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BEFORE THE UTAH INSURANCE COMMISSIONER

UTAH INSURANCE DEPARTMENT, Complainant, vs. RACHEL BAILEY MUSSER, Respondent.	NOTICE OF AGENCY ACTION AND ORDER Docket No. 2023-4543 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 Rachel Bailey Musser (“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 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 20th 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

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 Rachel Bailey Musser (“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 30, 2023.
- b. Respondent answered “yes” to the question that asked whether she had ever been convicted of a felony.
- c. On or about March 12, 2013, Respondent was convicted of falsify/forge/alter prescription of a controlled substance, a 3rd degree felony. Respondent was placed on supervised probation for 36 months on April 23, 2013. See State of Utah vs. Rachel Bailey Musser, case no. 121101466, Fourth District Court – American Fork, Utah County, State of Utah.
- d. Probation was terminated successfully and the case was closed on April 15, 2016.
- e. Under Utah Admin. Code R590-281-4(a)(i), an individual who has been convicted of a felony involving dishonesty or breach of trust may not apply for a license without first obtaining written consent from the commissioner to engage or participate in the business of insurance. Respondent did not apply 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. 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-111(5)(b)(xiv)(A), convicted of a felony;
- c. 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;
- d. Utah Code § 31A-23a-107(2)(a)(ii), failing to meet the trustworthy character requirement;
- e. Utah Code § 31A-23a-111(5)(b)(i), unqualified for a license under Utah Code § 31A-23a-104, -105, or -107; and
- f. 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 producer individual insurance license should be denied.

Signed on this 19th day of September 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:

[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
160 E. 300 S., 5th Floor
P.O. Box 140874
Salt Lake City, UT 84114-0874

DATED this 20th day of September 2023.

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