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**BEFORE THE UTAH INSURANCE COMMISSIONER**

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**GLEN LEE ROUNDY,**

Petitioner,

vs.

**UTAH INSURANCE DEPARTMENT,**

Respondent.

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND  
ORDER DENYING  
REQUEST FOR AGENCY ACTION  
RE: 18 U.S.C. § 1033(e)(2)**

Docket No. 2019-4160

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This matter came before the Presiding Officer for a formal hearing on October 16, 2019. Glen Lee Roundy (“Petitioner”) was present and represented himself. Helen Frohlich, Assistant Attorney General, represented the Utah Insurance Department (“Department”). Connie Nowland, Market Conduct Examiner, testified on behalf of the Department. The hearing was held pursuant to the September 26, 2019 Scheduling Order and was recorded.

The Utah Insurance Commissioner (“Commissioner”), pursuant to Utah Admin. Code Rule R590-278-3, having considered the Presiding Officer’s Recommended Decision, reviewed the file, together with all exhibits, and listened to the recording of the hearing, hereby rejects the Presiding Officer’s recommendation and enters the following Findings of Fact, Conclusions of Law and Order denying Glen Lee Roundy’s request for Agency Action Re: 18 U.S.C. § 1033(e)(2).

## FINDINGS OF FACT

1. Pursuant to Utah Code § 63G-4-201(3), Utah Admin. Code R590-160 and R590-278, and in compliance with The Violent Crime Control and Law Enforcement Act of 1994, 18 U. S.C. § 1033(e)(2), Petitioner filed a Request for Agency Action Re: 18 U.S.C. § 1033(e)(2) on August 27, 2019 seeking written consent from the Commissioner to engage in the business of insurance.

2. Petitioner must obtain written consent from the Commissioner because he has been convicted of two felonies involving dishonesty or breach of trust. 18 U. S.C. § 1033(e)(2), Utah Code § 31A-23a-111(xxv), Utah Admin. Code R590-281.

3. On August 6, 2007, Petitioner was convicted of Unlawful Dealing with Property by a Fiduciary, a third-degree felony, and of False or Fraudulent Insurance Claim, a Class A misdemeanor. Petitioner comingled funds with a widowed, aging client.

4. Petitioner was sentenced to 30 days in jail, 3 years of probation, and ordered to pay \$20,000 in restitution to the victim and another \$10,000 to the Department. Petitioner's probation was revoked and reinstated for 36 months on March 20, 2009; however, probation was terminated, and the case closed on April 10, 2010. State of Utah Attorney General v. Glen L. Roundy, Case No. 061901477. Respondent Ex. 1, UID 1-25.

5. Petitioner was 47 years old at the time of this conviction. State of Utah v. Glen L. Roundy, Statement of Defendant in Support of Guilty Plea and Certificates of Counsel, Case No. 061901477, Respondent's Ex. 1, UID 33.

6. Petitioner had previously reimbursed the victim \$275,000 pursuant to a Settlement Agreement and Mutual Release dated November 3, 2005. Petitioner Ex. 1, 0005 - 0008.

7. On September 17, 2008, Petitioner was convicted of Attempted Issuing a Bad Check Less than \$300, a Class A Misdemeanor; and of Attempted Issuing a Bad Check Less than \$300, a third-degree felony. Petitioner was placed on probation for 12 months and ordered to pay a fine of \$775.00. State of Utah v. Glen Lee Roundy, Case No. 081401559. Respondent Ex. 1, UID 37-45.

8. On June 4, 2009, Petitioner was convicted of Attempted Possession of a Dangerous Weapon by a Restricted Person, a Class A misdemeanor. The Court accepted his guilty plea and closed the case. State of Utah v. Glen Lee Roundy, Case No. 091901140. Respondent Ex. 1, UID 49-53.

9. On December 20, 2018, Petitioner was convicted of Operating a Vehicle Without License or Registration. Draper City v. Glen Lee Roundy, Case No. 165103820. Petitioner Ex. 1, 0016.

10. Between 2010 and 2019, Petitioner filed for bankruptcy 15 times in the United States Bankruptcy Court for the District of Utah. Respondent Exhibit 1, UID 54-55.

11. On October 7, 2019, Petitioner's most recent bankruptcy was discharged under 11 U.S.C. § 727. Order of Discharge of Glen Roundy and Sharon Roundy, Case no. 19-24619, United States Bankruptcy Court – District of Utah. Petitioner submitted the Order after the hearing by email.

