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Department of Insurance
State of Idaho

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BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE

STATE OF IDAHO

In the Matter of:

DOUGLAS D. WELLSANDT,

Resident Producer License No. 136291

Docket No. 18-2750-12

**ORDER DENYING MOTION FOR
RECONSIDERATION**

Following the Order Re: Motions for Reconsideration entered on or about August 3, 2012, Mr. Wellsandt filed a further request to reconsider. The Department responded and opposes Mr. Wellsandt's request for a reduction of his penalty.

In summary Mr. Wellsandt disputes the determination by the Hearing Officer, as a factor of the assessment of the penalty, that Mr. Wellsandt has a continuing capability to practice in the State of Washington with his non resident producer license. Mr. Wellsandt further requests that the penalty be reduced. The Department in response asserts that Mr. Wellsandt has not presented any new information justifying the revision of the Order. The Department also submits that Mr. Wellsandt has exhausted his right to seek reconsideration of the Preliminary Order and should, if he chooses to do so, further appeal the ruling pursuant to a petition for review before the Director of the Department under Idaho Code §67-5245.

As noted in the Order dated August 3, 2012 a number of factors were involved in the consideration of the penalty imposed upon Mr. Wellsandt for the subject violations.

ORDER RE: REQUEST FOR RECONSIDERATION - 1

While Mr. Wellsandt now contends that he will be unable to continue his business practice in the State of Washington, this factor alone is not determinative as to the nature of penalties imposed. Those matters as discussed in the original Order dated July 5 and the subsequent Order dated August 3 continue to weigh in favor of imposing both monetary penalties and a suspension of Mr. Wellsandt's license. Mr. Wellsandt's recent request for further reconsideration has not presented sufficient new grounds to warrant any further modification of the penalties as listed in the Preliminary Order dated August 3, 2012.

Of additional note, pursuant to the provisions of the Idaho Administrative Procedures Act, Idaho Code §67-5201, et seq. further action on this Preliminary Order is limited. The Hearing Officer agrees with the Department that Mr. Wellsandt has exhausted his right to seek further reconsideration of the Preliminary Order(s) before this Hearing Officer. Any further steps taken shall be pursuant to the provisions of Idaho Code §67-5201, et seq.

IT IS SO ORDERED.

NOTIFICATION OF RIGHTS

This is a preliminary order of the Hearing Officer. It can and will become final without further notice unless any party appeals to the Director for the Department of Insurance (or the designee of the Director).

Within fourteen (14) days after the service date of this denial of a petition for reconsideration any party may in writing appeal or take exception and file briefs in support of the party's position on any issue in the proceeding to the Director of the

Department of Insurance (or the designee of the Director.) Otherwise, this preliminary order will become a final order of the Department of Insurance.

If any party appeals or takes exception opposing parties shall have twenty-one (21) days to respond to any party's appeal within the Department of Insurance. Written briefs in support of or taking exception to the preliminary order(s) shall be filed with the Director of the Department of Insurance (or the designee of the Director). The Director may review the preliminary order(s) on his own motion.

If the Director of the Department of Insurance (or his designee) grants a petition to review the preliminary order(s), the Director (or his designee) will allow all parties an opportunity to file briefs in support of or taking exception to the preliminary order(s) and may schedule oral argument in the matter before issuing a final order. The Director (or his designee) will issue a final order within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived by the parties for good cause shown. The Director (or his designee) may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order.

Pursuant to Idaho Code §§ 67-5270 and 67-5272, if the preliminary order(s) becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which: (1) the hearing was held, (2) the final agency action was taken, (3) the party seeking review of the order resides, or operates its principal place of business in Idaho, or (4) the real property or personal property that was the subject of the Department's action is located.

This appeal must be filed within twenty-eight (28) days of the preliminary order(s) becoming final. *See* Idaho Code § 67-5273. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

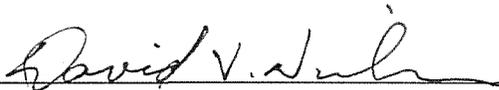
DATED this 10th day of September, 2012.

