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Hearings Unit, DIC  
Patricia D. Petersen  
Chief Hearing Officer

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IN THE STATE OF WASHINGTON  
BEFORE THE OFFICE OF THE INSURANCE COMMISSIONER

In the Matter of

**UNITED OF OMAHA LIFE  
INSURANCE COMPANY and  
MUTUAL OF OMAHA  
INSURANCE COMPANY,**

Respondents.

NO. D07-333

**NOTICE OF HEARING**

The Honorable Mike Kreidler, Insurance Commissioner of the State of Washington, proposes disciplinary action against United of Omaha Life Insurance Company and Mutual of Omaha Insurance Company and hereby issues this Notice of Hearing. The Insurance Commissioner submits the following as the basis of this Notice of Hearing in accordance with RCW 48.04.010.

**1. PARTIES AND JURISDICTION**

1.1 Pursuant to the Insurance Code, Title 48 RCW, the Insurance Commissioner is authorized to regulate the business of insurance and enforce the insurance laws of Washington State in order to protect the public interest.

1.2 United of Omaha Life Insurance Company and Mutual of Omaha Insurance Company (collectively, "United of Omaha") are authorized to transact the business of

1 insurance in Washington State and, therefore, are subject to Title 48 RCW and Chapter 284  
2 WAC. United of Omaha issues life insurance, including juvenile life insurance.

3 1.3 Jurisdiction and venue are appropriate under, amongst other provisions, RCW  
4 48.02.060, RCW 48.02.080, and RCW 48.04.010.

5 **2. BACKGROUND**

6 **A. RCW 48.23.345 AND UNITED OF OMAHA'S JUVENILE LIFE INSURANCE STANDARDS.**

7 2.1 On August 1, 2001, RCW 48.23.345 became effective in Washington State. It  
8 requires insurers to develop and implement underwriting standards and procedures that are  
9 specifically designed to detect and prevent the purchase of juvenile life insurance for  
10 speculative or fraudulent purposes.

11 2.2 On January 8, 2001, United of Omaha issued a "Field Communication" to its  
12 General Managers that contained United of Omaha's guidelines and underwriting standards  
13 for the sale of juvenile life insurance policies. The Field Communication directed the  
14 Company's General Managers to review the document and share it with all United of Omaha  
15 management, agents, and front office staff. This Field Communication remained effective  
16 until it was updated by a subsequent Field Communication on or about March 19, 2004.

17 2.3 The Field Communication issued by United of Omaha on January 8, 2001  
18 provides, in relevant part, as follows:

19 2.3.1 The maximum amount of Juvenile Life Coverage that United  
20 of Omaha generally will issue is \$100,000.

21 2.3.2 For all coverage requests in excess of \$100,000, United of  
22 Omaha requires the following additional information from the  
23 applicant: (a) whether siblings are covered for a similar  
amount, (b) the total amount of coverage in force on the  
parents, (c) identification of the applicant/owner, (d) whether  
the parents signed the application if they are not the  
applicants/owners, and (e) the purpose of the coverage.

24 2.3.3 The parents must have (a) four times more coverage in force  
for children ages five and under, or (b) three times more  
coverage for children above the age of five, and (c) if parents

1 have no coverage, then the maximum amount of juvenile life  
2 coverage that can be issued is \$25,000.

3 2.3.4 One parent with whom the child is living must sign the  
4 application.

5 2.3.5 The guidelines apply to adopted children and children under  
6 guardianship.

7 **B. MR. JOEL ZELLMER PURCHASES A \$200,000 UNITED OF OMAHA JUVENILE LIFE**  
8 **INSURANCE POLICY ON HIS STEPDAUGHTER.**

9 2.4 On September 6, 2003, Joel and Stacey Zellmer were married. Just nine days  
10 later, on September 15, 2003, Mr. Zellmer purchased a \$200,000 United of Omaha life  
11 insurance policy on Ashley Cay McLellan, the three-year old daughter of Stacey Zellmer.  
12 Mr. Zellmer also purchased additional life insurance policies in the amount of \$100,000 on  
13 his two sons from a previous relationship, Dakota and Levi Zellmer. As a result, each of the  
14 children had insurance in the amount of \$200,000. Mr. Zellmer, who already had a \$750,000  
15 life insurance policy, also purchased a \$750,000 policy on Stacey Zellmer. Incidentally,  
16 while the United of Omaha standards and procedures require parents of children under the age  
17 of five to have life insurance that is four times greater than the child, United of Omaha did not  
18 implement or apply this standard in the Zellmer case since neither Stacey nor Joel Zellmer  
19 maintained coverage in the amount of \$800,000.

20 2.5 On December 3, 2003, less than three months after Mr. Zellmer purchased the  
21 \$200,000 juvenile life insurance policy on his stepdaughter, Ashley Cay McLellan was found  
22 floating and unconscious in the swimming pool at the Zellmer residence. At the time of this  
23 incident, Stacey Zellmer was at work and Mr. Zellmer was the only adult at home to care for  
and supervise Ashley Cay McLellan. On December 5, 2003, Ashley Cay McLellan died.

