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**RECEIVED**

FEB 15 2011

UTAH STATE  
INSURANCE DEPT.

BEFORE THE INSURANCE COMMISSIONER  
OF THE STATE OF UTAH

**COMPLAINANT:**

UTAH INSURANCE DEPARTMENT

**RESPONDENTS:**

JOSHUA D. CRANNEY  
License No. 91275  
TRESA M. CRANNEY  
License No. 194713  
JOSHUA D. CRANNEY INSURANCE  
AGENCY, INC.  
License No. 105020  
  
15 S. Main Street  
Fillmore, UT 84631

**STIPULATION AND ORDER**

Docket No. 2011-011 PC

Enf. Case Nos. 2759, 2760, and 2761

**STIPULATION**

1. Respondents, Joshua D. Cranney and Tresa M. Cranney are individual resident insurance producers in the State of Utah holding License Nos. 91275 and 194713 respectively.

2. Respondent Joshua D. Cranney Insurance Agency, Inc. is a resident insurance agency in the State of Utah holding License No. 105020, and is owned and operated by Respondents

Joshua D. Cranney and Tresa M. Cranney.

3. Respondents stipulate 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. Respondents admit the Findings of Fact and Conclusions made therefrom;
- c. Respondents stipulate to the summary entry of the Order herein which shall be in lieu of other administrative proceedings by Complainant in this matter; and
- d. Respondents and Complainant have negotiated the terms of the Order entered herein and Respondents agree to its entry and further agree to be bound by all its terms.

4. Respondents are aware of their right to a hearing at which they may be represented by counsel, present evidence and cross-examine witnesses. Respondents have irrevocably waived their right to such hearing and to any appeal related thereto.


5. Respondents admit the jurisdiction of the State of Utah Insurance Commissioner as to all matters herein.

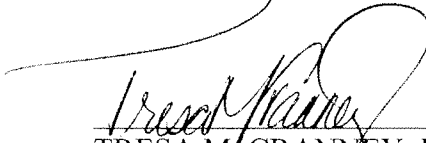
6. Respondents are acting herein free from any duress or coercion of any kind or nature, having been advised fully as to their rights set forth herein.


7. Respondents acknowledge that the issuance of this Order by the Commissioner is


solely for purpose of disposition of the matter entitled herein.

DATED this 7 day of Feb, 2011.

  
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JOSHUA D. CRANNEY, Licensee

  
\_\_\_\_\_  
TRESA M. CRANNEY, Licensee

  
\_\_\_\_\_  
JOSHUA D. CRANNEY INSURANCE  
AGENCY, INC. by Joshua D. Cranney

  
\_\_\_\_\_  
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 October 14, 2010, a Department investigator conducted a random audit of Respondent Joshua D. Cranney Insurance Agency's trust account.

2. Tresa M. Cranney, office manager and spouse of Joshua D Cranney produced copies of the agency's September 2010 bank statement which was identified as "Joshua D. Cranney Insurance Agency Inc, Draft Account" ending in account number 533 and a business bank statement ending in account number 566.

3. Ms. Cranney stated that the "Draft Account" was the trust account at that time, but as of the date of the audit had it been corrected to "trust account."

4. Upon reviewing the September bank statement, the investigator noted that there were several debit/withdrawals and deposit/transfers that did not appear to be proper trust account transactions.

5. The investigator then requested a written explanation of the suspect transactions and a copy of the August 2010 bank statement for the account. A review of the August 2010 statement also reflected a number of improper debit/withdrawals and deposit/transfers for a trust account. For instance, there were several debits payable to Chevron and a cash withdrawal by Tresa Cranney for Joshua Cranney.

6. Respondents Joshua D. Cranny and Tresa M. Cranney admitted to the investigator that they had failed in their responsibility to maintain the integrity of a trust account by not identifying the account as such and by using monies from the trust account for personal and

business expenses. Joshua Cranney explained that the funds he used were his commissions that he never took out of the account, and that he never used actual trust funds for his personal or business use. He has since corrected the practice and is no longer leaving his commissions in the trust account.

7. The account has since been correctly designated as a trust account and neither personal nor business expenses are now being paid from this account.

8. Respondents have agreed to a \$3,500.00 forfeiture and 12 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 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.

2. Respondents violated the above Rule by failing to designate a "trust account" that was separate and distinct from operating and personal accounts.

3. Utah Administrative Code R590-170-5(3) states, "Personal or business expenses may not be paid from a trust account, even if sufficient commissions exist in the account to cover these expenses."

4. Respondents violated Rule R590-170-5(3) by making payments for personal or

business expenses form the trust account.

6. An administrative forfeiture in the amount of \$3,500.00 and probation for a period of 12 months is appropriate under the circumstances of this case.

Bases on the forgoing Findings of Fact and Conclusions of Law, the presiding officer now enters the following:

**ORDER**

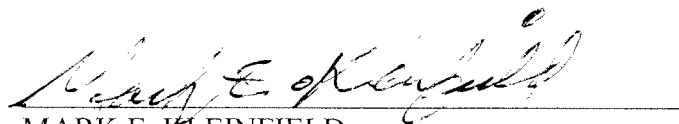
**IT IS HEREBY ORDERED:**

1. Respondents Joshua D. Cranney, Tresa M. Cranney and Joshua D. Cranney Insurance Agency, Inc. are jointly and severally assessed an administrative forfeiture in the amount if \$3,500.00.

2. Respondents are placed on probation for a period of 12 months commencing with the date of this order. The terms of probation are that Respondents shall have no further violations of the Utah Insurance Code, Department Rules or any order of the Commissioner.

DATED this 2-2<sup>nd</sup> day of February, 2011.

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.