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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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<p><b>COMPLAINANT:</b></p> <p>UTAH INSURANCE DEPARTMENT</p> <p><b>RESPONDENT:</b></p> <p>AMY M. OWENS 2785 W. 9000 S. Suite 212 West Jordan, UT 84088 License No. 133082</p>	<p><b>STIPULATION AND ORDER</b></p> <p>Docket No. 2012-063 HL</p> <p>Enf. Case No. 3096</p>
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**STIPULATION**

1. Respondent, Amy M. Owens is a licensed resident insurance producer in the State of Utah holding license number 133082.
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;

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- 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 her right to a hearing at which she may be represented by counsel, present evidence and cross-examine witnesses. Respondent has irrevocably waived her right to such hearing and to any appeal related thereto.

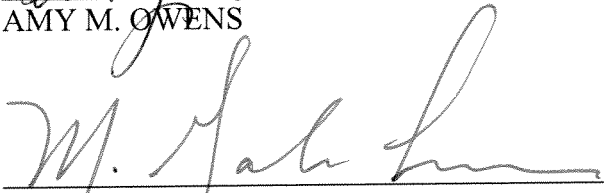
4. Respondent admits the jurisdiction of the State of Utah Insurance Commissioner as to all matters herein.

5. Respondent is acting herein free from any duress or coercion of any kind or nature, having been advised fully as to her 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 2 day of April, 2012.

  
\_\_\_\_\_  
AMY M. OWENS

  
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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. In July 2011, State Farm Insurance Company conducted a Premium Fund Account (Trust Account) review for Respondent. The review noted the following issues:
  - A. The Premium Fund Account had an ongoing negative balance;
  - B. Deposits were not being made by the next business day;
  - C. The account reconciliation was not being completed properly;
  - D. The account and register showed numerous deposit differences that were not explained; and
  - E. April Marie Wilson, an agent working with Respondent, deposited a personal check into the Premium Fund Account.
2. On or about August 15, 2011, State Farm notified the Department that April Marie Wilson (License 275114) had been terminated for cause for mishandling policyholder monies.
3. On or about August 30, 2011, the Department initiated an investigation into the Respondent's conduct and business practices. The Department requested copies of Respondent's bank account statements for May, June, and July 2011 which confirmed issues discovered by State Farm.
4. On or about September 19, 2011, Market Conduct personnel met with Respondent to discuss its audit findings. At that time Respondent provided additional bank statements and deposit slips for review. Respondent was cooperative and assisted in explaining her books to the Market Conduct Examiner. Respondent stated that she had delegated the responsibility for the trust account to Wilson and that she herself had not reconciled the trust account monthly.
5. Respondent stated that she would personally oversee the trust account in the future, and accepted Market Conduct's recommended forfeiture in the amount of \$2,500 and 12 months 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-409 addresses trust obligation for monies collected as follows in part:

- (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.
- (c) 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. Utah Administrative Rule R590-170-5 (1) states:

- (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).

3. Utah Administrative Rule R590-170-7(1) requires bank statements for trust accounts

to be reconciled monthly.

4. Respondent's actions violated the above provisions. Respondent failed to properly maintain and handle the trust monies as required, and failed to reconcile the trust account on a monthly basis as required.

5. An administrative forfeiture in the amount of \$2,500 and probation for a period of 12 months is appropriate.

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 Amy M. Owens is assessed an administrative forfeiture in the amount of \$2,500.00 to be paid to the Department within 30 days of issuance of of this Order.

2. The insurance license of Respondent Amy M. Owens is placed on probation for a period of 12 months commencing with the date of this Order. The terms of probation are that Respondent shall make timely payment of the forfeiture to the Department and shall have no further violations of the Utah Insurance Code, Department Rules, or any Order of the Commissioner.

**NOTIFICATION**

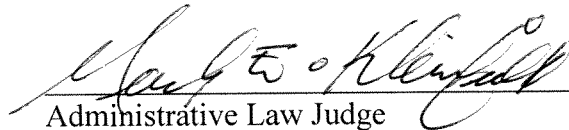
You are hereby notified that a failure to obey an Order of Commissioner may subject you to further penalties, including forfeitures of up to \$2,500 per violation and the suspension or

revocation of your license 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.

DATED this 10<sup>th</sup> ~~11<sup>th</sup>~~ day of April, 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