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**BEFORE THE INSURANCE COMMISSIONER  
OF THE STATE OF UTAH**

**COMPLAINANT:**

UTAH INSURANCE DEPARTMENT

**RESPONDENT:**

PETER EDWARD MORSE  
1104 South Birch Creek Rd.  
South Jordan, UT 84095  
License No. 140958

**STIPULATION  
&  
ORDER**

**Docket No. 2012-160 LF**

**Enf. Case No. 3182**

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**STIPULATION**

1. Respondent, Peter Edward Morse, is a licensed insurance agent in the State of Utah, holding License No. 1049558.
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;
  - 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.

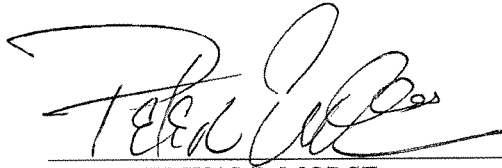
3. Respondent is aware of his right to a hearing at which he may be represented by counsel, present evidence and cross-examine witnesses. Respondent has irrevocably waived his right to such hearing and to any appeal related thereto.


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 the purpose of disposition of the matter entitled herein.

DATED this 17<sup>th</sup> day of October, 2012.

  
\_\_\_\_\_  
PETER EDWARD MORSE

  
\_\_\_\_\_  
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 March 6, 2007, Respondent prepared partial surrender requests, for an elderly married couple residing in the State of Utah, to surrender the majority of the funds held in two Sun Life Financial annuities.

2. In accordance with the partial surrender requests, Sun Life Financial sent two checks to the annuitants dated March 12, 2007, one in the amount of \$49,247.04 and the other in the amount of \$49,254.46.

3. On or about March 23, 2007, Respondent submitted an application for a Joint Indexed Deferred Annuity to First Amvestors Life Insurance Company, with an initial premium of \$98501.50, and a 10 year surrender charge.

4. Respondent failed to handle the transaction as a replacement and to have the funds sent directly to First Amvestors Life Insurance Company as a §1035 exchange, causing the partial surrender to be a taxable event to the annuitants. Sun Life Financial sent a 1099R to the annuitants showing taxable income to the annuitants in the amount of \$29,621.50 as a result of the partial surrender.

5. The annuitants' combined federal and state tax rate was 20.5%, creating a loss to the annuitants in the amount of \$6,072.41.

Based upon the foregoing Stipulation and Findings of Fact, the Presiding Officer enters the following Conclusions of Law:

**CONCLUSIONS OF LAW**

1. In recommending a partial surrender of existing annuities and the re-investment of the proceeds into another annuity, rather than a § 1035 exchange, thus causing a taxable event for the annuitants, Respondent violated Utah Admin. Code Rule R590-230-5(1) & (2)

2. Pursuant to Utah Admin. Code Rule R590-130-6(1)(b), the commissioner may order an insurance producer to take reasonably appropriate corrective action for any consumer harmed by the insurance producer's violation of Utah Admin. Code Rule R590-130.

3. Pursuant to Utah Code Ann. § 31A-2-308(1), the commissioner may assess a forfeiture of up to \$2,500.00 per violation of Department rules, plus twice the amount of any profit gained from the violation.

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 is assessed an administrative forfeiture in the amount of \$8,072.41. The amount of \$6,072.41 is hereby suspended pending the payment of that amount to the annuitants as reimbursement for the taxes they incurred as a direct result of the actions of the Respondent.

2. Respondent's insurance agent's license is placed on probation for a period of 24 months, beginning with the date of this Order. The terms of probation are:

a. Respondent shall pay the portion of the forfeiture assessed that is not suspended, the amount of \$2,000.00, within 90 days of the date of this Order;

b. Respondent shall pay the amount of \$6,072.41 to the annuitants before the expiration of the probation imposed herein, as reimbursement for the tax liability caused by the actions of the Respondent; and

c. Respondent shall have no other violations of the Utah Insurance Code or Rules

or of any order of the commissioner.

**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 18<sup>th</sup> day of October, 2012.

NEAL T. GOOCH  
INSURANCE COMMISSIONER



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MARK E. KLEINFELD, Esq.  
Administrative Law Judge  
Utah Insurance Department  
State Office Building, Room 3110  
Salt Lake City, Utah 84114  
Telephone (801) 538-3800

CERTIFICATE OF MAILING

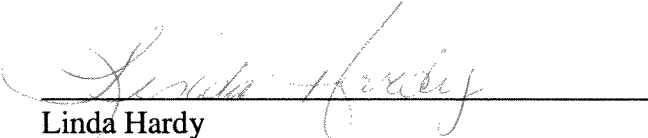
I do hereby certify that on this date I mailed, by regular mail postage prepaid, a true and correct copy of the attached:

STIPULATION  
&  
ORDER

To the following:

Peter Edward Morse  
1104 South Birch Creek Rd.  
South Jordan, UT 84095

DATED this 18<sup>th</sup> day October, 2012



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

**UTAH**  
**Invoice - Original**

Printed Date: January 18, 2013  
 Invoice Date: October 18, 2012  
 Balance Due: \$0.00  
 Due Date: January 18, 2013  
 Invoice ID: 606707  
 Payor ID: 71198

MORSE PETER EDWARD  
 11004 SOUTH BIRCH CREEK RD  
 SOUTH JORDAN UT 84095

| <b>Item Description</b>   | <b>Amount</b>     |
|---|-------------------|
| 1/17/2013 Monetary Penalty Individual<br>E-Case 3182 Docket # 2012-150 LF | \$2,000.00        |
|   | <hr/>             |
| <b>Original Amount Due</b>  | <b>\$2,000.00</b> |
| <br><b>Payments Received</b>  |                   |
| 1/17/2013 Check   | \$2,000.00        |
|   | <hr/>             |
| <b>Balance Due</b>  | <b>\$0.00</b>     |

**UTAH**  
**Invoice - Original**

Invoice Date: October 18, 2012  
 Balance Due: \$0.00  
 Due Date: January 18, 2013  
 Invoice ID: 606707  
 Payor ID: 71198  
 Payor Name: MORSE, PETER  
 EDWARD

Make checks payable to: Utah Insurance Department

Send payment to:

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