2.6 Following the death of Ashley Cay McLellan, King County investigated the  
circumstances which led to her death. The investigation revealed, amongst other things, the  
following incidents and/or series of alleged events involving Mr. Zellmer:

1                   2.6.1       In August of 1990, Mr. Zellmer purchased insurance from  
2                                   Viking Insurance Company that would pay up to \$25,000 for  
3                                   anyone injured in his car if it was hit by an uninsured  
4                                   motorist. Just a few weeks later, Mr. Zellmer brought his then  
5                                   four-month old stepson, Mitchell Komendant, into the hospital  
6                                   and claimed that Mitchell had been injured after the family car  
7                                   was rear-ended by a hit-and-run driver. Initial X-rays of  
8                                   Mitchell were negative; however, three days later, Mr.  
9                                   Zellmer brought Mitchell to the hospital for new X-rays. This  
                                 time, X-rays indicated that Mitchell had one, and possibly  
                                 two, broken legs. Within a week of the follow-up X-rays, Mr.  
                                 Zellmer attempted to collect on the automobile insurance  
                                 policy. Ultimately, Mr. Zellmer ceased efforts to collect on  
                                 the insurance after his then-wife signed a declaration stating  
                                 there had been no car accident and that Mr. Zellmer had  
                                 planned to make a false claim against Viking all along in  
                                 order to collect the insurance proceeds.

10                   2.6.2       In 1990, Mr. Zellmer made a fraudulent insurance claim on  
11                                   his homeowner's policy citing a break-in/theft at a Shurgard  
                                 storage unit.

12                   2.6.3       Sometime in 1991 and 1992, Mr. Zellmer obtained insurance  
13                                   proceeds for a ring he claimed was stolen; however, he later  
                                 gave the ring to Kelly StaRosa.

14                   2.6.4       In August of 1995, Allstate Insurance Company rescinded a  
15                                   renter's insurance policy issued to Mr. Zellmer after he made  
16                                   a claim in connection with damage caused by a fire at his  
17                                   residence. Allstate investigated the claim and discovered that  
18                                   Mr. Zellmer had misrepresented his application and claim  
19                                   history by denying any prior claims. In fact, Mr. Zellmer had  
20                                   made a claim just six months earlier under his renter's policy  
                                 with Farmers Insurance Company in connection with stolen  
                                 property and a slashed waterbed. Farmers paid for the claim,  
                                 including paying Mr. Zellmer \$11,000 in cash. As a result of  
                                 this information, Allstate rescinded its renter's policy with Mr.  
                                 Zellmer and refunded his premium payment.

21                   2.6.5       In April of 2000, Mr. Zellmer began a relationship with Kelly  
22                                   Clausen, the mother of an infant son named Kyle. Less than a  
23                                   month into the relationship, Ms. Clausen's son was found  
                                 soaking wet and lying next to the hot tub at the Zellmer  
                                 residence. Mr. Zellmer claimed that the infant crawled and  
                                 fell into the hot tub. In July of 2000, while Mr. Zellmer was

1 home babysitting, Kyle sustained blisters and second degree  
2 burns on his hands. Mr. Zellmer claimed that Kyle sustained  
the injuries by leaning against the glass fireplace.

3 2.6.6 In the autumn of 2002, Mr. Zellmer began a relationship with  
4 Michelle Barnett, the mother of a four-year old daughter  
5 named Madison. In December of 2002, while Mr. Zellmer  
6 was babysitting Madison, Michelle Barnett came home to find  
7 Madison wearing different clothing. Mr. Zellmer explained  
the incident by claiming that Madison "tripped and fell" into  
the pool. Ms. Barnett also claimed that Mr. Zellmer had  
expressed interest in purchasing life insurance for Madison.

8 2.6.7 In the spring of 2003, Mr. Zellmer became involved in a  
9 relationship with Mia Teran, the mother of a 3-year old  
10 daughter. Mr. Zellmer suggested purchasing insurance  
11 policies for Mia and her daughter. However, the second time  
12 that Mia left her daughter alone with Mr. Zellmer, the girl  
burned her lips on a sippy cup provided by Mr. Zellmer. Mia  
ended the relationship after finding a collection of pictures of  
other women with young children in Mr. Zellmer's home  
office.

13 2.6.8 Mr. Zellmer has been charged in King County Superior Court  
14 with first-degree theft for allegedly collecting \$193,000 in  
connection with a fraudulent disability claim filed with the  
Department of Labor and Industries.

15 2.6.9 Mr. Zellmer was not employed at the time he purchased the  
16 juvenile life insurance policy on Ashley Cay McLellan from  
17 United of Omaha; rather, his only source of income was  
disability payments from the Department of Labor and  
Industries.

18 2.7 On June 7, 2007, King County officials arrested and charged Joel Zellmer with  
19 the murder of Ashley Cay McLellan. King County maintains, amongst other things, that Mr.  
20 Zellmer had a number of motivations to murder Ashley Cay McLellan, including a desire to  
21 collect on the \$200,000 life insurance policy issued by United of Omaha.  
22  
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1 C. THE OIC EXAMINES UNITED OF OMAHA'S JUVENILE LIFE INSURANCE  
2 GUIDELINES/STANDARDS AND DETERMINES THEY FAIL TO SATISFY THE  
3 REQUIREMENTS OF RCW 48.23.345.

