continued to advertise on Facebook as recently as March 1, 2019.

43. As of June 26, 2019, Dean was the president, secretary, treasurer, only director and a shareholder of First Priority Bail Bonds, Inc. Tina Dean was vice president.

44. First Priority Bail Bonds, Inc. was reinstated as a corporation on June 26, 2019, by the Iowa Secretary of State, but remains unlicensed as a business entity insurance producer.

45. Ms. Shannon has complained about Dean improperly withholding \$1,350 in premium that she paid to him for a surety bail bond.

46. We find that Dean reasonably should have known that his doing insurance business without appropriate licensing and authorization from the Commissioner violated Iowa law.

47. We find that Dean reasonably should have known that his improper withholding of premium violated Iowa law.

48. We find that the Division's costs of investigation and prosecution are \$916.50.

## II. CONCLUSIONS OF LAW

49. Iowa law grants wide discretion to a licensing authority such as the insurance commissioner. The Iowa Supreme Court has described this authority as "extremely broad." *In the matter of Mark Diamond*, Division Case No. 969759, October 23, 2019, 2019 WL 5677529, page 35 (Iowa Ins.Div.); *Burns v. Board of Nursing of State of Iowa*, 528 N. W.2d 602, 604 (Iowa 1995). As the purpose of statutory licensing schemes is to protect the public health, safety and welfare of the people of Iowa, the licensing statutes should be liberally construed. *Diamond, Id.*; *In the matter of Michael Nulph*, Division Case No. 94689, November 7, 2017, 2017 WL 6504599 (Iowa Ins.Div.)

50. Iowa Code § 507A.5(1) provides that "[a] person or insurer shall not directly or indirectly perform any act of doing an insurance business as defined in this chapter [507A] except as provided by and in accordance with the specific authorization by statute."

51. Iowa Code § 507A.3(1) defines "insurer" to include:

[A]ll corporations, associations, partnerships and individuals engaged in the business of insurance. Any of the following acts in this state, effected by mail or otherwise, by an unauthorized insurer is defined to be doing an insurance business in this state:

- a. The making of or proposing to make, as an insurer, an insurance contract.
- b. The taking or receiving of any application for insurance.



- c.* The receiving or collection of any premiums, membership fees, assessments, dues or other considerations for any insurance.
- d.* The issuance or delivery of contracts of insurance to residents of this state or to corporations or persons authorized to do business in this state.
- e.* The doing of any kind of insurance business specifically recognized as constituting the doing of an insurance business within the meaning of the statutes relating to insurance.
- f.* The doing or proposing to do any insurance business in substance equivalent to any of the foregoing in a manner designed to evade the provisions of the insurance laws of this state.
- g.* Any other transactions of business relating directly to insurance in this state by an insurer.

52. Pursuant to Iowa Code §515.48(2), the issuance of fidelity bonds in criminal cases is a type of insurance authorized in the State of Iowa.

53. Iowa Code § 522B.2 provides that “[a] person shall not sell, solicit, or negotiate insurance in this state for any line of insurance unless the person is licensed as an insurance producer for that line of insurance as provided in this chapter.”

54. Iowa Code § 522B.2 provides:

1. An insurer or insurance producer who, after hearing, is found to have violated this chapter may be ordered to cease and desist from engaging in the conduct resulting in the violation and may be assessed a civil penalty pursuant to chapter 507B.
2. A person who, after hearing, is found to have violated this chapter by acting as an agent of an insurer or otherwise selling, soliciting, or negotiating insurance in this state, or offering to the public advice, counsel, or services with regard to insurance, who is not properly licensed may be ordered to cease and desist from engaging in the conduct resulting in the violation and may be assessed a civil penalty according to the provisions of chapter 507A.

55. Iowa Code § 507A.10 provides:

Upon a determination by the commissioner, after a hearing conducted pursuant to chapter 17A, that a person or insurer has violated a provision of this chapter, the commissioner shall reduce the findings of the hearing to writing and deliver a copy of the findings to the person or insurer, may issue an order requiring the person or insurer to cease and desist from engaging in the conduct resulting in the violation, and may assess a civil penalty of not more than fifty thousand dollars against the person or insurer.

