

FILED

2015 FEB 20 P 1:34

STATE OF WASHINGTON
OFFICE OF THE INSURANCE COMMISSIONER

In Re:

CHARLES D. OLIVER and AMERICAN EQUITY NO. 14-0229
ADVISORY GROUP, LLC,

Respondents.

CHARLES OLIVER AND AMERICAN
EQUITY'S RESPONSE TO
INSURANCE COMMISSIONER'S
MOTION TO DISMISS

I. INTRODUCTION

This case presents the narrow issue of whether the Office of the Insurance Commissioner ("OIC") should be required to take down a blog post from its website describing a Cease and Desist Order where (1) the Cease and Desist Order was superseded by a Consent Order, (2) Cease and Desist Order contains allegations of serious legal violations, such as fraud, that were never proved true, and (2) the blog post has caused significant, demonstrable harm to the subject's livelihood and reputation. The OIC has no authority to continue widely publishing the blog post on its website under these circumstances. Contrary to OIC's assertion, leaving up a blog post describing a superseded order and unproven allegations does not inform or protect Washington citizens; it misleads and harms them. The Tribunal should deny OIC's motion to dismiss.

1 **II. EVIDENCE RELIED UPON**

2 This Response relies upon the Declaration of Charles Oliver in Support of
3 Respondents' Response to Insurance Commissioner's Motion to Dismiss ("Oliver Dec."); the
4 Declaration of Debbie Klotter in Support of Respondents' Response to Insurance
5 Commissioner's Motion to Dismiss ("Klotter Dec."); the Declaration of Ron Joseph in
6 Support of Respondents' Response to Insurance Commissioner's Motion to Dismiss ("Joseph
7 Dec."); the Declaration of Devin Patel in Support of Respondents' Response to Insurance
8 Commissioner's Motion to Dismiss ("Patel Dec."); the Declaration of Shannon Lawless in
9 Support of Respondents' Response to Commissioner's Motion to Dismiss ("Lawless Dec.");
10 and the pleadings and records in the Tribunal's file.

11 **III. STATEMENT OF FACTS**

12 On April 4, 2013, the Washington Office of the Insurance Commissioner issued a
13 cease and desist order to Charles Oliver and American Equity Advisory Group, LLC
14 ("American Equity"). The same day, the Insurance Commissioner put a blog post on its
15 website detailing its allegations.¹ The blog post concludes by stating:

16 Our order alleges that these transactions included nearly a dozen violations of
17 Washington state law, including Oliver's ... describing the plan in a way that
18 could be misleading, engaging in unfair or deceptive practices, and "by [*sic*]
19 knowingly making, publishing or disseminating false, deceptive or misleading
20 representations" of an insurance transaction.²

21 On March 21, 2014, the parties entered into a Consent Order. In the Consent Order,
22 Mr. Oliver agreed to pay a fine of \$2,500 for licensing violations and selling a policy not
23 approved in Washington. The agreed violations did not include any of the allegations of
24 fraudulent, deceptive, or misleading conduct. The Consent Order stated, "By agreement of the
25 parties, this Consent Order shall supersede and replace Cease and Desist Order NO. 13-0108."

26 ¹ Lawless Dec., Ex. A. The blog post is available online at
<http://wainsurance.blogspot.com/2013/04/cease-and-desist-order-issued-to.html>.

² *Id.*

1 OIC left the April 4, 2013 blog post on its website even after the Cease and Desist
2 Order was superseded. When Mr. Oliver's counsel discovered this, he requested that OIC take
3 down the blog post, but OIC refused.³ OIC rationalized this decision by stating that the
4 Consent Order and the blog post "[b]oth note violations of Washington insurance law"—even
5 though the blog post alleges that Mr. Oliver and his company committed fraud,
6 misrepresentation, and deception, which are nowhere mentioned in the Consent Order, and
7 certainly not as agreed violations.

8 As a result of the blog post, American Equity suffered significant business losses.
9 Many prospective clients decided not to move forward in working with American Equity after
10 discovering the blog post.⁴ Other clients moved forward, but with smaller investments than
11 they had originally planned to make.⁵ A landlord refused to rent to American Equity, and
12 insurance carriers would not do business with it.⁶ Its gross revenues were cut nearly in half,
13 and net income was reduced from about \$1.5 million to \$140,000.⁷

14 The Washington Insurance Commissioner's blog post about the Cease and Desist
15 Order has also provided fuel for other websites to disparage Mr. Oliver. Specifically, the
16 Center for Life Insurance Disputes (a for-profit organization) has posted an article disparaging
17 Mr. Oliver that links directly to the Washington Insurance Commissioner's blog post about
18 the Cease and Desist Order.⁸ The article cites the blog post to support its claim that Mr. Oliver
19 has misrepresented the nature of life insurance and violated the laws of every state. The article
20 then solicits Mr. Oliver's clients to contact the Center for Life Insurance Dispute with the
21 purpose of suing Mr. Oliver.

22
23
24 ³ Lawless Dec., Ex. C.

⁴ See Oliver Dec., Klotter Dec., Joseph Dec., and Patel Dec.

⁵ Oliver Dec., Patel Dec.

⁶ Oliver Dec.

⁷ Oliver Dec.

⁸ Lawless Dec., Ex. B.

1 In December 2014, Mr. Oliver filed a hearing demand requesting removal of the blog
2 post from OIC's website and other relief. The parties had agreed that the sole remedy
3 available in this forum was removal of the blog post from OIC's website, and the Tribunal
4 therefore ordered: "The purpose of the hearing is to consider whether OIC should remove the
5 blog post from the internet." Notice of Hearing, dated January 21, 2015. In OIC's motion to
6 dismiss, it contends that this narrow request for relief should be denied as a matter of law. Mr.
7 Oliver and American Equity oppose the motion.

