

BEFORE THE IOWA INSURANCE COMMISSIONER

<p>IN THE MATTER OF</p> <p>BRIAN TODD THOMPSON, NPN 16203931 DOB 09/28/XXXX</p> <p>Respondent.</p>	<p>Division Case No. 118887</p> <p>FINAL ORDER</p>
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NOW THEREFORE, the Commissioner takes up for consideration the attached Proposed Default Order of Administrative Law Judge, Forrest Guddall, of the Iowa Department of Inspections and Appeals show as filed on June 7, 2024.

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

IT IS FURTHER ORDERED that Brian Todd Thompson 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 11th day of June, 2024.



DOUGLAS M. OMMEN
Iowa Insurance Commissioner

Copy to:

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ATTORNEYS FOR THE DIVISION

Brian T. Thompson
6498 SE 55th Street
Carlisle, Iowa 50047
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 June 12, 2024.

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

Signature: Brooke Hohn
Elizabeth Simpson Brooke Hohn

IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
CENTRAL PANEL BUREAU

In the Matter of:)	
)	
BRIAN TODD THOMPSON,)	Case No. 24IID0012
NPN 16203931,)	IID Case No. 118887
)	
Respondent.)	DEFAULT PROPOSED ORDER
)	
)	

On April 5, 2024, the Iowa Insurance Division (Division) filed a Statement of Charges (Statement of Charges) against Respondent and the matter was scheduled initially for both a prehearing conference and an evidentiary hearing before Commissioner Douglas M. Ommen pursuant to a Notice of Hearing. The matter was subsequently transferred to this tribunal. A prehearing conference was scheduled for June 7, 2024 and an evidentiary hearing was scheduled for June 13, 2024. On May 21, 2024, the Division filed a Motion for Default because Respondent failed to file an answer as required by law. For the reasons discussed below, the Division’s Motion for Default is granted.

FINDINGS OF FACT

A. Division Statement of Charges

On April 5, 2024, the Division filed a Statement of Charges alleging four counts against Respondent Thompson. (Statement of Charges). More specifically, the Division alleged as follows:

- Count I alleges that Thompson violated Iowa Code section 522B.11(1)(h) prohibiting “fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business” when he “when he took CSI’s money to post a cash bond for R.P., failed to post bond, and kept the money,” “took at least \$8,650.00 from an Iowa consumer, M.W., to secure a bail bond for C.M., and then not only failed to secure the bond despite providing assurances that he was doing so, but he also kept the money entrusted to him for his own uses,” “represented that he was able to provide a bond for C.M. through CSI when he no longer worked for CSI,” “he provided forms to M.W. on Allegheny and/or IFIC letterhead, including a power of attorney purportedly showing that Thompson was appointed as a surety producer with authority to make bail bonds in judicial proceedings up to \$250,000.00, despite Allegheny having no record of appointing, employing, contracting with, or affiliating with Thompson,” “listed property he does not own or have rights to as collateral on a surety application to receive additional money from M.W.,” and “represented himself as an employee of CSI, signed documents as a CSI agent, and sent documents to M.W. on CSI letterhead after CSI had terminated Thompson’s employment.” (Statement of Charges, ¶¶ 27-35).

- Count II alleges that Thompson violated Iowa Code section 522B.11(d) when he “withheld, misappropriated, or converted moneys from his employer when he accepted \$5,000.00 from CSI for surety client R.P.’s bond, failed to post that bond for the surety client, and then kept the money for himself” and “withheld, misappropriated, or converted moneys from a surety client when he accepted \$8,650.00 from M.W., failed to post the bond, and kept the money for himself.” (Statement of Charges, ¶¶ 36-40).
- Count III alleges that Thompson violated Iowa Code section 522B.11(1)(p) for failing or refusing to cooperate in the Division’s investigation when he “failed to comply with the subpoena issued by the Division’s Market Regulation Bureau, which required Thompson to appear in-person for an interview on June 29, 2023” and “did not attend the interview, nor did he communicate with the Division regarding the investigation.” (Statement of Charges, ¶¶ 41-45).
- Count IV alleges that Thompson failed to report criminal prosecutions within 30 days in violation of Iowa Code section 522B.16(2) and Iowa Admin. Code r. 191-10.20(4)(b)(515K,522B). (Statement of Charges, ¶¶ 46-51).

