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BEFORE THE UTAH INSURANCE COMMISSIONER

<p>UTAH INSURANCE DEPARTMENT, Complainant, vs. BRYAN JOSE OVALLES PAZ, Respondent.</p>	<p>FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER</p> <p>Docket No. 2023-4463</p> <p>Donald H. Hansen Administrative Law Judge/Presiding Officer</p>
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Complainant, Utah Insurance Department ("Department") and Respondent, Bryan Jose Ovalles Paz, 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 non-resident producer licensee holding Utah license number 947512 effective August 8, 2022.
2. Respondent's mailing address is [REDACTED].

3. Pursuant to Utah Code §31A-23a-103(1)(a), unless exempted from the licensing requirement under Section 31A-23a-201 or 31A-23a-207, a person may not perform, offer to perform, or advertise any service as a producer, surplus lines producer, limited line producer, consultant, managing general agent, or reinsurance intermediary in Utah, without a valid individual or agency license issued under this chapter.

4. Pursuant to Utah Code §31A-23a-115(1)(a), an insurer shall appoint an individual or agency with whom it has a contract as an insurance producer, limited line producer, or managing general agent to act on the insurer's behalf in order for the licensee to do business for the insurer in this state.

5. On July 28, 2022, the Center for Medicare and Medicaid Services (CMS) notified the Department that Respondent's National Producer Number (NPN) and/or Federally facilitated Marketplace (FFM) User ID was associated with health insurance enrollments through the FFM and/or state-based Marketplaces on the federal Platform (SMB-FPs) for Plan Year 2022 during the 2022 Open Enrollment Period from November 1, 2021, through January 15, 2022. These health insurance enrollments happened in states where the Respondent was not licensed to enroll consumers at the time the enrollments occurred. Specifically, Respondent's FFM User ID was used to log into an Enhanced Direct Enrollment (EDE) partner portal or the healthcare.gov website and enroll one or more consumers in policies using Respondent's NPN in non-resident states where he did not have a valid license to sell health insurance.

6. Subsequent investigation by the Department found Respondent did not obtain a Utah license until August 8, 2022. Respondent did not have a valid Utah producer license when he enrolled two Utah consumers through the FFM enrollments placed through the FFM for the PY

2022 during the 2022 Open Enrollment Period, November 1, 2021, through January 15, 2022.

7. The Department also determined Respondent did not have an active appointment with any insurers as required by Utah Code §31A-23a-115(1)(a) when he enrolled the two Utah consumers through the FFM for Plan Year 2022.

8. The Utah consumers have indicated they did apply for insurance, and it was issued properly.

9. In his response to the Department, dated November 1, 2022, Respondent stated his failure to obtain a Utah license was due to ignorance on his part. He believed that at the time of enrollment he already had the approval of his non-resident license from Utah, and that he had contracts with the companies that he represented in more than ten states nationwide.

10. The Department and Respondent have agreed to an administrative forfeiture of \$375.00.

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-103(1)(a), when he did not have a Utah non-resident producer license at the time he enrolled two Utah consumers through the Federally-facilitated Marketplace (FFM) for the plan Year 2022.

4. Respondent violated Utah Code §31A-23a-115(1)(a), when he failed to appoint an individual or agency with whom he has a contract as an insurance producer, limited line

producer, or managing general agent to act on the insurer's behalf in order for the licensee to do business for the insurer in this state.

5. As a penalty for the violations in this case, Respondent should be ordered to pay a forfeiture of \$375.00.

ORDER

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

1. Respondent shall pay a forfeiture of \$375.00 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.

DATED this 27th 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
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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:

Bryan Jose Ovalles Paz

[REDACTED]
[REDACTED]
[REDACTED]

and

Shelley A. Coudreaut
Assistant Attorney General
sacoudreaut@agutah.gov

DATED this 27th day of January 2023.

/s/ Jeanine Couser
Jeanine Couser
Utah Insurance Department
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