8 IV. AUTHORITY

9 OIC makes three primary arguments for why Mr. Oliver and American Equity cannot
10 prove that OIC's action of maintaining the blog post on its website is invalid. Each reason is
11 unsupported by law and should be rejected.

12 **A. Mr. Oliver has a right to a hearing under Chapter 48.04 RCW**
13 **because he has suffered business losses as a result of the**
14 **Commissioner's misleading blog post.**

15 First, OIC argues that Mr. Oliver lacks standing to demand a hearing because he has
16 not suffered a specific enough injury to be "aggrieved." RCW 48.04.010(1)(b) provides that
17 OIC shall hold a hearing "upon written demand for a hearing made by any person aggrieved
18 by any act...or by any report, promulgation, or order of the commissioner."

19 The declarations of Mr. Oliver and his staff prove that he was "aggrieved." Mr. Oliver
20 and American Equity have experienced significant, measurable business losses as a result of
21 the OIC's blog post regarding the Cease and Desist Order. They can point to multiple specific
22 customers who have refused to do business with them after discovering the blog post.
23 American Equity's gross revenue and net income have been greatly reduced. This reduction is
24 evidence that many more customers never contact Mr. Oliver and American Equity to begin
25 with, but simply read the blog post and never make an initial inquiry. These concrete business
26

1 losses are more than sufficient to make Mr. Oliver and American Equity “aggrieved” as that
2 term is used in RCW 48.04.010. Mr. Oliver and American Equity are entitled to a hearing.

3 In a related argument, OIC also argues that no statutory right to a hearing exists when
4 the Commissioner makes a blog post or issues a press release. OIC’s Motion to Dismiss, §D.
5 But posting an article on a blog is clearly within the broad scope of “any act” for which an
6 aggrieved party may demand a hearing under RCW 48.04.010(1)(b). Mr. Oliver and
7 American Equity have standing and a statutory right to demand a hearing.

8 **B. Continuing to publish unproven, superseded allegations on a**
9 **government website misleads the public and exceeds the OIC’s**
10 **authority.**

11 Second, OIC argues that it has statutory and implicit authority to maintain the blog
12 post even though the cease and desist order it describes contains superseded, unproven
13 allegations. As statutory authority, it cites RCW 48.02.080(3), which allows it to issue cease
14 and desist orders, and RCW 48.02.160, which allows it to “[d]isseminate information
15 concerning the insurance laws of this state” and “[p]rovide assistance to members of the
16 public in obtaining information about insurance products and in resolving complaints
17 involving insurers and other licensees.”

18 Leaving up a blog post describing a superseded cease and desist order serves none of
19 these purposes and is outside the scope of authority vested in OIC by these statutes. The blog
20 post does not transmit information to the public about a currently effective cease and desist
21 order issued under RCW 48.02.080(3). In fact, although the blog post originally linked to the
22 Cease and Desist Order itself, the link is dead and now just generates an error message. The
23 blog post also does not explain the state of Washington insurance law. Rather, it may easily
24 mislead consumers to believe the OIC as proved that Mr. Oliver and American Equity
25 committed all the alleged violations. This is exactly how the Center for Life Insurance
26 Disputes uses the blog post—as evidence that Mr. Oliver misrepresented the nature of life

1 insurance. The blog post on its face does nothing to assist in resolving consumers' complaints.
2 There is simply no statutory basis for the OIC's actions in continuing to publish allegations
3 against an individual and his business that were legally superseded and never proved.

4 OIC further relies upon *Gold Seal Chinchillas, Inc. v. State*, 69 Wn.2d 828, 420 P.2d
5 698 (1966) to argue that maintaining the blog post was within the scope of the OIC's implicit
6 authority and in the public interest. In *Gold Seal Chinchillas*, the plaintiff sought \$13,000,000
7 in damages due to a press release by the Consumer Protection Division of the Attorney
8 General's Office describing allegations in a civil complaint it filed against the plaintiff. The
9 Court held that the Attorney General was immune from the lawsuit, reasoning:

10 [W]e are really balancing two public interests. The first interest is both a
11 public and an individual one. ***Each member of the body politic, as an***
12 ***individual, and the collective public (the body politic) should have an interest***
13 ***in the protection of individuals and business entities from attacks upon their***
14 ***reputations in relation to their business activities.*** But a counterbalancing
15 interest of the public involves the free and uninhibited dissemination of
16 information about government activities....

17 Public knowledge of the initiation of actions pursuant to these laws [that
18 plaintiff was alleged to have violated] would seem to be of paramount
19 importance in terms of making the public aware (1) that the laws were being
20 enforced, and (2) that the Attorney General, as an elected official of the state,
21 is adequately performing the duties of his office and is meeting his
22 responsibilities to the electorate.

23 *Id.* at 832-33 (emphasis added).

24 In this case, all of the public interests considered in *Gold Seal Chinchillas* weigh in
25 favor of taking down the blog post. Mr. Oliver, like each member of the public, has an
26 important interest in being free of attacks on his business reputation. Taking down the blog
post removes such an attack from the public sphere. Likewise, the dissemination of
information about government activities to show that Washington law is being enforced and
that the Commissioner is doing his job is served only by giving the public accurate, up-to-date
information about the Commissioner's activities. OIC misleads the public about its activities
and gives the impression it is enforcing laws that it is not by publishing outdated allegations,

1 with no explanation that the allegations were legally superseded and never proved. OIC does
2 not have implied authority to maintain the blog post on its website under these circumstances.

3 **C. Absolute immunity does not apply when the only remedy sought is**
4 **to take down the blog post.**

5 Third, OIC argues that it has absolute immunity under RCW 48.01.190 and *Gold Seal*
6 *Chinchillas*. RCW 48.01.190(2) provides that the Insurance Commissioner and its employees
7 are “immune from liability in any civil action or suit arising from the publication of any report
8 or bulletin or dissemination of information related to the official activities of the
9 commissioner ..., unless actual malice, fraud, or bad faith is shown.” In *Gold Seal*
10 *Chinchillas*, as described above, the Court applied the similar common law doctrine of
11 absolute immunity to dismiss the Plaintiff’s defamation claim, for which Plaintiff claimed it
12 had suffered \$13,000,000 in general and special damages.

