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BEFORE THE UTAH INSURANCE COMMISSIONER

<p>UTAH INSURANCE DEPARTMENT, Complainant, vs. NICHOLAS C. OSTLER, Respondent.</p>	<p>NOTICE OF AGENCY ACTION AND ORDER</p> <p>Docket No. 2023-4486</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 Nicholas C. Ostler (“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 Utah non-resident producer individual insurance license, number 886568, is revoked.

2. Pursuant to Utah Code § 63G-4-203(1)(i) and Utah Admin. Code R590-160-7(1), this informal adjudicative proceeding shall be 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.

4. The request for hearing shall be signed by the person making the request and shall state the basis for the relief requested.

5. 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 21st day of March 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 this Order may subject you to further penalties that include a forfeiture of up to \$2,5000 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.

DECLARATION

Under criminal penalty of Utah law, I, Bill Stimpson, declare the following:

1. I am currently employed as a Market Conduct Examiner 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 Informal Adjudicative Proceeding and Order against Nicholas C. Ostler (“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 is a Utah non-resident producer individual insurance licensee, license number 886568.

b. On October 7, 2022, the Department received notice that an administrative action had been taken against the Respondent by the Arizona Department of Insurance and Financial Institutions on January 3, 2022. In the Arizona action, Respondent admitted a consumer had contacted Respondent to obtain a quote for a life insurance policy, but instead, Respondent created a life insurance policy without the consumer’s knowledge or consent. According to the consumer, \$342 was withdrawn from his bank account to pay the premium for the unauthorized life insurance policy, which resulted in an overdraft fee to the consumer. After finding out about the withdrawal, the consumer contacted Respondent and requested the Respondent cancel his life insurance policy and refund the withdrawn premium. Respondent did not take any action to cancel the policy or refund the consumer’s premium, requiring the consumer to personally contact the insurance company, cancel the life insurance policy and demand a refund of the

withdrawn premium amount. Respondent admitted he forged the consumer's initials on the application, without the consumer's consent, to obtain the policy.

c. The Respondent failed to report the administrative action to the Department as required pursuant to Utah Code § 31A-23a-105(2).

d. On October 7, 2022, Royalyn Andrus (Andrus), a licensing specialist with the Department's Financial Regulation and Licensing Division, sent a request for information to Respondent via email at [REDACTED], the Respondent's email address of record. The letter requested information regarding the Arizona administrative action taken against the Respondent and advised Respondent he was required to report the administrative action to the Department within 14 days.

e. Respondent failed to respond to the Department's October 7, 2022, request for information.

f. On October 21, 2022, Andrus left a voice mail message for Respondent at his phone number of record, but Respondent failed to return Andrus's call.

g. Andrus referred the matter to the Market Conduct Division on October 28, 2021.

h. On January 9, 2023, Bill Stimpson (Stimpson), a market conduct examiner with the Department, sent a request for information letter to the Respondent via post to Respondent's physical address of record on file with the Department. A copy of the letter was also emailed to the Respondent at his email address of record, but the Respondent failed to respond to either request.

i. On February 13, 2023, Stimpson contacted the Respondent by phone. Respondent acknowledged he had received Stimpson's email asking for information but confirmed he had not responded to the request. The Respondent told Stimpson he would like to surrender his

license in lieu of an administrative action.

j. On February 13, 2023, Stimpson sent the Respondent a Surrender in Lieu Agreement form to the email address provided by the Respondent. When the Respondent failed to return the agreement, Stimpson sent a follow up email to Respondent on February 15, 2023, asking Respondent to complete the agreement form by end of day February 17, 2023. Respondent failed to Respond to the request or return the signed agreement form. A subsequent phone call, by Stimpson, to the Respondent went unanswered.

k. Respondent has failed to respond to any of the requests for information sent via email or post from the Department, as well as multiple phone calls from the Department.

4. The above declared facts demonstrate that the following Utah insurance law(s) were not complied with:

a. Utah Code § 31A-23a-105(2)(a) by failing to report to the commissioner an administrative action taken against the person, including a denial of a new or renewal application, in another jurisdiction within 30 days of the final disposition of the administrative action.

b. Utah Code § 31A-2-202(4)(a) by not replying promptly in writing or in other designated form to a reasonable written inquiry from the commissioner.

c. Utah Code § 31A-23a-111(5)(b)(ii)(A) by violating an insurance statute as outlined above.

d. Utah Code § 31A-23a-111(5)(b)(ii)(B) by violating an insurance rule that is valid under Subsection 31A-2-201(3) as outlined above.

e. Utah Code § 31A-23a-111(7)(a) by failing to immediately report to the commissioner a revocation, suspension, or limitation of the person's license in another state.

5. Based on Utah Code § 31A-2-308 and other similar enforcement cases, the Respondent's insurance license should be revoked.

DATED this 16th day of March 2023, at Salt Lake City, Salt Lake County, Utah.

/s/ Bill Stimpson
Bill Stimpson, Examiner
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:

Nicholas C. Ostler

[REDACTED]
[REDACTED]
[REDACTED]

and

Bill Stimpson
Utah Insurance Department
4315 S 2700 W Suite 2300
Taylorsville UT 84129

[REDACTED]

DATED this 21st day of March 2023.

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