12. Petitioner was recently sued for several debt collection matters before his bankruptcy was discharged:

a. Desert Rock Capital Inc. v. Glen Roundy, Case No. 199400286, \$1,246.28 judgment entered March 29, 2019, Respondent's Ex. 1, UID 56-58.

b. Outsource Receivables Mgmt. v. Glen L. Roundy, Case No. 199902456, \$4,163.50 judgment entered March 12, 2019, Respondent's Ex. 1, UID 59-61.

c. Knight Adjustment Bureau v. Glen Lee Roundy, Case No. 120414728, \$8,369.51 judgment entered January 2, 2013, motion for supplemental proceedings filed March 22, 2019, Respondent's Ex. 1, UID 62-66.

d. Pediatric Anesthesiologists In. v. Glen Lee Roundy, Case No. 100416287, \$1,099.49 judgment modified August 3, 2018, Respondent's Ex. 1, UID 67-69.

e. Salt Lake City Corporation v. Glen Roundy, Case No. 187400153, \$230.00 judgment entered May 5, 2018, Respondent's Ex. 1, UID 70-72.

f. Money 4 You v. Glen Roundy, Case No. 198000214, \$1,037.04 judgment entered June 20, 2019, Respondent's Ex. 1, UID 73-74.

13. On February 23, 2006, Petitioner signed a Letter of Acceptance, Waiver and Consent with the Department of Enforcement of the National Association of

Securities Dealers (“NASD”). Petitioner was barred from associating with the NASD in any capacity for violating NASD Procedural Rule 8210 and Conduct Rule 2110.

Respondent Ex. 2.

14. Petitioner consented to the entry of the following finding by NASD: “On April 8, 2005, LPL submitted an amended form U-5 disclosing that a customer complaint had been made alleging conversion of funds. Staff subsequently commenced an investigation into various allegations raised by the customer including misuse of customer funds and engaging in an undisclosed outside business activity. On or about April 27, 2005, May 20, 2005, and June 10, 2005, NASD sent Roundy written requests pursuant to NASD Rule 8210, that he provide certain information and documents to staff that NASD believed were relevant and necessary to its investigation. While Roundy provided written responses to the April 27<sup>th</sup> and May 20<sup>th</sup> requests, he failed to provide NASD with requested bank records. Roundy did not respond to the June 20<sup>th</sup> request. Through counsel, Roundy advised staff that he would not respond to the June 20<sup>th</sup> request for information, or further requests for information.” Respondent Ex. 2.

15. Petitioner did not disclose this action against his securities license in his Request for Agency Action Re: 18 U.S.C. § 1033(e)(2). In support of his request, Petitioner filed a form provided by Respondent which asked the Petitioner to provide “(15) If the petitioner has had any occupational or professional licenses, certifications, or designations revoked, a statement describing the circumstances of the revocation and a written confirmation of the revocation.” Petitioner wrote “none” next to (15), rather

than disclosing that his securities license had been revoked. Request for Agency Action  
Re: 18 U.S.C. § 1033(e)(2), page 3.

16. Petitioner submitted several letters of reference. Petitioner Ex. 1, 0010 – 0015.

a. John Phillips has known Petitioner for 5 years because their sons were teammates on a baseball team. Phillips stated that Petitioner is patient, trustworthy, and hardworking. Petitioner Ex. 1, 0010.

b. Bishop Mike Luper has known Petitioner for less than a year and finds Petitioner honest, humble, and having a desire for change. Petitioner Ex. 1, 0011.

c. Nate Billeter, Field Manager at Legacy Insurance and Financial Services and Petitioner's current employer has known Petitioner for about 3 weeks and states that Petitioner is keen on following all regulations and requirements. Petitioner Ex. 1, 0012.

d. Don Emery has known Petitioner for 10 years and coached baseball with him. Emery states that the parents of the children Petitioner coaches trust Petitioner, and that he doesn't know a better person than Petitioner. Petitioner Ex. 1, 0013.

e. Lori Dunn, a former coworker of Petitioner at Womply INC., did not indicate how long she has known Petitioner, but states that Petitioner is a team player, hardworking, and ethical. Petitioner Ex. 1, 0014.

f. Shauna Jones, Petitioner's sister in law, has known Petitioner for 30 years. She states that she "wasn't surprised by the 'crash'" after Petitioner's "frantic, do it all,

have it all lifestyle,” but that he has changed for the better and shown “grace under pressure.” Petitioner Ex. 1, 0015.

17. Petitioner was licensed to sell accident, health, and life insurance from 1982 until he let his license lapse in 2006. During that time, he had one complaint filed against him with the Department for a fraudulent signature on a policy. This resulted in the Class A misdemeanor conviction for False or Fraudulent Insurance Claim in Finding ¶3, above.

18. Petitioner seeks to sell Medicare Supplement Plans, including long term care benefits, cancer insurance, final expense insurance, hospital indemnity plans, term life insurance, and catastrophic coverage, at American Senior Benefits (“ASB”). Petitioner would be supervised by Nate Billeter at ASB.

