

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

**IN THE MATTER OF
SAFINEA BARBEE
LICENSEE**

)
)
)

**FINAL DECISION
INS 20-05**

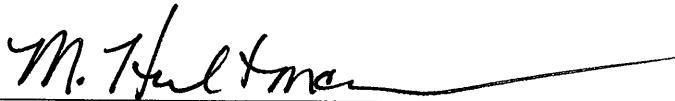
After reviewing the record and the proposed order of the Hearing Examiner in this matter,

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 12, 2020, is adopted in full.

IT IS FURTHER ORDERED that the South Dakota Non-resident Insurance Producer License of Safinea Baree 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 17 day of June, 2020.



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
SAFINEA BARBEE

INS 20-05

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 17, 2020.

Dated this 18th day of June, 2020.



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

CERTIFICATE OF SERVICE

I, Lisa Harmon, 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 thereon, to the following:

Safinea Barbee
6435 Timber Bluff Pt., Apt. 202
Colorado Springs, CO 80918-6226

Safinea Barbee
1855 Telstar Dr.
Colorado Springs, CO 80920-1005

Safinea Barbee
6602 Fowler Dr.
Colorado Springs, CO 80923-5461

Dated this 18th day of June, 2020 in Pierre, South Dakota.



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

STATE OF SOUTH DAKOTA OFFICE OF HEARING EXAMINERS

**IN THE MATTER OF
SAFINEA BARBEE**

**INS 20-05
PROPOSED DECISION**

This matter came for hearing before the Office of Hearing Examiners on June 5, 2020 pursuant to a Notice of Hearing issued by the South Dakota Division of Insurance ("Division") on April 30, 2020. Lisa M. Harmon appeared as counselor for the Division.

Safinea Barbee did not appear, either in person or through counsel. The Division admitted its Exhibits DOI 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 Safinea Barbee should be revoked due to failing to timely respond to the Division; failing to timely report an administrative action to the Division; and for having a revocation action in another other state in violation of SDCL §§ 58-30-167(2) and (9), 58-30-193, 58-33-66, and 58-33-68.

FINDINGS OF FACT

1. Safinea Barbee was licensed by the Division as an insurance producer on May 3, 2018. The license is currently active. (Exhibit DOI 1).
2. Safinea Barbee was the subject of an administrative action in another jurisdiction. (Exhibits DOI 2 and DOI 5).
3. Safinea Barbee did not report the administrative actions to the Division.
4. The Division sent inquiries to Safinea Barbee at the address of record regarding licensure matters. (Exhibits DOI 3 and DOI 4).
5. Safinea Barbee did not respond to the Division's inquiries. (Exhibits DOI 3 and DOI 4).
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.

REASONING

This case involves a request by the Division to revoke the South Dakota Non-Resident Insurance Producer's License of Safinea Barbee. 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 58-30-193 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 Safinea Barbee to respond to the Division and supply requested documents within twenty days from the receipt of a request. In addition, 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... 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 Safinea Barbee violated the insurance laws of South Dakota and another jurisdiction, failed to report that action, had a license revoked in another jurisdiction, and failed to respond to Division inquiries regarding the action. Applying the law to the Findings of Fact, it is clear the Non-Resident Insurance Producer License of Safinea Barbee is subject to revocation and should be revoked.

CONCLUSIONS OF LAW

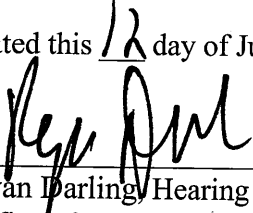
1. The Division has jurisdiction over Safinea Barbee and the subject matter of this contested case. The Office of Hearing Examiners is authorized to conduct the hearing and issue a proposed decision pursuant to SDCL 1-26D-4.
2. The Division bears the burden of establishing the alleged statutory violations by clear and convincing evidence.
3. The Division established by clear and convincing evidence that Safinea Barbee violated SDCL § 58-30-193.
4. The Division established by clear and convincing evidence that Safinea Barbee violated SDCL § 58-33-66.
5. The Division established by clear and convincing evidence that the South Dakota NonResident Insurance Producer License of Safinea Barbee is subject to revocation pursuant to SDCL § 58-33-167(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 Safinea Barbee of should be revoked.

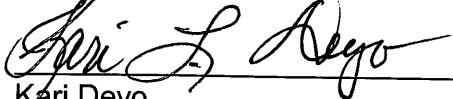
Dated this 12 day of June, 2020.



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

CERTIFICATE OF SERVICE

I certify that on June 12, 2020, at Pierre, South Dakota, a true and correct copy of the Findings of Fact, Conclusions of Law and Order in the above-entitled matter was sent via U.S. Mail or Inter-Office Mail to each party listed below.


Kari Deyo

SAFINEA BARBEE
6435 TIMBER BLUFF PT APT 202
COLORADO SPRINGS CO 80918-6226

SAFINEA BARBEE
1855 TELSTAR DR
COLORADO SPRINGS CO 80920-1005

LISA HARMON
124 S EUCLID AVE 2ND FLOOR
PIERRE SD 57501