

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

**IN THE MATTER OF
JEANINE MARY MASKOVICH
LICENSEE**

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**FINAL DECISION
INS 20-03**

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 May 29, 2020, is adopted in full.

IT IS FURTHER ORDERED that the South Dakota Resident Insurance Producer License of Jeanine Mary Maskovich 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 17 day of June, 2020.



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

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

**IN THE MATTER OF
JEANINE MARY MASKOVICH**

**INS 20-03
DEFAULT PROPOSED DECISION**

This matter came for hearing before the Office of Hearing Examiners on May 21, 2020 pursuant to a Notice of Hearing issued by the South Dakota Division of Insurance ("Division") on May 12, 2020. Clayton Grueb appeared as counsel for the Division. Jeanine Mary Maskovich did not appear, either in person or through counsel. By not appearing, Jeanine Mary Maskovich was found to be in default. The Division had previously provided the court and Jeanine Mary Maskovich its Exhibits 1 through 5, which were received and entered into evidence. The Hearing Examiner now enters these Proposed Findings of Fact, Conclusions of Law, and Proposed Decision as a default disposition to this contested case.

ISSUE

Whether the Non-Resident Insurance Producer License of Jeanine Mary Maskovich should be revoked due to providing incorrect, misleading, incomplete, or materially untrue information on her license application; obtaining a license through misrepresentation or fraud demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere; and for having a revocation or suspension action(s) in another state(s) in violation of SDCL §§ 58-30-167(2), (3), and (8).

FINDINGS OF FACT

1. Jeanine Mary Maskovich was licensed by the Division as an insurance producer on December 6, 2019. The license is currently active. (Exhibit 1).
2. Jeanine Mary Maskovich failed to report her criminal history on her license application. (Exhibit 2).
3. Jeanine Mary Maskovich's criminal history is such that it would have flagged her application for further review if she had correctly filled out the application. (Exhibits 3-5).
4. Any additional Findings of Fact 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 conclusions of law, they are hereby redesignated and incorporated herein as conclusions of law.

REASONING

This case involves a request by the Division to revoke the South Dakota Non-Resident Insurance Producer's License of Jeanine Mary Maskovich. As a consequence of the potential loss of Respondent's livelihood from the lack of licensure, the burden of proof in this matter is higher than the preponderance of evidence standard, which applies in a typical administrative hearing. "In matters concerning the revocation of a professional license, we determine that the appropriate standard of proof to be utilized by an agency is clear and convincing evidence." *In re Zar*, 434 N.W.2d 598, 602 (S.D. 1989). Our Supreme Court has defined "clear and convincing evidence" as follows:

The measure of proof required by this designation falls somewhere between the rule in ordinary civil cases and the requirement of our criminal procedure, that is, it must be more than a mere preponderance but not beyond a reasonable doubt. It is that measure or degree of proof which will produce in the mind of the trier of facts a firm belief or conviction as to the allegations sought to be established. The evidence need not be voluminous or undisputed to accomplish this.

Brown v. Warner, 78 S.D. 647, 653, 107 NW2d 1, 4 (1961).

SDCL 58-30-167 (shown in pertinent part) as follows:

The director may... revoke or refuse to continue, any license issued under this chapter... after a hearing... The director may... revoke... an insurance producer's... for any one or more of the following causes:

- (1) providing incorrect, misleading, incomplete, or materially untrue information on her 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;
- (3) Obtaining a license through misrepresentation or fraud;
- (8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere;

The evidence indicates that Jeanine Mary Maskovich provided incorrect, misleading, incomplete, or materially untrue information on license application violated the insurance laws, and obtained a license through misrepresentation or fraud. The evidence further indicates that Jeanine Mary Maskovich used fraudulent, coercive, or dishonest practices, or demonstrated incompetence or untrustworthiness in the conduct of his business. Applying the law to the Findings of Fact it is clear the Non-Resident Insurance Producer License of Jeanine Mary Maskovich is subject to revocation and should be revoked.

CONCLUSIONS OF LAW

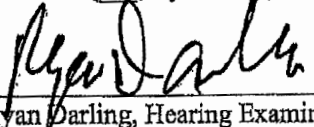
1. The Division has jurisdiction over Jeanine Mary Maskovich and the subject matter of this contested case. The Office of Hearing Examiners is authorized to conduct the hearing and issue a proposed decision pursuant to SDCL 1-26D-4.
2. The Division bears the burden of establishing the alleged statutory violations by clear and convincing evidence.
3. The Division established by clear and convincing evidence that the South Dakota Non-Resident Insurance Producer License of Jeanine Mary Maskovich is subject to revocation pursuant to SDCL§ 58-33-167(1),(2),(3), and (8).
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 South Dakota Non-Resident Insurance Producer License of Jeanine Mary Maskovich should be revoked.

Dated this ²⁹ day of May, 2020.



Ryan Darling, Hearing Examiner
Office of Hearing Examiners
523 East Capitol
Pierre, SD 57501

CERTIFICATE OF SERVICE

I certify on May 29, 2020, at Pierre, South Dakota, a true and correct copy of this Proposed Decision was mailed to each of the parties below.


Keri Deyo

Jeanine Mary Maskovich
23756 Arena Dr.
Rapid City, SD 57702

Clayton Grueb
Division of Insurance
2330 N. Maple Ave, Suite 1
Rapid City, SD 57701

STATE OF SOUTH DAKOTA
DEPARTMENT OF LABOR AND REGULATION

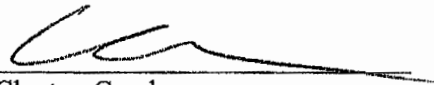
IN THE MATTER OF
JEANINE MASKOVICH

INS 20-03

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 June 17, 2020.

Dated this 17th day of June, 2020.



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:

Jeanine Maskovich
23756 Arena Dr.
Rapid City, SD 57702

Dated this 17th day of June, 2020 in Rapid City, South Dakota.



Clayton Grueb
Legal Counsel
South Dakota Division of Insurance
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Rapid City, SD 57701
(605) 394-3396