

STATE OF WASHINGTON



OFFICE OF
INSURANCE COMMISSIONER

In the Matter of

JONATHAN E. KRUSE,

Licensee.

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No. D 08-0023

**ORDER SUSPENDING LICENSE
AND AMENDED ORDER OF
REVOCATION**

To: Jonathan E. Kruse
2188 SW Freund St.
Oak Harbor, WA 98277

IT IS ORDERED AND YOU ARE HEREBY NOTIFIED that your license is **REVOKED**, effective April 1, 2008, pursuant to RCW 48.17.530 and 48.17.540(2). In order to protect public safety and welfare, **IT IS ORDERED AND YOU ARE HEREBY NOTIFIED** that your license is **SUSPENDED**, effective March 30, 2008, pursuant to RCW 48.17.530(1)(b), (e), (f), and (h) and RCW 48.17.540(3). **This suspension will be effective until the hearing officer has issued a ruling after hearing on this Order of Revocation.**

THIS ORDER IS BASED ON THE FOLLOWING:

FACTS:

1. Jonathan E. Kruse holds an insurance agent's license issued by the Washington State Insurance Commissioner.

Matter No. 1

2. On or about February 13, 2007, Mr. Kruse met with Ralph M. Corbin and his wife, F. Shirley Corbin, to discuss taxation of their Social Security income. At that time, the Corbins were satisfied with their existing annuities; a Liberty Bankers Life deferred annuity and a Monumental Life indexed annuity.

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3. During that meeting, Mr. Kruse encouraged the Corbins to replace these existing annuities with a "MasterDex 5" annuity from Allianz Life Insurance Company. He told the Corbins the Allianz annuity was currently paying a 12% bonus. He said that the bonus would make up for any surrender fees the Corbins would incur by transferring their savings to the Allianz annuity. Mr. Kruse said that this bonus was only available for the month of February, so the annuity must be purchased within that month. Mr. Kruse also told the Corbins that the new contract had full liquidity, allowing them to withdraw their funds as they wished.

4. The Allianz MasterDex 5 annuity was not paying a 12% bonus. It paid 3% interest, and was paying a 5% bonus at the time of this meeting. In addition, the Corbins would be able to withdraw only 10% of their money from the Allianz annuity annually before incurring charges.

5. By these misrepresentations, Mr. Kruse induced the Corbins to sign a letter to Monumental Life requesting the surrender of their annuity, with the proceeds after surrender charges being mailed to them. Mr. Kruse also instructed them to give him a check, payable to Allianz in the amount of \$141,000. Mr. Kruse advised them to post-date the check to February 27, 2007, by which time they would have received the proceeds from the Monumental annuity.

6. Mr. Kruse did not present the Corbins with any documents regarding their Liberty Bankers Life annuity at this meeting.

7. Mr. Kruse left the Corbins' home. That same day, he faxed the Corbins' signed surrender letter to Monumental life. He also completed the following Allianz forms:

- "Authorization to Transfer Funds", which requests the full amount of the Corbins' Liberty Bankers Life annuity to be transferred to Allianz. Mr. Kruse completed the "certificate of lost contract" section by checking the box indicating the previous annuity has been lost or destroyed. He then forged Mr. Corbin's signature to the certificate section. Mr. Kruse then forged both Corbins' signatures at the bottom of the form and dated the form at "Jacksonville, FL" on "February 13, 2007". He placed his own initials on the line for "witness". Neither the Corbins nor Mr. Kruse were in Jacksonville, Florida on that date.
- "Notice to Applicant Regarding Replacement of Life Insurance", which advises the applicants to take certain steps to ensure that their contemplated change is in their best interests. This form cites Florida, rather than Washington, law. The form allows applicants to request a Comparative Information For from the proposed company and the current insurer. Mr. Kruse checked the "no" box.
- A 5-page "Statement of Understanding" regarding the "InfiniDex 10" annuity (not the "MasterDex 5" the Corbins believed they were purchasing). This form lists the "benefits, features, costs, and risks" of the contract, including the limitations on withdrawal. The form number indicates this form is for use in Florida.
- A "product Suitability Form", the purpose of which is to "confirm that your annuity purchase suits your current financial situation and long-term goals". Again, the form references the "InfiniDex 10" annuity. The form asks the source for this annuity's premium. The source of funds was to be the rollover of the Corbins' existing annuities. However, the box for "annuity" is not checked. The

box for "other" is checked.

