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**BEFORE THE UTAH INSURANCE COMMISSIONER**

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UTAH INSURANCE DEPARTMENT,  Complainant,  vs.  PERDITA ITAGIA MAFUTAGA aka BERDITA ITAGIA MAFUTAGA,  Respondent.	NOTICE OF AGENCY ACTION AND ORDER  Docket No. 2023-4540  Donald H. Hansen Administrative Law Judge/Presiding Officer
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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 Perdita Itagia Mafutaga aka Berdita Itagia Mafutaga (“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 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](mailto:uidadmincases@utah.gov) or by U.S. mail to Office of the Administrative Law Judge, Utah Insurance Department, 4315 S. 2700 W., Taylorsville, UT 84129.
4. The request for hearing 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 is a failure to exhaust administrative remedies and precludes any further administrative or judicial review or appeal of this matter.

DATED this 1<sup>st</sup> day of September 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](mailto: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 jurisdiction where forfeitures of up to \$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 Perdita Itagia Mafutaga aka Berdita Itagia Mafutaga (“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 applied for a Utah resident producer individual insurance license on August 7, 2023.
- b. Respondent answered “yes” to the question that asked whether she had ever been convicted of a misdemeanor and “no” to the question that asked whether she had ever been convicted of a felony. Respondent provided court documents and explanations of the following four cases, which show both the names Perdita Itagia Mafutaga and Berdita Itagia Mafutaga.
- c. On or about August 1, 2017, Respondent was convicted under the name Berdita Itagia Mafutaga of two counts of retail theft (shoplifting), each a class B misdemeanor. *See West Valley City vs. Berdita Itagia Mafutaga*, case no. 161701267, West Valley City Justice Court, Salt Lake County, State of Utah.
- d. On February 21, 2019, a judgment was entered against Respondent for \$500.00, the balance due was transferred to the Office of State Debt Collection, and the case was

closed. On October 23, 2019, a satisfaction of judgment was filed. Under Utah Admin. Code R591-281-4(1)(e)(ii), Respondent is ineligible to apply for an insurance license for 4 years.

e. On or about May 30, 2018, Respondent was convicted under the name Berdita Itagia Mafutaga of attempted false personal info with intent to be another actual person a class B misdemeanor. *See* State of Utah vs. Berdita Itagia Mafutaga, case no. 171702325, Second District Court – Farmington, Davis County, State of Utah.

f. The case was closed on July 22, 2020. Under Utah Admin. Code R591-281-4(1)(e)(ii), Respondent is ineligible to apply for an insurance license for 4 years.

g. On or about May 30, 2018, Respondent was convicted under the name of Berdita Itagia Mafutaga of false personal info with intent to be another actual person, a class A misdemeanor, and of theft, a class B misdemeanor. *See* State of Utah vs. Berdita Itagia Mafutaga, case no. 181700885, Second District Court – Farmington, Davis County, State of Utah.

h. On June 13, 2018, Respondent was placed on supervised probation for 24 months. On July 29, 2020, tracking ended for court probation. Under Utah Admin. Code R591-281-4(1)(e)(ii), Respondent is ineligible to apply for an insurance license for 5 years.

i. On or about March 16, 2020, Respondent entered a plea in abeyance to theft, a 3<sup>rd</sup> degree felony and was placed on probation for 18 months. At a review hearing on September 13, 2021, the charge was amended to a class A misdemeanor under Utah Code § 76-3-402. The case was closed on September 14, 2021. *See* State of Utah vs. Berdita Itagia Mafutaga, case no. 191903646, Third District Court – Salt Lake, Salt Lake County, State of Utah.

j. Respondent's 402 reduction to a class A misdemeanor was granted on September 13, 2021. Under Utah Admin. Code R591-281-4(1)(e)(ii), Respondent is ineligible to apply for an insurance license for 5 years.

k. Under Utah Admin. Code R591-281-4(4)(c), an application for written consent is required even if a felony conviction involving dishonesty or breach of trust has been reduced to a lower degree of offence pursuant to Section 76-3-402. Respondent did not submit an application for written consent.

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

- a. Utah Code § 31A-23a-111(5)(b) authorizes the Commissioner to act in compliance with the Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. 1033. Despite the subsequent reduction under to a class A misdemeanor under Utah Code § 76-3-402, Respondent was convicted of a felony involving dishonesty or breach of trust. Having failed to obtain from the Commissioner the required written consent to engage or participate in the business of insurance, Respondent is prohibited from engaging in the business of insurance pursuant to Utah Code § 31A-23a-111(5)(b)(xxv) and 18 U.S.C. 1033(e)(2);
- b. Utah Code § 31A-23a-105(5)(a)(ii), committing an act that is grounds for denial, suspension, or revocation as set forth in Section 31A-23a-111;
- c. Utah Code § 31A-23a-107(2)(a)(ii), failing to meet the trustworthy character requirement;
- d. Utah Code § 31A-23a-111(5)(b)(i), unqualified for a license under Utah Code § 31A-23a-104, -105, or -107;

- e. Utah Code § 31A-23a-111(5)(b)(ii)(A), violating an insurance statute;
- f. Utah Admin. Code R590-281-4(4)(1)(e), applying for a license prior to the end of the required time period resulting from Respondent's misdemeanor convictions involving fraud, misrepresentation, theft, or dishonesty; and
- g. Utah Admin. Code R590-281-4(4)(a)(i), applying for a license without first obtaining written consent from the Commissioner to engage or participate in the business of insurance.

5. Based on the facts and law set forth above, Respondent's application for a resident limited line producer individual insurance license should be denied.

Signed on this 31<sup>st</sup> day of August 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:

Perdita Itagia Mafutaga  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Randy Overstreet  
[REDACTED]

Utah Insurance Department  
4315 S. 2700 W., Suite 2300  
Taylorsville, UT 84129

and

Helen Frohlich  
[hfrohlich@agutah.gov](mailto:hfrohlich@agutah.gov)  
160 E. 300 S., 5th Floor  
P.O. Box 140874  
Salt Lake City, UT 84114-0874

DATED this 1<sup>st</sup> day of September 2023.

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