

BEFORE THE OFFICE OF THE INSURANCE COMMISSIONER

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In the Matter of )

CRISTEN JOLYNN BOCANEGRA, )

Respondent )

Case No. 11-0256

OIC HEARING MEMORANDUM

Hearings Unit, OIC  
Patricia D. Parkinson  
Chief Hearing Officer

FACTS

Licensee Cristen Jolynn Bocanegra ("Bocanegra" or "the Licensee") has held an insurance producer license in Washington since January 2007. She was appointed by several Allstate companies in April 2008. The federal Flood Insurance Reform Act of 2004, and its implementing regulations require that in order to sell flood insurance, a producer must get specific training. On July 17, 2006, while Bocanegra was presumably preparing for the insurance producer examination, Commissioner Kreidler put out a special notice to all producers and insurers of the new requirements for selling flood insurance (Exhibit 1). To date, Bocanegra has not completed the required training for selling flood insurance.

Bocanegra began employment with Allstate agent Andrew Collup in March 2008, after having worked as a licensee at her aunt's agency since becoming licensed. In 2008, Mr. Collup, instructed Ms. Bocanegra to contact Allstate customers and offer them flood insurance under the National Flood Insurance Program ("NFIP"). At the time, Ms. Bocanegra was not appointed by Allstate nor did she have an affiliation with Mr. Collup's agency.

The only training Ms. Bocanegra received in regard to flood insurance was informal instruction from Mr. Collup and viewing the NFIP website. Ms. Bocanegra used Mr. Collup's identification and password to submit flood insurance applications, with his permission. When electronically prompted to answer whether she was certified to sell flood insurance, Bocanegra answered in the affirmative, since Allstate's software would not have let her submit the applications without certification (Exhibit 2). Ultimately, 32 flood insurance applications were submitted by Ms. Bocanegra. Each of the applications was prepared and submitted as if they had been completed by Mr. Collup, when they were done solely by Bocanegra (Exhibit 3). Bocanegra was terminated by Mr. Collup in late December 2008 for reasons unrelated to this issue. Bocanegra confirmed the facts herein by letter dated August 2, 2011 to OIC investigator Tom Talarico (Exhibit 4). Bocanegra stated in the letter that "I was simply an employee doing what my boss requested. I did not have enough experience or knowledge of insurance at that point to know what I was doing was wrong." Notwithstanding, as late as August 25, 2011, Bocanegra still did not fully appreciate that her lack of an appointment or affiliation and her selling of flood insurance without certification were serious violations of the insurance code. In an email thread with investigator Talarico, she was puzzled as to why she was being investigated (Exhibit 5).

The OIC issued a proposed Consent Order Levying a Fine of \$1,000 on November 2, 2011 for failing to have an appointment or affiliation in place before transacting insurance and for selling

flood insurance without the required training. Bocanegra declined to enter into the Consent Order and demanded a hearing on December 17, 2011.

## **AUTHORITY & ARGUMENT**

### **I. Authority**

RCW 48.17.153(1) requires that all Washington state licensed insurance agents who sell federal flood insurance policies must comply with the minimum training requirements of section 207 of the flood insurance reform act of 2004, and basic flood education as outlined at 70 C.F.R. Sec. 52117, or such later requirements as are published by the federal emergency management agency.

WAC 284-17-473 requires that individual licensees that represent a business entity or act on its behalf must be affiliated with the licensed business entity. A business entity must have at least one affiliated individual licensee in order to transact insurance business. Each business entity must provide the commissioner with the names of all individual licensees authorized to represent the business entity and act on its behalf by electronic submission and pay the applicable fees.

RCW 48.17.530(1)(b) provides that the Commissioner may levy a civil fine for violating any insurance laws, or violating any rule of the Commissioner.

RCW 48.17.560 states that after a hearing or upon stipulation by the licensee or insurance education provider, and in addition to or in lieu of suspension, revocation, or refusal to renew any such license or insurance education provider approval, the Commissioner may levy upon the licensee or insurance education provider a fine of not more than \$1,000 per violation of the insurance code.