By: David V. Nielsen
David V. Nielsen
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of September, 2012, I served a true and correct copy of the foregoing by delivering the same to each of the following party, by the method indicated below, addressed as follows:

Richard B. Burleigh, Deputy Attorney General Idaho Department of Insurance 700 W. State Street P.O. Box 83720 Boise, ID 83720-0043	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand-Delivered <input type="checkbox"/> Overnight mail <input type="checkbox"/> Facsimile
Douglas D. Wellsandt 6752 Snowberry Street Dalton Gardens, ID 83815	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand-Delivered <input type="checkbox"/> Overnight mail <input type="checkbox"/> Facsimile



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State of Idaho
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BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE

STATE OF IDAHO

In the Matter of:

DOUGLAS D. WELLSANDT,

Resident Producer License No. 136291

Docket No. 18-2750-12

**ORDER RE: MOTIONS FOR
RECONSIDERATION**

I.

The Findings of Fact, Conclusions of Law and Preliminary Order (hereinafter Preliminary Order) in this matter were issued on July 6, 2012. On or about July 16, 2012 the Department of Insurance filed a Motion for Reconsideration and a Memorandum in Support. On or about July 20, 2012, Mr. Wellsandt similarly filed a Motion for Reconsideration. On July 24, the Department filed a Response to Mr. Wellsandt's Motion. Based upon the arguments presented and matters reviewed the Department of Insurance's Motion for Reconsideration is Denied in part and Granted in part; Mr. Wellsandt's Motion for Reconsideration is Denied in part and Granted in part.

II.

The Department initially requests that the Preliminary Order be reconsidered to increase the penalty imposed against Mr. Wellsandt, in particular to revoke his resident producer license rather than impose a six month suspension. The Department raises several grounds in support of this request including the number of subject violations which occurred and the interest of the

State of Idaho to protect citizens and ensure that resident producers follow Idaho law in the performance of their licensed duties.

Conversely, Mr. Wellsandt requests that the imposed monetary penalties be reduced based upon the fact that he was previously sanctioned by the State of Washington with both a monetary penalty and license suspension. As a result of these penalties Mr. Wellsandt further asserts that he has been unable to maintain his practice and continue to generate income. Additionally, Mr. Wellsandt still has outstanding obligations to repay commissions to Allianz (the issuing company) for policies which were rescinded as a consequence of his actions. Mr. Wellsandt also requests that any suspension of his license would start retroactive from the original renewal date of his license, namely February of 2012.

The Department's response to Mr. Wellsandt's Motion asserts that reduction of the monetary penalty should be rejected but that the Department would not be opposed to having a portion of the penalty be suspended. The Department objects to the request of a retroactive application of the time of the license suspension noting that Mr. Wellsandt was permitted to continue to engage in the business of insurance while his license renewal application was pending and prior to the formal suspension.

III.

The penalty imposed upon Mr. Wellsandt was the result of the consideration of a number of factors (although not specifically discussed in the original Preliminary Order). This included the underlying nature of the subject acts, the perceived intent of the acts involved, exculpatory considerations, the consequence or the effect of the violations including the ultimate impact to policy holders, the number of violations, and the interests of both the State and the citizens of Idaho.

As a general proposition, an inherent purpose of imposing punishment/penalties for violation of regulations of the subject type is deterrence of both the individual committing the violation from repeating his actions and the deterrence of other persons from committing similar acts.

In determining the sanctions to impose, the severity of any penalty is not simply a matter of numbers, that is the total of violations found to have occurred.

Of further note is the question of proportionality, the degree of subject harm compared to the ultimate effect or weight of the sanction. Mr. Wellsandt did previously suffer the consequence of the sanctions from the State of Washington as well as having the issuing company, Allianz, terminate their contract with him as a result of these activities.

An additional factor involved here is the capability of Mr. Wellsandt to continue his business practice based upon his state of Washington non resident producer license.

The violations at issue are divided into two categories. The first category is the failure of Mr. Wellsandt to report the disciplinary actions undertaken by the State of Washington when filing his license renewal application in the State of Idaho. The second category is that concerning the falsification of information on policy materials for Washington residents.

The violation concerning the failure to report does not appear from the record to have been a deliberate attempt to conceal. Hearing Transcript, p. 62; ll. 2-13 (hereinafter Hrg. Tr. pg/ln.); Department of Insurance Exhibit 6, p. 14. Also of note is the relative short time frame from the date of the Washington action and the filing of the renewal application with the State of Idaho. While on the one hand this could be viewed as a rationale to have caused greater awareness on the part of Mr. Wellsandt when filling out the Idaho renewal form, the overall

context of the activity in light of the course of events does not warrant an increase in the penalty imposed.