- A five-page "Application for Annuity", again with a Florida form number. The application asks "Do you have any existing annuity contracts or life insurance policies". The "no" box is checked. The next question is "If yes, will the annuity contract applied for replace or change existing contracts or policies"? Again, the "no" box is checked. Again, the application is for an "InfiniDex 10" annuity. In the box for "Estimated transfer/rollover/1035 amount" has been written "\$227,000". The application again indicates it was signed by the Corbins in Jacksonville, FL on February 13, 2007 and witnessed by Mr. Kruse.

8. Mr. Kruse did not show any of these forms to, or discuss them with, the Corbins.

9. The "MasterDex 5" annuity, which Mr. Kruse discussed with the Corbins, is approved for sale in the State of Washington. The "InfiniDex 10" annuity, which he actually attempted to purchase for them, is not.

10. On March 9, 2007, Mr. Corbin contacted Mr. Kruse to inquire about the status of the new annuity. Specifically, he asked why the check dated February 28, 2007 had not yet been cashed and why he had not received any paperwork regarding either the Liberty Bankers Life annuity or the Allianz annuity. Mr. Kruse told him that the companies were shut down because of snow storms back East, and that he had already rolled over the Liberty Bankers Life annuity to Allianz. When Mr. Corbin asked why the Corbins had not been required to sign a release for the funds from the Liberty Bankers Life annuity, Mr. Kruse told him that a release was no longer required. None of these statements were true.

11. During the course of his attempts to roll the Corbins' annuities into the Allianz annuity, Mr. Kruse called Liberty Bankers Life several times. During at least some of those phone calls, he pretended to be Ralph Corbin, giving Mr. Corbin's address and social security number.

12. The Corbins were able to stop the transfer of funds from their Liberty Bankers Life annuity. However, they incurred a surrender penalty for the Monumental Life annuity of \$15,643.31. Allianz agreed to reimburse them this amount in settlement of any claims the Corbins may have against Allianz, and in exchange for assignment of their claims against Mr. Kruse for this penalty.

13. During the OIC's investigation of these matters, Mr. Kruse admitted that he:

- Misrepresented the terms of the Allianz annuity to the Corbins;
- Applied for a Florida annuity on behalf of the Corbins; and
- Forged the Corbins' signatures on the Allianz application.

14. Mr. Kruse alleged the following in his responses to Allianz and to OIC regarding this matter, all of which statements are untrue:

- The Corbins told him that they wanted to liquidate their existing annuities because they needed money to assist their daughter.
- The Corbins expressed "deep disappointment" in their existing annuities.
- Mr. Kruse forged the Corbins' signatures because they had to apply for the Allianz annuity within the month of February but he could not contact them.

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- When Mr. Kruse discovered that the Allianz annuity did not pay a bonus of 12%, he contacted the Corbins to notify them of his “mistake”.

Matter No. 2

15. Mr. Kruse was appointed under the Shelgren Financial Group’s general agency contract with Great American Life Insurance Company. In early October, 2007, after having expressed to OIC his understanding that his license was likely to be revoked, Mr. Kruse contacted the Shelgren Financial Group and requested permission to use Shelgren Financial Group business cards. Prior to this, he had been an independent agent affiliated with the Group. This request made the Group “curious about the status of Agent Kruse’s [insurance agent’s] license”. The Group contacted OIC to inquire about Mr. Kruse.

16. Shelgren Financial Group reviewed Mr. Kruse’s application for appointment dated October 16, 2006. On the application, Mr. Kruse had denied the following:

- Are you now or have you ever been the subject of any lawsuit, claim, investigation or proceeding alleging breach of trust or fiduciary duty, forgery, fraud, or any other act of dishonesty;
- Have you ever had your agent’s license or registration suspended or revoked, or are you now, or have you ever been the subject of a professional license/registration or market conduct investigation, claim or proceeding?

