

FILED

APR 18 2024

COMMISSION OF INSURANCE
INSURANCE DIVISION OF IOWA

BEFORE THE IOWA INSURANCE COMMISSIONER

IN THE MATTER OF

DANIELLA DAUGHERTY,
NPN 20211504
DOB 1/2/XXXX

Respondent.

Division Case No. 116051

FINAL ORDER

NOW THEREFORE, the Commissioner takes up for consideration the attached Proposed Default Decision of Administrative Law Judge Amber DeSmet, of the Iowa Department of Inspections and Appeals shown as filed on April 11, 2024.

IT IS ORDERED that the Commissioner has reviewed the record and adopts Judge DeSmet's default order as my own final decision.

IT IS FURTHER ORDERED that Daniella Daugherty has 30-days from the date of this order to pay civil penalties and costs.

IT IS FURTHER ORDERED that these orders may be enforced under Iowa Code chapter 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.

Dated this 18th day of April, 2024.



DOUGLAS M. OMMEN
Iowa Insurance Commissioner

Copy to:

Joseph A. Fraioli
Iowa Insurance Division
1963 Bell Avenue, Suite 100
Des Moines, IA 50315
joseph.fraioli@iid.iowa.gov
ATTORNEY FOR THE DIVISION

Daniella Daugherty
11827 E. Cornell Cir.
Aurora, CO 80014
daughertydaniella@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 April 19, 2024.

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

Signature: Brooke Hohn
Brooke Hohn

IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
CENTRAL PANEL BUREAU

In the Matter of:)

Daniella Daugherty,)
NPN 20211504)

Case No. 24IID0007
IID Case No. 116051

Respondent.)
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PROPOSED DEFAULT DECISION

On December 19, 2023, the Iowa Insurance Division (Division) filed a Statement of Charges and Notice of Hearing against Daniella Daugherty, a licensed nonresident insurance producer. (Statement of Charges). The matter was scheduled for both a prehearing conference and an evidentiary hearing. The matter was transferred to the Department of Inspections, Appeals, and Licensing.

On February 5, 2024, the Division filed Motion for Default Judgment, stating Daugherty failed to file an answer as required Iowa Administrative Code rule 191—3.5(3). The Division seeks a default order that revokes Daugherty’s insurance producer license and assesses various other penalties. Daugherty failed to file a timely resistance.

After filing the motion for default, the Division requested an uncontested continuance due to settlement discussions. The prehearing conference and evidentiary hearing were continued. The matter was scheduled for a status conference held on April 8, 2024. At the status conference, Joseph Fraioli, Brooke Hohn, and Johanna Nagel were present on behalf of the Division. Daugherty failed to appear. The Division renewed its request for a default judgment.

FINDINGS OF FACT

A. Division’s Statement of Charges

The following unchallenged allegations made in the Statement of Charges are taken as true for purposes of this decision. On December 19, 2023, the Division filed a Statement of Charges alleging three counts against Daugherty. (Statement of Charges at 5–7). More specifically, the Division alleged as follows:

- Count One alleges that Daugherty used fraudulent, coercive, or dishonest practices or demonstrated incompetence or untrustworthiness in violation of Iowa Code sections 522B.11(1)(h) and 522B.17 when she filed a fraudulent claim under her renter’s policy. (Statement of Charges at 5–6).

- Count Two alleges that Daugherty’s Iowa nonresident insurance producer license is subject to probation, suspension, or revocation and civil penalties pursuant to Iowa Code section 522B.17 for having her insurance producer license suspended and then revoked in Nebraska. (Statement of Charges at 6).
- Count Three alleges that Daugherty failed to inform the Commissioner of a change of address within thirty days of the change in violation of Iowa Code section 522B.6(7) and Iowa Administrative Code rule 191—10.12(2). (Statement of Charges at 7).

In the statement of charges, the Division then requested a sanction on Daugherty’s producer license (including revocation), a cease and desist order, a civil penalty, and payment of investigation and prosecution costs. (Statement of Charges at 8).

In support of the three counts and requested relief, the Division alleged the following relevant factual allegations in its Statement of Charges:

2. Daniella Daugherty (“Daugherty”) is an individual with a last-known residence address of 11827 E. Cornell Cir., Aurora, Colorado 80014.

