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UTAH INSURANCE DEPARTMENT, Complainant, vs. ENGINEERED POLYMER SOLUTIONS, INC. DBA GUARDSMAN 4999 36th Street SE Grand Rapids, MI 49512-2005 License No. 165882, Respondent.	**STIPULATION AND ORDER** Docket No. 2017-038-PC Enforcement Case No. 3883 Lisa Watts Baskin, J. D. Administrative Law Judge

STIPULATION

The Utah Insurance Department ("Department"), by and through its legal counsel, and Engineered Polymer Solutions, Inc. dba Guardsman ("Respondent"), hereby stipulate and agree as follows:

1. Respondent is currently an active non-resident Service Contract Provider, and holds license number 165882, in the State of Utah. Respondent's business address is 4999 36th Street SE, Grand Rapids, MI.

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-4-202; 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. 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 person signing this Stipulation on behalf of the named parties hereby affirms that they are authorized to sign and bind the parties.

DATED this 27 day of December, 2017.

BARBARA D'ANTONIO
ENGINEERED POLYMER SOLUTIONS, INC.
DBA GUARDSMAN

DATED this 27th day of December, 2017.

PERRI A. BABALIS
JOSHUA NELSON
Assistant Attorney General

BACKGROUND

Department investigations and recommendations of corrective action made to Respondent occurred between the period beginning March 9, 2011 and continued until at least June 23, 2017. The communication between the parties resulted in a September 8, 2017 email from Respondent to the Department expressing Respondent's desire to resolve this matter without further enforcement action. Respondent desires to pay the agreed upon forfeiture amount by December 31, 2017.

FINDINGS OF FACT

Based upon the foregoing Stipulation and Department file, the presiding officer makes the following findings of facts:

1. During the period March 29, 2011, through June 23, 2017, Respondent issued, sold, offered to sell, or used nine (9) service contract forms without first filing the forms with the Department more than thirty (30) days prior to use.

2. During the relevant time period, Respondent used five (5) forms that had been modified or replaced without first filing the changes at least thirty (30) days prior to first use.

3. During the relevant time period, Respondent used at least eleven (11) forms that had different form numbers than what was listed on the form filing submissions.

4. At least one falsely certified form and at least one uncertified form filing was submitted to the Department.

5. Respondent failed to maintain copies of all service contracts; the name and address of each service contract holder; and failed to maintain these record for at least three years after the expiration of the specified period of coverage.

6. Based upon the facts given, Respondent provided false, misleading, or incomplete information to the Commissioner.

7. Based upon the facts given, Respondent provided false, misleading or incomplete information in relation to insurance or a licensee.

8. The Department and Respondent have agreed upon an administrative forfeiture in the amount of $16,500.00 to be paid to the Department within 30 days of the issuance of the signed Order.

CONCLUSIONS OF LAW

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

1. Respondent violated Utah Code § 31A-6a-103(2)(c) when it issued, sold, or offered to sell service contracts on forms that had not been filed with the Department at least thirty (30) days prior.

2. Respondent violated Utah Code § 31A-6a-103(2)(d) when it used forms that had been modified or replaced without first filing the changes at least thirty (30) days prior to use.

3. Respondent violated Utah Code § 31A-6a-103(2)(d) and specific language in Utah Admin. Rules R590-225-5(1) and 7(1)(b) when it used form numbers that differed from those listed on the form filing submissions.

4. Respondent violated Utah Code § 31A-21-201(2) and Administrative Rule R590-225-4(1), 5(2), 6(5)(a)(i) and (7)(1) when it submitted one falsely certified form and one uncertified form to the Department.

5. Respondent violated Utah Code § 31A-6a-106(1) and Administrative Rule R590-225-4(b), 5(1), 6(5), and 7(1) in failing to maintain copies of required records including copies of all service contracts, names and addresses of all service contract holders, and in failing to maintain these records for at least three years after the expiration of the period of coverage.

6. Respondent violated Utah Code § 31A-2-202(6) and Administrative Rules R590-225-5 by providing false, misleading or incomplete information to the Commissioner.

7. Respondent violated Utah Code § 31A-23a-402(1)(a) and Administrative Rule R590-225-5 when it provided false, misleading or incomplete information in relation to insurance or a licensee.

8. An administrative forfeiture of $16,500.00 is appropriate under the circumstances.

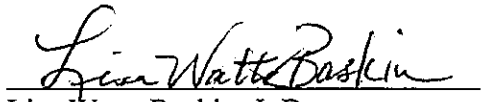
Based on the foregoing Findings of Fact and Conclusions of Law, the Administrative Law Judge makes the following Order:

ORDER

1. Respondent is hereby assessed a forfeiture penalty of $16,500.00 to be paid to the Department within thirty days.

Dated this 28th day of December, 2017

TODD E. KISER
Insurance Commissioner



Lisa Watts Baskin, J. D.
Administrative Law Judge
Utah Insurance Department

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.

CERTIFICATE OF MAILING

The undersigned hereby certifies that on this date, a true and correct copy of the foregoing **STIPULATION AND ORDER** was both regularly mailed and electronically mailed to the following:

BARBARA D'ANTONIO
4999 36TH STREET SE GRAND
RAPIDS, MI 49512-2005

barbara.dantonio@sherwin.com

December 28, 2017
Date

JMitchell
JEANNE MITCHELL
UTAH INSURANCE DEPARTMENT
STATE OFFICE BUILDING, ROOM 3110
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