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**BEFORE THE INSURANCE COMMISSIONER  
OF THE STATE OF UTAH**

**COMPLAINANT:**

UTAH INSURANCE DEPARTMENT

**RESPONDENT:**

ACE AMERICAN INSURANCE COMPANY  
436 Walnut Street  
Philadelphia, PA 19106  
Utah Co. Id. No. 26

**STIPULATION  
&  
ORDER**

**Docket No.** 2009-090 HL

**Enf. Case No.** 2435

**STIPULATION**

1. Respondent, ACE American Insurance Company, is an insurance company domiciled in the State of Pennsylvania and authorized to do business in the State of Utah, Utah Company Identification No. 26.

2. Respondent stipulates with the Complainant, Utah Insurance Department, as follows:

a. If a hearing were held, witnesses called by the Complainant could offer and introduce evidence that would support the Findings of Fact herein;

b. Respondent neither admits nor denies the Findings of Fact and Conclusions made therefrom;

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c. Respondent stipulates to the summary entry of the Order herein which shall be in lieu of other administrative proceedings by Complainant in this matter; and

d. Respondent and Complainant have negotiated the terms of the Order entered herein and Respondent agrees to its entry and further agrees to be bound by all its terms.

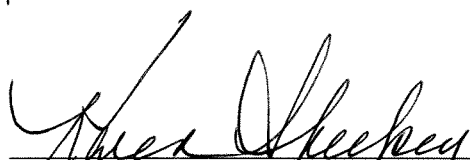
3. Respondent is aware of its right to a hearing at which it may be represented by counsel, present evidence and cross-examine witnesses. Respondent has irrevocably waived its right to such hearing and to any appeal related thereto.

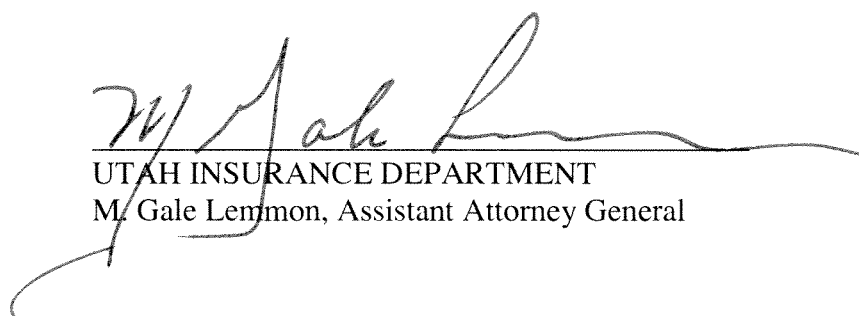
4. Respondent admits the jurisdiction of the State of Utah Insurance Commissioner as to all matters herein.

5. Respondent is acting herein free from any duress or coercion of any kind or nature, having been advised fully as to its rights set forth herein.

6. Respondent acknowledges that the issuance of this Order by the Commissioner is solely for the purpose of disposition of the matter entitled herein.

DATED this 20 day of July, 2009.

  
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ACE AMERICAN INSURANCE COMPANY  
Karen Sheekey, Vice President

  
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UTAH INSURANCE DEPARTMENT  
M. Gale Lemmon, Assistant Attorney General

Based upon the foregoing Stipulation and information in the file, the Presiding Officer makes the following Findings of Fact:

**FINDINGS OF FACT**

1. On or about October 24, 2001, Respondent filed a group dental policy form No. AH-10334 with the Utah Insurance Commissioner.
2. Included with this filing was a signed certification stating that the Respondent has reviewed the filing and that it complies with all applicable provisions of the Utah Insurance Code and Administrative Rules.
3. The plan did not provide a benefit for the reimbursement of the insured for services received from non-preferred health care providers at a rate of at least 75% of the average amount paid to preferred health care providers under the plan.
4. As of April 2009, the Respondent had 1400 group policyholders in the State of Utah under this plan.
5. The Utah Group Application used with this plan was not filed with the commissioner in its final form, and did not contain a form number uniquely identifying it.
6. Respondent has, as of the date of this Order, amended its form to comply with the requirement regarding use of non-preferred health care providers, filed the change with the commissioner along with the application containing a unique form number, and notified the insureds of the change.

Based upon the foregoing Stipulation and Findings of Fact, the Presiding Officer enters the following Conclusions of Law:

**CONCLUSIONS OF LAW**

1. In marketing a group dental policy form to groups in the State of Utah that failed to provide a benefit that reimbursed the insured for services received from non-preferred health care providers at a rate of at least 75% of the average amount paid to preferred health care providers, Respondent violated Utah Code Annotated 31A-22-617(2)(b).

2. In certifying that the form filed with the commissioner complied with all applicable provisions of the Utah Insurance Code and Administrative Rules when such was not the case, Respondent violated Utah Code Annotated § 31A-21-201(2) and 31A-2-202(6).

3. In utilizing an application form in the marketing of its group dental policy in the State of Utah that had not been filed with the commissioner in its final form and which did not contain a unique form number, Respondent violated Utah Code Annotated § 31A-21-201(1)(a), and Utah Administrative Code Rule R590-220-7(1)(b) and (c).

Based upon the foregoing Stipulation, Findings of Fact and Conclusions of Law, the Presiding Officer herewith enters the following Order:

**ORDER**

IT IS HEREBY ORDERED:

1. Respondent is assessed an administrative forfeiture in the amount of \$141,500.00, to be paid within 30 days of the date of this Order.

**NOTIFICATION**

Respondent is hereby notified that failure to abide by the terms of this Order may subject it to further penalties, including additional forfeitures of up to \$5,000.00 per violation and the suspension or revocation of its license, and the filing of an action to enforce this Order in the District Court, which may impose penalties of up to \$10,000.00 per day for continued violation.

You are further notified that other jurisdictions in which you may be licensed may require that you report this action to them.

DATED this 21 day of July, 2009.

D. KENT MICHIE  
INSURANCE COMMISSIONER



MARK E. KLEINFELD, Esq.  
Administrative Law Judge  
Utah Insurance Department  
State Office Building, Room 3110  
Salt Lake City, Utah 84114  
Telephone (801) 538-3800


**CERTIFICATE OF MAILING**

I hereby certify that on the 21 day of July, 2009 a true and correct copy of the above and foregoing **STIPULATION & ORDER** was sent first class mail, postage prepaid to the following:

Ace American Insurance Company  
436 Walnut Avenue  
Philadelphia, PA 19106

and a true and correct copy hand-delivered to the following:

M. Gale Lemmon  
Assistant Attorney General  
Attorney for Utah Insurance Department  
Utah Insurance Department  
State Office Building, Room 3110  
Salt Lake City, Utah 84114

A handwritten signature in black ink, appearing to read "Mark E. Klevorick", is written over a horizontal line.

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