

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

IN THE MATTER OF) **FINAL DECISION**
JOHN OLIVER) **INS 16-07**

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 Decision, dated September 23, 2016 are adopted in full.

IT IS FURTHER ORDERED the South Dakota non-resident insurance producer license of John Oliver 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 3 day of October, 2016.



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
JOHN OLIVER**

v.

**16-07
PROPOSED DECISION**

DIVISION OF INSURANCE

An administrative hearing was held in this matter on September 1, 2016. Licensee, John Oliver (Oliver), did not appear or testify at the hearing. The Division of Insurance (Division) was represented by Benjamin 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 Oliver failed to report to the Division an administrative action against him by the States of Indiana and North Dakota?

Whether Oliver failed to report the administrative action to the Division within 30 days?

Whether Oliver failed to respond to inquiries from the Division?

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

FINDINGS OF FACT

1. Oliver was licensed by the Division as a Non-Resident Producer on August 12, 2013. His license number was 40337976.
2. Oliver's South Dakota license expired on March 31, 2013.
3. The State of Indiana asked for a list of Oliver's appointments. However, he failed provide the requested information.
4. On or about April 30, 2015, the State of Indiana revoked his license. The revocation was effective immediately.
5. A license revocation is considered an administrative action.
6. On June 2, 2015, North Dakota revoked Oliver's license because he failed to report an administrative action in Wisconsin.

7. Oliver did not report the North Dakota administrative action to the Division.
8. On July 20, 2015, the Division sent Oliver an inquiry letter regarding the administrative actions.
9. The Division sent the letter to Oliver at his address of record, 7 Greenbrier Drive, Apartment 302, Fredericksburg Virginia, 22401-5577.
10. Oliver did not respond to the Division's July 20, 2015 letter.
11. On August 26, 2015, the Division sent Oliver another inquiry via first class and certified mail regarding the administrative actions to the same address (7 Greenbrier Drive, Apartment 302, Fredericksburg Virginia) and to 1 Geico Blvd, Fredericksburg Virginia, 22412-9000.
12. United States Postal Service records indicate the Division's letter to the Greenbrier address was unclaimed, no authorized recipient available.
13. The letter that was sent to Geico Blvd was delivered on September 1, 2015.
14. Oliver did not respond to the Division's letter.
15. Any additional findings 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

Oliver did not report an administrative action from Indiana to the Division. He also did not report an administrative action from North Dakota.¹ SDCL 58-30-193 states that 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.

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

¹ The North Dakota decision also indicates that there were other administrative actions in Wisconsin and Ohio.

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 having an insurance producer license, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory. At the conclusion of the matter, the director shall send a letter to the licensee, the insurers represented by such licensee, and the appointing agent of a producer, stating the final determination of the matter. SDCL 58-30-167 (2) & (9).

SDCL 58-33-66 (1) states that 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. Oliver did fail to respond to letters from the Department.

Oliver also failed to notify the Division when he changed addresses. This violates SDCL 58-30-157. A licensee shall inform the director in a form or format prescribed by the director of a change of address within thirty days of the change.

The evidence shows that Oliver had administrative actions against him in other states that that were related to selling insurance. Oliver failed to report these incidents or respond to questions from the Division. Oliver also failed to notify the Division about a change of address. Oliver's South Dakota Insurance Producers License should be revoked.

CONCLUSIONS OF LAW

1. The Division has jurisdiction over John Oliver 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.
2. Oliver violated the requirements of SDCL 58-30-193 in failing to advise the Division within thirty days of the State of Indiana and North Dakota's administrative action against his insurance license.
3. The failure of Oliver to report the administrative actions against his insurance producer license is grounds for sanction by the Division pursuant to SDCL 58-30-167(2).
4. Oliver 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).
5. These violations of the statutes permit the Director of the Division of Insurance to revoke Oliver's insurance producer license and/or impose other sanctions as set forth in SDCL 58-30-167.
6. 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 determination of the Division of Insurance be affirmed. John Oliver's South Dakota Insurance Producers License should be revoked.

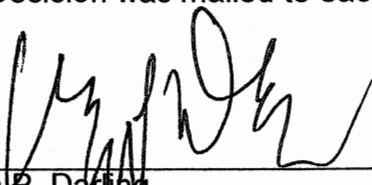
Dated September 23, 2016.



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

CERTIFICATE OF SERVICE

I certify that on September 23, 2016, at Pierre, South Dakota, a true and correct copy of this Decision was mailed to each of the parties listed below.



Ryan P. Darling

JOHN OLIVER
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