

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

**IN THE MATTER OF
SHELLEE RANAE FINLEY
LICENSEE**

)
)
)

**FINAL DECISION
INS 23-048**

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 November 13, 2023, is adopted in full.

IT IS FURTHER ORDERED that the South Dakota Non-resident Insurance Producer License of Shellee Ranae Finley 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 28 day of November, 2023.



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

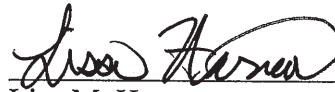
IN THE MATTER OF
SHELLEE RANAE FINLEY

INS 23-048

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 November 28, 2023.

Dated this 29th day of November, 2023.



Lisa M. Harmon
Legal Counsel
South Dakota Division of Insurance
124 S. Euclid Ave., 2nd Floor
Pierre, SD 57501
(605) 773-3563

CERTIFICATE OF SERVICE

I, Lisa Harmon, 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, U.S. First Class Mail, and electronic mail thereon, to the following:

SHELLEE RANAE FINLEY
1313 N Main Street
Spearfish, SD, 57783
shekuper@yahoo.com

FOREMOST INSURANCE COMPANY
5600 Beech Tree Lane
Caledonia, MI 49316

Dated this 29th day of November, 2023 in Pierre, South Dakota.



Lisa M. Harmon
Legal Counsel
South Dakota Division of Insurance
124 S. Euclid Ave., 2nd Floor
Pierre, SD 57501
(605) 773-3563

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

**IN THE MATTER OF
SHELLEE FINLEY**

**INS 23-048
PROPOSED DECISION**

This matter came for hearing before the Office of Hearing Examiners on November 9, 2023, pursuant to a Notice of Hearing issued by the South Dakota Division of Insurance (“Division”) on October 19, 2023. Lisa M. Harmon appeared as counsel for the Division. Shellee Finley did not appear, either in person or through counsel. The Division admitted its Exhibits 1 through 4 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 Resident Insurance Producer License of Shellee Finley should be revoked due to violating the insurance laws of South Dakota; misappropriating policyholder premium; and demonstrating incompetence, untrustworthiness, and financial irresponsibility in the conduct of business in this state in violation of SDCL 58-30-167(2), (4), & (8) and 58-33-68.

FINDINGS OF FACT

1. Shellee Finley was licensed by the Division as an insurance producer on December 29, 2015. The license is currently inactive. (Exhibit 1).
2. An insurance company reported Shellee Finley’s conduct to the Division. (Exhibit 2).
3. Shellee Finley misappropriated policyholder funds and applied them to her own funds. (Exhibits 2A-2C).
4. The Division sent inquiries to Shellee Finley on July 10, 2023 and August 2, 2023 at the address of record regarding the matters. (Exhibit 3).
5. Shellee Finley responded to the Division’s inquiries. (Exhibit 4).
6. Shellee Finley admitted to misappropriating policyholder funds received in the course of conducting insurance business and applying them to her own funds. (Exhibits 2C & 4).
7. Shellee Finley incompetence, untrustworthiness, and financial irresponsibility in the conduct of business in this state. (Exhibits 2, 2A, 2B, 2C, and 4).
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.

REASONING

This case involves a request by the Division to revoke the South Dakota Resident Insurance Producer's License of Shellee Finley. 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).

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 license... 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;
- (4) Withholding, misappropriating, or converting any monies or properties received in the course of doing insurance business;
- (8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.

The evidence indicates that Shellee Finley violated the insurance laws of South Dakota. Shellee Finley misappropriated and admitted to misappropriating policyholder funds received in the course of business and applied them to her own funds. Shellee Finley has also demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state. Applying the law to the Findings of Fact, it is clear the Resident Insurance Producer License of Shellee Finley is subject to revocation and should be revoked.

CONCLUSIONS OF LAW

1. The Division has jurisdiction over Shellee Finley 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 the South Dakota Resident Insurance Producer License of Shellee Finley is subject to revocation pursuant to SDCL 58-30-167(2), (4). & (8).
4. Any additional Conclusions of Law included in the Reasoning section of this decision are incorporated herein by reference.
5. 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 Shellee Finley should be revoked.

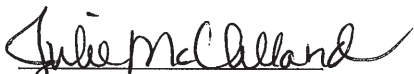
Dated this 13th day of November, 2023.



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

CERTIFICATE OF SERVICE

I certify on November 13th, 2023, at Pierre, South Dakota, a true and correct copy of this Proposed Decision was mailed to each of the parties below.



Julie McClelland
Office of Hearing Examiners

Shellee Finley
1313 N Main Street
Spearfish, SD, 57783
shekuper@yahoo.com

FOREMOST INSURANCE COMPANY
5600 Beech Tree Lane
Caledonia, MI 49316

Lisa M. Harmon
Division of Insurance
124 S. Euclid Ave., 2nd Floor
Pierre, SD 57501