

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

**IN THE MATTER OF  
JOHN LODATO**

) **FINAL DECISION**  
)

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 November 3, 2016 are adopted in full with the following exceptions:

Due to a date error, Findings of Fact paragraph number 4 is modified to read as follows:

On September 17, 2015, Mr. Lodato's employer, MetLife, terminated the contract between themselves and Lodato due to errors.


Due to an error concerning Mr Lodato's mailing address of record, Findings of Fact paragraph number 5 is modified to read as follows:

On October 14, 2015, the Division sent a letter to Mr. Lodato at his mailing address of record at the time, 839 Revere Village Ct, Centerville, Ohio 45458 requesting additional information as to his termination for cause.

THEREFORE IT IS FURTHER ORDERED the South Dakota non-resident insurance producer license of John Lodato 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 9<sup>th</sup> day of November, 2016.

  
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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  
JOHN LODATO**

**INS 16-05**

**PROPOSED DECISION**

**v.**

**DIVISION OF INSURANCE**

An administrative hearing was held in this matter on October 12, 2016. Licensee, John Lodato (Lodato), 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 Lodato failed to report to the Division an administrative action against him by the State of North Dakota?

Whether Lodato failed to report the administrative action to the Division within 30 days?

Whether Lodato failed to respond to inquiries from the Division?

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

**FINDINGS OF FACT**

1. Lodato was licensed by the Division as an insurance producer on June 3, 2008. His license is currently active and the number is 40049575.
2. On or about March 2, 2016, the State of North Dakota took administrative action against Lodato's insurance producer license.
3. Mr. Lodato did not report the administrative action from North Dakota to the Division.
4. On September 18, 2015, Mr. Lodato's employer, MetLife, terminated the contract between themselves and Lodato due to errors.

5. On October 14, 2015, the Division sent a letter to Mr. Lodato at his address of record, 3928 Bonita Drive, Middletown Ohio, 45044-6553, requesting additional information as to his termination for cause.
6. On December 9, 2015, the Division sent a second letter to Mr. Lodato by certified mail.
7. On January 11, 2016, the postal service returned the certified letter to the Division as it was unclaimed.
8. 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**

Mr. Lodato was holding a South Dakota license of an insurance producer. There are specific regulations and laws for those holding a license in South Dakota. The pertinent statutes are set out here:

SDCL §58-30-193. 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.

SDCL §58-30-167. 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:

- (1) Providing incorrect, misleading, incomplete, or materially untrue information in the license application;
- (2) Violating any insurance laws or rules, subpoena, or order of the director or of another state's insurance director, commissioner, or superintendent; or
- (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 §58-33-66 (1) states that 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.

In this case, Lodato failed to report an administrative action from North Dakota to the Department. Lodato also failed to respond to inquiries from the Department about the administrative action. The evidence shows the Division should revoke Lodato's insurance producer license.

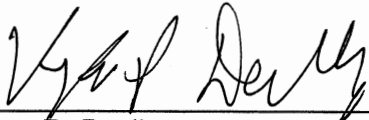
### **CONCLUSIONS OF LAW**

1. The Division has jurisdiction over Mr. Lodato 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.
2. Mr. Lodato 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.
3. The failure of Mr. Lodato 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).
4. Mr. Lodato 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).
5. These violations of the statutes permit the Director of the Division of Insurance to revoke Mr. Lodato's insurance producer license and/or impose other sanctions as set forth in SDCL 58-30-167.
6. Any Conclusions of Law in the reasoning section of this decision are incorporated herein by reference.
7. 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 non-resident producer license of Mr. John Lodato, License Number 40049575, be revoked.

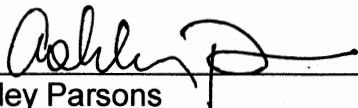
Dated November 3, 2016.



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

**CERTIFICATE OF SERVICE**

I certify that on November 3, 2016, at Pierre, South Dakota, a true and correct copy of the Findings of Fact, Conclusions of Law and Proposed Order in the above-entitled matter was sent via U.S. Mail or Inter-Office Mail to each party listed below.



\_\_\_\_\_  
Ashley Parsons

JOHN LODATO  
3928 BONITA DR.  
MIDDLETOWN, OH 45044-6553

FRANK MARNELL  
INSURANCE DIVISION LEGAL COUNSEL  
124 S. EUCLID AVE., 2<sup>ND</sup> FLOOR  
PIERRE, SD 57501