

DRISCOLL, LEO

OIC NO. 16-0002 / SIMBA NUMBER 1339824

EXHIBIT 12

EXH 12 – 11/25/2015 Order-20160106-AffirmingOIC

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SPOKANE COUNTY CLERK

SUPERIOR COURT, STATE OF WASHINGTON, COUNTY OF SPOKANE

LEO J. DRISCOLL,

Petitioner,

vs.

WASHINGTON STATE INSURANCE
COMMISSIONER; TIAA-CREF LIFE
INSURANCE COMPANY;
METROPOLITAN LIFE INSURANCE
COMPANY,

Respondents.

No. 15-2-00920-1

**ORDER AFFIRMING FINAL ORDER
OF THE INSURANCE COMMISSION**

THIS MATTER having come before the Court on August 28, 2015, on Petitioner's Petition for Judicial Review, the Petitioner, LEO J. DRISCOLL, having represented himself pro se; the Respondents, WASHINGTON STATE INSURANCE COMMISSIONER ("Commissioner"), having been represented by ROBERT W. FERGUSON, Attorney General, and ISAAC B. WILLIAMSON, Assistant Attorney General; and TIAA-CREF Life Insurance Company and Metropolitan Life Insurance Company, having been represented by William C. Schroeder, attorney at law, and Michael D. Rafalko, attorney at law appearing *pro hac vice*, and the Court having considered the Petition for Review and Amended Petition for Review,

ORDER AFFIRMING FINAL ORDER OF
THE INSURANCE COMMISSIONER - 1

1 the pleadings in support and opposition thereto, argument of counsel, the remaining court file,
2 and being in all matters duly advised, hereby:

3 FINDS THAT:

- 4
- 5 1. Petitioners' claims are each time-barred under RCW 48.04.010(3);
 - 6 2. Petitioners' claims are barred by the Filed Rate Doctrine in that they
7 seek to challenge the premium rate filed with and approved by the
8 Washington Office of the Insurance Commissioner ("OIC") and the
9 process by which the OIC reviewed and approved the rates charged to
10 Petitioners, both of which are impermissible. *See McCarthy v.*
11 *Premera*, 347 P.3d 872, 182 Wn. 936 (Wn. 2015); and

12 Because the Court has determined that Petitioners' claims are barred by RCW
13 48.04.010(3) and the Filed Rate Doctrine, it did not reach the parties' remaining arguments.

14 The Court ORDERS that the Final Order of the Commissioner, entered on January 23,
15 2015, and the order denying reconsideration, entered on February 10, 2015, are AFFIRMED
16 in their entirety.

17 Signed this 25th day of November, 2015.

18
19 
20 JUDGE HAROLD D. CLARKE, III