3. Daugherty was licensed in the state of Iowa as a nonresident insurance producer from February 8, 2022, to June 16, 2023, when the Division terminated Daugherty’s Iowa license for failing to maintain a resident license in her home state. Daugherty was licensed under National Producer Number 20211504.

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7. Daugherty applied for a nonresident insurance producer license with the Division by submitting a Uniform Application for Individual Producer License (“Uniform Application”) through the National Insurance Producer Registry. In submitting the Uniform Application, Daugherty designated the Commissioner as an agent for service of process.

8. The Division issued Daugherty a license as a nonresident insurance producer on February 8, 2022, and assigned to Daugherty National Producer Number 20211504.

9. On November 8, 2021, Daugherty was hired by USAA Casualty Insurance Company (“USAA”) as an Insurance Professional – Sales & Service III.

10. During Daugherty’s employment, she was also insured under a USAA renter’s insurance policy.

11. On July 25, 2022, Daugherty filed a claim under her USAA policy asserting that a power outage at her home on July 22, 2022, resulted in a loss of \$400 in spoiled food as well as a loss of \$1,424.31 resulting from damage to a Vizio 70” television and PlayStation 5 console. Less the \$250 deductible, Daugherty sought a total payout of \$1,574.31. Daugherty stated that the power outage began around 6:00—7:00 p.m. on July 22, 2022, and ended early in the morning on July 23, 2022.

12. USAA reviewed the claim and contacted the electric company that provides power to Daugherty's home to confirm an outage on July 22, 2022. The electric company informed USAA that there was a confirmed power outage in the early morning of July 23, 2022, at that location, which lasted approximately three minutes.

13. USAA subsequently interviewed Daugherty about the claim. Daugherty maintained her assertion of an outage of several hours from July 22—23, 2022, and the resulting damage to her food and electronics.

14. On September 6, 2022, USAA denied Daugherty's claim on the grounds that Daugherty "concealed or misrepresented material facts, made false statements or engaged in fraudulent conduct during the presentation of the claim."

15. On September 8, 2022, USAA staff interviewed Daugherty about the claim. Daugherty maintained her account of events and indicated she was unaware that the claim had been denied. Following the interview, Daugherty was placed on administrative leave. On September 19, 2022, USAA terminated Daugherty's employment for cause due to filing a fraudulent insurance claim under her renter's insurance policy. (Statement of Charges at 2-3).

The Statement of Charges includes the out-of-state regulatory actions undertaken by other states.

16. On January 23, 2023, Daugherty's Colorado resident insurance producer license went to inactive status. Daugherty did not subsequently obtain a resident license in another jurisdiction. On June 16, 2023, the Division terminated Daugherty's Iowa nonresident insurance producer license for failing to maintain a resident insurance producer license pursuant to Iowa Code § 522B.7 and Iowa Administrative Code rule 191—10.12.

17. On May 15, 2023, the Nebraska Department of Insurance ("NE DOI") entered a final order finding that Daugherty violated Nebraska law by failing to respond to the NE DOI's investigation of Daugherty's termination for cause from USAA. The NE DOI assessed Daugherty a \$500 civil penalty and suspended Daugherty's license until the penalty is paid.

18. On May 30, 2023, the Ohio Department of Insurance ("OH DOI") accepted the surrender of Daugherty's insurance producer license for cause on the grounds that Daugherty failed to maintain a home state insurance license.

19. On August 16, 2023, the New Mexico Department of Insurance ("NM DOI") entered a final order finding that Daugherty violated New Mexico law by failing to timely provide notice of a change of address. The NM DOI revoked Daugherty's insurance producer license. (Statement of Charges at 3-4).

The Statement of Charges concludes with allegations that Daugherty failed to respond to the Division's communication attempts.

20. On October 7, 2022, a Division investigator sent a Request for Information ("RFI") to Daugherty by email to two email addresses believed to belong to Daugherty found through

an online search of public records . . . The RFI directed Daugherty to respond to the investigator by October 17, 2022. The Division received no indication that the emails failed to be delivered. To date, Daugherty has not responded to the emails.

