

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

**IN THE MATTER OF
ARIANA BUTLER
LICENSEE**

)
) **FINAL DECISION**
) **INS 15-17**

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 Order, dated January 4, 2016 is adopted in full.

IT IS FURTHER ORDERED that the license of Ariana Butler 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 7 day of January 2016



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
ARIANA BUTLER**

**PROPOSED DECISION
INS 15-17**

V.

DIVISION OF INSURANCE

An administrative hearing was held in this matter on December 10, 2015. Licensee, Ariana Butler (Butler), did not appear or testify at the hearing. The Division of Insurance (Division) was represented by Benjamin Eirikson. The Division had a witness, Amy Ondell. Based on the evidence, the arguments of the parties, and the law, the Hearing Examiner enters the following Findings of Fact, Conclusions of Law, and Proposed Order.

ISSUES

Whether Butler failed to report to the Division an administrative action against her by the States of Florida and California?

Whether Butler failed to report the administrative action to the Division within 30 days?

Whether the Division may revoke Butler's license as an insurance producer?

FINDINGS OF FACT

I.

Butler was licensed by the division as an insurance producer on January 16, 2013. Her license is currently active.

II.

On or about September 29, 2012, Butler applied for a non-resident license in the State of California.

III.

It was discovered that on November 14, 2003, Butler was convicted of attempted obstruction of justice in Utah. Additionally, it was discovered that Butler pled guilty to forgery in Utah on January 20, 2005. Butler was convicted of illegal possession/use of a controlled substance in Utah on March 22, 2005.

IV.

As a result of the convictions, Butler was issued a restricted non-resident insurance producers license in California. The effective date of the license was February 27, 2013.

V.

Butler applied for an insurance license in Florida and was denied because of her prior criminal convictions.

VI.

Butler did not report these administrative actions to the Division.

VII.

On October 26, 2015, the Department sent Butler a Notice of Hearing to her last known address.

VIII.

Any additional findings included in the Reasoning section of this decision are incorporated herein by this reference. 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

Butler had administrative actions in two separate states, Florida and California. SDCL 58-30-193 provides that an insurance producer shall report to the director any administrative action taken against the insurance producer in another jurisdiction or by another governmental agency in this state 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.

The director may suspend for not more than twelve months, or may revoke or refuse to continue, any license issued under this chapter, or any license of a surplus lines broker after a hearing. Notice of such hearing and of the charges against the licensee shall be given to the licensee and to the insurers represented by such licensee or to the appointing agent of a producer at least twenty days before the hearing. The director may suspend, revoke, or refuse to issue or renew an insurance producer's license or may accept a monetary penalty in accordance with § 58-4-28.1 or any combination thereof, for violating any insurance laws or rules, subpoena, or order of the director or of another state's insurance director, commissioner, or superintendent. SDCL 58-30-167(2).

In this case, Butler had administrative actions in two states that were not reported to the Division. This is in direct violation of the insurance laws. Consequently, the Director of the Division of Insurance may revoke Butler's insurance producer license.

CONCLUSIONS OF LAW

I.

The Division has jurisdiction over Butler and the subject matter of this contested case. The Office of Hearing Examiners has authority to conduct the appeal pursuant to the provisions of SDCL 1-26D.

II.

Butler violated the requirements of SDCL 58-30-193 in failing to advise the Division within thirty days of Florida and California's administrative actions against her.

III.

The failure of Butler to report the administrative action against her insurance producer license is grounds for sanction by the Division pursuant to SDCL 58-30-167(2).

IV.

Any Conclusions of Law in the reasoning section of this decision are incorporated herein by reference. 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.

PROPOSED ORDER

It is the Proposed Order of the Hearing Examiner that the license of Ariana Butler be revoked.

Dated January 4, 2016.



Ryan P. Darling
Office of Hearing Examiners
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Pierre SD 57522