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RECEIVED  
SEP 29 2009  
UTAH STATE  
INSURANCE DEPT

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

**COMPLAINANT:**

UTAH INSURANCE DEPARTMENT

**RESPONDENT:**

MISTY ANN JOHNSTON  
fka MISTY ANN TRESNER  
508 N. Center Street  
Salt Lake City, UT 84103  
License No. 213004

STIPULATION  
&  
ORDER

Docket No. 2009-082-LC

Enf. Case No. 2357

**STIPULATION**

1. Respondent, Misty Ann Johnston, fka Misty Ann Tresner, is a licensed bail bond agent in the State of Utah, holding License No. 213004.
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;

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 her right to a hearing at which she may be represented by counsel, present evidence and cross-examine witnesses. Respondent has irrevocably waived her 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.

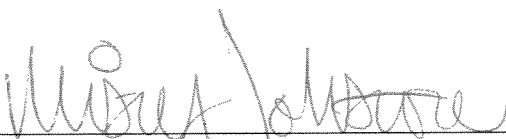
5. Respondent is acting herein free from any duress or coercion of any kind or nature, having been advised fully as to her rights set forth herein.

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 25 day of September, 2009.

Approved as to Form:

  
\_\_\_\_\_  
Steven G. Shapiro, Esq.  
Attorney for Respondent

  
\_\_\_\_\_  
MISTY ANN JOHNSTON  
Respondent

  
\_\_\_\_\_  
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. The Respondent, Misty Ann Johnston, is a licensed bail bond producer in the State of Utah, License No. 213004.

2. On or about January 24, 2008, Respondent, acting as an agent for HomeTown Bail Bonds, used duplicated Powers of Attorney from American Surety Company to issue at least four unauthorized bail bonds on an individual in Salt Lake City, not reporting the issuance to the underwriter, in a scheme to defraud the underwriter out of the premiums for those bonds. The original powers of attorney were used by other agents to issue legitimate bail bonds on different individuals.

3. During the investigation of this matter, the Respondent provided false or misleading information to the investigator regarding the use of the duplicated Powers of Attorney and other matters.

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

**CONCLUSIONS OF LAW**

1. Respondent's actions demonstrate that she does not meet the character requirements to hold an insurance agent's license under Utah Code Annotated § 31A-23a-107(2) of being competent and trustworthy.

2. In using duplicate Powers of Attorney to issue bail bonds and in not reporting those

bonds to the underwriter, Respondent violated Utah Administrative Code Rule R590-186-7(19) and (22).

3. In providing false or misleading information to the department investigator in this matter, Respondent violated Utah Code Annotated §§ 31A-23a-402(1)(a)(i) and 31A-2-202(6).

4. Respondent's bail bond producer's license should be revoked pursuant to Utah Code Annotated § 31A-23a-111(5)(b)(1), is unqualified for a license; -111(5)(b)(ii)(A), has violated an insurance statute; -111(5)(b)(ii)(B), has violated an insurance rule; -111(5)(b)(xvi), in the conduct of business uses fraudulent or dishonest practices or demonstrates untrustworthiness; and -111(5)(b)(xxiv), engages in methods or practices that endangers the legitimate interests of 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 bail bond producer's license is revoked forthwith.
2. Respondent shall immediately cease acting as a bail bond producer in the State of Utah or in any capacity for which a license from the department is required.

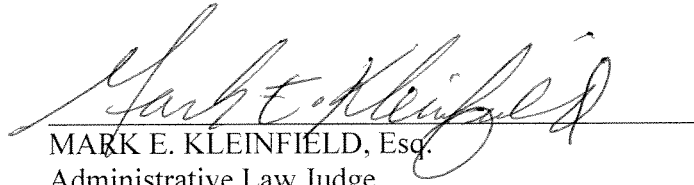
### **NOTIFICATION**

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 30<sup>th</sup> day of September, 2009.

D. KENT MICHIE  
INSURANCE COMMISSIONER

A handwritten signature in cursive script, reading "Mark E. Kleinfeld", is written over a horizontal line.

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

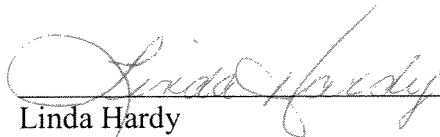
I do hereby certify that on this date I mailed, by regular mail, postage prepaid a true and correct copy of the attached:

STIPULATION  
&  
ORDER

To the following:

Misty Ann Johnston  
fka  
Mist Ann Trensner  
508 N. Center Street  
Salt Lake City, UT 84103

DATED this 30<sup>th</sup> day of September, 2009.

  
\_\_\_\_\_  
Linda Hardy Court Clerk  
Utah Department of Insurance  
State Office Building, Room 3110  
Salt Lake City, UT 84114-6901