### **II. Argument**

Bocanegra wants the OIC to believe that despite having studied for and passed the producer licensing examination and having worked for over a year as a licensee, that she was completely unaware of the special training requirements for selling flood insurance. Yet each time she submitted an application for flood insurance, she had to answer in the affirmative that she had the flood insurance certification. In the email thread with investigator Talarico, Bocanegra admits that she asked Mr. Collup about her lack of certification when he asked her to solicit these policies. He apparently told her that his certification covered her solicitation of flood insurance, as well. So, apparently she knew, but didn't know, or simply broke the law because her supervisor told her to do so.

Bocanegra submitted 32 applications for flood insurance, each of which contained a statement that the information contained in them, including the name of the submitting producer, was true to the best of her knowledge. Each application also warned that any false statement in the application, including falsely naming the submitting producer, may be punishable by fine or imprisonment under federal law. Nevertheless, Bocanegra continued to solicit and submit these applications in Mr. Collup's name. According to Bocanegra in her letter to Mr. Talarico, Mr.

Collup never even looked at these applications, never mind prepared and submitted them to Allstate.

These violations are serious enough to be a solid basis for revocation or suspension of her license. Yet the \$1,000 fine proposed in the Consent Order was composed of only \$500 for her failure to be appointed or affiliated when she was transacting insurance, and only \$500 for submitting 32 flood insurance applications without having the required federal certification. And the maximum fine would have been \$32,000 for the flood insurance violations alone. Potentially, each insurance transaction she entered while at Mr. Collup's agency, flood or non-flood, could be another \$1,000 fine since she was not affiliated or appointed. Yet, the total fine requested in the Consent Order was only the equivalent of one regulatory violation under RCW 48.17.560. The fine is therefore hardly excessive. The low fine requested already took Bocanegra's youth and inexperience into account and should not be lowered.

The Commissioner would also like the tribunal to keep in mind that while mistakes happen, falsely claiming to be certified for flood insurance and submitting 32 applications under another person's name amounts to 32 acts of deception. Integrity means sometimes having to stand up for the right thing, the legal thing, even when the boss asks you to do otherwise. The Washington legislature states, in the first chapter of the Insurance Code that,

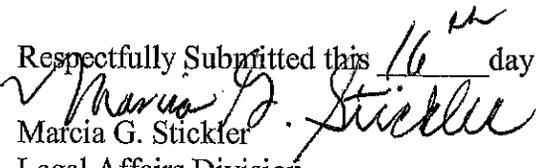
"The business of insurance is one affected by the public interest, requiring that all persons be actuated by good faith, abstain from deception, and practice honesty and equity in all insurance matters. Upon the insurer, the insured, their providers, and their representatives rests the duty of preserving inviolate the integrity of insurance." RCW 48.01.030.

The fine should stand at \$1,000.

### III. Exhibits to be Presented

- Exhibit 1 Notice dated July 17, 2006 from Commissioner Kreidler re New Flood Insurance Requirements (1 pg.)
- Exhibit 2 Memorandum of Interview with Kim Barger, Allstate Ins. Co. (1 pg.)
- Exhibit 3 Sample Application for Flood Insurance sent by Respondent (1 Pg.)
- Exhibit 4 Letter to Tom Talarico date August 2, 2011 from Respondent (1 pg.)
- Exhibit 5 Email thread from August 25, 2011 and August 26, 2011 between Respondent and Tom Talarico (2 pgs)