13 RCW 48.01.190(2) does not apply on its face because this administrative hearing is
14 not a “civil action or suit.” Compare Title 4 RCW, Civil Procedure, with Chapter 34.05 RCW,
15 Administrative Procedures Act. See also *Bowen v. Dep’t of Soc. Sec.*, 14 Wn.2d 148, 150, 127
16 P.2d 682 (1942) (holding that the term “civil actions at law” in the Washington State
17 Constitution does not extend to administrative proceedings). Similarly, the relief that Mr.
18 Oliver and American Equity have requested—for OIC to take down the blog post—is not
19 “liability” in the sense that word is used in RCW 48.01.190(2). The phrase liability connotes
20 an award of damages, as the plaintiff sought in *Gold Seal Chinchillas*. But unlike that case,
21 Mr. Oliver is not currently asking for monetary damages. In this administrative proceeding, he
22 is just requesting that OIC remove a blog post containing superseded, unproven allegations of
23 legal violations that continue to harm his business and reputation down from its website. Both
24 Mr. Oliver and the public at large will benefit from this reasonable and limited remedy.

FILED

2015 FEB 20 P 1:34

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

STATE OF WASHINGTON
OFFICE OF THE INSURANCE COMMISSIONER

In Re:

NO. 14-0229

CHARLES D. OLIVER and AMERICAN EQUITY
ADVISORY GROUP, LLC,

Respondents.

DECLARATION OF CHARLES
OLIVER IN SUPPORT OF
RESPONDENTS' RESPONSE TO
INSURANCE COMMISSIONER'S
MOTION TO DISMISS

Charles Oliver declares and states as follows:

1. I am an owner and Wealth Architect for American Equity Advisory Group, LLC ("American Equity"). I am competent to testify to make the following statements based upon my personal, firsthand knowledge. If called to testify, I would repeat and affirm each and every statement herein made.

2. My business has suffered tremendously as a result of the Washington Insurance Commissioner's blog post about the Cease and Desist Order against American Equity and me.

3. Multiple potential customers have told me and my staff that they were not moving forward with American Equity because they read the Washington Insurance Commissioner's blog post about the Cease and Desist Order. I have personally called or emailed many of these potential clients to explain the status of the case, many times to no avail. As just one example, I had a phone call with potential client S.G. (also described in the declaration of Debbie

1 Klotter) explaining to him that the Insurance Commissioner's allegations had not ultimately
2 been proved true. Still, S.G. did not move forward.

3 4. As a result, American Equity's gross revenues and net income have plummeted from
4 2012 to 2014. A true and correct income statement for 2012-2014 is attached as Exhibit A.
5 These financial statements show that gross revenue in 2012 was \$2.7 million, whereas in 2014
6 it was only \$1.4 million. Net income in 2012 was \$1.5 million, contrasted with \$140,000 in
7 2014.

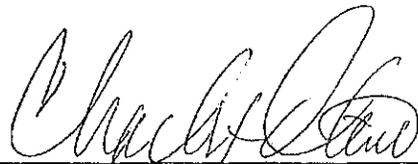
8 5. In addition to losing customers, the Washington Insurance Commissioner's blog post
9 about the Cease and Desist Order has caused other business setbacks.

10 6. For example, the landlord for an office space that I wanted to lease in Ashville, North
11 Carolina refused to rent to American Equity, citing the Washington Insurance
12 Commissioner's blog post about the Cease and Desist Order.

13 7. Two carriers, North American and Minnesota Life, have also refused to do business
14 with me. I believe this refusal is based on the blog post and their misunderstanding about the
15 status of the Washington Office of the Insurance Commissioner's allegations against me.

16 I declare under penalty of perjury under the laws of the State of FLORIDA that the
17 foregoing is true and correct.

18 EXECUTED this 19 day of February, 2015, at LAKE MARY, FLORIDA.

19
20
21 

22 Charles Oliver

Exhibit A

American Equity Advisory Group
Profit & Loss
January 2012 through December 2014

	<u>Jan - Dec 12</u>	<u>Jan - Dec 13</u>	<u>Jan - Dec 14</u>	<u>TOTAL</u>
Ordinary Income/Expense				
Income				
Commission income	2,714,645.53	2,137,966.33	1,428,799.40	6,281,411.26
Total Income	<u>2,714,645.53</u>	<u>2,137,966.33</u>	<u>1,428,799.40</u>	<u>6,281,411.26</u>
Expense				
Advertising/Promotional	439,102.65	621,546.48	667,876.80	1,728,525.93
Automobile Expense	0.00	8,924.49	1,419.17	10,343.66
Bank Fees	111.01	654.29	-49.82	715.48
Business Owner Retirement Plan	29,281.27	37,499.48	49,632.84	116,413.59
Commision Splits	57,166.88	10,197.85	51,866.65	119,231.38
Depreciation Expense	19,941.00	5,303.83	0.00	25,244.83
Dues and Subscriptions	2,083.56	2,598.95	1,635.00	6,317.51
Equipment Rental	8,976.42	0.00	0.00	8,976.42
Insurance	31,864.64	775.08	11,503.62	44,143.34
Interest Expense	0.00	0.00	139.73	139.73
Licenses and Permits	1,471.02	2,625.10	11,325.71	15,421.83
Meals and Entertainment	18,519.15	17,329.51	25,064.20	60,912.86
Office	38,107.30	31,187.64	39,864.80	109,159.74
Payroll	266,592.89	255,083.29	260,233.28	781,909.46
Printing and Reproduction	425.22	1,308.52	4,262.10	5,995.84
Professional Development	22,880.95	22,645.26	21,739.95	67,266.16
Professional Fees	116,289.68	75,165.11	63,375.90	254,830.69
Rent	28,484.00	30,000.00	22,965.00	81,449.00
Repairs	2,428.00	5,724.83	5,528.37	13,681.20
Travel	30,271.28	39,121.99	25,066.85	94,460.12
Utilities	17,814.30	26,749.68	24,743.74	69,307.72
Total Expense	<u>1,131,811.22</u>	<u>1,194,441.38</u>	<u>1,288,193.89</u>	<u>3,614,446.49</u>
Net Ordinary Income	1,582,834.31	943,524.95	140,605.51	2,666,964.77
Other Income/Expense				
Other Income				
Interest income	16.75	9.22	1.75	27.72
Total Other Income	<u>16.75</u>	<u>9.22</u>	<u>1.75</u>	<u>27.72</u>
Net Other Income	<u>16.75</u>	<u>9.22</u>	<u>1.75</u>	<u>27.72</u>
Net Income	<u><u>1,582,851.06</u></u>	<u><u>943,534.17</u></u>	<u><u>140,607.26</u></u>	<u><u>2,666,992.49</u></u>

