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BEFORE THE UTAH INSURANCE COMMISSIONER

<p>UTAH INSURANCE DEPARTMENT, Complainant, vs. KENNETH DICKINSON, Respondent.</p>	<p>NOTICE OF AGENCY ACTION AND ORDER</p> <p>Docket No. 2022-4401</p> <p>Donald H. Hansen Administrative Law Judge/Presiding Officer</p>
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NOTICE OF AGENCY ACTION

The Utah Insurance Department (“the Department”) commences this agency action as an informal adjudicative proceeding against Kenneth Dickinson (“Respondent”) pursuant to Utah Code §§ 31A-2-201 and 63G-4-201 through -203 and to Utah Admin. Code R590-160.

This agency action 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 resident producer individual insurance license number 825789 is revoked.
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 Agency Action 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 in writing and sent by email to uidadmincases@utah.gov or by U.S. mail to Office of the Administrative Law Judge, Utah Insurance Department, 4315 S. 2700 W., Suite 2300, Taylorsville, UT 84129. The request for hearing shall be signed by the person making the request and shall state the basis for the relief requested.
4. Failure to request a hearing will result in Respondent being 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 18th day of October, 2022.

JONATHAN T. PIKE
Utah Insurance Commissioner

/s/ Donald H. Hansen
DONALD H. HANSEN
Administrative Law Judge/Presiding Officer
Utah Insurance Department
4315 S. 2700 W., Suite 2300
Taylorsville, UT 84129
Telephone: 801-957-9321
Email: uidadmincases@utah.gov

NOTICE REGARDING ENFORCEMENT OF THE ORDER

Failure to obey this Order may subject you to further penalties that include a forfeiture of up to \$5,000 per violation, with each day of the violation constituting a separate violation. Other penalties for failing to obey this Order may include license suspension, probation, refusal to renew, or revocation. Failure to obey this Order may also result in an action taken against you in a court of competent jurisdiction where forfeitures of up to \$10,000 for each day the failure to comply continues until judgment is rendered. If you are licensed in other jurisdictions, you may be required to report this proceeding in those jurisdictions.

DECLARATION

Under criminal penalty of Utah law, I, Carrie Backus, declare the following:

1. I am currently employed as a Market Conduct Examiner with the Utah Insurance Department (“Department”) where my responsibilities include investigating and enforcing Utah insurance laws.

2. I submit this Declaration as the basis for issuing the Notice of Agency Action and Order against Kenneth Dickinson (“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 January 25, 2021, the Respondent applied for a Utah resident producer individual insurance license.

b. On his application, the Respondent answered “no” to the question, “Have you ever been named or involved as a party to an administrative proceeding?” On the application, “involved” was described to include having a license censured, suspended, revoked, canceled, terminated; or, being assessed a fine, a cease-and-desist order, a prohibition order, a compliance order, placed on probation, sanctioned or surrendering a license to resolve an administrative action. "Involved" also included being named as a party to an administrative or arbitration proceeding, which is related to a professional or occupational license or registration; having a registration application denied, or the act of withdrawing an application to avoid a denial. The applicant was instructed to include any business so named because of applicant’s actions in their capacity as an owner, partner, officer or director, or member or manager of a Limited Liability Company.

- c. On his application, the Respondent also answered “no” to the question, “Are you currently a party to, or have you ever been found liable in, any lawsuit, arbitrations or mediation proceeding involving allegations of fraud, misappropriation or conversion of funds, misrepresentation or breach of fiduciary duty?”
- d. On January 26, 2021, based on the information provided by the Respondent in his application, Respondent was issued a Utah resident producer individual insurance license, Utah license number 825789.
- e. In Spring 2022, the Department learned about a 2017 civil action taken against the Respondent, as well as businesses owned by the Respondent, filed in the United States District Court for Utah, Case No. 2:17-cv-00506-RJS. The complaint was brought against the Respondent by the Federal Trade Commission (FTC) for deceptive and abusive marketing practices that included violations for unfair or deceptive acts or practices affecting commerce; misrepresentations or deceptive omissions of material fact; violations of the FTC Act, 15 U.S.C. § 45 in connection with telemarketing; and violations of the FTC’s trade regulation rule entitled Telemarketing Sales Rule (“TSR”), 16 C.F.R. Part 310, in the operation of a telemarketing scheme offering consumers purported business coaching services and products. The complaint alleged that consumers suffered substantial injury and that the defendants reaped unjust enrichment.
- f. The Respondent, neither admitting or denying any of the allegations in the complaint, entered into a Stipulated Order for Permanent Injunction and Monetary Judgment on June 7, 2017. Respondent was ordered to pay a Judgment in the amount of Ten Million and Five Hundred thousand Dollars (\$10,500,000) in favor of the Commission against the Settling Defendants, jointly and severally, as equitable monetary relief.