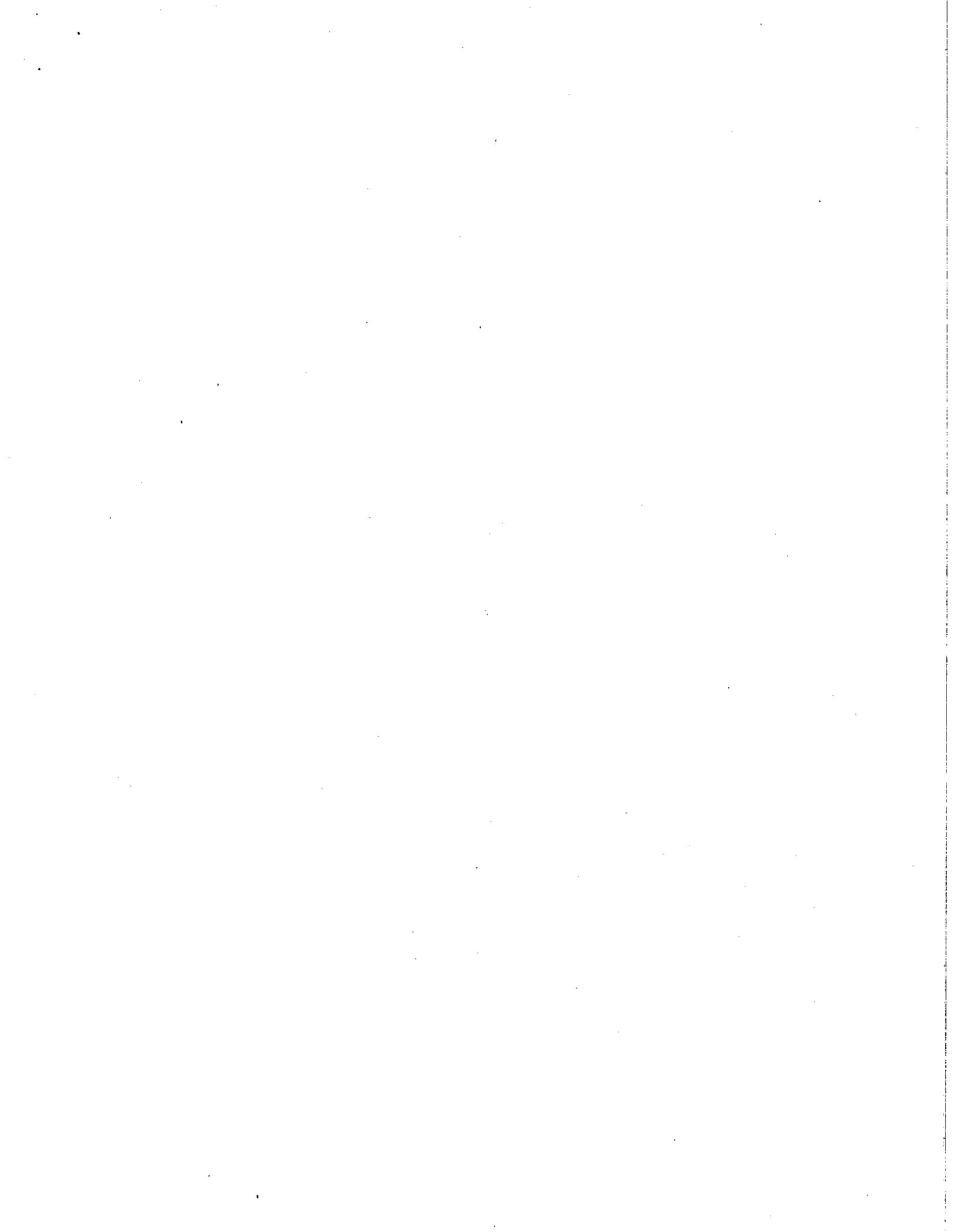
Respectfully Submitted this 16<sup>th</sup> day of January, 2012.

  
Marcia G. Stickler

Legal Affairs Division

Office of the Insurance Commissioner

(360) 725-7048 or [MarciaS@oic.wa.gov](mailto:MarciaS@oic.wa.gov)



State of Washington  
Office of  
Insurance Commissioner

**TO:** All Insurers and Insurance Producers with Property or Casualty line of Authority

**FROM:** Mike Kreidler, Insurance Commissioner

**DATE:** July 17, 2006

**RE:** Federal Emergency Management Agency (FEMA) Flood Insurance Training Requirements for Insurance Producers Selling Through the National Flood Insurance Program (NFIP).

