



## State of Utah

GARY R. HERBERT  
Governor

SPENCER J. COX  
Lieutenant Governor

## Insurance Department

TODD E. KISER  
Insurance Commissioner

November 9, 2017

### **PUBLIC LETTER OF ADMONITION**

STEVEN SCOTT TERRY  
UTAH AFFORDABLE HEALTH PLANS  
1240 E. 100 S., #4  
St. George, UT 84790

[steve@uahp.me](mailto:steve@uahp.me)

RE: Investigation #68998 – TERRY, Steven Scott

Dear Mr. Terry:

Based upon information contained in the Utah Insurance Department files, you are hereby issued this Public Letter of Admonition for your failure to meet the requirements set forth in the Utah Code Annotated and the Rules and Regulations of the Utah Insurance Department. This letter is the only action the Department will take in response to the following violations:

#### **31A-2-212 Miscellaneous duties.**

- (5)(c) The commissioner shall preserve state control over:
- (i) the health insurance market in the state;
  - (ii) qualified health plans offered in the state; and
  - (iii) the conduct of navigators, producers, and in-person assisters operating in the state...

#### **31A-23a-402 Unfair marketing practices -- Communication -- Unfair discrimination -- Coercion or intimidation -- Restriction on choice.**

- (1)(a)
- (i) Any of the following may not make or cause to be made any communication that contains false or misleading information, relating to an insurance product or contract, any insurer, or any licensee under this title, including information that is false or misleading because it is incomplete:
    - (A) a person who is or should be licensed under this title;
    - (B) an employee or producer of a person described in Subsection (1)(a)(i)(A); ...

#### **R590-206-4. Privacy of Consumer Financial and Health Information Rule.**

- (9) "Customer" means a consumer who has a customer relationship with a licensee.
- (10)(a) "Customer relationship" means a continuing relationship between a consumer and a licensee under which the licensee provides one or more insurance products or services to the consumer that are to be used primarily for personal, family or household purposes.

(b) Examples.

- (i) A consumer has a continuing relationship with a licensee if:
  - (A) The consumer is a current policyholder of an insurance product issued by or through the licensee; or
  - (B) The consumer obtains financial, investment or economic advisory services relating to an insurance product or service from the licensee for a fee.
- (ii) A consumer does not have a continuing relationship with a licensee if:
  - (A) The consumer applies for insurance but does not purchase the insurance;...
  - (C) The individual is no longer a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee;...
  - (F) The customer's policy is lapsed, expired, or otherwise inactive or dormant under the licensee's business practices, and the licensee has not communicated with the customer about the relationship for a period of 12 consecutive months, other than annual privacy notices, material required by law or rule, communication at the direction of a state or federal authority, or promotional materials; ...

Producers are referred to as Agents and Brokers in the Federally Facilitated Marketplace (“FFM”). Agents and Brokers are required to participate in specific training that, until recently, was only offered through the federal government. This training is focused on protecting consumer’s privacy. Agents and Brokers participate in an initial training to become registered with the FFM, and are required to recertify annually. U.C.A. 31A-1-301(94)(a) defines an agent as a “producer for the insurer”, and a broker as a “producer for the insured”.

On October 27, 2015, the Utah Insurance Department placed Arches Health Plans into receivership, and Arches was notified to cease operations. On or about October 29, 2015, a representative with Arches Health Plans transmitted numerous emails via secure email to Steve Terry. These emails contained spreadsheets with personally identifiable information and personal identifiable health information of consumers who were not his customers. This information allowed Mr. Terry to actively market (sell, solicit, negotiate) to the consumers listed in the spreadsheets. Steve Terry violated federal and state laws and rules when he utilized the customer information provided to him by Arches.

Arches Health Plans was in violation of federal and state laws and rules when they provided their customer information contained in the spreadsheets to Steve Terry, who did not have a customer relationship with the consumer.

The Department understands that you have implemented better practices and procedures as a result of this investigation. It is imperative that you use sound judgement and ethical practices, and exhibit compliance with the Utah Insurance Code.

Based on the circumstances and time frame of what transpired, the Department has determined not to pursue formal administrative action.

Evidence of any similar activities in the future may be just cause for commencement of an administrative proceeding that may result in the imposition of sanctions or penalties against you.

This letter is public and will be posted to the Department website at <https://insurance.utah.gov>. However, this letter is not considered an administrative action and is not required to be reported to other regulatory agencies.

Any questions regarding this action should be directed to Examiner Connie S. Nowland at 801-538-3040, referencing Investigation #68998.

Sincerely,

TODD E. KISER  
INSURANCE COMMISSIONER

By:

  
Suzette D. Green-Wright  
Director, Market Conduct Division