M. GALE LEMMON #4363
Assistant Attorney General
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Attorneys for Utah Insurance Department
State Office Building, Room 3110
Salt Lake City, UT 84114
Telephone (801) 538-3872

BEFORE THE INSURANCE COMMISSIONER OF THE STATE OF UTAH

COMPLAINANT: UTAH INSURANCE DEPARTMENT **RESPONDENT:** DONALD WILLIAM BURKE 5300 Old Post Road Ogden, UT 84403-4347 License No. 89288	**MOTION AND ORDER TO SHOW CAUSE** **REVOCATION OF LICENSE** **Docket No.** 2006-121-LC Enf. Case No. 1894

MOTION FOR ORDER TO SHOW CAUSE

Comes now, M. Gale Lemmon, attorney for Complainant, and hereby moves the commissioner for an Order to Show Cause why Respondent's Utah insurance agent's license should not be revoked for failure to obey an Order of the commissioner in the above-entitled matter. In support of its motion, Complainant shows as follows:

1. Complainant instituted an informal administrative proceeding against Respondent on November 9, 2006, and on November 13, 2006, mailed the Notice Of Informal Adjudicative Proceeding and Order to Respondent at the following address:

Donald William Burke
5300 Old Post Road
Ogden, UT 84403-4347

a copy of which is attached hereto as Exhibit A.

2. Respondent did not request a hearing and the Order became final on November 28,

2006, and is not subject to agency review or appeal.

3. Respondent failed to obey the Order of the commissioner in failing to pay an administrative forfeiture in the amount of $100.00 and failed to pay an address correction fee of $35.00 assessed under Utah Administrative Code, Rule R590-102-15(7).

4. Pursuant to Utah Code Annotated § 31A-2-308, if a licensee fails to obey an order of the commissioner, he may assess forfeitures of up to $2,500.00 per violation or may suspend or revoke Respondent's license.

5. Because Respondent failed to obey the Order previously made in this matter, the commissioner should now revoke Respondent's license and order Respondent to pay an additional administrative forfeiture in an amount to be designated by the commissioner for violation of that Order.

DATED this 12th day of February, 2007.

M. GALE LEMMON, JD, MBA
Assistant Attorney General

ORDER TO SHOW CAUSE

Having considered the motion of the Complainant, and good cause otherwise appearing:

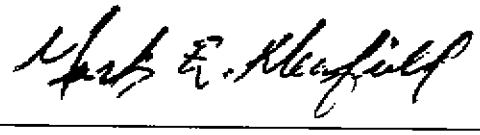
IT IS HEREBY ORDERED:

1. Respondent shall appear before the commissioner or his designated representative on Thursday, the _____ day of MAR 01 2007, 2007, at the hour of 9:00 a.m. to show cause, if any there be, why Respondent's insurance agent's license should not be immediately revoked for failure to obey an Order of the commissioner and the imposition of additional forfeitures for violation of that Order.

2. Failure to appear shall result in your default being taken and the entry of an order revoking your license and assessment of additional forfeitures.

DATED this _____ day of FEB 12 2007, 2007.

D. KENT MICHIE
INSURANCE COMMISSIONER



MARK E. KLEINFIELD, Esq.
Administrative Law Judge
Utah Insurance Department
State Office Building, Room 3110
Salt Lake City, UT 84114
Telephone (801) 538-3800

In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this proceeding should call the Utah Insurance Department at (801) 538-3800 at least three working days prior to the proceeding.

M. GALE LEMMON #4363
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BEFORE THE INSURANCE COMMISSIONER OF THE STATE OF UTAH

COMPLAINANT: UTAH INSURANCE DEPARTMENT **RESPONDENT:** Donald William Burke 5300 Old Post Rd Ogden, UT 84403-4347 License No. 89288	**NOTICE OF INFORMAL ADJUDICATIVE PROCEEDING AND ORDER** **FAILURE TO PAY FEE** DOCKET No. 2006-121 LC Enf. Case No. 1894

The Utah Insurance Department has commenced this informal adjudicative proceeding pursuant to Utah Code Annotated (U.C.A.) §§ 31A-2-101 and 63-46b-3 and Utah Administrative Code (U.A.C.) Rule R590-160. Based upon information contained in agency files or known to the Commissioner, the Commissioner makes the following:

FINDINGS OF FACT

1. Respondent is an insurance producer authorized to do the business of insurance in the State of Utah holding license number 89288.