FILED

2015 FEB 20 P 1:34

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

STATE OF WASHINGTON
OFFICE OF THE INSURANCE COMMISSIONER

In Re:

NO. 14-0229

CHARLES D. OLIVER and AMERICAN EQUITY
ADVISORY GROUP, LLC,

Respondents.

DECLARATION OF DEBBIE
KLOTTER IN SUPPORT OF
RESPONDENTS' RESPONSE TO
INSURANCE COMMISSIONER'S
MOTION TO DISMISS

Debbie Klotter declares and states as follows:

1. I am a Strategic Assistant for American Equity Advisory Group, LLC ("American Equity"). I am competent to testify to make the following statements based upon my personal, firsthand knowledge. If called to testify, I would repeat and affirm each and every statement herein made.

2. As part of my duties for American Equity, I speak with potential clients and set up appointments. I have spoken with and arranged appointments for several potential clients who ultimately did not move forward with American Equity because they had read the Washington Insurance Commissioner's blog post about the Cease and Desist Order against American Equity and Charles Oliver.

3. For example, potential customer B.E. (I am using initials to protect the potential client's privacy) based in Jacksonville, Florida attended an American Equity webinar on April

1 16, 2014. He met with an American Equity representative on May 8, 2014 and again on May
2 27, 2014. I spoke with B.E. on June 19, 2014 and he told me he planned to move forward with
3 American Equity. Then, on August 29, 2014, B.E. told me that he had changed his mind and
4 decided not to go forward, in part because of the Washington Insurance Commissioner's blog
5 post about the Cease and Desist Order.

6 4. S.G., another potential customer based in Tennessee, attended an American Equity
7 webinar on August 26, 2014. He completed a survey on August 29, 2014 and scheduled an
8 appointment for November. On October 20, 2014, he called and canceled the appointment
9 because he had read the Washington Insurance Commissioner's blog post about the Cease and
10 Desist Order. Even after speaking with Mr. Oliver about the issue, S.G. now does not return
11 phone calls or emails.

12 5. A third example is B.D., a potential customer from Hanover, Pennsylvania. B.D.
13 attended a webinar on December 21, 2014 and completed a survey on December 23, 2014. He
14 attended a meeting with an American Equity Representative on January 7, 2015, but when I
15 tried to set up a follow-up meeting, he declined because he had read the Washington
16 Insurance Commissioner's blog post about the Cease and Desist Order.

17 6. In addition to these three examples, I have talked with other customers who chose not
18 to do business with American Equity because of the Washington Insurance Commissioner's
19 blog post about the Cease and Desist Order.

20 7. I have also had to spend significant amounts of work time explaining the Washington
21 Insurance Commissioner's blog post about the Cease and Desist Order to current customers
22 who inquired about it. This is time that I otherwise could have spent on other work.

23 I declare under penalty of perjury under the laws of the State of Florida
24 that the foregoing is true and correct.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

EXECUTED this 19th day of February, 2015, at Lake Mary, Florida.

Debbie Klotter
Debbie Klotter

FILED

2015 FEB 20 P 1: 34

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

STATE OF WASHINGTON
OFFICE OF THE INSURANCE COMMISSIONER

In Re:

NO. 14-0229

CHARLES D. OLIVER and AMERICAN EQUITY
ADVISORY GROUP, LLC,

Respondents.

DECLARATION OF RON JOSEPH
IN SUPPORT OF RESPONDENTS'
RESPONSE TO INSURANCE
COMMISSIONER'S MOTION TO
DISMISS

Ron Joseph declares and states as follows:

1. I am a Wealth Architect for American Equity Advisory Group, LLC ("American Equity"). I am competent to testify to make the following statements based upon my personal, firsthand knowledge. If called to testify, I would repeat and affirm each and every statement herein made.

2. I have met with several potential clients of American Equity who decided not to move forward because they had read the Washington Insurance Commissioner's blog post about the Cease and Desist Order against American Equity and Charles Oliver. The following are three examples.

3. On September 1, 2014, I met with potential customer B.E. (I am using initials to protect the potential client's privacy), who told me he planned to move forward with American Equity. B.E. did not complete the applications. When I contacted him to ask why,

1 he told me he had read the Washington Insurance Commissioner's blog post about the Cease
2 and Desist Order against American Equity and Charles Oliver.

3 4. On September 16, 2014, I received an email from S.V., another potential customer,
4 canceling a meeting scheduled for two days later. I had already talked on the phone with S.V.
5 about the information in the Washington Insurance Commissioner's blog post about the Cease
6 and Desist Order, and I had explained to him that the allegations described were superseded.
7 S.V.'s email stated that he still felt uncomfortable moving forward given the allegations. A
8 true and correct copy of S.V.'s email (with his name and email address redacted) is attached
9 as Exhibit A. S.V. never did move forward with American Equity.

