

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

**IN THE MATTER OF
STACEY RAUENHORST
LICENSEE**

)
)
)

**FINAL DECISION
INS 19-08**

After reviewing the record and the proposed order 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 March 21, 2019, is adopted in full.

IT IS FURTHER ORDERED that the South Dakota Non-resident Insurance Producer License of Stacey Rauenhorst will hereby be 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 2nd day of April, 2019.



Marcia Hultman, Secretary
South Dakota Department of Labor and Regulation
123 W. Missouri Ave.
Pierre, SD 57501

STATE OF SOUTH DAKOTA
DEPARTMENT OF LABOR AND REGULATION

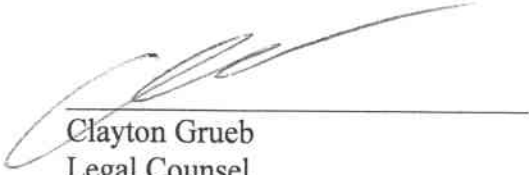
IN THE MATTER OF
STACEY RAUENHORST

INS 19-08

NOTICE OF ENTRY OF PROPOSED
FINDINGS OF FACT, CONCLUSION OF LAW,
AND DECISION AND FINAL DECISION

NOTICE IS HEREBY GIVEN, that attached hereto, is a true and correct copy of the Proposed Findings of Fact, Conclusions of Law, and Decision, and Final Decision entered by Marcia Hultman, Secretary of the South Dakota Department of Labor and Regulation, on April 2, 2019.

Dated this 2nd day of April, 2019.



Clayton Grueb
Legal Counsel
South Dakota Division of Insurance
2330 N. Maple Ave. Suite 1
Rapid City, SD 57701
(605) 394-3396

CERTIFICATE OF SERVICE

I, Clayton Grueb, the undersigned, do hereby certify that on the date shown below, a true and correct copy of the Proposed Findings of Fact, Conclusions of Law, and Decision, and Final Decision with respect to the above-entitled action was sent U.S. Certified Mail and first class mail thereon, to the following:

STACEY RAUEHORST
1221 N. St. Suite 310
Lincoln, NE 68508

STACEY RAUEHORST
25315 461ST Ave
Hartford, SD 57033

I, Clayton Grueb, the undersigned, do hereby certify that on the date shown below, a true and correct copy of the Proposed Findings of Fact, Conclusions of Law, and Decision, and Final Decision with respect to the above-entitled action was sent first class mail thereon, to the following

ALLIED INSURANCE COMPANY OF AMERICA
ONE WEST NATIONWIDE BLVD
COLUMBUS, Ohio 43215

DEPOSITORS INSURANCE COMPANY
1100 LOCUST ST DEPT 2007
DES MOINES , Iowa 50391

ALLIED PROPERTY AND CASUALTY INS CO
1100 LOCUST ST
DES MOINES , Iowa 50391

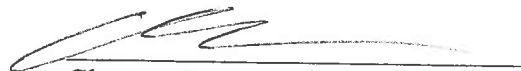
NATIONWIDE AFFINITY INSURANCE COMPANY OF AMERICA
ONE NATIONWIDE PLAZA
COLUMBUS , Ohio 43215-2220

AMCO INSURANCE COMPANY
1100 LOCUST ST
DES MOINES , Iowa 50391

NATIONWIDE AGRIBUSINESS INS CO
1100 LOCUST ST - DEPT 2007
DES MOINES , Iowa 50391

NATIONWIDE MUTUAL INSURANCE COMPANY
ONE WEST NATIONWIDE BLVD
COLUMBUS , Ohio 43215

Dated this 2nd day of April, 2019 in Rapid City, South Dakota.



Clayton Grueb
Legal Counsel
South Dakota Division of Insurance
2330 N. Maple Ave. Suite 1
Rapid City, SD 57701
(605) 394-3396

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

**IN THE MATTER OF
STACEY RAUENHORST**

**INS 19-08
PROPOSED DECISION**

This matter came for hearing before the Office of Hearing Examiners on March 19, 2019 pursuant to a Notice of Hearing issued by the South Dakota Division of Insurance ("Division") on January 23, 2019. Clayton Grueb appeared as counsel for the Division. Stacey Rauenhorst did not appear, either in person or through counsel. The Division admitted its Exhibits 1 through 7 into evidence and moved that the Hearing Examiner enter these Proposed Findings of Fact, Conclusions of Law, and Proposed Decision as a default disposition to this contested case.

ISSUE

Whether the Non-Resident Insurance Producer License of Stacey Rauenhorst should be revoked due to failing to timely respond to the Division; failing to comply with a court order imposing child support; and for failing to update her address with the Division, in violation of SDCL §§ 58-30-167(2) and (13), 58-30-157, 58-33-66, and 58-33-68.

