

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

IN THE MATTER OF)	
STEVEN MCHALE)	FINAL DECISION
LICENSEE)	INS 15-12

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 September 9, 2015 is adopted in full.

IT IS FURTHER ORDERED that the South Dakota Non-resident Insurance Producer License of Steven Mchale 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 September, 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
STEVEN MCHALE**

**AMENDED
PROPOSED DECISION
INS 15-12**

V.

DIVISION OF INSURANCE

An administrative hearing was held in this matter on August 27, 2015. Licensee, Steven McHale, did not appear or testify at the hearing. The Division of Insurance (Division) was represented by Benjamin Eirikson. 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 McHale failed to report to the Division an administrative action against him by the State of California?

Whether McHale failed to respond in a timely manner to an inquiry from the Division?

Whether McHale failed to notify the Division of a change of address?

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

FINDINGS OF FACT

I.

McHale was licensed by the division as an insurance producer on July 11, 2012. His license was currently active.

II.

On or about May 14, 2014, the State of California took administrative action against McHale's insurance producer license.

III.

McHale voluntarily surrendered his insurance license with several different companies.

IV.

There is no evidence that McHale reported the California administrative action to the Division.

V.

On December 15, 2014, the Division sent an inquiry regarding the California administrative action.

VI.

The Division sent that letter to McHale at his address of record, 235A Warwick Lane, Lynchburg Virginia. The letter was sent via certified mail.

VII.

McHale did not respond to the Division's December 15, 2014 letter.

VIII.

The certified mail records indicate that the letter was forwarded to 1313 Gates Street, Lynchburg Virginia.

IX.

McHale did not tell the Division about the new address.

X.

On January 16, 2015, the Division sent another inquiry via first class and certified mail regarding the California administrative action to McHale.

XI.

The letter was sent to both the old address at 235A Warwick Lane and the new address at 1313 Gates Street in Lynchburg West Virginia.

XII.

United States Postal Service records indicate the Division's letters were delivered and picked up on January 20, 2015 and February 3, 2015.

XIII.

McHale did not respond to either of the letters.

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

McHale had his California license revoked. This is considered an administrative action. However, he did not report this matter to the South Dakota Division of Insurance.

SDCL 58-30-193 provides 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.

There are two other insurance laws that McHale failed to comply with. McHale violated SDCL 58-33-66(1) when he failed to respond to inquiries by the Division. Additionally, SDCL 58-30-157 requires 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.

The law allows the Division of insurance to revoke McHale's insurance producer license. 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 violating any insurance laws or rules, subpoena, or order of the director or of another state's insurance director, commissioner, or superintendent. SDCL 58-30-167(2). I have no authority to make exceptions to the law.

CONCLUSIONS OF LAW

I.

The Division has jurisdiction over Steven McHale 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.

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

III.

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

IV.

McHale 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.

McHale violated SDCL 58-30-157 when he failed to inform the Division of Insurance of a change of address.

VI.

These violations of the statutes permit the Director of the Division of Insurance to revoke McHale's insurance producer license and/or impose other sanctions as set forth in SDCL 58-30-167.

VII.

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 Division of Insurance be affirmed.

Dated September 9, 2015.



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