

BEFORE THE IOWA INSURANCE COMMISSIONER

IN THE MATTER OF)	
)	Division Case No. 110257
)	
EVAN T. BRUCE,)	ORDER OF CIVIL PENALTIES
)	
)	
)	
Respondent.)	

NOW THEREFORE, the Commissioner convened an Order to Show Cause hearing on November 2, 2021. The Division appeared by Compliance Attorney Lanny Zieman. The Respondent, Evan T. Bruce (“Bruce”) did not appear.

Following the hearing, and after being served with a copy of the Division’s proposed order of civil penalties, Bruce sent an email on November 18, 2021, requesting “some additional time to seek legal counsel.” While Bruce’s email was not actually a motion, the Commissioner delayed ruling on the Division’s motion for civil penalties until today, to provide ample opportunity for Bruce to obtain counsel and to provide any further request. To date, we have received no further communication from Bruce.

After being fully advised in the premises, the Commissioner issues the following findings of fact, conclusions of law and orders:

PROCEDURAL BACKGROUND

1. The Division’s statement of charges was filed in this case on July 2, 2021 and the notice of hearing was issued on July 7, 2021. Bruce was personally served with the statement of charges and notice of hearing on July 11, 2021.
2. A final Order and Consent to Order was entered on September 15, 2021, revoking Bruce’s non-resident public adjuster license, prohibiting Bruce from engaging in the business of

public adjusting in this state, and ordering the payment of investigative costs in the amount of \$500 payable in two installments with the final payment being due on October 15, 2021 (“September 15 Order”).

3. On October 6, 2021, the Division filed a motion for a show cause hearing alleging that Bruce acted for or aided an insured in negotiating or effecting the settlement of a first-party claim or loss to real or personal property in violation of the September 15 Order.

4. The Division’s motion for a show cause hearing was personally served on Bruce on October 6, 2021.

5. The order sustaining the Division’s motion to show cause was issued by the Commissioner on October 7, 2021 and Bruce received notification of the order by first class mail and by email.

6. Bruce filed an answer on October 13, 2021.

FINDINGS OF FACT

7. On September 22, 2021, Bruce left a voicemail for a Midwest Family Mutual claims adjuster regarding Tully Industrial in Davenport, Iowa stating, “. . .trying to resolve some of these issues we are running into and ahh trying to get the policyholder indemnified for their loss if you would please call me back at your earliest convenience. . .”

8. On September 22, 2021, Bruce emailed a different claims adjuster with Midwest Family Mutual regarding a claim for Tully Industrial in Davenport, Iowa, “[s]ent this over a month ago. There is, to put it simply, not enough money to do the work. Do you have an updated scope? They, again, are eager to perform the repairs. All are outlined in my estimate. Please send me updated scope so insured can fix the property Evan (XXX)XXX-1716.”

9. Bruce had entered a public adjuster contract with Tully Industrial for compensation or a thing of value on November 11, 2020.

10. We find that Bruce twice engaged in the business of public adjusting in violation of the September 15 Order.

11. As of the date of the show cause hearing on November 2, 2021 Bruce had not remitted the second \$250 installment payment for investigative costs.

12. Bruce willfully violated the September 15 Order by non-payment for 17 days. Each day constitutes a separate act and violation of the monetary order in the September 15 Order.

CONCLUSIONS OF LAW

13. The relief available to the Commissioner for failures to obey to his orders issued pursuant to Iowa Code § 507B.7 is found specifically in Iowa Code § 507B.7(4), which provides

Any person who violates a cease and desist order of the commissioner, and while such order is in effect, may, after notice and hearing and upon order of the commissioner, be subject at the discretion of the commissioner to any one or more of the following:

- a. A monetary penalty of not more than ten thousand dollars for each and every act or violation. A penalty collected under this lettered paragraph shall be deposited as provided in section 505.7.
- b. Suspension or revocation of such person's license.

14. We conclude that the maximum civil penalties authorized under Iowa Code § 507B.7 for Bruce's violations of this action are \$190,000.

15. We find that Bruce's engaging in the business of public adjusting after his license was revoked, failure to pay the total investigative costs ordered, and failure to appear at the show cause hearing are willful disobedience of an order of the Commissioner.

16. This is a final decision pursuant to Iowa Code § 17A.15(1) and Iowa Administrative Code rule 191—3.26(1).

FINAL ORDERS

THEREFORE, after consideration of the Division's motion, the pleadings, the evidence and the law, and upon the Commissioner findings that Bruce willfully violated the September 15 Order:

IT IS HEREBY ORDERED that Evan Bruce shall immediately cease and desist from engaging in the business of public adjusting in this state. Bruce shall not do any of the following:

- (1) Act for or aid an insured in negotiating for or effect the settlement of a first-party claim for loss or damage to real or personal property of the insured;
- (2) Advertise for employment as a public adjuster of first-party insurance claims or otherwise solicit business or represent to the public that the person is a public adjuster of first-party insurance claims for loss or damage to real or personal property of an insured; or
- (3) Directly or indirectly solicit business investigating or adjusting losses, or advising an insured about first-party claims for loss or damage to real or personal property of the insured.

IT IS FURTHER ORDERED Evan Bruce shall, within 30 days of this Order, pay the amount of \$5,000 in civil penalties pursuant to Iowa Code § 507B.7. Payment shall be made payable to the Iowa Insurance Division, to be credited to commerce revolving fund pursuant to Iowa Code § 505.7.

IT IS FURTHER ORDERED that 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), 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 6th day of January, 2022.



DOUGLAS M. OMMEN
Iowa Insurance Commissioner

Copy to:

Evan T. Bruce
731 10th Avenue Court
Hampton, IL 61256
Evan.adjuster@gmail.com
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 January 6, 2022.

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

Signature: /s/ Hilary Foster

NOTICE OF PENALTIES FOR WILLFUL VIOLATION OF THIS ORDER

YOU ARE NOTIFIED that acting as public adjuster, as defined in Iowa Code chapter 522C, in violation of this Order, is a serious misdemeanor under Iowa Code § 522C.6., subjecting you to 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 522C.6. 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 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.