

FILED

BEFORE THE STATE OF WASHINGTON
OFFICE OF INSURANCE COMMISSIONER

2014 JUL 29 A 9:49

In the Matter of)	Docket No. 13-0336
)	
FIDELITY & GUARANTY LIFE)	ORDER TERMINATING
INSURANCE COMPANY,)	PROCEEDINGS
)	
An authorized insurer.)	
)	

TO: Brian Kreger, Esq.
Kreger Beeghly, PLLC
999 Third Avenue, Suite 3000
Seattle, WA 98104-4088

COPY TO: Mike Kreidler, Insurance Commissioner
James T. Odiorne, J.D., CPA, Chief Deputy Insurance Commissioner
John F. Hamje, Deputy Commissioner, Consumer Protection Division
Mandy Weeks, Esq., Insurance Enforcement Specialist, Legal Affairs Division
AnnaLisa Gellermann, Esq., Deputy Commissioner, Legal Affairs Division
Office of the Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

On June 4, 2014, the Office of the Insurance Commissioner ("OIC") filed a Notice of Request for Hearing for Imposition of Fines, Order No. 13-0336 ("Notice"), against Fidelity & Guaranty Life Insurance Company (F&GL). In its Notice, the OIC alleged that, among other violations, F&GL violated the Insurance Code (1) by allowing its agent to sell a policy in Washington without being licensed or appointed in Washington; (2) by accepting the policy despite knowing it was unreasonable to the consumer under the circumstances; and (3) by failing to require its agents to complete a Washington replacement form for the transaction.

On June 6, 2014, F&GL filed a Response and Objection to Request for Hearing; and Request for Relief, which raised factual and legal objections to the OIC's Notice.

On July 24, 2014, the parties filed a Consent Order Levying a Fine, No. 13-0336 ("Consent Order"), executed by Fidelity & Guaranty Life Insurance Company on July 16, 2014, and by the OIC on July 23, 2014.

I approve the Consent Order, attached hereto, which constitutes the settlement agreement between the parties and is incorporated into this Order Terminating Proceedings.

IT IS HEREBY ORDERED that this proceeding, Docket No. 13-0336, is hereby terminated.

Dated: July 28, 2014



JUDGE GEORGE FINKLE (Ret.)
Presiding Officer

Declaration of Mailing

I declare under penalty of perjury under the laws of the State of Washington that on the date listed below, I mailed or caused delivery through normal office mailing custom, a true copy of this document to the following people at their addresses listed above: Brian Kreger, Esq., Mike Kreidler, James T. Odiorne, J.D., CPA, John F. Hamje, Esq., Mandy Weeks, Esq., and AnnaLisa Gellermann, Esq.,

DATED this 29th day of July, 2014.


KELLY A. CAIRNS

2014 JUL 24 A 9:30
KMC

STATE OF WASHINGTON
OFFICE OF INSURANCE COMMISSIONER

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In the Matter of
FIDELITY & GUARANTY LIFE
INSURANCE COMPANY,
An authorized insurer.

ORDER NO. 13-0336
SIMBA NO. 1107247
CONSENT ORDER LEVYING A FINE
WAOIC No. 445
NAIC No. 63274

This Consent Order is entered into by the Washington State Office of the Insurance Commissioner ("OIC"), acting pursuant to the authority set forth in RCW 48.02.080 and RCW 48.05.185, and Fidelity & Guaranty Life Insurance Company ("F&G Life" or the "Company").

BASIS:

1. OM Financial Life Insurance Company, now known as Fidelity & Guaranty Life Insurance Company ("F&G Life"), is a foreign life and disability company duly authorized to engage in the business of insurance in Washington.
2. On July 6, 2011, OIC received a complaint from consumer "FLR," who alleged that two Producers had sold her a number of inappropriate policies.
3. Producers Steven Minnich and Mr. Charles Oliver sold FLR one life insurance policy with F&G Life.
4. The Producers shared the commission for the sale of the F&G Life policy.
5. Mr. Oliver and Mr. Minnich agreed that Mr. Minnich would meet FLR in Idaho for the purpose of signing the application for the F&G Life policy. Idaho was chosen, among other reasons, because Mr. Oliver was not licensed in Washington, but was licensed in Idaho. He was not appointed by F&G Life in Washington, but was appointed in Idaho.
6. Mr. Minnich was licensed and appointed by F&G Life in Washington.
7. The F&G Life policy was delivered in Washington.

1 8. The Company admitted that the sale to FLR of policy no. L2092011 was made by Mr.
2 Oliver, but erroneously believed that the sale had been made in Idaho, not Washington.

