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Hearings Unit, DIC
Patricia D. Loman
Chief Hearing Officer

STATE OF WASHINGTON

OFFICE OF INSURANCE COMMISSIONER

In The Matter Of

No. 13-0181

Sandra S. Cooley Allen,

**REQUEST FOR STAY OF
REVOCATION ORDER AND DEMAND
FOR HEARING AND APPEAL OF THE
AMENDED ORDER REVOKING
LICENSE**

Licensee/Appellant.

REQUEST FOR STAY AND HEARING

Ms. Cooley-Allen is requesting a hearing because she denies the allegations supporting the Amended Revocation Order. She requests a stay pursuant to RCW 48.04.020 which allows an automatic stay of action.

I. PARTIES

1.1 Sandra Cooley Allen ("Ms. Allen") is a married woman who resides at 3914 100th Street Court NW, Gig Harbor, Washington 98332.

1.2 Mike Kreidler, the Washington State Insurance Commissioner, issued an Order Revoking License of Ms. Allen's insurance broker's license on July 12, 2013, to be effective as of July 31, 2013 ("Revocation Order").

1.3 Victor Overholt, an investigator with the Washington State Insurance Commissioner's office, drove the license revocation of Ms. Allen.

1 Hutton, an aging, infirm individual. Ms. Hutton was 70 years old, trained as an accountant, and
2 was working as an accountant.

3 2.9 Melba Hutton, many months after signing a contract to purchase an indexed
4 annuity and surrendering a variable annuity product purchased from a competing broker,
5 apparently based on the advice of the competing broker, decided that she did not like the
6 indexed annuity and the fact that upon surrender of her variable annuity, she was forced to
7 surrender a portion of her death benefit.

8 2.10 The complaint about the Hutton matter was made by the competing insurance
9 broker who had sold Hutton the variable annuity she had cancelled. The competing broker
10 made the complaint in conjunction with the son who was the beneficiary of the death benefit
11 that was surrendered.

12 2.11 The Revocation Order required Ms. Allen to surrender her insurance broker's
13 license and became final by its own terms. It caused Ms. Allen to suffer professional dishonor,
14 diminished her reputation and deprived her of a means of making a livelihood. Ms. Allen
15 contests all of the allegations which served as the basis for revoking her license.

16 2.12 Although Ms. Allen was not offered a pre-revocation hearing of any sort, the
17 Insurance Commissioner's office published damaging information about the unadjudicated
18 Revocation Order on the internet.

19 2.13 The unadjudicated accusations against Ms. Allen, published on the internet,
20 irrevocably besmirched Ms. Allen's reputation.

21 2.14 The State of Washington elected to impose the most severe punishment on Ms.
22 Allen without affording her a pre-termination hearing of any sort.

23 2.15 Ms. Allen had an excellent reputation in the communities in which she sold
24 insurance and most of her business came to her through recommendations by satisfied clients.
25

1 3.3 The Insurance Commissioner violated Ms. Allen's right to due process by
2 imposing the most severe punishment available without according Ms. Allen a pre-termination
3 hearing.

4 3.4 There clearly was no public emergency; the fact that the Office of the Insurance
5 Commissioner searched for evidence after issuing the first Revocation Order shows that there
6 was no justification to issue that order.

7 3.5 The Amended Revocation Order fails to give Ms. Allen notice of the acts she
8 committed which allegedly violated statutes regulating the insurance industry. That fact
9 impairs Ms. Allen's ability to defend herself.

10 3.6 Neither the statutes governing the insurance industry and the licensing of
11 brokers, nor the regulations implementing such statutes, contain any standards guiding the
12 discretion of the Insurance Commissioner about the type of conduct supporting revocation of
13 an agent's license; that determination rests solely within the discretion of the Insurance
14 Commissioner.

15 3.7 RCW 48.17.530 articulates lesser sanctions than revocation, but provides not the
16 slightest guidance regarding the imposition of sanctions.

17 3.8 Issuing a revocation order before adjudicating the alleged charges against Ms.
18 Allen violates her right to due process; it changes the burden of proof. The Insurance
19 Commissioner should have given Ms. Allen clear notice of the charges against her and been
20 obliged, in a pre-termination hearing, to prove such charges by clear, cogent and convincing
21 evidence.

22 3.9 Rather than providing a pre-termination hearing, the Commissioner's Office
23 revoked the license, then gathered evidence to support the revocation and issued an Amended
24 Revocation Order.

1 3.10 Making Ms. Allen be the appellant in an appeal has impermissibly changed the
2 burden of proof. As the appellant under the Washington Administrative Procedures Act, she
3 now has the burden of proof.