The second category of violations do, however, after further consideration merit a modification of the penalty previously imposed.

A number of matters are involved. The Department in briefing notes the interest of the State in ensuring that producers do not violate applicable regulatory procedures and statutory provisions. Protection of consumers and Idaho citizens is of notable importance. The purpose of applying guidelines imposed by Idaho law is clearly to protect Idaho citizens and ensure that the regulatory standards are followed.

Mr. Wellsandt asserted in his defense that potential confusion existed over the capability of an Idaho policy to be issued to a Washington resident and in turn the proper mechanics of signing and policy issuance. At hearing it was claimed that the carrier did not provide clear guidance in these matters. Hrg. Tr. 30/11-24.

While cross border practices with regulatory requirements for multiple jurisdictions impose additional burdens on insurance producers, it is apparent that the choice to engage in a multi jurisdiction practice would mandate a corresponding greater scrutiny to adhere to the regulatory requirements. An Idaho Resident Producer is responsible for knowing the applicable provisions of the Idaho Code and following requirements imposed by the Department of Insurance.

Potential confusion from the instructions provided by the carrier or a claimed misunderstanding of the regulatory provisions also does not justify the use of known false information. Upon reconsideration, of significant note, is the pattern of activities here with the submission of multiple applications and the underlying intent to improperly obtain a policy

benefit which otherwise would not have been available to the applicants. It was clear that false application information was deliberately submitted.

A determinative factor here though in suspending rather than revoking Mr. Wellsandt's license is the fact that the subject policy holders were residents of Washington and not Idaho, Hrg. Tr. 35/20-25; 36/1-5; 39/1-16. The interest of the State of Washington is viewed as greater in light of the concern over protection of residents of that state.

Of additional note as regards the severity of the sanction, the subject falsification concerned in sum, the location where the policy signatures were obtained. Hrg. Tr. 51/22-25. No other false information, such as the residence of policy applicants was involved. Next, no denial of coverage occurred to the policy holders as the policies were either converted or refunded. Hrg. Tr. 76/7-11.

A valid concern exists with potential deterrence as well as the need to mandate regulatory compliance. In modifying the sanction to be imposed, the issue of prevention of future occurrences, combined with the matter of protecting Idaho residents (providing deterrence for similar activities) is balanced against the need to avoid an overly harsh sanction which would deprive Mr. Wellsandt of his livelihood and fail to effectively reform his behavior.

The arguments advanced by the Department upon reconsideration support a modification of the penalty imposed. Mr. Wellsandt's license suspension shall be increased to a period of twelve months.

Monetary fines as provided in the Order dated July 6, 2012 shall remain the same in amount but shall be tempered in part by a partial suspension in payment schedule. Pursuant to Mr. Wellsandt's Motion for Reconsideration and based in part upon the Department's response to that Motion, One-third of the imposed penalty (\$2,000.00 (Two Thousand Dollars) of the total

\$6,000.00 (Six Thousand Dollars) penalty) shall be suspended until the time following the end of Mr. Wellsandt's license suspension, that is one year from the date the license suspension takes effect.

The effective date of the suspension shall not be back dated as requested by Mr. Wellsandt in his Motion for Reconsideration. The effective date of the suspension shall be from the date pursuant to Idaho Code § 67-5270 and 67-5272 when this Order becomes final.

It is hereby Ordered that the Preliminary Order dated July 6, 2012 shall be modified as follows;

That \$2,000.00 (Two Thousand Dollars) of the monetary fine (which totaled the sum of \$6,000.00 (Six Thousand Dollars)) shall be suspended for one year following the date of the suspension of Mr. Douglas D. Wellsandt's Resident Producer License no. 136291;

That Mr. Douglas D. Wellsandt's Resident Producer License no. 136291 be suspended for the period of twelve months.

It is so Ordered.

NOTIFICATION OF RIGHTS

This is a preliminary order of the Hearing Officer. It can and will become final without further action of the Department of Insurance unless any party petitions for reconsideration before the Hearing Officer or appeals to the Director for the Department of Insurance (or the designee of the Director). Any party may file a motion for reconsideration of this preliminary order with the Hearing Officer within fourteen (14) days of the service date of this order. The Hearing Officer will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. *See* Idaho Code §67-5243(3).

