

Arkansas Insurance Department

Mike Beebe
Governor



Jay Bradford
Commissioner

January 28, 2009

Via Certified Mail Return Receipt No. 7003 1010 0000 9423 2721
and U.S. Mail

Mr. Arthur L. Devereux
3095 Highway 193
Cherry Valley, AR 72324

RE: McCutchen Complaint
AID Case No. 2007-163

LETTER OF REPRIMAND

Dear Mr. Devereux:

The above referenced complaint file was forwarded to the Legal Division for further handling. In this regard, you attended an investigation conference at the Department. Our findings from the complaint and your responses are as follows:

According to the complaint received by the Department in October 2007, the consumer received proceeds from a life policy which you had sold to her now deceased husband. Upon the consumer receiving the benefit check, you sold her a single premium immediate annuity to be paid out over seven years at \$4,005.00 per month. You then also sold the consumer a \$1,750,000.00 whole life policy with premiums to be paid by the annuity funds at \$4,014.25 per month. The structure of these plans results in the consumer realizing nothing from the death proceeds of her husband's policy and at the end of the seven years will lose the whole life policy she purchased because she will not be able to afford the monthly premiums. When asked whether the policies written were appropriate for the consumer, you answered that they were part of your financial plan for her, but could not substantiate by providing a copy of a prepared financial plan. This is a violation of the Insurance Code for: Failing to provide reasonable and professional service to each insured or prospective insured, in violation of Ark. Code Ann. § 23-66-307(a)(1); Failing to exercise discretion and good faith in the insurance sales presentation or transaction, in violation of Ark. Code Ann. § 23-66-307(a)(2); and Failing to improve upon existing insurance by providing better coverage or a more suitable product for the needs of the insured, their family, or business, in violation of Ark. Code Ann. § 23-66-307(a)(3).

The complaint also contained information that you borrowed \$3,000 from the consumer in June of 2002, and \$8,000 in July of 2002. You admitted in your investigative conference that have failed to make any payments and explained that it was because you are in arrears of over \$100,000 with your federal taxes. Using fraudulent, coercive, or dishonest practices or

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demonstrating incompetence, untrustworthiness, lack of good personal or business reputation or financial irresponsibility is a violation of Ark. Code Ann. § 23-64-512(a)(8)

Following receipt of the complaint, Joie Tester in the Legal Division forwarded the complaint to you on January 17, 2008, and again on February 6, 2008, but did not receive a response to these Department inquiries. The failure to provide a written response after receipt of a written inquiry from the Commissioner or her representative within thirty (30) days is a violation of Ark. Code Ann. § 23-64-512(a)(13). From information you later provided at the investigative conference, it appears that you have moved although the License Division of the Department did not receive a change of address notification. The failure to timely inform the Department of a change of address is a violation of Ark. Code Ann. § 23-64-507(f).

Pursuant to the review of these files by this Department, you are hereby served with this **Letter of Reprimand**. In view of the foregoing violations, please be advised that this Letter of Reprimand will be placed in the appropriate file as a permanent record for referral. Additionally, this Letter of Reprimand will be forwarded to the National Association of Insurance Commissioners ("NAIC") for publication on the NAIC website. At this time, you have failed to renew your producer license with this Department and it is inactive. If you wish to renew your license or apply for a new license in the future, the Department will reconsider the above violations and may, at that time, impose any regulatory sanction, including refusal to issue or renew the license, available under the Arkansas Insurance Code. If you feel that this Letter of Reprimand is unjust or unwarranted, you may request an administrative hearing within thirty (30) days of your receipt of this correspondence.

Sincerely,



Nina Samuel Carter
Associate Counsel/Legal Division
(501) 371-2820

NSC/

cc: Joie Tester