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**BEFORE THE UTAH INSURANCE COMMISSIONER**

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UTAH INSURANCE DEPARTMENT,  Complainant,  vs.  SMB HEALTH INSURANCE, LLC.,  Respondent.	FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER  Docket No. 2022-4417  Donald H. Hansen Administrative Law Judge/Presiding Officer
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Complainant, Utah Insurance Department ("Department") and Respondent, SMB Health Insurance, LLC., have stipulated to entry of the following Findings of Fact, Conclusions of Law, and Order.

Based upon that stipulation, and good cause appearing, the Presiding Officer makes and enters the following:

**FINDINGS OF FACT**

1. Respondent is a Utah resident producer organization licensee holding Utah license number 886362.
2. Respondent's mailing address is [REDACTED].

3. Christopher Scott Miller is an officer of SMB Health Insurance, LLC.

4. Respondent is the marketing organization for Silicon Slopes Health Plans (SSHP), an unlicensed entity.

5. On November 30, 2021, the Department, through Carrie Backus, Market Conduct Examiner with the Department's Health and Life Division (Examiner), began an investigation into Silicon Slopes Health Plans (SSHP). UHIA Members raised concerns that SSHP was marketing unauthorized insurance products without a license through its SSHP website. The SSHP website suggested that individual and small employer group plans were available for purchase through SSHP.

6. During the investigation, it was determined that SSHP had contracted with the Respondent for its marketing and overall plan administration. Because the investigation was concerned with SSHP's website marketing, the investigation's focus shifted to the Respondent as the marketing organization responsible for SSHP marketing.

7. On May 11, 2022, the Department, opened an investigation into the Respondent's improper marketing of health plans by SSHP and unfair marketing practices in connection with the misrepresentations identified on the SSHP website.

8. The Department, through the examiner, made a request for information to the Respondent on January 21, 2022, using the email address on file, [REDACTED], which did not elicit a response. On February 11, 2022, a subsequent telephone call to the Respondent by the examiner, confirmed that the email address was not correct. Respondent was advised to correct the address on file with the Department on February 11, 2022, and again on April 19, 2022.

9. The Department's investigation found that Respondent made multiple misrepresentations on the SSHP website, which was public facing for many months before it was taken down on or about April 20, 2022.

10. The SSHP website implied that SSHP was the insurer, and that health plans were available for sale, despite their assurance that plans were not being actively marketed. The SSHP website failed to contain any information or adequately explain SSHP's role in providing healthcare coverage to small businesses and individuals in Utah. It implied, in the absence of an explanation about the type of coverage, underwriter, or insurer, that SSHP was the provider or insurer of the healthcare coverage offered, in violation of Utah Code § 31A-23a-402(1)(a)(iv).

11. The website advertised that individual health plans were available for sale, even though no individual plans were under development, nor could they be sold as level funded plans, in violation of Utah Code § 31A-23a-402(8)(a).

12. The SSHP website also contained an invitation for consumers to sign-up to "talk to a pro", and contained testimonials from SSHP "trusted customers", which appeared to support this assertion. The testimonials appeared deceptive and misleading since they related to a "past experience" with SSHP, even though no plans were under development or could have been sold. Subsequent investigation found that the Respondent had used testimonials related to past experiences with producer Chris Miller, officer of SMB Health Insurance, the Respondent, and not an experience associated with SSHP, in violation of Utah Code § 31A-23a-402(8)(a) and Admin. Code R590-130-9(D).

13. On April 19, 2022, the Department, through the examiner, again requested information from the Respondent regarding the investigation. In its response dated April 25,

2022, Respondent confirmed they had taken down the SSHP website, acknowledged the confusion that the misrepresentations could have caused and ensured that the site would not be turned back on until products were ready to be sold. Respondent denied that the site contained incorrect or misleading information.

14. Respondent also indicated that the email address on file with the Department was compliant with Utah Admin. Code R590-258-3, even though the department's initial request for information from Respondent on January 21, 2022, using the email address on file:

████████████████████, did not elicit a response and a subsequent telephone call on February 11, 2022, by the investigator confirmed that the email address was not correct.

15. The Department and Respondent have agreed to an administrative forfeiture of \$625.00.

### **CONCLUSIONS OF LAW**

1. The Utah Insurance Commissioner ("Commissioner") has jurisdiction over the parties and this adjudicative proceeding pursuant to Utah Code §§ 31A-1-105 and 31A-2-201.

2. The Commissioner has legal authority to impose penalties on the Department's licensees who violate the Utah Insurance Code. Utah Code § 31A-2-308.

3. Respondent violated Utah Code § 31A-23a-402(1)(a)(i), by making or causing to be made any communication that contains false or misleading information, relating to an insurance product or contract, any insurer, or any licensee under this title, including information that is false or misleading because it is incomplete.

4. Respondent violated Utah Code § 31A-23a-402(1)(a)(iv), which states that a person who is not an insurer may not assume or use any name that deceptively implies or suggests that

person is an insurer.

5. Respondent violated Utah Code § 31A-23a-402(8)(a), by engaging in an unfair method of competition or any other unfair or deceptive act or practice in the business of insurance, as defined by the commissioner by rule, after a finding that the method of competition, the act, or the practice: (i) is misleading; (ii) is deceptive; (iii) is unfairly discriminatory; (iv) provides an unfair inducement; or (v) unreasonably restrains competition.

6. Respondent violated Utah Code § 31A-23a-412(1)(a)(ii) by failing to have a business email address registered and maintained with the commissioner.

7. Respondent violated Utah Admin. Code R590-258-3 by failing to submit to, and maintain with, the commissioner a valid business email address where the person can receive communications from the Department.

8. Respondent violated Utah Admin. Code R590-130-9(D) by, the use of testimonials which do not correctly reflect the present practices of the insurer or which are not applicable to the policy or benefit being advertised, which is prohibited.

9. As a penalty for the violations in this case, Respondent should be ordered to pay a forfeiture of \$625.00.

### **ORDER**

Based on the foregoing Findings of Fact and Conclusions of Law, it is hereby Ordered that:

1. Respondent shall pay a forfeiture of \$625.00 for the violations described in the Conclusions of Law. The forfeiture shall be paid in full to the Department no later than 30 days after this order is signed.

2. Respondent is ordered not to commit the violations described in the Conclusions of Law in the future.

3. This formal adjudicative proceeding shall be deemed closed and all dates outlined in the Scheduling Order and Notice of Evidentiary Hearing, dated November 17, 2022, and filed in this matter shall be stricken.

DATED this 23<sup>rd</sup> day of January 2023.

JONATHAN T. PIKE  
Utah Insurance Commissioner

/s/ Donald H. Hansen  
Donald H. Hansen  
Administrative Law Judge/Presiding Officer  
Utah Insurance Department  
4315 South 2700 West, Suite 2300  
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### **NOTICE TO RESPONDENT**

Failure to obey this Order may subject you to further penalties that include a forfeiture of up to \$2,500 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

**CERTIFICATE OF SERVICE**

The undersigned certifies that on this date a true and correct copy of the foregoing Findings of Fact, Conclusions of Law and Order was emailed to:

SMB Health Insurance, LLC.

[REDACTED]  
[REDACTED]  
[REDACTED]

and

Shelley A. Coudreaut  
Assistant Attorney General  
[sacoudreaut@agutah.gov](mailto:sacoudreaut@agutah.gov)

DATED this 23<sup>rd</sup> day of January, 2023.

*/s/ Jeanine Couser* \_\_\_\_\_  
Jeanine Couser  
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