In support of the four Counts, the Division alleged the following relevant factual allegations in its Statement of Charges:

7. The Division issued Thompson a license as a resident insurance producer on April 22, 2011, and assigned to Thompson National Producer Number 16203931. Thompson’s only authorized line of business is surety.
8. The Division suspended Thompson’s producer license for nonpayment of child support on July 7, 2017, under case number 94359. This suspension remained in effect until September 10, 2018.
9. In 2018, Custom Solutions Investigations (“CSI”) hired Thompson as a bail bonds agent.
10. On September 22, 2022, the owner of CSI, J.F., provided Thompson with \$5,000.00 in cash to pay a cash bond for Iowa consumer R.P. in Hamilton County, Iowa. J.F. instructed Thompson to meet with R.P.’s family to complete the bond paperwork, collect the fee for the cash bond, and then pay the \$5,000.00 to the Hamilton County Court all within twenty-four hours of receiving the cash. Thompson did not meet with R.P.’s family, complete the bond paperwork, collect the bond fee, or pay the bond to the Hamilton County Court. Despite failing to take any of these actions, Thompson did not return the \$5,000.00.
11. On September 22, 2022, CSI terminated Thompson’s employment, which was communicated to Thompson in-person, by phone, and text messages.

12. Despite his termination by CSI, Thompson continued to represent himself as a bail bonds agent with CSI in his email signature and by using CSI letterhead and paperwork.

13. On March 11, 2023, Iowa consumer M.W. contacted Thompson to secure a bail bond for her boyfriend, C.M, with the assistance of C.M.'s family members, S.M. and M.M. C.M. was held in Powashiek [sic] County on a \$25,000.00 cash only bond. During their initial meeting, Thompson received \$3,000.00 cash for the bail bond from M.W. Thompson gave M.W. a receipt, which purported to be from International Fidelity Insurance Company ("IFIC"), showing payment of \$3,000.00 cash for C.M.'s bond, and a remaining balance of \$4,500.00. This receipt was signed by Thompson.

14. On March 12, 2023, Thompson used CSI letterhead, a CSI collateral agreement form, and a CSI co-signer responsibility checklist when he secured a 2012 Buick Enclave from S.M. for C.M.'s bond, as well as co-signer information from M.W. and M.M.

15. On or about March 14, 2023, Thompson provided M.W. an IFIC/Allegheny Casualty Company ("Allegheny") Bail Bond Application that Thompson had filled out. Thompson falsely stated on this application that he is C.M.'s cousin's boyfriend as well as the bail bonds agent, and that he had been friends with C.M. for over ten years. On this application, Thompson also stated that, for the last four years, he had owned property located at 1015 Monona St., Boone, IA 50036, and he listed that property as collateral for C.M.'s bond. Per a Boone County Assessor report run on May 31, 2023, the home is owned by an unrelated third party, and this unrelated third party purchased the property from Thompson the year prior, on March 8, 2022. Alleghany has no record of the bail bond application being submitted. (Footnote omitted).

16. On March 17, 2023, M.W. met with Thompson and paid what Thompson represented would be the remaining balance of \$4,500.00 in cash.

17. Despite paying what M.W. believed to be the remaining balance, Thompson informed M.W. that additional payments were required. M.W. made these additional payments to Thompson through Venmo, sending the money to Thompson's Venmo account handle, "BailBond-Brian." M.W. sent \$200.00 on March 20, 2023, \$300.00 on April 3, 2023, and \$650.00 on May 2, 2023. In total, Thompson received at least \$8,650.00 from M.W. for the bond of C.M.

18. On March 23, 2023, Thompson sent M.W. a picture of a check and document titled, "Authorization for Return of Cash Bond Following Arrest and Bond Information." The check is made out to AIA Surety2 and signed by Thompson, with the payor listed as Brian T. Thompson DBA Bail Bonds, Thompson's address listed. The check is for \$8,750.00, and C.M.'s last name and the word "bond" are written in the memo line.

19. On April 3, 2023, Thompson used CSI letterhead to send M.W. a letter stating that the premium was satisfied in full, thus securing the \$25,000.00 cash only bond for C.M. The bond agreement stated that the bond was to be posted with the Poweshiek County Clerk of Court on May 15, 2023. This letter contained the typed signature, "Respectfully, Brian Thompson C.S.I. Bail Bonds."

