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THE STATE OF WASHINGTON
OFFICE OF THE INSURANCE COMMISSIONER

In the Matter of
Paul D. Genest,
Applicant,

OIC DOCKET NO. 14-0102
APPLICANT'S OBJECTION
AND MOTION

Applicant, by and through his undersigned counsel respectfully submits this Objection to any attempt by any Staff Attorney, or by any other person who happens to be an attorney in the employ of the Office of the Insurance Commissioner, from performing any functions or duties specified by law to be performed by the Attorney General who is charged exclusively with the duty and obligation to represent the Insurance Commissioner and the Office of the Insurance Commissioner in any legal or quasi-legal proceeding before any administrative tribunal.

Only the Washington State Attorney General is authorized to represent the Insurance Commissioner and the Office of the Insurance Commissioner. This mandate is specifically set down in RCW 43.10.040 and RCW 43.10.067, has been held specifically by the Washington State Supreme Court in *Goldmark v. McKenna*, 172 Wn.2d 568, 259 P.3d 1059 (2011), and has been specifically endorsed and established by the Office of the Attorney General in AGO 1984 No. 43. Any attempt by any OIC Staff Attorney, or any other OIC employee who is an attorney, to perform any of those functions customarily performed by attorneys at law representing a client in a legal or quasi-legal proceeding and which are, by law, to be performed specifically by the

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— KREGER BEEGHLY PLLC —

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1 Attorney General, who alone is authorized to represent the Office of the Insurance
2 Commissioner in such proceedings, is a violation of the Revised Code of Washington
3 and is contradictory to the mandates of the Washington Supreme Court, and causes the
4 Insurance Commissioner to violate those laws and mandates.

5 Furthermore, it has come to light that Ms. Marcia Stickler, who is identified as
6 either Staff Attorney or Insurance Enforcement Specialist in various pleadings and
7 documents in this Matter, has communicated directly with the Applicant during the
8 course of the Insurance Commissioner's investigative and enforcement actions against
9 the Applicant. Therefore, Ms. Stickler is a witness in this Matter and counsel for the
10 Applicant reserves the right to call Ms. Stickler as a fact witness for any purpose
11 allowed by rule at and during the Hearing of this Matter before the Presiding Officer.

12 Accordingly, Applicant brings on this Motion requesting an Order in Limine
13 precluding Ms. Marcia Stickler, or any other OIC employee who is an attorney, from
14 acting in the capacity of an attorney representing the Office of the Insurance
15 Commissioner at and during the Hearing on this Matter, scheduled to commence on
16 September 3, 2014, and from performing any functions or duties specified by law to be
17 performed by the Attorney General in his capacity as the only authorized legal
18 representative of the Insurance Commissioner.

19 DATED this 22 day of September, 2014.

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21 KREGER BEEGHLY, PLLC

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24 Brian F. Kregel,
WSBA Number 10670

Attorney for Applicant

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CERTIFICATE OF SERVICE

I, Brian F. Kreger, under penalty of perjury under the laws of the State of Washington do hereby declare and certify that I personally caused to be delivered by Electronic Mail Delivery, the foregoing Applicant's Objection and Motion on the following parties or persons at the last known addresses given below:

By Electronic Mail Delivery to:

Hearings Unit
Office of the Insurance Commissioner
ATTENTION: Hon. George Finkle, Presiding Officer
5000 Capitol Boulevard
Tumwater, WA 98501

Ms. Marcia Stickler
Office of the Insurance Commissioner
5000 Capitol Boulevard
Tumwater, WA 98501

Hearings Unit
Office of the Insurance Commissioner
P.O. Box 40255
Olympia, WA 98504-0255
Attention: George Finkle, Hearing Officer
gfinkle@jdrllc.com
Attention: Kelly Cairns
kellyc@oic.wa.gov

Mr. Marcia Stickler
Office of the Insurance Commissioner
P.O. Box 40255
Olympia, WA 98504-0255
marcias@oic.wa.gov

Executed on this 22 day of September, 2014 in Seattle, Washington.


Brian F. Kreger