

SHELLEY A. COUDREAUT (9663)
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) 366-0375
Email: sacoudreaut@agutah.gov

BEFORE THE UTAH INSURANCE COMMISSIONER

<p>UTAH INSURANCE DEPARTMENT, Complainant, vs. LEWIS W. MILLER, Respondent.</p>	<p>CORRECTED NOTICE OF AGENCY ACTION AND ORDER Docket No. 2022-4418 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 Respondent Lewis W. Miller (“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 renewal 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 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. 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 12th day of August, 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 the 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 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 where forfeitures of up to \$10,000 for each day the failure to comply continues until judgement is rendered. 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 Manager of Producer Licensing in the Financial Regulation & Licensing Division 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 Lewis W. Miller (“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. Respondent was first licensed on March 23, 2016. His license lapsed on July 31, 2018, and became active again on October 2, 2018. Respondent has since held an active Utah resident producer individual insurance license, Utah license number 566422, with an expiration date of July 31, 2022.

b. On July 25, 2022, prior to his license expiration date, Respondent applied electronically for renewal of his Utah resident producer individual insurance license.

c. In the application Respondent answered “no” to the question that asked whether he had “been convicted of a felony, had a judgment withheld or deferred, or are you currently charged with committing a felony, which has not been previously reported to this insurance department.”

d. On January 26, 2022, Respondent was charged with one (1) count of Forgery, a 3rd Degree Felony. The criminal information alleged that on October 14, 2019, in Utah County, the Respondent filled out a Policy Change Request form with Farm Bureau

Insurance and forged the signatures of [REDACTED], [REDACTED] and [REDACTED] without their knowledge or permission. (See State of Utah v Lewis Miller, Case No. 221400140).

e. On June 22, 2022, Respondent pled no contest to the charge of Forgery, a 3rd Degree felony, and entered into a Plea in Abeyance agreement. The elements of the Forgery crime to which respondent pled no contest were that he “in Utah County, State of Utah, on or about October 14, 2019, did with purpose to defraud, or with knowledge that he was facilitating a fraud to be perpetrated by anyone, did alter the writing of another without his authority or, made, completed, executed, authenticated, issued, transferred, published, or uttered any writings so that the writing or the making, completion, execution, authentication, issuance, transference, publication or utterance, purported to be the act of another, whether the person was existent or nonexistent, purported to be an act on behalf of another party without the authority of that other party, or purported to have been executed at a time or place or in a numbered sequence other than was in fact the case, or to be a copy of an original when no such original existed.”

f. Respondent was placed on probation for a period of eighteen (18) months, ordered to pay a plea in abeyance fee of \$1,500.00, and ordered to pay restitution in the amount of \$458.00.

g. Respondent failed to report the criminal charges or his plea in abeyance agreement to the Department.

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

- a. Utah Code § 31A-23a-105(2)(b)(ii) by failing to report a criminal prosecution taken against the person within 30 days of the initial appearance before a court;
- b. Utah Code § 31A-23a-105(5)(a)(ii) by committing an act that is grounds for denial, suspension, or revocation as set forth in Section 31A-23a-111;
- c. Utah Code § 31A-23a-107(2)(a)(ii) by failing to meet the trustworthy character requirement;
- d. Utah Code § 31A-23a-111(5)(b)(i) by being unqualified for a license under Utah Code § 31A-23a-104, 105, or 107;
- e. Utah Code § 31A-23a-111(5)(b)(ii) by having violated an insurance statute or rule;
- f. Utah Code § 31A-23a-111(5)(b)(ix) by providing information in the license application that is incorrect, misleading, incomplete or materially untrue;
- g. Utah Code § 31A-23a-111(5)(b)(xi) by obtaining or attempting to obtain a license through misrepresentation or fraud;
- h. Utah Code § 31A-23a-111(5)(b)(xiii) by intentionally misrepresenting the terms of an actual or proposed insurance contract, application for insurance, or life settlement;
- i. Utah Code § 31A-23a-111(5)(b)(xv) by admitting or having been found to have committed an insurance unfair trade practice or fraud;
- j. Utah Code § 31A-23a-111(5)(b)(xvi) by in the conduct of business using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility;
- k. Utah Code § 31A-23a-111(5)(b)(xviii) by forging another's name to an application for insurance or a document related to an insurance transaction;

- l. 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;
 - m. Utah Code § 31A-23a-111(5)(b) authorizes the Commissioner to act in compliance with the Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. § 1033. 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, Respondent 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);
 - n. 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
 - o. Utah Code § 31A-31-103(3)(a) by having committed a fraudulent insurance act as described in §31A-31-103(3)(a).
5. Based on the facts and law set forth above, Respondent's application for a resident

producer individual insurance license should be denied.

Signed on this 9th day of August 2022, in Salt Lake City, Salt Lake County, State of Utah.

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

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this date a true and correct copy of the foregoing Motion to Correct Clerical Error and Enter Order, Exhibit A (Notice of Agency Action and with the Declaration attached to it) and Order (proposed) was emailed to:

Lewis W. Miller
[REDACTED]

DATED this 13th day of September, 2022.

/s/ Shelley A. Coudreaut

Shelley A. Coudreaut

Assistant Attorney General

160 East 300 South, 5th Floor

Salt Lake City, Utah 84114-0874

sacoudreaut@agutah.gov

Counsel for Complainant, Utah Insurance Department