

FILED

FEB - 5, 2014

Hearings Unit, OIC  
Patricia D. Petersen  
Chief Hearing Officer

STATE OF WASHINGTON  
OFFICE OF THE INSURANCE COMMISSIONER

In the Matter of  
CHARLES D. OLIVER, AMERICAN  
EQUITY ADVISORY GROUP, LLC, and  
"THE CHUCK OLIVER TEAM,"  
Respondents.

Docket Nos. 13-0108; 13-0110  
(consolidated)

RESPONDENT STEVEN H.  
MINNICH'S MOTION TO DISMISS  
OR FOR A CONTINUANCE

In the Matter of  
STEVEN H. MINNICH,  
Respondent.

I. INTRODUCTION

This proceeding is barred as to Respondent Steven H. Minnich under the two-year statute of limitations. The Office of Insurance Commissioner (OIC) issued its notice of request for hearing for imposition of fines more than two years after receiving the consumer complaint that led to this proceeding. In the alternative, in the event that the proceeding is not dismissed, Mr. Minnich requests that the hearing be continued at least 60 days to allow adequate time to prepare.

II. STATEMENT OF FACTS

On July 6, 2011, the OIC received a complaint regarding Mr. Minnich by a consumer, an accredited investor who purchased life insurance policies sold by Respondents. *Anderson Decl.*, Exh. A. On April 3, 2013, the OIC sent Mr. Minnich a proposed consent order levying a fine. *Anderson Decl.*, Exh. B. The OIC asked that Mr. Minnich agree to having violated the insurance code and to pay a fine; no agreement was reached. On October 29, 2013, more

RESPONDENT STEVEN H. MINNICH'S  
MOTION TO DISMISS OR FOR A  
CONTINUANCE - 1



Law Offices  
A Professional Service Corporation

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Seattle, WA 98104-7010  
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1 than two years after the consumer complaint, the OIC filed a notice of request for hearing for  
2 imposition of fines. *Anderson Decl.*, Exh. C.

3 Mr. Minnich was represented by counsel when the OIC filed the notice of request for  
4 hearing. On the OIC's motion, the proceeding was consolidated with one already pending  
5 against Respondents Charles D. Oliver, *et al.*, and a hearing was scheduled for March 4,  
6 2014. (This required a continuance of the hearing date that had been set in the proceeding  
7 regarding Mr. Oliver.) Mr. Minnich's counsel withdrew from representation on January 7,  
8 2014. Undersigned counsel appeared for Mr. Minnich on January 27, 2014. The OIC has  
9 represented to undersigned counsel that it does not oppose a 60-day continuance of the  
10 hearing date. *Anderson Decl.*

### 11 III. EVIDENCE RELIED UPON

12 This motion is based on the pleadings and records in the file for this proceeding and  
13 the Declaration of Jason W. Anderson dated February 4, 2014.

### 14 IV. AUTHORITY AND ARGUMENT

#### 15 A. The Proceeding against Mr. Minnich Is Barred by the Statute of Limitations.

16 Under RCW 4.16.100(2), "[a]n action upon a statute for a forfeiture or penalty to the  
17 state" must be commenced within two years. *See U.S. Oil & Refining Co. v. State*, 96 Wn.2d  
18 85, 87-88, 633 P.2d 1329 (1981). Under the discovery rule, the limitation period begins to  
19 run when the state, exercising reasonable diligence, should have discovered the alleged  
20 violations for which it seeks imposition of a penalty. *U.S. Oil*, 96 Wn.2d at 93-94. The OIC  
21 received notice of the facts pertaining to the violations alleged in this proceeding no later than  
22 July 2011.

23 The limitation period is tolled "when a complaint is filed or a summons is served." *Id.*  
24 at 91. In *U.S. Oil*, the Department of Ecology (DOE) imposed a penalty by issuing a notice  
25 of penalties. 96 Wn.2d at 87. The DOE was authorized to impose the penalty without a  
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RESPONDENT STEVEN H. MINNICH'S  
MOTION TO DISMISS OR FOR A  
CONTINUANCE - 2

MIN012 0001 pb0330053t

**CARNEY  
RADLEY  
SPELLMAN**

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Seattle, WA 98104-7010  
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F (206) 467-8215

1 hearing; however, the respondent exercised its right to demand a hearing on the notice and  
2 then pursued appeals. *See id.* The Supreme Court held that the two-year statute of limitations  
3 applied. *Id.* at 87-88. The court further held that the notice of penalties was, in effect, a  
4 complaint because “it does as a practical matter *commence the action* and apprise the  
5 penalized party of it.” *Id.* at 91-92 (emphasis added). The court therefore held that the  
6 issuance of the notice of penalties tolled the statute of limitations. *Id.* at 91-92.