10 5. On January 9, 2015, I met with potential customer J.S. to discuss working with
11 American Equity. On January 12, 2015, J.S. sent an email opting out of further contact with
12 American Equity. His email referenced a post about American Equity on the Center for Life
13 Insurance Disputes website at: <http://cflid.com/hidden-wealth-system-chuck-oliver/>. This post
14 contains a live link to the Washington Insurance Commissioner's blog post about the Cease
15 and Desist Order.

16 6. I have also had to spend significant amounts of time explaining the Washington
17 Insurance Commissioner's blog post about the Cease and Desist Order to current customers
18 who inquired about it. This is time that I otherwise could have spent on other work.

19 I declare under penalty of perjury under the laws of the State of Ohio
20 that the foregoing is true and correct.

21 EXECUTED this 18 day of February, 2015, at Hilliard, Ohio.

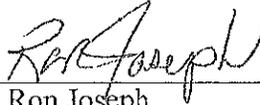
22
23
24 
25 Ron Joseph
26

Exhibit A

From: redacted .net [mailto:redacted .net]
Sent: Tuesday, September 16, 2014 1:45 PM
To: Ron Joseph
Subject: RE: Hidden Wealth appointment confirmation

Hello Mr Joseph.

Since you & I still apparently have an appointment standing for this Thursday, I think it only fair to tell you that I am troubled by these allegations, even if Mr Oliver was cleared.

Frankly, I am troubled enough that I don't really feel all that good about even bringing to the appointment my financial statements, which would expose my various account numbers & banking locations.

So, then I have to ask myself, if I'm not feeling secure enough to present to you my account information, then how on earth will I feel when I actually turn my money over to you?

Please understand that I am trying to be absolutely honest with you, and that it is not my purpose to cast you personally in a bad light . . . but, I AM troubled.

If you have any further thoughts on this matter, please let me know. I am willing to keep this dialog open.

Thank You.

Sredac.Vredacted
redacted .net

Please note: message attached

From: Ron Joseph <ron@TheHiddenWealthSystem.com>

To: redacted .net" redacted .net>

Subject: RE: Hidden Wealth appointment confirmation

Date: Thu, 11 Sep 2014 23:43:19 +0000

This email has been scanned for spam and viruses by Proofpoint Essentials cloud email security - click [here](#) to report this email as spam.

FILED

2015 FEB 20 P 1:34

STATE OF WASHINGTON
OFFICE OF THE INSURANCE COMMISSIONER

In Re:

NO. 14-0229

CHARLES D. OLIVER and AMERICAN EQUITY
ADVISORY GROUP, LLC,

Respondents.

DECLARATION OF SHANNON
LAWLESS IN SUPPORT OF
RESPONDENTS' RESPONSE TO
INSURANCE COMMISSIONER'S
MOTION TO DISMISS

Shannon Lawless declares and states as follows:

1. I am an attorney with Ryan, Swanson & Cleveland, attorneys for Charles Oliver and American Equity Advisory Group, LLC ("American Equity"). I am competent to testify to make the following statements based upon my personal, firsthand knowledge. If called to testify, I would repeat and affirm each and every statement herein made.

2. Attached as **Exhibit A** is a true and correct copy of a printout of the Office of the Insurance Commissioner's blog post dated April 4, 2013 about the Cease and Desist Order against Charles Oliver and American Equity, available at <http://wainsurance.blogspot.com/2013/04/cease-and-desist-order-issued-to.html>. I accessed and printed this blog post on February 19, 2015.

3. Attached as **Exhibit B** is a true and correct copy of a printout of the Center for Life Insurance Disputes website post titled "Beware the Hidden Wealth System by Chuck Oliver,"

1 available at <http://cflid.com/hidden-wealth-system-chuck-oliver/> I accessed and printed this
2 post on February 19, 2015. The link on the Center for Life Insurance Dispute's website
3 labeled "Cease and Desist against Chuck D. Oliver" is a live link to the Washington Insurance
4 Commissioner's blog post about the Cease and Desist Order (Exhibit A to this declaration).

5 4. Attached as **Exhibit C** is a true and correct copy of an email from the Washington
6 State Attorney General's Office dated May 8, 2014 in which the Assistant Attorney General
7 refuses to take down the blog post on the basis that the blog post and the Consent Order
8 "[b]oth note violations of Washington insurance law." This email was forwarded to me on
9 February 18, 2015 by Gulliver Swenson.

10 I declare under penalty of perjury under the laws of the State of Washington that the
11 foregoing is true and correct.

12 EXECUTED this 19 day of February, 2015, at Seattle, Washington.

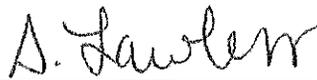
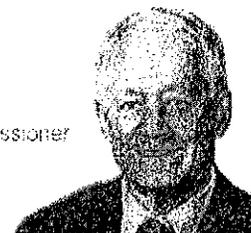
13
14
15 
16 _____
Shannon Lawless

Exhibit A

Washington State Office of the INSURANCE COMMISSIONER UPDATES

Mike Kreidler
Insurance Commissioner



Consumer help and news from Washington's insurance regulator

[Blog home](#) [OIC website \(www.insurance.wa.gov\)](#) [Get help with an insurance problem](#)

Thursday, April 4, 2013

Cease and desist order issued to Charles D. Oliver, American Equity Advisory Group, and "the Chuck Oliver team"

A few minutes ago, we [issued this cease and desist order](#) telling Charles D. Oliver, American Equity Advisory Group LLC, and "the Chuck Oliver team," as well as their employees, agents and affiliates, to immediately stop selling insurance products in Washington without a license.