The purpose of this Bulletin is to advise insurers and insurance producers of training requirements for selling flood insurance through the National Flood Insurance Program NFIP) and to recommend to insurance producers that they advise homeowners of the availability of flood insurance.

Federally-backed flood insurance is available through NFIP, which is administered by the Federal Emergency Management Agency (FEMA). FEMA has implemented the minimum flood insurance training requirements for insurance producers, as set forth in Section 207 of the Flood Insurance Reform Act of 2004, Pub. L. 108-264, (the "Act"). Under the Act, FEMA, in cooperation with state insurance regulators, has developed flood insurance training requirements which are designed to ensure that insurance producers selling flood insurance under NFIP are properly trained and educated about the program.

Under these requirements, Washington state licensed insurance agents who sell federal flood insurance policies must comply with the minimum training requirements of section 207 of the flood insurance reform act of 2004 and basic flood education as outlined at 70 C.F.R. Sec. 52117, or such later requirements as are published by the federal emergency management agency. Under these requirements a one-time, minimum three-hour, course must be completed.

Licensed insurers shall demonstrate to the commissioner, upon request, that their licensed and appointed agents who sell federal flood insurance policies have complied with the minimum federal flood insurance training requirements.

Education Providers must submit the NFIP course for continuing education approval. Questions - send e-mail to [sued@oic.wa.gov](mailto:sued@oic.wa.gov). The approval request form is available at [www.insurance.wa.gov/pblications/licensing/Continuing Education Course Approval Request.doc](http://www.insurance.wa.gov/pblications/licensing/Continuing_Education_Course_Approval_Request.doc)

Insurance producers can get more information about NFIP by visiting FEMA's NFIP website at [www.fema.gov/business/nfip](http://www.fema.gov/business/nfip).

State of Washington  
Office of the Insurance Commissioner  
Legal Affairs Division



## MEMORANDUM OF INTERVIEW

DATE: June 2, 2011

Case number: 1044733

Name and Address of person Interviewed:

Kim Barger, HR Manager  
Allstate Insurance Company  
18911 North Creek Parkway,  
Suite 301  
Bothell, WA 98011  
425-489-5565

Investigator Conducting Interview: Thomas H. Talarico

Others present during interview: No one

Location of Interview: (in person/by phone) By Phone

Interview recorded: Yes/No

Declaration Prepared: Yes/No

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I spoke with Kim Barger/HR Manager at Allstate and was told that Mr. Collup had completed the training to sell the flood insurance. However, Ms. Bocanegra did not, and it was his responsibility to see that she had. Also, she said that Mr. Collup was terminated for allowing and/or instructing a licensed staff person to sell the flood insurance prior to obtaining the required certification. She also said that they could not prove the allegation that he had paid premiums for consumers/clients or that he had sent gift cards to off-set the premium or a portion of the premium for the flood policies.

According to Ms. Barger, Ms. Bocanegra signed onto the system and just answered the certification question yes, which allowed her to obtain quotes, etc. The information indicated that she had quoted and/or sold about 32 flood policies without the required certification.

