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BEFORE THE UTAH INSURANCE COMMISSIONER

<p>UTAH INSURANCE DEPARTMENT, Complainant, vs. JOHNATHAN M. DUNCAN, Respondent.</p>	<p>NOTICE OF AGENCY ACTION AND ORDER</p> <p>Docket No. 2022-4457</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 Respondent Johnathan M. Duncan (“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 -7.

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 R590-160-7(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 4th 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 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 \$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 Johnathan M. Duncan (“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 December 14, 2022, Respondent applied for a Utah resident producer individual insurance license.

b. On his application, Respondent answered “yes” to the question that asked, “Have you been notified by any jurisdiction to which you are applying of any delinquent tax obligation that is not the subject of a repayment agreement?”.

c. Documents I have reviewed show Respondent has a delinquent federal tax obligation for the year 2020 in the amount of \$1,102.67 and a delinquent federal tax obligation for the year 2021 in the amount of \$1,834.10 for a total delinquent tax obligation of \$2,936.77.

d. On his application, Respondent also answered “yes” to the question that asked, “Do you have a child support obligation in arrearage?”. In his response, Respondent stated he was 31 months in arrearage. However, court records indicate Respondent has been in

arrears for eleven (11) years.

e. On March 14, 2012, a child support lien was filed, and a monetary judgment was entered against the Respondent in the amount of \$24,312.58. Based upon court documents I have reviewed, this judgment remains outstanding with a modified judgment amount owing increased to \$38,375.92 as of November 30, 2022. (See Child Supp Services Office of Recovery Services vs. Johnathan M. Duncan, case #126901646, Second District Court-Ogden Department, Weber County, State of Utah.)

f. On September 26, 2012, a child support lien was filed, and a monetary judgment was entered against the Respondent in the amount of \$27,244.46. Based upon court documents I have reviewed, this judgment remains outstanding with a modified judgment amount owing increased to \$38,375.92 as of November 30, 2022. (See Child Supp Services Office of Recovery Services vs. Johnathan M. Duncan, case #126937881, Third District Court-Salt Lake Department, Salt Lake County, State of Utah.)

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

- a. Respondent violated Utah Code § 31A-23a-111(5)(b)(xxi) by failing to comply with an administrative or court order imposing a child support obligation;
- b. Respondent violated Utah Code § 31A-23a-111(5)(b)(iv) by failing to pay a final judgment rendered against Respondent within 60 days after the day on which the judgment became final; and
- c. Respondent violated 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.

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 4th day of January, 2023, 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 Notice of Agency Action and Order, with the Declaration attached to it, was emailed to:

Johnathan M. Duncan
[REDACTED]
[REDACTED]
[REDACTED]

and

Randy Overstreet
Utah Insurance Department
4315 South 2700 West, Suite 2300
Taylorsville UT 84129
roverstreet@utah.gov

DATED this 4th day of January, 2023.

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