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RECEIVED  
JUN 13 2011  
UTAH STATE  
INSURANCE DEPT.

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BEFORE THE INSURANCE COMMISSIONER  
OF THE STATE OF UTAH

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**COMPLAINANT:**

UTAH INSURANCE DEPARTMENT

**RESPONDENT:**

EQUITABLE LIFE & CASUALTY INS. Co.  
PO Box 2460  
Salt Lake City, UT 84110-2460  
NAIC ID #62952

**STIPULATION AND ORDER**

Docket No. 2011-108 LF

Enf. Case No. 2869

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**STIPULATION**

1. Respondent, Equitable Life & Casualty Insurance Company is an insurer domiciled and doing business in the State of Utah, NAIC identification number 62952.
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 its right to a hearing at which he may be represented by counsel, present evidence and cross-examine witnesses. Respondent has irrevocably waived its right to such hearing and to any appeal related thereto.

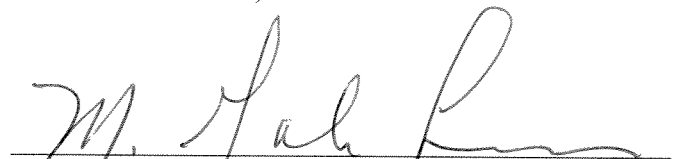
4. Respondent admits the jurisdiction of the State of Utah Insurance Commissioner as to all matters herein.

5. Respondent is acting herein free from any duress or coercion of any kind or nature, having been advised fully as to its 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 14<sup>th</sup> day of June, 2011.

  
EQUITABLE LIFE & CASUALTY INSURANCE  
COMPANY  
Kendall R. Surfass, General Counsel

  
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 January 4, 2010, the son of a policyholder presented a life insurance claim to the Respondent.
2. The Respondent failed to respond to the claimant in writing during the claim investigation, over a five month period.
3. On June 21, 2010 the Respondent received medical records on the deceased and shortly thereafter released payment to the beneficiaries.
4. Respondent has taken remedial action to ensure future compliance with the Insurance Code and Department Rules and has agreed to the administrative penalty.

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 R590-191-4 addresses the minimum standards for prompt, fair, and equitable claim handling processes and communications as follows:
  - (1) Notice of loss to an insurer, if required, shall be considered timely if made according to the terms of the policy, subject to the definitions and provisions of this rule, and the provisions of Section 31A-21-312.
  - (2) Notice of loss may be given to the insurer or its representative unless the insurer clearly directs otherwise in accordance with policy provisions or in a separate written notice mailed or delivered to the claimant.
  - (3) Subject to policy provisions, a requirement of any notice of loss may be waived by an authorized representative of the insurer.

(4) Insurance policies may not require notice of loss to be given in a manner which is inconsistent with the actual practice of the insurer. For example, if the practice of the insurer is to accept notice of loss by telephone, the policy shall reflect that practice, and not require that the claimant furnish "immediate written notice" of loss.

(5) Within 15 days of receipt of notice of loss from a claimant, the insurer shall provide necessary claim forms, instructions, and reasonable assistance so the claimant can properly comply with company requirements for filing a claim.

(6) Proof of loss to an insurer, if required, shall be considered timely if made according to the terms of the policy, subject to the definitions and provisions of this rule, and the provisions of Section 31A-21-312. Proof of loss requirements may not be unreasonable and should consider all of the circumstances surrounding a given claim.

(7) Within 15 days of receipt of proof of loss from a claimant, the insurer shall:

(a) provide written acknowledgment of the receipt of the proof of loss;

(b) request any necessary additional information from claimant; and

(c) commence any necessary investigation of the claim, including requesting additional information from other parties having documentation or information relating to the claim; or

(d) provide the claim settlement and a written explanation of benefits to the claimant if no additional information or investigation is necessary.

(8) Within 15 days of receipt of any communications relating to a claim which reasonably suggests that a response is expected, the insurer shall substantively respond to such communication.

(9) Within 30 days of receipt of proof of loss from the claimant, the insurer shall complete the investigation of a claim, unless such investigation cannot reasonably be completed within such time. It shall be the burden of the insurer to establish, by adequate records, that the investigation could not be completed within 30 days of its receipt of proof of loss. If the investigation cannot be completed within 30 days, the insurer shall communicate to the claimant a written explanation as to the reasons for the delay and shall continue to so communicate at least every 30 days until the claim is either settled or denied.

(10) Within 15 days of completion of the investigation, the insurer shall either:

(a) provide the claim settlement and a written explanation of benefits to the claimant; or

(b) provide, in writing, a denial of the claim and an explanation to the claimant as to the reasons for the denial.

(11) Closing a claim file without settlement is considered a denial and must be so communicated in writing to the claimant and according to the provisions of the policy.

(12) If recalculation/revisitation of a claim becomes necessary subsequent to either denial or settlement, the insurer shall again comply with the initial claim handling process requirements as described in this section.

(13) Upon receipt of an inquiry from the Insurance Department regarding a claim, every licensee shall furnish a substantive response to the Insurance Department within the time period specified in the inquiry.

2. Respondent violated the above provision when it failed for a five month period to correspond with a claimant about a claim investigation of a life policy claim

3. An administrative forfeiture in the amount of \$1,500.00 is appropriate in this matter.

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:**

Respondent Equitable Life & Casualty Insurance Company is assessed an administrative forfeiture in the total amount of \$1,500.00 to be paid to the Department within 30 days of the issuance of this Order.

### **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 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.

DATED this 14<sup>th</sup> day of June, 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

CERTIFICATE OF MAILING

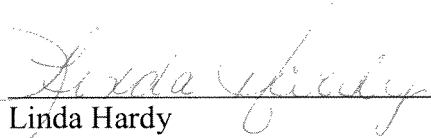
I do hereby certify that on this date I mailed, by regular mail postage prepaid, a true and correct copy of the attached:

STIPULATION  
&  
ORDER

To the following:

Equitable Life & Casualty Ins. Co.  
P.O. Box 2460  
Salt Lake City, UT 84110-2460

DATED this 14<sup>th</sup> day of June, 2011

  
\_\_\_\_\_  
Linda Hardy  
Utah Department of Insurance  
State Office Building, Room 3110  
Salt Lake City, UT 84114-6901

**UTAH**  
**Invoice - Original**

Printed Date: June 14, 2011  
Invoice Date: June 13, 2011  
Balance Due: \$1,500.00  
Due Date: July 18, 2011  
Invoice ID: 512258  
NAIC ID: 62952  
Payor ID: 310

KRISTINE CHRISTENSEN  
EQUITABLE LIFE CASUALTY INSURANCE COMPANY  
PO BOX 2460  
SALT LAKE CITY UT 84110-2460

<b>Item Description</b>	<b>Amount</b>
6/13/2011 Monetary Penalty Company E-Case 2869 Dcoket 2011-108 HL	\$1,500.00
<b>Original Amount Due</b>	<hr/> \$1,500.00
<b>Payments Received</b>	
	<hr/> <b>Balance Due</b>

**UTAH**  
**Invoice - Original**

Invoice Date: June 13, 2011  
Balance Due: \$1,500.00  
Due Date: July 18, 2011  
Invoice ID: 512258  
Payor ID: 310  
Payor Name: EQUITABLE LIFE &  
CASUALTY  
INSURANCE  
COMPANY

Make checks payable to: Utah Insurance Department

Send payment to:

Utah Insurance Department  
3110 State Office Building  
Salt Lake City, UT 84114-6901