

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

IN THE MATTER OF)
TRINH TRAN) **FINAL DECISION**
LICENSEE) **INS 15-18**

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 December 22, 2015 is adopted in full.

IT IS FURTHER ORDERED that the License of Trinh Tran 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 28th day of December 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
TRINH TRAN**

**PROPOSED DECISION
INS 15-18**

V.

DIVISION OF INSURANCE

An administrative hearing was held in this matter on December 10, 2015. Licensee, Trinh Tran (Tran), 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 the Division may revoke Tran's license as an insurance producer because he violated the Insurance Laws of South Dakota?

FINDINGS OF FACT

I.

Tran was licensed by the division as an insurance producer on February 18, 2005. The license number is 5779906 and it is currently active.

II.

On or about February 5, 2015, the State of Georgia took administrative action against Tran's insurance producer license. Tran's Georgia License was placed on a probationary status for 12 months.

III.

Tran did not report the Georgia administrative action to the Division.

IV.

On April 13, 2015, the Division sent Tran an inquiry regarding the Georgia administrative action.

V.

The Division sent that letter to Tran at the address of record, 759 Oak Street Apartment D, Lakewood Colorado.

VI.

Tran did not respond to the Division's April 13, 2015 letter.

VII.

On May 14, 2015, the Division sent Tran another inquiry regarding the Georgia administrative action to 759 Oak Street Apartment D, Lakewood Colorado.

VIII.

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

IX.

United States Postal Service records indicate the Division's May 14, 2015, letter was unclaimed.

X.

The Division has not heard from Tran.

XI.

A Hearing on the matter was scheduled on December 10, 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

The law requires 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. SDCL 58-30-193. Here, Tran had an administrative action in the state of Georgia and did not report the incident to the Division.

SDCL 58-30-167 provides 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:

- (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;

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.

Finally, 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. SDCL 58-30-157.

In this case, Tran was subject to an administrative action in Georgia and did not report the action to the Division within 30 days. Additionally, Tran failed to respond to letters from the Division. The evidence shows the Division should revoke Tran's insurance producer license.

CONCLUSIONS OF LAW

I.

The Division has jurisdiction over Tran 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.

Tran violated the requirements of SDCL 58-30-193 in failing to advise the Division within thirty days of the State of Georgia's administrative action.

III.

The failure of Tran to report the administrative action is grounds for sanction by the Division pursuant to SDCL 58-30-167(2).

IV.

Tran 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 Tran's insurance producer license and/or impose other sanctions as set forth in SDCL 58-30-167.

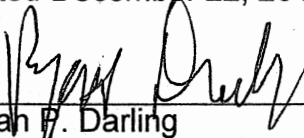
VI.

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 Trinh Tran be revoked.

Dated December 22, 2015.



Ryan F. Darling
Office of Hearing Examiners
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Pierre SD 57522