

M. GALE LEMMON #4363
Assistant Attorney General
MARK L. SHURTLEFF #4666
Attorney General
Attorneys for Utah Insurance Department
State Office Building, Room 3110
Salt Lake City, UT 84114
Telephone (801) 538-3872

RECEIVED
JAN 04 2010
UTAH STATE
INSURANCE DEPT

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

COMPLAINANT:

UTAH INSURANCE DEPARTMENT

RESPONDENT:

MICHAEL J. LEWELLEN
430 S. 100 E.
Ephraim, UT 84627
License No. 100199

**STIPULATION
&
ORDER**

Docket No. 2009-170 LC

Enf. Case No. 2590

STIPULATION

1. Respondent, Michael J. Lewellen, is a licensed insurance agent in the State of Utah, holding License No. 100199.
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 admits the Findings of Fact and Conclusions made therefrom;
 - 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 his right to a hearing at which he may be represented by counsel, present evidence and cross-examine witnesses. Respondent has irrevocably waived his 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 his 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 25th day of December, 2009.


MICHAEL J. LEWELLEN


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. From the dates of March 2004 through September 2009, Respondent accepted approximately 30 checks from insureds for insurance premiums to be forwarded to insurers, or from insurers for return of premiums to be forwarded to insureds, that were never forwarded to the intended recipient or deposited into a trust account.

2. The checks received from insureds that were never forwarded or deposited caused lapses in coverage or the failure to place insurance for the insureds, resulting in at least two claims that were not covered by insurance.

3. During the period from March 2009 and July 2009, Respondent issued three documents evidencing the existence of insurance when no insurance was in place.

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

CONCLUSIONS OF LAW

1. In failing to either forward funds received from insurers or insureds to the intended recipient or to deposit them into a trust account by the close of the next business day after receipt, Respondent committed at least 30 violations of Utah Code Annotated § 31A-23a-409.

2. In issuing evidence of insurance when no insurance was in place, Respondent committed at least 3 violations of Utah Code Annotated § 31A-23a-402(1)(a)(i).

3. Respondent's actions demonstrate that he fails to meet the character requirements to hold an insurance agent's license of being competent and trustworthy under Utah Code Annotated § 31A-23a-107(2).

4. Respondent's insurance agent's license should be revoked pursuant to Utah Code Annotated § 31A-23a-111(5)(b)(i), is unqualified for a license; -111(5)(b)(ii)(A), has violated an insurance statute; and -111(5)(b)(xxiv), engages in a method or practice in the conduct of business that endangers the legitimate interests of his customers and the public.

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's insurance agent's license is revoked forthwith.
2. Respondent shall immediately cease doing any insurance business in the State of Utah, or in acting in any capacity for which a license is required under the Utah Insurance Code.

NOTIFICATION

Respondent is hereby notified that failure to abide by the terms of this Order may subject you to further penalties, including additional forfeitures of up to \$5,000.00 per violation 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 5th day of January, ^{2010 KEK}~~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

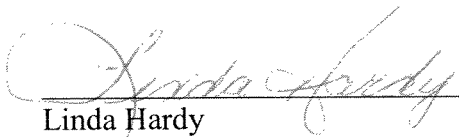
I do hereby certify that on this date I mailed, by regular mail postage prepaid a true and correct copy of the attached:

STIPULATION
&
ORDER

To the following:

Michael J. Lewellen
430 S. 100 E
Ephraim, UT 84627

DATED this 5th day of January 2010



Linda Hardy

Court Clerk

Utah Department of Insurance
State Office Building, Room 3110
Salt Lake City, UT 84114-6901