4 2.8 Learning about the investigation and arrest of Mr. Zellmer by King County  
5 prompted the OIC to conduct its own investigation of United of Omaha with respect to the  
6 underwriting standards and guidelines it designed and implemented in connection with the  
7 sale of juvenile life insurance.

8 2.9 Having substantially completed its investigation, the OIC maintains that  
9 United of Omaha failed to develop and implement adequate underwriting standards and  
10 procedures that were designed to detect and prevent the purchase of juvenile life insurance for  
11 speculative or fraudulent purposes. United of Omaha's failure to develop and implement  
12 adequate underwriting standards and procedures allegedly resulted in the very harm the  
13 legislature required insurers to attempt to prevent—the death of the insured juvenile by the  
14 policy owner. Had United of Omaha's standards and procedures included anything more than  
15 a requirement that insurance be in place on all family members, this tragedy might have been  
16 prevented. As such, the OIC's contends that United of Omaha's standards and procedures did  
17 not satisfy the statutory directive provided in RCW 48.23.345.

18 2.10 Had United of Omaha's underwriting standards and procedures included, by  
19 way of example, the following factors, the Ashley Cay McLellan tragedy might have been  
20 prevented. At a minimum, the statutory directive of RCW 48.23.345 would have been  
21 satisfied:

22 2.10.1 Language in the standards/procedures stating that detecting  
23 and preventing the purchase of juvenile life insurance for  
speculative or fraudulent purposes is a key component of the  
standards/procedures and of primary concern to United of  
Omaha;

2.10.2 Language in the standards/procedures requiring an analysis of  
family net worth;

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- 2.10.3 Language in the standards/procedures requiring an analysis of parental household income;
- 2.10.4 Language in the standards/procedures requiring an analysis of net worth of the child;
- 2.10.5 Language in the standards/procedures implementing income verification procedures and safeguards;
- 2.10.6 Language in the standards/procedures when and under what circumstances a criminal background check and/or search of the National Insurance Crime Bureau will be performed on the applicants and/or beneficiaries during the application process;
- 2.10.7 Language in the standards/procedures requiring financial justification for the purchase of large sums of juvenile life insurance and/or other procedures for permitting the purchase of insurance that exceeds the standard maximum amount (in this case, \$100,000);
- 2.10.8 Language in the standards/procedures detailing the procedure for gaining Company approval for the purchase of large sums of juvenile life insurance or approval for the purchase of insurance that exceeds the standard maximum amount (in this case, \$100,000);
- 2.10.9 Language in the standards/procedures which identify the criteria to be applied if the Company allows exceptions to any of the standards/procedures implemented;
- 2.10.10 Language in the standards/procedures which identify the procedures to be used to document the reason(s) why any exception was granted;
- 2.10.11 Language in the standards/procedures which identify the process used to verify that persons applying for juvenile life insurance coverage have an insurable interest, as provided in RCW 48.18.030—this should also include the procedures used to identify who may be listed as “owner” of the policy and who may be listed as the “beneficiary”;
- 2.10.12 Language in the standards/procedures which explain the processes used to verify insurable interest when court documentation or licenses are necessary to establish the requisite insurable interest;

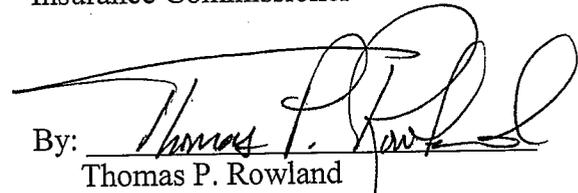


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appear, it will be held in default and the penalties sought by the OIC will be levied, effective the date of the hearing.

DATED this 9<sup>TH</sup> day of November, 2007.

**MIKE KREIDLER**  
Insurance Commissioner

By: 

Thomas P. Rowland  
Staff Attorney  
Legal Affairs Division

1  
2 **CERTIFICATE OF SERVICE**

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

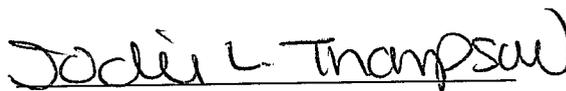
7 On the date given below I caused to be served the foregoing NOTICE OF HEARING  
8 on the following individuals in the manner indicated:

9 (XXX) Via U.S. Mail  
10 Mr. Richard C. Anderl  
11 Senior Vice President & Associate General Counsel  
12 United of Omaha Life Insurance Company  
13 Mutual of Omaha Plaza  
14 Omaha, Nebraska 68175-1008

15 (XXX) Hand Delivery  
16 Patricia D. Petersen  
17 Administrative Law Judge  
18 5000 Capital Blvd.  
19 PO Box 40255  
20 Olympia, WA 98504-0255

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SIGNED this 9<sup>th</sup> day of November, 2007, at Tumwater, Washington.

  
Jodie Thompson