20. Thompson also gave M.W. a "Certified Copy Qualifying Power of Attorney." That document stated that Allegheny had appointed Thompson to make bail bonds in judicial proceedings not to exceed \$250,000.00 on any one bond. Allegheny provides qualifying powers of attorney to their appointed bail producers with whom they have a direct contractual relationship with, known as "Direct Agents." Allegheny further provides blank qualifying powers of attorney to their direct agents who are then authorized to complete qualifying powers of attorney for any appointed agents who work for or with them. However, Allegheny had no record that Thompson was associated with Allegheny or one of their direct agents.

21. Thompson never paid the bond to obtain C.M.'s release and kept the funds M.W. had paid to him.

22. IAT Insurance Group Surety, the parent company of IFIC and Allegheny, has no record of an appointment for Thompson, no record status for Thompson, and no book of business written by Thompson from January 1, 2022, to June 5, 2023. Thompson is currently not appointed to any company.

23. On May 22, 2023, Thompson was charged with two felony counts of fraudulent practice and theft, as well as one misdemeanor count of tampering with records in Warren County, Iowa, under case number FECR034348. The initial appearance took place on June 21, 2023. The case was dismissed on September 21, 2023. To date, Thompson has not reported this prosecution to the Division.

24. On May 31, 2023, Thompson was charged with two felony counts of theft in Polk County under case number FECR370738. The initial appearance took place on June 17, 2023. Trial is currently set for May 13, 2024. To date, Thompson has not reported this prosecution to the Division.

25. On June 13, 2023, a Division investigator emailed Thompson an administrative subpoena to an email address provided by Thompson and noted in his licensing record, imtheone13@msn.com. The administrative subpoena required Thompson to respond to the investigator by June 23, 2023. The Division did not receive any indication that the email failed to be delivered. To date, Thompson has not responded to that email.

26. On June 13, 2023, the Division investigator sent the administrative subpoena via FedEx to the residence and mailing address provided by Thompson and noted in his licensing record, 6498 SE 55th St., Carlisle, IA 50047. FedEx

tracking confirms that the package containing the subpoena was signed for by D. Taylor on June 14, 2023. To date, Thompson has not responded to the subpoena.

B. Respondent's Default

The Division filed its Statement of Charges against Thompson on April 5, 2024. Thompson is subject to the jurisdiction of the Insurance Commissioner pursuant to Iowa Code § 505.28. A Notice of Hearing was filed the same day by the Commissioner setting several deadlines for Thompson.

The Notice of Hearing was initially served on April 8, 2024, by restricted certified mail, return receipt requested at Thompson's address on file with the Division. Iowa Admin. Code r. 191-3.5(1)(a)(17A,507B) ("Delivery of the notice of hearing referred to in this rule constitutes commencement of the contested case proceeding."); Iowa Admin. Code r. 191-3.5(1)(b)(17A,507B) ("Delivery shall be accomplished . . . by certified mail, return receipt requested[.]"). The Motion for Default asserts the certified mail attempted delivery on April 10, 2024, there was "No Authorized Recipient Available," notice of the mail was left for Thompson to obtain the mail until April 24, 2024, and eventually the certified mail was returned to the Division on April 29, 2024, as "unclaimed" and "unable to forward." (Motion, ¶ 5, Attachments 1 and 2).

Additionally, the Division's Motion for Default asserts that the Statement of Charges and Notice of Hearing were sent to Thompson by first class mail on April 16, 2024. (Motion, ¶ 6). It does not appear that the regular mail was returned to sender or otherwise not delivered.

Further, on April 26, 2024, personal service on Thompson by the Polk County Sheriff's Office of the Statement of Charges and Notice of Hearing was attempted unsuccessfully. (Motion, ¶ 7, Attachment 3). Texting attempts following the personal service attempt by the Sheriff's Office were also unsuccessful.

Finally, the Division sent the Statement of Charges and Notice of Hearing to Thompson by email on May 3, 2024. (Motion, ¶ 8). There is no evidence that the email was not successfully delivered.

Specifically, an Answer to the allegations was due on or before April 29, 2024. Iowa Admin. Code r. 191-3.5(3)(17A,507B) ("An answer shall be filed within 20 days of service of the notice of hearing unless otherwise ordered."). To date, Thompson has failed to file an answer to the Statement of Charges. Thompson did not request, nor did the Division consent to, Thompson filing an answer beyond the twenty days of the service of the Statement of Charges. Indeed, the Division has not received any communication from Thompson or a representative for Thompson regarding the Statement of Charges and Thompson did not appear for the prehearing conference, at least on this record.

