

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

**IN THE MATTER OF  
TIANA BURTON  
LICENSEE**

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**FINAL DECISION  
INS 20-33**

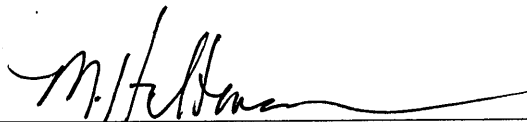
After reviewing the record and the proposed order of the Hearing Examiner in this matter,

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 February 16, 2021, is adopted in full.

IT IS FURTHER ORDERED that the South Dakota Non-Resident Insurance Producer License of Tiana Burton 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 22 day of February, 2021.



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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  
TIANA BURTON

INS 20-33

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 February 22, 2021.

Dated this 25<sup>th</sup> day of February, 2021.



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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 25<sup>th</sup> day of February, 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:

Tiana Burton  
1301 Pleasant Ln.  
Green Bay, WI 54313-5215

Tiana Burton  
3100 AMS Blvd.  
Green Bay, WI 54313-9700

Dated this 25<sup>th</sup> day of February, 2021.



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

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

**IN THE MATTER OF  
TIANA BURTON**

**INS 20-33  
PROPOSED DECISION**

This matter came for hearing before the Office of Hearing Examiners on January 29, 2021, pursuant to an Amended Notice of Hearing issued by the South Dakota Division of Insurance (“Division”) on January 20, 2021. Jacob Dempsey appeared as counselor for the Division. Tiana Burton did not appear in person or through counsel. The Division admitted its Exhibits A through H into evidence and moved that the Hearing Examiner enter these Proposed Findings of Fact, Conclusions of Law, and Proposed Decision as a default disposition in this contested case.

**ISSUE**

Whether the Non-Resident Insurance Producer License of Tiana Burton 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. Tiana Burton (“Respondent”) holds a non-resident insurance producer license (“license”) in South Dakota.
2. Respondent was the subject of a November 15, 2019 administrative action in Wisconsin that resulted in the revocation of her Wisconsin insurance license. Respondent never reported this action to the Division.
3. Respondent was the subject of a February 12, 2020 administrative action in Washington that resulted in the revocation of her Washington insurance license. Respondent never reported this action to the Division
4. Respondent was the subject of a March 9, 2020 administrative action in South Carolina that resulted in the revocation of her South Carolina insurance license. Respondent never reported this action to the Division.
5. On June 5, 2020, the Division attempted contacting Respondent via letter and email at the addresses she provided for correspondence in her licensing application. The Division never received a response, so it again sent correspondence on July 28, 2020. The Division again received no response.
6. Any additional Findings of Fact included 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 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 the South Dakota Non-Resident Insurance Producer's License of Tiana Burton. "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

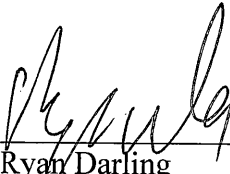
1. The Division has jurisdiction over Tiana Burton and the subject matter of this contested case. The Office of Hearing Examiners is authorized to conduct the hearing and issue a proposed decision pursuant to SDCL 1-26D-4.
2. The Division bears the burden of establishing the alleged statutory violations by clear and convincing evidence. *In re Zar*, 434 N.W.2d at 602.
3. The Division established by clear and convincing evidence that Tiana Burton violated SDCL 58-30-193 by failing to report various administrative actions.
4. The Division established by clear and convincing evidence that Tiana Burton 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 Tiana Burton violated SDCL 167(2), (8), and (9) by violating the insurance laws or rules of the director or of another state, using dishonest practices, 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 both the South Dakota Non-Resident Insurance Producer License of Tiana Burton is subject to revocation under SDCL 58-30-167, and that it should be revoked under SDL 58-30-167.
7. Any additional Conclusions of Law included in the Standard of Review section of this decision are incorporated herein by reference.
8. 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 Tiana Burton should be revoked as a default disposition to this case.

Dated this 16 day of February, 2021.

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

**CERTIFICATE OF SERVICE**

I, the undersigned, do certify that on the 16<sup>th</sup> day of the month of February, 2021, at Pierre, South Dakota, a true and correct copy of this Proposed Decision was mailed to each of the parties below.

  
Kari Deyo

Tiana Burton  
1301 Pleasant Ln.  
Green Bay, WI 54313-5215

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