17. In fact, as of October 16, 2006, Mr. Kruse had been the subject of five such investigations. In 1990, his license had been revoked. That revocation was based upon his making misrepresentations and forging applicants’ signatures on insurance applications, and providing inappropriate investment advice motivated by making commissions rather than the best interests of the consumers. He had been investigated twice for replacement violations and once for alleged forgery. He had also been investigated as part of a pre-licensing review when he sought permission to apply for reinstatement of his license.

18. Original OIC Order No. D08-0023 was issued on March 12, 2008 based upon the above facts. That order revoked Mr. Kruse’s license effective April 1, 2008. Mr. Kruse requested a hearing on that order, thereby staying the revocation pending the outcome of the hearing under RCW 48.04.020.

19. Since issuing original Order No. D08-0023, OIC has obtained credible evidence that Mr. Kruse continues to engage in the same violations that are the basis of that order. Based upon that evidence, and upon a letter Mr. Kruse sent to OIC requesting an extension of the time periods under original Order No. D08-0023 “to complete some pending business”, OIC has reason to believe Mr. Kruse intends to continue this illegal activity until he is no longer licensed.

Matter No. 3

20. Consumer Barbara J. Renoux contacted OIC, alleging that Mr. Kruse engaged in several violations of the Insurance Code in his dealings with her. Ms. Renoux is a teacher at Broad View

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Elementary School in Oak Harbor, Washington. Mr. Kruse's wife is also a teacher at the school. Ms. Renoux believes that Mr. Kruse has made numerous presentations to other teachers at the school about financial products.

21. Ms. Renoux met with Mr. Kruse on March 7, 2008, regarding her retirement funds. Although she was not unhappy with the Oppenheimer funds she currently owned, and expressed no disappointment in them, Mr. Kruse recommended that she transfer that money to an Allianz MasterDex 5 annuity.

22. Mr. Kruse told her that the Allianz annuity paid 3% interest, which was guaranteed and could not go down, and that the annuity was "100% liquid". The presentation took well over an hour.

23. Ms. Renoux was convinced by Mr. Kruse's statements to sign several blank application documents for the Allianz annuity. The presentation and signing of these documents took less than one minute. Ms. Renoux specifically states that the MasterDex 5 Statement of Understanding form, which lists the risks of the annuity, was not reviewed with her at all.

24. As Mr. Kruse was leaving Ms. Renoux's home, Ms. Renoux mentioned that she would be calling her existing financial planner, Michael A. Thomas, about replacing her Oppenheimer funds. Mr. Thomas is the financial planner involved in the Corbin matter. Mr. Kruse appeared to become very concerned at that point. He advised Ms. Renoux not to call Mr. Thomas. He instructed her that if Mr. Thomas called her, she should tell him only that she was making a change, and should not give Mr. Thomas any particulars.

25. When Ms. Renoux met with Mr. Thomas on March 14, 2008, she learned that the MasterDex 5 did not pay a guaranteed 3% interest, this interest rate could go down. She also learned that the annuity funds were not "100% liquid".

26. On March 22, 2008, Ms. Renoux reviewed copies of the application forms she had signed. After she had signed them, they had been completed, apparently by Mr. Kruse. The information that had been added to the forms was not correct. The information written into the Product Suitability Form was not provided by Ms. Renoux and is not an accurate characterization of her financial situation. On page 4 of the Authorization to Transfer Funds, Mr. Kruse had handwritten, "Terminated from Service". Ms. Renoux has not terminated her service with Oak Harbor School District – she still works there.

27. The OIC understands that "Terminated From Service", if true, would have had favorable tax consequences for Ms. Renoux. Oppenheimer Funds may also have waived administrative fees on this basis when liquidating Ms. Renoux's accounts.