21. On October 25, 2022, the investigator mailed a second RFI to the residence and mailing address provided by Daugherty and noted in her licensing record . . . by FedEx delivery. The RFI directed Daugherty to respond to the investigator by October 31, 2022. On October 25, 2022, FedEx could not complete the delivery, citing “customer not available or business closed.” The Division received the return mailing on November 18, 2022.

22. On November 1, 2022, the investigator called three phone numbers believed to belong to Daugherty found through an online search of public records. Two of the numbers . . . were no longer in service. The third number . . . was unanswered. The investigator left a voicemail requesting a return phone call. To date, Daugherty has not responded to the phone call.

23. On November 1, 2022, the investigator also mailed a third RFI to a second address believed to belong to Daugherty found through online search of public records . . . by FedEx delivery. The RFI directed Daugherty to respond to the investigator by November 11, 2022. On November 4, 2022, FedEx could not complete the delivery, citing “incorrect address – recipient moved,” and returned the mailing to the Division. (Statement of Charges 4–5).

B. Respondent’s Default

On December 19, 2023, the Statement of Charges and Notice of Hearing was served via certified mail to Daugherty’s address of record with the Division. The mailing was returned to the Division as “unclaimed – unable to forward.” (Motion, Exhibit 2). On January 8, 2024, the Division sent the Statement of Charges and Notice of Hearing by first class mail to the address of record. This mailing was not returned to the Division. (Motion at 2). Daugherty failed to file an answer within 20 days. (Motion at 2).

On February 5, 2024, the Division filed a Motion for Default, arguing that Daugherty was in default due to her failure to file an answer. The Division requested a finding in its favor on the three counts listed in the Statement of Charges. (Motion at 3). More specifically, the Division requested the revocation of Daugherty’s insurance producer license, a cease and desist order, and a civil penalty in the amount of \$1,400, and investigation and prosecution costs in the amount of \$1,236.25. (Motion at 4–5).

Daugherty failed to respond to the Department’s motion. Prior to the prehearing conference, Daugherty did contact the Division. The Division and Daugherty engaged in settlement discussions. The prehearing conference and evidentiary hearing were continued to give the parties time for such discussions. Daugherty indicated a desire to settle, but has not returned a signed copy of the agreement despite multiple communications from the Division. As of the date of the settlement conference, Daugherty has not responded to the Statement of Charges or signed a settlement agreement. Daugherty did not appear at the status conference scheduled for April 8, 2024.

CONCLUSIONS OF LAW

The Iowa legislature created the Division “to regulate and supervise the conducting of the business of insurance in the state.”¹ One aspect of this authority is to regulate the licensing of insurance producers.² Another aspect of this authority is to monitor and respond to unfair, deceptive, or anti-competitive trade practices in the “business of insurance.”³ Pursuant to this statutory authority, the Division promulgated various administrative rules governing the licensing and conduct of those in the insurance business. For example, Chapter 10 of the Division’s rules creates the specific rules governing the “qualification, licensure and appointment of insurance producers.”⁴ Likewise, Chapter 15 of the Division’s rules creates the “minimum standards and guidelines” for fair and honest practices in the insurance business.⁵

When the Division has reason to believe that an individual has engaged in unfair or deceptive acts or otherwise has violated the statutes and rules governing the business of insurance in the State, the Division may file a statement of charges against the individual.⁶ This includes taking action against an individual’s producer license.⁷ The sanction for the misconduct can vary based on the specific practice, with fines, recovery of investigation and prosecution costs, adverse action against a licensee, and other corrective action being generally available.⁸

Once the Division files a statement of charges against an individual and a notice of hearing is delivered concerning the charges, a contested case proceeding is commenced. The individual against whom the charges are brought has twenty days from the date of service of the notice of hearing to answer, unless otherwise ordered.⁹ “Any allegation in the notice of hearing or accompanying charging document not denied in the answer is considered admitted.”¹⁰

If the party fails to file an answer or otherwise participate, the Division may move for a default order.¹¹ The presiding officer may enter a default decision when a party fails to appear or participate in a contested case proceeding after proper service.¹² Failing to file a required pleading, such as an answer, is expressly identified as a form of lack of participation sufficient to justify a default.¹³

¹ Iowa Code § 505.1.

