

BEFORE THE IOWA INSURANCE COMMISSIONER

IN THE MATTER OF:)	SUMMARY CEASE AND
)	DESIST ORDER
DENNIS M. FLAHERTY)	
)	DIVISION FILE NO.:
)	

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 finds as follows:

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. The Commissioner of Insurance is authorized to issue this summary order directed to any person requiring the person to cease and desist from engaging in such acts or practices or take other affirmative action as in her judgment is necessary to comply with the requirements of Iowa Code Chapters 507A and 522C pursuant to Iowa Code §§ 507A.10 and 522B.17 (2009).

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).

ORDERS

WHEREFORE, IT IS HEREBY ORDERED pursuant to the powers granted to the Commissioner of Insurance of Iowa Code §§ 507A.10 and 522B.17 (2009) as follows:

A. Flaherty shall Cease and Desist acting as a public adjuster without a license or certificate of authority as described herein or doing any other act or practice recognized as the

doing of an insurance business in the state of Iowa in violation of Iowa Code §§ 507A.3 and 507A.5 (2009).

B. Flaherty shall Cease and Desist acting as an unlicensed insurance producer in the state of Iowa in violation of Iowa Code § 522B.17 (2009).

C. Flaherty shall be assessed a civil penalty of \$5,000 for violating the provisions of the Iowa Unauthorized Insurers Act pursuant to Iowa Code § 507A.10(1) (2009) and the Iowa Licensing of Insurance Producers Act pursuant to Iowa Code § 522B.17 (2009) and rules enacted thereunder.

D. The Division shall retain \$500 costs from any penalty or payment.

NOTICE REGARDING FAILURE TO REQUEST A HEARING

If you fail to request a hearing within thirty (30) days of the date of this Cease and Desist Order, the Order shall be a final Order of the Commissioner of Insurance and shall be enforceable by the Commissioner of Insurance in an administrative or court proceeding.

NOTICE REGARDING EXHAUSTION OF ADMINISTRATIVE REMEDIES AND RIGHT TO SEEK JUDICIAL REVIEW

The failure to request a hearing can constitute a failure to exhaust your administrative remedies and limit the issues subject to judicial review. You may seek judicial review of this Order pursuant to Iowa Code Chapter 17A after the Order becomes final. The Order becomes final thirty (30) days after it is issued if you do not timely request a contested case hearing, or following hearing if you do timely request a contested case hearing.

NOTICE OF PENALTIES FOR WILLFUL VIOLATION OF THIS ORDER

YOU ARE NOTIFIED that any person or insurer violating a summary order issued under section 507B.6A shall be deemed in contempt of that order. The commissioner may petition the

district court to enforce the order as certified by the commissioner. The district court shall adjudge the person in contempt of the order if the court finds after hearing that the person or insurer is not in compliance with the order. The court may assess a civil penalty against the person or insurer and may issue further orders as it deems appropriate.

NOTICE REGARDING IMPACT OF ORDER ON EXISTING LICENSES

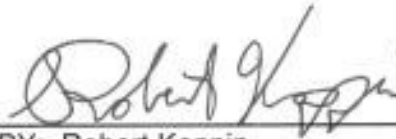
A final Cease and Desist Order may adversely affect existing business or professional licenses and result in license revocation or disciplinary action. For example, a final Cease and Desist Order issued to a licensed insurance agent may subject the insurance agent to insurance license revocation or other disciplinary action. Further notice is given that the Iowa Insurance Division may review this Cease and Desist Order for a potential license revocation or disciplinary action.

NOTICE OF RIGHT TO REQUEST HEARING

NOTICE IS HEREBY GIVEN that Flaherty or any individual representing the Respondent may request a hearing in this matter. This request must be in writing and must be postmarked or received within thirty (30) calendar days of the date of this order with Robert Koppin, Enforcement Bureau Chief, Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa 50319. Upon receipt of a request for hearing, the matter will be scheduled for hearing within fifteen days. The hearing shall be set at least fifteen (15) days after the date of the notice of hearing unless the parties agree to an earlier date. The hearing shall be no longer than forty-five (45) days after the date of the notice of the hearing unless extended by the presiding officer for good cause with at least fifteen days notice to the parties. The resulting hearing will be held in accordance with Iowa Code Chapter 17A.

Dated this 17th day of September, 2010.

SUSAN E. VOSS
IOWA INSURANCE COMMISSIONER

A handwritten signature in cursive script, appearing to read "Robert Koppin", written over a horizontal line.

BY: Robert Koppin
Enforcement Bureau Chief

COPY SENT BY CERTIFIED AND FIRST CLASS MAIL TO:

Dennis M. Flaherty
2505 E. 40th
Davenport, Iowa 52807