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BEFORE THE UTAH INSURANCE COMMISSIONER

UTAH INSURANCE DEPARTMENT, Complainant, vs. JOHN J. KUNZ, Respondent.	NOTICE OF AGENCY ACTION AND ORDER Docket No. 2024-4591 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 John J. Kunz (“Respondent”) pursuant to Utah Code §§ 31A-2-201 and 63G-4-201 through -203 and 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., 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 26th 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 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 being taken against you in a court of competent 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 John J. Kunz (“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. On January 4, 2024, the Respondent applied for a Utah resident producer individual insurance license.

b. In his application, Respondent answered “No” to the criminal background question that asked, “have you ever been convicted of a felony, had a judgment withheld or deferred, or are you currently charged with committing a felony”.

c. On May 9, 1986, Respondent pled guilty to five counts of Theft by Unlawful Taking, all Third-Degree felonies. On or about August 28, 1986, a Judgment of Conviction and Order for Commitment was entered against the Respondent on all five counts. Respondent was sentenced to three years’ probation and ordered to serve 364 days in the county jail. (*See The State of New Jersey vs. John Kunz, Case # 320873B, New Jersey Superior Court, Somerset County, State of New Jersey*).

d. Under Utah Code § 31A-23a-111(5)(b)(xxv) and 18 U.S.C. § 1033(e)(2), Respondent’s conviction qualifies as a felony conviction involving dishonesty or breach of trust, requiring the

Respondent to obtain written consent from the Commissioner to engage or participate in the business of insurance.

e. Respondent failed to submit the written consent of the Commissioner to engage in the business of insurance in Utah at the time he filed his application, which disqualifies him from obtaining an insurance license in Utah.

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 been convicted of a felony involving dishonesty or breach of trust and 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. Respondent violated Utah Code § 31A-23a-111(5)(b)(xiv)(A) by being convicted of a felony;

c. 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;

d. Respondent violated Utah Code § 31A-23a-111(5)(b)(ix), by providing information in the license application that is incorrect, misleading, incomplete, or materially untrue;

e. Respondent violated Utah Code Utah Code § 31A-23a-111(5)(b)(xi) by obtaining or attempting to obtain a license through misrepresentation or fraud;

f. Respondent violated Utah Code Utah Code § 31A-23a-104(2)(b)(v), by failing to provide information in his application related to whether the Respondent has committed an act

that is ground for denial, suspension, or revocation as set forth under Utah Code §§ 31A-23a-104, 105, or 111;

g. Respondent violated Utah Code § 31A-23a-105(2)(b)(ii) by failing to report at the time of filing the license application a criminal prosecution taken against the Respondent;

h. 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;

i. Respondent violated Utah Code § 31A-23a-111(5)(b)(ii), by violating an insurance statute, a rule that is valid under Subsection 31A-2-201(3), or order that is valid under Subsection 31A-2-201(4) as outlined herein;

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

k. Respondent violated Utah Administrative Rule R.590-281-4(4)(a)(i), by 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 25th day of January 2024, 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:

John J. Kunz
[REDACTED]
[REDACTED]
[REDACTED]

and

Randy Overstreet
Utah Insurance Department
4315 S. 2700 W., Suite 2300
Taylorsville, UT 84129
[REDACTED]

DATED this 26th day of January 2024.

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