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BEFORE THE UTAH INSURANCE COMMISSIONER

<p>UTAH INSURANCE DEPARTMENT, Complainant, vs. CARISSA OCULTO, Respondent.</p>	<p style="text-align: center;">STIPULATED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER</p> <p>Docket No. 2023-4470</p> <p>Donald H. Hansen Administrative Law Judge/Presiding Officer</p>
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Complainant, Utah Insurance Department ("Department") and Respondent, Carissa Oculito, 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 non-resident producer individual insurance licensee holding Utah license number 862613.
2. Respondent's mailing address is [REDACTED].
3. On May 10, 2022, [REDACTED], a Utah resident producer, filed a complaint with the

Department alleging the Respondent had fraudulently enrolled a Utah consumer, [REDACTED], in coverage through the Federally Facilitated Marketplace (FFM). The consumer cancelled the plan obtained through the Respondent and then submitted a new application with [REDACTED].

4. The Department initiated an investigation into the [REDACTED] application filed by the Respondent. On July 27, 2022, the Department, through Carrie Backus, requested information from the Respondent regarding the allegations.

5. On August 10, 2022, Respondent provided a response to the Department's request for information. Respondent explained she had worked as a tele-sales agent with Insureme Inc., a non-resident producer organization from Pennsylvania. Respondent also explained her general marketing and sales practices but failed to respond to any of the specific questions regarding the [REDACTED] application.

6. On August 26, 2022, the Department, through Carrie Backus, again asked the Respondent for more specific information about the [REDACTED] application filed by the Respondent.

7. On August 29, 2022, Respondent replied to the Department's request for information stating that since leaving the employment of Insureme Inc. on May 4, 2022, she no longer had access to the information and did not recall the details of the sale.

8. On September 2, 2022, the Department, through Carrie Backus, requested information from Insureme Inc. regarding the Respondent. Insureme Inc. confirmed the Respondent had served as a 1099 independent contractor with their organization from December 2021 to May 4, 2022, when Respondent was terminated for cause for intentionally making material misrepresentations regarding the height and weight of a South Carolina consumer on an application. Insureme Inc. indicated they had investigated [REDACTED] application and could see in the subsequent application filed by [REDACTED] that the AOR had been changed to the Respondent

only two days after Respondent's termination for cause. Insureme Inc. noted they had received similar reports from other consumers.

9. The Department initiated an investigation into the South Carolina application for a short-term medical plan through United Healthcare filed by the Respondent. The Department, through Carrie Backus, reviewed the application recording, dated April 21, 2022, in which the Respondent is heard asking the customer's mother for the customer's height and weight. The customer's mother stated that "her son is 6'1" tall and weighs 341 pounds". The short-term medical plan the customer was seeking has a weight limitation that a 6'1" tall male must be within. In the recording, Respondent is heard mentioning this weight limitation to the customer, then tells the customer that she "is going to use 285 pounds" as the customer's weight, so that the customer would qualify for the plan. Respondent then submitted the application with the incorrect weight of 285 pounds on the application.

10. On February 23, 2023, even after telling the Department in her response dated August 29, 2022, that "she no longer had access to the information and did not recall the details of the sale", Respondent forwarded a recorded phone call to the Department, which she purported was a copy of the [REDACTED] application phone call between herself and consumer [REDACTED].

11. On March 1, 2023, the Department, through Carrie Backus, sent Respondent a third request for information to her email address of record at [REDACTED]. The Department's request again asked for information regarding the [REDACTED] application, as well as information regarding the telephone conversation captured in the recording provided by the Respondent, and how the recording became available after reporting to the Department on August 29, 2022, that Respondent had no access to the application material.

12. Respondent failed to respond to the requests for information from the Department.

13 The Department and Respondent have agreed to an administrative forfeiture in the amount of \$1,000.00.

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-111(5)(b)(xvi), when in the conduct of business in this state or elsewhere used fraudulent, coercive, or dishonest practices; or demonstrated incompetence, untrustworthiness, or financial irresponsibility.

4. Respondent violated Utah Code § 31A-23a-111(5)(b)(ii), by violating an insurance statute or rule that is valid under Subsection 31A-2-201(3) as outlined herein.

5. Respondent violated 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.

6. Respondent violated Utah Code § 31A-2-202(4)(a), by failing to reply promptly in writing or in other designated form to a reasonable written inquiry from the commissioner.

7. Respondent violated Utah Code § 31A-2-202(6), by failing to provide information submitted to the commissioner that is accurate and complete.

8. As a penalty for the violations in this case, Respondent should be ordered to pay a forfeiture of \$1,000.00.

ORDER

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

that:

1. Respondent shall pay a forfeiture of \$1,000.00 for the violations described in the Conclusions of Law. The forfeiture shall be paid in full to the Department no later than thirty (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 March 17, 2023, and filed in this matter shall be stricken.

DATED this 5th day of April 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 being 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:

Carissa Oculito

[REDACTED]
[REDACTED]
[REDACTED]

and

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

DATED this 5th day of April 2023.

/s/ Jeanine Couser
Jeanine Couser
Utah Insurance Department
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