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BEFORE THE IOWA INSURANCE COMMISSIONER

CERRO GORDO COUNTY

IN THE MATTER OF)	
)	
DARRELL DUANE SMITH)	ORDER OF SUMMARY
)	SUSPENSION and NOTICE OF
)	OPPORTUNITY FOR HEARING
National Producer License Number:)	
238067)	
)	Division Docket No.:
)	

Pursuant to Iowa Code sections 17A.18A and IAC 191-3.31, this matter comes before the Commissioner of Insurance upon an application by the Iowa Insurance Division for an Order of Summary Suspension of the insurance producer license of Darrell Duane Smith.

PARTIES AND JURISDICTION

1. The Commissioner of Insurance, Nick Gerhart, administers and enforces the Iowa Licensing of Insurance Producers Act, Chapter 522B, pursuant to Iowa Code § 505.8 (2013).
2. Darrell Duane Smith ("Smith") is an individual with a last known mailing address of 115 Oakview Dr., Forest City, IA 50436.
3. Smith has engaged in acts and practices constituting violations of Iowa Code chapter 522B and any rule or order adopted or issued pursuant to Iowa Code chapter 522B. The Commissioner of Insurance is authorized to issue this Order of Summary Suspension pursuant to Iowa Code sections 17A.18A, 522B.11 and IAC rule 191-3.31.

FACTUAL BACKGROUND

Reasonable evidence exists to demonstrate the following:

4. Smith is licensed as a resident insurance producer in the state of Iowa. Smith was formerly licensed as a securities agent until he was permitted to resign on March 9,

2012 after a client alleged that Smith signed a variable annuity application with the client's consent, in violation of the firm's policies.

5. On information and belief, Smith has described himself, as reported in a news article, as a loan representative and board member of a company called Energae LP of Clear Lake, Iowa. He has also described himself as a spokesperson for the limited partnership. Smith is also listed as a general partner of Black Lion Energy Fund, LP, a prior name used for Energae, LP, according to the Iowa Secretary of State's website.

6. In September 2011, Smith assisted L.L., an Iowa resident, in rolling funds out of a pension plan into a Jackson National Life Insurance annuity in the amount of \$23,000.

7. L.L. was aware of Smith's involvement with Energae LP. In August 2012, Smith had sent several emails to L.L. informing him that Energae LP qualified for tax credits. L.L. verbally promised in August to invest \$25,000, which Smith had stated would bring L.L. \$40,000 in tax credits going forward for 20 years. The money was to come from his funds at Jackson National Insurance Company ("Jackson National").

8. In mid-October 2012, L.L. discovered that \$50,000 was withdrawn from his Jackson National account in three separate draws, two in August and one in October. Two of the withdrawals occurred before L.L. had signed papers in his office on October 4, 2012 to authorize the transfer of funds from his account. L.L. contacted Jackson National and was told that the insurer had paperwork signed by him. L.L. believes that two of the three signatures were forgeries and that Smith was responsible for the forgeries.

9. When L.L. contacted Smith about the problem, he was told that the extra \$25,000 was a mistake. Over the next several months Smith made several promises to fix the

problem. On February 2013, Smith said the money would be put back on or before March 1, 2013 and included a tirade of anger and intimidation accusing L.L. of greed and selfishness. To date, Smith has not returned the \$25,000 taken from L.L. for an alleged investment in Energae L.P.

10. A.L., an Iowa resident, invested in a Met Life Insurance Co. IRA contract by investing \$387,483 between September 2008 and October 2008.

11. On September 21, 2009, Smith solicited A.L. to withdraw \$40,000 to invest in Energae LP. A.L. signed paperwork for this withdrawal. Subsequently, on November 9, 2009, \$10,000 more was sent to Energae LP although A.L. does not know how this happened as she had only discussed the \$40,000 investment with Smith.

12. Smith then solicited A.L. to close the IRA contract at Met Life which Smith then rolled to a Prudential Variable Annuity contract. The reason given for the change by Smith on the Replacement Notice was "poor service." A.L. did not receive any poor service. A.L. did receive \$25,773 in bonus money from Prudential. However, this did not replace the \$27,859 surrender charge from Met Life. A.L. believes that Smith made the change to earn two commissions with a 16 month period.

13. On June 22, 2010, A.L. received an advisement from Prudential that the firm had received her request to submit a \$25,000 rollover to an entity called CGU-INT Investors, an entity is related to or the same as Energae LP. A.L. called Smith about why this rollover was being made and he made her feel helpless and embarrassed for asking. Smith told her not to worry because he was making A.L. so much money in other investments that she would be okay.

14. Smith proceeded to make the following unauthorized withdrawals and was alleged to have forged A.L.'s signature.

10/26/10 \$20,000 to Interested Investors Trust / I-Lenders

05/20/11 \$25,000 to Interested Investors Trust / I-Lenders

10/18/11 \$20,000 to Interested Investors Trust / I-Lenders

12/30/11 \$25,000 to Interested Investors Trust / I-Lenders

A.L does not have information on what Interested Investors Trust / I-Lenders does, its financial condition or operations of the firm. To her knowledge, there is no value to this investment. These funds have not been returned to A.L.