We received a complaint from a woman who -- despite the fact that she is unmarried and has no children -- had bought two \$1 million life insurance policies and an annuity from Oliver and an associate, Steven H. Minnich. From the order we issued today:

"In the end, Mr. Minnich and Mr. Oliver sold (the woman) two life insurance policies and an annuity, as part of a complex scheme they call 'maximum funding' or the 'Missed Fortune' concept. Essentially, the plan was to deposit a large amount of premium into the plans for the first five years, and then stop paying on the contract.

"Mr. Minnich and Mr. Oliver told (her) that, if she did not touch the life policies for 10 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.

"This is not correct. Based upon the non-guaranteed amounts in the illustrations provided, there is a theoretical possibility that it could occur. However, the guaranteed amounts show that, within a few years (the buyer) would run out of cash value in the policies against which to borrow. This would happen by operation of the loans themselves, in addition to the accrued interest. In addition, the death benefits would decrease when (she) reached certain age milestones. Thus, not only would (she) not be able to use the policies for retirement income, she would also need to pay additional premiums simply to keep the policies in force. Thus, **it is vastly more likely that the plan would not have performed as represented to her by Mr. Minnich and Mr. Oliver, and would leave her in a far worse financial state than if she had left her money where it was.**

About our blog

This is the official blog of the [Washington state Insurance Commissioner's office](#).

Got a question? Contact us at WAinsuranceblog@oic.wa.gov. You can also find us on [Twitter](#), [Facebook](#) and [Instagram](#).

If you have an insurance complaint or question--and live in Washington state--call our consumer advocates at 1-800-562-6900.

If you need help but live elsewhere, please contact your state's insurance department. [Here's a map](#) with contact info.

Lastly, the legal stuff: Mentioning a company or product on this blog ≠ endorsement. But you knew that.

Blog Archive

- ▶ 2015 (8)
- ▶ 2014 (136)
- ▼ 2013 (146)
 - ▶ December (14)
 - ▶ November (5)
 - ▶ October (15)
 - ▶ September (14)
 - ▶ August (6)
 - ▶ July (11)
 - ▶ June (19)
 - ▶ May (6)

"Neither Mr. Minnich nor Mr. Oliver even suggested to (the buyer) that this was a possibility, let alone informed (her) of the extreme risks she was taking."

In this case, the premiums amounted to \$110,000 a year. The woman, who had minimal annual income, was only able to make the first two years' payments by borrowing from one life insurance policy, cashing in another, borrowing from her IRA, and opening a home equity line of credit. Minnich and Oliver, according to our order, "knew that she does not, and never did, have the assets to be able to make the \$110,000 payments for five years."

Our order alleges that these transactions included nearly a dozen violations of Washington state law, including Oliver's selling insurance without a license, selling an unapproved policy, taking a commission without being licensed, describing the plan in a way that could be misleading, engaging in unfair or deceptive practices, and "by knowingly making, publishing or disseminating false, deceptive or misleading representations" of an insurance transaction.

The respondents can demand a hearing. The order, which was signed today, takes effect immediately.

Posted by Rich R. at OIC at 3:56 PM 

  Recommend this on Google

[Newer Post](#)

[Home](#)

[Older Post](#)

- ▼ April (25)
 - ▶ Apr 30 (2)
 - ▶ Apr 26 (1)
 - ▶ Apr 25 (1)
 - ▶ Apr 24 (1)
 - ▶ Apr 23 (2)
 - ▶ Apr 22 (1)
 - ▶ Apr 19 (1)
 - ▶ Apr 17 (2)
 - ▶ Apr 16 (1)
 - ▶ Apr 15 (1)
 - ▶ Apr 12 (1)
 - ▶ Apr 11 (2)
 - ▶ Apr 10 (1)
 - ▶ Apr 09 (1)
 - ▶ Apr 08 (3)
 - ▼ Apr 04 (2)

[Cease and desist order issued to Charles D. Oliver...](#)

["My lender wants my homeowners policy to cover the..."](#)

- ▶ Apr 02 (2)
- ▶ March (16)
- ▶ February (11)
- ▶ January (4)
- ▶ 2012 (172)
- ▶ 2011 (155)
- ▶ 2010 (232)
- ▶ 2009 (146)

Twitter feed

Tweets

Follow



WA OIC
@WA_OIC

1h

Consumer alert: Widows targeted in life insurance scam ow.ly/JJmB #AskKreidler



WA OIC
@WA_OIC

18 Feb

Many #WA consumers can still enroll in health insurance through @waplanfinder until April 17. Find out more ow.ly/JhmjB

Expand



WA OIC
@WA_OIC

13 Feb

Open enrollment ends Sunday night -- read about your options to #GetCovered ow.ly/Incyb

Expand



WA OIC
@WA_OIC

13 Feb

We're closed Monday, Feb. 16 in observance of Presidents' Day. Our online services will be available. Offices re-open at 8 a.m., Feb. 17.

Expand



WA OIC

13 Feb

Tweet to @WA_OIC

Popular Posts

[How to find old life insurance policies \(and other unclaimed property\)](#)

[Health insurance rates, by state](#)

Subscribe

Posts

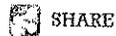
Comments

Follow by Email

Email address...

Submit

Exhibit B



The Center for Life Insurance Disputes

LIFE INSURANCE CLAIMS & DISPUTES

(888) 428-4868

Home Life Insurance Claims Policy Disputes Why Us Contact Us Life Insurance Blog

Beware The Hidden Wealth System by Chuck Oliver

Is Chuck Oliver misrepresenting the features of life insurance and omitting the costs of policies, to the public, in order to get them to buy life insurance? The same question can be asked of Patrick Kelly, Doug Andrew, Nelson Nash and Pamela Yellen.

It's not surprising Mr. Oliver lists one of his credentials as a Certified TEAM Member of Douglas Andrew's Missed Fortune. We have been warning people about the dangers and fallacies of the Missed Fortune scheme for years, and have saved many people from losing money in that scheme.