The Division filed a Motion for Default Order on May 21, 2024, arguing that Thompson was in default due to his failure to file an Answer and requested a finding in its favor on Counts I, II, and III listed in the Statement of Charges. In addition, the Division requested the following relief: (1) the revocation of Thompson's insurance producer license; (2) a cease and desist order

prohibiting Thompson from engaging in the conduct charged in Counts I, II, and III, and engaging in the business of insurance in Iowa; (3) restitution in the amount of \$13,650.00 payable to the State of Iowa to be distributed to affected consumers; (4) a civil penalty in the amount of \$4,500.00; and (5) an order requiring reimbursement of \$1,765.00 in investigation and prosecution costs. *Id.*, at pp. 5-6. The Motion for Default Order was sent via first class mail to Thompson at his last known address on May 21, 2024. The motion was also emailed to Thompson.

Finally, Thompson failed to respond to the Division's motion to default order within ten days as permitted by law. Iowa Admin. Code r. 191-3.15(2)(17A) ("Any party may file a written response to a motion within ten days after the motion is served, unless the time period is extended or shortened by the presiding officer. In ruling on a motion, the presiding officer may consider the motion unresisted, if no response is timely filed."). Thompson did not appear at the prehearing conference, nor did any representative for him appear. At the prehearing conference, the Division withdrew the fourth Count. *See* Iowa Admin. Code r. 191-3.16(5)(e)(17A) ("In addition to the requirements of subrule 3.16(3), the parties at a prehearing conference may: . . . *e.* Consider any additional matters that will expedite the hearing."); Iowa Admin. Code r. 191-3.5(4)(17A,507B) ("Any notice of hearing or other charging document may be amended before a responsive pleading has been filed.").

CONCLUSIONS OF LAW

The Iowa legislature created the Division "to regulate and supervise the conducting of the business of insurance in the state." Iowa Code § 505.1. One aspect of this authority is to regulate the licensing of insurance producers. Iowa Code § 505.8. *See also* Iowa Code chapter 522B.

Pursuant to this statutory authority, the Division promulgated various administrative rules governing the licensing and conduct of those in the business of insurance. For example, Chapter 10 of the Division's rules creates the specific rules governing the "qualification, licensure, and appointment of insurance producers." Iowa Admin. Code r. 191-10.1(515K,522B). Likewise, Chapter 15 of the Division's rules create the "minimum standards and guidelines" for essentially fair and honest practices in the business of insurance. Iowa Admin. Code r. 191-15.1(507B).

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. *See e.g.*, Iowa Code § 507B.6(1). This includes taking action against an individual's producer license. Iowa Code § 522B.11(1). The sanction for the misconduct can vary based on the specific conduct at issue, but includes fines, prosecution costs, adverse action against a licensee, and other corrective action. *See e.g.*, Iowa Code §§ 505.8(10) ("the commissioner 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."); 522B.11(1) (articulating license sanctions available for misconduct).

Once the Division files a Statement of Charges against an individual, a contested case proceeding is commenced. In a contested case proceeding, all parties are entitled to reasonable notice of the hearing and the charges filed. Iowa Code §17A.12. The Division has adopted rules for delivery of notice to an individual. Service of a Notice of Hearing and Statement of Charges shall be made by personal service or by certified mail, return receipt requested, at least 15 days before the hearing date. Iowa Admin. Code r. 191-3.5(1)(b)(17A,507B). Additionally, Iowa Admin. Code r. 191-3.5(1)(c)(17A,507B) also provides that, for “persons regulated by the Division” who “have consented in writing to have the commissioner accept service of process on their behalf,” delivery of the Notice of Hearing is accomplished when the Commissioner signs the Notice of Hearing or Statement of Charges.

Upon receipt of the Notice of Hearing, the individual against whom charges are brought has 20 days to file an answer to the allegations and assert any affirmative defenses. Iowa Admin. Code r. 191-3.5(3)(17A,507B). “Where 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.” Iowa Admin. Code r. 191-3.22(2)(17A).

If a party fails to appear or participate in a contested case proceeding after proper service of notice as provided in subrule 3.5(1), the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and render a decision in the absence of the party.

