

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

**IN THE MATTER OF
JENNIFER RAYMOND**

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**FINAL DECISION
INS 19-36**

After reviewing the record and the proposed order 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 October 10, 2019, is adopted in full.

IT IS FURTHER ORDERED that the denial of the South Dakota Non-resident Insurance Producer License of Jennifer Raymond was reasonable.

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 16TH day of October, 2019.



Marcia Hultman, Secretary
South Dakota Department of Labor and Regulation
123 W. Missouri Ave.
Pierre, SD 57501

STATE OF SOUTH DAKOTA
DEPARTMENT OF LABOR AND REGULATION


IN THE MATTER OF
JENNIFER RAYMOUND

INS 19-36

NOTICE OF ENTRY OF PROPOSED
FINDINGS OF FACT, CONCLUSION OF LAW,
AND DECISION AND FINAL DECISION

NOTICE IS HEREBY GIVEN, that attached hereto, is a true and correct copy of the Proposed Findings of Fact, Conclusions of Law, and Decision, and Final Decision entered by Marcia Hultman, Secretary of the South Dakota Department of Labor and Regulation, on October 16, 2019.

Dated this 5th day of November, 2019.




Clayton Grueb
Legal Counsel
South Dakota Division of Insurance
2330 N. Maple Ave. Suite 1
Rapid City, SD 57701
(605) 394-3396

CERTIFICATE OF SERVICE

I, Clayton Grueb, the undersigned, do hereby certify that on the date shown below, a true and correct copy of the Proposed Findings of Fact, Conclusions of Law, and Decision, and Final Decision with respect to the above-entitled action was sent U.S. Certified Mail and first class mail thereon, to the following:

Jennifer Raymound
312 Elgin St.
Spearfish, SD 57783

Dated this 5th day of November, 2019 in Rapid City, South Dakota.


Clayton Grueb
Legal Counsel
South Dakota Division of Insurance
2330 N. Maple Ave. Suite 1
Rapid City, SD 57701
(605) 394-3396

**STATE OF SOUTH DAKOTA
OFFICE OF HEARING EXAMINERS**

**IN THE MATTER OF
JENNIFER RAYMOND**

**INS 19-36
PROPOSED DECISION**

An administrative hearing in the above matter was held on September 13, 2019. Jennifer Raymond (Petitioner) appeared at the hearing. Clayton Greub appeared as counsel for the Division of Insurance (Division). Tiffany Carr appeared as witness for the Division. This matter was recorded.

ISSUE

Whether it was reasonable for the South Dakota Division of Insurance to deny Jennifer Raymond a resident insurance producers license?

FINDINGS OF FACT

1. Petitioner applied for a non-resident insurance producers license in South Dakota on February 24, 2019.
2. In her application to the Division, Petitioner notified the Division that she had been convicted of a felony in November 2016, and that she was in arrears to the State of Montana for child support.
3. On March 18, 2019, in response to these affirmative answers in the license questionnaire, Tiffany Carr, a compliance agent with the Division, wrote to Petitioner to clarify the responses. Petitioner was instructed to send to the Division within 20 days, written explanations of these responses, copy(ies) of the charging document(s) and copies or statements that the arrearages have been paid.
4. Petitioner responded that same day that she would compile the requested information and send it on.
5. Petitioner did not send in the requested documents regarding both her felony charges.
6. Petitioner told the Division that a Montana felony charge of custodial interference was deferred and dismissed.
7. On December 16, 2014, the MT judge gave Petitioner a two-year deferred sentence upon numerous conditions including payment of court costs.

8. On May 16, 2016, the MT judge denied Petitioner's request for dismissal and deferred sentence as she had not paid the court costs.
9. Petitioner did not know what the court documents meant even though the most recent order clearly states that her petition to dismiss the charges is denied.
10. Petitioner also informed the Division and sent documentation that her child support arrears were paid, and that she was no longer in default.
11. On June 12, 2019, the Division sent another denial letter to Petitioner denying the license based upon SDCL §58-30-167(1) and (6) for "providing incorrect, misleading, incomplete, or materially untrue information in your license application and for having been convicted of a felony."
12. On June 19, 2019, the District Court Judge in MT dismissed the charges against her as she had complied with the deferred sentence and filed the correct documents with the court.
13. Any additional Findings of Fact included in the Reasoning section of this decision are incorporated herein by reference.
14. 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

In addition, the Division will consider SDCL 58-30-167 (shown in pertinent part) as follows:

58-30-167. 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;

(6) Having been convicted of a felony;

The Division initially asked for an explanation of the felony reported on the license application. Petitioner did not send in all the documents and did not reveal both felonies that she had been convicted of. The work of an Insurance Agent deals with lots of paperwork and knowing what documents are signed and what documents mean. Petitioner had two felonies on her record until the felony from Montana was dismissed under a deferred sentence dismissal after her license was denied by the Division. She testified that she was unaware that her charges were not dismissed, even though the Order was clearly written in plain language. She had to file another Motion to Dismiss and pay the court costs in Montana for it to be dismissed.

Petitioner also has a felony drug conviction on her record. She was on supervised probation until January of 2019. That Class 5 Felony conviction is reason enough for the Division to deny her a license.

Applying the law to the Findings of Fact it is clear that the Division has the statutory authority and the reasons to deny to Petitioner a Non-Resident Insurance Producer License. The Division acted reasonably in their determination and with full authority.

CONCLUSIONS OF LAW

1. The Division of Insurance has jurisdiction over the parties and subject matter of this hearing pursuant to Title 58 of the South Dakota Codified Laws. The Office of Hearing Examiners is authorized to conduct the hearing and issue a proposed decision pursuant to the provisions of SDCL 1-26D-4.
2. The Division of Insurance bears the burden of establishing why they had the statutory authority to not issue an insurance producers license to Petitioner.
3. The Division of Insurance established by clear and convincing evidence that Petitioner was convicted of a felony and that her application was not complete. Petitioner made materially untrue statements to the Division that were contradicted by the documents she submitted.
4. Any additional Conclusions of Law included in the Reasoning section of this decision are incorporated herein by reference.
5. 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.

Based on the above Findings of Fact, Reasoning and Conclusions of Law, the Hearing Examiner enters the following:

PROPOSED DECISION

The Division of Insurance has shown they have statutory authority to deny a South Dakota Nonresident Insurance Producers License to Jennifer Raymond. The Denial should be upheld.

Dated this 10th day of October, 2019



Catherine Williamson
Office of Hearing Examiners
523 East Capitol
Pierre, SD 57501

CERTIFICATE OF SERVICE

I certify that on October 16, 2019, at Pierre, South Dakota, a true and correct copy of this Proposed Order was mailed to each of the parties listed below.



Kari Deyo

JENNIFER RAYMOND
312 ELGIN STREET
SPEARFISH SD 57783

CLAYTON GRUEB
ATTORNEY
DIVISION OF INSURANCE
124 SOUTH EUCLID AVE. 2ND FLOOR
PIERRE SD 57501