7 Although the OIC proposed a stipulation (consent order) to Mr. Minnich in April  
8 2013, that proposal did not commence an action against Mr. Minnich. The OIC could not  
9 impose a fine simply by proposing a stipulation, as the OIC may impose a fine only “[a]fter  
10 hearing or upon stipulation by the licensee.” RCW 48.17.560. Furthermore, the proposed  
11 stipulation did not include a request for hearing and was not filed with the hearing officer.  
12 The OIC commenced this proceeding as to Mr. Minnich when it issued the notice of request  
13 for hearing for imposition of fines in October 2013, more than two years after it received the  
14 consumer complaint. This proceeding is therefore barred under the two-year statute of  
15 limitations.

16 **B. In the Alternative, Mr. Minnich Seeks a Continuance of the Hearing.**

17 In the event that the proceeding against Mr. Minnich is not dismissed, he seeks a  
18 continuance of at least 60 days. His undersigned counsel only recently appeared in this  
19 matter, and the hearing is less than 30 days from this filing. Even if Mr. Minnich had not  
20 recently obtained new representation, more time would be needed to prepare. *See Anderson*  
21 *Decl.* For instance, the OIC has stated that it intends to present expert testimony on a key  
22 issue at the hearing, yet no expert has been identified, meaning there has been no opportunity  
23 for discovery. *Id.*

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RESPONDENT STEVEN H. MINNICH'S  
MOTION TO DISMISS OR FOR A  
CONTINUANCE – 3

MIN012 0001 pb0330053t



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V. CONCLUSION

Mr. Minnich requests that this proceeding be dismissed based on the statute of limitations or, in the event that the proceeding is not dismissed, that the hearing be continued at least 60 days.

DATED this 4th day of February, 2014.

CARNEY BADLEY SPELLMAN, P.S.

By:   
Jason W. Anderson, WSBA No. 30512  
Attorneys for Respondent Steven H. Minnich

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**DECLARATION OF SERVICE**

I, Patti Saiden, under oath hereby declare as follows: I am an employee at Carney Badley Spellman, P.S., over the age of 18 years, and not a party to nor interested in this action. I caused to be delivered in the manner indicated a copy of the foregoing document on the following parties at the last known address as stated:

Judge Patricia Petersen – <b>ORIGINAL</b> Chief Hearing Officer Office of the Insurance Commissioner 5000 Capitol Boulevard Tumwater, WA 98501 <a href="mailto:kellyc@oic.wa.gov">kellyc@oic.wa.gov</a> <b>via electronic mail &amp; messenger</b>	Ms. Andrea Philhower, Staff Attorney Legal Affairs Division Office of Insurance Commissioner P.O. Box 40255 Olympia, WA 98504-0255 <a href="mailto:andreap@oic.wa.gov">andreap@oic.wa.gov</a> <b>via electronic &amp; U.S. Mail</b>
Jerry Kindinger, Esq. Gulliver Swenson, Esq. Ryan, Swanson & Cleveland, PLLC 1201 Third Avenue, Suite 340 Seattle, WA 98101-3034 <a href="mailto:kindinger@ryanaw.com">kindinger@ryanaw.com</a> <a href="mailto:Swenson@ryanlaw.com">Swenson@ryanlaw.com</a> <b>via electronic &amp; U.S. mail</b>	

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

DATED this 4th day of February, 2014.

  
Patti Saiden, Legal Assistant

RESPONDENT STEVEN H. MINNICH'S  
MOTION TO DISMISS OR FOR A  
CONTINUANCE – 5

**CARNEY  
BADLEY  
SPELLMAN**

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In the Matter of

CHARLES D. OLIVER, AMERICAN  
EQUITY ADVISORY GROUP, LLC, and  
"THE CHUCK OLIVER TEAM,"

Respondents.

Docket Nos. 13-0108; 13-0110  
(consolidated)

DECLARATION OF JASON W.  
ANDERSON IN SUPPORT OF  
RESPONDENT STEVEN H.  
MINNICH'S MOTION TO DISMISS  
OR FOR A CONTINUANCE

In the Matter of

STEVEN H. MINNICH,

Respondent.

JASON W. ANDERSON declares:

1. Attached are true and correct copies of the following documents provided by the Office of the Insurance Commissioner (OIC):

Exhibit A: Consumer complaint against Steven H. Minnich (dated March 17, 2011, but appears to have been received by the OIC on July 6, 2011);

Exhibit B: Proposed consent order levying a fine sent to former counsel for Mr. Minnich (dated April 3, 2013);

Exhibit C: Notice of request for hearing for imposition of fines issued to Mr. Minnich (filed October 29, 2013).

