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BEFORE THE INSURANCE COMMISSIONER  
OF THE STATE OF UTAH

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UTAH INSURANCE DEPARTMENT

Complainant,

vs.

DAVID H. SWIFT, License No. 131066, and  
KATHY SWIFT, License No. 415828,

Respondents.

STIPULATION  
AND ORDER

Docket No. 2014-017 HL  
Enf. Case No. 3425

Mark E. Kleinfield  
Administrative Law Judge

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STIPULATION

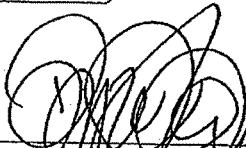
The Utah Insurance Department (“Department”), by and through its legal counsel, Gary D. Josephson, Assistant Attorney General, and David and Kathy Swift (“Respondents”), by and through their legal counsel, Ryan Hancey, hereby stipulate and agree as follows:

1. Respondent David Swift holds an active Utah resident producer insurance license — License No. 131066. Kathy Swift also holds an active Utah resident producer insurance license — License No. 4125828.

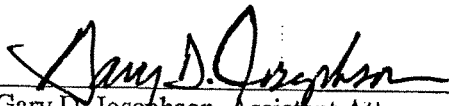
2. The Department has jurisdiction over the parties and subject matter of this formal administrative proceeding.
3. Respondents acknowledge prior notice of agency action pursuant to Utah Code § 63G-4-201; acknowledges that this Stipulation and Order is part of the formal adjudicative proceeding pursuant to Utah Code § § 63G-4-204 through 209 and Utah Administrative Rule R590-160; and irrevocably waives the right to any hearing, review or appeal concerning this matter.
4. Respondents are represented by legal counsel in this matter.
5. This signed Stipulation and the signed Order by the Administrative Law Judge, along with the Findings of Fact and the Conclusions of Law, shall not be subject to any reconsideration, renegotiation, modification, hearing or agency review or appeal.
6. The parties hereby accept the Findings of Fact and Conclusions of Law below.
7. The issuance of the signed Order proposed below is solely for the purpose of disposing of the specific matter addressed herein.
8. The only promises, agreements and understandings that the parties have regarding this matter are contained in this Stipulation.
9. Respondents enter into this Stipulation voluntarily, knowingly, and free from any coercion of any kind.
10. The persons signing this Stipulation on behalf of the named parties hereby affirm that they are authorized to sign and bind the parties.

(Signatures Follow)

Dated this 8<sup>th</sup> day of May, 2014.

  
Ryan Hancey, Attorney for  
Respondents David and Kathy Swift

Dated this 8<sup>th</sup> day of May, 2014.

  
Gary D. Josephson, Assistant Attorney General  
Attorney for Utah Insurance Department

Based upon the foregoing Stipulation and file information, the Administrative Law Judge makes the following Findings of Fact:

**FINDINGS OF FACT**

1. On June 19, 2008, Respondents signed an Amended Promissary Note in the amount of \$34,500.00 in favor of Nora Lillian Rowley.
2. Respondents failed to abide by the June 19, 2008 Amended Promissory Note, thereby forcing the promisee, Nora L. Rowley, to seek and obtain a judgment against Respondents in the Third District Court, Case# 08091276, in the amount \$36,660.88 ("Rowley Judgement"), which judgment, to date, has not been paid by Respondents.
3. Respondents have had other subsequent smaller judgments entered against them. To date, some of these other judgments have yet to be paid by Respondents.
4. Respondents failed to pay the Rowley Judgement within 60 days, along with some of the other smaller judgements entered against them.

5. The Department and Respondents have agreed to the following terms and conditions to settle this administrative proceeding:

(a) The Respondents, David and Kathy Swift, shall fully satisfy the Rowley Judgment within 12 months from the date of the Administrative Law Judge's signed Order below by providing to the Department, before the end of the 12 month period, a properly signed and notarized Satisfaction of Judgment concerning the Rowley Judgment.

(b) If, before the end of the 12 month period, Respondents have failed to provide the Department with a properly signed and notarized Satisfaction of the Rowley Judgment, both Respondents' State insurance licenses shall be immediately revoked by the Department.

(c) Beginning with the date of the Administrative Law Judge's signed Order below, Respondents shall also be placed on 24 months probation, during which time there shall be no further violations of any State insurance statutes, regulations or rules.

(d) Before the end of the 24 month probation period, Respondents shall pay an administrative forfeiture in the amount of \$1,000.00, made payable to the Department.

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

#### CONCLUSIONS OF LAW

1. In failing to pay the Rowley Judgment within 60 days, along with some of the other smaller, subsequent judgments entered against them, Respondents violated Utah Code § 31A-23a-111(5)(b)(iv).

2. Based on the violations, Under Utah Code § 31A-23a-111(8), Respondents' State insurance licenses could have been revoked.

3. The Department and Respondents have agreed to specific terms and conditions as set forth above in the Stipulation and , under the circumstances of this administrative proceeding, the Stipulation terms and conditions are appropriate.

Based upon the foregoing Stipulation, Findings of Fact and Conclusions of Law, the Administrative Law Judge enters the following Order:


**ORDER**

**IT IS HEREBY ORDERED:**

1. The Respondents, David and Kathy Swift, shall fully satisfy the Rowley Judgment within 12 months from the date of the Administrative Law Judge's signed Order below by providing to the Department, before the end of the 12 month period, a properly signed and notarized Satisfaction of Judgment concerning the Rowley Judgment.
2. If, before the end of the 12 month period, Respondents have failed to provide the Department with a properly signed and notarized Satisfaction of the Rowley Judgement, both Respondents' State insurance licenses shall be immediately revoked by the Department.
3. Beginning with the date of the Administrative Law Judge's signed Order below, Respondents shall also be placed on 24 months probation, during which time there shall be no further violations of any State insurance statutes, regulations or rules.
4. Before the end of the 24 month probation period, Respondents shall pay an administrative forfeiture in the amount of \$1,000.00, made payable to the Department.
5. With the Stipulation and Order having been made and entered, this formal administrative proceeding is hereby dismissed, with prejudice.

DATED this 9<sup>th</sup> day of May, 2014.

TODD E KISER  
Insurance Commissioner

  
MARK E. KLEINFELD  
Administrative Law Judge  
Utah Insurance Department

**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.