

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

<b>IN THE MATTER OF</b>	)	
	)	<b>FINAL DECISION</b>
<b>INTERNATIONAL BENEFITS</b>	)	
<b>ADMINISTRATORS LLC,</b>	)	<b>INS 24-09</b>

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 30, 2024, is adopted in full.

IT IS FURTHER ORDERED that the temporary cease and desist order issued by the South Dakota Division of Insurance against the above-named respondents shall be made permanent and remain in effect until further order from the Division.

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 24 day of May, 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  
OFFICE OF HEARING EXAMINERS**

**IN THE MATTER OF**

**INS 24-09**

**INTERNATIONAL BENEFITS  
ADMINSTRATORS, LLC**

**PROPOSED DECISION**

This matter came for hearing before the Office of Hearing Examiners on April 25, 2024, pursuant to a Notice of Hearing issued by the South Dakota Division of Insurance (“Division”) on April 5, 2024. Clayton Grueb appeared as counsel for the Division. Michael Fowler, CEO of International Benefits Administrators, LLC, appeared for the respondent without counsel. The Division offered exhibits 1 through 20 into evidence, and Mr. Fowler agreed to the admission of the exhibits. After hearing the statements of the parties, including Mr. Fowler agreeing and stipulating to the entry of a cease-and-desist order, and reviewing the evidence, the Hearing Examiner now enters these Proposed Findings of Fact, Conclusions of Law, and Proposed Decision in this contested case.

**ISSUE**

Whether the Division’s Temporary Order to Cease and Desist should be made permanent due to the Respondent acting as a Third-Party Administrator without having a proper license or registration in South Dakota, in violation of SDCL 58-4-7 & 58-29D-21.

**FINDINGS OF FACT**

1. International Benefits Administrators, LLC (here after referred to as “IBA”) has a last known mailing address of 100 Garden City Plaza, Suite 110, Garden City, NY 11530. (Exhibit 1).
2. IBA has previously held Business Entity and Third-Party Administrator (“TPA”) licensure in South Dakota. (Exhibit 1).
3. The IBA has been the subject of several administrative actions taken by the Division. (Exhibits 2 through 6).
4. The states of New York, Ohio, Pennsylvania, Utah, New Jersey, and Louisiana have also taken actions against and fined IBA for their violations. (Exhibits 7 through 15).
5. Due to the number of previous actions and other issues, on June 23, 2020, the Division denied IBA’s TPA application. (Exhibit 5).
6. On February 28, 2023, and without responding to any Division communications, IBA applied for a TPA registration. After IBA failed to respond again, the Division again denied IBA’s application. (Exhibit 6).

7. IBA has not held any active insurance license in South Dakota since June 2020. (Exhibits 1,5, &6).
8. The Division received information from an insurer that IBA was performing TPA work in the State without licensure. The Division's evidence shows that IBA continues to adjudicate claims and perform TPA work despite the many actions against it. (Exhibit 16).
9. The Division attempted to reach out to IBA to gather additional information regarding their on-going unlicensed activity and IBA initially failed to respond to the Division. (Exhibits 17 through 19).
10. IBA did eventually respond with a list of their active accounts, American Financial Services and Federal Life Ins. Co., who have clients in South Dakota and asked the Division to reconsider their license or in the alternative to be allowed to winddown business. (Exhibit 20).
11. Any additional Findings of Fact included in the Reasoning section of this decision are incorporated herein by reference.
12. 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's to enter a permanent Cease and Desist Order against IBA. As this matter deals with individual acting without a proper license, the general burden of proof for administrative hearings of preponderance of the evidence, will apply. *In re Setliff*, 645 N.W.2d 601, 605 (2002 S.D.)

SDCL 58-4-7 states that "if the director of the Division of Insurance believes, from substantial evidence, that any person is violating or about to violate any provision of (the insurance code), the director may issue a temporary cease and desist order pending a hearing ... an order or judgment may be entered awarding such temporary or permanent injunction as is proper."

SDCL 58-29D-1 states that "No person may act as, or offer to act as, or hold himself out to be an administrator in this state without a valid license or registration as an administrator issued by the director."

The evidence indicates that IBA violated and is in continued violation of the Insurance Code of South Dakota by failing to obtain proper licensure or registration to operate as a TPA in this State. The evidence further indicates that the Division was appropriate in issuing a Temporary Order to Cease and Desist. Applying the law to the Findings of Fact, the Division has shown by the preponderance of the evidence that IBA has violated the Insurance Code and that a permanent order enjoining them from conducting insurance business in South Dakota is justified.

## CONCLUSIONS OF LAW

1. The Division has jurisdiction over IBA 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 by the preponderance of the evidence that IBA has violated the South Dakota Insurance Code.
3. The Division established by the preponderance of the evidence that the IBA violated and is continuing to violate SDCL 58-29D-1 due to IBA performing TPA work in the state without having the proper license or registration.
4. Any additional Conclusions of Law included in the Reasoning section of this decision are incorporated herein by reference.
5. 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 Division of Insurance's Temporary Order to Cease and Desist should be made permanent and International Benefits Administrators, LLC should be permanently enjoined from transacting any new Third-Party Administrator business in South Dakota. International Benefits Administrators, LLC will be allowed to winddown business for American Financial Services and Federal Life Insurance Company. International Benefits Administrators, LLC must complete all winddown business within 30 months.

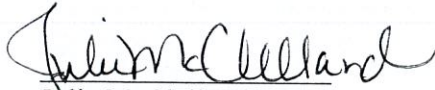
Dated this <sup>30<sup>th</sup></sup> day of April, 2024.



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

**CERTIFICATE OF SERVICE**

I certify on April 30, 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

International Benefits Administrators, LLC  
PO Box 7620  
Garden City, NY 11530

Clayton Grueb  
Division of Insurance  
2330 N. Maple Ave, Suite 1  
Rapid City, SD 57701

International Benefits Administrators, LLC  
67 Clinton Road  
Garden City, NY 11530

STATE OF SOUTH DAKOTA  
DEPARTMENT OF LABOR AND REGULATION

IN THE MATTER OF  
INTERNATIONAL BENEFITS  
ADMINISTRATORS, LLC

INS 24-09

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 May 24, 2024.

Dated this 30th day of May, 2024.



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Clayton Grueb  
Legal Counsel  
South Dakota Division of Insurance  
2330 N. Maple Ave. Suite 1  
Rapid City, SD 57701  
(605) 394-3396

## CERTIFICATE OF SERVICE

I, Clayton Grueb, 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 and first-class mail thereon, to the following:

International Benefits Administrators, LLC  
PO Box 7620  
Garden City, NY 11530

International Benefits Administrators, LLC  
67 Clinton Road  
Garden City, NY 11530

Dated this 30th day of May, 2024 in Rapid City, South Dakota.



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Clayton Grueb  
Legal Counsel  
South Dakota Division of Insurance  
2330 N. Maple Ave. Suite 1  
Rapid City, SD 57701  
(605) 394-3396