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JAN 23 2012
UTAH STATE
INSURANCE DEPT.

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BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF UTAH

COMPLAINANT:

UTAH INSURANCE DEPARTMENT

RESPONDENT:

DAVID MILLARD INSURANCE AGENCY
License No. 382602

and

DAVID B. MILLARD
License No. 340278

7 South Main Street, Suite 200
Tooele, UT 84074

STIPULATION AND ORDER

Docket No. 2012-009 PC

Enf. Case No. 3066

STIPULATION

1. Respondent David Millard Insurance Agency is a licensed resident insurance

agency in the State of Utah holding license number 382602. Respondent David Millard is a licensed resident insurance producer in the State of Utah, holding license No. 340278, and is the owner of Respondent David Millard Insurance Agency.

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.

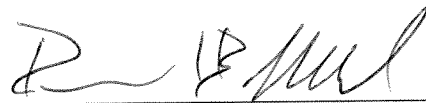
6. Respondents acknowledge that the issuance of this Order by the Commissioner is

solely for purpose of disposition of the matter entitled herein.

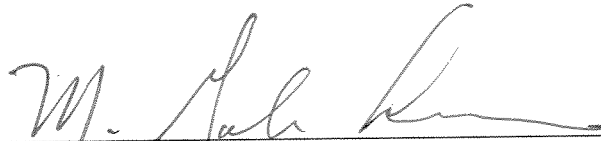
DATED this 20 day of Jan, 2012.



DAVID MILLARD INSURANCE AGENCY
David B. Millard, Owner



DAVID B. MILLARD



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 June 22, 2011 this investigation was opened in response to a competitor's complaint against Respondents alleging a violation regarding inducements to quote insurance. It was later determined that Respondents did not violate unfair inducement statutes but did violate other statutes by advertising as an agency without an agency license.

2. The investigation determined that Department records indicated David B. Millard was licensed as a resident producer in March 2011, but the "Dave Millard Insurance Agency" was not a licensed agency. Further, Department records did not show David B. Miller as designated to the Dave Millard Insurance Agency.

3. When told of the violations, David B. Millard, being new to the insurance industry, took full responsibility for his lack of familiarity with the statutory requirements and took immediate corrective action.

4. Respondents agree to the Departments recommendation of a \$3,000 administrative forfeiture with one-half of that amount being stayed.

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-110 requires that a licensee doing business under another name than the licensee's legal name shall notify the commissioner before using the assumed

name in this state.

2. Utah Code Ann. § 31A-23a-301 requires that an insurance organization be licensed as an agency if the organization acts as a producer.

3. Utah Code Ann. § 31A-23a-302 requires an agency to designate an individual that has a producer, limited line producer, customer service representative, consultant, managing general agent, or reinsurance intermediary license to act on the agency's behalf in order for the licensee to do business for the agency in this state; and a licensed agency shall designate and report to the commissioner the name of the designated licensed individual who has authority to act on behalf of the agency in all matters pertaining to compliance with the insurance statutes and any orders of the commissioner.

4. Utah Administrative Rule R590-154-5 prohibits a licensed producer from using a misleading name. Administrative Rule 590-154-7 provides that an individual producer shall not mislead through oral contact or through any letterhead, business cards, advertising, slogan, emblem, or other promotional material used or distributed in Utah by using a name other than the exact name appearing on the producer's license.

5. By not obtaining an agency license for Dave Millard Insurance Agency license or designating David B. Millard to the agency prior to the investigation of this matter, Respondents were in violation of the above statutes and rules.

6. An administrative forfeiture in the amount of \$3000.00 with one-half of that amount stayed 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

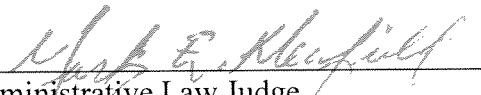
IT IS HEREBY ORDERED:

1. Respondents Dave Millard Insurance Agency and David B. Millard are jointly and severally assessed an administrative forfeiture in the amount of \$3,000.00. One half of the forfeiture in the amount of \$1,500.00 is stayed provided Respondents have no future violations of the Utah Insurance Code, Department Rules of any order of the Commissioner during the 12 months following the date of this Order.

2. The amount of the forfeiture not stayed in the amount of \$1,500.00 shall be paid to the Department within 30 days from the date of this Order.

DATED this _____ day of JAN 24 2012, 2012.

NEAL T. GOOCH
Insurance Commissioner



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

NOTIFICATION

You are hereby notified that a failure to obey an Order of Commissioner may subject you to further penalties, including 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 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.

CERTIFICATE OF MAILING

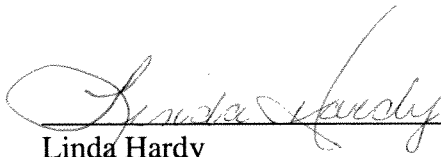
I do hereby certify that on this date I mailed, by regular mail postage prepaid, a true and correct copy of the attached:

STIPULATION
&
ORDER

To the following:

David Millard Insurance Agency
7 South Main Ste. 200
Tooele, UT 84074

DATED this 24th day of January, 2012



Linda Hardy
Market Conduct
Utah Department of Insurance
State Office Building, Room 3110
Salt Lake City, UT 84114-6901
801-538-3860

**UTAH
Invoice**

Printed Date: January 24, 2012

Invoice Date: January 24, 2012
Balance Due: \$1,500.00
Due Date: February 25, 2012
Invoice ID: 554642

DAVID MILLARD INSURANCE AGENCY
7 S MAIN STE 200
TOOELE UT 84074

Item Description	Amount
Monetary Penalty Agency	\$1,500.00
Original Amount Due	<u>\$1,500.00</u>
Payments Received	
	<u>Balance Due</u>

**UTAH
Invoice**

Printed Date: January 24, 2012

Invoice Date: January 24, 2012
Balance Due: \$1,500.00
Due Date: February 25, 2012
Invoice ID: 554642

Make checks payable to: Utah Insurance Department

Send payment to:

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