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BEFORE THE INSURANCE COMMISSIONER  
OF THE STATE OF UTAH

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**COMPLAINANT:**

UTAH INSURANCE DEPARTMENT

**RESPONDENTS:**

1<sup>ST</sup> OUT BAIL BONDS  
License No. 255582

GORDON WRIGHT  
License No. *108967*



**STIPULATION AND ORDER**

Docket No. 2011-009 PC

Enf. Case No. 2763

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**STIPULATION**

1. Respondent 1<sup>st</sup> Out Bail Bonds (“1<sup>st</sup> Out”), is a licensed bail bond surety company in the State of Utah, holding License No. 255582. Respondent Gordon Wright (“Wright”), is a

licensed bail bond agent in the State of Utah, holding License No. 114987, and is the owner of Respondent 1<sup>st</sup> Out Bail Bonds.

2. 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 admits the Findings of Fact and Conclusions made therefrom;
- c. Respondent 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 agrees to be bound by all its terms.

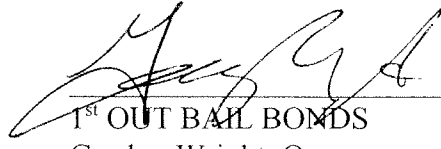
3. Respondents are aware of their right to a hearing at which they may be represented by counsel, present evidence and cross-examine witnesses. Respondents have irrevocably waived their right to such hearing and to any appeal related thereto.

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

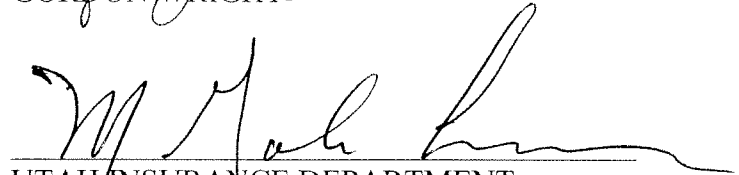
5. Respondents are acting herein free from any duress or coercion of any kind or nature, having been advised fully as to their rights set forth herein.

6. Respondents acknowledge that the issuance of this Order by the Commissioner is solely for purpose of disposition of the matter entitled herein.

DATED this 17 day of Feb, 2011.

  
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1<sup>ST</sup> OUT BAIL BONDS  
Gordon Wright, Owner

  
\_\_\_\_\_  
GORDON WRIGHT

  
\_\_\_\_\_  
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. In discussions with Respondent Wright in December 2010, it was discovered that Respondents were holding premiums and collateral in an account that was not properly established and labeled as a trust account.

2. Respondent Wright also failed to pay out commissions to his operating account from the account holding trust funds, but accumulated commissions in that account.

3. In addition, upon examination of Respondent's ledgers and account statements, it was established that Wright was using the subject account (holding both collateral and commissions) to pay personal expenses. Personal expenses were paid from an amount only up to the commission amount in the account, and collateral amounts were never used for payment of personal expenses.

4. Respondent Wright complied immediately with a request for information and upon being notified of the violations of Utah law and Department Rules, and immediately set up a proper Trust Account as required.

5. Respondent Wright was very cooperative, has taken full responsibility for his actions, and has agreed to the forfeiture and probation recommended herein.

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) sets forth the trust obligations for monies collected as follows:

(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. . . .

(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 chapter. . . .

2. Insurance Department Rule R590-170-4 requires that all records relating to a trust account be identified with the wording "Trust Account" or similar words. These include checks, bank statements, general ledgers, and records of the bank pertaining to the trust account.

3. Insurance Department Rule R590-170-5 provides that disbursement from a trust account be limited to premiums paid to insurers, return premiums to policyholders, transfer of commissions and fees, fees or taxes collected with premiums paid to insurers or taxing authority, funds paid pursuant to a third party administrator contract, . . . and the transfer of accrued interest. Personal or business expenses may not be paid from a trust account, even if sufficient commissions exist in the account to cover these

4. Respondent 1<sup>st</sup> Out Bail Bonds violated the above statutory and rule provisions by failing to establish a trust account into which the collateral was deposited, and by co-mingling trust account monies with commissions. In addition, Respondent violated the above by making

payments for personal expenses from the account wherein trust monies were deposited.

5. An administrative forfeiture of \$5,000.00 and probation for a period of 24 months is appropriate under the circumstances.

Based upon the foregoing Stipulation, Findings of Fact and Conclusions of Law, the Presiding Officer herewith enters the following Order:

**ORDER**

**IT IS HEREBY ORDERED:**

1. Respondents 1<sup>st</sup> Out Bail Bonds and Gordon Wright are jointly and severally assessed an administrative forfeiture in the amount of \$5,000.00 to be paid to the Utah Department of Insurance within 30 days of the issuance of this Order.

2. Respondents licensed are hereby placed on probation for a period of 24 months. 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 22<sup>nd</sup> day of February, 2011 <sup>46K</sup> ~~2010~~.

NEAL T. GOOCH  
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

## NOTIFICATION

You are hereby notified that a failure to obey and Order of the Commissioner may subject you to further penalties, including forfeiture of up to \$5,000 per violation for an organization and of up to \$2,500.00 for and individual, and the suspension or revocation of your licenses and the filing of an action in district court, which may impose forfeitures of us 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.