



BEFORE THE IOWA INSURANCE COMMISSIONER

IN THE MATTER OF)	
)	Division Case No. 104962
)	
DOUGLAS R. POTTER,)	ORDER AND
NPN: 8019180)	CONSENT TO ORDER
DOB: 11/17/XXXX)	
)	
)	
)	
Respondent.)	

NOW THEREFORE, upon motion of the Iowa Insurance Division (“Division”) and by the consent of Respondent Douglas R. Potter, and pursuant to the provisions of Iowa Code chapter 522B—Licensing of Insurance Producers, the Commissioner enters the following Order and Consent to Order (“Consent Order”):

I. PARTIES AND JURISDICTION

1. The Commissioner of Insurance, Douglas M. Ommen, directly and through his designees, administers and enforces Iowa Code chapter 522B—Licensing of Insurance Producers, and Iowa Administrative Code chapter 15—Unfair Trade Practices pursuant to Iowa Code § 505.8.
2. Douglas R. Potter (hereinafter “Respondent”) is an individual with a last-known residence and business address of 2741 University Ave., Dubuque, Iowa 52001.
3. Respondent is and has been licensed in the state of Iowa as a resident insurance producer since March 12, 2004. He is licensed under National Producer Number 8019180.
4. Pursuant to Iowa Code § 505.28, Respondent has consented to the jurisdiction of the Commissioner of Insurance by committing acts governed by Iowa Code chapters 507B and 522B.

5. On or about May 18, 2018 to present, Respondent 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; restitution; 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. 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 a resident insurance producer on March 12, 2004 and assigned to him National Producer Number 8019180.
8. Respondent is owner and operator of Liberty Bail Bonds & Process Serving, an Iowa limited liability corporation with a mailing address of P.O. Box 902, Dubuque, Iowa 52004.
9. Respondent was appointed as a producer for American Contractors Indemnity Company, Continental Heritage Insurance Company, and Crum & Forster Indemnity Comp

Proof of Service Documents Filed in Small Claims Action

10. On or about June 15, 2018, Respondent sold a surety bond to clients Ms. L and Ms. B in the amount of \$2,000 in order to post bond for the defendant, Mr. M.
11. On August 31, 2018 a public bench warrant was issued for Mr. M for failure to appear and an Order was entered forfeiting bail.
12. Further, on August 31, 2018 Notice of Order for Bond Forfeiture and Show Cause hearing was set by the Court, directing the bond holders to appear within ten days or the previously posted bond would be forfeited.

13. On September 6, 2018, Respondent filed Notice and Petition for Money Judgment against bond holders in small claims court.
14. On September 17, 2018, Respondent filed two affidavits and proof of service documents in the small claims case, purporting to show that bond holders Ms. L and Ms. B were personally served for the show-cause hearing by Respondent's agent Mr. F. The filed documents indicate that each bond holder was personally served on September 12, 2018. The documents were purportedly signed by Mr. F and were notarized.
15. The form used for the proof of service documents is a preprinted form with Respondent's name on it. This form was created by Respondent to be used as a template for service of process by Respondent.
16. On October 11, 2018, a district associate judge entered an order in the small claims case stating:
 - a. This court, after reviewing the file in this matter, concludes that this court has jurisdiction in this matter and over the Defendant(s), and that Defendant(s) is (are) in default.

In order to determine the amount of relief to which the Plaintiff(s) is (are) entitled, Plaintiff(s) must file with the clerk of court proof of the claim(s) including specifically all of the items listed below. All filings with the clerk of court must have this case number noted. This is the only request for proof the court will make. **If proof, including the items requested, is not submitted, or if no further filings are made to the court, this case will be automatically dismissed without further prejudice 30 days from the date of this order.**

Please note: If a court date is set below, you must appear at court with the requested information at the date and time set below. The following items must be provided: Return of service. Itemized statement of dollar amounts requested along with supporting documents. Other:

Plaintiff is a party to this action and may not serve original notice. Please see Iowa Rule of Civil Procedure 1.302(4): "Original notices may be served by any person who is neither a party nor the attorney for a party to the action. A party or party's agent or attorney may take an

acknowledgment of service and deliver a copy of the original notice in connection therewith and may mail a copy of the original notice when mailing is required or permitted under any rule or statute." Plaintiff did not take an acknowledgement or mail original notice.

17. On October 11, 2018, Respondent filed proof of claim with the court.

18. On October 15, 2018, the court entered an Order Regarding Proof of Service and Proof for Default. The court stated:

- a. The Court previously entered an Order in this matter requesting proof for purposes of entering a default judgment. Plaintiff has filed his contract with the Defendants as evidence of his claim.

The Court file also contains a Proof of Service signed by [Mr. F] as an employee of Plaintiff. As noted in the Court's previous Order, service may not be made by the Plaintiff or Plaintiff's attorney unless the Defendant signs an acceptance of service, which has not occurred here. Further, it is noted that there is no proof of service on file, defective or otherwise, for Defendant [redacted]. The Proof of Service on defendant [redacted] is insufficient for the reasons set forth in the Court's previous order.

IT IS THEREFORE ORDERED the Plaintiff must file proper proof of service before judgment can be entered. At that time, if the file otherwise qualifies for entry of default, the Court will determine whether there is sufficient evidence in the court file to support entry of judgment.

19. On January 16, 2019, the Court dismissed Respondent's claim with costs taxed to Respondent.

Division Investigation

20. An investigator with the Division spoke with Mr. F on February 13, 2019.

21. During his interview with the Division, Mr. F stated that unless the case in question was a criminal case he likely did not serve the paperwork for Respondent. Mr. F stated he was not sure how his signature ended up on the documents in question.