² Iowa Code § 505.8; *see also* Iowa Code chapter 522B.

³ Iowa Code § 507B.3.

⁴ Iowa Administrative Code (IAC) 191—10.1.

⁵ IAC 191—15.1.

⁶ *See, e.g.*, Iowa Code § 507B.6(1).

⁷ *See* Iowa Code § 522B.11(1).

⁸ Iowa Code § 505.8(10) (the Division “may, after a hearing conducted pursuant to chapter 17A, assess fines or penalties; assess costs of an examination, investigation, or proceeding; order restitution; or take other corrective action as the commissioner deems necessary and appropriate to accomplish compliance with the laws of the state relating to all insurance business transacted in the state.”); *see* Iowa Code § 522B.11(1) (articulating license sanctions available for misconduct).

⁹ IAC 191—3.5(3).

¹⁰ IAC 191—3.5(3)(c).

¹¹ IAC 191—3.22(2).

¹² IAC 191—3.22(1).

¹³ IAC 191—3.22(2) (stating “[w]here appropriate and not contrary to law, any party may move for default against a party who has requested the contested case proceeding and failed to file a required pleading or has failed to appear after proper service.”).

Importantly, “[a] default decision may award any relief consistent with the request for relief made in the petition, notice of hearing, or charging document and embraced in its issues.”¹⁴ The rule does not require an entry of default, but allows the presiding officer the discretion as to whether to issue a default decision and award any appropriate sanction.¹⁵

In this case, the Division’s Motion for Default should be granted on the terms requested in the Motion. As an initial matter, the presiding officer has the authority to grant a default decision in this case. First, the record demonstrates Daugherty was properly served the Statement of Charges and Notice of Hearing, thereby triggering the duty to file an answer within 20 days. Although the certified mail was returned to the Division, the Statement of Charges and Notice of Hearing was mailed to the address of record that Daugherty was required to maintain with the Division. This is sufficient service under the Division’s rules.¹⁶ An individual may not avoid an action by the Division by refusing to sign for mail or by failing to update that person’s address.¹⁷ Second, the record also demonstrates Daugherty failed to timely file an answer, which is a required pleading. These two facts give the presiding officer the authority under the Division’s rules to grant the motion for a default. The issue then is whether the motion should be granted and on what terms.

Based on the totality of the circumstances, the Division’s motion should be granted. Daugherty has been made aware of this matter, as not only did the Division attempt to contact her during the investigation as evidenced by the un rebutted claims in the Statement of Charges but it also mailed and emailed the relevant documents to the address Daugherty listed. In fact, Daugherty did respond in an untimely manner to the Department regarding a settlement, but has since ceased to return emails. Daugherty has made the choice not to participate in the proceeding as she failed to file an answer and failed to appear for the status conference. Moreover, nothing about this apparent choice suggests something more is going on that warrants further efforts by the Division. The Division attempted to discuss the matter with Daugherty, even after Daugherty failed to timely answer the Statement of Charges. However, Daugherty again has failed to respond to the Division’s communications. In addition, nothing in the Division’s conduct or the record suggests a hearing on the merits is needed to avoid an injustice, and the public is served by prompt resolution of this matter.

The allegations in the Statement of charges establish that Daugherty engaged in actions that are in violation of Iowa law. In reaching this conclusion, the presiding officer accepts the allegations in the Statement of Charges as true.¹⁸

¹⁴ IAC 191—3.22(9). This rule has been amended with an effective date of April 24, 2024, but still allows that a default decision may award any relief authorized by statute or rule. Iowa Administrative Bulletin, March 20, 2024, ARC 7731C.

¹⁵ See, e.g., *Burton v. Univ of Iowa Hosps. & Clinics*, 566 N.W.2d 182, 187 (Iowa 1997) (“Generally, the word ‘may,’ when used in a statute, is permissive only and operates to confer discretion unless the contrary is clearly indicated by the context.”) (further citations omitted).

¹⁶ See IAC 191—3.5(1)(b).

