

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

**IN THE MATTER OF  
KYLE SISNEROS**

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**FINAL DECISION  
INS 24-020**

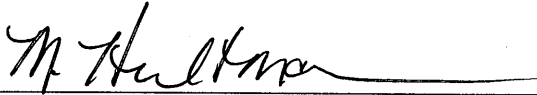
After reviewing the record and the proposed order of the Hearing Examiner in this matter,

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 June 24, 2024, is adopted in full.

IT IS FURTHER ORDERED that the South Dakota Resident Insurance Producer License of the respondent 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 26 day of June, 2024.



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Marcia Hultman, Secretary  
South Dakota Department of Labor and Regulation  
700 Governors Drive  
Pierre, SD 57501

STATE OF SOUTH DAKOTA  
DEPARTMENT OF LABOR AND REGULATION

IN THE MATTER OF  
KYLE SISNEROS

INS 24-020

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 26, 2024.

Dated this 27<sup>th</sup> day of June, 2024.



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Callie A. Pospishil  
Legal Counsel  
South Dakota Division of Insurance  
124 S. Euclid Ave., 2<sup>nd</sup> Floor  
Pierre, SD 57501  
(605) 773-3563

**CERTIFICATE OF SERVICE**

I, Callie Pospishil, 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, U.S. First Class Mail, and electronic mail thereon, to the following:

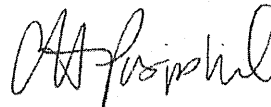
Kyle Sisneros  
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ksisnero@amfam.com; sisneros\_kyle@yahoo.com

Kyle Sisneros  
2127 Jackson Blvd  
Rapid City, SD 57702

American Modern Home Ins Co  
7000 Midland Blvd  
Amelia, Ohio 45102  
complaints@amig.com

Foremost Insurance Company Grand Rapids, Michigan  
5600 Beech Tree Lane  
Caledonia, Michigan 49316

Dated this 27<sup>th</sup> day of June, 2024 in Pierre, South Dakota.



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

**IN THE MATTER OF  
KYLE SISNEROS**

**INS 24-020  
PROPOSED DECISION**

This matter came for hearing before the Office of Hearing Examiners on **1:30 p.m., central time, on June 6, 2024**, pursuant to a Notice of Hearing issued by the South Dakota Division of Insurance (“Division”) on April 29, 2024. Callie A. Pospishil appeared as counsel for the Division. KYLE SISNEROS (“SISNEROS”), did not appear, either in person or through counsel. The Division admitted its Exhibits 1 through 11 into evidence through the witness Haelly Pease, and moved that the Hearing Examiner enter these Proposed Findings of Fact, Conclusions of Law, and Proposed Decision as a default disposition to this contested case.

**ISSUE**

Whether the Resident Insurance Producer License of SISNEROS should be revoked due to withholding, misappropriating, or converting any monies or properties received in the course of doing insurance business; using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere; failing to reasonably ascertain from the records and accounts of deposited comingled funds; knowingly making a false or fraudulent statement or representation with reference to an application for insurance, and failing to respond to the Divisions inquiries, in violation of SDCL 58-30-167(4), & (8), 58-30-90, 58-33-37, and 58-33-66.

**FINDINGS OF FACT**

1. SISNEROS is licensed by the Division as an insurance producer on December 17, 2021. The license is currently active. (Exhibit 1).
2. SISNEROS’ insurance appointment was terminated for cause from an insurer for mishandling consumer funds, comingling assets, and backdating his personal auto policy to the show proof of insurance for a traffic stop. (Exhibit 2-3, 6, and 8-10).
3. The Division sent inquiries to SISNEROS dated December 12, 2023 and January 2, 2024, at the address of record regarding the licensure matters. (Exhibits 4-5, 7, and 11).
4. SISNEROS did not provide a complete response to the Division’s inquiries.
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.

## REASONING

This case involves a request by the Division to revoke the South Dakota Resident Insurance Producer's License of SISNEROS. 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 58-30-90 states that "An insurance producer ... may deposit and commingle in such account all such funds but the amount of such funds held for each respective other person must be reasonably ascertainable from the records and accounts of the insurance producer." SDCL 58-33-37, is relevant part, prohibits SISNEROS from knowingly making any false or fraudulent statements or representations with reference to any application for insurance. SDCL 58-33-66(1) requires SISNEROS to respond to the Division and supply requested documents within twenty days from the receipt of a request. Also, the Division considers 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 license... for any one or more of the following causes:

- (4) Withholding, misappropriating, or converting any monies or properties received in the course of doing insurance business;
- (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 SISNEROS violated the insurance laws of South Dakota and another jurisdiction for withholding, misappropriating, or converting any monies or properties received in the course of doing insurance business; using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere; failing to reasonably ascertain from the records and accounts of deposited commingled funds; knowingly making a false or fraudulent statement or representation with reference to an application for insurance and failing to respond to the Divisions inquiries. Applying the law to the Findings of Fact, it is clear the Resident Insurance Producer License of SISNEROS is subject to revocation and should be revoked.

**CONCLUSIONS OF LAW**

1. The Division has jurisdiction over SISNEROS 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 SISNEROS violated SDCL 58-30-90.
4. The Division established by clear and convincing evidence that SISNEROS violated SDCL 58-33-37.
5. The Division established by clear and convincing evidence that SISNEROS violated SDCL 58-33-66.
6. The Division established by clear and convincing evidence that the South Dakota Non-Resident Insurance Producer License SISNEROS is subject to revocation pursuant to SDCL 58-30-167(4) and (8).
7. Any additional Conclusions of Law included in the Reasoning 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 Resident Insurance Producer License of SISNEROS should be revoked.

Dated this 21 day of June, 2024.



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

**CERTIFICATE OF SERVICE**

I certify on June 24, 2024, at Pierre, South Dakota, a true and correct copy of this Proposed Decision was mailed to each of the parties below.



Julie McClelland  
Office of Hearing Examiners

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