

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

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

COMPLAINANT:

UTAH INSURANCE DEPARTMENT

RESPONDENTS:

STEVEN D. SHEMWELL
1878 E. Froxborough Lane
Draper, UT 84020
License No. 80942

**STIPULATION
&
ORDER**

Docket No. 2008-028 LC

Enf. Case No. 2018

STIPULATION

1. Respondent, Steven D. Shemwell, is a licensed insurance agent in the State of Utah, holding License No.80942.
2. Respondents stipulate 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. Respondents admit the Findings of Fact and Conclusions made therefrom;
 - c. Respondents stipulate to the summary entry of the Order herein which shall be in lieu of other administrative proceedings by Complainant in this matter; and
 - d. Respondents and Complainant have negotiated the terms of the Order entered herein and Respondents agree to its entry and further agree to be bound by all its terms.

3. Respondents are aware of their right to a hearing at which they may be represented by counsel, present evidence and cross-examine witnesses. Respondents have irrevocably waived their right to such hearing and to any appeal related thereto.

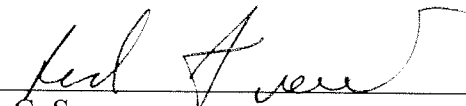
4. Respondents admit the jurisdiction of the State of Utah Insurance Commissioner as to all matters herein.

5. Respondents are acting herein free from any duress or coercion of any kind or nature, having been advised fully as to their rights set forth herein.

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

DATED this 19th day of March, 2008.


APPROVED AS TO FORM:



Rodney G. Snow
Attorney for Respondents



STEVEN D. SHEMWELL



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 August 6, 2004, Respondent Shemwell as the attorney-in-fact for Western Surety Company issued a bid bond and performance bond for Frontier Mechanical, LC, as Principal and Western Surety Company as Surety. At the time of the issuance of said bond, Respondent knew that Western Surety Company had declined to issue the bond, and that the bond was not authorized.

2. Sometime after issuing the bond, Respondent Shemwell directed that an invoice be prepared from Infinity Insurance to Frontier Mechanical, LC, for the unauthorized bond, knowing that the invoice was false and that no legitimate bond had been issued justifying the invoice.

3. On or about January 14, 2008, Respondent Shemwell was convicted of Communications Fraud, a class A misdemeanor in connection with the above acts.

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

CONCLUSIONS OF LAW

1. In issuing a fraudulent bond and directing the issuance of a fraudulent invoice, Respondent Shemwell made, caused to be made, a communication that contained false or misleading information relating to an insurance policy in violation of Utah Code Annotated §

31A-23a-402(1)(a)(i).

2. Based upon the above, Respondent Shemwell brings into question whether he meets the character required to hold an insurance agent's license under Utah Code Annotated § 31A-23a-107(2).

3. Respondent Shemwell's insurance agent's license is subject to suspension for a period of up to 12 months pursuant to Utah Code Annotated § 111(5)(b)(ii)(A), has violated an insurance statute; -111(5)(b)(xvi)(A), has used fraudulent or dishonest practices in the conduct of business; and -111(5)(b)(xvi)(B), has demonstrated incompetence or untrustworthiness in the conduct of business. His license is also subject to being placed on probation thereafter for a period of up to 24 months pursuant to Utah Code Annotated § 31A-23a-112. Respondent is also subject to the imposition of an administrative forfeiture in an amount of up to \$2,500.00 for each violation of the Utah Insurance Code or Rules.

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 Shemwell's insurance agent's license is hereby suspended for a period of 90 days beginning on April 1, 2008. During the period of suspension, Respondent shall not act in any capacity for which an insurance agent's license is required.

2. Respondent Shemwell is assessed an administrative forfeiture in the amount of \$5,000.00, to be paid within 90 days after the termination of the suspension of his license.

3. Respondent's insurance agent's license is placed on probation for a period of 24 months, beginning with the termination of the suspension imposed herein above. The terms of

probation are that Respondent shall pay the administrative forfeiture imposed herein in a timely manner, shall have no further violations of the Utah Insurance Code or Rules or of any order of the commissioner. As a further condition of probation, Respondent Shemwell shall, prior to the expiration of each six (6) months during the probation, make an appointment and meet with the department investigator assigned to this case to review Respondent's business activities and compliance with the terms of probation.

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 \$2,500.00 per violation, and the suspension or revocation of your 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 25th day of March, 2008.

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

**UTAH
Invoice**

Printed Date: March 26, 2008

Invoice Date: March 26, 2008
Balance Due: \$5,000.00
Due Date: September 26, 2008
Invoice ID: 375152

SHEMWELL STEVEN D
39 W 9000 S
SANDY UT 84070-2008

Item Description

Monetary Penalty Individual

ECASE 2018 Docket 2008-0286 LC

Amount

\$5,000.00

Original Amount Due

\$5,000.00

**UTAH
Invoice**

Printed Date: March 26, 2008

Invoice Date: March 26, 2008
Balance Due: \$5,000.00
Due Date: September 26, 2008
Invoice ID: 375152

Make checks payable to: Utah Insurance Department

Send payment to:

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

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:

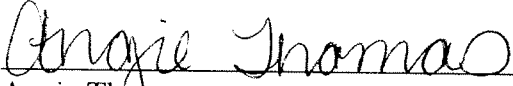
STIPULATION
&
ORDER

To the following:

Steven D Shemwell
1878 E Froxborough Lane
Draper, UT 84020

Rodney G Snow
Clyde Snow Sessions & Swenson
One Utah Center-13th Floor
201 S Main St
SLC, UT 84111-2216

DATED this 26th day of March, 2008.



Angie Thomas Court Clerk

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