

GARY D. JOSEPHSON #5299
Assistant Attorney General
SEAN D. REYES #7969
Attorney General
Attorneys for Utah Insurance Department
160 East 300 South, Fifth Floor
P.O. Box 140874
Salt Lake City, UT 84114
Telephone: 801-366-0375

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

UTAH INSURANCE DEPARTMENT,

Complainant,

vs.

CORY PARKER KENNAH,
License No. 67184
1827 East Beechwood Drive
Layton, UT 84040

Respondent.

**AMENDED STIPULATION AND
ORDER**

Docket No. 2015-003 LF

Enf. Case No. 3565

Mark Kleinfeld
Administrative Law Judge

STIPULATION

The Utah Insurance Department ("Department"), by and through Counsel Gary D. Josephson, Assistant Attorney General, and Cory Parker Kennah ("Respondent"), hereby stipulate and agree as follows:

1. Respondent is an active licensed resident individual insurance producer holding License Number 67184. Respondent's business address is 1827 East Beechwood Drive, Layton, UT 84040.
2. Pursuant to Utah Code Sections 31A-2-201 and 31A-2-308, the Department has

jurisdiction over the parties and subject matter of this administrative action.

3. Respondent acknowledges notice of agency action pursuant to Utah Code § 63G-4-201; acknowledges that this Stipulation and Order is an informal proceeding pursuant to Utah Code § 63G-4-202; and irrevocably waives the right to any hearing, review or appeal concerning this matter.

4. This signed Stipulation and Order, along with the Findings of Fact and Conclusions of Law below, shall not be subject to any reconsideration, renegotiation, modification, hearing or agency review or appeal.

5. If an administrative hearing were held, the Department could provide evidence that would support the Findings of Fact presented below; therefore, the Findings of Fact and Conclusions of Law presented below are accepted by the parties.

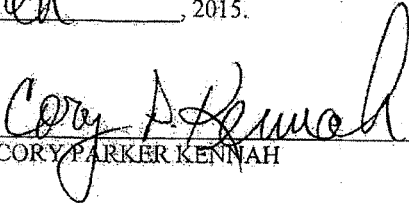
6. The issuance of the signed and adopted Order proposed below is solely for the purpose of disposing of the specific matter entitled herein.

7. The only promises, agreements and understandings that the parties have regarding this matter are contained in this Stipulation.


8. Respondent enters into this Stipulation voluntarily, knowingly, and free from any coercion of any kind.

9. The persons signing this Stipulation on behalf of the named parties hereby affirm that they are authorized to sign and bind the parties.

DATED this 16th day of March, 2015.


CORY PARKER KENNAH

DATED this 18th day of March, 2015.


GARY D. JOSEPHSON
Assistant Attorney General
UTAH DEPARTMENT OF INSURANCE

Based upon the foregoing Stipulation and Department file, the Presiding Officer makes the following Findings of Fact:

FINDINGS OF FACT

1. On June 25, 2009, Respondent, acting with another Utah resident producer, recommended that Fred Scott Mathews replace his Beneficial Life annuity contract with a Lincoln Benefit Life fixed annuity.
2. Mr. Mathews took Respondent's advice and the Lincoln Benefit Tactician Plus Annuity Contract was issued on July 8, 2009. Mr. Mathews incurred a surrender charge (loss) in the amount of \$4,094.89 when he surrendered his Beneficial Life annuity in order to purchase the Lincoln Benefit Life annuity.
3. On May 23, 2013, Respondent, acting with another Utah resident producer,

recommended that Mr. Mathews replace his Lincoln Benefit Life annuity contract with an ING/USA fixed annuity.

4. Mr. Mathews took Respondent's advice again. The ING/USA annuity contract was issued on June 14, 2013. At the time of application, the Suitability Profile and the Transfer/1035 Exchange Request for the ING/USA annuity represented that the consumer (Mathews) would incur a penalty of 0% by liquidating the full value of the existing contract. However, Mr. Mathews incurred a net surrender charge of \$10,556.10 when he surrendered his Lincoln Benefit Life annuity in order to purchase the ING/USA annuity. The first date for Mr. Mathews to surrender the Lincoln Benefit Life Annuity without incurring the contractual surrender charges would have been July 8, 2014.

