

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, Utah 84114  
Telephone: (801) 538-3872

---

BEFORE THE INSURANCE COMMISSIONER  
OF THE STATE OF UTAH

---

**COMPLAINANT:**

UTAH INSURANCE DEPARTMENT

**RESPONDENT:**

DAVID N. JOHNSON  
P.O. BOX 1677  
AMERICAN FORK, UT 84003  
License # 257969

**STIPULATION AND ORDER**

Docket No. 2010-065 PC

Enf. Case No. 2574

---

**STIPULATION**

1. Respondent, David N. Johnson, ("Johnson") is a licensed insurance agent in the State of Utah, holding License No. 257969.
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.

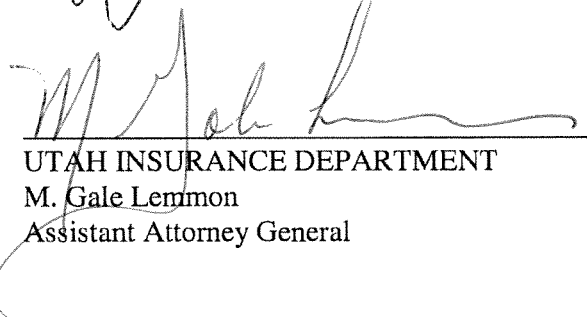
4. Respondent admits the jurisdiction of the State of Utah Insurance Commissioner as to all matters herein.

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 purpose of disposition of the matter entitled herein.

DATED this 23 day of April, 2010.

  
\_\_\_\_\_  
DAVID N. JOHNSON, Licensee

  
\_\_\_\_\_  
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 June 4, 2009, the Department received a fraud report from Federated Insurance, which was forwarded to Market Conduct. The referral indicated that on May 18, 2009, an unknown person made a call and impersonated a client of Federated Insurance in order to obtain information about the impersonated client's account.

2. Upon investigation and through interviews, it was found that on May 18, 2009, Respondent David N. Johnson, a licensed resident producer with Citadel Insurance, made the call to Federated Insurance's Client Contact Center, and identified himself as Larry Labrum of Western Petroleum, a client of Federated Insurance.

3. During the call, Johnson asked for information contained in Federated's client files of Western Petroleum.

4. Johnson asked that Federated Insurance personnel send various rating information to fax number 435-789-1837, a number belonging to Western Petroleum.

5. During Johnson's call to Federated, Johnson was assisted and coached by Kristopher Stewart, a licensed resident producer with another company, who had brought the Western Petroleum lead to Respondent Johnson's attention.

6. Johnson admits that the purpose of the call to Federated Insurance and his impersonation of "Larry Labrum" was to obtain information to use in seeking to write insurance for Western Petroleum.

7. Respondent Johnson also admits in a signed statement that he made a clear error in

using Larry Labrum's name in his request for information from Federated Insurance.

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

**CONCLUSIONS OF LAW**

1. Utah Code Ann. § 31A-23a-402 (West 2009) states in part:

(1) (a) (I) Any of the following may not make or cause to be made any communication that contains false or misleading information, relating to an insurance product or contract, any insurer, or any licensee under this title, including information that is false or misleading because it is incomplete:

(A) a person who is or should be licensed under this title;

. . . .

(C) a person whose primary interest is as a competitor of a person licensed under this title; and

(D) a person on behalf of any of the persons listed in this Subsection (1)

(a) (I) (A).

2. Utah Code Ann. § 31A-23a-107 (1) and (2) (West 2009) states in part:

Each applicant under this chapter shall show to the commissioner that:

(1) the applicant has the intent in good faith, to engage in the type of business that the license applied for would permit;

(2) if a natural person, the applicant is competent and trustworthy.

3. Respondent Johnson violated Sections 31A-23a-402(1)(a)(I) and 31A-23a-107(1) and (2) in making the call to Federated Insurance and falsely representing himself as "Larry Labrum" of Western Petroleum, a client of Federated, in order to obtain information to compete with Federated for Western Petroleum's business.

4. An administrative forfeiture in the amount of \$2,000.00; probation for a period of 12 months; and completion of four hours of ethics continuing education credit within 12 months is

appropriate under the circumstances.

**ORDER**

**IT IS HEREBY ORDERED:**

1. Respondent David N. Johnson is assessed an administrative forfeiture of \$2,000.00 to be paid to the Utah Insurance Department within 30 days of issuance of this Order.

2. Respondent Johnson is placed on probation for a period of 12 months commencing with the date of this order. The terms of probation are that Respondent shall have no further violations of the Utah Insurance Code, Department Rules, or any order of the commissioner and shall complete the additional continuing education imposed herein.

3. Respondent Johnson shall complete and report four hours of ethics continuing education credit within 12 months from the entry of this order in addition to the continuing education required for the renewal of his license.

**NOTIFICATION TO RESPONDENT**

You are 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.

/

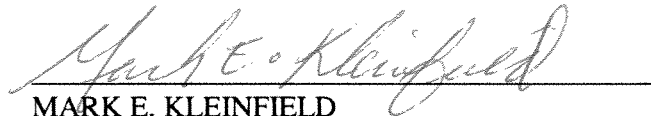
/

/

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

DATED this 27<sup>th</sup> day of April, 2010.

NEAL T. GOOCH  
Acting Insurance Commissioner

A handwritten signature in cursive script, reading "Mark E. Kleinfeld", is 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

## 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:

David N. Johnson  
P.O. Box 1677  
American Fork, UT 84003

DATED this 27<sup>th</sup> day of April, 2010.



---

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

**UTAH  
Invoice**

Printed Date: April 27, 2010

Invoice Date: April 27, 2010  
Balance Due: \$2,000.00  
Due Date: *May 20, 2010*  
Invoice ID: 458661

JOHNSON DAVID N  
PO BOX 1677  
AMERICAN FORK UT 84003

Item Description	Amount
Monetary Penalty Individual	\$2,000.00
<b>Original Amount Due</b>	<b>\$2,000.00</b>
<b>Payments Received</b>	
	<b>Balance Due</b>

*A-Case 9374  
Docket 2010-065 LC*

---

**UTAH  
Invoice**

Printed Date: April 27, 2010

Invoice Date: April 27, 2010  
Balance Due: \$2,000.00  
Due Date: June 01, 2010  
Invoice ID: 458661

Make checks payable to: Utah Insurance Department

Send payment to:

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