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UTAH STATE
INSURANCE DEPT

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BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF UTAH

COMPLAINANT:

UTAH INSURANCE DEPARTMENT

RESPONDENT:

TODD MICHAEL SMITHSON
4848 W. Eaglebrook Circle
Cedar Hills, UT 84062
License # 138787

STIPULATION AND ORDER

Docket No. 2010-062 LF

Enf. Case No. 2575

STIPULATION

1. Respondent, Todd Michael Smithson, ("Smithson") is a licensed insurance agent in the State of Utah, holding License No. 38787.
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.

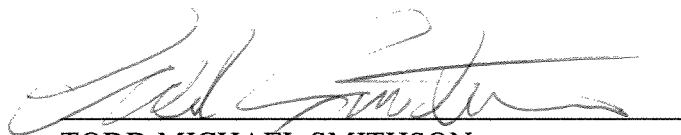
3. Respondent is aware of his right to a hearing at which he may be represented by counsel, present evidence and cross-examine witnesses. Respondent has irrevocably waived his right to such hearing and to any appeal related thereto.

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

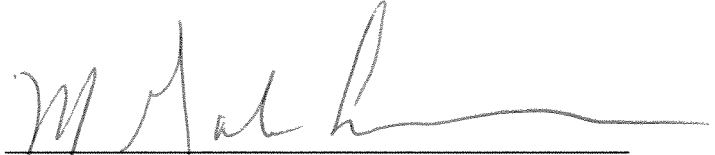
5. Respondent is acting herein free from any duress or coercion of any kind or nature, having been advised fully as to his rights set forth herein.

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 19 day of April, 2010.



TODD MICHAEL SMITHSON



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 August 5, 2009, Respondent made a follow-up sales call to Ruby Allen at a senior care center. Her son, Brian Allen, was also present and recorded the ensuing sales presentation and conversation among the three.

2. During the August 5, 2009 sales presentation, Brian Allen asked Smithson a question about the financial security of annuity products. On the recording, Respondent can be heard stating, "The State of Utah and every other state, wherever you reside, has a Guaranty Association. So that Guaranty Association, whatever insurance product you have...life, health - no matter what, you get coverages up to. . . ." The Respondent can then be heard discussing the limits of protection of the Guaranty Association and stating, "There is no risk."

3. The above sales presentation was thereafter brought to the attention of the Department by Brian Allen, and an investigation ensued.

4. On October 6, 2009, Respondent admitted to two Department investigators that he discussed the Utah Life and Health Guaranty Association as part of his sales presentation to Ruby Allen.

5. Smithson also admitted to having Ruby Allen sign her name on various incomplete documents (documents containing blank spaces) associated with annuity applications.

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-28-119 (West 2009) states in part:

(1) (a) Except as provided in Subsection (1) (b), a person, including an insurer, agent, or affiliate of an insurer may not make, publish, disseminate, circulate, or place before the public, or cause directly or indirectly to be made, published disseminated, circulated, or placed before the public, in any newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio station or television station, or in any other way, any advertisement, announcement, or statement written or oral, which uses the existence of the association for the purpose of sales, solicitation, or inducement to purchase any form of insurance.

2. 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.

3. Respondent Smithson violated Section 31A-28-119 (1) (a) when he assured Ruby Allen that there is no risk in an annuity and used the existence of the Guaranty Association as part of his sales presentation.

4. Respondent Smithson violated Section 31A-23a-401(1)(a) when he directed Ruby Allen to sign documents which were incomplete and had blank spaces yet to be filled in.

5. An administrative forfeiture in the amount of \$1,000.00 is appropriate under the circumstances; probation for a period of 12 months is appropriate under the circumstances; and

requiring additional hours of ethics continuing education is appropriate under the circumstances.

ORDER

IT IS HEREBY ORDERED:

1. Respondent Todd Michael Smithson is assessed an administrative forfeiture of \$1,000.00 to be paid to the Utah Insurance Department within 30 days of issuance of this Order.
2. Respondent Smithson 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.
3. Respondent Smithson 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.

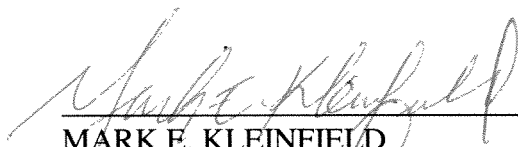
NOTIFICATION TO RESPONDENT

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 26th day of April, 2010.

NEAL T. GOOCH
Acting Insurance Commissioner



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