56. The Division has been participating in NAIC uniform insurance producer application processes for at least 15 years. 2001 Acts, ch 16, § 19, 37 and Iowa Code § 522B.5. Iowa's Licensing of Insurance Producers Law is based upon the NAIC's Producer Licensing Model Act. 2000 Proceedings of the NAIC, 3<sup>rd</sup> Quarter 7, 11, 36-45, 386, 403. Iowa is a participating state in the National Insurance Producer Registry (“NIPR”) (See NIPR News Release, [http://www.nipr.com/news/10th\\_anniversary\\_marked.htm](http://www.nipr.com/news/10th_anniversary_marked.htm) September 9, 2006.) This uniform multistate licensing system is designed to be transparent among the various states.

57. The Division charges Dean with various unfair and deceptive acts and practices described in Iowa Code, Chapter 522B. These unfair and deceptive acts and practices are found in Iowa Code, Chapter 522B, but the described violations find their basis in Iowa Code, chapters 507A and 507B.

58. Iowa Code, Chapter 507B grants to the Commissioner very broad powers to regulate trade practices in the business of insurance with administrative hearing procedures, cease and desist orders, and related relief. Iowa Code § 507B.1.

59. Iowa Code § 507B.3 provides:

A person shall not engage in this state in any trade practice which is defined in this chapter as, or determined pursuant to section 507B.6 to be, an unfair method of competition, or **an unfair or deceptive act or practice** in the business of insurance.

(Emphasis added.) *In the Matter of Newman*, No. 91936, 2017 WL 6504574 (Iowa Ins. Div., Jan. 24, 2017).

60. Iowa Code § 507B.6 provides:

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 and that a proceeding by the commissioner in respect to such method of competition or unfair or deceptive act or practice would be in the public interest,

the commissioner shall issue and serve upon such person a statement of the charges in that respect and a notice of a hearing on such charges to be held at a time and place fixed in the notice, which shall not be less than ten days after the date of the service of such notice.

61. Iowa's Insurance Trade Practices law and its prohibitions of any "unfair method of competition or any unfair or deceptive act or practice" are the result of deliberations in Congress and at the National Association of Insurance Commissioners dating back to the origins of the McCarran-Ferguson Act. 15 U.S.C. §§ 1011-1015 (2015); Iowa Code § 507B.1; *Newman, Id.* Following the United States Supreme Court decision in *United States v. South-Eastern Underwriters Association*, 322 U.S. 533 (1944), the NAIC took up a discussion about the impact of federal regulation of insurance and proposals to reverse the effect of the Supreme Court's decision. *Mid Winter Meeting*, 1945 Nat'l Ass'n Ins. Comm'rs Proc. 26-28; *Newman, Id.* at 9. In 1945, Congress enacted McCarran-Ferguson, which includes the following:

**(a) State regulation**

The business of insurance, and every person engaged therein, shall be subject to the laws of the several States which relate to the regulation or taxation of such business.

**(b) Federal regulation**

No Act of Congress shall be construed to invalidate, impair, or supersede any law enacted by any State for the purpose of regulating the business of insurance, or which imposes a fee or tax upon such business, unless such Act specifically relates to the business of insurance: *Provided*, That after June 30, 1948, the Act of July 2, 1890, as amended, known as the Sherman Act, and the Act of October 15, 1914, as amended, known as the Clayton Act, and the Act of September 26, 1914, known as the Federal Trade Commission Act, as amended [15 U.S.C.A. 41 et seq.], shall be applicable to the business of insurance to the extent that such business is not regulated by State law.

15 U.S.C. § 1012 (2015) (emphasis added).

62. As emphasized above, one of the concerns addressed in McCarran-Ferguson was the Federal Trade Commission ("FTC") jurisdiction that could conflict with state regulation. *Mid Winter Meeting*, 1946 Nat'l Ass'n Ins. Comm'rs Proc. 132-134. The FTC jurisdiction over the

business of insurance under discussion in 1944 through 1947 included Section 5 of the Federal Trade Commission Act, originally passed in 1914, and the Federal Trade Commission Act Amendments of 1938 (Wheeler-Lea Act), Pub. L. No. 75-447, § 3, 52 Stat. 111, 111 (1938).

Section 5 of the FTC Act provides as follows:

Unfair methods of competition in or affecting commerce, and **unfair or deceptive acts or practices** in or affecting commerce, are hereby declared unlawful.