19. Petitioner’s clientele at ASB would be in the same demographic as his previous victim, a widowed senior citizen. R. at 13:00, Tape 2.

### CONCLUSIONS OF LAW

1. The Commissioner has jurisdiction over the parties and this formal proceeding pursuant to Utah Code §§ 31A-1-105 and 31A-2-201.

2. The Commissioner has legal authority to deny or grant written consent to engage or participate in the business of insurance pursuant to 18 U.S.C. § 1033(e)(2) and Utah Admin. Code Rule R590-278-4.

3. The Presiding Officer has authority to conduct proceedings in this matter and to recommend to the Commissioner Findings of Fact, Conclusions of Law and an

Order pursuant to Utah Code § 63G-4-201 through -205 and Utah Admin. Code R590-160-1 et seq. and R590-278-1 et seq.

4. Petitioner was convicted of two felonies involving dishonesty or breach of trust and is therefore prohibited from engaging or participating in the business of insurance unless the Commissioner consents in writing that he may do so. 18 U.S.C. § 1033(e)(1) and (2), Utah Admin. Code R590-278-1 et seq.

5. Petitioner's request for written consent "may be granted if, in the commissioner's sole discretion, a preponderance of the evidence shows that the petitioner is trustworthy to engage or participate in the business of insurance." Utah Admin. Code R590-278-4.

6. Discretion is properly exercised where there is any evidentiary basis for a decision. *USA Power, LLC v. PaficiCorp.*, 2016 UT 20, ¶ 75, 372 P.3d 629.

7. The Petitioner bears the burden of proof in this proceeding to prove by a preponderance of the evidence that written consent should be granted by the Commissioner. See *Owen v. Utah Insurance Department*, Case No. 2018-4044 (January 2, 2019).

8. A preponderance of the evidence standard "means the greater weight of the evidence, or as sometimes stated, such degree of proof that the greater probability of truth lies herein." *Handy v. Unites States Bank, NA.*, 2008 Ut App 9 ¶25, 177 P.3d 80 (quoting *Wightman v. Mountain Fuel Supply Co.*, 302 P.2d 471, 473 n.5 (1956) (further citation omitted)).

9. Utah Admin. Code R590-278-4 provides 15 factors for the Commissioner to consider in determining whether to grant a request for written consent under 18 U.S.C. 1033. Each factor is discussed below:

a. Any materially false or misleading statement or omission in the request for agency action. Petitioner did not disclose on his application for written consent that his securities license was revoked in 2006 and could not provide an adequate explanation at the hearing for his failure to do so.

b. The nature, severity, and number of the Petitioner's crimes. Petitioner was convicted of Unlawful Dealing with Property by a Fiduciary, a third-degree felony. Petitioner defrauded a widow of several hundred thousand dollars. Shortly after this conviction, he was convicted of another third-degree felony for Attempted Issuing a Bad Check Less than \$300.

c. The Petitioner's age at the time the crimes were committed. Petitioner was convicted of his first felony when he was approximately 47 years of age, which is far from a youthful indiscretion.

d. Punishment for the crimes. Petitioner was sentenced to 30 days in jail, 90 days of home confinement after his release from jail, 3 years of probation, ordered to not work in a fiduciary setting or have any contact with the victim, and ordered to pay \$20,000 in restitution to the victim and \$10,000 to the Department for his first felony. Respondent's Ex. 1, UID 17. His probation was revoked and reinstated for 36 months beginning March 20, 2009, and he was ordered to serve 14 days in jail, pay \$10,000 to

the Department at a rate of \$2,000 per month starting April 30, 2009, and disclose the source of his living expenses. Respondent's Ex. 1, UID 23. For his second felony, Petitioner was placed on probation for 12 months, sentenced to 5 days in jail, and ordered to pay a fine of \$775.00. Respondent's Ex. 1, 44.

e. Length of time since Petitioner's most recent conviction. Petitioner has not had any criminal convictions since 2010, other than a misdemeanor traffic offence in 2018.

f. Rehabilitation, including evidence of counseling, community service, completion of probation, and payment of restitution, fines, and interest if applicable. Petitioner testified at length about his counseling, ongoing medical care, and medication, although he did not provide any written proof from medical professionals or counselors. Petitioner has served as a local children's baseball coach for many years, which is documented in his letters of reference. Petitioner's probation on his first felony was terminated and the case was closed on April 12, 2010. Respondent's Ex. 1, UID 24. Petitioner's second felony case was closed on December 18, 2009, after a judgment for \$827.60 was entered and the case was sent to debt collection. Respondent's Ex. 1, UID 44-45. Petitioner reimbursed the victim \$275,000 pursuant to a Settlement Agreement and Mutual Release dated November 3, 2005. Findings of Fact, ¶6. Petitioner also states he reimbursed his victim an additional \$271,000. Petitioner Ex. 1, 0001.