2. Respondent was assessed an address correction fee in the amount of $35.00 pursuant to U.A.C. Rule R590-102-15(7) on February 23, 2006, that was due on March 30, 2006.

3. Respondent failed to pay the address correction fee when due.

4. Respondent was notified of the past-due fee, and was sent a third invoice on or about

Exhibit A

June 11, 2006, by certified mail. As of the date of this action, Respondent has failed to pay the fee assessed.

Having entered his Findings of Fact, the Commissioner now enters his:

CONCLUSION OF LAW

1. In failing to pay the address correction fee when due, Respondent violated U.A.C. Rule R590-102-15(7).

2. Pursuant to U.C.A. § 31A-2-308(1)(b)(i), when a licensee violates an Insurance Department Rule, the commissioner may assess an administrative forfeiture of up to $2,500.00 per violation.

Based upon the foregoing Findings of Fact and Conclusions of Law, the Commissioner now enters the following:

ORDER

IT IS HEREBY ORDERED:

1. Respondent shall pay an administrative forfeiture in the amount of $100.00. Said forfeiture shall be paid no later than ten (10) days after the date this Order becomes final.

2. Respondent shall also pay the assessed address correction fee in the amount of $35.00, in addition to the forfeiture assessed herein. Said payment shall be made no later than ten (10) days after the date this Order becomes final.

3. This Order shall become final fifteen (15) days after the date of mailing unless a written request for a hearing is received from the Respondent in the offices of the department prior to that date. A written request for a hearing shall be signed by the person making the request and shall state the basis for the relief requested.

NOTIFICATION

If you request a hearing regarding this matter, the department will be represented by M. Gale Lemmon, Assistant Attorney General, State Office Building, Room 3110, P.O. Box 146901, Salt Lake City, Utah 84114-6901, Telephone Number (801) 538-3800. Failure to request a hearing will be considered a failure to exhaust administrative remedies and will preclude any further administrative or judicial review or appeal of this matter.

You are further notified that a failure to obey an Order of the commissioner may subject you to further penalties, including forfeitures of up to $2,500.00 per violation and the suspension or revocation of your license and the filing of an action to enforce this Order in District Court, which may impose forfeitures of up to $10,000.00 per day for continued violation.

You are further notified that other jurisdictions in which you may be licensed may require that you report this action to them.

Questions regarding this Adjudicative Proceeding should be directed to Jenifer Baker, at the Utah Insurance Department (801) 537-9273.

DATED THIS _____ day of NOV 09 2006, 2006.

D. KENT MICHIE
INSURANCE COMMISSIONER

Mark E. Kleinfiled

MARK KLEINFILED, J.D.
ADMINISTRATIVE LAW JUDGE
Utah Insurance Department
State Office Building, Room 3110
Salt Lake City, Utah 84114
Telephone (801) 538-3800

CERTIFICATE OF MAILING

I do hereby certify that on this date I mailed, by regular mail, postage prepaid, a true and correct copy of the attached:

NOTICE OF INFORMAL ADJUDICATIVE
PROCEEDING & ORDER
FAILURE TO PAY FEE

To the following:

DONALD WILLIAM BURKE
5300 OLD POST ROAD
OGDEN, UT 84403-4347

DATED this 13th day of November, 2006

Linda Hardy

Linda Hardy Insurance Technician
Utah Department of Insurance
State Office Building, Room 3110
Salt Lake City, UT 84114-6901

CERTIFICATE OF MAILING

I do hereby certify that on this date I mailed, by regular mail, postage prepaid, a true and correct copy of the attached:

MOTION AND ORDER TO SHOW CAUSE

REVOCATION OF LICENSE

To the following:

DONALD WILLAIM BURK
5300 OLD POST ROAD
OGDEN, UT 84403-4347

DATED this 14 th day of February, 2007

Linda Hardy

Linda Hardy Insurance Technician
Utah Department of Insurance
State Office Building, Room 3110
Salt Lake City, UT 84114-6901
(801) 538-3813