Now we have Mr. Oliver and the Hidden Wealth System. The Insurance Commissioner of Washington issued a Cease and Desist against Mr. Oliver, his team, agents, employees and affiliates, on April 4, 2013. To read the details use this link: [Cease and Desist against Chuck D. Oliver](#). Among the near-dozen violations of state law cited by the Commissioner, Mr. Oliver is accused of selling insurance without a license and making misleading representations of an insurance transaction.

In reviewing his website, www.thehiddenwealthsystem.com, we found that Mr. Oliver does misrepresent life insurance and the costs and features of life insurance. These misrepresentations are violations, in any state, and if someone bought life insurance based on any of these misrepresentations they would have grounds to sue Mr. Oliver and/or the agent who sold the policy. For example:

- Personal Protected Pension Plan. He's not selling a pension plan. He's selling life insurance by misrepresenting what it is. In fact, it's a violation, in every state, to represent that life insurance is anything other than life insurance. Labeling life insurance a "pension plan" makes it sound safe and secure. It also draws the buyer's attention away from the policy's costs and is strictly prohibited because life insurance is not a pension plan.
- Misrepresenting policy costs. In the FAQ section of the Hidden Wealth System website it states,

"The internal costs of a special design insurance policy ranges from .75% to 1.5%."

This statement is absolutely misleading. But Mr. Oliver is a clever schemer. He purposely leaves out any reference to what the costs relate to. In other words, .75% to 1.5% of what? We don't know. Is it .75% of the premium, the cash value, the death benefit? And how often is Mr. Oliver's .75% to 1.5% charged to the policy owner? Is it one time, or every month or every day? We don't know because he conveniently leaves that information out. Spinsters know how to spin, and here is blatant evidence of Mr. Oliver's devious tactics.

- Tax free retirement income. Life insurance does have a provision whereby the owner can borrow money from the policy. And since a loan is not a withdrawal, it is not taxable. However, and we see this violation too often, calling a loan tax free income, is untrue and sets the stage for big problems. What Mr. Oliver promotes as tax free income is nothing more than borrowing a policy's cash value.



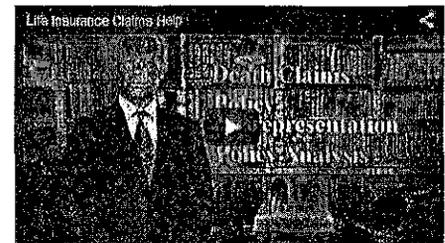
Search



Call Us Toll Free

(888) 428-4868

We represent clients throughout the United States.



Over \$50 Million Recovered

Some of Our Recent Success

Life insurance claim recovered by the center for life insurance disputes \$500,000
 Within four months of taking on another delayed life insurance claim, The Center for Life Insurance Disputes was able to get all open-issues resolved and the \$500,000 claim paid by HSBC Insurance Company. This one was a particular challenge because there were several reasons for the delay instead of just one reason. And as is

[Read more →](#)

Search for Lost Life Insurance Policies
[CLICK HERE](#)

What Mr. Oliver omits from his one-sided presentation is that life insurance loans become taxable when a policy lapses. Imagine the impact of having borrowed \$500,000.00 from a life insurance policy, having the policy lapse, and getting an income tax bill for \$500,000.00. Nowhere on his website does Mr. Oliver give any mention of this possibility or its impact.

- Video disclaimer is a flat out lie.

The Hidden Wealth System website has a section titled Your Personal Protected Pension Plan for Individuals. We've already addressed the fallacy of life insurance being a pension plan. Here we address the video's disclaimer which reads,

"IMPORTANT: This video is for informational purposes only. It does not reference, represent or recommend any specific product or company."

Yes it does! That's exactly what the video does. It references, represents and recommends several benefits of Indexed Universal Life Insurance. How much more specific could it be when it states, "all of these guarantees and tax benefits are ONLY available with Equity Indexed life insurance"?

These are just a few examples of how the Hidden Wealth System is a deceptive scheme to sell life insurance. We strongly urge people to beware Chuck Oliver and his Hidden Wealth System. This is nothing more than an offshoot of the Missed Fortune scheme in which only the benefits of indexed universal life insurance are presented to the prospective buyer. None of the costs or risks of life insurance are disclosed. Misleading statements are prevalent, and financial harm is highly likely to be the outcome.

If you have been sold life insurance under the Hidden Wealth System scheme and would like to know how you can recover your money, contact us.

[← Beware the Missed Fortune Sales Concept](#)

[Prudential Life Insurance Claim was Denied →](#)

Related Posts

[Beware the Missed Fortune Sales Concept](#)

Exhibit C

Lawless, Shannon J.

From: Swenson, Gulliver A.
Sent: Wednesday, February 18, 2015 11:32 PM
To: Lawless, Shannon J.
Subject: Fwd: Oliver matter

Sent from my iPhone

Begin forwarded message:

From: "Valandra, Steve (OIC)" <SteveVA@oic.wa.gov>
Date: May 8, 2014 at 2:51:21 PM PDT
To: "'swenson@ryanlaw.com'" <swenson@ryanlaw.com>
Subject: Oliver matter

Mr. Swenson,

I am getting back to you about our phone call the other day and also the request made to Andrea Philhower in our Legal Affairs Division regarding your client, Mr. Charles D. Oliver.

While I understand your request and concern, we will keep in place what we have on the website for the Insurance Commissioner's Office. The consent order of April 4 restates the key information from the blog posting. Both note violations of Washington insurance law.

I cannot in good conscience ask for removal of the blog posting or of factual information from our website.

I do take seriously your client's concerns. As a former newspaper reporter, I have a thorough understanding of the impact of written words.

