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OFFICE OF
INSURANCE COMMISSIONER

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Hearings Unit, DIC
Patricia D. Petersen
Chief Hearing Officer

In the Matter of

STEVEN H. MINNICH

Licensee.

NO. 13-0110

NOTICE OF REQUEST FOR
HEARING FOR IMPOSITION OF
FINES

TO:

Name: Steven H. Minnich
Address: c/o Attorney Mike Church
720 West Boone Stc. 200
Spokane, WA 99201

The Washington state Office of the Insurance Commissioner ("OIC") has requested that a hearing be set in this matter by the OIC's Hearings Unit.

A. BASIS

1. Steven H. Minnich has been a Washington Resident Insurance Producer since January 11, 2005.
2. Charles D. Oliver is a licensed insurance producer in several states, and lives in Florida. He was licensed in Washington from July 2009 to February 2011. Mr. Oliver was not licensed in Washington at the time of the events set out below.
3. OIC received a complaint from consumer FLR, who alleges that she went to Mr. Minnich seeking financial planning for retirement. She met in person with Mr. Minnich several times. During several of those meetings, they had telephone conference calls and webinars with Mr. Oliver. During those calls and webinars, Mr. Minnich and Mr. Oliver jointly solicited FLR to purchase insurance.
4. As part of what they called the "Missed Fortune" or the "Max Funded" concept, Mr. Minnich and Mr. Oliver sold FLR one life insurance policy with Life Insurance Company of the

Southwest ("LSW") with a death benefit of \$1,000,000 and a second policy with OM Financial Life Insurance Company ("OM Financial") with a death benefit of \$1,093,027. They also sold her an annuity with a premium of \$100,500.

5. Mr. Minnich and Mr. Oliver told FLR that, if she did not touch the life policies for ten years after that, she would be able to borrow \$75,000 per year against the life insurance death benefit to use as retirement income, without paying any taxes and with minimal or no interest. They told her she would be able to do that without paying any further premiums on the policies, and for as long as she may live.

6. Although there is a theoretical possibility that scenario could occur, it is more likely that the plan would not have performed as represented to her by Minnich and Oliver, and would leave her in a worse financial state than if she had left her money where it was.

7. FLR states that neither Mr. Minnich nor Mr. Oliver informed her of this, and that she would not have agreed had she understood the risks.

8. Mr. Minnich and Mr. Oliver recommended that FLR purchase over two million dollars in life insurance despite the agents' knowledge that she was unmarried and has no children.

9. Mr. Minnich and Mr. Oliver instructed FLR to pay \$110,000 per year in premiums on the life insurance policies for the first 5 years in order to create cash value in the policies that would allow her to borrow the retirement income they promised her through their "maximum funded" concept. FLR told Mr. Minnich and Mr. Oliver that she had no way to pay such premiums. In fact, Mr. Minnich and Mr. Oliver told FLR that they would assist her to secure financing for the premiums in year three.

10. Mr. Minnich, Mr. Oliver, and a third insurance producer named Kirk Rossetter searched for an annuity with terms they believed were more favorable than with annuities approved for sale in Washington. They intended that FLR would sign the applications in whatever state approved their chosen annuity. The agents knew that they were looking for an annuity not approved in Washington and that FLR was a Washington resident.

11. Mr. Minnich sold FLR the life insurance policy from LSW. He received 100% of the commission on that sale. He was duly licensed and appointed with LSW at the time of this transaction, which was fully and completely transacted in Washington state.

12. Mr. Oliver asked Mr. Minnich to meet with FLR in Idaho to obtain her signatures on the applications for the OM Financial policy and the LSW annuity. They chose Idaho for two reasons. First, the LSW annuity was not approved for sale in Washington. Second, Mr. Oliver had done all the work on the OM Financial policy, but he was not licensed in Washington. He was, however, licensed in Idaho.

13. The LSW annuity replaced one of 3 annuities FLR owned.

14. The replacement form required for these sales under WAC 284-23-440 and WAC 284-23-485 is incomplete. There are no answers to any of the questions designed to ensure that FLR was made aware of the consequences of replacement. The boxes are simply blank.

