

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

**IN THE MATTER OF
KYLEE KINGSLEY
LICENSEE**

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**FINAL DECISION
INS 15-08**

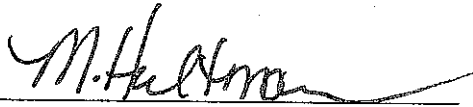
After reviewing the record and the proposed decision of the Hearing Examiner in this matter,

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 June 5, 2015 is adopted in full.

IT IS FURTHER ORDERED that the South Dakota Non-resident Insurance Producer License of Kylee Kingsley 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 11th day of June 2015



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
KYLEE KINGSLEY**

**PROPOSED DECISION
15-08**

V.

DIVISION OF INSURANCE

An administrative hearing was held in this matter on May 12, 2015. Licensee, Kylee Kingsley (Kingsley), did not appear or testify at the hearing. The Division of Insurance (Division) was represented by Brendan Stratton. The Division had a witness, Amy Ondell. 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 Kingsley failed to report to the Division an administrative action against him by the State of North Dakota?

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

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

FINDINGS OF FACT

I.

Kingsley was licensed by the division as a Non-Resident Producer on April 25, 2014. His license is currently active.

II.

Kingsley's license number is 40358428.

III.

On or about April 22, 2014, Kingsley applied for an insurance license in the state of North Dakota.

IV.

North Dakota denied Kingsley's application because he had a 1993 felony conviction for receiving stolen property. A crime such as this shows a lack of trustworthiness and good personal reputation.

V.

A denial of a license application is considered an administrative action.

VI.

Kingsley did not report the North Dakota administrative action to the Division.

VII.

On July 18, 2014, the Division sent Kingsley an inquiry regarding the North Dakota administrative action.

VIII.

The Division sent that letter to Kingsley at his address of record, 6576 Elissa Drive, Hamilton Ohio.

IX.

Kingsley did not respond to the Division's July 18, 2014 letter.

X.

On August 19, 2014, the Division sent Kingsley another inquiry via first class and certified mail regarding the North Dakota administrative action to 6576 Elissa Drive, Hamilton Ohio.

XI.

United States Postal Service records indicate the Division's letter was unclaimed and unable to forward.

XII.

Kingsley did not respond to the Division's letter or make any effort to contact the Division.

XIII.

A hearing on the matter was scheduled for May 12, 2015.

XIV.

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

SDCL 58-30-193 requires that any administrative action be reported. "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." Additionally, it is an unfair or deceptive insurance practice to fail to respond to inquiries from the Division.

"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, Kingsley did not report an administrative action and he did not respond to letters from the Division. "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 having an insurance producer license, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory." SDCL 58-30-167(9).

The law clearly allows the Division to revoke an insurance producers license if that person has had an administrative action against them in another state. The incident is compounded when the licensee fails to contact the Division or fails to answer questions from the Division. I have no authority to make exceptions to the law. Kingsley's license should be revoked.

CONCLUSIONS OF LAW

I.

The Division has jurisdiction over Kingsley 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.

Kingsley violated the requirements of SDCL 58-30-193 in failing to advise the Division within thirty days of the State of North Dakota's administrative action against his insurance license.

III.

The failure of Kingsley to report the state of North Dakota's administrative action against his insurance producer license is grounds for sanction by the Division pursuant to SDCL 58-30-167(2).

IV.

Kingsley 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 Kingsley'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 Kylee Edward Kingsley be revoked.

Dated June 5, 2015.



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