Within fourteen (14) days after (a) the service date of this preliminary order, (b) the service date of the denial of a petition for reconsideration of this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration of this preliminary order, any party may in writing appeal or take exception to any part of the preliminary order and file briefs in support of the party's position on any issue in the proceeding to the Director of the Department of Insurance (or the designee of the Director.) Otherwise, this preliminary order will become a final order of the Department of Insurance.

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Pursuant to Idaho Code §§ 67-5270 and 67-5272, if this order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which: (1) the hearing was held, (2) the final agency action was taken, (3) the party seeking review of the order resides, or operates its principal place of business in Idaho, or (4) the real property or personal property that was the subject of the Department's action is located.

This appeal must be filed within twenty-eight (28) days of this order becoming final. *See* Idaho Code § 67-5273. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

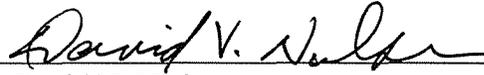
DATED this 3rd day of August, 2012.

By: David V. Nielsen
David V. Nielsen
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of August, 2012, I served a true and correct copy of the foregoing by delivering the same to each of the following party, by the method indicated below, addressed as follows:

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State of Idaho

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BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE

STATE OF IDAHO

In the Matter of:

DOUGLAS D. WELLSANDT,

Resident Producer License No. 136291

Docket No. 18-2750-12

**FINDINGS OF FACT,
CONCLUSIONS OF LAW**

This matter came before the hearing officer on a evidentiary hearing on June 12, 2012 at 9:30 a.m. Richard B. Burleigh, appeared on behalf of the Department of Insurance. Douglas D. Wellsandt appeared telephonically representing himself.

FINDINGS OF FACT

I.

1. Douglas D. Wellsandt held a Resident Producer License No. 136291. Department of Insurance, Exhibits 1 and 3.
2. Mr. Wellsandt in his insurance practice engaged in business in both the States of Idaho and Washington. Hearing Transcript page 17 lines 19-25 (hereinafter Hrg. Tr. pg/ln.).
3. Investigation information provided by Allianz Life Insurance Company of North America ("Allianz") revealed that in the fall of 2010 a concern arose on the part of the Allianz regarding the accuracy of information provided with certain annuity policies sold by Mr. Wellsandt. In particular Allianz identified a number of policy holders who were residents of the State of Washington but according to application materials had signed and been issued the policies in

Idaho. The Idaho policies had not been approved for issuance in the State of Washington. Department of Insurance, Exhibits 2, 4 and 7.

4. Allianz terminated Mr. Wellsandt's appointment with the company and forwarded the company's investigation materials to the State of Washington Office of Insurance Commissioner. Department of Insurance, Exhibit 7.

5. This information and the subsequent investigation by the State of Washington resulted in an administrative action from the State of Washington, Office of Insurance Commissioner. Department of Insurance, Exhibits 2 and 4.

6. A Consent Order was entered into by the State of Washington and Mr. Wellsandt. This Order suspended his Washington Non Resident Producer License and imposed a fine. The Consent Order was entered into on or about January 16, 2012. Department of Insurance, Exhibit

4. The findings include:

3. Allianz Life forwarded the company's investigation to the OIC which investigation reflected that Mr. Wellsandt had sold 27 Allianz Life annuities that were not approved for sale to Washington residents.

4. Of the 27 Washington residents who purchased nonapproved Allianz Life annuities through Mr. Wellsandt, 13 indicated the application was signed in Idaho but the presentation was made in Washington and the contract delivered in Washington. Five indicated their applications were signed in Washington and that the entire transaction occurred in Washington although the applications all falsely state the place of signature as Idaho.

Id.

7. Mr. Wellsandt did not dispute the accuracy of the Findings of Fact and entered into the Consent Order voluntarily. Hrg. Tr. 19/1-8; 66/4-5.

8. On February 28, 2012 Mr. Wellsandt submitted an online application to the Idaho Department of Insurance for renewal of his producer license. Department of Insurance, Exhibits 1 and 3.

9. A question on the Idaho Application form asked "have you been named or involved as a party in an administrative proceeding.....?" In response to that inquiry Mr. Wellsandt answered "no". Department of Insurance, Exhibit 1.