¹⁷ *Id.*

¹⁸ IAC 191—3.5(3) (providing that any allegation in the notice of hearing or charging document not denied in the answer is considered admitted); IAC 191—3.22(9) (granting authority to award any relief consistent with the charging documents and the issues contained therein).

The record dictates granting the Division's Motion for a Default on the terms requested. The Division requested that Daugherty's producer licensee be immediately revoked with a prohibition on engaging in the business of insurance in Iowa and a civil penalty of \$1,400.00, and payment of the costs of investigation and prosecution in the amount of \$1,236.25. Given each of these requests is authorized by statute for the conduct articulated in the Statement of Charges and given the type of relief sought in the Motion is referenced in the Statement of Charges, such relief is "consistent with the request for relief made in the petition, notice of hearing, or charging document and embraced in its issues."¹⁹ Thus, authority exists to grant the Division's Motion, and the totality of the circumstances indicates it should be granted. This is because the unrebutted claims of fraud, out-of-state actions, and failure to keep information updated with the Department demonstrate the requested sanction is proportionate. Accordingly, the Motion for Default is GRANTED.

ORDER

IT IS ORDERED:

- A. Daniella Daugherty, in failing to make a written answer to the Statement of Charges and participate in the contested case proceeding, is in default pursuant to Iowa Administrative Code rule 191—3.22 with the factual statements in the Statement of Charges being taken as true for purposes of this decision;
- B. Daniella Daugherty's insurance producer license is immediately revoked and Daugherty is prohibited from engaging in the business of insurance in Iowa pursuant to Iowa Code sections 507B.7, 522B.11, and 522B.17;
- C. Daniella Daugherty shall immediately cease and desist from engaging in fraudulent coercive, or dishonest practices and demonstrating incompetence or untrustworthiness, and the business of insurance in Iowa pursuant to Iowa Code sections 522B.11 and 522B.17;
- D. A civil penalty in the amount of \$1,400 is assessed against Daniella Daugherty, made payable to the Iowa Insurance Division, to be credited to the Iowa Insurance Enforcement Fund, to provide funds for insurance enforcement and education pursuant to Iowa Code sections 505.8 and 507B.7;
- E. Costs of the investigation and prosecution of this matter are assessed against Daniella Daugherty in the amount of \$1,236.25, made payable to the Iowa Insurance Division, to be credited to the Iowa Insurance Enforcement Fund, to provide funds for insurance enforcement and education pursuant to Iowa Code sections 505.8 and 507B.7.

The Iowa Insurance Division shall take all necessary action to implement this decision.

cc: Joseph Fraioli and Brooke Hohn, Iowa Insurance Division (By AEDMS)
Daniella Daugherty, 11827 E Cornell Cir., Aurora, CO 80014 (By Email and Mail)

¹⁹ IAC 191—3.22(9).

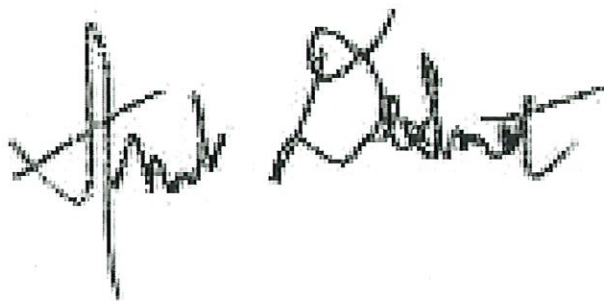
NOTICE

The proposed default decision constitutes a final decision unless one of the following occurs: (1) the presiding officer otherwise orders, (2) a motion to vacate the default decision is filed within 15 days after the date of notification or mailing of the decision in accordance with rule 191—3.12, or (3) an appeal to the commissioner of a proposed default decision is filed in accordance with rule 191—3.27. A motion to vacate must be filed and served on all parties and state all facts relied upon by the moving party which establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated must be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) must be attached to the motion.²⁰

²⁰ IAC 191—3.22.

Case Title: IN THE MATTER OF DANIELLA DAUGHERTY
Case Number: 24IID0007
Type: Proposed Decision

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'Amber DeSmet', written in a cursive style.

Amber DeSmet, Administrative Law Judge