

**SOUTH DAKOTA  
DEPARTMENT OF LABOR AND REGULATION  
DIVISION OF INSURANCE**

**IN THE MATTER OF  
DEISE BRITO**

) **FINAL DECISION**  
) **INS 16-01**  
)

After reviewing the record and the proposed decision of the Hearing Examiner in this matter,

IT IS HEREBY ORDERED that pursuant to SDCL 1-26D-4, the Hearing Examiner's Proposed Findings of Fact, Conclusions of Law and Proposed Order, dated April 8, 2016 are adopted in full.

IT IS FURTHER ORDERED the South Dakota non-resident insurance producer license of Deise Brito is hereby revoked.

Parties are hereby advised of the right to further appeal the final decision to Circuit Court within (30) days of receiving such decision, pursuant to the authority of SDCL 1-26.

Dated this 14 day of April, 2016.



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Marcia Hultman, Secretary  
South Dakota Department of Labor and Regulation  
700 Governors Drive  
Pierre, SD 57501

**STATE OF SOUTH DAKOTA  
OFFICE OF HEARING EXAMINERS**

**IN THE MATTER OF  
DEISE BRITO**

**PROPOSED DECISION  
INS 16-01**

**V.**

**DIVISION OF INSURANCE**

An administrative hearing was held in this matter on March 23, 2016. Licensee, Deise Brito (Brito), did not appear or testify at the hearing. The Division of Insurance (Division) was represented by Ben Eirikson. The Division had a witness, Tony Dorschner. Based on the evidence, the arguments of the parties, and the law, the Hearing Examiner enters the following Findings of Fact, Conclusions of Law, and Proposed Order.

**ISSUES**

Whether Brito failed to report to the Division a felony prosecution against her by the State of Georgia?

Whether Brito failed to respond within 20 days to an inquiry from the Division?

Whether the Division may revoke Brito's license as an insurance producer?

**FINDINGS OF FACT**

I.

Brito was licensed by the Division as an insurance producer on May 13, 2014. Her license was currently active.

II.

On or about January 16, 2015, Amica Mutual Insurance Company reported to the Division that they had terminated Brito's employment for misconduct.

III.

It was discovered that Brito had four pending felonies in Georgia.

IV.

Brito did not report the termination or the felonies to the Division.

V.

On January 22, 2015, the Division sent Brito an inquiry regarding the termination from Amica Mutual Insurance Company.

VI.

The Division sent that letter to Brito at her address of record, 113 Sisson Street, Pawtucket Rhode Island 02860-4954.

VII.

Brito did not respond to the Division's January 22, 2015 letter.

VIII.

On February 24, 2015, the Division sent Brito another inquiry via first class and certified mail regarding the termination the same address.

IX.

United States Postal Service records indicate the Division's February 24, 2015 letter was unclaimed.

X.

Brito did not respond to the Division's letter or respond by email or telephone.

XI.

Any additional Findings of Fact included in the Reasoning section of this decision are incorporated herein by this reference. To the extent any of the foregoing are improperly designated and are instead Conclusions of Law, they are hereby redesignated and incorporated herein as Conclusions of Law.

### REASONING

An insurance producer shall report to the director any administrative action taken against the insurance producer in another jurisdiction or by another governmental agency in this state within thirty days of the final disposition of the matter. This report shall include a copy of the order, consent order, or other relevant legal documents.  
SDCL 58-30-193

SDCL 58-30-194 provides that within thirty days of the initial pretrial hearing date, an insurance producer shall report to the director any felony criminal prosecution of the insurance producer taken in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing, and any other relevant legal documents.

SDCL 58-30-167(2) & (8) state that the director may suspend for not more than twelve months, or may revoke or refuse to continue, any license issued under this chapter, or any license of a surplus lines broker after a hearing. Notice of such hearing and of the charges against the licensee shall be given to the licensee and to the insurers represented by such licensee or to the appointing agent of a producer at least twenty days before the hearing. The director may suspend, revoke, or refuse to issue or renew an insurance producer's license or may accept a monetary penalty in accordance with § 58-4-28.1 or any combination thereof, for violating any insurance laws or rules, subpoena, or order of the director or of another state's insurance director, commissioner, or superintendent or using fraudulent, coercive, or dishonest practices,

or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.

Unfair or deceptive acts or practices in the business of insurance include failing to respond to an inquiry from or failing to supply documents requested by the Division of Insurance within twenty days of receipt of such inquiry or request. SDCL 58-33-66(1).

In this case, Brito was terminated from an insurance company because she was charged with four felonies. She failed to report these actions to the Division. Brito also failed to respond to inquiries from the Division. Therefore, the Division may revoke her insurance producers license. I have no authority to make exceptions to the law.

### **CONCLUSIONS OF LAW**

#### **I.**

The Division has jurisdiction over Brito and the subject matter of this contested case. The Office of Hearing Examiners has authority to conduct the appeal pursuant to the provisions of SDCL 1-26D.

#### **II.**

Brito violated the requirements of SDCL 58-30-194 in failing to advise the Division within thirty days of the State of her felony criminal prosecution.

#### **III.**

The failure of Brito to report the termination of her insurance job is grounds for sanction by the Division pursuant to SDCL 58-30-167(2) & (8).

#### **IV.**

Brito committed an unfair or deceptive act in the business of insurance by failing to respond to an inquiry from the Division within twenty days as required by SDCL 58-33-66(1).

#### **V.**

These violations of the statutes permit the Director of the Division of Insurance to revoke Brito's insurance producer license and/or impose other sanctions as set forth in SDCL 58-30-167.

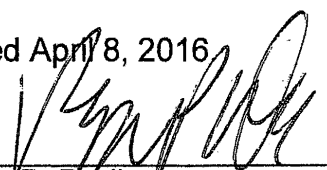
#### **VI.**

Any Conclusions of Law in the reasoning section of this decision are incorporated herein by reference. To the extent any of the foregoing are improperly designated and are instead Findings of Fact, they are hereby redesignated and incorporated herein as Findings of Fact.

**PROPOSED ORDER**

It is the Proposed Order of the Hearing Examiner that the license of Deise Brito be revoked.

Dated April 8, 2016



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Ryan P. Darling  
Office of Hearing Examiners  
523 East Capitol  
Pierre SD 57522