Best wishes,

Steve Valandra

Deputy Commissioner, Public Affairs
Washington State Office of the Insurance Commissioner
360 725-7052 | SteveVA@oic.wa.gov
Olympia, WA 98504
www.insurance.wa.gov

•wainsurance.blogspot.com •[@WA_OIC](https://twitter.com/WA_OIC) •[Facebook.com/WSOIC](https://www.facebook.com/WSOIC)

Protecting insurance consumers

Insurance Consumer Hotline 1.800.562.6900

FILED

2015 FEB 20 P 1:34

STATE OF WASHINGTON
OFFICE OF THE INSURANCE COMMISSIONER

In Re:

NO. 14-0229

CHARLES D. OLIVER and AMERICAN EQUITY
ADVISORY GROUP, LLC,

Respondents.

DECLARATION OF DEVIN PATEL
IN SUPPORT OF RESPONDENTS'
RESPONSE TO INSURANCE
COMMISSIONER'S MOTION TO
DISMISS

Devin Patel declares and states as follows:

1. I am a Wealth Architect with American Equity Advisory Group, LLC ("American Equity"). I am competent to testify to make the following statements based upon my personal, firsthand knowledge. If called to testify, I would repeat and affirm each and every statement herein made.

2. Several potential customers have told me they decided not to move forward with American Equity because they read the Washington Insurance Commissioner's blog post about the Cease and Desist Order against American Equity and Charles Oliver.

3. For example, in October 2014 potential client D.P. (identified here by his initials to protect privacy) and his father, who were business owners, they let me know they had found the Washington Insurance Commissioner's blog post about the Cease and Desist Order and

1 did not want to move forward. This family was interested in setting up plans with their many
2 business partners, businesses, and executives.

3 4. Again in November 2014, potential client S.S. and his father, another pair of business
4 owners, sent me a text message saying they had found the Washington Insurance
5 Commissioner's blog post about the Cease and Desist Order and did not want to move
6 forward. This family was also interested in setting up plans with their many business partners,
7 businesses, and executives. This potential client as referred as family members through the
8 prior potential client stated in section 3.

9 5. In December 2014, potential client S.M. emailed one of my current clients, letting her
10 know that he had found the Washington Insurance Commissioner's blog post about the Cease
11 and Desist Order. Since that email, S.M. has not pursued working with American Equity.

12 6. Some clients who did decide to do business with American Equity chose smaller
13 policies than they were initially considering because of their concerns relating to the
14 Washington Insurance Commissioner's blog post about the Cease and Desist Order. For
15 example, on July 6, 2014, client L.C. made an investment of a smaller amount than he was
16 originally considering.

17 7. I have also had to spend significant amounts of work time explaining the Washington
18 Insurance Commissioner's blog post about the Cease and Desist Order to clients and
19 prospective clients who inquired about it. This is time that I otherwise could have spent on
20 other work.

21 I declare under penalty of perjury under the laws of the State of Florida that
22 the foregoing is true and correct.

23 EXECUTED this 10 day of February, 2015, at 2:49 pm, in Thurs day.

Devin Patel

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26

FILED

2015 FEB 20 P 1:34

STATE OF WASHINGTON
OFFICE OF THE INSURANCE COMMISSIONER

In Re:

CHARLES D. OLIVER and AMERICAN EQUITY
ADVISORY GROUP, LLC,

NO. 14-0229

DECLARATION OF SERVICE

Respondents.

I hereby declare as follows:

1. I am a citizen of the United States and a resident of the State of Washington. I am over the age of 18 years and not a party to the within action. I am employed by the law firm of Ryan, Swanson & Cleveland, PLLC, 1201 Third Avenue, Suite 3400, Seattle, Washington, 98101-3034.

2. On February 20, 2015, I caused to be served upon the following individuals, at the address and in the manner described below, the following documents:

Charles Oliver and American Equity's Response to Insurance Commissioner's Motion to Dismiss;

Declaration of Devine Patel in Support of Respondents' Response to Insurance Commissioner's Motion to Dismiss;

Declaration of Debbie Klotter in Support of Respondents' Response to Insurance Commissioner's Motion to Dismiss;

Declaration of Ron Joseph in Support of Respondents' Response to Insurance commissioner's Motion to Dismiss;

1 Declaration of Charles Oliver in Support of Respondents' Response to Insurance
Commissioner's Motion to Dismiss;

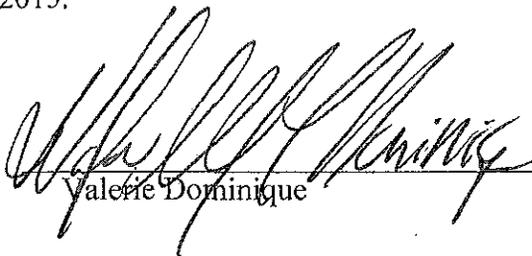
2 Declaration of Shannon Lawless in Support of Respondents' Response to Insurance
3 Commissioner's Motion to Dismiss; and

4 Declaration of Service.

<p>5 Marta DeLeon, 6 Assistant Attorney General 7 Office of the Attorney General 8 Government Compliance & 9 Enforcement Division 1125 Washington Street SE P.O. Box 40100 Olympia, WA 98504-0100 Email: Martad@atg.wa.gov</p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Federal Express</p>	
<p>10 Isaac Williamson 11 Assistant Attorney general 12 Office of the Attorney General 13 Government Compliance & 14 Enforcement Division 1125 Washington Street SE P.O. Box 40100 Olympia, WA 98504-0100 Email: IsaacW@atg.wa.gov</p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Federal Express</p>	
<p>15 OIC Hearings Unit 16 P.O. Box 40255 17 Olympia, WA 98504-0255 Email: HearingsU@oic.wa.gov 18 Kelly Cairns at the OIC Hearings Unit 19 Email: KellyC@oic.wa.gov</p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Federal Express</p>	
<p>20 Judge George Finkle 21 1425 Fourth Ave., Suite 300 22 Seattle, WA 98101 23 Finkle@jdrllc.com</p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Federal Express</p>	

1 I declare under penalty of perjury under the laws of the state of Washington that the
2 foregoing is true and correct.

3 DATED this 20th day of February, 2015.

4
5
6 
7 Valerie Dominique