

M. GALE LEMMON #4363
Assistant Attorney General
JOHN E. SWALLOW #5802
Attorney General
Attorneys for Utah Insurance Department
160 East 300 South, Fifth Floor
Salt Lake City, Utah 84114
Telephone: (801) 366-0375

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FEB 08 2013

UTAH STATE
INSURANCE DEPT.

BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF UTAH

COMPLAINANT:

UTAH INSURANCE DEPARTMENT

RESPONDENT:

OLD AMERICAN INSURANCE
COMPANY

Attn: Gary Hoffman
3520 Broadway
P.O. Box 218573
Kansas City, Missouri 64121-8573
Company ID # 589

STIPULATION AND ORDER

Docket No. 2013-005 LF

Enf. Case No. 3240

STIPULATION

1. Respondent, Old American Insurance Company is an insurer domiciled in the State of Missouri and authorized to do business in the State of Utah, Utah Company Identification No. 589.
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 its right to a hearing at which it may be represented by counsel, present evidence, and cross-examine witnesses. Respondent has irrevocably waived its 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.

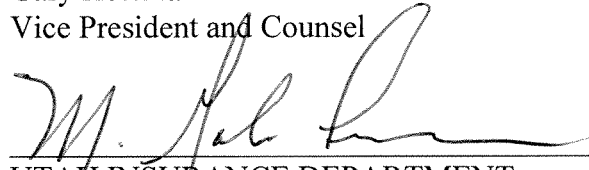
5. Respondent is acting herein free from any duress or coercion of any kind or nature, having been advised fully as to its rights set forth herein.

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 11th day of February, 2013.



OLD AMERICAN INSURANCE CO.
Gary Hoffman
Vice President and Counsel



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. Respondent Old American Insurance Co. is licensed by the Department of Insurance in Utah.

2. In October 2012, the Department received a copy of an advertisement of Respondent's soliciting Utah consumers to purchase whole life insurance. This solicitation appeared to be "Utah State Approved" and from a governmental agency.

3. The advertisement was inserted into approximately 82,986 "value pak" mailings (also known as co-ops) and distributed by a third-party vendor to Utah residents, resulting in approximately 53 inquiries and the placement of 11 life insurance policies.

4. Upon review by the Department it was determined that the advertising was not in compliance with Utah Code Ann. Section 31A-23a-402(1) relating to unfair marketing practices and Utah Administrative Rule R590-130-12 relating to rules governing advertisements of insurance.

5. Respondent has a prior violation in Utah. In February of 2010, Respondent mailed 57,851 advertisements in Utah using an envelope which appeared to be from a governmental agency. This advertisement resulted in approximately 650 inquiries and the issuance of approximately 150 life insurance policies. Respondent was assessed and paid a \$22,500.00 forfeiture for this violation.

6. A recommendation of an administrative forfeiture in this matter of \$45,000.00 was offered to Respondent on November 8, 2012. Respondent agreed on November 19, 2012.

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-402(1)(a)(I) states:

Any of the following may not make or cause to be made any communication that contains false or misleading information, relating to an insurance product or contract, any insurer, or any license under this title, including information that is false or misleading because it is incomplete ;

...

(iii) A licensee under this title may not..

(B) use any advertisement or other insurance promotional material that would cause a reasonable person to mistakenly believe that a state or federal government agency: . . .

(I) is responsible for the insurance activities of the person;

(II) stands behind the credit of the person;

(III) guarantees any returns on insurance products of or sold by the person;

or

(IV) is a source of payment of any insurance obligation of or sold by the person.

2. Department of Insurance Rule R590-130-12(C) and (D) state:

C. Advertisements, envelopes, or stationery which employs words, letters, initials, symbols or other devices which are so similar to those used in governmental agencies or by other insurers are not permitted if they may lead the public to believe:

(1) that the advertised coverages are somehow provided by or are endorsed by a governmental agency or such other insurers.

(2) that the advertiser is the same as, is connected with, or is endorsed by a governmental agency or such other insurers

D. No advertisement may use the name of a state or political subdivision thereof in a policy name or description, unless the company name contains the same state or political subdivision name.

3. Respondent violated the above statutory and rule provisions by using advertising that

would cause a Utah consumer to reasonably believe that the insurance product was state approved and from a governmental agency.

4. Because the prohibited advertisements generated inquiries and sales of policies for Respondent, and this is a second violation, an administrative forfeiture of \$45,000.00 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:

Respondent Old American Insurance Company is assessed a forfeiture of \$45,000.00 to be paid to the Utah Department of Insurance within 30 days of issuance of this Order.

DATED this 11th day of February, 2012.

TODD E. KISER
Insurance Commissioner


MARK E. KLEINFELD

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

NOTIFICATION

You are hereby notified that a failure to obey an Order of the Commissioner may subject you to further penalties, including forfeiture of up to \$5,000 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.