

M. GALE LEMMON #4363  
Assistant Attorney General  
JOHN E. SWALLOW #5802  
Attorney General  
Attorneys for Utah Insurance Department  
160 East 300 South, Fifth Floor  
P.O. Box 140874  
Salt Lake City, UT 84114-0874  
Telephone (801) 366-0375

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

**COMPLAINANT:**

UTAH INSURANCE DEPARTMENT

**RESPONDENT:**

GREENCREST INSURANCE COMPANY

Attn: Jerome Busch  
4400 MacArthur Blvd., Suite 900  
Newport Beach, CA 92660  
Utah Org. Id. No. 156988

**NOTICE OF INFORMAL  
ADJUDICATIVE PROCEEDING  
AND ORDER**

**REVOCATION OF CERTIFICATE  
OF AUTHORITY**

**Docket No.:** 2013-059 CA

**Enf. Case No.** 3313

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The Utah Insurance Department has commenced this informal adjudicative proceeding pursuant to Utah Code Annotated (U.C.A.), Sections 31A-2-201 and 63G-4-201 and Utah Administrative Code (U.A.C.), Rule R590-160. Based upon information contained in agency files or known to the Commissioner, the Commissioner makes the following:

### **FINDINGS OF FACT**

1. The Respondent is a captive insurer domiciled in the State of Utah, Utah Organization Identification No. 156988.
2. The Certificate of Authority of the Respondent was suspended by the commissioner

for a period of 24 months in an order dated August 16, 2011, Docket No. 2011-115-CA, Enf. Case No. 2864 ("the Commissioner's Order"), and said suspension remains in effect as of the date of this Order.

3. The Utah Insurance Department conducted a dissolution examination of Respondent as of October 31, 2012, pursuant to the requirements of Utah Code Ann. § 31A-5-504.

4. The examination of the Respondent found the following:

a. Respondent has failed to submit annual reports for the years of 2010 and 2011, that were due by March 1 of each succeeding year, in violation of Utah Code Ann. § 31A-37-505(1), Utah Admin. Code Rule R590-238-4, and the Commissioner's Order;

b. Respondent has failed to submit an annual audited financial statement for the years of 2010 and 2011, which were due by June 30 of each succeeding year in violation of Utah Admin. Code Rule R590-238-7(2) and the Commissioner's Order;

c. Respondent failed to appoint a certified public accountant to perform the annual audit within 90 days following the resignation of its previous auditor on December 31, 2010 in violation of Utah Admin. Code Rule R590-238-7(2);

d. Respondent failed to appoint and employ an authorized captive manager following the resignation of its previous captive manager on May 16, 2011, in violation of Utah Code Ann. § 31A-37-202(4)(c)(ii), Utah Admin. Code Rule R590-238-12, and the company's plan of operation;

e. Respondent has failed to maintain its principal place of business in the State of Utah, in violation of Utah Code Ann. § 31A-37-202(2)(c), and the Commissioner's Order;

f. Respondent has failed to maintain a resident registered agent for acceptance of service of process, in violation of Utah Code Ann. § 31A-37-202(d);

g. Respondent has failed to remit its Certificate of Authority renewal fee, in violation of Utah Code Ann. § 31A-37-202(6);

h. Respondent has failed to maintain any and all documents pertaining to the formation, operation, management, finances, insurance, and reinsurance of the company in Utah, in violation of Utah Admin. Code Rule R590-238-11;

i. Respondent has failed to file a request for prior approval for material changes in the company's business plan resulting from the termination of approved service providers, in violation of Utah Admin. Code Rule R590-238-18, and the Commissioner's Order;

j. Respondent has failed to file a request for prior written approval of the commissioner for related party loans and has failed to provide evidence of the note in a form approved by the commissioner, in violation of Utah Code Ann. § 31A-37-302(3)(a); and

k. Respondent has failed to maintain and make ready for inspection and examination by the commissioner or his agent, any and all documents pertaining to the formation, operation, management, finances, insurance and reinsurance of the company, in violation of Utah Admin. Code Rule R590-238-11.

5. Respondent has failed to correct any deficiencies that lead to the suspension of its Certificate of Authority and has continued to violate the requirements of the Utah Insurance Code, Rules and an Order of the Commissioner.

6. During the examination, Respondent was unable to provide sufficient records to establish that it is not insolvent or that it meets the required capital or free surplus required to do business.

Having entered his Findings of Fact, the Commissioner now enters his:

## CONCLUSIONS OF LAW

1. Respondent's Certificate of Authority should, therefore, be revoked pursuant to Utah Code Ann. § 31A-37-505(1) for:

- a. insolvency or impairment of capital or surplus;
- b. failure to meet paid-in-capital or free surplus;
- c. failure to submit an annual report;
- d. failure to comply with its charter, by-laws, or other organizational document;
- e. failure to submit to an examination or other legal obligation relative to an examination;
- g. use of methods that render the operation of the company detrimental to the public or the policyholders, or render the condition of the company unsound with respect to the public or the policyholders; and
- h. failure to otherwise comply with the laws of this state.

Based upon the foregoing Findings of Fact and Conclusions of Law, the Commissioner now enters the following:

### ORDER

#### **IT IS HEREBY ORDERED:**

1. Respondent's Certificate of Authority in the State of Utah is revoked as of the date this Order becomes final.
2. Respondent is still subject to regulation by the Utah Department of Insurance until a release of regulation is obtained pursuant to the requirements of the Utah Insurance Code.
3. This Order shall become final fifteen (15) days after the date of mailing unless a

written request for a hearing is received from the Respondent in the offices of the department prior to that date. A written request for a hearing shall be signed by the person making the request and shall state the basis for the relief requested.

**NOTIFICATION**

If you request a hearing regarding this matter, the department will be represented by M. Gale Lemmon, Assistant Attorney General, 160 East 300 South, Fifth Floor, P.O. Box 140874, Salt Lake City, Utah 84114-0874, Telephone Number (801) 366-0375. Failure to request a hearing will be considered a failure to exhaust administrative remedies and will preclude any further administrative or judicial review or appeal on this matter.

You are further notified that other jurisdictions in which you may be licensed may require that you report this action to them.

DATED THIS 7<sup>th</sup> day of May, 2013.

TODD E. KISER  
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