

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

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

<p>UTAH INSURANCE DEPARTMENT, Complainant, v. ACUITY, A Mutual Insurance Company, UT ID # 17047 2800 S. Taylor Dr. Sheboygan, WI 53081 Respondent.</p>	<p>STIPULATION AND ORDER</p> <p>Docket No. 2015-005 PC Enf. Case No. 3569 Judge Mark Kleinfeld Administrative Law Judge</p>
--	--

STIPULATION

The Utah Insurance Department ("Department"), by and through its legal counsel, and Acuity, A Mutual Insurance Company ("Respondent"), by and through its legal counsel, hereby stipulate and agree as follows:

1. Respondent is an active nonresident property and casualty insurance company. Respondent's address is 2800 S. Taylor Dr. Sheboygan, WI 53081. Respondent's Company License Number is 17047 and EIN is 39-0491540.

2. 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. Respondent is represented by Brian T. Grill, attorney at law, in this matter.
5. This signed Stipulation and the signed and adopted Order by the Commissioner, along with any Findings of Fact and Conclusions of Law, shall not be subject to any reconsideration, renegotiation, modification, hearing or agency review or appeal.
6. If an administrative hearing were held, the Department alleges that it 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.
7. The issuance of the signed and adopted Order proposed below is solely for the purpose of disposing of the specific matter entitled herein.
8. The only promises, agreements and understandings that the parties have regarding this matter are contained in this Stipulation.
9. Respondent enters 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

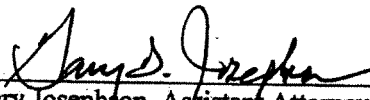
that they are authorized to sign and bind the parties.

Dated this 21st day of January, 2015.



Brian T. Grill, Attorney
Acuity, A Mutual Insurance Company

Dated this 22nd day of January, 2015.



Gary 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. The Department initiated an investigation following receipt of a complaint from an employee of Acuity Benefits regarding Respondent's use of the name "Acuity" as its logo and on letterhead, and business cards. It was alleged that Utah consumers were sometimes confused and mistakenly contacting Acuity Benefits rather than the intended contact, Respondent, Acuity, A Mutual Insurance Company.
2. On August 20, 2014, the Department sent a letter to Respondent outlining alleged violations of Utah statutes for not using its exact name on its letterhead, policies' logo, and business cards, and asking for copies of its letterhead, business cards, and logo.
3. On August 28, 2014, Respondent responded and provided the requested copies.
4. Subsequent emails between the parties addressed the changes Respondent needed

to make to come into compliance with Utah insurance law.

5. On November 14, 2014, Respondent sent an email to the Department outlining changes being made and included copies of new letterhead. Respondent also outlined changes to its internet home page.

6. Respondent has had no prior violations in Utah; took immediate steps to come into compliance, and is now in full compliance with Department requirements.

7. On January 5, 2015, the Respondent agreed to a proposed administrative forfeiture in the amount of \$2,000.00.

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

CONCLUSIONS OF LAW

1. Utah Code Section 31A-23a-402 addresses unfair marketing practices and prohibits any insurer from making any communication that contains information that is false or misleading to the consumer. This includes information that is false or misleading because it is incomplete.

2. Respondent caused a number of Utah consumers to be misled or confused by using a partial name, rather than its exact name as its logo, and on letterhead and business cards, in violation of the above provision.

3. Utah Administrative Rule R590-154-5 prohibits an insurer from using any name that might be mistaken for another licensee or implies association or connection with any other organization where actual bona fide association or connection does not exist. Finally, this rule requires that an agency include words such as "insurance agency," or "insurance consultant," or similar words in the agency's name.

4. Respondents use of simply "Acuity" as its logo, and on its letterhead, policies, and business cards, caused some Utah consumers to mistake Respondent for "Acuity Benefits," a different agency. Respondent was in violation of Rule 590-154-5 by using only "Acuity," rather than its entire exact name on its logo and on letterhead, policies, and business cards.

5. The proposed administrative forfeiture of \$2,000.00 is appropriate in this matter.

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, Acuity, A Mutual Insurance Company is hereby assessed an administrative forfeiture in the amount of \$2,000.00.
2. The administrative forfeiture shall be paid to the Department within thirty days of the date this Order is signed by the Commissioner.

DATED this 22 day of January, 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.