28. When Mr. Kruse produced the Allianz application documents for Ms. Renoux, he attempted to delete the statement from this form. However, he failed to white out the entire statement (the e at the end of the word "service" was still visible on the document he provided to Ms. Renoux).

Matter No. 4

29. OIC has received a letter dated March 24, 2008, from a consumer named Judith Anne Shellenbarger. Ms. Shellenbarger also alleges further repetitions of the violations that were the basis of original Order No. D08-0023. Like Ms. Renoux, Ms. Shellenbarger is also an employee of the Oak Harbor School District.

29. Mr Kruse placed flyers in staff mailboxes at Broad View Elementary School indicating his familiarity with setting up retirement funds for teachers and advertising presentations to teachers in the Oak Harbor School District. Ms. Shellenbarger understood this to be a manner of endorsement by the school district. She is also acquainted with Mr. Kruse's wife, and knows her to be a teacher in the district.

30. Ms. Shellenbarger met with Mr. Kruse on December 14, 2007. They spent an hour going over options for her investments. She was quite happy with the way her investments were currently being handled, having accounts with Kemper, John Hancock, Oppenheimer, Zurich, Integrity, and Franklin Templeton. However, she wished to consolidate them, and told Mr. Kruse that.

31. Ms. Shellenbarger was very firm in telling Mr. Kruse she did not wish to incur any surrender fees in any transaction. Mr. Kruse assured her there would be little monetary penalties and, if there were, they would be the equivalent of one day of minor stock fluctuation; certainly no more than \$300. Ms. Shellenbarger reiterated that she wished to incur no surrender penalties or other losses.

32. Ms. Shellenbarger told Mr. Kruse that she would be retiring soon and would need access to her assets.

33. Mr. Kruse told Ms. Shellenbarger about an Allianz Annuity and ING investments. He stressed how secure they were. Ms. Shellenbarger told him that she would think it over and get back to him.

34. Mr. Kruse called Ms. Shellenbarger after the first of the year. They met again on January 8, 2008. At that time, Mr. Kruse again assured Ms. Shellenbarger there would be no, or at most insignificant, surrender charges. He "hurried" Ms. Shellenbarger through signing several documents, without discussing any of them. Ms. Shellenbarger signed the documents because she thought he had been endorsed by the school district, and also because his wife was a teacher at Broad View.

35. Mr. Kruse and Ms. Shellenbarger met again on January 13, 2008, when Mr. Kruse encouraged Ms. Shellenbarger to transfer additional funds into an Allianz MasterDex 5 annuity. He told her repeatedly that this annuity offered a 3% premium bonus. Mr. Kruse told Ms. Shellenbarger that the annuity was 100% liquid. He also said that it guaranteed a 3% interest rate and was making more than that in interest at that time. He told her it was a "never-fail" proposition.

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36. Recently, while reviewing the papers from these transactions, Ms. Shellenbarger discovered that the information Mr. Kruse had given her about the MasterDex 5 annuity was false. The interest crediting was not guaranteed and could go down, and the annuity was not 100% liquid. In addition, Ms. Shellenbarger discovered that she has no paperwork indicating how much money was placed into the annuity.

37. She has also discovered losses upwards of \$5,000.00 in surrender fees and cash-outs in transferring her funds. She does not know the final amount of penalties she incurred in the transfers. As of this date, she has not been able to trace the withdrawals and deposits of money in several of her accounts. She is in the process of contacting her investment companies to verify transfers, exact losses, and any discrepancies in transfer amounts.

38. Ms. Shellenbarger also did not choose the beneficiaries on the annuity and disagrees with Mr. Kruse's choice to name her estate as the beneficiary. If asked, she would have named her husband and two sons.

39. Ms. Shellenbarger noted that the application information she has from the ING annuity account has a Dean Hatt listed as the primary agent and there is no mention of Mr. Kruse in the application. It appears to her that the previous signature had been covered with white-out and Dean Hatt's signature written over the white-out. Ms. Shellenbarger has never met nor talked to Dean Hatt in person or on the phone. Mr. Kruse had previously told her that Mr. Hatt was an associate and that his name may appear on some paperwork. Ms. Shellenbarger did not know that Dean Hatt would be the agent of record. On the page that Mr. Hatt signed, there are several boxes left blank.