3 9. Mr. Minnich and Mr. Oliver, as F&G Life's agents, knew or should have known that
4 FLR would be surrendering one policy of life insurance and borrowing against another to pay
5 the premiums on the F&G Life policy. The sale of the F&G Life policy to FLR by the agents
6 constituted a replacement under WAC 284-23-410.

7 10. The application submitted by Mr. Minnich and Mr. Oliver to F&G Life indicated that
8 no replacement of insurance was involved in the transaction. The Company did not receive a
9 Washington replacement form.

10 11. By allowing Mr. Oliver to act as an agent of F&G Life in Washington without the
11 Company having appointed him as such, F&G Life violated of RCW 48.17.160(1)¹.

12 12. By accepting policy No. L2092011 without ensuring that the selling agent, Mr. Oliver,
13 was licensed for the proper line of authority to sell that policy, F&G Life violated WAC 284-
14 17-429(4).

15 **CONSENT TO ORDER:**

16 The OIC and the Company agree that the best interests of the public will be served by entering
17 into this Consent Order. NOW, THEREFORE, Fidelity & Guaranty Life Insurance Company
18 consents to the following in consideration of its desire to resolve this matter without further
19 administrative or judicial proceedings. The Insurance Commissioner consents to settle the matter
20 in consideration of the Company's payment of a fine, and upon such terms and conditions as are
21 set forth below.

22 1. F&G Life acknowledges its duty to comply fully with the applicable laws of the State of
23 Washington.

24 ¹ RCW 48.17.160(2) does allow an insurer to appoint an insurance producer as its agent by filing a notice of
25 appointment within fifteen days from the date the producer submits his first insurance application for that insurer.
26 However, that statute became effective after the events at issue. Moreover, Mr. Oliver did not have a Washington
appointment with F&G Life at the time of these sales or within fifteen days thereafter.

1 2. F&G Life consents to the entry of this Order, waives any and all hearing rights, and
2 further administrative or judicial challenges to this Consent Order. This order is not intended to
3 preclude any hearing rights, defenses, or arguments in any future matter involving the parties.

4 3. By agreement of the parties, the Insurance Commissioner will impose a fine of 10,000 to
5 be paid within thirty days of the entry of this Order.

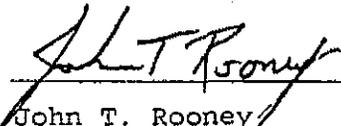
6 4. F&G Life understands and agrees that any future failure to comply with the statutes and
7 regulations that are the subject of this Order constitutes grounds for further penalties, which may
8 be imposed in direct response to further violation.

9 5. F&G Life's failure to pay this fine within thirty days of the execution of this Order shall
10 constitute grounds for revocation of the Company's Certificate of Authority, and shall result in the
11 recovery of the fine through a civil action brought on behalf of the Insurance Commissioner by
12 the Attorney General of the State of Washington.

13 This Consent Order and the violations set forth herein constitute admissible evidence that may be
14 considered in any future action by the OIC involving the Company. However, the fact of this
15 Consent Order, and any provision, finding, or conclusion contained herein does not, and is not
16 intended to, determine any factual or legal issues or have any preclusive or collateral estoppel
17 effects in any lawsuit by any party other than OIC.

18 EXECUTED this 16th day of July, 2014.

19
20 Fidelity & Guaranty Life Insurance Company

21
22 By: 

23 Printed Name: John T. Rooney

24 Typed Corporate Title: Assistant Secretary

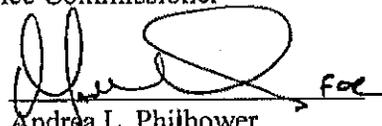
1 **AGREED ORDER:**

2 Pursuant to the foregoing factual basis and consent to order, the Insurance Commissioner of the
3 State of Washington hereby orders as follows:

- 4 1. F&G Life shall pay a fine in the amount of \$10,000.
- 5 2. The Company's failure to pay the fine within thirty days of the execution of this Order
6 shall result in the revocation of the Company's Certificate of Authority and in the
7 recovery of the fine through a civil action brought on behalf of the Insurance
8 Commissioner by the Attorney General of the State of Washington.
- 9 3. This Consent Order and the violations set forth herein constitute admissible evidence that
10 may be considered in any future action by the OIC involving the Company. However, the
11 fact of this Consent Order, and any provision, finding, or conclusion contained herein does
12 not, and is not intended to, determine any factual or legal issues or have any preclusive or
13 collateral estoppel effects in any lawsuit by any party other than OIC.

14 ENTERED AT TUMWATER, WASHINGTON, this 23rd day of July, 2014.

16 MIKE KREIDLER
17 Insurance Commissioner

18 By  for
19 Andrea L. Phithower
20 OIC Staff Attorney
21 Legal Affairs Division

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