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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

**RESPONDENTS:**

LIBERTY INSURANCE, INC.  
License No. 374150

and

KATHLEEN SANCHEZ  
License No. 232664

2897 West 3500 South, Suite C  
West Valley City, UT 84119

**STIPULATION AND ORDER**

Docket No. 2012-022 PC

Enf. Case No. 3078

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**STIPULATION**

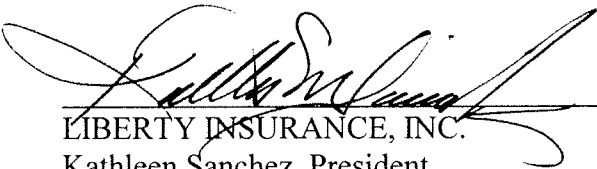
1. Respondent Liberty Insurance Inc. ("Agency") is a corporation organized in the State of Utah and licensed as an Utah insurance agency, holding Utah License No. 374150.


Respondent Kathleen Sanchez is a licensed resident insurance producer, holding Utah License No. 232664, and is the owner and president of Respondent Liberty Insurance, Inc.

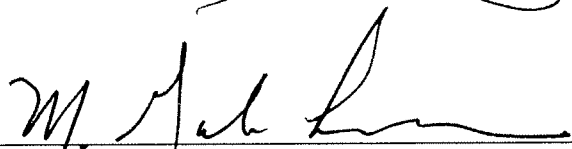
2. Respondents stipulate with the Complainant, Utah Insurance Department, as follows:
  - a. If a hearing were held, witnesses called by the Complainant could offer and introduce evidence that would support the Findings of Fact herein;
  - b. Respondents admit the Findings of Fact and Conclusions made 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 30<sup>th</sup> day of January, 2012.

  
LIBERTY INSURANCE, INC.  
Kathleen Sanchez, President

  
KATHLEEN SANCHEZ

  
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 1, 2011, a Market Conduct Analyst (MCA) conducted an interview with Respondent Kathleen Sanchez to discuss Liberty Insurance Inc. and review the trust account.

2. During the interview, it was determined that Respondent Sanchez was not handling monies correctly in her fiduciary capacity. Respondents had established a trust account, but Sanchez admitted to paying operating expenses from the trust account.

3. Respondent Sanchez was asked to submit bank statements for the previous two months. The statements confirmed that the trust account was not properly maintained because operating expenses were paid from it. Respondents also failed to maintain and provide a trust account ledger and failed to reconcile the trust account. The MCA subsequently requested trust account statements for the previous 12 months for review.

4. On or about October 20, 2011, the MCA requested a statement from Respondent regarding the procedure for the operating account, the date it was established, and the process for reconciling the trust account. On October 31, 2011, Respondent submitted her responses and admitted not having an operating account prior to the September 1, 2011 meeting/interview and admitted that operating funds had been co-mingled with trust account monies prior to the establishment of the operating account.

4. Respondent Sanchez was cooperative throughout the process and has agreed to an

administrative forfeiture of \$3,500. Respondent has requested that the forfeiture be paid in installments.

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 R590-170-4 sets forth the requirements for establishing a

trust account:

**(1) All records relating to a trust account shall be identified with the wording "Trust Account" or words of similar import. These records include checks, bank statements, general ledgers and records retained by the bank pertaining to the trust account.**

(2) All trust accounts shall be established with a Federal Employer Identification Number rather than a Social Security Number.

**(3) A trust account shall be separate and distinct from operating and personal accounts, i.e., a separate account number, a separate account register, and different checks, deposit and withdrawal slips.**

(4) A non-licensee may not be a signator on a licensee's trust account, unless the non-licensee signatory is an employee of the licensee and has specific responsibility for the licensee's trust account.

3. 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. . . .

4. The Respondents' failure to establish and maintain a trust account separate from the operating account and Respondents' co-mingling premiums received with the Agency's operating monies constitute violations of the above provisions.

5. A joint and several administrative forfeiture in the amount of \$3,500 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:

**ORDER**

IT IS HEREBY ORDERED:

1. Respondents Liberty Insurance, Inc. and Kathleen Sanchez are hereby jointly and

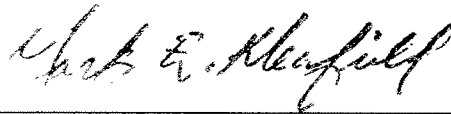
severally assessed an administrative forfeiture in the amount of \$3,500.00.

2. The forfeiture shall be paid to the Department as follows:

\$1,167.00 within 30 days of the date of this Order;  
\$1,167.00 within 60 days of the date of this Order; and  
\$1,166.00 within 90 days of the date of this Order.

DATED this \_\_\_\_\_ day of FEB 14 2012, 2012.

NEAL T. GOOCH  
Insurance Commissioner



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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 an organization, 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 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.