EXHIBIT 2

**Allstate Insurance Company**

**PO Box 2964 Shawnee Mission, KS 66201-1364**

**FLOOD INSURANCE POLICY REROLLED RISK POLICY APPLICATION**

- New Business
- Rollover
- Renewal

Current Policy Number:  
**4800974091**

<b>Direct Bill Instructions</b> <input checked="" type="checkbox"/> Bill Insured <input type="checkbox"/> Bill First Mortgagee <input type="checkbox"/> Bill Second Mortgagee <input type="checkbox"/> Bill Disaster Agency <input type="checkbox"/> Bill Loss Payee <input type="checkbox"/> Bill Agency <input type="checkbox"/> Bill Other	Policy Period is from <b>01/15/2009</b> to <b>01/15/2010</b> 12:01 a.m. Local Time at the Insured Property Location Waiting Period: <input checked="" type="checkbox"/> Standard 30 Day Initial purchase of flood insurance related to: <input type="checkbox"/> Loan - No Waiting <input type="checkbox"/> Map Rev. (Zone change from Non-SFHA to SFHA) - One Day.	Calculated Eff Date: <b>01/15/2009</b> App Submission Date: <b>12/16/2008</b> Receipt Date: <b>12/16/2008</b>
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Insurance Agent/Broker: <b>COLLUP, ANDREW</b> Agency ID: <b>042809</b> 6920 220TH ST #302 MOUNTLAKE TERRA, WA 98043  TEL: 425-771-7148	Name and Mailing Address of Insured: <b>Tatiana Sikora</b> 
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Is insurance required for disaster assistance?  Yes  No  
 Case Number: \_\_\_\_\_

If yes, check the government agency:  SBA  FEMA  FHA  HHS  
 Other:

Name and Address of First Mortgagee:	
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Is insured property location same as insured's mailing address? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No - If No, enter property address. If rural, describe property location (do not use P.O. Box).	Community No./Panel No. and Suffix for Location of Property Insured: <b>530071 0327 F</b> Flood Insurance Rate Map Zone: <b>X</b> Flood Zone Certificate ID: <b>0812445020</b> Information Source: <input type="checkbox"/> Flood Map <input checked="" type="checkbox"/> Community Official <input type="checkbox"/> Mortgagee <input type="checkbox"/> Other:
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Name of County/Parish: Located in an unincorporated area of the county? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Building occupancy: <input checked="" type="checkbox"/> Single Family <input type="checkbox"/> 2-4 Family <input type="checkbox"/> Other Residential <input type="checkbox"/> Non-Residential (Including Hotel/Motel)	Number of floors in entire building (include basement or enclosed area, if any), or building type: <input checked="" type="checkbox"/> 1 Floor <input type="checkbox"/> 2 Floors <input type="checkbox"/> 3 or more <input type="checkbox"/> Split Level <input type="checkbox"/> Manufactured (Mobile) Home on Foundation	Is building insured's principal residence? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Is building Condo Unit? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Is building Townhouse/Rowhouse Condo Unit? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Contents Location: <input type="checkbox"/> Basement/enclosure only <input type="checkbox"/> Basement/enclosure and above <input checked="" type="checkbox"/> Lowest floor only above ground level <input type="checkbox"/> Lowest floor only above ground level and above <input type="checkbox"/> Above ground level more than one full floor <input type="checkbox"/> Manufactured (Mobile) Home
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Failure to answer the following questions properly could result in avoidance of the contract The following conditions should be used to determine a building's eligibility for a PRP based on its flood loss history. a) Do any of these conditions, arising from one or more occurrences, exist? 2 loss payments, each more than \$1,000: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No 3 or more loss payments, regardless of amount: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No 2 federal disaster relief payments, each more than \$1,000: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No 3 federal disaster relief payments, regardless of amount: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No 1 flood insurance claim payment and 1 flood disaster relief payment (including loans and grants), each more than \$1,000: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No b) Is the building located in a Special Flood Hazard Area on a Flood Hazard Boundary Map, or on a Flood Insurance Rate Map Zone A, AE, A1-A30, AO, AH, A99, AR, AR Dual Zones (AR/AE, AR/AH, AR/AO, AR/A1-A30, AR/A) V, VE, V1-V30? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td rowspan="2" style="text-align: center; vertical-align: middle;"><b>PREMIUM</b></td> <td style="text-align: center;">Building/Contents</td> <td colspan="2" style="text-align: center;">Premium Including Federal Policy Fee and ICC Premium</td> </tr> <tr> <td style="text-align: center;"><b>0/8,000</b></td> <td style="text-align: center;">With Basement/Enclosure</td> <td style="text-align: center;">W/O Basement/Enclosure</td> </tr> <tr> <td></td> <td></td> <td style="text-align: center;"><b>58</b></td> <td style="text-align: center;"><b>58.00</b></td> </tr> </table> Payment Type: <input type="checkbox"/> Check <input checked="" type="checkbox"/> Credit Card <input type="checkbox"/> ACH Total Paid: <b>\$58</b>	<b>PREMIUM</b>	Building/Contents	Premium Including Federal Policy Fee and ICC Premium		<b>0/8,000</b>	With Basement/Enclosure	W/O Basement/Enclosure			<b>58</b>	<b>58.00</b>
<b>PREMIUM</b>	Building/Contents		Premium Including Federal Policy Fee and ICC Premium									
	<b>0/8,000</b>	With Basement/Enclosure	W/O Basement/Enclosure									
		<b>58</b>	<b>58.00</b>									

