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UTAH STATE
INSURANCE DEPT.

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

COMPLAINANT:

UTAH INSURANCE DEPARTMENT

RESPONDENT:

MITCHELL KEVIN KELLING
15 East Allen Street
Moab, UT 84532
License # 31729

KELLING INSURANCE AGENCY
P.O. Box 1266
Moab, UT 84532
License # 3098 (Lapsed 08-31-2012)

**STIPULATION AND ORDER OF
REVOCATION**

Docket No. 2013-027 LC

Enf. Case No. 3261

STIPULATION

1. Respondent, Mitchell Kevin Kelling (“Kelling”) is a resident licensed insurance producer in the State of Utah holding License No. 31729. Kelling is the owner of Respondent Kelling Insurance Agency is a Utah resident insurance agency, License No. 3098, which lapsed

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on August 31, 2012.

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 agrees 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 28th day of February, 2013.

Mitchell Kevin Kelling
MITCHELL KEVIN KELLING

Mitchell Kevin Kelling
KELLING INSURANCE AGENCY *owner*
Mitchell Kevin Kelling, Owner

M. Gale Lemmon
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 January 29, 2013, Respondent entered a guilty plea to two counts of theft by deception, a second degree felony and a third degree felony, and to one count of a fraudulent insurance act, a third degree felony, in Seventh Judicial District Court in Case Number 121700114.

2. The Statement of Defendant in Support of Guilty Plea and Certificates of Counsel in case number 121700114 contains the following language:

The Defendant, in his capacity as a fiduciary, received payments for insurance premiums from the victim in the amount of \$5,376 on September 14, 2011 and \$3,266 on August 16, 2010. The payments were given to the Defendant by the victim [to be] forwarded to the insurance company for insurance coverage. The Defendant produced receipts for the payments, but did not send the payments to the insurance carrier; rather, the Defendant kept the payments and did not inform the victim that no insurance policy has been issued.

The victim requested a certificate of coverage be produced on September 28, 2010 and the Defendant produced a fraudulent certificate of coverage listing the victim had valid insurance. The insurance companies listed on the certificate had no record of insurance coverage for the victim for the years in which Defendant had issued the certificates because no payments had been received.

3. Further, at page 10, paragraph 15, the Statement of Defendant in Support of Guilty Plea states: “The Defendant will relinquish his Insurance License.”

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

CONCLUSIONS OF LAW

1. In being convicted of felonies involving dishonesty or breach of trust, Respondent Mitchell Kelling demonstrated that he does not meet the character requirements to hold an insurance agent's license under Utah Code Ann. § 31A-23a-107(2).

2. Under 18 U.S.C. § 1833, a person convicted of a felony involving dishonesty or breach of trust may not be involved in the insurance business.

3. Respondent Mitchell Kelling's insurance agent's license should be revoked pursuant to Utah Code Ann. § 31A-23a-111(5)(b)(i), is unqualified for a license; -111(5)(b)(xii), improperly withholds, misappropriates, or converts money or properties received in the course of doing insurance business; -111(5)(b)(xiv), is convicted of a felony; -111(5)(b)(xv), found to have committed an insurance fraud; -11(5)(b)(xvi), in the conduct of business in this state uses fraudulent or dishonest practices or demonstrates untrustworthiness or financial irresponsibility; and -111(5)(b)(xxiv), engages in methods or practices in the conduct of business that endangers the legitimate interests of his customers or the public.

4. Respondent Kelling Insurance Agency's license should be revoked pursuant to Utah Code Ann. § 31A-23a-111(5)(c) & (d).

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. The insurance agent's license of Respondent Mitchell Kevin Kelling is revoked

forthwith.

2. The insurance agency license of Respondent Kelling Insurance Agency is revoked forthwith.

3. Respondents shall immediately cease doing any insurance business in the State of Utah. Respondent Mitchell Kelling shall not be an owner, officer, manager, partner, member, agent or employee of any entity doing an insurance business in the State of Utah.

DATED this 6th day of March, 2013.

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

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 \$5,000.00 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.