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UTAH STATE  
INSURANCE DEPT

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BEFORE THE INSURANCE COMMISSIONER  
OF THE STATE OF UTAH

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**COMPLAINANT:**

UTAH INSURANCE DEPARTMENT

**RESPONDENT:**

HAMZA OSMAN HARUN  
1151 South Redwood Road, #101  
Salt Lake City, UT 84104  
License No. 271785

**STIPULATION AND ORDER**

Docket No. 2010-157 IC

Enf. Case No.2722

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**STIPULATION**

1. Respondent, Hamza Osman Harun is an insurance producer licensed in the State of Utah holding License No. 271785.

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.

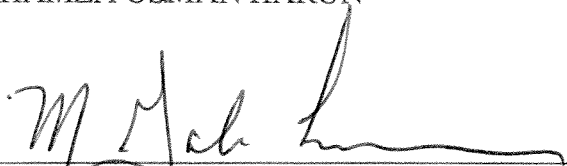
4. Respondent admits the jurisdiction of the State of Utah Insurance Commissioner as to all matters herein.

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 10 day of 04, 2010.

  
\_\_\_\_\_  
HAMZA OSMAN HARUN

  
\_\_\_\_\_  
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 January 20, 2010, a Zions Bank compliance officer contacted a department investigator after noticing some unusual activity occurring on a Farmers Insurance agent's personal bank account. The bank officer noticed that deposits were being made into this account, which was in Vernal, UT, more than 100 miles from Respondent's office, and electronic sweeps by Bristol West Insurance were also being made on the same account.

2. On January 27, 2010, the department investigator visited Respondent at his agency office. During the visit, the investigator reviewed bank statements and activity in a Chase Bank account for the months of October 2009, November 2009, December 2009. The investigator also reviewed bank statements and activity in a Zions Bank account for the months of November, 2009, December 2009, and January 2010.

3. The review of the Chase account revealed evidence of personal expense debits and electronic sweeps by Bristol West Insurance. The Respondent stated that the sweeps were for his insured's insurance premium payments. This account was in the name of his business and was not a "trust account."

4. The Respondent also stated the Zions account was also a personal account and was not a "trust account."

5. On February 3, 2010, the investigator met with Respondent and his Farmers Insurance district manager to discuss the above findings. Both the Respondent and his manager admitted to the failure to establish and maintain trust accounts as required by Utah law. The

Respondent is a recent United States immigrant, and had not received training in how to set up trust accounts.

6. The investigator concluded that there was no intent of noncompliance or bad motive in Respondent's failure to abide by the requirements to maintain premium payments in trust accounts. Respondent and his district manager took immediate steps to correct the noncompliance.

7. The Respondent has agreed to a recommend \$2,000 forfeiture and \$18 months probation with the forfeiture to be paid in quarterly payments.

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-409 (2009) states:

(1) (a) Subject to Subsection (7), a licensee is a trustee for monies received or collected for forwarding to insurers or to insureds.

(b) (i) Except as provided in Subsection (1)(b)(ii), a licensee may not commingle trust funds with:

(A) the licensee's own monies; or

(B) monies held in any other capacity.

(ii) This Subsection (1)(b) does not apply to:

(A) amounts necessary to pay bank charges; and

(B) monies paid by insureds and belonging in part to the licensee as a fee or commission.

(c) Except as provided under Subsection (4), a licensee owes to insureds and insurers the fiduciary duties of a trustee with respect to money to be forwarded to insurers or insureds through the licensee.

(d) (i) Unless monies are sent to the appropriate payee by the close of the next business day after their receipt, the licensee shall deposit them in an account authorized under Subsection (2).

(ii) Monies deposited under this Subsection (1)(d) shall remain in an account authorized under Subsection (2) until sent to the appropriate payee.

(2) Monies required to be deposited under Subsection (1) shall be deposited:  
(a) in a federally insured trust account in a depository institution, as defined in Section 7-1-103, which:

(i) has an office in this state, if the licensee depositing the monies is a resident licensee;

(ii) has federal deposit insurance; and

(iii) is authorized by its primary regulator to engage in the trust business, as defined by Section 7-5-1, in this state; or

(b) in some other account, approved by the commissioner by rule or order, providing safety comparable to federally insured trust accounts. . . .

2. Respondent violated the above Utah statute by failing to deposit payments into a designated trust account.

4. Utah Administrative Code R590-170-4(3) states:

(1) All records relating to a trust account shall be identified with the wording "Trust Account" or words of similar import. These records include checks, bank statements, general ledgers and records retained by the bank pertaining to a trust account. . . .

(3) A trust account shall be separate and distinct from operating and personal accounts, i.e., a separate account number, a separate account register, and different checks, deposit and withdrawal slips.

5. Respondent violated the above Rule when he failed to maintain a trust account that was separate and distinct from his personal account.

6. An administrative forfeiture in the amount of \$2,000 with payments made quarterly and probation for a period of 18 months is appropriate under the circumstances of this case.

### ORDER

1. Respondent Hamza Osman Harun is assessed an administrative forfeiture in the

amount if \$2,000 no later than the 5<sup>th</sup> day of each designated month as follows:

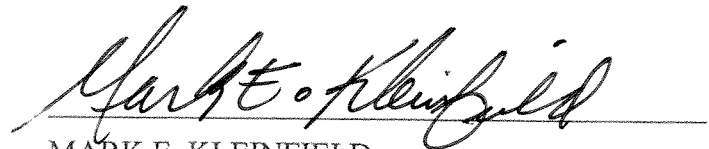
November 2010	\$300.00
February 2011	\$300.00
May 2011	\$300.00
August 2011	\$300.00
November 2011	\$300.00
February 2012	\$300.00
May 2012	\$200.00

2. Respondent is placed on probation for a period of 18 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. If Respondent fails to make the required payments on time, they shall immediately become due in total and sanctions against his license may be imposed.

DATED this 10 day of 04, 2010.

NEAL T. GOOCH  
Insurance Commissioner



MARK E. KLEINFELD  
Administrative Law Judge

Utah Insurance Department, Room 3110

Salt Lake City, UT 84114

Telephone: 801-538-3800

## NOTIFICATION

You are hereby notified that a failure to obey an Order of the Commissioner may subject you to further penalties, including forfeitures of up to \$5,000 per violation and the suspension or revocation of your license and the filing of an action in district court, which may impose forfeitures of up to \$10,000 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.