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UTAH STATE
INSURANCE DEPT.

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BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF UTAH

COMPLAINANT:

UTAH INSURANCE DEPARTMENT

RESPONDENTS:

ALL AREA BAIL BONDS
License No. 353400

and

DOUG PEHRSON
License No. 109484



STIPULATION AND ORDER

Docket No. 2012-021 BB

Enf. Case No. 3046

STIPULATION

1. Respondent All Area Bail Bonds ("Agency") is a licensed bail bond surety company in the State of Utah, holding License No. 353400. Respondent Doug Pehrson is a

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licensed bail bond agent in the State of Utah, License No. 109484, and is the owner of Respondent All Area 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 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.

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.

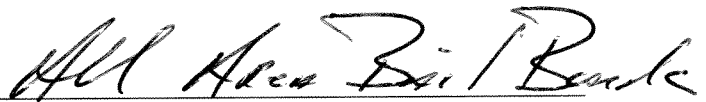
4. Respondents admit the jurisdiction of the State of Utah Insurance Commissioner as to all matters herein.

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

DATED this 23 day of JAN, 2012.


ALL AREA BAIL BONDS
Doug Pehrson, Owner


DOUG PEHRSON


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 July 15, 2011, the Department notified Respondents that an audit of the agency was scheduled to take place at the Insurance Department on August 30, 2011.

2. On August 10, 2011, Respondent Doug Pehrson contacted the Department examiner. Respondent Pehrson told the examiner Todd Black of Wells Fargo would not set up a trust account for the agency and told Respondent that the accounts already set up met the requirements for a bail bond agency.

3. The market conduct examiner contacted Mr. Black of Wells Fargo and email the relevant statutes and rules regarding the fiduciary account. Mr. Black then requested of Respondent Pehrson a letter from the surety insurer to provide a letter stating the agency needed a trust account.

4. On August 29, 2011, Respondents set up the agency trust account with Wells Fargo.

5. During the audit on August 30, 2011, the examiner confirmed that the Agency had not established, properly maintained, or properly secured collateral monies prior to August 29, 2011 when a trust account was set up.

4. During the audit and follow-up conversations Respondent Pehrson admitted he failed in his fiduciary responsibility although he did what he felt was right in keeping the collateral money in a bank bag in his desk drawer.

5. Respondents accepted responsibility and were cooperative during the audit. Respondents have corrected the violations and the required Trust Account is in place and

fiduciary responsibilities are being fulfilled by Respondents.

6. Respondents agree to a joint administrative forfeiture of \$5,000 with the amount of \$4,000 stayed pending successful completion of 24 months probation which may include random trust audits.

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 states in part as follows:

(1) (a) Subject to Subsection (7), a licensee is a trustee for money 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 money; or

(B) money held in any other capacity.

(ii) This Subsection (1)(b) does not apply to:

(A) amounts necessary to pay bank charges; and

(B) money paid by insureds and belonging in part to the licensee as a fee or commission.

© Except as provided under Subsection (4), a licensee owes to insureds and insurers the fiduciary duties of a trustee with respect to money to be forwarded to insurers or insureds through the licensee.

(d) (I) Unless money is sent to the appropriate payee by the close of the next business day after their receipt, the licensee shall deposit them in an account authorized under Subsection (2).

(ii) Money deposited under this Subsection (1)(d) shall remain in an account authorized under Subsection (2) until sent to the appropriate payee.

(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 money 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 state; or

(b) in some other account, approved by the commissioner by rule or order, providing safety comparable to federally insured trust accounts.

2. Utah Administrative Code R590-170-5 sets forth the requirements for maintaining a trust account:

(1) Funds deposited into a trust account shall be limited to: premiums which may include commissions; return premiums; fees or taxes paid with premiums; financed premiums; funds held pursuant to a third party administrator contract; funds deposited with a title insurance agent in connection with any escrow settlement or closing, amounts necessary to cover bank charges on the trust account; and interest on the trust account, except as provided under Subsection 31A-23a-406(2)(b).

(2) Disbursements from a trust account shall 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; funds disbursed by a title insurance agent in connection with any escrow settlement or closing; and the transfer of accrued interest.

(3) 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) Commissions may not be disbursed from a trust account prior to the beginning of the policy period for which the premium has been collected.

(5) Commissions attributed to premiums and fees collected must be disbursed from a trust account on a date not later than the first business day of the calendar quarter after the end of the policy period for which the funds were collected. . . .

3. Utah Administrative Code R590-170-7 addresses the manner in which accounting records shall be maintained:

- (1) Bank statements for trust accounts shall be reconciled monthly.
- (2) An accounts receivable report showing credits and debits shall be maintained and reconciled monthly. This report must list, at a minimum, the account name and the amount and date due for each receivable. The sum of all receivables shall be shown on the report. Receivables and their sums that are over 90 days old shall be shown separately on the report.
- (3) An accounts payable report showing the status of each account shall be maintained and reconciled monthly.
- (4) Adequate records shall be maintained to establish ownership of all funds in the trust account: from whom they were received; and for whom they are held.
- (5) Trust account registers shall maintain a running balance.
- (6) All accounting records relating to the business of insurance shall be maintained in a manner that facilitates an audit.

4. The Respondents' failure to establish and maintain a trust account for collateral monies accepted for bail bonds written prior to August 19, 2011, constitute violations of the above provisions.

5. An administrative forfeiture in the amount of \$5,000 assessed against the Respondent's jointly, and probation for a period of 24 months is appropriate under the circumstances. Further, it is appropriate that \$4,000 of the forfeiture be stayed pending Respondents' successful completion of probation.

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 All Area Bail Bonds and Doug Pehrson are hereby jointly and severally assessed an administrative forfeiture in the amount of \$5,000. Four thousand dollars of the forfeiture is stayed pending successful completion of probation imposed herein.

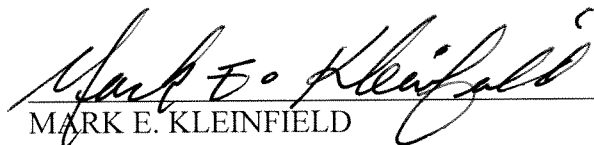
2 Respondents shall pay the remaining portion of the forfeiture that has not been stayed in the sum of \$1,000 to the Department in three payments as follows:

- \$333.00 be paid to within 30 days of the date of this Order;
- \$333.00 to be paid within 60 days of the date of this Order; and
- \$334.00 to be paid within 90 days of the date of this Order.

3. Respondents' licensed are placed on probation for a period of 24 months commencing with the date of this Order. The terms of probation are that Respondents make timely payments according to the terms of this Order, cooperate in any random trust audits, and shall have no further violations of the Utah Insurance Code, Department Rules or any order of the Commissioner.

DATED this 6th day of February, 2012.

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

Respondents are hereby notified that failure to abide by the terms of this Order may

subject you to further penalties, including additional forfeitures of up to \$2,500 per violation for an individual licensee and of up to \$5,000 per violation for a licensed organization, and the suspension or revocation of your licenses, and the filing of an action to enforce this Order in the District Court which may impose penalties 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.