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BEFORE THE INSURANCE COMMISSIONER  
OF THE STATE OF UTAH

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**COMPLAINANT:**

UTAH INSURANCE DEPARTMENT

**RESPONDENT:**

HORACIO ALONSO PARDOFINUEROA  
3301 Lower Huntly Way  
West Jordan, UT 84088  
License # 325999

**STIPULATION AND ORDER**

Docket No. 2012-069 LC

Enf. Case No. 3094

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**STIPULATION**

1. Respondent, Horacio Alonso Pardofigueroa is a licensed resident insurance producer in the State of Utah, holding license number 325999.
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 may support the Findings of Fact herein;
  - b. Respondent neither admits nor denies 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.

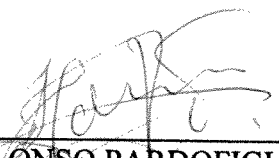
3. Respondent is aware of his right to a hearing at which he may be represented by counsel, present evidence and cross-examine witnesses. Respondent has irrevocably waived his right to such hearing and to any appeal related thereto.

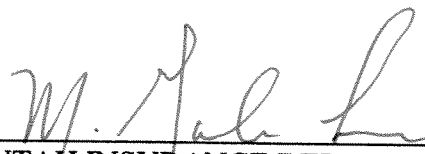
4. Respondent admits the jurisdiction of the State of Utah Insurance Commissioner as to all matters herein.

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 27<sup>th</sup> day of MARCH, 2012.

  
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HORACIO ALONSO PARDOFIGUEROA

  
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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 or about June 29, 2011, the Department initiated an investigation into the business practices of Respondent.

2. The investigation revealed that Respondent had been paying Jorge Pitta to solicit insurance business for Respondent. Mr. Pitta's producer license had been revoked by the Department on February 28, 2011, and thereafter Mr. Pitta scheduled appointments with former clients and introduced them to Respondent. Respondent paid Mr. Pitta from \$50 to \$80 commission on any policies that were sold. Respondent sold at least 26 policies under this arrangement.

3. During the investigation, Respondent was cooperative and stated that he was aware of the revocation of Mr. Pitta's license. Respondent said he was unaware that he could not pay a referral fee to Mr. Pitta.

4. Respondent stated he earned approximately \$300 for each policy sold.

5. Respondent agrees to an administrative forfeiture of \$2,600, representing \$100 for each of the 26 policies sold through the arrangement with Mr. Pitta. The Department agrees that the forfeiture may be paid over a three month period.

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-504 states in part:

(1) (a) Except as provided in Subsection 31A-15-103(3), a licensee under this chapter or an insurer may only pay consideration or reimburse out-of-pocket expenses to a person if the licensee knows that the person is licensed under this chapter as to the particular type of insurance to act in Utah as:

- (i) a producer;
- (ii) a limited line producer;
- (iii) a customer service representative;
- (iv) a consultant;
- (v) a managing general agent; or
- (vi) a reinsurance intermediary.

(b) A person may only accept commission compensation or other compensation as a person described in Subsections (1)(a)(i) through (vi) that is directly or indirectly the result of an insurance transaction if that person is licensed under this chapter to act as described in Subsection (1)(a).

(2) (a) Except as provided in Section 31A-23a-501, a consultant may not pay or receive a commission or other compensation that is directly or indirectly the result of an insurance transaction.

(b) A consultant may share a consultant fee or other compensation received for consulting services performed within Utah only:

- (i) with another consultant licensed under this chapter; and
- (ii) to the extent that the other consultant contributed to the services performed.

(3) This section does not prohibit:

(a) the payment of renewal commissions to former licensees under this chapter, former Title 31, Chapter 17, or their successors in interest under a deferred compensation or agency sales agreement;

(b) compensation paid to or received by a person for referral of a potential customer that seeks to purchase or obtain an opinion or advice on an insurance product if:

- (i) the person is not licensed to sell insurance;
- (ii) the person does not sell or provide opinions or advice on the product; and

(iii) the compensation does not depend on whether the referral results in a purchase or sale; or

(c) the payment or assignment of a commission, service fee, brokerage, or other valuable consideration to an agency or a person who does not sell, solicit, or negotiate insurance in this state, unless the payment would constitute an inducement or commission rebate under Section 31A-23a-402 or 31A-23a-502.5.

- (4) (a) In selling a policy of title insurance, sharing of commissions under Subsection (1) may not occur if it will result in:
- (i) an unlawful rebate;
  - (ii) compensation in connection with controlled business; or
  - (iii) payment of a forwarding fee or finder's fee.

2. Respondent violated the above provisions by using a non-licensed producer to solicit business and then paying him commissions contingent on a sale.

3. An administrative forfeiture of \$2,600.00 is appropriate under the circumstances of 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 Horacio Alonso Pardofigueroa is assessed an administrative forfeiture in the amount of \$2,600.00. Respondent shall pay the forfeiture in three installments as follows:

A. Eight hundred sixty six dollars and sixty seven cents (\$866.67) shall be paid to the Department within 30 days of issuance of this Order;

B. Eight hundred sixty six dollars and sixty seven cents (\$866.67) shall be paid within to the Department within 60 days of this Order; and

C. The balance of eight hundred sixty six dollars and sixty six cents (\$866.66) shall be paid within 90 days of this Order.

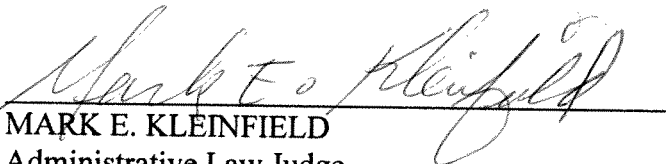
**NOTIFICATION**

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 \$2,500.00 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 30<sup>th</sup> day of April, 2012.

NEAL T. GOOCH  
Insurance Commissioner

  
MARK E. KLEINFELD  
Administrative Law Judge  
Utah Insurance Department