4 3.11 And, the Insurance Commissioner's Office has abdicated its duty to establish
5 misconduct before punishing Ms. Allen.

6 3.12 RCW 48.17.530, RCW 48.30.180, and RCW 48.30.210 are vague as applied.
7 Ms. Allen has not been given clear notice of what constitutes conduct leading to licensing
8 revocation.

9 3.13 The Revocation Order triggered due process protections; it implicates a property
10 interest -- Ms. Allen's business license, and a liberty interest -- her reputation.

11 3.14 Offering a pre-termination hearing would not have been an extra burden for the
12 government.

13 3.15 It violates Ms. Allen's right to due process to penalize her for conduct which
14 insurance investigators decided many years ago did not merit punishment and closed its files.

15 3.16 The Statutes of Limitations bars the actions of the Insurance Commissioner.

16 **IV. PRAYER FOR RELIEF**

17 NOW, THEREFORE, this Tribunal should declare that:

- 18 1. The Order Revoking License dated July 12, 2013, and Amended Order
19 Revoking License dated November 27, 2013, are void because they were
20 issued in violation of Ms. Allen's due process rights; and
- 21 2. The Insurance Commissioner violated Ms. Allen's right to due process;
22 and
- 23 3. RCW 48.30.530 and RCW 48.30.180 are vague as applied; and
- 24 4. The Insurance Commissioner improperly took Ms. Allen's property
25 interests and liberty interests without according her any due process; and
5. The Statute of Limitations bars this action; and
6. This action violates principles of due process; and

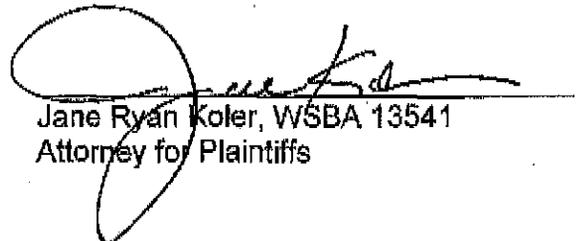
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This Tribunal should:

- 7. Dismiss the Order Revoking License and Amended Order Revoking License because they violate Ms. Allen's right to due process; and
- 8. Stay the operation of the Amended Order Revoking License pursuant to RCW 48.04.020 which allows an automatic stay of action; and
- 9. The Insurance Commissioner's office be required to remove information relating to the Order Revoking License and Amended Order Revoking License relating to Ms. Allen from the internet; and
- 10. The Insurance Commissioner's office be required to place a statement on the internet that there was no justification for issuing the Revocation Order or Amended Order Revoking License to Ms. Allen; and
- 11. Grant this request for hearing pursuant to Option 1 of the Hearing Procedures from the Office of the Insurance Commissioner; Ms. Allen requests a hearing by the Administrative Law Judge who shall enter a final decision in this matter; and
- 12. Grant any other relief which is just and equitable.

DATED this 10th day of December, 2013

LAND USE & PROPERTY LAW, PLLC



Jane Ryan Koler, WSBA 13541
Attorney for Plaintiffs

EXHIBIT 1

STATE OF WASHINGTON

MIKE KREIDLER
STATE INSURANCE COMMISSIONER

Phone: (360) 725-7000
www.insurance.wa.gov



OFFICE OF
INSURANCE COMMISSIONER

In The Matter of

Sandra S. Cooley Allen,

Licensee.

No. 13-0181

AMENDED ORDER REVOKING
LICENSE

To: Sandra S. Cooley Allen
3560 Bridgeport Way W 3-2
University Place, WA 98332

IT IS ORDERED AND YOU ARE HEREBY NOTIFIED that your Washington State insurance producer license is **REVOKED**, effective **December 16, 2013**, pursuant to RCW 48.17.530 and RCW 48.17.540(2).

THIS ORDER IS BASED ON THE FOLLOWING:

1. Sandra S. Cooley Allen (WAOIC 142564, NPN 766442) holds a Washington resident insurance producer's license. She has been the subject of a number of complaints received by the Washington State Office of the Insurance Commissioner ("OIC"). These complaints include, but are not limited to, the ones summarized below.

