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BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF UTAH

COMPLAINANT:

UTAH INSURANCE DEPARTMENT

RESPONDENT:

AAA BAIL BONDS
License No 97856

WAYNE CARLOS
License No. 58522



STIPULATION AND ORDER

Docket No. 2011-078 PC

Enf. Case No. 2799

STIPULATION

1. Respondent AAA Bail Bonds (“AAA”) is a bail bond surety licensed in the State of Utah holding license number 97856. Respondent Wayne Carlos is the owner of AAA Bail Bonds and is a licensed bail bond insurance agent in the State of Utah holding license number 58522.

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 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 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 11 day of May, 2011.

AAA Bail Bonds
Wayne Carlos
AAA BAIL BONDS
Wayne Carlos, Owner

Wayne Carlos
WAYNE CARLOS

M. Gale Lemmon
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. The Utah Insurance Department scheduled an audit of Respondent AAA Bail Bonds for February 15, 2011. On February 10, 2011, the market conduct investigator contacted Respondent to confirm the scheduled audit. During the conversation, the agency owner, Respondent Wayne Carlos, told the examiner that no trust account had been set up for the collateral he accepted for written bail bonds. The agency owner was asked to provide a collateral ledger and bank statements for review during the audit.

2. On February 15, 2011, the examiner conducted the audit and confirmed that the agency had not established and maintained a trust account and that Carlos was depositing money received as collateral into the company operating account, thereby co-mingling the collateral with the company funds.

3. After depositing collateral into the company operating account, Carlos would shortly transfer collateral funds into a savings account used for holding collateral funds. The savings account was not designated as a trust account.

4. Respondent admitted that he failed to establish a trust account. Respondent Carlos did maintain a ledger for collateral accepted and had an accurate account and record of each collateral transaction.

5. Respondent was cooperative and in a written statement dated March 7, 2011, Respondent Carlos accepted full responsibility for his mistake. Respondent has since established a trust account for holding collateral funds and has ceased depositing such funds into the company operating account. Respondents have no previous record of administrative actions by the department.

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-35-603(2) states as follows:

(2) (a) The collateral security . . . shall be received by the bail bond producer in the bail bond producer's fiduciary capacity.

(b) Before any judgment of forfeiture of bail, the bail bond producer shall keep the collateral separate and apart from any other funds or assets of the licensee.

2. In order to keep collateral separate and apart from any other funds and to hold them in a fiduciary capacity, Respondents are required to deposit collateral funds into a trust account under Utah Code Ann. § 31A-23a-409.

3. In failing to deposit funds received as collateral into a trust account, Respondents violated Utah Code Ann. §§ 31A-35-603(2) and 31A-23a-409(1) and (2).

4. In depositing the collateral for written bail bonds into Respondent AAA's operating account and co-mingling collateral with operating funds, Respondents violated Utah Code Ann. § 31A-23a-409(1)(b).

5. An administrative forfeiture in the amount of \$5,000 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:

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ORDER

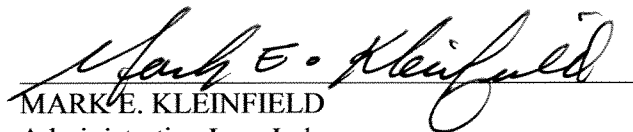
IT IS HEREBY ORDERED:

1. Respondents AAA Bail Bonds and Wayne Carlos 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. The licenses of Respondents AAA Bail Bonds and Wayne Carlos are placed on probation for a period of 24 months, beginning with the date of this Order. The terms of probation are that Respondents shall pay the forfeiture assessed herein in a timely manner, Respondents shall submit to random trust audits, and Respondents shall have no further violations of the Utah Insurance Code or Rules or of any order of the commissioner

DATED this 17th day of May, 2011.

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 an Order of the Commissioner may subject you to further penalties, including forfeiture of up to \$5,000 per violation for a company and of up to \$2,500.00 for an individual licensee, and the suspension or revocation of your licenses 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.