22. On March 27, 2019, Respondent submitted to a recorded interview with the Division.

23. In the phone interview, Respondent confirmed a bail bond was posted for Mr. M by Ms. L and Ms. B. Respondent stated he filed for a summary judgment when Mr. M failed to appear, but the summary judgment was no longer needed as Mr. M was apprehended.
24. When asked about the service of process documents filed in the bond forfeiture action, Respondent refused to answer any further questions. When asked if he was refusing to cooperate with the ongoing investigation of the Division, Respondent confirmed he was refusing to cooperate.
25. On August 14, 2019, administrative subpoenas were issued to Respondent and Mr. F requesting documents related to the investigation.
26. On August 26, 2019, Mr. F sent the Division a letter requesting to be released from the subpoena. This document was hand signed with an inked signature by Mr. F.
27. Further, on October 9, 2019, the Division investigator was able to obtain further documentation with the confirmed signature of Mr. F.
28. On September 5, 2019, the Division interviewed Respondent. Respondent indicated he and Mr. F were good friends and that Mr. F used to serve process for him. Respondent stated Mr. F had served the process to Ms. L and Ms. B, but that the judge had rejected the service because it was not complete with a return of service. Respondent stated this was the reason the judge rejected the service and that if Respondent wanted to move forward with the case then he needed to get a return of service signed and filed. Respondent indicated it is too difficult to get a return of service signed so he declined to pursue the case and the case was dismissed.
29. Respondent stated that the address that he has on file with the Division is one of the many rental properties he owns. The address on file with the Division is different from the address

- listed on the proof of service documents. Respondent indicated he did not make updates to his address with the Division and that everything is handled by his insurance company.
30. At the time of the second interview Respondent wrote out his signature ten times to use for comparative purposes. The interview was then concluded.
31. On October 16, 2019, Mr. F submitted to a phone interview with the Division. Mr. F stated he has known Respondent for approximately sixteen-years and has previously served process for Respondent.
32. Mr. F stated he has only served papers for Respondent a handful of times, and does not recall ever having any contact with Ms. L or Ms. B. When asked if he would have signed the service of process for these matters, Mr. F could not recall.
33. Copies of the proof of service documents were emailed to Mr. F to verify the signature. Mr. F replied that the signature on the documents was not his.
34. Respondent has stated to the Division that he intends to retire from the insurance business at the end of December 2020.
35. Respondent is currently working to transition his business to another agent.

III. CONCLUSIONS OF LAW

COUNT ONE

Using Fraudulent or Dishonest practices, or Demonstrating Incompetence, or Untrustworthiness in the Conduct of Insurance Business

36. Pursuant to Iowa Code § 522B.11(1)(h), the commissioner may place on probation, suspend, revoke, or refuse to issue or renew an insurance producer's license for using fraudulent, or dishonest practices, or demonstrating incompetence, or untrustworthiness in the conduct of insurance business.

37. Respondent demonstrated dishonesty by filing proof of service documents with the court knowing they had not been served on the named parties. Further, Respondent submitted these proof of service documents to the court knowing they were not actually signed by Mr. F.
38. Respondent's acts and practices have been in violation of Iowa Code § 522B.11(1)(h) subjecting Respondent to probation, suspension, or revocation of his 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 this 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.

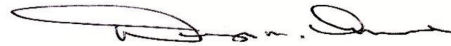
IV. ORDER

WEREFORE, IT IS ORDERED pursuant to the powers granted to the Commissioner of Insurance by Iowa Code chapter 522B:

- A. Respondent's resident insurance producer license shall be placed on probation from the date of this Order through December 28, 2020. Respondent shall provide copies of all surety bonds written by Respondent or delivered or handled by Respondent in his work for any other insurance producer to the Enforcement Bureau of the Division on a monthly basis and or upon request made by the Division.
- B. On December 29, 2020, Respondent's Iowa resident insurance producer license shall be permanently revoked pursuant to Iowa Code §§ 522B.11 and 522B.17;
- C. On December 29, 2020, Respondent, pursuant to Iowa Code §§ 507B.7 and 522B shall immediately cease and desist from engaging in the business of insurance in the state of Iowa.

- D. Respondent shall, within 14 days of this Consent 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.
- E. These orders may be enforced under Iowa Code chapters 502, 507B, and 522B including but not limited to Iowa Code §§ 507B.8 and 522B.17(3), and additionally, by any collection remedies available to the State of Iowa Department of Revenue for unpaid penalties and other ordered monetary amount.

SO ORDERED on the 29th day of July, 2020.



DOUGLAS M. OMMEN
Iowa Insurance Commissioner

Respectfully submitted,

/s/ Adam J. Kenworthy
Adam J. Kenworthy
Compliance Attorney
Two Ruan Center
601 Locust St., 4th Floor Des Moines, IA 50309
Adam.kenworthy@iid.iowa.gov
(515) 281-8160
Attorney for Iowa Insurance Division

Email Copy to:
Respondent

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause, or their attorney, at their respective addresses disclosed on the pleadings on July 29, 2020.

By: First Class Mail Personal Service
 Restricted certified mail, return receipt Email, by consent
 Certified mail, return receipt _____

Signature: /s/ Hilary Foster
Hilary Foster

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, Douglas R. Potter, 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 reported by the Division to the National Association of Insurance Commissioners and to other regulatory agencies. I also understand this Order is a public record under Iowa Code chapter 22 and information may be shared with other regulatory authorities or governmental agencies, 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:

7/9/2020

Douglas R Potter

Douglas R) Potter, Respondent

PO Box 902, Dubuque, Iowa 52001

Address of Signatory

Subscribed and sworn before me by Douglas R. Potter on this 9 day of July, 2020.



Scott J. Nelson

Notary Public for the State of Iowa