5. By advising Mr. Mathews that he would incur no surrender charge if he replaced his Lincoln Benefit annuity with an ING/USA annuity, Respondent violated Utah Code Section 31A-23a-402(1)(a)(I), which outlines and prohibits unfair marketing practices.

6. The purchase of the ING/USA annuity recommended to Mr. Mathews by Respondent was not a suitable transaction for Mr. Mathews in that the transaction financially harmed Mr. Mathews. This is a violation of Utah Administrative Code R590-230-5(1) and (2).

7. The Department and Respondent have reached an agreement wherein Respondent agrees to the imposition of an administrative forfeiture in the amount of \$6,278.00, with \$5,278.00 of the forfeiture amount being stayed on condition that Respondent reimburses Mr. Mathews' estate \$5,278.00, which is an amount equal to 50% of the net surrender charges on the Lincoln Benefit Life annuity. The remaining one thousand dollars (\$1,000.00) administrative

forfeiture is to be paid to the Utah Insurance Department. Respondent shall also be placed on twelve (12) months probation.

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 that a licensed insurance producer may not make any communication that contains false or misleading information relating to an insurance product or contract, including information that is false or misleading because it is incomplete.
2. Utah Administrative Code R590-230-5 (1) and (2) addresses the duties of insurance producers in recommending products to consumers. It states, inter alia, that a producer shall have reasonable grounds for believing that any recommendation is suitable for the consumer and that the consumer has been reasonably informed of various features of the annuity, including the potential surrender period and surrender charges. In the case of an exchange or replacement of an annuity, in determining suitably, the producer shall consider whether the consumer will incur a surrender charge, or be subject to the commencement of a new surrender period.
3. Respondent violated the preceding insurance laws when he recommended annuities that caused financial loss to Mr. Mathews because of surrender charges incurred in switching to new recommended annuities.

4. Utah Administrative Code R590-230-7 grants the Commissioner authority to order a producer to take reasonably appropriate corrective action for any consumer harmed by the insurance producer's violation of the Rule, and may impose appropriate penalties and sanctions.

5. The agreed to sanctions and forfeitures set forth in the Conclusions of Law, Paragraph 7 above, are appropriate under the circumstances.

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 Cory Parker Kennah is hereby assessed an administrative forfeiture in the amount of \$6,278.00, with \$5,278.00 of this forfeiture amount stayed pending Respondent's full payment of \$5,278.00 of the forfeiture to the Estate of Fred Scott Mathews. The \$5,278.00 forfeiture obligation will be paid in four equal quarterly payments of \$1,319.50 to be paid and received by Mr. Mathews' estate representative on or before April 1, 2015; July 1, 2015; October 1, 2015; and January 1, 2016.

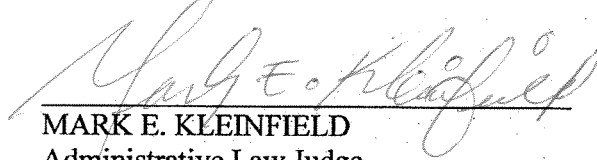
2. The remaining administrative forfeiture amount of \$1,000.00 shall be paid to the Department within 30 days from the date of the Order signing.

3. Respondent's twelve month probation will run concurrent with the Mass Mutual-Kennah Special Supervisory Agreement of April 4, 2014; therefore, the probation period will be from April 4, 2014 to April 4, 2015. The terms of probation are that Respondent shall (1) make timely payment of the \$1,000.00 administrative forfeiture to the Department; (2) make

the first of four future quarterly payments to Mr. Mathews' estate; (3) provide to the Department regularly received supervisory reports from Mass Mutual; and (4) commit no further violations of the Insurance Code or Department Rules.

DATED this 19 day of March, 2015.

TODD E. KISER
Insurance Commissioner



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

NOTIFICATION TO RESPONDENT

You are hereby notified that a failure to obey an Order of the Commissioner may subject you to further penalties, including forfeitures 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.