



BEFORE THE IOWA INSURANCE COMMISSIONER

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IN THE MATTER OF	)	
	)	Division Case No. 107097
ANDREW R. DOUGHERTY,	)	
CRD 6348064,	)	<b>ORDER AND</b>
NPN 17280491,	)	<b>CONSENT TO ORDER</b>
DOB 08/01/XXXX	)	
	)	
Respondent.	)	

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NOW THEREFORE, the Iowa Insurance Division (“Division”) and by consent of Respondent Andrew R. Dougherty, pursuant to the provisions of Iowa Code chapter 502—the Iowa Uniform Securities Act, Iowa Code chapter 522B—Licensing of Insurance Producers, and Iowa Administrative Code chapter 191—50 Regulation of Securities Offerings and Those Who Engage in the Securities Business, and states and alleges the following:

**I. PARTIES AND JURISDICTION**

1. The Commissioner of Insurance, Douglas Ommen, directly and through his designees, administers and enforces Iowa Code chapter 502—the Iowa Uniform Securities Act pursuant to Iowa Code § 502.601 as the Securities Administrator (“Administrator”) and Iowa Code chapter 522B—Licensing of Insurance Producers pursuant to Iowa Code § 505.8.
2. Andrew R. Dougherty (“Dougherty”) is an individual with a last-known address of 575 NE Dellwood Drive, Waukee, Iowa 50265.
3. Dougherty is and has been licensed in the state of Iowa as a resident insurance producer since May 30, 2014. He is licensed under National Producer Number 17280491.
4. Dougherty was previously registered in the state of Iowa as a securities agent employed by Northwestern Mutual Investment Services, LLC (“NMIS”) in West Des Moines, Iowa until December 9, 2019, when his agent contract was terminated.

5. From on or about May 30, 2014 to present, Dougherty has engaged in acts and practices within the state of Iowa constituting cause for probation, suspension, or revocation of his insurance producer license; denial, barring, revocation, suspension, withdrawal, restriction, condition, or limitation of his securities agent registration; cease and desist orders; and civil penalties or other relief under Iowa Code chapters 502, 522B, and rules adopted pursuant to these chapters.

## II. FINDINGS OF FACT

6. Dougherty applied for a resident insurance producer license with the Division by submitting the Iowa Uniform Application for Individual License (“Uniform Application”). In submitting the Uniform Application, Dougherty designated the Commissioner as an agent for service of process.

7. The Division issued Dougherty a license as an insurance producer on May 30, 2014, and assigned him National Producer Number 17280491.

8. Question 1A of Dougherty’s Uniform Application asked “Have you *ever* been convicted of a *misdemeanor*, had a judgment withheld or deferred, or are you currently charged with committing a misdemeanor?” Dougherty responded “No.”

9. However, on August 19, 2008, Dougherty had previously been convicted of three simple misdemeanors in Woodbury County, Iowa, for harassment in the third degree, and was sentenced to twenty-days in the county jail, probation, community service, and a fine.

10. On May 27, 2014, the Division contacted Dougherty regarding this factual disparity in his Uniform Application.

11. On June, 3, 2014, Dougherty provided the Division a written statement stating, “I am writing this letter in regards to my past in which I regretfully obtained 3 simple misdemeanor

counts of harassment. When I was 18 years old and a senior in high school, I foolishly sent an inappropriate text message to a fellow classmate of mine.” He also stated, “I am sorry that I inadvertently selected “no” as an answer to my criminal history. I was under the impression that it was asking only about felonies, I hope you can understand.”

12. On January 6, 2020, the Division’s Product and Producer Regulation Bureau (“PAPR”) received notice from NMIS that it had terminated Dougherty for cause. Dougherty admitted to “placing a client’s initials on a financial document without the client’s knowledge, and subsequently asking the client to help him fabricate an email to conceal the forgery.”

13. On February 28, 2020, PAPR sent a letter to Dougherty giving him an opportunity to respond to the substance of his for-cause termination.

14. On March 6, 2020, Dougherty provided a written statement to PAPR. Dougherty noted he represented a married couple and recommended that they sell shares of one fund and place the money into another fund. The couple agreed to this recommendation, and signed the required NMIS forms to execute the recommended transactions. Dougherty further stated:

About 1 week after that I received another email from the home office [NMIS] stating that I needed to get the form initialed by the client because an additional box was checked on the form the client had already signed. . . I was told that the additional box that was checked was non-material to the form but needed to be initialed by the client. At this point the trade had been in place for roughly 5 weeks. At that time I [Dougherty] initialed the form and submitted it. I did this for any other reason than because of how incompetent I looked having to come back to them for a 3<sup>rd</sup> time. . . I informed the client the next day that I had initialed the form and sent the initialed form to him so he could see it and he was fine. I asked him to resend me the form after going through it so it appeared that he initialed it and said he was happy do so. . . I know what I did was wrong and that I should not have done it regardless of how I thought it would look having to go back to the client again to get an initial. It was a lapse of judgment and I take full responsibility for it. It was something that I had never done prior and will never do again and I am very sorry. . . I am currently in the process of getting appointed with a new broker Voya. Being a financial adviser is everything I want in a career and cannot imagine doing anything different. I am truly sorry for what I did, it was a very dumb mistake and a tough learning lesson and one that I will never repeat again.