Iowa Admin. Code r. 191-3.22(1)(17A). 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. “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.” Iowa Admin. Code r. 191-3.22(9)(17A).

Here, Thompson was properly served with the Statement of Charges and Notice of Hearing. In accordance Iowa Admin. Code r. 191-3.5(1)(b)(17A,507B), the Statement of Charges and Notice of Hearing were mailed to Thompson via restricted certified mail on April 8, 2024. On April 16, 2024, the Statement of Charges was mailed via first class mail. On April 26, 2024, personal service was attempted unsuccessfully. On May 3, 2024, an email was sent to Thompson and, apparently, delivered. Only the restricted certified mail has been returned as undelivered and the attempt at personal service been unsuccessful. Although the record does not indicate that Thompson actually received the Statement of Charges, such evidence is not needed to constitute sufficient service under the Division’s rules.

Moreover, when Thompson submitted his Uniform Application for Individual Producer License, he designated or consented in writing to have the Commissioner accept service of process on his behalf. (Statement of Charges, ¶ 6). Delivery is accomplished when the Notice of Hearing is signed by the commissioner. Iowa Admin. Code r. 191-3.5(1)(c)(17A,507B). As such, delivery of the Statement of Charges and Notice of Hearing were made on Thompson on April 5, 2024. In addition, Thompson has failed to file an answer, attend the prehearing conference, or otherwise participate in this proceeding. Accordingly, under Iowa Admin. Code r. 191-3.22(17A), Thompson may be found in default.

Further, the record indicates that the Division's Motion for Default should be granted in this case. As previously noted, the Division attempted to mail the Statement of Charges to Thompson via restricted certified mail and first class mail. It mailed the relevant documents to the address that Thompson was required to maintain with the Division. In addition, the Division emailed the relevant documents to Thompson's email addresses listed with the Division. Only the restricted certified mailing was returned to the Division as undelivered and personal service was unsuccessful, even with some texting. With this record, it appears that Thompson is making a choice not to participate. Given this, there is nothing in the record to suggest that a hearing on the merits is necessary to avoid an injustice, and the public is served by prompt resolution of this matter.

Finally, the allegations in the Statement of Charges establish that Thompson engaged in actions that are in violation of Iowa law. Iowa Admin. Code r. 191-3.5(3)(c)(17A,507B) ("Any allegation in the notice of hearing or accompanying charging document not denied in the answer is considered admitted."); Iowa Admin. Code r. 191-3.15(2)(17A) ("In ruling on a motion, the presiding officer may consider the motion unresisted, if no response is timely filed."). In reaching this conclusion, this tribunal accepts the allegations in the Statement of Charges as true. Specifically, the allegations in the Statement of Charges demonstrate that Thompson violated Iowa Code § 522B.11(1)(h) prohibiting fraudulent, coercive, or dishonest practices or untrustworthiness or financial irresponsibility. Additionally, the allegations show Thompson violated Iowa Code § 522B.11(1)(d) prohibiting improperly withholding, misappropriating, or converting moneys or properties received in the course of business. Finally, the allegations show a violation under Iowa Code § 522B.11(1)(p) for failure to cooperate with the Division's investigation.

Accordingly, the Motion for Default is granted and the following relief appropriate. Iowa Admin. Code r. 191-3.22(9)(17A) ("A default decision may award any relief authorized by statute or rule."); Iowa Code § 522B.11(5) ("The commissioner . . . may enforce the provisions and impose any penalty or remedy authorized by this chapter and chapter 507B against any person who is under investigation for, or charged with, a violation of either chapter even if the person's license has been surrendered or has lapsed by operation of law.").

ORDERS

IT IS HEREBY ORDERED:

- A. Brian Todd Thompson is in default pursuant to Iowa Administrative Iowa Admin. Code r. 191-3.22(17A) and all statements as pled in the Statement of Charges against Brian Todd Thompson are deemed admitted as true for purposes of this decision;
- B. Brian Todd Thompson's insurance producer license is revoked pursuant to Iowa Code §§ 507B.7, 522B.11, and 522B.17;
- C. Brian Todd Thompson shall cease and desist from engaging in conduct as alleged in Counts I, II, and III and the business of insurance in this state pursuant to Iowa Code §§ 522B.11 and 522B.17;

- D. Brian Todd Thompson shall pay restitution in the amount of \$13,650.00 to the State of Iowa to distribute to affected consumers;
- E. A civil penalty in the amount of \$4,500.00 is assessed, 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 §§ 505.8 and 507B.7;
- F. Costs of the investigation and prosecution of this matter are assessed in the amount of \$1,765.00 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.
- G. The in-person evidentiary hearing on the merits scheduled for June 13, 2024, is hereby cancelled.

