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BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF UTAH

COMPLAINANT:

UTAH INSURANCE DEPARTMENT

RESPONDENTS:

JOSEPH D. WHITE
WHITE INSURANCE AGENCY
15 S. Main Street
P.O. Box 2400
Beaver, UT 84713

Individual Producer's License No. 39986
Agency License No. 2526

STIPULATION AND ORDER

Docket No. 2010-070 LC

Enf. Case No. 2403

RECEIVED
MAY 17 2010
UTAH STATE
INSURANCE DEPT

STIPULATION

1. Respondent, Joseph D. White is a licensed insurance agent in the State of Utah, holding License No. 39986 and is the Agency Owner and Principle of Respondent White Insurance Agency, holding License No. 2516.
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 has 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.

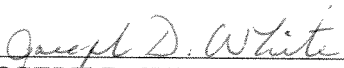
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6. Respondents acknowledge that the issuance of this Order by the Commissioner is solely for purpose of disposition of the matter entitled herein.

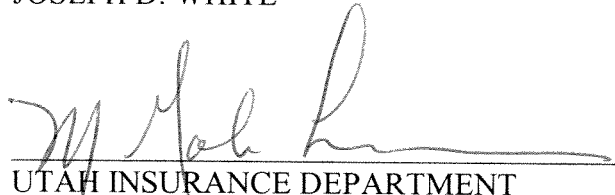
DATED this 12th day of May, 2010.



WHITE INSURANCE AGENCY
Joseph D. White Agency Owner/Principal



JOSEPH D. WHITE



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 October 20, 2008 an Insurance Department examiner made an unannounced visit to Respondent. During the visit, the examiner reviewed the agency's most recent bank trust account statement which revealed a \$110,000.00 withdrawal from the account in September of 2008.

2. Respondent stated that he had withdrawn the amount of \$110,000.00 in September, 2008, because he was buying another agency and needed the capital.

3. Respondent further stated that he had not been regularly withdrawing commissions from the trust account and had let them accumulate over time. The withdrawal in September of 2008 was a portion of commissions earned over time that had been left in the trust account.

4. In a statement to the department dated November 24, 2008, Respondent explains that he has operated his agency since 1980 and that he deposits all customer premiums and agency commissions to the trust account. He admitted to allowing the commissions to accumulate in the account over a period of time.

5. Respondent failed to reconcile his agency trust account quarterly by transferring commissions out of the account.

6. Respondent failed to keep records that would facilitate and audit, thus accounting for the funds in the trust account.

7. A 12 month review of Respondent's trust account revealed the following amounts were withdrawn from the White Insurance Agency Trust account during 2008:

- a. 1/10/2008 \$ 10,000.00
 - b. 2/12/2008 \$ 10,000.00
 - c. 3/14/2008 \$ 10,000.00
 - d. 4/17/2008 \$150,000.00
 - e. 9/23/2008 \$110,000.00
 - f. 12/15/2008 \$ 35,000.00
- TOTAL \$325,000.00

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

CONCLUSIONS OF LAW

1. Utah Insurance Department Rule R590-170-5(5) requires that “Commissions . . . must be disbursed from a trust account on a date not later than the first business day of the calendar quarter after the end of the policy period for which the premium has been collected.”

2. Utah Insurance Department Rule R590-170-7(1) requires that “Bank statements must be reconciled monthly.”

3. Utah Insurance Department Rule R590-170-7(6) states: “All accounting records relating to the business of insurance shall be maintained in a manner that facilitates an audit.”

4. By failing to disburse the commissions from the trust account quarterly, Respondent violated Rule R590-170-5(5).

5. By failing to reconcile bank statements monthly, Respondent violated Rule R590-170-7(1).

6. By failing to maintain accounting records in a manner to facilitate an audit, Respondent violated Rule R590-170-7(6).

7. An administrative forfeiture by Respondent Joseph D. White in the amount of

\$2,500.00 and probation for a period of 24 months is appropriate under the circumstances.

8. An administrative forfeiture by Respondent White Insurance Agency in the amount of \$5,000.00 and probation for a period of 24 months is appropriate under the circumstances.

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 Joseph D. White is assessed a forfeiture of \$2,500.00 to be paid to the Utah Insurance Department withing 30 days of issuance of this Order.

2. Respondent White Insurance Agency is assessed a forfeiture of \$5,000.00 to be paid to the Utah Insurance Department within 30 days of issuance of this Order.

3. Respondent Joseph D. White and Respondent White Insurance Agency are placed on probation for a period of 24 months beginning from the date of this Order. The terms of probation are that Respondents shall pay the administrative forfeiture in a timely manner and shall have no further violations of the Utah Insurance Code or Rules. Or any order of the Commissioner.

NOTIFICATION

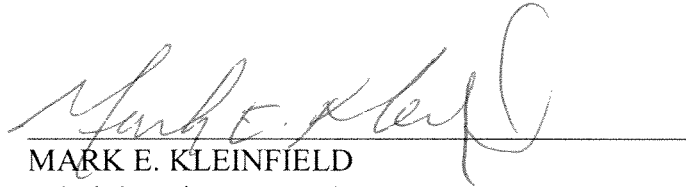
Respondents are hereby notified that failure to abide by the terms of this Order may subject them to further penalties, including additional forfeitures of up to \$5,000.00 per violation for the agency and of up to \$2,500.00 per violation for an individual licensee, and the suspension or revocation of your licenses, 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 18 day of May, 2010.

NEAL T. GOOCH
Acting Insurance Commissioner



Handwritten signature of Mark E. Kleinfeld in cursive script, written over a horizontal line.

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