g. Letters of Reference. Petitioner provided several letters of reference. However, the letters regarding community service and personal relationships are

marginally relevant to the issue in this proceeding, which is honesty in business. The letter from his proposed employer was written after Mr. Billeter had known Petitioner for only three weeks. The other letter from a former coworker, Lori Dunn, does not specify how long she has known Petitioner.

h. Any current fact or circumstance that motivated the criminal conduct in the past. Petitioner testified at length about struggling with debt, being evicted and repeatedly relocating. His financial condition continues to be volatile and could be an incentive to defraud. Further, the clientele at his proposed employer are the same demographic as his previous victim – members of the vulnerable senior population.

i. Any unpaid judgment. Petitioner's most recent bankruptcy was discharged on October 7, 2019. Petitioner admitted he has struggled with debt and had numerous debt collection matters in the months before his Request for Agency Action.

j. If an insurance license applicant, the licensee duties. Petitioner has not yet applied for an insurance license.

k. Supervision of Petitioner. Petitioner would be supervised by Nate Billeter at ASB.

l. Trustworthiness since most recent conviction. Although Petitioner has not had any criminal convictions since 2010, other than a misdemeanor traffic offence in 2018, Petitioner's financial situation is concerning. He has had numerous debt collection matters in the months prior to his Request and has filed bankruptcy repeatedly. His financial instability could be an incentive to defraud.

Information received from insurance regulatory official. Respondent presented the sworn testimony of its witness, Ms. Connie Sue Nowland, a highly experienced Market Conduct Examiner II, with special knowledge in accident, health, and life insurance products, including annuities. Ms. Nowland enforces and reviews the regulations on accidental, health and life insurance products. Ms. Nowland testified there is a "fine line" between being an insurance agent and a financial advisor because both actors have access to the same type of documentation. She described her regulatory experiences when consumers are harmed by unscrupulous insurance agents. She explained that some dishonest agents upsell products in order to move up into a higher commission bracket. Such examples include high commissions on the sale of universal life insurance or certain annuities that are purchased in high dollar amounts that pay a 7 - 10 percent commission upfront. She emphasized the unsuitability of certain products, which may result in a compromised financial condition for the senior buyer, such as high surrender charges, lack of access to assets, and seriously compromised financial conditions as a result. R. at 0:00- 10:41, Tape 2.

Ms. Nowland testified that one only needs an insurance license to sell annuities which can be done by direct sell to consumers. She testified about the purpose of insurance regulations, focusing on the complexity of the products, the necessity to train and school agents, and the protections to systematically track their activities. R. at 10:41- 13:00, Tape 2.

Ms. Nowland identified several regulatory matters with American Benefit Services, the employer of Petitioner, including ABS' mailers to the senior population without disclosing its solicitation of insurance (2006), marketing materials sent to seniors without disclosing the senders were licensed insurance agents (20 I 5), cold calls made to Medicare beneficiaries in violation of regulations of the Center for Medicaid Services (hereafter "CMS")(20 I 7), and signatures on a policy that another agent solicited (20I5). R. at I3:00- 38:05, Tape 2.

Ms. Nowland testified against granting written consent to the Petitioner, emphasizing his clientele would be the same demographic as his previous victim, where he breached the fiduciary duty to and trust of a widowed, aging client when he comingled her money with his. She also noted the severity of his current financial condition, notwithstanding the recent bankruptcy discharge, and his past indebtedness which could be an incentive to defraud. R. at 13:00, Tape 2.m. Whether the Petitioner has previously had any occupational or professional license, certification, or designation revoked, and if so, the basis for the revocation. Petitioner held Series 6, 7, 22, 24 and 66 Securities licenses at Linsco/Private Ledger Corporation from 1997 through 2004. Petitioner stipulated to a Letter of Acceptance, Waiver and Consent with the NASD on February 23, 2006 wherein he was barred from associating with any NASD member in any capacity. Petitioner failed to provide NASD with requested bank records during an investigation into allegations including misuse of customer funds in an undisclosed outside business activity. Respondent Ex. 2. If Petitioner's actions were

so concerning that he is permanently barred from associating with any NASD member in any capacity, it should also preclude Petitioner from engaging or participating in the insurance business.

m. Whether the petitioner has previously requested written consent in any jurisdiction. Petitioner has not previously requested written consent in any jurisdiction.

### ORDER

Based on the findings of Fact and Conclusions of Law, and for good cause, it is ordered that Petitioner's Request for Agency Action Re: 18 U. S. C. § 1033(e)(2) is denied.

DATED this 31 day of March, 2020.



Todd E. Kiser  
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