**Insurance is available under this application only if the answers to these questions are No.**  
 (One Building per Policy - Blanket Coverage Not Permitted)

THE ABOVE STATEMENTS ARE CORRECT TO THE BEST OF MY KNOWLEDGE. I UNDERSTAND THAT ANY FALSE STATEMENTS MAY BE PUNISHABLE BY FINE OR IMPRISONMENT UNDER APPLICABLE FEDERAL LAW.

Agent/Broker Signature	Date (mm/dd/ccyy)	Insured Signature (Optional)	Date (mm/dd/ccyy)
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8/2/2011

Dear Tom Talarico,

I am writing this letter to you in reference to the open investigation regarding the sale of flood policies without obtaining the required certification during my employment for Andrew Collup.

You have asked me several questions, and unfortunately due to the length of time that has passed, I honestly do not have all of the answers for you, but I will answer the questions to the best of my ability. You have also asked for any copies of any documents I may have in reference to the flood policies but again, due to the time past I do not have any written information to provide you.

1. I began working in the insurance industry 1/2007. I was employed by Sandy Tebow (Allstate) as a licensed customer service representative.
2. I began selling flood insurance for Andrew in 2008. I do not have any specific dates.
3. There was no specific training provide, Andrew walked through the website with me, wrote down some notes for my reference and gave me a list of customers to call and quote.
4. I contacted customers with property insurance within out book of business
5. I was told to tell the customers about a basic flood policy with \$8K in contents coverage for \$58/yr and that we would send them a gift card as an incentive for purchasing ( I cannot remember the amount \$25 or \$50 I believe)
6. I do not have any scripts or notes that Andrew provided me.
7. I went to the Allstate flood website and logged in with Andrew information.
8. I do not recall the login information I used:
9. I do not believe I signed the applications for flood insurance. To the best of my knowledge it was completed online.
10. No I did not give the applications to Andrew for review, he never asked me to.
11. I was never spoken to about flood insurance by anyone from Allstate. Just Andrew Collup, briefly.
12. I did not file ANY complaints about Andrew Collup. I was contacted by an investigator form Allstate several months later. I gave her a statement.
13. I do still work for Allstate.

In conclusion, I want it to be known that during my employment with Andrew Collup I was simply an employee doing what my boss requested. I did not have enough experience or knowledge of insurance at that point to know what I was doing was wrong. Please feel free to contact me with any other questions.