2. I was contacted by Mr. Minnich regarding potential representation in this matter in January 2014. I was hired on January 21 and filed a notice of appearance on January 27.

3. Andrea Philhower is the OIC staff attorney handling this matter. I spoke with Ms. Philhower on January 31, 2014. I requested the OIC's position regarding a continuance

DECLARATION OF JASON W. ANDERSON IN  
SUPPORT OF MOTION TO DISMISS OR FOR A  
CONTINUANCE - 1

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1 of at least 60 days. Ms. Philhower stated that the OIC would not join a request for such a  
2 continuance, but neither would it oppose the request.

3 4. I briefly discussed with Ms. Philhower the evidence that the OIC intends to  
4 present at the hearing. Ms. Philhower mentioned that the OIC intends to present expert  
5 testimony regarding the suitability of the products sold by the Respondents. I asked whether  
6 the OIC had identified an expert to provide the testimony, and Ms. Philhower stated that it  
7 had not.

8 5. It is not reasonable to anticipate that I can get fully acquainted with the facts in  
9 this matter and prepare for a hearing on March 4, 2014, especially given multiple obligations  
10 and deadlines in other matters. Moreover, to prepare adequately for a hearing in this matter  
11 on behalf of my client, I would need an opportunity for discovery, including on the expert  
12 testimony that the OIC intends to present.

13 I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE  
14 STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT TO  
THE BEST OF MY KNOWLEDGE.

15 DATED this 4th day of February, 2014.

16   
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18 Jason W. Anderson

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I, Patti Saiden, under oath hereby declare as follows: I am an employee at Carney Badley Spellman, P.S., over the age of 18 years, and not a party to nor interested in this action. I caused to be delivered in the manner indicated a copy of the foregoing document on the following parties at the last known address as stated:

Judge Patricia Petersen – <b>ORIGINAL</b> Chief Hearing Officer Office of the Insurance Commissioner 5000 Capitol Boulevard Tumwater, WA 98501 <u>kellyc@oic.wa.gov</u> <b>via electronic &amp; Messenger</b>	Ms. Andrea Philhower, Staff Attorney Legal Affairs Division Office of Insurance Commissioner P.O. Box 40255 Olympia, WA 98504-0255 <u>andreap@oic.wa.gov</u> <b>via electronic &amp; U.S. Mail</b>
Jerry Kindinger, Esq. Gulliver Swenson, Esq. Ryan, Swanson & Cleveland, PLLC 1201 Third Avenue, Suite 340 Seattle, WA 98101-3034 <u>kindinger@ryanaw.com</u> <u>Swenson@ryanlaw.com</u> <b>via electronic &amp; U.S. mail</b>	

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

DATED this 4th day of February, 2014.

  
\_\_\_\_\_  
Patti Saiden, Legal Assistant

**EXHIBIT**

**A**

# - Fax Transmission

To: '13605862020@nextivafax.com'

From: Steve Larsen

Fax: +1 (360) 5862020

Date: 7/6/2011

RE: Request for Investigation - Robeson

Pages: 5

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## Comments:

Following please find a request for investigation from Louise Robeson. Thank you.

Please contact me if you have any questions.

Jessica Wade  
Administrative Assistant | Larsen Financial  
P: 509.325.2003 | F: 509.443.6704

## Disclaimer:

The information transmitted herein may contain confidential material, and is intended only for the person or entity to which it is addressed. Any review, retransmission, dissemination or other use of this material, or taking of any action by persons or entities other than the intended recipient, is prohibited. If you are not the intended recipient, please delete this information from your system and contact the sender.

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3/17/2011

Request for Investigation Confirmation ...

**Thank You**

Please print a copy of this confirmation page for your records.

[Print This Page](#)

Your request for assistance has been sent to the Office of the Insurance Commissioner. If you don't hear from us within two weeks, please e-mail directly to [InvestigationRequest@olic.wa.gov](mailto:InvestigationRequest@olic.wa.gov).

**Submit supporting documents**

- **Email to:** [InvestigationRequest@olic.wa.gov](mailto:InvestigationRequest@olic.wa.gov) or
- **Mail to:**  
The Office of the Insurance Commissioner  
Consumer Protection Division  
PO Box 40257 Olympia, WA 98504-0257
- **Fax to:** (360) 586-2020
- Please do not mail us your original documents.

