

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

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UTAH STATE
INSURANCE DEPT.

BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF UTAH

COMPLAINANT:

UTAH INSURANCE DEPARTMENT

RESPONDENT:

KRISTIN E. ANDERSON
334 W. Tabernacle, Suite C
St. George, UT 84770
License No. 216503

STIPULATION AND ORDER

Docket No. 2010-171 LC

Enf. Case No. 2736

STIPULATION

1. Respondent, Kristin E. Anderson is licensed resident insurance producer in the State of Utah, holding License No. 216503.

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 her right to a hearing at which she may be represented by counsel, present evidence and cross-examine witnesses. Respondent has irrevocably waived her 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 her 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 8th day of December, 2010.



KRISTIN E. ANDERSON



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 September 28, 2010, a Department investigator paid an agency visit to Respondent's Farmers Insurance Office in St. George, Utah. The investigator introduced himself to Michael Anderson, husband of Respondent. During the visit, Michael Anderson explained that Respondent was out of the office and that he was running the day to day operations in her absence.

2. Upon request, Michael Anderson provided a copy of the trust account for August 2010. The trust account was established at "Farmers Insurance Group Federal Credit Union" (FIGFCU) in the personal name of Kristin E. Anderson and there appeared to be a sub-account identified as "D12 Share A/C - Bristol West Prem Trst."

3. The Respondent later explained that Farmers Insurance had advised her to open the trust account in the Los Angeles based financial institution for insurance electronic sweeps.

4. There are no FIGFCU branches or offices in Utah.

5. After being instructed on the requirements of Utah law, the Respondent took action to open a proper trust account at a local credit union.

6. The Respondent has agreed to a recommend \$250.00 forfeiture.

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.

© 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. . . .

(Emphasis added.)

2. Respondent violated the above Utah statute by failing to deposit payments into a trust account at a financial institution with offices in this state.

3. An administrative forfeiture of \$250.00 is appropriate under the circumstances of this case.

ORDER

1. Respondent Kristin A. Anderson is assessed an administrative forfeiture in the amount of \$250.00 to be paid to the Commissioner within thirty (30) days of the issuance of this Order.

DATED this 14 day of December, 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 \$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.