Thank You,

Cristen Bocanegra

CASE# 0151413

EXHIBIT 4

425.562.0055 PHONE  
425.562.9060 FAX

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**From:** Talarico, Tom (OIC) [TomTal@OIC.WA.GOV]  
**Sent:** Friday, August 26, 2011 6:36 AM  
**To:** STEVENS, CRISTEN  
**Cc:** Talarico, Tom (OIC)  
**Subject:** RE:

The case was opened because you failed to obtain flood insurance certification, which to our understanding you have still not obtained. Also, if you are submitting business and using the name of Stevens, this could also be a violation as Stevens is not a licensed.. Tom Talarico

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**From:** STEVENS, CRISTEN [mailto:CRISTENSTEVENS@allstate.com]  
**Sent:** Thursday, August 25, 2011 10:53 AM  
**To:** Talarico, Tom (OIC)  
**Subject:** RE:

Tom,

I currently use Stevens and when I was with Andrew I used Bocanegra. I am confused, I thought this investigation pertained to Andrew and my role in his office so I am confused as to what my current position has to do with Andrew's office. Can please inform me of what exactly I am being investigated for? I am happy to talk with you, as I have NOTHING to hide. This is has me very concerned, because as I told you before I only did what my boss told me to do, and now I am being investigated? Please explain in detail what is going on.

Thank You,

## ***Cristen Stevens***

Personal Accounts Manager  
Allstate Insurance  
[Cristenstevens@Allstate.com](mailto:Cristenstevens@Allstate.com)  
425.562.0055 PHONE  
425.562.9060 FAX

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**From:** Talarico, Tom (OIC) [TomTal@OIC.WA.GOV]  
**Sent:** Wednesday, August 24, 2011 12:04 PM  
**To:** STEVENS, CRISTEN  
**Subject:** RE:

Cristen, this investigation involves you, not Andrew, as his case has been referred to a staff attorney. The issue was the writing of the business while you were with him.

You've indicated that you are submitting business to Allstate. Under which name? tom

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**From:** STEVENS, CRISTEN [mailto:CRISTENSTEVENS@allstate.com]  
**Sent:** Wednesday, August 24, 2011 10:59 AM

**Talarico, Tom (OIC)**

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**From:** Talarico, Tom (OIC)  
**Sent:** Friday, August 26, 2011 1:29 PM  
**To:** 'STEVENS, CRISTEN'  
**Subject:** RE:

Ms. Bocanegra:

I understand your concerns and I am not out to get you. An OIC staff attorney raised issues regarding the Collup investigation and the role that you played in transacting the flood insurance business. I understand that you worked for Mr. Collup and did as you were instructed.

As it concerns use of Stevens, when submitting business to Allstate or any other company, you cannot, as Stevens is not a licensed name; therefore, be sure to use Bocanegra. When the divorce is final, you can submit a name change and supporting documents to the OIC Licensing Unit to change the license from Bocanegra to Stevens and retain the same agent/producer number.

By the way, did either of the letters that you sent me come back to you? I have not received them at the P. O. Box

tom

Thomas H. Talarico, Investigator  
Legal Affairs Division  
P. O. Box 2663  
Spokane, WA 99220  
(509) 568-3043, Direct  
(509) 568-3046, Fax  
tomtal@oic.wa.gov Email

**Spokane Insurance Commissioner**

AUG 26 2011

**Investigations & Enforcement**

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**From:** STEVENS, CRISTEN [mailto:CRISTENSTEVENS@allstate.com]  
**Sent:** Friday, August 26, 2011 10:38 AM  
**To:** Talarico, Tom (OIC)  
**Subject:** RE:

I have not obtained it. I do not write flood insurance, as you can imagine, I am staying away from this. I am in the process of getting a divorce and legally changing my name back to Stevens. It is my maiden name and I assumed that its all tied together. If its a problem I will use Bocanegra until the papers are final. I am not trying to be any trouble but it seems like you are out to get me because of something I was told to do by my employer 3+ years ago. I was not aware of the process for flood policies and was taught by him. When I asked him about the certification, he said I was covered under him as he was the agency owner. This is turning into a much larger issue and frankly I am concerned about losing my licence over this.

***Cristen Stevens***

Personal Accounts Manager  
Allstate Insurance  
[Cristenstevens@Allstate.com](mailto:Cristenstevens@Allstate.com)

EXHIBIT 5, p. 2