2. In 1998, after Ms. Allen approached two aging Washington consumers in declining health to try to sell them life insurance, the consumers made a complaint about Ms. Allen to OIC. The consumers alleged that Ms. Allen used "hard sell tactics" and caused them "great anxiety." After the consumers filled out a "lead card," Ms. Allen went to the consumers' home. Ms. Allen told OIC's investigator that she went to the home to discuss long term care insurance, but determined after meeting with them that they did not qualify and they next "freely discussed their financial condition" and shared information about one or both of the consumers' life insurance. Ms. Allen told OIC's investigator that she contacted that insurer, asked the company to send forms to cancel that coverage, gave the consumers a proposal for life insurance, and received a check from the consumers. Ms. Allen denied defaming the consumers' insurer and claimed all needed paperwork was properly completed, including an application and replacement form, but it was all destroyed. The consumers alleged Ms. Allen was to meet and discuss nursing home care, but then "switched the subject to life insurance." After Ms. Allen learned the consumers' financial condition and saw their existing life insurance, the consumers complained that Ms. Allen then allegedly advised the consumers to cash in their life insurance contracts and take out life insurance with her. They alleged Ms. Allen was "persistent" to the point the consumers said they "gave her a check so she would leave them alone." The consumers alleged it was "unethical" for Ms. Allen to enter their home to discuss one subject then switch to another. After the consumers later communicated that they changed their minds, the check was returned.

Mailing Address: P. O. Box 40255 • Olympia, WA 98504-0255
Street Address: 5000 Capitol Blvd. • Tumwater, WA 98501

EXHIBIT 1

3. In another matter, in January 2006, OIC received a complaint about Ms. Allen from an insurance producer who expressed shock at an annuity replacement transaction he learned about the month before. Three years earlier, the insurance producer sold the near octogenarian husband and wife consumers an annuity. At the time, the husband was rendered unable to speak from a stroke and the wife suffered from mild memory loss, which, by January 2006 "progressed to dementia." The insurance producer wrote to OIC that he "never complained against another agent in my thirty-seven years in the insurance business" (he was licensed in 1970) but felt the need to here due to "gross misrepresentation" of facts in a replacement transaction and the insureds' physical and cognitive condition. "I feel very strongly that harm has been done to a vulnerable couple and the transaction should be reversed." The insurance producer pointed out that (1) the old annuity still had surrender charges, (2) the guaranteed interest rate in the replacing policy was less than the old one, and (3) the new annuity isn't Medicaid qualified. The insurance producer felt certain the insureds "are not capable of understanding what is happening," and their daughter had power of attorney. Yet forms were all completed by the licensee and signed by the husband - albeit in obviously shaky handwriting. The replacement form had a number of "obvious errors." For example, it indicated "no" penalties or surrender charges would result - when in fact, as the policy was only in year three, 8% penalties applied. The replacing insurer immediately agreed to reverse the transaction and wrote that the licensee was "counseled." On August 9, 2006, the licensee signed an OIC "letter of reprimand" that she agreed she violated "RCW 48.30.090, Misrepresentation of Policies. The replacement of [the consumers' existing annuity] was clearly not in their best interest and certainly did not 'materially improve their position.'" (Underlined in original.) The letter indicated "future complaints may result in more severe actions" and "[I]f another investigation is conducted we may refer back to this case and use it as evidence."

4. In another matter, in or about October 2010 OIC received complaints from two Washington consumers over annuities Ms. Allen and a colleague sold them in August 2008. The complaints alleged that the licensees were "insurance sales people and apparently not knowledgeable retirement investment personnel," that they gave incomplete, inaccurate and/or misleading information at the time of the sale, and that they sold them products that were not good investments. After meeting with Ms. Allen's colleague about the complaints OIC received, the colleague met with the consumers and shared with them further information and/or explanation about the products sold. After this meeting, both consumers were persuaded to write to OIC that they wished to "reverse" their complaints, but they noted that while they were glad to receive the information from Ms. Allen's colleague, they maintained they did not receive it at the time of the purchase and should have, and that they received incomplete, inaccurate and/or misleading information when the sale took place.

5. In another matter, in October 2009 one Washington resident complained that Ms. Allen should be required to surrender her license in connection with her actions during an attempted annuity sale to a Washington senior citizen. Working with another OIC licensee, Ms. Allen and

her colleague used coercion to obtain the person's signatures on application forms, failed to correctly and appropriately complete the required replacement forms, misinformed the consumer, and made incomplete, inaccurate and/or misleading representations to the consumer, to the insurer, and to OIC's investigator. The annuity insurer initially defended the sale, but later reversed its position and committed to making the insured whole again.

