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BEFORE THE UTAH INSURANCE COMMISSIONER

UTAH INSURANCE DEPARTMENT, Complainant, vs. HAROLD JAMES ROSE JR., Respondent.	NOTICE OF AGENCY ACTION AND ORDER Docket No. 2023-4581 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 Harold James Rose, Jr. (“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 non-resident producer individual insurance license number 700989 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 deemed 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 11th day of January 2024.

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 \$2,500 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.

DECLARATION

Under criminal penalty of Utah law, I, Connie Nowland, 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 Harold James Rose, Jr. (“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 non- resident producer individual insurance licensee, domiciled in Florida, and authorized to do insurance business in Utah under Utah license number 700989.

b. Respondent was affiliated with Golden Rule Insurance Company and UnitedHealthcare Life Insurance Company.

c. On June 23, 2023, Respondent submitted a “broker assisted” application for medical insurance to UnitedHealthOne (“UHOne”) on behalf of his clients, [REDACTED], and [REDACTED], who are close friends of the Respondent. The IP address used to capture the electronic signature of the clients was the same IP address used by the Respondent to login to the broker portal.

d. A review of UHOne’s internal systems, Mainframe, and IC Business Manager, revealed that the Respondent called several times in the month of June to several different UHOne’ departments from his mobile phone, [REDACTED]. This mobile phone number is listed as the agent's business contact number in UnitedHealthcare internal system GRIC VUE.

e. On June 28, 2023, at 11:48 a.m., Respondent called UHOne's Broker Services from his mobile phone, [REDACTED], and spoke to [REDACTED]. In that call, Respondent determined that UHOne's Underwriting department was trying to reach [REDACTED] regarding his application.

f. On June 28, 2023, at 11:51 a.m., Respondent called UHOne's Underwriting department from his mobile phone, [REDACTED], and spoke to [REDACTED]. In that call Respondent, impersonating [REDACTED], provided answers to medical history questions in support of [REDACTED] application as follows:

1) Respondent, purporting to be [REDACTED], was asked about [REDACTED] medical claims from February 2022, through July 2022, regarding a CT of upper extremity with osteo arthritis of the left shoulder. In response to the question, Respondent stated that everything came back normal, that there was no confirmed diagnosis, that surgery was not required, and that no physical therapy was needed, other than to keep the shoulder moving.

2) Respondent, purporting to be [REDACTED], was asked about [REDACTED] medical claims from July 2022, through January 2023, regarding an office visit for a hand x-ray and physical therapy with a diagnosis of rupture of tendons of right hand. In response to the question, Respondent stated that the information was incorrect, and claimed that there was no torn tendon, only soreness from banging it on the counter, and stated that he went to a specialist to see if everything was okay. Respondent further stated that everything was okay, that there was no confirmed diagnosis, that the condition was treated with ibuprofen, and that no follow up had been needed since the first week of October 2022.

3) Respondent, purporting to be [REDACTED], was asked, "Other than the details listed on application and what was discussed above has anyone seen a doctor in the last year or taken any

medication in the last year for any reason other than a routine or annual checkup?” In response to the question, Respondent answered “No”.

g. On June 28, 2023, after the calls made by the Respondent, the real [REDACTED] and his wife, [REDACTED], called UHOne’s Underwriting department from his phone, [REDACTED], and spoke to [REDACTED]. [REDACTED] explained he had received a secure email requesting him to call UHOne regarding his application. Ms. Lancaster informed [REDACTED] that the underwriting call had already been completed earlier that day by someone claiming to be [REDACTED]. [REDACTED] insisted no less than three times that he had not spoken to anyone at UHOne and stated that it must have been his broker that they spoke to. [REDACTED] informed [REDACTED] that his agent should not have answered the medical history questions for him. [REDACTED] proceeded to ask the medical history questions to [REDACTED] and learned the following:

1) [REDACTED] was asked about his medical claims from February 2022, through July 2022, regarding a CT of upper extremity with osteo arthritis of the left shoulder. In response to the question, [REDACTED] advised that he was diagnosed with shoulder arthroplasty, bone spurs and an old torn rotator cuff in his shoulder. [REDACTED] that he had received outpatient shoulder arthroplasty surgery on April 14, 2022, where the surgeon smoothed out the ball joint in his shoulder and placed a permanent metal cap. [REDACTED] further confirmed that the condition required him to participate in physical therapy through October 2022.