15. Dougherty's statement to PAPR made no reference that NMIS also terminated him for subsequently asking the client to help him fabricate an email to conceal his forgery.

16. On March 9, 2020, PAPR issued Dougherty a warning letter, providing in pertinent part:

Actions such as placing a client's initials on a financial documents without their knowledge or consent violates the law and erodes the trust between a producer and his client. This letter is sent to admonish you for your actions and to advise you that any such conduct in the future will result in administrative action against your producer license.

17. On June 1, 2020, Voya Financial Advisers, Inc. ("VOYA") filed a Form U4 Uniform Application for Securities Industry Registration or Transfer on behalf of Dougherty.

18. On June 12, 2020, the Division's Securities and Regulated Industries Bureau ("SRIB"), sent a letter asking for a statement from Dougherty regarding his employment separation at NMIS.

19. On June 15, 2020, Dougherty provided a written statement to SRIB. This written statement was materially different than the written statement Dougherty provided PAPR on March 6, 2020, regarding the same event that led to his for-cause termination from NMIS.

20. Dougherty's June 15, 2020 statement similarly summarized his representation of a married couple and the relevant transaction. However, Dougherty denied committing forgery and stated that he had no idea why NMIS referred to him asking the client to fabricate an email:

I called the client to inform him that he had to initial the form and send it back. The client let me know that he was unable to get a printer/scanner for completion and requested that I initial the form for him. He was able to pull up the form on his phone and review it. I walked him through where he was to initial and that the capital gains realized he had been added, like we discussed in the original documentation provided upon earlier analysis.

With his authorization, I initialed and submitted the form. Later that evening, the client's wife called me asking for my manager's number. She stated that she felt

that she was not in the know on the account and she did not give authorization for me to initial the form. . . The next day, she called my managing director and filed a complaint stating that I initialed a form without her consent. I have no idea where any reference to “asking the client to fabricate an email...” came from as I have had no contact with the client since the time I provided his wife with the contact information she requested. . . I hope this helps in your inquiry and we can continue to move forward with this application.

21. SRIB further investigated Dougherty, to include a recorded interview of him and an interview of the client, and found his quoted representations in paragraph twenty to be materially false.

22. On August 11, 2020, the Nebraska Department of Insurance filed a Consent Order revoking Dougherty’s non-resident insurance producer’s license in which Dougherty admitted that:

On or about December 5, 2019, Respondent’s supervisors met with the Respondent and Respondent admitted to signing one [Consumer Client]’s initials to a required Switch Analysis & Disclosure form. Respondent further admitted that he solicited [Consumer Client]’s help in creating an email to cover the fraudulent nature of his actions. [Consumer Client] sent Respondent an email, after which Respondent forwarded said email to a personal address, edited the date of [Consumer Client]’s response to show an earlier date than was actually sent, and subsequently forwarded the edited email to his supervisor.

23. On September 15, 2020, PAPR notified Dougherty that he failed to notify the Division of the Nebraska Consent Order within 30 days, as required by Iowa Code § 522B.16 and insurance regulations/Iowa Administrative Code § 191 – 10.13, and that he owed the Division a \$100.00 late fee.

24. Dougherty responded that he “was unaware that I had to report that I *surrendered* my Nebraska license to the state of Iowa, if I would have known I would have notified you, I am sorry for that.”

25. On December 9, 2020, the Division received Dougherty’s \$100.00 late payment fee.

### III. CONCLUSIONS OF LAW

#### COUNT ONE

##### **Engaging in Dishonest or Unethical Practices in the Securities Business**

26. Under Iowa Code §§ 502.412(3) and 502.412(4)(m) the Administrator may deny the application for registration; may limit the registration; may revoke, suspend, bar, condition, or limit the registration of a registrant; and may impose civil penalties if a person has “engaged in dishonest or unethical practices in the securities, commodities, investment, franchise, banking, finance, or insurance business within the previous ten years.”

27. On or about December 5, 2019, Dougherty was a registered agent employed by NMIS in West Des Moines, Iowa.

28. On or about December 5, 2019, Dougherty admitted to his NMIS supervisors that he signed a client’s initials on a form without the client’s consent and thereafter he solicited the client to create an email to cover the fraudulent nature of his actions.

29. Dougherty’s actions were dishonest and unethical in the securities business violating Iowa Code § 502.412(4)(m).

30. Dougherty’s acts and practices have been in violation of Iowa Code § 502.412(4)(m) subjecting to Dougherty to denial, barring, revocation, suspension, withdrawal, restriction, condition, or limitation of his securities agent and investment adviser registration, the imposition of a civil penalty, the imposition of costs of investigation, and an order requiring Dougherty to cease and desist from engaging in such acts or practices pursuant to Iowa Code § 502.604.

