

M. GALE LEMMON #4363
Assistant Attorney General
MARK L. SHURTLEFF #4666
Attorney General
Attorneys for Utah Insurance Department
160 East 300 South, Fifth Floor
PO Box 140874
Salt Lake City, Utah 84114
Telephone: (801) 366-0375

BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF UTAH

COMPLAINANT:

UTAH INSURANCE DEPARTMENT

RESPONDENT:

TROY EARL SAWYER
96 South Main Street, Suite 6
Ephraim, UT 84627
License # 85786

STIPULATION AND ORDER

Docket No. 2011-251 PC

Enf. Case No. 3023

STIPULATION

1. Respondent, Troy Earl Sawyer, is licensed resident insurance producer holding Utah License # 85786.
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 his right to a hearing at which he may be represented by counsel, present evidence and cross-examine witnesses. Respondent has irrevocably waived his right to such hearing and to any appeal related thereto.

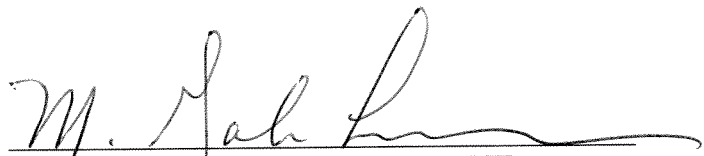
4. Respondent admits the jurisdiction of the State of Utah Insurance Commissioner as to all matters herein.

5. Respondent is acting herein free from any duress or coercion of any kind or nature, having been advised fully as to his 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 31 day of October, 2011.


TROY EARL SAWYER


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 September 21, 2010, Respondent Sawyer received a premium payment from an insured for the insured's auto policy. However, Respondent applied the insurance premium to the wrong account, resulting in cancellation of the insured's auto policy.

3. On or about October 18, 2010, the insured informed Respondent that she had been in an automobile accident. It was then that Sawyer discovered he had misapplied the premium to the wrong account. Sawyer tried to have the policy reinstated, but could not because of the claim. Sawyer then added the insured to her parents' policy.

4. In April 2011, Sawyer set up a claim to the parents' policy on the insured's accident with a false loss date of December 2010. The insurer paid the claim.

5. Sawyer brought the issue to his management's attention when the insured requested the agency pay her deductible.

6. Sawyer has taken full responsibility for his actions, was cooperative during the investigation, and has been retained as an employee by agency. The agency has put corrective procedures in place for Sawyer. Sawyer has agreed to an administrative forfeiture of \$2,500 to be paid over a period of six months, 24 months probation, and the requirement to complete 3 hours of additional ethics continuing education as part of probation.

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-402(1)(a)(I) states:

(1) (a) (I) Any of the following may not make or cause to be made any communication that contains false or misleading information, relating to an insurance product or contract, any insurer, or any licensee under this title, including information that is false or misleading because it is incomplete.

2. Utah Code Ann. § 31A-26-303 provides in part:

(1) No insurer or person representing an insurer may engage in any unfair claim settlement practice under Subsections (2), (3), and (4).
(2) Each of the following acts is an unfair claim settlement practice:
(a) knowingly misrepresenting material facts or the contents of insurance policy provisions at issue in connection with a claim under an insurance contract; . . .

3. Utah Code Ann. § 31A-31-103 provides in part:

(1) A person commits a fraudulent insurance act if that person with intent to deceive or defraud:
(a) knowingly presents or causes to be presented to an insurer any oral or written statement or representation knowing that the statement or representation contains false, incomplete, or misleading information concerning any fact material to an application for the issuance or renewal of an insurance policy, certificate, or contract;
(b) knowingly presents or causes to be presented to an insurer any oral or written statement or representation:
(I) (A) as part of, or in support of, a claim for payment or other benefit pursuant to an insurance policy, certificate, or contract; . . .

4. Respondent's actions violated the above provisions.

5. The imposition of a forfeiture in the amount of \$2,500.00, and the imposition of probation for a period of 24 months, plus a requirement to complete of 3 hours of additional

Ethics CE is appropriate under the circumstances of this case.

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. Respondent Troy Earl Sawyer is assessed an administrative forfeiture of \$2,500.00.

Respondent Sawyer shall pay the forfeiture as follows:

The amount of \$500.00 shall be paid within 30 days of the date of this Order;

The amount of \$400.00 shall be paid within 60 days of the date of this Order and each 30 days thereafter until the forfeiture is paid in full.

2. Respondent is hereby placed on probation for a period of 24 months commencing with the date of this Order. The terms of probation are:

Respondent pay the forfeiture assessed herein in a timely manner;

Respondent shall, during the period of probation complete an additional 3 hours of continuing education in Ethics in addition to the continuing education required for the renewal of his license; and

Respondent shall have no violations of the Utah Insurance Code or Rules or of any order of the commissioner.

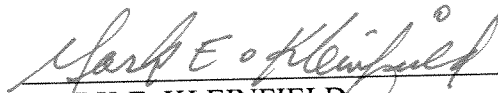
NOTIFICATION

Respondent is hereby notified that failure to abide by the terms of this Order may subject you to further penalties, including additional forfeitures of up to \$5,000.00 per violation and the suspension or revocation of your license, and the filing of an action to enforce this Order in the District Court, which may impose penalties of up to \$10,000.00 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 14th day of November, 2011.

NEAL T. GOOCH
Acting Insurance Commissioner



MARK E. KLEINFELD
Administrative Law Judge
Utah Insurance Department
3110 State Office Building
Salt Lake City, UT 84114
Telephone 801-538-3800