2) [REDACTED] was asked about his medical claims from July 2022, through January 2023, regarding an office visit for a hand x-ray and physical therapy with a diagnosis of rupture of tendons of right hand. In response to the question, [REDACTED] explained that he had received a confirmed diagnosis of a torn sagittal band of his middle finger when he hit his hand against a car door while trying to swat away a fly. [REDACTED] further explained that surgery was discussed

as an option, but that he had decided to let it heal by itself. [REDACTED] confirmed that he had worn a splint for approximately three months, had performed at home physical therapy by moving the finger, and that his last doctor's visit for the condition was January 17, 2023.

3) [REDACTED] and his wife [REDACTED] were asked, "Other than the details listed on the application and what was discussed above has anyone seen a doctor in the last year or taken any medication in the last year for any reason other than a routine or annual checkup?" In response to the question, [REDACTED] explained that she had seen her doctor for a head cold, and was prescribed fluticasone (Flonase), as well as benzonatate pills for her cough.

h. As a result of the false information provided in the application submitted by the Respondent on June 23, 2023, as well as the false information provided by the Respondent while impersonating [REDACTED] during the June 28, 2023, telephone call, the policy was written at a lower premium rate than it would have been had [REDACTED] actual medical history been disclosed. Once the Underwriting department obtained [REDACTED] correct medical history from [REDACTED], it caused [REDACTED] premium to be rated 30% higher, taking the quoted premium amount from \$943.69 to \$1,088.11 per month.

i. Based on the Respondent's conduct outlined above, the UHOne Appeals & Grievance Team referred the Respondent for investigation by the UnitedHealthcare Investigations Team.

j. During their investigation, [REDACTED] ([REDACTED]), an Investigative Consultant for UnitedHealthcare Investigations, reviewed UHOne's internal system, IC Business Manager, for more recordings from the Respondent's mobile number. [REDACTED] downloaded the telephonic recordings and found other instances in which Respondent had impersonated his clients. Based on a review of eleven telephonic recordings between March 3, 2023, through June 28, 2023, which were all inbound calls made from the Respondent's mobile phone number, as well as four

telephonic recordings from the actual client's phone number, it was determined that the Respondent impersonated seven different clients during those eleven telephonic recordings in order to respond to Underwriting questions, change the client's payment method, and/or cancel/reinstate the client's plan.

k. On August 14, 2023, the Respondent was terminated for cause from both Golden Rule Insurance Company and UnitedHealthcare Life Insurance Company.

l. In his response to a request for information by the Department, the Respondent confirmed he was the only agent involved in [REDACTED] application, and that the mobile phone number [REDACTED], is Respondent's phone number.

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

a. Pursuant to Utah Code §§ 31A-23a-111(5)(a) and 31A-31-106, the Commissioner may revoke an insurance license if the Commissioner finds a licensee violated any of the subsections of Utah Code §§ 31A-23a-111(5)(b) or 31A-31-103;

b. Respondent violated Utah Code § 31A-23a-105(5)(a)(ii) by committing an act that is grounds for denial, suspension, or revocation as set forth in Section 31A-23a-111;

c. Respondent violated Utah Code § 31A-23a-107(2)(a)(ii) by failing to meet the trustworthy character requirement;

d. Respondent violated Utah Code § 31A-23a-111(5)(b)(i), by being unqualified for a license under Utah Code § 31A-23a-104, 105, or 107;

e. Respondent violated Utah Code § 31A-23a-111(5)(b)(ii)(A) by violating an insurance statute as outlined herein;

f. Respondents violated Utah Code § 31A-23a-111(5)(b)(xiii), by intentionally misrepresenting the terms of an actual or proposed insurance contract, application for insurance, or life settlement;

g. 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;

h. 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; and

i. Respondent violated Utah Code § 31A-31-103(1)(a)(ii), by knowingly presenting or causing to be presented to an insurer any oral or written statement or representation knowing that the statement or representation contained false, incomplete, or misleading information concerning any fact material to an application for the issuance or renewal of an insurance policy, certificate, or contract, as part of or in support of a scheme or artifice to avoid paying the premium that an insurer charges on the basis of underwriting criteria applicable to the person.

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

DATED this 10th day of January, 2024, at Salt Lake City, Salt Lake County, Utah.

/s/ Connie Nowland
Connie Nowland, Market Conduct 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:

Harold James Rose, Jr.

[REDACTED]
[REDACTED]
[REDACTED]

and

Connie Nowland
Utah Insurance Department

[REDACTED]

DATED this 11th day of January 2024.

/s/ Jeanine Couser

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