10. Further, prior to his application for renewal of his license in Idaho, Mr. Wellsandt did not directly report to the Idaho Department of Insurance the fact that he had entered into a Consent Order with the State of Washington Office of Insurance Commissioner. Hrg. Tr. 17/22; 11/5-11; 13/5-8.

11. The Idaho Department of Insurance filed a verified Complaint and Notice of Right to Hearing against Mr. Wellsandt raising a number of grounds and seeks to revoke Mr. Wellsandt's Resident Producer License and to impose administrative penalties against him.

12.. Mr. Wellsandt raised contest and requested a hearing on his matter.

CONCLUSIONS OF LAW

1. Idaho Code § 41-1016(1) provides the Director of the Department of Insurance the authority to impose a penalty for the violation of this provision and the capability to deny an applicant's request for a producer license (or renewal of that license) based upon the following:

(a) Providing incorrect, misleading, incomplete or materially untrue information in the license application;

(b) Violating any provision of Title 41, Idaho Code, department rule, subpoena or order of the director or of another state's insurance director; ...

(e) Misrepresenting the terms of an actual or proposed insurance contract or application for insurance or misrepresenting any fact material to any insurance transaction or proposed transaction; ...

(h) Using fraudulent, coercive or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility, or being a source of injury and loss to the public or others, in the conduct of business in this state or elsewhere; ...

2. Additionally, pursuant to Idaho Code § 41-1021(1) a requirement exists where:

A producer shall report to the director any administrative action taken against the producer in another jurisdiction or by another governmental agency within thirty (30) days of the final disposition of the matter. This report shall include a copy of the order, consent order or other relevant legal documents.

3. Idaho Code § 41-293(1)(c) and (e) provide as follows:

41-293. INSURANCE FRAUD. Insurance fraud includes:

(c) Any person who, with intent to defraud or deceive, presents or causes to be presented to or by an insurer, a producer, practitioner or other person, a false or altered statement material to an insurance transaction;

(e) Any practitioner or other person who willfully submits a false or altered statement, with the intent of deceiving an insurer or other person in connection with an insurance transaction or claim;

4. The Department raises six counts against Mr. Wellsandt. These counts concern the above-referenced code sections. In summary the claims are as follows:

Count 1- a violation of Idaho Code § 41-1016(1)(a) by failing to report the Washington Consent Order on his Idaho renewal application;

Count 2 - violations of Idaho Code § 41-1016(1)(b) and § 41-1021(1) by his failure to report to the Idaho Department of Insurance the issuance of the Washington Consent Order;

Count 3 - violations of Idaho Code §§ 41-1016(1)(b) and 41-293(1)(c) in the use of false statements regarding insurance policy application materials;

Count 4 - violations of Idaho Code §§ 41-1016(1)(b) and 41-293(1)(e) the submission of false information regarding statements provided in annuity policy applications;

Count 5 - violation of Idaho Code § 41-1016(1)(e) by the misrepresentation of facts in policy applications; and

Count 6 - the violation of Idaho Code § 41-1016(1)(h) the use of dishonest practices.

5. In summary the Counts alleged by the Department of Insurance fall into two categories. The first (Counts 1 and 2) concern the failure of Mr. Wellsandt to report the disciplinary action undertaken by the Washington Office of Insurance Commissioner. The second (Counts 3-6) concern those improprieties involving the issuance of the annuity policies.

6. The provisions in Idaho Code § 41-1016(1) providing for the licensing and regulation of an insurance producer represent an exercise of the police power of the state. *Williams v. O-Connell*, 76 Idaho 121, 278 P.2d 196 (1954). Pursuant to the language of Idaho Code § 41-1016(1) the Director of the Department may impose an administrative penalty as well as revoke or refuse issuance/renewal of an already existing license, when an applicant has violated provisions of Title 41 of the Idaho Code. Further, the Director may also impose these penalties based upon a finding that certain enumerated acts occurred.

7. The language of Idaho Code § 41-1021(1) is also clear, “a producer shall report to the director any administrative action taken against the producer in another jurisdiction or by another governmental agency within thirty (30) days of the final disposition of the matter.” (Emphasis added).