15 U.S.C. §45 (emphasis added).

63. After several years of discussion, the NAIC adopted the model state unfair trade act, first titled “An Act Relating to Unfair Methods of Competition and Unfair and Deceptive Acts and Practices in the Business of Insurance.” *Mid Winter Meeting*, 1947 Nat’l Ass’n Ins. Comm’rs Proc. 142-143, 383-389, 392-410, 413. All of the states adopted this law. *Summer Meeting*, 1960 Nat’l Ass’n Ins. Comm’rs Proc. Vol. II, 515. The NAIC model law was specifically drawn from the concepts in Section 5 of the FTC Act, so it carried with it the broad prohibitions of unfairness and deception jurisdiction, and enumerated some unfair and deceptive acts and practices. *Mid Winter Meeting*, 1947 Nat’l Ass’n Ins. Comm’rs Proc. 142-143, 383-389, 392-410, 413. The NAIC clarified and strengthened these broad prohibitions of unfair and deceptive acts and practices in 1972. *Unfair Trade Practices (B6) Subcommittee*, 1972 Nat’l Ass’n Ins. Comm’rs Proc. Vol. I, 490-518; *Executive Committee*, 1972 Nat’l Ass’n Ins. Comm’rs Proc. Vol. I, 22. The title of this model law was changed to “Unfair Trade Practices Act” in 1990. *Plenary Session*, 1990 Nat’l Ass’n Ins. Comm’rs Proc. Vol. IA, 6, 25, 122, 146. The text of Iowa Code §§ 507B.3 and 507B.6, in light of NAIC and Congressional history, makes clear the Iowa Legislature’s intent to prohibit enumerated unfair or deceptive acts or practices, but to also broadly prohibit unfair or deceptive acts or practices similar to the FTC Act prohibition. The primary difference with the FTC Act was the states’ intent to cover the business of insurance and

to vest the consumer protection and market regulation responsibility in Iowa's insurance commissioner. *Newman, Id.* at 9.

64. McCarran-Ferguson's policy to avoid regulatory conflicts does not mean that federal or state jurisprudence under the FTC Act or state consumer protection laws sharing similar principles of unfairness, as well as other states' insurance trade laws, cannot be instructive on the Commissioner's responsibility and authority to determine and prohibit unfair methods of competition, and unfair or deceptive acts and practices in the business of insurance. *Diamond, Id.* at 38.

65. We have concluded that the prohibition of unfair acts and practices in Iowa Code § 507B.3 includes acts and practices that offend public policy as established by law and are likely to cause substantial injury to insurance purchasers. *Diamond, Id.* at 38; *Newman, Id.* at 10. See also, *Federal Trade Commission v. Sperry and Hutchinson Co.*, 405 U.S. 233, 92 S.Ct. 898, 31 L.Ed.2d 170 (1972) (considering a similar federal standard of "unfairness").

66. Federal decisions under the FTC Act and state consumer protection laws sharing similar principles of deception also make clear the legislative intent to prohibit acts or practices that have the tendency or capacity to mislead insurers or prospective insurance purchasers. *Newman, Id.* at 9. (citing *Montgomery Ward & Co. v. FTC*, 379 F.2d 666 (7th Cir. 1967); Iowa Code § 714.16(1)(f) (2015); *State ex rel. Miller v. Vertrue, Inc.*, 834 N.W.2d 12 (Iowa 2013)). Therefore, we have concluded that the prohibition of deceptive acts and practices in Iowa Code § 507B.3 includes acts or practices that have the tendency or capacity to mislead insurers or prospective insurance purchasers. *Diamond, Id.* at 38; *Newman, Id.* at 9-10.

67. The broad regulatory authority in Iowa Code § 507B.3 is aided by the enumerated *per se* violations, including, but not limited to those enumerated in Iowa Code §§ 507B.4 and Chapter 522B. *Diamond, Id.* at 38; *Newman, Id.* at 10.

68. Iowa Code § 522B.11 provides to the Commissioner discretion to suspend, revoke, or refuse to issue an insurance producer license for enumerated causes:

1. The commissioner may place on probation, suspend, revoke, or refuse to issue or renew an insurance producer's license or may levy a civil penalty as provided in section 522B.17 for any one or more of the following causes:

*a.* Providing incorrect, misleading, incomplete, or materially untrue information in the license application.