40. Agent Kruse did not review all papers with Ms. Shellenbarger. She has many questions about the details in these documents. She does not have a copy of the replacement forms referred to on page 2 of 4 of her contract with ING. Mr. Kruse did not discuss with her the last page (4 of 4) regarding the agent information and signature required by the state of Washington.

41. The Allianz application for annuity includes the question, "Do you have any existing annuity contracts or life insurance policies?" Mr. Kruse checked "no" to this question. In fact, Ms. Shellenbarger had several existing annuities. The following question is, "If yes, will the annuity contract applied for replace or change existing contracts or policies?" Again, Mr. Kruse answered "no". In fact, each of Ms. Shellenbarger's existing contracts were replaced to purchase the Allianz and ING products through Mr. Kruse.

VIOLATIONS:

1. By making the above-listed verbal and written false statements, the licensee violated RCW 48.01.030.

2. By knowingly making and disseminating false, deceptive and misleading representations in the conduct of the business of insurance, the Licensee violated RCW 48.30.040.

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3. By knowingly making false statements and impersonations in or relative to applications for insurance to an insurer, the Licensee violated RCW 48.30.210.

4. By misrepresenting the terms of the Allianz annuity to the consumers, the Licensee violated RCW 48.30.090.

5. By misrepresenting information and making misleading comparisons to induce the consumers to surrender their existing financial products and convert them to others, the Licensee violated RCW 48.30.180.

6. By representing to Allianz that no existing annuities were being replaced and by failing to provide the Corbins and Ms. Shellenbarger the statutorily-required notice regarding replacement, the Licensee violated WAC 284-43-440(1)(a-b) and -(2)(a) and (c-d).

7. RCW 48.17.530 provides that: (1) The Commissioner may suspend, revoke, or refuse to issue any license . . . for any cause specified in any other provision of this code, or for any of the following causes:

(b) If the licensee . . . willfully violates or knowingly participates in the violation of any provision of this code or any proper order or regulation of the commissioner.

(e) If the licensee . . . has, with intent to deceive, materially misrepresented the terms or effect of any insurance contract; or has engaged in . . . any fraudulent transaction.

(f) If the licensee . . . has been guilty of "twisting" as defined in RCW 48.30.180.

(h) If the licensee . . . has shown himself to be, and is so deemed by the commissioner, incompetent, or untrustworthy, or a source of injury and loss to the public.

By reason of your conduct, you have shown yourself to be, and are so deemed by the commissioner, untrustworthy and a source of injury and loss to the public and not qualified to be an insurance agent in the State of Washington. Accordingly, your license is revoked pursuant to RCW 48.17.530(1) (b), (e), and (h). Your conduct shows that the public safety and welfare imperatively requires emergency action to stop your current injurious actions and prevent further injurious actions.

IT IS FURTHER ORDERED that you return your insurance agent's license certificate to the Commissioner on or before the effective date of the revocation of your license, as required by RCW 48.17.530(4).

NOTICE CONCERNING YOUR RIGHT TO A HEARING. If you are aggrieved by this Order, RCW 48.04.010 permits you to demand a hearing. You have done so before the effective date of the revocation. The revocation is now stayed (postponed) pending the hearing, pursuant to RCW 48.04.020. You will be contacted by an assistant of the Chief Hearing Officer to schedule a teleconference with you and the Insurance Commissioner's Office to discuss the

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hearing and the procedures to be followed.

BE AWARE that the stay on the order of revocation has no effect on the suspension of your license, which begins March 30, 2008. Your license is suspended as of that day, and will continue to be suspended until the Hearing Officer makes a ruling on revocation, following the hearing.

ENTERED AT TUMWATER, WASHINGTON, this ____ day of March, 2008.

By _____

JOHN F. HAMJE
Deputy Insurance Commissioner
Consumer Protection Division

Investigator: Vic Overholt