**Request for an investigation - submitted information****Step 1. Your Contact Information**

Name: F Louise Robeson  
Address: PO Box 18684  
City: Spokane  
State: WA  
Zip Code: 99228  
Email: [louiserobeson@gmail.com](mailto:louiserobeson@gmail.com)  
Home Phone: 509-990-2768  
Work Phone:  
Cell Phone:

**Step 2. Insured Contact Information (if different than Step 1)**

Insurer Name:  
Address:  
City:  
State:  
Zip Code:  
Email:  
Home Phone:  
Work Phone:  
Cell Phone:

**Step 3. Insurance Information**

Insurance company involved: Life Insurance Company of the Southwest  
Policy#: LS0189446

**Step 4. Agent or Broker Information**

Agent/Broker name: Steven Minnich  
Employer name: TrueWealth Financial Advisors, LLC  
Phone:  
Address:  
City:  
State:  
Zip:

**Step 5. Define your problem**

Give a brief explanation of the problem:

[...wa.gov/.../Investigation\\_RequestForm...](http://...wa.gov/.../Investigation_RequestForm...)

3/17/2011

## Request for Investigation Confirmation ...

From May-June 2009 I was sold several insurance policies and annuities that were not suitable to my current situation. The agent in question recommended two life insurance policies, each with a face value of \$1,000,000, and a planned premium of \$55,000 annually. I do not currently and did not at the time have sufficient assets to pay for these policies. Both products were Universal Indexed Life policies that the agent had me sign in Priest River, ID, even though my residence and his place of employment are both in the State of Washington. These policies carry surrender periods of 8 and 10 years. I was told these policies would provide for my retirement income as well, but loans out of the policy carry interest rates from 3%-8%. In addition, I was also sold an Indexed IRA annuity with a 12 year surrender charge. I give permission for you to speak about this case with a Financial Planner. I have recently engaged, Steve Larsen CPA, CFP, by contacting him at 509.325.2003 with any questions.

**Step 6. Declaration**

By filling in my name and date below, I declare that the information contained on this form is true and accurate

Name: Louise Robeson

Date: 03/17/2011

**Step 7. How did you hear about us?**

Please tell us how you heard of this office and the services provided.

Agent/Broker

Other:

Your opinion is important to us. Please tell us what you think of our website.

Please take our survey - <http://www.surveygizmo.com/s/406234/oic-survey>

Thank you for completing the request for investigation form. Your request for assistance has been sent to the Office of the Insurance Commissioner. If you don't hear from us within two weeks, please e-mail directly to [InvestigationRequest@oic.wa.gov](mailto:InvestigationRequest@oic.wa.gov).

[Print This Page](#)

**Questions?**

Contact Us:

Phone: (360) 725-7263

Email: [InvestigationRequest@oic.wa.gov](mailto:InvestigationRequest@oic.wa.gov)

3/17/2011

Request for Investigation Confirmation

**Thank You**

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[Print This Page](#)

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The Office of the Insurance Commissioner  
Consumer Protection Division  
PO Box 40257 Olympia, WA 98504-0257
- **Fax to:** (360) 586-2020
- Please do not mail us your original documents.

**Request for an investigation - submitted information****Step 1. Your Contact Information**

Name: F Louise Robeson  
Address: PO Box 18684  
City: Spokane  
State: WA  
Zip Code: 99228  
Email: [louiserobeson@gmail.com](mailto:louiserobeson@gmail.com)  
Home Phone: 509-990-2768  
Work Phone:  
Cell Phone:

**Step 2. Insured Contact Information (if different than Step 1)**

Insurer Name:  
Address:  
City:  
State:  
Zip Code:  
Email:  
Home Phone:  
Work Phone:  
Cell Phone:

**Step 3. Insurance Information**

Insurance company involved: Life Insurance Company of the Southwest  
Policy#: LS0189446

**Step 4. Agent or Broker Information**

Agent/Broker name: Steven Minnich  
Employer name: TrueWealth Financial Advisors, LLC  
Phone:  
Address:  
City:  
State:  
Zip:

**Step 5. Define your problem**

Give a brief explanation of the problem:

...wa.gov/.../Investigation\_RequestForm....

3/17/2011

## Request for Investigation Confirmation ...

From May-June 2009 I was sold several insurance policies and annuities that were not suitable to my current situation. The agent in question recommended two life insurance policies, each with a face value of \$1,000,000, and a planned premium of \$55,000 annually. I do not currently and did not at the time have sufficient assets to pay for these policies. Both products were Universal Indexed Life policies that the agent had me sign in Priest River, ID, even though my residence and his place of employment are both in the State of Washington. These policies carry surrender periods of 8 and 10 years. I was told these policies would provide for my retirement income as well, but loans out of the policy carry interest rates from 3%-8%. In addition, I was also sold an Indexed IRA annuity with a 12 year surrender charge. I give permission for you to speak about this case with a Financial Planner I have recently engaged, Steve Larsen CPA, CFP, by contacting him at 509.325.2003 with any questions.

