

STATE OF SOUTH DAKOTA
DEPARTMENT OF LABOR AND REGULATION

IN THE MATTER OF
KEVIN BURCKHARD

INS 24-072

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 April 14, 2025.

Dated this 22nd day of April, 2025.



Callie A. Pospishil
Legal Counsel
South Dakota Division of Insurance
124 S. Euclid Ave., 2nd 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:

KEVIN BURCKHARD
1820 13TH ST SE STE A
MINOT, ND 58701-7777

Kevin Karl Burckhard
Northwestern Mutual
Po Box 3126
Minot ND 58702-3126
kevin.burckhard87@gmail.com

Dated this 22nd day of April, 2025 in Pierre, South Dakota.



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

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

**IN THE MATTER OF
KEVIN BURCKHARD**

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**FINAL DECISION
INS 24-072**

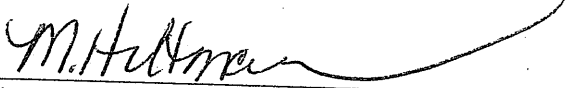
After reviewing the record and the proposed order of the Hearing Examiner in this matter,

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 April 7, 2025, is adopted in full.

IT IS FURTHER ORDERED that the South Dakota Non-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 14TH day of April, 2025.



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

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

**IN THE MATTER OF
KEVIN BURCKHARD**

**INS 24-072
PROPOSED DECISION**

This matter came for hearing before the Office of Hearing Examiners on February 28, 2025, pursuant to a Notice of Hearing issued by the South Dakota Division of Insurance ("Division") on January 14, 2025. Callie A. Pospishil appeared as counsel for the Division. KEVIN BURCKHARD ("BURCKHARD") did not appear, either in person or through counsel. The Division admitted its Exhibits 1 through 5 into evidence 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 Non-Resident Insurance Producer License of BURCKHARD should be revoked due to violating the insurance laws of another state; having an insurance license revoked in another jurisdiction; failing to report an administrative action, and failing to respond to the Division's inquiries, in violation of SDCL §§ 58-30-167 (2) and (9), 58-30-193, and 58-33-66.

FINDINGS OF FACT

1. BURCKHARD was licensed by the Division as an insurance producer on June 16, 2008. The license is currently active. (Exhibit 1).
2. BURCKHARD was subject to administrative actions in the state of Michigan. (Exhibits 2).
3. On March 14, 2024, the State of Michigan revoked BURCKHARD's license due to due to failing to disclose FINRA action and failing to respond. (Exhibit 2 and 5).
4. BURCKHARD did not timely report the administrative action to the Division within 30 days.
5. The Division sent inquiries to BURCKHARD on June 27, 2024, and July 19, 2024, at the address of record regarding the licensure matters. (Exhibits 3 and 4).
6. BURCKHARD did not provide a complete response to the Division's inquiries. (Exhibits 3 and 4).
7. Any additional Findings of Fact 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 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 BURCKHARD. 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 N.W.2d 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 BURCKHARD 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:

- (2) Violating any insurance laws or rules, subpoena, or order of the director or of another state's insurance director, commissioner, or superintendent;
- (9) Having an insurance producer license, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory;

The evidence indicates that BURCKHARD violated the insurance laws of South Dakota and another jurisdiction; has had an insurance license revoked in another jurisdiction; failed to report an administrative action and failed to respond to the Division's inquiries. Applying the law to the Findings of Fact, it is clear the Non-Resident Insurance Producer License of KEVIN BURCKHARD is subject to revocation and should be revoked.

CONCLUSIONS OF LAW

1. The Division has jurisdiction over BURCKHARD 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 BURCKHARD violated SDCL § 58-30-193.
4. The Division established by clear and convincing evidence that BURCKHARD violated SDCL § 58-33-66.
5. The Division established by clear and convincing evidence that the South Dakota Non-Resident Insurance Producer License BURCKHARD is subject to revocation pursuant to SDCL § 58-30-167(2) and (9).
6. Any additional Conclusions of Law 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 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 KEVIN BURCKHARD should be revoked.

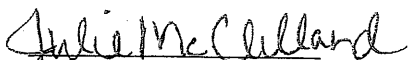
Dated this 7 day of April, 2025.



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

CERTIFICATE OF SERVICE

I certify on April 7, 2025, 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

KEVIN BURCKHARD
1820 13TH ST SE STE A
MINOT, ND 58701-7777

Kevin Karl Burckhard
Northwestern Mutual
Po Box 3126
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