8. The evidentiary record is clear in that Mr. Wellsandt failed to report the Washington Consent Order on his renewal application materials. Of note is the fact that the entry of this Consent Order and the filing of the renewal application were in relatively close succession,

transpiring approximately six weeks from each other. Certainly as a result no claim of remoteness of time or failure of recall can be advanced. Additionally, no confusion with the substantive language of the application request could be argued to exist. It is clear, therefore that Mr. Wellsandt either through inadvertence or other circumstances failed to correctly fill out the application materials regarding the existence of the Washington Consent Order. Testimony provided at hearing gave little further insight as to any rationale, other than a possible belief that the application reference concerned other matters. Hrg. Tr. 66/11-24: 67/4-7. This, however, is an insufficient rationale for incorrectly responding in light of the clear language of the application form.

9. Next, as to allegations regarding the reporting of the Washington Consent Order to the Idaho Department of Insurance it is clear that a producer is required to provide pertinent timely information to the agency. This information as expressed in Idaho Code § 41-1021(1) mandates that a licensed producer fulfill the obligation and inform the Idaho Department of Insurance within 30 days the fact that an administrative action has been undertaken against them by another jurisdiction. This requirement is ongoing and is not a matter which only need be addressed at times such as when a renewal application is filed. No evidence was presented in the record which would provide grounds for a excuse for the failure to report this information. This constitutes a violation of Idaho Code § 41-1021(1) and in turn provides grounds under Idaho Code § 41-1016(1)(b) to impose an administrative penalty.

10. The second group of charges, found in Counts 3, 4, 5 and 6, which concern the improper issuance of the annuity policies and the false application materials, is from the record not as clear. In summary the record does show substantive violations by Mr. Wellsandt of several Idaho

Code provisions. These violations do warrant sanctions. A difficulty arises with the record as to exactly how many subject violations occurred.

11. The charges allege that Mr. Wellsandt submitted false policy application materials a total of fourteen times, each constituting a violation of the respective Idaho Code sections. This is based upon fourteen subject policies (thirteen policy holders with one individual having two policies) where material statements submitted in the applications was done falsely, with an intent to deceive or misrepresent. The falsehood at issue concerns the fact that some of the applicants signed the policy information in Idaho when in reality the forms were endorsed in Washington. In support, the Department relies in part upon the results of the investigation conducted by Allianz and the subsequent determination of the State of Washington Office of Insurance Commissioner with the corresponding findings of fact contained in the Consent Order.

12. It is not apparent if the State of Washington had before it, materials which were not presented in this pending matter in Idaho.

13. The investigation undertaken by Allianz into the activities of Mr. Wellsandt included gathering information from policy holders by way of letter survey and telephone calls. The assembled information is found in Department of Insurance Exhibit 7. As presented though, these materials have a number of inconsistencies regarding the ultimate matter of the subject application falsification. In particular it is noted that references to the locations where policy holders endorsed paperwork which was compiled in spreadsheet form (Department of Insurance Exhibit 7, pg. 26 - 27) differs from that found in the investigator annotations (Department of Insurance Exhibit 7, pg. 23 - 24); Hrg Tr. 65/13-21.

14. No explicit explanation for this inconsistency was provided at hearing. This pattern is present with a number of the individuals identified in the fourteen subject policies.

15. As a result, it cannot affirmatively be determined that the charged number of fourteen violations occurred.

16. Nevertheless, the record does clearly establish, through the exhibits submitted by the Department (namely Exhibit 7, pg. 21 – 27); the language of the state of Washington Office of Insurance Commissioner Consent Order, Department of Insurance, Exhibit 2; and in particular the direct admission of Mr. Wellsandt that, at a minimum five false applications were generated and submitted by Mr. Wellsandt. Hr. Tr. 19/2-6; 66/4-5.

17. Mr. Wellsandt's offered explanation regarding the falsification on the applications was to provide for issuance of an Idaho policy which would take advantage of benefits that would not have otherwise been available to Washington residents and provide for his clients the best possible annuity. Hrg. Tr. 47/1-7; 52/7-12; 19/16-25; 20/1-2.

18. When noted that the activity was improper, Mr. Wellsandt's stated defense to these acts was either a claimed reliance on statements made by the Company or ignorance of the impropriety. Hr. Tr. 20/16-25; 21/1-6; 31/11-15; 59/2-24.