15. Mr. Oliver's communications with FLR and Mr. Minnich regarding these sales were made while Mr. Oliver was outside Washington and FLR was in Washington. Mr. Oliver prepared the illustrations, quotes, applications and all paperwork on the OM Financial life insurance policy and the LSW annuity in Florida, intending FLR to purchase them in Idaho.

16. Mr. Oliver sent the LSW annuity and OM Financial insurance policy applications to Mr. Minnich. Mr. Minnich was to obtain FLR's signature because Mr. Oliver was in Florida and Mr. Minnich and FLR were in Washington. Mr. Oliver was to receive 95% of the commission on those products, while Mr. Minnich received the other 5%.

17. Mr. Minnich was aware that Mr. Oliver was not a licensed insurance producer in Washington.

18. Every aspect of these sales occurred in Washington other than the actual signing of the applications for the LSW annuity and the OM Financial life insurance policy. Thus, all three sales are subject to Washington law under RCW 48.01.020.

19. Mr. Minnich proposed three insurance transactions, each of which constituted a replacement under WAC 284-23-410, by submitting applications for life insurance (including an annuity) for which he knew or should have known that FLR would be surrendering one policy of life insurance and borrowing against another.

B. PENALTIES AND RELIEF REQUESTED

The OIC seeks to impose a fine against Steven H. Minnich in the total amount of \$5,000 for the

following violations:

1. By using or delivering policy forms that have not been filed and approved by the commissioner, Mr. Minnich violated RCW 48.18.100(1).
2. By accepting business from a person who is required to be licensed under RCW Title 48, but is not, Mr. Minnich violated RCW 48.17.530(1)(l).
3. By using or describing non-guaranteed elements in a manner that is misleading or has the capacity or tendency to mislead, Mr. Minnich violated RCW 48.23A.030(2)(b) and (g). Under RCW 48.23A.090 and WAC 284-23-250, these violations also constitute violations of RCW 48.30.010(1). These actions also constitute a violation of WAC 284-23-240(4).
4. Mr. Minnich also violated RCW 48.30.010 by engaging in unfair or deceptive practices in the conduct of the business of insurance by inducing FLR, a Washington resident, to cross state borders in order to sell her an annuity product he knew was not approved in Washington.
5. By knowingly making, publishing, or disseminating false, deceptive or misleading representations in the conduct of the business of insurance, Mr. Minnich violated RCW 48.30.040.
6. By knowingly making, issuing or circulating, or causing to be made, issued or circulated misrepresentations of the terms of a policy or the benefits or advantages promised thereby, Mr. Minnich violated RCW 48.30.090.
7. By failing to complete the required replacement form related to these transactions (including a list properly and fully identifying all existing life insurance and/or annuity contracts to be replaced), explain it and provide a copy to FLR, and submit it to the insurers, Mr. Minnich violated WAC 284-23-440.

C. NOTICE OF HEARING

1. The Insurance Commissioner will convene a hearing at a date, location, and time to be determined, to consider the allegations above and the sanctions to be imposed upon Steven H. Minnich pursuant to RCW 48.17.063, RCW 48.17.530, and RCW 48.17.560. At the hearing, the OIC will present evidence showing that Mr. Minnich violated the Insurance Code as summarized above and that the sanctions requested above are authorized under the law. Mr. Minnich may

cross-examine OIC witnesses and present any defenses, evidence, or arguments he may have in opposition.

2. The Insurance Commissioner's staff will participate in this matter through its designated representative, Andrea L. Philhower, P.O. Box 40255, Olympia, Washington, 98504-0255, AndreaP@oic.wa.gov, (360) 725-7063. The Insurance Commissioner has been informed that Mr. Minnich is represented by attorney Mike Church of the Stamper Rubens law firm. Pursuant to RCW 34.05.428 and WAC 10-08-083, OIC requests that, should this information be or become inaccurate, the Company provide the Chief Presiding Officer and Ms. Philhower with written notification of the person who will appear at all conferences and hearings, including the person's name, address, e-mail address, and telephone number.

Dated: October 28, 2013

Andrea L. Philhower

Signature

Staff Attorney - OIC

Title