*b.* Violating any insurance laws, or violating any regulation, subpoena, or order of the commissioner or of a commissioner of another state.

*c.* Obtaining or attempting to obtain a license through misrepresentation or fraud.

*d.* Improperly withholding, misappropriating, or converting any moneys or properties received in the course of doing insurance business.

*e.* Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.

\* \* \*

*h.* Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.

69. Not every disqualification cause under Iowa Code § 522B.11 would constitute an unfair or deceptive act or practice in violation of Iowa Code § 507B.3. However, we conclude that the acts or practices enumerated as disqualifying conduct in Iowa Code § 522B.11(*a*), (*b*), (*c*), (*d*), (*e*) and (*h*) violate public policy and are likely to cause substantial harm to consumers. These acts and practices also may involve deception. Our conclusion that this disqualifying conduct can be “violated” is supported by the statute’s express authority that the Commissioner “may levy a civil penalty as provided in section 522B.17.”

70. Federal violations of law may also violate public policy and constitute an unfair practice under Iowa Code §§ 507B.3 and 507B.6.

71. 18 U.S.C. § 1033 (e)(1)(A) provides:

Any individual who has been convicted of any criminal felony involving dishonesty or a breach of trust, or who has been convicted of an offense under this section, and who willfully engages in the business of insurance whose activities affect interstate commerce or participates in such business, shall be fined as provided in this title or imprisoned not more than 5 years, or both.

72. 18 U.S.C. § 2(a) provides “[w]hoever commits an offense against the United States or aids, abets, commands, induces or procures its commission, is punishable as a principal.”

73. We conclude that a violation of 18 U.S.C. § 1033 is an unfair practice under Iowa Code §§ 507B.3 and 507B.6.

74. Iowa Code § 507B.7 provides, in pertinent part:

1. An insurer or insurance producer who, after hearing, is found to have violated this chapter may be ordered to cease and desist from engaging in the conduct resulting in the violation and may be assessed a civil penalty pursuant to chapter 507B.

75. Iowa Code § 507B.7 provides, in pertinent part:

If, after hearing, the commissioner determines that a person has engaged in an unfair method of competition or an unfair or deceptive act or practice, the commissioner shall reduce the findings to writing and shall issue and cause to be served upon the person charged with the violation a copy of such findings, an order requiring such person to cease and desist from engaging in such method of competition, act, or practice, and the commissioner may at the commissioner’s discretion order any one or more of the following:

- a. Payment of a civil penalty of not more than one thousand dollars for each act or violation of this subtitle, but not to exceed an aggregate of ten thousand dollars, unless the person knew or reasonably should have known the person was in violation of this subtitle, in which case the penalty shall be not more than five thousand dollars for each act or violation, but not to exceed an aggregate penalty of fifty thousand dollars in any one six-month period. If the commissioner finds that a violation of this subtitle was directed, encouraged, condoned, ignored, or ratified by the employer of the person or by an insurer, the commissioner shall also assess a penalty to the employer or insurer.

76. Iowa Code § 505.8(10) provides:

The commissioner may, after a hearing conducted pursuant to chapter 17A, assess fines and penalties; assess costs of investigation, or proceeding; order restitution; or take other corrective action as the commissioner deems necessary and appropriate to accomplish compliance with the laws of the state relating to all insurance business transacted in the state.

### **COUNT I**

#### **Unfair Trade Practice – Incorrect, Misleading, Incomplete and Materially Untrue Information in a License Application**

77. We now take up the charge in Count I in the statement of charges.

78. As stated earlier in this decision, in addition to authorizing licensing sanctions for violating insurance laws or regulation or being found to have committed an unfair trade practice or fraud, Iowa Code § 522B.11(a) authorizes the Commissioner to suspend or revoke an insurance producer’s license for “[p]roviding incorrect, misleading, incomplete, or materially untrue information in the license application.”

79. From all of the evidence and findings, and without repeating the factual details here, we conclude that Dean provided incorrect, misleading, incomplete, or materially untrue information in his Uniform Application and that such conduct was an unfair and deceptive act and practice in violation of Iowa Code §§ 507B.3 and 507B.6 as Dean’s acts had the capacity to mislead the Division, and violated public policy under Iowa law and are likely to and did cause substantial harm to consumers.

