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**BEFORE THE UTAH INSURANCE COMMISSIONER**

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UTAH INSURANCE DEPARTMENT,  Complainant,  vs.  OPTICARE OF UTAH, INC.,  Respondent.	FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER  Docket No. 2023-4500  Donald H. Hansen Administrative Law Judge/Presiding Officer
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Complainant, Utah Insurance Department ("Department") and Respondent, Opticare of Utah, Inc., have stipulated to the 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 an insurer holding a certificate of authority, Utah number 1667.
2. Respondent's mailing address is [REDACTED].
3. Pursuant to Utah Code §31A-4-113(1) an insurer is required to file annually with the commissioner, before March 1<sup>st</sup>, a true statement of the authorized insurer's financial condition,

transactions, and affairs as of December 31<sup>st</sup> of the preceding year.

4. Pursuant to Utah Admin. Code R590-254-4, an insurer shall have an annual audit by an independent certified public accountant and shall file an audited financial report with the commissioner on or before June 1st for the preceding year ending December 31st.

5. On July 12, 2021, Respondent failed to meet its filing extension deadline by filing its March 31, 2021, quarterly statement twelve days past the deadline. This violated Utah Code §§ 31A-4-113(1) and 31A-4-113.5(1). The Department chose not to seek a forfeiture for this violation because it was a first-time occurrence, and the delay was not substantial.

6. However, Respondent again failed to meet its filing extension deadline when it failed to file its March 31, 2022, quarterly statement by the filing extension date of May 31, 2022. This violated Utah Code §§ 31A-4-113(1) and 31A-4-113.5(1).

7. Respondent failed to file its June 1, 2022, Audited Financial Statement for the preceding year ending December 31, 2021, by the filing extension date of June 30, 2022. This violated Utah Admin. Code R590-254-4.

8. On October 12, 2022, the Respondent was assessed a \$2,500.00 forfeiture as a result of these violations. (See UID v. Opticare of Utah, Inc., Docket No. 2022-4430).

9. Respondent continued to fail to file its December 31, 2021, Audited Financial Statements, in violation of Utah Admin. Code R590-254-4 and the Utah Insurance Commissioner's ("Commissioner) order. On February 9, 2023, the Department assessed a second forfeiture of \$5,000.00 for the violation. (See UID v. Opticare of Utah, Inc., Docket No. 2023-4468).

10. To date, Respondent has continued to violate Utah Admin. Code R590-254-4 and the

Commissioner's order by failing to file its December 31, 2021, Audited Financial Statements.

11. Respondent also failed to file its December 31, 2022, Annual Statement by the filing extension date of April 1, 2023, in violation of Utah Code §§ 31A-4-113(1) and 31A-4-113.5(1).

12. The Department and Respondent have agreed to an administrative forfeiture of \$10,000.00, and thereafter, beginning on April 19, 2023, a forfeiture amount of \$1,000.00 per day for each day until the December 31, 2021, Audited Financial Statement is filed.

### **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-4-113(1) and 31A-4-113.5(1), when it failed to file its December 31, 2022, Annual Statement by the filing extension date of April 1, 2023.

4. Respondent violated Utah Admin Rule R590-254-4, when it failed to file its December 31, 2021, Audited Financial Statement.

5. As a penalty for the violations in this case, Respondent should be ordered to pay a forfeiture of \$10,000.00, and beginning on April 19, 2023, Respondent should be ordered to pay a forfeiture amount of \$1,000.00 per day for each day until the December 31, 2021, Audited Financial Statement is filed.

## **ORDER**

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

1. Respondent shall pay a forfeiture of \$10,000.00 for the violations described in the Conclusions of Law. Payment in full is due within thirty days of this order.
2. Beginning April 19, 2023, Respondent shall pay a forfeiture amount of \$1,000.00 per day for each day until the December 31, 2021, Audited Financial Statement is filed.
3. Respondent is ordered not to commit the violations described in the Conclusions of Law in the future.

DATED this 27<sup>th</sup> 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  
4315 South 2700 West, Suite 2300  
Taylorsville, UT 84129  
801-957-9321  
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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 \$5,000 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:

Opticare of Utah, Inc.  
Attention Aaron Schubach, CEO

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Opticare of Utah, Inc.  
Attention: Som Chivukula, CFO,

████████████████████

Shelley A. Coudreaut  
Assistant Attorney General  
[sacoudreaut@agutah.gov](mailto:sacoudreaut@agutah.gov)

DATED this 27<sup>th</sup> day of April 2023.

*/s/ Jeanine Couser* \_\_\_\_\_  
Jeanine Couser  
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801-957-9321