

BEFORE THE IOWA INSURANCE COMMISSIONER

IN THE MATTER OF:)	STATEMENT OF CHARGES
)	
DENNIS M. FLAHERTY)	
)	DIVISION FILE NO.: 68888

COMES NOW the Iowa Insurance Division ("Division") pursuant to the provisions of the Iowa Unauthorized Insurers Act – Iowa Code Chapter 507A (2009) and the Iowa Licensing of Insurance Producers Act – Iowa Code Chapter 522B (2009) and alleges the following:

PARTIES AND JURISDICTION

1. The Commissioner of Insurance, Susan Voss, administers the Iowa Unauthorized Insurers Act – Iowa Code Chapter 507A (2009) and the Iowa Licensing of Insurance Producers Act – Iowa Code Chapter 522B (2009) pursuant to Iowa Code § 505.8 (2009).

2. Dennis M. Flaherty ("Flaherty") is an individual with a last known mailing address of 2505 E. 40th, Davenport, Iowa 52807.

3. Flaherty is not licensed as a public adjuster in the state of Iowa pursuant to Iowa Code Chapters 522B and 522C. Flaherty was formerly licensed as a public adjuster from January 18, 2008 until the license expired on April 30, 2010.

4. Flaherty has engaged in acts and practices within the state of Iowa constituting a violation of Iowa Code Chapters 507A and 522C or any rule or order adopted or issued pursuant to Iowa Code Chapters 507A and 522C.

FACTUAL BACKGROUND

5. Flaherty owns a business called Continental Fire Adjusters located in Bettendorf, Iowa.

6. Flaherty's license as a public adjuster expired on April 30, 2010. According to the Division's records, on February 11, 2010, a Division employee emailed Flaherty with an inquiry to provide evidence of financial responsibility in the form of a surety bond as required by Iowa Administrative Rule 191-55.10. On March 16, 2010, the Division received the required surety bond from Flaherty.

7. The Iowa Consumer Advocate, Angel Robinson, received a complaint regarding Flaherty's services as a public adjuster. During the course of her investigation, Ms. Robinson noted that Flaherty's license as a public adjuster had expired on April 30, 2010.

8. On August 9, 2010, the Division received a letter from counsel for Flaherty. The letter indicated that Flaherty had continued his business of providing services as a public adjuster to Iowa clients after the expiration date of his license. A client list was provided titled "Losses Currently Being Negotiated with Insurance Company" with the name, address and the year or specific date the person became a client of Flaherty.

VIOLATIONS OF IOWA INSURANCE LAWS

COUNT I

UNAUTHORIZED INSURER

9. Paragraphs 1 through 9 are incorporated herein by reference.

10. Flaherty has engaged in the doing of any kind of insurance business specifically recognized as constituting the doing of an insurance business within the meaning of the statutes relating to insurance, including acting as a public adjuster, in Iowa without a license or certificate of authority issued by the Division.

11. Acting as a public adjuster without being licensed under Iowa Code § 522C.4 (2009) involves the doing an insurance business within the meaning of Iowa Code §§ 507A.3 and 522C.2 (2009).

12. Therefore, Flaherty has violated Iowa Code §§ 507A.3 and 507A.5 (2009), by acting as an unauthorized insurer and should be ordered to cease and desist.

13. This action is necessary and appropriate in the public interest and for the protection of policyholders and consistent with the purposes fairly intended by the provisions of Iowa Code Chapter 507A (The Iowa Unauthorized Insurers Act).

COUNT II

UNLICENSED INSURANCE PRODUCER

14. Paragraphs 1 through 13 are incorporated herein by reference.

15. Flaherty has been engaged in the business of insurance or otherwise offering to the public advice, counsel, or services with regard to insurance and was not properly licensed to engage in the business of insurance in violation of Iowa Code §§ 522B.2 and 522B.17 (2009).

16. Therefore, Flaherty has violated Iowa Code § 522B.17 (2009), by acting as an unlicensed insurance producer and should be ordered to cease and desist.

17. This action is necessary and appropriate in the public interest and for the protection of policyholders and consistent with the purposes fairly intended by the provisions of Iowa Code Chapter 522B (The Iowa Licensing of Insurance Producers Act).

PRAYER

Wherefore, the Iowa Insurance Division respectfully requests that an Order be issued after hearing to uphold the Cease and Desist Order dated September 17, 2010 directed to Dennis M. Flaherty as set forth in this Statement of Charges, and imposing the assessment of a

civil penalty of \$5,000 as stated in the Cease and Desist Order and imposing such other sanctions and costs as the Administrative Law Judge deems just and appropriate.

IMPORTANT NOTICES

Filing Answers

YOU ARE NOTIFIED that under Iowa Code section 17A.12(3) and IAC 191—3.5(2)(j), a written answer must be filed with the Division within twenty days of service of the Notice of Hearing unless otherwise ordered. Those sections describe the format and content for an Answer. Your failure to file an answer within the twenty-day period or as otherwise ordered shall result in entry of a default decision against you.

At Hearing

YOU ARE NOTIFIED that under Iowa Code sections 17A.12 through 14:

- you have an opportunity to respond and present evidence and argument on all issues involved and to be represented by counsel at your own expense;
- you have the right to examine certain evidence before the date of the hearing in accordance with discovery procedures applicable to civil actions;
- the Administrative Law Judge may subpoena witnesses to testify at the hearing and such subpoenas shall be issued to a party upon written request;
- any witness at the hearing, or any person whose testimony has been submitted in written form, if available, shall be subject to cross-examination by any party as necessary for a full and true disclosure of the facts;
- this hearing will be an oral proceeding open to the public and shall be recorded by mechanized means and will be transcribed at the request of any party with the expense of the transcription charged to the requesting party; and

- if you fail to appear, the Administrative Law Judge may enter a default or proceed to hearing and make a decision in your absence.

Information Sharing

YOU ARE NOTIFIED that any finding or order issued as a result of this proceeding will be shared with other regulatory entities. Such entities may utilize any finding or order to sanction any named party.

Informal Settlements

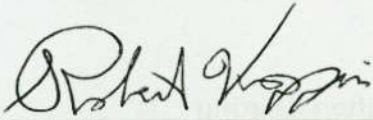
Informal settlements of contested cases are governed by IAC 191—3.33(1) et seq. and are encouraged under Iowa Code section 17A.10. If you wish to pursue an informal settlement, please contact the person who signed the Notice of Hearing for the Iowa Insurance Division on the Statement of Charges, at 330 Maple Street, Des Moines, Iowa 50319-0066 before the answer deadline. Please note that an oral or written request for informal settlement is not a substitute for a written answer to the Statement of Charges. The phone number is (515) 281-5705 and the facsimile number is (515) 281-3059.

Disability Provisions

If you or any person wishing to attend and/or to participate in the hearing requires the assistance of auxiliary aids, assistive technology or other services because of a disability, immediately contact the Des Moines district ADA coordinator at (515) 281-5705 to request the availability of such services. If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942.

Dated this 27th day of October, 2010.

Iowa Insurance Division



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