IT IS SO ORDERED.

Dated this the 7th day of June 2024.

cc: Brian Todd Thompson, 6498 SE 55th St., Carlisle, IA 50047 (By Mail)
Zebulon Black, Attorney for IID; zebulon.black@iid.iowa.gov (By AEDMS)
Amanda K. Robinson, Attorney for IID, amanda.robinson@iid.iowa.gov (By AEDMS)
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APPEAL RIGHTS

Default decisions or decisions rendered on the merits after a party has failed to appear or participate constitute final division action 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(17A), or (3) an appeal to the commissioner of a proposed default decision is filed in accordance with rule 191-3.27(17A). 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.

Iowa Admin. Code r. 191-3.22(3)(17A). "The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate."
Iowa Admin. Code r. 191-3.22(4)(17A).

A motion to vacate shall be granted only when it is timely filed, is properly substantiated, and demonstrates good cause for the party's failure to appear or participate. The burden of proof as to good cause is on the moving party. Adverse parties shall have ten days to respond to a motion to vacate. Adverse parties shall be allowed to conduct discovery as to the issue of good cause and to present evidence on the issue prior to a decision on the motion, if a request to do so is included in that party's response.

Iowa Admin. Code r. 191-3.22(5)(17A). "'Good cause' for purposes of this rule shall have the same meaning as 'good cause' for setting aside a default judgment under Iowa Rule of Civil Procedure 1.977." Iowa Admin. Code r. 191-3.22(6)(17A).

When the commissioner does not preside over the reception of evidence, the presiding officer shall make a proposed decision. The proposed decision becomes the final decision of the division when adopted by the commissioner or without further proceedings after the time provided in rule 191-3.27(17A) unless there is a timely appeal to the commissioner or motion by the division to review the proposed decision.

Iowa Admin. Code r. 191-3.26(2)(17A). "Any adversely affected party may appeal a proposed decision to the commissioner within 30 days after issuance of the proposed decision." Iowa Admin. Code r. 191-3.27(1)(17A).

An appeal of a proposed decision is initiated by filing a timely notice of appeal with the commissioner. The notice of appeal must be signed by the appealing party or a representative of that party and contain a certificate of service. The notice shall specify:

- a.* The proposed decision or order appealed from;
- b.* The parties initiating the appeal;
- c.* The specific findings or conclusions to which exception is taken and any other exceptions to the decision or order;
- d.* The grounds for relief; and
- e.* The relief sought.

Iowa Admin. Code r. 191-3.27(3)(17A). “On appeal from a proposed decision of a presiding officer, the issues shall be limited to those raised before the presiding officer. No new issues will be considered for the first time on appeal.” Iowa Admin. Code r. 191-3.27(4)(17A).

On appeal, a party may request the taking of additional evidence only by establishing that the evidence is material, that good cause existed for failure to present the evidence at the hearing, and that the party has not waived the right to present the evidence. A written request to present additional evidence must be filed with the notice of appeal or, by a nonappealing party, within ten days of service of the notice of appeal. The commissioner may remand a case to the presiding officer for further hearing or the commissioner may preside at the taking of additional evidence.

Iowa Admin. Code r. 191-3.27(5)(17A). “The commissioner shall issue a schedule for consideration of the appeal.” Iowa Admin. Code r. 191-3.27(6)(17A).

Unless otherwise ordered, within 20 days of the notice of appeal or order for review, each appealing party may file exceptions and briefs. Within 20 days thereafter, any party may file a responsive brief. Briefs shall cite any applicable legal authority and specify relevant portions of the record in that proceeding. Any written requests to present oral argument shall be filed with the briefs. The commissioner may resolve the appeal on the briefs or provide an opportunity for oral argument. The commissioner may shorten or extend the briefing period as appropriate.

Iowa Admin. Code r. 191-3.27(7)(17A).

Case Title: IN THE MATTER OF BRIAN TODD THOMPSON
Case Number: 24IID0012
Type: Order - Abandonment/Default

IT IS SO ORDERED.



Forrest Guddall, Administrative Law Judge