

EDWARD VASQUEZ #8640
Assistant Attorney General
SEAN D. REYES #7969
Attorney General
Attorneys for Utah Insurance Department
160 East 300 South, 5th Floor
P.O. Box 140874
Salt Lake City, Utah 84114-0874
Telephone: (801)366-0367
Email: evasquez@agutah.gov

BEFORE THE UTAH INSURANCE COMMISSIONER

<p>UTAH INSURANCE DEPARTMENT, Complainant, vs. MIKEL KIM FOSSAT, Respondent.</p>	<p>NOTICE OF INFORMAL ADJUDICATIVE PROCEEDING AND ORDER</p> <p>Docket No. 2020-4220</p>
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NOTICE OF INFORMAL ADJUDICATIVE PROCEEDING

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

This informal 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 temporary 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 written 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 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 21st day of July, 2020.

TODD E. KISER
Utah Insurance Commissioner


Utah Insurance Department
3110 State Office Building
Salt Lake City, UT 84114
801-538-3860
Email: 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 the manager of Producer Licensing in the Financial Regulation & Licensing Division of the Utah Insurance Department (the “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 Mikel Kim Fossat (“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 May 11, 2020, the Department received an online license application from Respondent for a Utah temporary resident producer individual insurance license.

i. Respondent answered “Yes” 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?”

ii. Respondent answered “No” to the criminal background question that asked, “Have you ever been convicted of a felony, had a judgment withheld or deferred, or are you currently charged with committing a felony?”

iii. Respondent answered “Yes” to the question that asked “[d]o you have a child support obligation in arrearage.” Respondent indicated on his application that he has been in arrears for 6 months. Respondent answered “Yes” to the question asking “[a]re you the subject of a child support subpoena/warrant?”

b. On August 8, 2016, a monetary judgment in the amount of \$1,222.28 was entered against Respondent in the Fourth District Court, American Fork, Utah County, State of Utah. Based upon the court documents that I have reviewed, this judgment remains outstanding.

c. On February 9, 2017, a monetary judgment in the amount of \$1,129.75 was entered against Respondent in the Fourth District Court, Provo, Utah County, State of Utah. Based upon the court documents that I have reviewed, this judgment remains outstanding.

d. On June 2, 2017, a monetary judgment in the amount of \$7,341.02 was entered against Respondent in the Fourth District Court, American Fork, Utah County, State of Utah. Based upon the court documents that I have reviewed, this judgment remains outstanding.

e. On August 2, 2017, a child support lien was filed, and a monetary judgment entered, against Respondent in the amount of \$5,213.34 in the Fourth District Court, Provo, Utah County, State of Utah. Based upon the court documents that I have reviewed, this judgment remains outstanding.

f. On April 30, 2018, Respondent pleaded guilty to violating Utah Code § 76-8-1203, Public Assistance Fraud, a Third-Degree Felony, amended to a Class A Misdemeanor, in the Third District Court, Salt Lake County, State of Utah. On April 30, 2018, Respondent was sentenced to 36 months' probation.

g. On May 23, 2018, a monetary judgment in the amount of \$3,131.10 was entered against Respondent in the Fourth District Court, Provo, Utah County, State of

Utah. Based upon the court documents that I have reviewed, this judgment remains outstanding.

h. On July 10, 2018, Respondent pleaded guilty to violating Utah Code § 76-6-602, Retail Theft, a Class B Misdemeanor, in the South Jordan Justice Court, Salt Lake County, State of Utah. On July 10, 2018, Respondent was placed on probation for 12 months.

i. On September 19, 2018, a child support lien was filed, and a monetary judgment entered, against Respondent in the amount of \$13,884.18 in the Third District Court, Salt Lake County, State of Utah. Based upon the court documents that I have reviewed, this judgment remains 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), being convicted of a misdemeanor and a felony involving fraud, misrepresentation, theft, or dishonesty.

b. Utah Code § 31A-23a-111(5)(b), authorizing the Utah Insurance Commissioner (“Commissioner”) to act in compliance with the Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. § 1033. Respondent, having been convicted of a felony involving dishonesty or breach of trust and having failed to obtain from the Commissioner the required written consent to engage or participate in the business of insurance, is prohibited from engaging in the business of insurance pursuant to Utah Code § 31A-23a-111(5)(b)(xxv) and 18 U.S.C. § 1033(e)(2).

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

d. 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 was entered.

e. Utah Code § 31A-23a-111(5)(b)(xxi), failing to comply with an administrative or court order imposing a child support obligation.

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

g. Utah Admin. Code R590-281-4(1)(c), applying for a license prior to the end of the required time period from the date Respondent was convicted or released from court ordered probation resulting from a conviction for a felony or misdemeanor involving fraud, misrepresentation, theft, or dishonesty.

h. Utah Admin. Code R590-281-4(3)(a), applying for a license without first obtaining written consent from the Utah Insurance Commissioner to engage or participate in the business of insurance.

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

Signed on this 30th day of June, 2020, at Salt Lake City, Utah.

/s/ Randy Overstreet
Randy Overstreet
Manager, Producer Licensing
Financial Regulation & Licensing Division
Utah Insurance Department