

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

**IN THE MATTER OF
LINDA KAUFERT**

) **FINAL DECISION**
) **INS 16-02**
)

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 April 13, 2016 are adopted in full.

IT IS FURTHER ORDERED the South Dakota non-resident insurance producer license of Linda Kaufert is hereby 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 22 day of April, 2016.



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

LINDA KAUFERT

**PROPOSED DECISION
INS 16-02**

V.

DIVISION OF INSURANCE

An administrative hearing was held in this matter on March 23, 2016. Licensee, Linda Kaufert (Kaufert), did not appear or testify at the hearing. The Division of Insurance (Division) was represented by Benjamin Eirikson. The Division had a witness, Tony Dorschner. 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 Kaufert failed to report to the Division an administrative action against her by the States of Florida and Idaho?

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

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

FINDINGS OF FACT

I.

Kaufert was licensed by the Division as an insurance producer on January 16, 2014. Her license is currently active.

II.

On January 26, 2015, the State of Florida denied Kaufert's request for an insurance producer license. The denial was based on a 1986 felony and a failure to disclose the felony.

III.

Kaufert did not report the administrative action to the Division.

IV.

On June 2, 2015, the state of Idaho revoked Kaufert's insurance producer license.

V.

On May 14, 2015, the Division sent Kaufert a letter asking about the Florida administrative action.

VI.

The Division sent the letter to Kaufert at her address of record, 901 Saunders RD APT 111, Kaukauna Wisconsin 54130-8465.

VII.

Kaufert did not respond to the Division's May 14, 2015 letter.

VIII.

On June 24, 2015, the Division sent Kaufert another letter regarding the administrative action to 901 Saunders RD APT 111, Kaukauna Wisconsin 54130-8465.

IX.

The second letter was sent via first class mail and first class certified mail.

X.

United States Postal Service records indicate that they attempted to deliver the letters on June 29 and July 6, 2015.

XI.

The letters were unclaimed and returned to the Division on July 16, 2015.

XII.

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 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.

In this case, Kaufert applied for a license in Florida and it was denied because of a past felony. Later, Kaufert had her licence revoked in Idaho. Both of these incidents are administrative actions. Kaufert failed to report both of the administrative actions to the Division.

The South Dakota statutes state that 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 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;
- (8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere;
- (9) Having an insurance producer license, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory;

At the conclusion of the matter, the director shall send a letter to the licensee, the insurers represented by such licensee, and the appointing agent of a producer, stating the final determination of the matter. SDCL 58-30-167.

Kaufert had an insurance producer license revoked in one state and denied in another state. Additionally, she did not tell the Division about these incidents or respond to questions by the Division about these incidents. This is a deceptive act or practice in the business of insurance.

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).

Kaufert has violated several of South Dakota's insurance laws. Therefore, her insurance producer license should be revoked. I have no authority to make exceptions.

CONCLUSIONS OF LAW

I.

The Division has jurisdiction over Linda Kaufert 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.

Kaufert violated the requirements of SDCL 58-30-193 in failing to advise the Division within thirty days of the State of Florida and Idaho's administrative action against her.

III.

The failure of Kaufert to report the administrative actions against her insurance producer license is grounds for sanction by the Division pursuant to SDCL 58-30-167(2).

IV.

Kaufert 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 Kaufert'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 Linda Kaufert be revoked.

Dated April 13, 2016.



Ryan P. Darling
Office of Hearing Examiners
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Pierre SD 57522