



## II. FINDINGS OF FACT

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. The Division issued Respondent a license as an insurance producer on March 20, 2001, and assigned to him National Producer Number 6902678.

8. Respondent is employed by A & J Petersburg Agency (“A&J”) of Decorah, Iowa. Respondent writes business for crop, personal, property and casualty insurance.

9. On January 29, 2020 Respondent called the Division to self-report that over the past seven years he has been misappropriating insurance funds meant for A&J.

10. On February 6, 2020, the Division interviewed Respondent at his office in Garnavillo, Iowa.

11. During the interview Respondent admitted that over the period of the past seven years he stole approximately \$225,000 of premium payment meant for A&J and appropriated them for his own personal use.

12. Respondent admitted he received an annual salary of around \$77,000 plus new business commissions and profit sharing bonus payments in addition to the money stolen from A&J.

13. Respondent explained that he took client premium payments meant for A&J and deposited them into his own personal bank account. This scheme was primarily accomplished by taking cash from clients or having clients write their premium checks directly to Respondent.

14. In order to conceal his thefts, Respondent falsified the accounts receivable balance sheets he submitted to A&J, and created fictitious invoices for clients so that they would not be aware

of his actions, and changed client billing cycles within the A&J system to reflect quarterly instead of annual premium payments. Billing cycles were changed without clients' authorization.

### **III. CONCLUSIONS OF LAW**

#### **COUNT ONE**

#### **Using Fraudulent, Coercive, Dishonest Practices, Demonstrating Incompetence or Untrustworthiness**

15. 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 in the conduct of business.

16. Respondent engaged in fraudulent and dishonest practices and demonstrated untrustworthiness when he took cash and check premium payments from insureds and deposited the money into his own bank account.

17. Respondent engaged in these fraudulent and dishonest practices through the repeated use of deception toward his clients and his employer.

18. Respondent engaged in fraudulent and dishonest practices when he stole approximately \$225,000.00 from A&J over a seven year time period.

19. Respondent engaged in fraudulent and dishonest practices when he falsified accounts receivable balance sheets he submitted to A&J.

20. Respondent engaged in fraudulent and dishonest practices when he created fictitious invoices for clients.

21. Respondent engaged in fraudulent and dishonest practices when he changed clients billing cycles without their authorization or knowledge.

22. Respondent's dishonest and fraudulent behavior took advantage of the trust placed in him by his employer and his clients. Respondent used his professional position as an insurance producer to accomplish his acts of theft. Respondent knew his actions were harmful, yet he continued to commit acts of deceit over a sustained period of time. Respondent demonstrated complete disregard for the consequences of his actions. Respondent used his professional licensure to commit fraud in order to enrich himself and harm others.

23. Respondent's acts and practices have been in violation of Iowa Code § 522B.11(1)(h) subjecting Respondent to suspension or revocation of Respondent's insurance producer license, to the imposition of a civil penalty, an order requiring Respondent to cease and desist from engaging in such acts or practices, the imposition of costs of the investigation and the 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.

#### **IV. ORDER**

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

A. Respondent's Iowa resident insurance producer license is immediately and permanently revoked and Respondent is permanently prohibited from engaging in the business of insurance in this state pursuant to Iowa Code §§ 522B.11 and 522B.17;


B. Respondent, pursuant to Iowa Code §§ 507B.7 and 522B.17, shall immediately cease and desist from engaging in the business of insurance in this state;

C. Respondent shall, contemporaneously with this Consent Order, pay the amount of \$4,670.90 for costs of investigation and proceeding 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.

D. These orders may be enforced under Iowa Code chapters 507B and 522B, including but not limited to Iowa Code §§ 507B.8 and 522B.17(3).

SO ORDERED on the 6th day of May, 2020.



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DOUGLAS M. OMMEN  
Iowa Insurance Commissioner

Respectfully submitted,

/s/ Adam J. Kenworthy

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Copy to:  
**RESPONDENT**



### **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 OF FINAL ORDER IMPACT**

A final order of license 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 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.

### **CONSENT TO ORDER AND AGREEMENT**

I, Tracy L. Werges, 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 this Order is considered a final administrative action that will be

pursuant to Iowa Code § 505.8(8)(d). I also understand 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: 04/01/2020

Tracy L. Werges  
Tracy L. Werges, Respondent

408 East Centre Street, PO Box 183, Garnaville IA 52049  
Address of Signatory

Subscribed and sworn before me by Tracy L. Werges on this 1 day of April, 2020.

Sandra K Williams  
Notary Public for the State of Iowa