FINDINGS OF FACT

1. Stacey Rauenhorst was licensed by the Division as an insurance producer on February 14, 2013. The license is currently active. (Exhibit 1).
2. Stacey Rauenhorst failed to comply with her child support order. (Exhibit 2 & 7).
3. The Division sent inquiries to Stacey Rauenhorst at the address of record regarding the child support matter. (Exhibit 3-6).
4. Stacey Rauenhorst did not respond to the Division's inquiries or provide the required documentation. (Exhibit 3-5).
5. Stacey Rauenhorst remains ineligible to hold an insurance producer's license due to her delinquent child support order. (Exhibit 7).
6. Any additional Findings of Fact included in the Reasoning section of this decision are incorporated herein by reference.
7. 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

This case involves a request by the Division to revoke the South Dakota Non-Resident Insurance Producer's License of Stacey Rauenhorst. As a consequence of the potential loss of Respondent's livelihood from the lack of licensure, the burden of proof in this matter is higher than the preponderance of evidence standard, which applies in a typical administrative hearing. "In matters concerning the revocation of a professional license, we determine that the appropriate standard of proof to be utilized by an agency is clear and convincing evidence." *In re Zar*, 434 N.W.2d 598, 602 (S.D. 1989). Our Supreme Court has defined "clear and convincing evidence" as follows:

The measure of proof required by this designation falls somewhere between the rule in ordinary civil cases and the requirement of our criminal procedure, that is, it must be more than a mere preponderance but not beyond a reasonable doubt. It is that measure or degree of proof which will produce in the mind of the trier of facts a firm belief or conviction as to the allegations sought to be established. The evidence need not be voluminous or undisputed to accomplish this.

Brown v. Warner, 78 S.D. 647, 653, 107 NW2d 1, 4 (1961).

SDCL 58-30-157 states that "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.." SDCL 58-33-66(1) requires Stacey Rauenhorst to respond to the Division and supply requested documents within twenty days from the receipt of a request. SDCL 25-7A-56 states that "No state agency or board may issue or renew the professional . . . license . . . or permit of any applicant after receiving notice from the Department of Social Services that the applicant has support arrearages in the sum of one thousand dollars or more..." In addition, the Division considers SDCL 58-30-167 (shown in pertinent part) as follows:

The director may... revoke or refuse to continue, any license issued under this chapter... after a hearing... The director may... revoke... an insurance producer's... for any one or more of the following causes:

- (2) Violating any insurance laws or rules, subpoena, or order of the director or of another state's insurance director, commissioner, or superintendent;
- (13) Failing to comply with an administrative or court order imposing a child support obligation.

The evidence indicates that Stacey Rauenhorst violated the insurance laws of South Dakota, failed to update her address with the Division, failed to respond to Division inquiries, and is inelligible to hold a professional license due to her delinquent child support obligations. Applying the law to the Findings of Fact it is clear the Non-Resident Insurance Producer License of Stacey Rauenhorst is subject to revocation and should be revoked.

CONCLUSIONS OF LAW

1. The Division has jurisdiction over Stacey Rauenhorst and the subject matter of this contested case. The Office of Hearing Examiners is authorized to conduct the hearing and issue a proposed decision pursuant to SDCL 1-26D-4.
2. The Division bears the burden of establishing the alleged statutory violations by clear and convincing evidence.
3. The Division established by clear and convincing evidence that Stacey Rauenhorst violated SDCL § 58-30-157.
4. The Division established by clear and convincing evidence that Stacey Rauenhorst violated SDCL § 58-33-66.
5. The Division established by clear and convincing evidence that the South Dakota Non-Resident Insurance Producer License of Stacey Rauenhorst is subject to revocation pursuant to SDCL§ 58-33-167(2) and (13).
6. The Court notes that the Respondents name was mistakenly listed as “Stacey Rauehorst” on the Notice of Hearing, the court finds that this typo was not material and finds that Stacey Rauenhorst was properly notified of these proceedings.
7. Any additional Conclusions of Law included in the Reasoning section of this decision are incorporated herein by reference.
8. 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.

Based on the above Findings of Fact, Reasoning, and Conclusions of Law, the Hearing Examiner enters the following:

PROPOSED DECISION

The South Dakota Non-Resident Insurance Producer License of Stacey Rauenhorst should be revoked.

Dated this 21st day of March, 2019.



Catherine Williamson, Hearing Examiner
Office of Hearing Examiners
523 East Capitol
Pierre, SD 57501

CERTIFICATE OF SERVICE

I certify on March ^{21st}, 2019, at Pierre, South Dakota, a true and correct copy of this Proposed Decision was mailed to each of the parties below.



Ashley Parsons
Office of Hearing Examiners

Stacey Rauenhorst
1221 N. St. Suite 310
Lincoln, NE 68508

Stacey Rauenhorst
25315 461st Ave
Hartford, SD 57033

Clayton Grueb
Division of Insurance
2330 N. Maple Ave, Suite 1
Rapid City, SD 57701