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

<p>UTAH INSURANCE DEPARTMENT, Complainant, vs. KEVIN L. FLAMM, License No. 60172 P.O. Box 285, Kaysville, UT 84037 Respondent.</p>	<p>STIPULATION AND ORDER Docket No. 2015-014 LF Enf. Case No. 3577 Mark Kleinfield Administrative Law Judge</p>
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STIPULATION

The Utah Insurance Department ("Department"), by and through its legal counsel, Gary D. Josephson, Assistant Attorney General, and Kevin Flamm ("Respondent"), by and through his legal counsel, Daniel D. Hill, hereby stipulate and agree as follows:

1. Respondent is an active licensed resident individual insurance producer holding license number 60172. Respondent's mailing address is P.O. Box 285, Kaysville, UT 84037.
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, shall not be subject to any reconsideration, renegotiation, modification, hearing or agency review or appeal.

5. Respondent neither admits nor denies the Findings of Fact and Conclusions of Law presented below; however, Respondent does accept the forfeiture penalty assessed below.

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

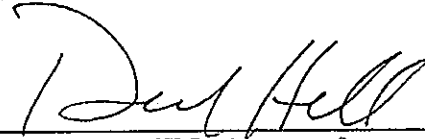
7. The only promises, agreements and understandings that the parties have regarding this matter are contained in this Stipulation.

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.

(Signatures Follow)

DATED this 10th day of June, 2015.


DANIEL D. HILL, Attorney for
Respondent Kevin L. Flamm

DATED this 15th day of June, 2015.


GARY D. JOSEPHSON
Assistant Attorney General
Utah Insurance Department

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, the Respondent, acting with another Utah resident producer, successfully sold a Utah consumer, Fred Scott Mathews, a new Lincoln Benefit Life fixed annuity to replace his then existing Beneficial Life annuity, Contract #BL 2202195.
2. The Lincoln Benefit Tactician Plus Annuity, Contract #LBF1265592, was issued on July 8, 2009. When Mr. Mathews surrendered his Beneficial Life annuity to purchase the Lincoln Benefit annuity, he incurred a surrender charge (loss) in the amount of \$4,094.89
3. On May 23, 2013, Respondent, acting with the same Utah resident producer,

successfully sold Mr. Mathews a new ING/USA fixed annuity to replace his then existing Lincoln Benefit annuity. Respondent and the other Utah resident producer evenly split the replacement ING/USA fixed annuity commissions.

4. The ING/USA annuity, Contract #90428578, 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, when he surrendered his Lincoln Benefit annuity to purchase the replacement ING/USA annuity, Mr. Mathews incurred a net surrender charge (loss) of \$10,556.10

5. The Department and Respondent have reached an agreement as to the forfeiture penalty, along with other terms addressed in the Order below.

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. Respondent violated this statute when Mr. Mathews was not properly notified that he would incur surrender charges if he replaced his Lincoln Benefit annuity with an ING/USA

annuity.

2. Utah Administrative Code R590-230-5 (1) and (2) addresses the duties of insurance producers in recommending financially suitable products to consumers. Respondent violated this Rule because the recommended ING/USA annuity purchased by Mr. Mathews was not a suitable transaction and resulted in a financial loss for Mr. Mathews.

3. 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 forfeitures.

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:

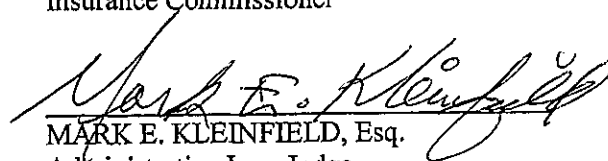
1. Respondent Kevin L. Flamm is hereby assessed an administrative forfeiture in the amount of \$6,278.00, with \$5,278.00 of this forfeiture amount stayed pending Respondent's full payment of \$5,278.00 of the forfeiture to the Estate of Fred Scott Mathews. The \$5,278.00 forfeiture obligation will be paid to the Mathews Estate within 30 days of the date of the Order signing.

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

3. Respondent is not placed on any probation in this matter.

DATED this 15 day of June, 2015.

TODD E. KISER
Insurance Commissioner



MARK E. KLEINFELD, Esq.
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.