- g. Respondent failed to disclose the civil action he was named or involved in on his January 25, 2021, application.
- h. On April 27, 2022, in response to the Department's April 4, 2022, request for information, the Respondent, through his attorney, indicated that because Respondent neither admitted or denied the allegations and there was no finding of fault in this case, the Respondent did not believe the civil proceeding had to be reported on his license application.
- i. Subsequent investigation also uncovered multiple administrative investigations that resulted in an Administrative Citation taken against the Respondent, as well as a business owned by the Respondent. The complaint was brought against the Respondent by the Division of Consumer Protection of the Utah Department of Commerce in May of 2017, for making or causing to be made untrue or misleading material statements or deceptive omissions of material fact that included violations of the Telephone Fraud Prevention Act, under Utah Code Ann. § 13-26-1 and the Business Opportunity Disclosure Act, under Utah Code § 13-15-1, in the operation of a telemarketing scheme offering consumers purported business coaching services and products. (See Division of Consumer Protection Legal File No. CP-16-32, DCP Case Nos. 91055, 90706, 86430, 86575, and 86303).
- j. The Respondent entered into a Settlement Agreement with the Division of Consumer Protection on June 20, 2017. An administrative Order of Adjudication was entered against the Respondent on July 10, 2017. Respondent was ordered to pay a judgment in the amount of fifty thousand Dollars (\$50,000) in favor of the Division against the

Respondent as restitution to consumers and an administrative fine for one violation of the Business Opportunity Discloser Act, five violations of the Business Opportunity Disclosure Act, and thirteen violations of the Telephone Fraud Prevention Act.

k. Respondent failed to disclose the administrative action he was named or involved in on his January 25, 2021, application.

4. The above declared facts demonstrate that the following Utah insurance law(s) were not complied with:

a. Utah Code § 31A-23a-104(2)(b)(v), by failing to provide information in his application related to whether the Respondent has committed an act that is ground for denial, suspension, or revocation as set forth under Utah Code §§ 31A-23a-104, 105, or 111;

b. Utah Code § 31A-23a-105(2)(b) and (c), by failing to report to the commissioner an administrative action taken against the Respondent, by another regulatory agency in this state at the time the application was filed;

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

d. Utah Code § 31A-23a-111(5)(b)(ii), by violating an insurance statute or rule as outlined herein;

e. Utah Code § 31A-23a-111(5)(b)(ix), by providing information in the license application that is incorrect, misleading, incomplete, or materially untrue;

f. Utah Code § 31A-23a-111(5)(b)(xi) by obtaining or attempting to obtain a license through misrepresentation or fraud;

- g. Utah Code § 31A-23a-111(5)(b)(xvi) in the conduct of business in this state or elsewhere uses fraudulent, coercive, or dishonest practices; or demonstrates incompetence, untrustworthiness, or financial irresponsibility;
- h. Utah Code § 31A-23a-111(5)(b)(xxiv), by engaging in a method or practice in the conduct of business that endangers the legitimate interests of customers and the public;
- i. Utah Code § 31A-23a-111(7)(c) by failing to immediately report to the commissioner a judgment or injunction entered against that person on the basis of conduct involving fraud, deceit, misrepresentation or a violation of an insurance law or rule; and
- j. Utah Code § 31A-31-103(3)(d), by knowingly supplying false or fraudulent material information in any document or statement required by the department.

5. Based on Utah Code § 31A-2-308, 31A-23a-111 and other similar enforcement cases, the Respondent's insurance license should be revoked.

DATED this 12th day of October, 2022, at Salt Lake City, Salt Lake County, Utah.

/s/ Carrie Backus
Carrie Backus, Market Conduct Examiner
Utah Insurance Department

CERTIFICATE OF SERVICE

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

Kenneth Dickinson
[REDACTED]

Jon M. Hogelin
Attorney for the Respondent
[REDACTED]

and

Carrie Backus
Utah Insurance Department
[REDACTED]

DATED this 18th day of October, 2022.

/s/ Jeanine Couser
Jeanine Couser
Utah Insurance Department
4315 S. 2700 W., Suite 2300
Taylorsville, UT 84129
801-957-9321