

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

**IN THE MATTER OF
RYAN BURCH
LICENSEE**

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**FINAL DECISION
INS 20-36**

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 February 10, 2021, is adopted in full.

IT IS FURTHER ORDERED that the South Dakota Non-resident Insurance Producer License of Ryan Burch will hereby be revoked.

Parties are hereby advised of the right to further appeal the final decision to Circuit Court within thirty days of receiving such decision, pursuant to the authority of SDCL 1-26.

Dated this 8TH day of March, 2021.



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
RYAN BURCH

INS 20-36

NOTICE OF ENTRY OF PROPOSED
FINDINGS OF FACT, CONCLUSIONS 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 March 8, 2021.

Dated this 15th day of March, 2021.



Jacob R. Dempsey
Insurance Division Legal Counsel
South Dakota Division of Insurance

CERTIFICATE OF SERVICE

I, Jacob Dempsey, the undersigned, do hereby certify that on this 15th day of March, 2021, 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 thereon, to the following:

Ryan Burch
3922 8th Pl
Des Moines, IA 50313-3341

Dated this 15th day of March, 2021.



Jacob R. Dempsey
Insurance Division Legal Counsel
South Dakota Division of Insurance
124 S. Euclid Ave., 2nd Floor
Pierre, SD 57501

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

**IN THE MATTER OF
RYAN BURCH**

**INS 20-36
PROPOSED DECISION**

This matter came for hearing before the Office of Hearing Examiners on February 3, 2021, pursuant to a Notice of Hearing issued by the South Dakota Division of Insurance (“Division”) on January 4, 2021. Jacob Dempsey appeared as counselor for the Division. Ryan Burch did not appear in person or through counsel. The Division admitted its Exhibits A through G into evidence and requested that the Hearing Examiner enter these Proposed Findings of Fact, Conclusions of Law, and Proposed Decision as a disposition in this contested case.

ISSUE

Whether the Non-Resident Insurance Producer License of Ryan Burch should be revoked for violations of SDCL 167(2), (8), and (9), SDCL 58-30-193, and SDCL 58-30-66(1) SDCL

FINDINGS OF FACT

1. Ryan Burch (“Respondent”) holds a Non-Resident Insurance Producer License in South Dakota.
2. The state of Virginia took an administrative action against Respondent on July 7, 2020 that resulted in his Virginia insurance license being revoked. Respondent never reported this action to the Division.
3. The Division wrote respondent about the Virginia action at his address of record on September 14, 2020. Respondent never replied to this correspondence.
4. The Division sent a follow-up letter on October 16, 2020, but Respondent again did not reply.
5. Any additional Findings of Fact included in the Reasoning section of this decision are incorporated herein by reference.
6. 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.

STANDARD OF REVIEW

This case involves a request by the Division to revoke a South Dakota Non-Resident Insurance Producer’s License. “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). The South Dakota 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 58-30-193 states that “[A]n insurance producer shall report to the director any administrative action taken against the insurance producer in another jurisdiction . . . 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 58-33-66(1) requires licensees to respond to the Division and supply requested documents within twenty days from the receipt of a request. SDCL 58-30-167 provides:

The director may . . . revoke or refuse to continue, any license issued under this chapter . . . after a hearing . . . 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 . . .

CONCLUSIONS OF LAW

1. The Division has jurisdiction over Ryan Burch 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. *In re Zar*, 434 N.W.2d at 602.

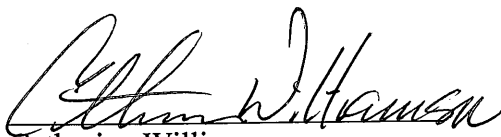
3. The Division established by clear and convincing evidence that Ryan Burch violated SDCL 58-30-193 by failing to report a July 7, 2020 Virginia administrative action.
4. The Division established by clear and convincing evidence that Ryan Burch violated SDCL 58-33-66(1) by failing to respond to the Division's inquiries.
5. The Division established by clear and convincing evidence that Ryan Burch violated SDCL 167(2), (8), and (9) by violating the insurance laws of another state, using dishonest practices or demonstrating incompetence and untrustworthiness in the conduct of business in this state or elsewhere, and having a producer license revoked in another state.
6. The Division established by clear and convincing evidence that the South Dakota Non-Resident Insurance Producer License of Ryan Burch is subject to revocation under SDCL 58-30-167.
7. The Division established by clear and convincing evidence that the South Dakota Non-Resident Insurance Producer License of Ryan Burch should be revoked under SDCL 58-30-167.
8. Any additional Conclusions of Law included in the Standard of Review section of this decision are incorporated herein by reference.
9. 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 Ryan Burch should be revoked as a default disposition to this case.

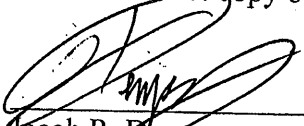
Dated this 10th day of February, 2021.



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

CERTIFICATE OF SERVICE

I, the undersigned, do certify that I am in receipt of the Hearing Examiner's Proposed Decision, and that on the 1st day of the month of March, 2021, at Pierre, South Dakota, a true and correct copy of this Proposed Decision was mailed to the party listed below.



Jacob R. Dempsey
South Dakota Division of Insurance
124 S. Euclid Ave., 2nd Floor
Pierre, SD 57501

Ryan Burch
3922 8th PL
Des Moines, IA 50313-3341