### **COUNT II**

#### **Unfair Trade Practice – Attempting to Obtain an Insurance License through Misrepresentation or Fraud**

80. We now take up the charge in Count II in the statement of charges.

81. As stated earlier in this decision, in addition to authorizing licensing sanctions for violating insurance laws or regulation or being found to have committed an unfair trade practice



or fraud, Iowa Code § 522B.11(b) authorizes the Commissioner to suspend or revoke an insurance producer's license for "[o]btaining or attempting to obtain a license through misrepresentation or fraud."

82. From all of the evidence and findings, and without repeating the factual details here, we conclude that Dean attempted to obtain a license through misrepresentation or fraud when he concealed his 20 prior misdemeanor convictions and his 2 prior felony convictions and that such conduct is an unfair and deceptive act and practice in violation of Iowa Code §§ 507B.3 and 507B.6 as Dean's acts had the capacity to mislead the Division and violated public policy under Iowa law and are likely to and did cause substantial harm to consumers.

**COUNT III**  
**Unauthorized Business of Insurance – Soliciting and**  
**Negotiating Insurance without a Producer License**

83. We now take up the charge in Count III in the statement of charges.

84. From all of the evidence and findings, and without repeating the factual details here, we conclude that First Priority Bail Bonds, Inc. and Dean, directly and indirectly through First Priority Bail Bonds, Inc., performed acts of doing an insurance business without authorization from the Commissioner, including but not limited to receiving premiums, delivering surety bail bonds, and soliciting and negotiating surety bail bonds without an insurance producer license in violation of Iowa Code §§ 522B.2, 522B.17, 507A.5 and 507A.10.

**COUNT IV**  
**Unfair Trade Practice – Withholding, Misappropriating and**  
**Converting Moneys Received**

85. We now take up the charge in Count IV in the statement of charges.

86. As stated earlier in this decision, in addition to authorizing licensing sanctions for violating insurance laws or regulation or being found to have committed an unfair trade practice

or fraud, Iowa Code § 522B.11(d) authorizes the Commissioner to suspend or revoke an insurance producer's license for "[i]mproperly withholding, misappropriating, or converting any moneys or properties received in the course of doing insurance business."

87. From all of the evidence and findings, and without repeating the factual details here, we conclude that Dean has improperly withheld \$1,350 obtained from Shaneice Shannon during the course of doing insurance business and that such conduct is an unfair act and practice in violation of Iowa Code §§ 507B.3 and 507B.6 as Dean's acts violated public policy under Iowa law and caused substantial harm to a consumer.

**COUNT V**  
**Unfair Trade Practice – Use of Fraudulent, Coercive and Dishonest Practices, and Demonstrating Incompetence, Untrustworthiness or Financial Irresponsibility**

88. We now take up the charge in Count V in the statement of charges.

89. As stated earlier in this decision, in addition to authorizing licensing sanctions for violating insurance laws or regulation or being found to have committed an unfair trade practice or fraud, Iowa Code § 522B.11(h) authorizes the Commissioner to suspend or revoke an insurance producer's license for "[u]sing fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere."

90. "Statutes which regulate the insurance business are remedial in character, enacted under the state's police power upon the theory the business is impressed with a public interest and the public is entitled to protection against illegal practices. Such statutes are liberally construed in order to carry out the legislative purpose ... [*Citations omitted*]. The business of insurance is one peculiarly subject to supervision and control ... [*Citations omitted*]. Statutes intended for public

benefit are to be taken most favorably to the public.” *McCellan-Bey, Id.* at 5; (Citing *Bankers Life & Casualty Co. v. Alexander*, 242 Iowa 364, 373; 45 N.W.2d 258, 263 (Iowa 1950).

91. We have previously concluded that although “fraudulent **practice**” is not defined under Iowa Code § 522B. 11(1)(h), it is not limited to common law fraud or deceit. *In the matter of Trina M. Gomez*, No. 98904, 2019 WL 1971255, at 4. (Iowa Ins. Div., Jan. 16, 2019). We concluded in *Gomez* that “fraudulent **practices**” under Iowa Code § 522B. 11(1)(h) would include a broad class of conduct involving any method or degree of deception, fraud, false pretense, false promise, misrepresentation, false or misleading statements, and any concealment, suppression or omission of material fact with the intent to mislead. *Gomez*, at 4.