15. On April 3, 2013, representatives of the Division had a telephone call with a representative of Met Life. The Division and Met Life discussed an unauthorized transaction made by Smith for an Alaska resident, B.B based on a complaint made by B.B. to Met Life. To date, Met Life stated that there have been approximately \$1.2 million dollars in disbursements made to entities controlled or affiliated with Smith. Bank records show at least some monies deposited from Met Life into an account(s) believed to be controlled by Smith. Met Life provided the Division with documentation that Met Life has to date on the matter.

16. On information and belief, Jackson National estimates that \$700,000 has been disbursed to entities controlled by Smith.

17. The Division's investigation into Smith's activities related to his clients is on-going.

VIOLATIONS OF LAW

18. The Division realleges and incorporates by reference paragraph 1-6 above as if fully set forth herein.

19. Iowa Code § 522B.11(1)(d) states that the commissioner may suspend or revoke an insurance producer's license for improperly withholding, misappropriating, or converting any moneys or properties received in the course of doing insurance business.

20. Iowa Code § 522B.11(1)(h) states that the commissioner may suspend or revoke an insurance producer's license for using fraudulent, coercive or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.

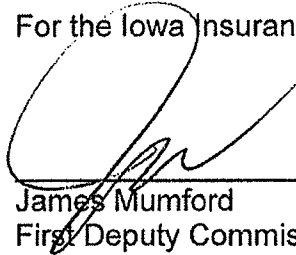
21. Iowa Code § 522B.11(1)(j) states the commissioner may suspend or revoke an insurance producer's license for forging another's name to an application for insurance or to any document related to an insurance transaction.

THE PUBLIC SAFETY AND WELFARE REQUIRE EMERGENCY ACTION, since it is likely that Smith will continue to access, convert, misappropriate or withhold customer and insurance company funds, demonstrate untrustworthiness and financial irresponsibility in the conduct of business in the State of Iowa and forge client signatures to documents related to an insurance transaction. The commissioner has authority to order the summary suspension of the insurance producer license of an individual under Iowa Code sections 17A.18A and 522B.11 (2013) and Iowa Administrative Code 191-3.31.

THEREFORE, IT IS ORDERED THAT:

1. The Iowa non-resident insurance producer license of Smith is suspended immediately;
2. Smith shall immediately cease and desist from participating in the business of insurance in Iowa;
3. The failure of Smith to request a hearing within 30 days of the date of this Order of Summarily Suspension shall be deemed to be a waiver of the right to a hearing and result in the entry of an Order of Revocation of Insurance Producer Registration.

For the Iowa Insurance Division,



James Mumford
First Deputy Commissioner of Insurance

April 4, 2013
Date

NOTICE OF RIGHT TO REQUEST HEARING

NOTICE IS HEREBY GIVEN that Smith or any individual representing Smith may request a hearing in this matter. This request must be in writing and must be filed within thirty (30) calendar days of the date of this Order with Robert Koppin, Enforcement Bureau Chief, Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa 50319. A notice of the hearing shall be prepared and shall be given at least fifteen (15) days before the date of the hearing unless the parties agree to an earlier date. The hearing shall be held within forty-five (45) days after the date of the notice of the hearing unless extended by the presiding officer for good cause

with at least fifteen days notice to the parties. The resulting hearing will be held in accordance with Iowa Code Chapter 17A (2013).

NOTICE REGARDING FAILURE TO REQUEST A HEARING

If you fail to request a hearing within thirty (30) days of the date of this Order of Summary Suspension, the Order shall be a final Order of the Commissioner of Insurance and shall be enforceable by the Commissioner of Insurance in an administrative or court proceeding.

NOTICE REGARDING EXHAUSTION OF ADMINISTRATIVE REMEDIES AND RIGHT TO SEEK JUDICIAL REVIEW

The failure to request a hearing can constitute a failure to exhaust your administrative remedies and limit the issues subject to judicial review. You may seek judicial review of this Order pursuant to Iowa Code chapter 17A after the Order becomes final. The Order becomes final thirty (30) days after it is issued if you do not timely request a contested case hearing, or following hearing if you do timely request a contested case hearing.

NOTICE OF PENALTIES FOR WILLFUL VIOLATION OF THIS ORDER

YOU ARE NOTIFIED that any person who willfully violates this order shall be deemed in contempt of the order pursuant to Iowa Code section 522B.17. 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 per violation and may issue further orders as it deems appropriate.

SENT BY RESTRICTED CERTIFIED MAIL TO:

Darrell D. Smith
115 Oakview Dr.
Forest City, Iowa 50436

Darrell D. Smith
9 Plaza Dr., Suite 6
Clear Lake, Iowa 50428