

M. GALE LEMMON #4363
Assistant Attorney General
MARK L. SHURTLEFF #4666
Attorney General
Attorneys for Utah Insurance Department
160 East 300 South, Fifth Floor
P.O. Box 140874
Salt Lake City, UT 84114-0874
Telephone: 801.366.0375

BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF UTAH

COMPLAINANT:

UTAH INSURANCE DEPARTMENT

RESPONDENT:

MATTHEW A. NEWMAN
9042 Heights Dr., #304
Sandy, UT 84094
License No. 347922

STIPULATION AND ORDER

Docket No. 2010-169 LC

Enf. Case No. 2727

STIPULATION

1. Respondent, Matthew A. Newman is a resident producer in the State of Utah holding License No. 347922.
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 29 day of November, 2010.



MATTHEW A. NEWMAN, 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 or about May 19, 2010, the investigation into this matter began.
2. At that time, according to Department records, Respondent Matthew A. Newman had a non-resident producer license, and but no designation to an agency.
3. Department records also indicated that “Matt Newman Insurance Agency” was not a licensee of the department, although Respondent was advertising as “Matt Newman Insurance Agency” on the American Family Mutual Insurance Company (“American Family”) website, on business cards, and in the body of his American Family email account.
4. Although Respondent had no appointment with American Family, an American Family representative told the investigator that Respondent was involved in the solicitation and sale of American Family insurance products.
5. On June 3, 2010, the Respondent provided to the Department investigator a bank statement which he identified as a business account. The account was in the name of the Respondent and was not designated as a “Trust Account” even though Respondent stated he deposited into the account insurance premium payments due to American Family.
6. The bank statement showed electronic sweeps by American Family for insurance premium payments. The statement also reflected payments made to several retail business from the same account.
7. Department records indicate Respondent’s name is recorded as “Matthew A. Newman” while the Respondent was advertising as Matt Newman, M. Newman Insurance

Agency, and Matt Newman Insurance Agency on business cards, email signatures, and the American Family website.

8. The Respondent also failed to update his business and residential contact information within 30 days of changes.

9. The Respondent has agreed to a recommend \$6,500 forfeiture with \$3,000 suspended upon satisfactory completion of probation, and with the forfeiture being paid in 5 quarterly installments of \$583.33, and a final quarterly payment of \$583.35. The first quarterly payment shall be due 30 days from the date of this Order. Each successive quarterly payment shall be made on the same date of the month, three months after the previous payment is due.

10. The Respondent has agreed to 18 months probation.

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-301 states:

An insurance organization shall be licensed as an agency if the insurance organization acts as:

- (1) a producer;
- (2) a limited line producer;
- (3) a consultant;
- (4) a managing general agent;
- (5) a reinsurance intermediary.

2. Respondent violated the above statute by advertising and acting as “Matt Newman Insurance” without an agency license.

3. Utah Code Ann § 31A-23a-408 states:

No person may represent himself as acting in behalf of an insurer unless a written agency contract is in effect giving the person authority from the insurer and the insurer has appointed the person to act in behalf of the insurer.

4. Respondent violated the Section 31A-23a-408 when he was involved in the solicitation and sale of American Family insurance products without an appointment by American Family.

5. Utah Code Ann. § 31A-23a-409 requires that a federally insured trust account be set up to into which monies received or collected for forwarding to insurers or insureds be deposited. Section 409 also prohibits a licensee's own money from being commingled with insurance premium payments due to the insurer.

6. Respondent violated Section 31A-23a-409 by failing to set up a trust account where premium payments were held, and by depositing premium payments into a business account where the trust monies were commingled with his own monies.

7. Utah Code Ann. § 31A-23-412(1) requires a licensee to register with the Commissioner the address and phone of their principal place of business and to notify the Commissioner within 30 days of any change of an address.

8. Respondent violated Section 31A-23a-412(1) when he failed for several months to notify the Commission if his changed business address.

9. Utah Administrative Code Rule R590-154-7(3) prohibits a licensee from using a name other than the exact name appearing on the producer's license as filed with the Department.

10. Respondent violated the above Rule by using variations of his recorded name on advertising material, emails, and the American Family website.

11. An administrative forfeiture in the amount of \$6,500 with \$3,000 of the forfeiture suspended upon satisfactory completion of Respondent's probation is appropriate in this case.

12. Probation for a period of 18 months is appropriate under the circumstances of this case.

ORDER

1. Respondent, Matthew A, Newman, is assessed an administrative forfeiture in the amount of \$6,500.00. Three thousand dollars (\$3,000.00) of the forfeiture shall be suspended upon satisfactory completion of Respondent's probation. The forfeiture shall be paid in 5 quarterly installments of \$583.33, and a final quarterly payment of \$583.35. The first quarterly payment shall be due 30 days from the date of this Order. Each successive quarterly payment shall be made on the same date of the month, three months after the previous payment is due.

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 the Respondent shall pay the forfeiture assessed herein in a timely manner, and shall have no further violations of the Utah Insurance Code or Rules or of any order of the commissioner. If Respondent fails to timely make any of the quarterly payments to be received in the offices of the department on or before the date due, he shall be deemed to have failed to meet the terms of probation and the entire forfeiture of \$6,500.00 or its balance shall immediately become due and payable.

3. The Department reserves the right to review the license status of Respondent, and Respondent shall provide current business and residential contact to the Department as required

by the Code.

4. Should Respondent operate his own agency, he shall also provide a copy of his previous trust account statements from the previous quarter at the same time he makes his quarterly forfeiture payment.

DATED this 14th day of December, 2010.

NEAL T. GOOCH
Insurance Commissioner



MARK E. KLEINFELD
Administrative Law Judge
Utah Insurance Department
State Office Building, 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 \$2,500 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.