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By filling in my name and date below, I declare that the information contained on this form is true and accurate

Name: Louise Robeson

Date: 03/17/2011

**Step 7. How did you hear about us?**

Please tell us how you heard of this office and the services provided.

Agent/Broker

Other:

Your opinion is important to us. Please tell us what you think of our website.

Please take our survey - <http://www.surveygizmo.com/s/406234/oic-survey>

Thank you for completing the request for investigation form. Your request for assistance has been sent to the Office of the Insurance Commissioner. If you don't hear from us within two weeks, please e-mail directly to [InvestigationRequest@oic.wa.gov](mailto:InvestigationRequest@oic.wa.gov).

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**Questions?**

Contact Us:

Phone: (360) 725-7263

Email: [InvestigationRequest@oic.wa.gov](mailto:InvestigationRequest@oic.wa.gov)

## Thompson, Jodie (OIC)

---

**From:** OIC Investigation Request  
**To:** Jessica Wade  
**Subject:** RE: Request for Investigation - Robeson

We have received the complaint regarding Steven Minnich, and are in the process of reviewing it. Should you have any questions or concerns, please don't hesitate to contact us.

Sincerely,

Jodie Thompson,  
Legal Assistant, Legal Affairs  
Office of Insurance Commissioner  
MS: 40255  
Phone: (360) 725-7060  
Fax: (360) 586-0152  
[JodieT@oic.wa.gov](mailto:JodieT@oic.wa.gov)

---

**From:** Jessica Wade [<mailto:jwade@larsenfin.com>]  
**Sent:** Wednesday, July 06, 2011 1:22 PM  
**To:** OIC Investigation Request  
**Cc:** Steve Larsen  
**Subject:** Request for Investigation - Robeson

Attached please find a request for investigation from Louise Robeson. Please confirm receipt of this email. Thank you.

Please contact me if you have any questions.

**Jessica Wade**  
Administrative Assistant | Larsen Financial  
P: 509.325.2003 | E: 509.443.6704



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**EXHIBIT**

**B**



OFFICE OF  
INSURANCE COMMISSIONER

April 3, 2013

Steven H. Minnich  
171 Pine Hill Rd.  
Newport, WA 99156-9374

Re: Proposed Consent Order Levying a Fine No. 13-0110

Dear Mr. Minnich:

As you know, our office has received a complaint against you by a consumer. The evidence gathered as a result of our investigation of this complaint supports the complaint. We find that your conduct in this matter violated a number of statutes and regulations which are set forth in the enclosed Consent Order.

OIC has determined that the appropriate enforcement action in this matter is a fine against you in the amount of \$5,000. You may resolve this matter now by simply signing the enclosed Consent Orders and returning them to us.

If you would like to resolve this matter on the basis of this Consent Order and the fine and conditions outlined therein, both original Orders must be signed and dated by an authorized officer of the Company and returned to me. The fine would then be due within thirty days of the date the Order is entered. If you wish to include payment with the Orders, please address your correspondence to the attention of Delia Zebroski, Fiscal Analyst, Operations Division, Office of the Insurance Commissioner, PO Box 40255, Olympia, Washington 98504-0255, or our physical location of 5000 Capitol Blvd., Tumwater, WA 98501. Otherwise send your correspondence to my attention.

If we have not heard back from you by **April 24, 2013**, this offer must be withdrawn and the OIC will be forced to explore other options. Please be aware that the fine amount set forth in the Consent Order is a settlement offer only. In the event of a hearing on this matter, OIC is not bound by that amount and would seek a fine in the full amount warranted and/or any other appropriate sanctions authorized under the Insurance Code.

Steven Minnich  
April 3, 2013  
Page 2

If you have questions or would like to discuss this matter further, please feel free to contact me by email, regular mail, or telephone. My contact information is below.

Sincerely,

A handwritten signature in cursive script, appearing to read "Andrea L. Philhower".

Andrea L. Philhower  
Staff Attorney  
Legal Affairs Division  
360-725-7063  
360-586-0152 (facsimile)  
andreap@oic.wa.gov

Enclosures

# **EXHIBIT**

**C**



FILED

2013 OCT 27 A. 11:43

OFFICE OF  
INSURANCE COMMISSIONER

Hearings Unit, OIC  
Patrick 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 St. 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](mailto: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