92. Trustworthiness in the context of an insurance producer license is the confidence worthy of a trust relied upon by the public when dealing with a licensed individual, who is acting under the imprimatur of a state of Iowa insurance professional license. *In the matter of Tommy McCellan-Bey*, No. 956516, 2018 WL 8220766, at 5 (Iowa Ins. Div., Oct. 12, 2018).

93. The word “dishonest” has plain and ordinary meaning. Yet, it can be defined as “characterized by lack of truth, honesty, or trustworthiness.” Dictionary by Merriam-Webster, <https://www.merriam-webster.com/>.

94. From all of the evidence and findings, and without repeating the factual details here, we conclude that Dean’s answers in the Uniform Application, his concealment of past criminal convictions, doing the business of insurance in the state of Iowa without licensure and appropriate authorization, and improper withholding of premium, all involve uses of fraudulent and dishonest practices and demonstrate incompetence, untrustworthiness, or financial irresponsibility, and that such conduct are unfair and deceptive acts and practices in violation of

Iowa Code §§ 507B.3 and 507B.6 as Dean's acts and practices violated public policy under Iowa law and are likely to cause substantial harm to consumers.

### **III. ORDERS**

**IT IS HEREBY ORDERED** that Dean pursuant to Iowa Code §§ 505.8(10), 507A.10, 507B.7 and 522B.17 is prohibited from selling, soliciting or negotiating any surety bail bond or other insurance in this state, and from advising, counseling or servicing any person in this state with respect to the benefits, advantages, or disadvantages of any annuity or other insurance in this state.

**IT IS FURTHER ORDERED** that First Priority Bail Bonds, Inc. pursuant to Iowa Code §§ 505.8(10), 507A.10, 507B.7 and 522B.17 is prohibited from acting with Dean to sell, solicit or negotiate any surety bail bond or other insurance in this state, and from advising, counseling or servicing any person in this state with respect to the benefits, advantages, or disadvantages of any annuity or other insurance in this state, unless:

1. Dean obtains written consent to engage or participate in the business of insurance under Iowa Code § 522B.16B or a determination from the Division after a review of Dean's prior criminal convictions that it does not apply; and
2. First Priority Bail Bonds, Inc. has obtained from the Division a business entity insurance producer license with an appropriately designated and licensed responsible individual insurance producer.

**IT IS FURTHER ORDERED** that Dean and First Priority Bail Bonds, Inc., pursuant to Iowa Code §§ 507B.3, 507B.6, 507B.7, 522B.11 and 522B.17, are prohibited from engaging in

any unfair or deceptive act or practice, including, but not limited to any of the following, uses, acts or practices:

1. Providing incorrect, misleading, incomplete or materially untrue information in any insurance license application that conceals Dean's prior criminal convictions;
2. Attempting to obtain an insurance license through any misrepresentation or fraud concerning Dean's prior criminal convictions; or
3. Withholding, misappropriating or converting any moneys received in the business of insurance, including any premium or claim payments.

**IT IS FURTHER ORDERED** that pursuant to Iowa Code §§ 507A.10, 507B.7 and 522B.17 Dean shall within 45 days of this order pay \$2,000.00 to the state of Iowa in civil penalties for the violations found herein, when Dean should have known that his acts and practices violated Iowa law. Payment shall be made by check payable to the state of Iowa and received by the Iowa Insurance Division within forty-five days of this Order.

**IT IS FURTHER ORDERED** that pursuant to Iowa Code § 505.8 Dean shall within 45 days of this order pay \$916.50 to the state of Iowa for costs of investigation and prosecution. This payment shall be paid with the payment of the civil penalty ordered above.

Dated this 5<sup>th</sup> day of November, 2019.



DOUGLAS M. OMMEN  
Iowa Insurance Commissioner

**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, without having first obtained appropriate authorization by licensure 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 any person who violates this order may be subject to administrative and civil penalties pursuant to Iowa Code §§ 507B.7 and 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 additional civil penalties for each violation, and may issue further orders as it deems appropriate.

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 5<sup>th</sup> day of November, 2019, the foregoing order was delivered via email to:

Stephen W. Scott  
100 W 12<sup>th</sup> St  
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[deantddean@gmail.com](mailto:deantddean@gmail.com)  
**Respondent**

  
\_\_\_\_\_  
Hilary Foster  
Iowa Insurance Division