**COUNT TWO**

**Providing a Materially False or Misleading Statement in Conjunction with an Application for Securities Registration**

31. Under Iowa Code § 502.412(4)(a) the Administrator may deny the application for registration; may limit the registration; may revoke, suspend, bar, condition, or limit the registration of a registrant; and may impose civil penalties if a person has filed an application for registration in this state and was “incomplete in any material respect or contained a statement that, in light of the circumstances under which it was made, was false or misleading with respect to a material fact.

32. On June 1, 2020, Voya submitted an application for registration on behalf of Dougherty to SRIB.

33. SRIB requested that Voya provide additional information due to Dougherty’s for-cause termination from NMIS.

34. On June 15, 2020, Dougherty provided a written statement to SRIB in conjunction with his application which contained statements that were materially false and misleading.

35. Dougherty’s acts and practices have been in violation of Iowa Code § 502.412(4)(a) subjecting to Dougherty to denial, barring, revocation, suspension, withdrawal, restriction, condition, or limitation of his securities agent and investment adviser registration, the imposition of a civil penalty, the imposition of costs of investigation, and an order requiring Dougherty to cease and desist from engaging in such acts or practices pursuant to Iowa Code § 502.604.

**COUNT THREE**  
**Using Fraudulent, Coercive, or Dishonest Practices or  
Demonstrating Incompetence or Untrustworthiness**

36. Under Iowa Code § 522B.11(1)(h), a producer is prohibited from using fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere.

37. On Dougherty's initial insurance producer application he replied "no" to the question asking if he had been convicted of a misdemeanor, even though he had, in fact, been convicted of three misdemeanors on August 19, 2008.

38. Dougherty signed a client's initials on documents without the client's consent.

39. Dougherty asked a client to help create an email to cover up his forging of the client's initials.

40. Dougherty failed to notify the Division he had his Nebraska non-resident producer license revoked as required by law.

41. Dougherty provided a materially different statement to SRIB than he did to PAPR regarding his for-cause termination from NMIS.

42. Dougherty provided materially false statements to SRIB to obtain registration as a securities agent.

43. Dougherty has provided multiple untrustworthy or incomplete statements to the Division and lacks the requisite candor that is required of a licensed insurance producer.

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



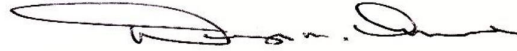
costs of the investigation and prosecution of the matter, and any other corrective action the Commissioner deems necessary and appropriate pursuant to Iowa Code §§ 522B.11, 522B.17, and 505.8.

#### **IV. ORDER**

**WHEREFORE, IT IS ORDERED** pursuant to the powers granted to the Commissioner by Iowa Code chapters 502 and 522B:

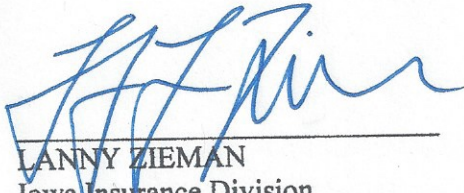
- A. Dougherty is barred from applying for registration in this state as an investment adviser, investment adviser representative or as a securities agent, unless Dougherty petitions the Commissioner for a modification of this order pursuant to Iowa Code §§ 502.412 and 502.604;
- B. Dougherty's Iowa resident insurance producer license is revoked and Dougherty shall immediately cease and desist engaging in the business of insurance in this state pursuant to Iowa Code §§ 522B.11 and 522B.17; and
- C. Dougherty shall, contemporaneously with this Order, pay a civil penalty in the amount of \$1,000.00 pursuant to Iowa Code § 502.604.
- D. Dougherty shall, contemporaneously with this Order, pay the amount of \$250.00 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 505, 522B, 502, including but not limited to Iowa Code § 507.8 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 amounts.

SO ORDERED on the 9th day of March, 2021.



DOUGLAS M. OMMEN  
Iowa Insurance Commissioner

Respectfully submitted,



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Attorney for the Iowa Insurance Division

Copy to:  
Andrew Dougherty  
575 NE Dellwood  
Waukee, Iowa 50265

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 March 9, 2021.

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.

**YOU ARE NOTIFIED** that any person who violates this order may be subject to administrative and civil penalties pursuant to Iowa Code § 502.604. 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 for each violation, and may issue further orders as it deems appropriate.

**NOTICE REGARDING REISSUANCE**

Upon entry of this Order, 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 rule 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 contested case/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, Andrew R Dougherty, 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.

2-15-2021  
Date

  
Andrew R Dougherty, Respondent

575 NE Dellwood Dr. Waukee, IA 50263  
Address of Signatory

Subscribed and sworn before me by Deanna Josephine Bahr on this 15<sup>th</sup> day of February, 2021.

Deanna Josephine Bahr  
Witness Printed Name

Deanna Josephine Bahr  
Witness Signature

2/15/21  
Date