19. This explanation does not give grounds to excuse the violations. Clearly falsification of application information cannot be rationalized or justified simply by a claim of confusion or ignorance. Mr. Wellsandt was aware that the submitted information was inaccurate and was made for the purpose of having the policies issued, even if it may have been for the benefit of his clients. In mitigation though was the apparent capability of Allianz to resolve the issue with policy holders following the investigation. Department Of Insurance Exhibit 7.

20. Sufficient evidence is present to establish violations of Idaho Code § 41-1016(1)(b) and (1)(e) and 41-293(1)(c) and (1)(e). This provides cause to impose sanctions against Mr. Wellsandt. Although these acts constitute violations of more than one related code provision,

for purposes of imposing sanctions the violations shall be considered as totaling five in number. Each act (that being each separate policy application submission) being considered the subject of the sanction.

21. These activities also constitute a violation of Idaho Code § 41-1016(1)(h), giving cause to impose sanctions.

PRELIMINARY ORDER

Based upon the foregoing, it is hereby ordered that Douglas D. Wellsandt pay the following administrative penalties;

As a result of one violation of Idaho Code § 41-1016(1)(a) the sum of Five Hundred Dollars (\$500.00);

As a result of one violation of Idaho Code § 41-1016(1)(b) the sum of Five Hundred Dollars (\$500.00);

As a result of five violations of Idaho Code § 41-1016(1)(e) which also constitutes violations of §§ 41-1016(1)(b), (1)(h) and 41-293(c) and (e), the sum of One Thousand Dollars (\$1,000.00) for each violation, for a total of Five Thousand Dollars (\$5,000.00);

The entire monetary fine is then calculated at the sum of Six Thousand Dollars (\$6,000.00).

It is further ordered that Mr. Wellsandt's license be suspended for the period of six months.

IT IS SO ORDERED.

NOTIFICATION OF RIGHTS

This is a preliminary order of the Hearing Officer. It can and will become final without further action of the Department of Insurance unless any party petitions for reconsideration before the Hearing Officer or appeals to the Director for the Department of Insurance (or the designee of the Director). Any party may file a motion for reconsideration of this preliminary order with the Hearing Officer within fourteen (14) days of the service date of this order. The Hearing Officer will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. *See* Idaho Code § 67-5243(3).

Within fourteen (14) days after (a) the service date of this preliminary order, (b) the service date of the denial of a petition for reconsideration of this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration of this preliminary order, any party may in writing appeal or take exception to any part of the preliminary order and file briefs in support of the party's position on any issue in the proceeding to the Director of the Department of Insurance (or the designee of the Director.) Otherwise, this preliminary order will become a final order of the Department of Insurance.

If any party appeals or takes exception to this preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal within the Department of Insurance. Written briefs in support of or taking exception to the preliminary order shall be filed with the Director of the Department of Insurance (or the designee of the Director). The Director may review the preliminary order on his own motion.

If the Director of the Department of Insurance (or his designee) grants a petition to review the preliminary order, the Director (or his designee) will allow all parties an

opportunity to file briefs in support of or taking exception to the preliminary order and may schedule oral argument in the matter before issuing a final order. The Director (or his designee) will issue a final order within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived by the parties for good cause shown. The Director (or his designee) may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order.

Pursuant to Idaho Code §§ 67-5270 and 67-5272, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which: (1) the hearing was held, (2) the final agency action was taken, (3) the party seeking review of the order resides, or operates its principal place of business in Idaho, or (4) the real property or personal property that was the subject of the Department's action is located.

This appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. *See* Idaho Code § 67-5273. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

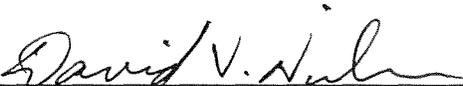
DATED this 6th day of July, 2012.

By: David V. Nielsen
David V. Nielsen
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of July, 2012, I served a true and correct copy of the foregoing by delivering the same to each of the following party, by the method indicated below, addressed as follows:

Richard B. Burleigh, Deputy Attorney General Idaho Department of Insurance 700 W. State Street P.O. Box 83720 Boise, ID 83720-0043	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand-Delivered <input type="checkbox"/> Overnight mail <input type="checkbox"/> Facsimile
Douglas D. Wellsandt 6752 Snowberry Street Dalton Gardens, ID 83815	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand-Delivered <input type="checkbox"/> Overnight mail <input type="checkbox"/> Facsimile



David V. Nielsen