6. In another matter, a Washington consumer filed a complaint with one of Ms. Allen's appointing insurers. According to the insurer's records about this complaint, the consumer said Ms. Allen "didn't give them the coverage they really wanted. Wanted a prescription plan. Found one elsewhere and cancelled. They were upset about delay in getting refund." When asked about this complaint in September 2013, the consumer told OIC's investigator that in 2010 Ms. Allen lied to her when telling her that no company wrote a single policy that had prescription drug coverage for two people. She would have to buy two separate plans with Ms. Allen's appointing insurer to get what she wanted. The consumer later found the coverage she had been looking for and purchased it through another insurer. When Ms. Allen discovered the consumer had a life insurance policy that had lost money, Ms. Allen immediately started telling the consumer how "stupid" the other agent was for recommending the policy and how bad the company and the policy were. Ms. Allen then suggested the consumer was also "stupid." The consumer told OIC's investigator that Ms. Allen was abrupt, abrasive, arrogant, bossy and very unpleasant. The consumer advised that one of the techniques that Ms. Allen tried to use to "intimidate" her was thumping on the table. The consumer further related that she was 64 at the time and is concerned about other seniors.

7. In another matter, another Washington consumer filed a complaint with one of Ms. Allen's appointing insurers. According to the insurer's records about this complaint, the consumer "[f]elt the plan was misrepresented and that they were taken advantage of." When asked about this complaint in November 2013, the consumer told OIC's investigator that in 2010 Ms. Allen and another agent met with the consumer but that Ms. Allen did all of the talking. The consumer, a then-64-year old widow, was worried about her 401k worth approximately \$20,000, and Ms. Allen recommended moving that 401k money into one of Ms. Allen's appointing insurers' indexed annuities, telling the consumer the annuity would earn interest when the market went up, but would not go down when the market went down. The consumer advised Ms. Allen the consumer was not educated in financial matters and did not understand complex financial matters. The consumer signed all necessary paperwork in March 2010. In September 2010, when the consumer called Ms. Allen and asked her for money from the indexed annuity, Ms. Allen told the consumer she could not take money out without suffering penalties in the first 10 years. The consumer advised Ms. Allen that this was the first she had heard anything about penalties or surrender charges, and that she had always understood the annuity was 100% liquid. Ms. Allen insisted she made everything clear to the consumer; the consumer insisted she had not. During these discussions, the consumer advised Ms. Allen seemed very angry and/or mad. The consumer then wrote the insurer and indicated that she did not understand the details of the policy when she signed the paperwork, the plan was misrepresented to her and she was taken advantage of because of her lack of education. The insurer replied that Ms. Allen had done everything right and if the consumer wanted to surrender her policy she should wait until the

March 2011 anniversary date. In November 2011 the consumer again wrote the insurer, advising that she was told to wait until March 2011, and where is her money. She again advised she was unaware of any withdrawal penalties and asked for a penalty-free withdrawal. In October 2012, the consumer eventually requested and received a refund, less \$1,300.22 in surrender charges. The check the consumer received did not indicate these surrender charges, and the consumer believed she received a full refund. The insurer's records regarding the resolution states "[a]n act of good will offered to surrender the policy and wai[ve] the [withdrawal] fee."

8. In one of Ms. Allen's largest recent transactions, in or about November 2011 Ms. Allen sold an 84-year-old consumer one of her appointing insurer's annuities to replace another insurer's variable annuity worth over \$1 million. Ms. Allen completed the replacement form incorrectly and submitted it and other transaction documents to the replacing insurer. The consumer was given forms to sign, including forms showing that the consumer misunderstood his variable annuity's fees and risk of loss. While the transaction documents submitted to the replacing insurer show the consumer was replacing his variable annuity because he believed doing so would help him avoid fees he was being charged under his variable annuity and also avoid risk of loss due to market volatility, Ms. Allen later told the consumer's son that she replaced the variable annuity because his father had received a post card about his security code and he was concerned about the safety of his variable annuity account. Based on the documents Ms. Allen submitted to the replacing insurer, the replacing insurer issued the replacement policy using all the money in the variable annuity. This replacement resulted in a \$35,401.16 cash loss to the consumer at the time of purchase and a \$138,288.95 loss to his sons who were beneficiaries under the policy. One day after the replacing insurer issued the new policy, the consumer passed away.

