

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

**IN THE MATTER OF
ERIC DOCKTER
LICENSEE**

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**FINAL DECISION
INS 20-37**

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 February 10, 2021, is adopted in full.

IT IS FURTHER ORDERED that the South Dakota Resident Insurance Producer License of Eric Dockter will hereby be revoked.

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

Dated this 8th day of March, 2021.



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
ERIC DOCKTER

INS 20-37

NOTICE OF ENTRY OF PROPOSED
FINDINGS OF FACT, CONCLUSIONS 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 March 8, 2021.

Dated this 15th day of March, 2021.



Jacob R. Dempsey
Insurance Division Legal Counsel
South Dakota Division of Insurance

CERTIFICATE OF SERVICE

I, Jacob Dempsey, the undersigned, do hereby certify that on this 15th day of March, 2021, 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 thereon, to the following:

Eric Dockter
4426 W Kinsley Place
Sioux Falls, SD 57108

Dated this 15th day of March, 2021.



Jacob R. Dempsey
Insurance Division Legal Counsel
South Dakota Division of Insurance
124 S. Euclid Ave., 2nd Floor
Pierre, SD 57501

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

**IN THE MATTER OF
ERIC DOCKTER**

**INS 20-37
PROPOSED DECISION**

This matter came for hearing before the Office of Hearing Examiners on February 3, 2021, pursuant to a Notice of Hearing issued by the South Dakota Division of Insurance (“Division”) on January 4, 2021. Jacob Dempsey appeared as counselor for the Division. Eric Dockter did not appear in person or through counsel. The Division admitted its Exhibits A through H into evidence and requested that the Hearing Examiner enter these Findings of Fact, Conclusions of Law, and Proposed Decision as a disposition in this contested case.

ISSUE

Whether the Resident Insurance Producer License of Eric Dockter should be revoked for violations of SDCL 58-30-167(8) and SDCL 58-30-66(1).

FINDINGS OF FACT

1. Eric Dockter (“Respondent”) holds a Resident Insurance Producer License (“license”) in South Dakota.
2. On February 18, 2020, the Division received a consumer complaint against Respondent alleging that he added policies to two consumer accounts without the consumers’ knowledge.
3. The Division wrote respondent about this complaint on February 21, 2020 at his address of record, but Respondent never answered this correspondence.
4. The Division received a second complaint concerning Respondent, and Washington National Insurance Company sent the Division a letter on August 31, 2020 stating that premiums had been refunded on alleged duplicate coverage that had been written by Respondent, which were the subject of the complaint.
5. The Division followed up on the investigation with new correspondence to Respondent on June 23, 2020 sent via mail and email. Respondent never answered this correspondence.
6. The Division was able to reach Respondent by phone on July 30, 2020. During this call, respondent was advised of his requirement to respond to prior correspondence. The Division resent the correspondence.

7. Respondent did not respond after the July 30, 2020 phone call but was reached by phone again on September 30, 2020. He was again advised of his need to respond but did not.
8. Any additional Findings of Fact included in the Reasoning section of this decision are incorporated herein by reference.
9. 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.

STANDARD OF REVIEW

This case involves a request by the Division to revoke a South Dakota Resident Insurance Producer's License. "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). The South Dakota 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 58-33-66(1) requires licensees to respond to the Division and supply requested documents within twenty days from the receipt of a request. SDCL 58-30-167 provides:

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

. . .

- (8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere . . .

CONCLUSIONS OF LAW

1. The Division has jurisdiction over Eric Dockter 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. *In re Zar*, 434 N.W.2d at 602.
3. The Division established by clear and convincing evidence that Eric Dockter violated SDCL 58-33-66(1) by failing to respond to the Division's inquiries.
4. The Division established by clear and convincing evidence that Eric Dockter violated SDCL 167(8) by using fraudulent or dishonest practices, and demonstrating incompetence and untrustworthiness in the conduct of business this state. The violations of SDCL 167(8) were the result of consumer complaints alleging signing consumers up for unrequested coverage and duplicate coverage and the subsequent failure to maintain contact with the Division to explain the allegations.
5. The Division established by clear and convincing evidence that the South Dakota Resident Insurance Producer License of Eric Dockter is subject to revocation under SDCL 58-30-167.
6. The Division established by clear and convincing evidence that the South Dakota Resident Insurance Producer License of Eric Dockter should be revoked under SDCL 58-30-167.
7. Any additional Conclusions of Law included in the Standard of Review 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 Resident Insurance Producer License of Eric Dockter should be revoked as a disposition to this case.

Dated this 10th day of February, 2021.



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

CERTIFICATE OF SERVICE

I, the undersigned, do certify that on the 10th day of the month of February, 2021, at Pierre, South Dakota, a true and correct copy of this Proposed Decision was mailed to each of the parties below.


Kari Deyo

Eric Dockter
4426 W Kinsley Place
Sioux Falls, SD 57108

Jacob R. Dempsey
South Dakota Division of Insurance
124 S. Euclid Ave., 2nd Floor
Pierre, SD 57501