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**BEFORE THE UTAH INSURANCE COMMISSIONER**

<p>UTAH INSURANCE DEPARTMENT,  Complainant,  vs.  JAMES ALLEN CAREY,  Respondent.</p>	<p><b>NOTICE OF INFORMAL ADJUDICATIVE PROCEEDING AND ORDER</b></p> <p>Docket No. 2019-4183</p> <p>Lisa Watts Baskin Presiding Officer</p>
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**NOTICE OF INFORMAL ADJUDICATIVE PROCEEDING**

The Utah Insurance Department (“the Department”) commences this informal adjudicative proceeding against Respondent James Allen Carey (“Respondent”), pursuant to Utah Code §§ 31A-2-201 and 63G-4-201 through -203, and Utah Admin. Code R590-160.

This adjudicative proceeding is based on the facts and law set forth in the attached Declaration and is designated as an informal adjudicative proceeding pursuant to Utah Code § 63G-4-202(1) and Utah Admin. Code R590-160-4 and -8.

**ORDER**

Based on the facts and the law set forth in the attached Declaration, and good cause appearing, the Utah Insurance Commissioner orders as follows:

1. Respondent's application for a Utah resident producer individual insurance license is denied.

2. Pursuant to Utah Code § 63G-4-203(1)(i) and Utah Admin. Code R590-160-8(1), this informal adjudicative proceeding shall be deemed closed, and this Order shall become final and take full effect, 15 days after this Notice of Informal Adjudicative Proceeding and Order is emailed to Respondent unless a request for a hearing on this matter is received from Respondent prior to that date.

3. A request for a hearing shall be sent by email to [uidadmincases@utah.gov](mailto:uidadmincases@utah.gov) or by U.S. mail to Office of the Administrative Law Judge, Utah Insurance Department, 3110 State Office Building, Salt Lake City, UT 84114. The request for hearing shall be signed by the person making the request and shall state the basis for the relief requested.

4. If you fail to request a hearing you will be bound by this Order. Failure to request a hearing will be deemed a failure to exhaust administrative remedies and will preclude any further administrative or judicial review or appeal of this matter.

DATED this 4<sup>th</sup> day of December, 2019.

TODD E. KISER  
Utah Insurance Commissioner

  
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LISA WATTS BASKIN  
Presiding Officer  
Utah Insurance Department  
3110 State Office Building  
Salt Lake City, UT 84114  
801-538-3860  
Email: [uidadmincases@utah.gov](mailto:uidadmincases@utah.gov)

**NOTICE REGARDING ENFORCEMENT OF THE ORDER**

Failure to obey the Order may subject you to further penalties that include forfeitures of up to \$2,500 per violation, license suspension or revocation, and/or further enforcement action before the Utah District Court where forfeitures of up to \$10,000 may be imposed. If you are licensed in other jurisdictions, you may be required to report this proceeding to those jurisdictions.

## DECLARATION

Under criminal penalty of Utah law, I, Randy Overstreet, declare the following:

1. I am currently employed as Director of the Producer Licensing Division with the Utah Insurance Department where my responsibilities include investigating and enforcing Utah insurance laws.

2. I submit this Declaration as the basis for issuing the Notice of Informal Adjudicative Proceeding and Order against James Allen Carey (“Respondent”) to which this Declaration is attached.

3. Based on my personal knowledge and/or based on the facts appearing in the Department’s records and files, the following facts are true:

a. On October 8, 2019, the Department received an online license application from Respondent for a resident producer individual insurance license. Respondent answered “No” to the criminal background question that asked, “Have you ever been convicted of a misdemeanor, had a judgment withheld or deferred, or are you currently charged with committing a misdemeanor?”

b. On November 2, 2016, Respondent was convicted of Theft, a Third-Degree Felony, amended to a Class B Misdemeanor, in the Fourth District Court, Provo, Utah County, State of Utah. Respondent was placed on probation for six months, which he completed on May 2, 2017.

c. On July 9, 2018, Respondent was convicted of Retail Theft, a Class B Misdemeanor, in the Orem City Justice Court, Utah County, State of Utah. Respondent was placed on probation for twelve months, which was scheduled to end on July 9, 2019.

On November 18, 2019, the Court revoked Respondent's probation and placed him on probation for six months, beginning November 18, 2019.

d. On February 11, 2019, Respondent was convicted of violating Utah Code § 76-9-201, Electronic Communication Harassment, a Class B Misdemeanor, in the Lehi City Justice Court, Utah County, State of Utah.

e. On May 13, 2019, a monetary judgment was entered against Respondent in the Fourth District Court-American Fork, Utah County, State of Utah, in the amount of \$823.99. This judgment continues to be outstanding.

4. The above declared facts demonstrate that the following Utah insurance laws were not complied with:

a. Utah Code § 31A-23a-111(5)(b)(xiv)(B), convicted of a misdemeanor involving fraud, misrepresentation, theft, or dishonesty;

b. Utah Code § 31A-23a-111(5)(b)(ix), providing incorrect, misleading, or materially untrue information in the license application by answering "No" to the question regarding ever having been convicted of a misdemeanor, had a judgment withheld or deferred;

c. Utah Code § 31A-23a-105(2)(b)(ii), failing to report at the time of filing the license application a criminal prosecution taken against Respondent;

d. Utah Code § 31A-23a-107(2)(a)(ii), failing to meet the trustworthy character requirement;

e. Utah Code § 31A-23a-111(5)(b)(i), unqualified for a license under Utah Code § 31A-23a-104, -105, or -107;

f. Utah Code § 31A-23a-111(5)(b)(iv), failing to pay a final judgment rendered against Respondent in this State within 60 days after the day on which the judgment became final;

g. Utah Admin. Code R590-281-4(1)(c)(iv), applying for a license prior to the end of the required time period (four years) from the date Respondent was convicted or released from incarceration, parole, or probation, whichever occurred last, resulting from a misdemeanor conviction involving fraud, misrepresentation, theft, or dishonesty; and

h. Utah Admin. Code R590-281-4(2), applying for a license while a proceeding is pending against Respondent.

5. Based on the facts and law set forth above, Respondent's application for a Utah resident producer individual insurance license should be denied.

Signed on this 3<sup>rd</sup> day of December, 2019, in Salt Lake City, Salt Lake County, State of Utah.



Randy Overstreet  
Director, Producer Licensing Division  
Utah Insurance Department

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this date a true and correct copy of the foregoing Notice of Informal Adjudicative Proceeding and Order, with the Declaration attached to it, was emailed to:

James Allen Carey  
careyjim15@yahoo.com

and

Randy Overstreet  
Utah Insurance Department  
roverstreet@utah.gov

DATED this 4<sup>th</sup> day of December, 2019.

Jeanine Couser  
Jeanine Couser  
Utah Insurance Department  
3110 State Office Building  
Salt Lake City, UT 84114  
801-538-3860