Pursuant to RCW 48.17.530(1), the Commissioner may revoke the license of any insurance producer. Licensee Sandra A. Cooley-Allen has violated numerous provisions of the Insurance Code, including, but not limited to: repeatedly using fraudulent or dishonest practices, and repeatedly demonstrating her untrustworthiness (RCW 48.17.530(1)(h)); making and causing to be made misrepresentations of the terms of any policies and/or the benefits or advantages promised thereby (RCW 48.30.090); recommending the purchase of annuities without reasonable grounds for believing that the recommendation is suitable for the consumer (RCW 48.23.015(2)(a)); making recommendations for the purchase of annuities without those recommendations being reasonable under all circumstances (RCW 48.23.015(3)); knowingly making false or misleading statements or impersonations, and willfully failing to reveal material facts, in or relative to applications for insurance to an insurer (RCW 48.30.210); making misrepresentations and/or misleading comparisons to induce or tend to induce insureds into lapsing, terminating, forfeiting, surrendering, retaining, or converting any insurance policy (RCW 48.30.180); failing to demonstrate good faith, failing to practice honesty and equity, and using deception in the business of insurance (RCW 48.01.030); failing to present one or more accurate, correct, non-misleading, and complete WAC 284-23-485 notices to consumers no later than the time of the taking of the application, and failing to fairly and adequately highlight the points raised by the questions (WAC 284-23-440(2)(a)); making false, deceptive, or misleading

Amended Order Revoking License

Order No. 13-0181

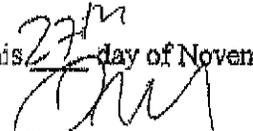
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representations or advertising in the conduct of the business of insurance or relative to the same or relative to any person engaged therein (RCW 48.30.040); violating insurance laws or rules (RCW 48.17.530(1)(b)); intentionally misrepresenting the terms of actual or proposed insurance contracts or applications for insurance (RCW 48.17.530(1)(e)); and using coercive and/or dishonest practices and demonstrating herself to be untrustworthy and/or incompetent. Accordingly, Sandra A. Cooley-Allen's license is hereby **REVOKED**.

IT IS FURTHER ORDERED that Sandra A. Cooley-Allen immediately return to OIC her certificate of her resident insurance producer license, and that she do so on or before the effective date of this Amended Order Revoking License, as required by RCW 48.17.530(4). Such license shall be delivered to: ATTN: Licensing Manager, Office of the Insurance Commissioner, P O Box 40257, Olympia, WA 98504-0257.

ENTERED AT TUMWATER, WASHINGTON, this 27th day of November, 2013.

MIKE KREIDLER, Insurance Commissioner, by:


Alan Michael Singer
OIC Staff Attorney

NOTICE OF YOUR RIGHT TO A HEARING

If you are aggrieved by this Order, RCW 48.04.010 permits you to demand a hearing. Pursuant to that statute and others: You must demand a hearing, in writing, within 90 days after the date of this Order, which is the day it was mailed to you, or you will waive your right to a hearing. Your demand for a hearing must specify the reasons why you think this Order should be changed. Upon receipt of your demand for hearing, you will be contacted by an assistant of the Chief Hearing Officer to schedule a teleconference with you and the Insurance Commissioner's Office to discuss the hearing and the procedures to be followed.

Please send any demand for hearing to: Office of the Insurance Commissioner
Attn: Patricia D. Petersen, Chief Hearing Officer
Hearings Unit
P.O. Box 40255
Olympia, WA 98504-0255

CERTIFICATE OF MAILING

The undersigned certifies under the penalty of perjury under the laws of the State of Washington that I am now and at all times herein mentioned, a citizen of the United States, a resident of the State of Washington, over the age of eighteen years, not a party to or interested in the above-entitled action, and competent to be a witness herein.

On the date given below I caused to be served the foregoing AMENDED ORDER

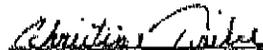
Amended Order Revoking License
Order No. 13-0181
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REVOKING LICENSE on the following individual via US Mail and e-mail at the below indicated addresses:

Sandra S. Cooley Allen
3560 Bridgeport Way W 3-2
University Place, WA 98332

Sandra S. Cooley Allen
3914 100th St Ct NW
Gig Harbor, WA 98332
goldendawg@comcast.net

SIGNED this 27th day of November, 2013, at Tumwater, Washington.



Christine Tribe

LAND USE & PROPERTY LAW

5801 Soundview Drive, Suite 258 • Gig Harbor, Washington 98335
Tel. (253) 853-1806 • Fax (253) 851-6225 • www.jkolerlaw.com
Jane Ryan Koler - Mark Harris Adams

A Professional Limited Liability Company

zoning

land use

real property

environmental

FAX COVER SHEET

DATE: December 10, 2013
TO: Hearings Unit
FAX: (360) 664-2782
FROM: Jane Koler
REGARDING: In the Matter of Sandra S. Cooley Allen, No. 13-0181

Corrected Fax Cover Page

Please see the following Request for Stay and Hearing. A hard copy will be sent via Overnight Mail.

This transmittal consists of _____ page(s), including this cover sheet.

If any page is not legible or you do not receive all of the pages, please call us back as soon as possible at 253 853-1806 or return a note to facsimile 253 851-6225 c/o Legal Assistant.

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