

Arkansas Insurance Department

Mike Beebe
Governor



Jay Bradford
Commissioner

March 25, 2009

VIA CERTIFIED MAIL # 7003 1010 0000 9422 0780 + U.S. MAIL

Mr. Joshua Beau Honeycutt
324 Sagewood Drive
Jonesboro, AR 72401

RE: Consumer: Jerry Wallin, AID File No. 2008-042
Consumer: Gwen Futrell, AID File No. 2008-066
Consumer: Gearline King, AID File No. 2008-073

DISCIPLINARY ACTION NOTICE

Dear Mr. Honeycutt:

The above referenced complaint files were forwarded to the Legal Division for further handling. Our findings from the complaint and your responses are as follows:

The Arkansas Insurance Department received a complaint against you in December 2007, by Consumer Gearline King. This file was transferred to the Legal Division on or about May 1, 2008. The complaint alleges that you advised her to cash out her Bankers Life annuities in order to purchase an EquiTrust annuity, without completing and submitting proper replacement, comparison and 1035 Exchange forms, when in fact, the intention was to replace the Bankers Life annuities. Ms. King states that you misled her when presenting the EquiTrust annuities by telling her that she would earn interest at a guaranteed 4.5% interest rate, which was not true. Her EquiTrust policy was an equity-indexed annuity that only had a guaranteed rate on the fixed account, which was much lower than the guaranteed rate on her Bankers policies. Ms. King was 72 years old at the time of this replacement, which brings up suitability issues under Rule 82, as it does not appear that this transaction put Ms. King in a better position. Ms. King states that once she learned of the misrepresentation of policy benefits, she tried to contact you on several occasions and also tried visiting you at your office, but was unsuccessful. As this was an inappropriate replacement, Ms. King was refunded all premiums paid, plus interest without surrender charges.

A second complaint against you was received by the Department in February 2008, by Consumer Jerry Wallin. This file was transferred to the Legal Division on or about March 28, 2008. According to the complaint and your response to the Department, you met with Mr. Wallin after leaving Bankers Life and Casualty because you knew that Mr. Wallin was unhappy with his Bankers annuity. Per the complaint, upon your advice, Mr. Wallin cashed out his Bankers Life annuities in order to purchase two EquiTrust Life annuities from you. Proper replacement, comparison and 1035 Exchange forms should

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have been submitted, as this was intended to be a replacement. Further, Mr. Wallin alleges that he was misled as to the EquiTrust policy benefits. For example, Mr. Wallin says that he was told that the EquiTrust policies would guarantee 6% return every year and he was not told that it was a 14 year contract. Mr. Wallin later found that if he took any money out, he would suffer a 20% penalty and was never advised of these potential charges. The Bankers Life policies had earned a higher guaranteed interest rate, had a shorter surrender period of ten years, and were in their third year when they were surrendered. Mr. Wallin was 70 years old at the time of this transaction, which also brings up suitability issues. As this was also an inappropriate replacement, Mr. Wallin was refunded all premiums paid into the EquiTrust annuity without surrender charges and EquiTrust charged you back 100% of the commissions earned. Mr. Wallin also stated that he tried several times to contact you and was unsuccessful.

A third complaint was received against you in March 2008, from Consumer Gwen Futrell, which also alleges that you advised the consumer to cash out an existing Bankers Life annuity policy in order to purchase an annuity with EquiTrust, again without submitting the proper replacement, comparison, and 1035 Exchange forms. This file was transferred to the Legal Division on or about April 29, 2008. It is also alleged that you advised the Consumer to cash out a CD in order to purchase another annuity with Washington National. Ms. Futrell stated that for both annuities, you told her that she would earn a guaranteed 6% interest and that these were ten year policies, which was not true. The EquiTrust annuity was a 14 year product. The fixed accounts on both Equity Indexed annuities had fixed interest rates of 1.5%. Her Bankers policy was a ten year policy and included a higher guaranteed interest rate. Ms. Futrell was 68 years old at the time of these transactions, which brings up suitability issues as well, as Ms. Futrell states that at her age, she would not have entered into such a contract and it does not appear that the replacements bettered her situation. Ms. Futrell states that she tried to contact you on several occasions and was unsuccessful. As this was another inappropriate replacement, Ms. Futrell was refunded all premiums paid, without surrender charges, plus interest.

For the above-referenced matters, we find you in violation of the Insurance Code for: Misrepresentation of policy benefits to a consumer, in violation of Ark. Code Ann. §§ 23-66-206(8)(A) and 23-66-306; 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); 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); and Failing to furnish the policyholder a written memorandum, signed and dated by both you and the consumer, comparing the existing and the proposed life insurance coverage, in violation of Ark. Code Ann. § 23-66-307(4)(c)(1) and (2). Per Arkansas Insurance Department Bulletin 8-2004 and 8A-2004, annuities are considered life insurance and are subject to the requirements of the above-referenced laws. Your actions are a violation of Rule 82 for failing to ensure suitability with regard to these

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replacements. Also, your actions in these matters, evidence a pattern of improper and unsuitable replacements in order to generate a commission, which is a violation of Ark. Code Ann. § 23-66-206 (2), for "churning of business".

Pursuant to the review of these files by this Department, you are hereby served with this **Disciplinary Action Notice**. In view of the foregoing violations, please be advised that this Disciplinary Action Notice will be placed in the appropriate file as a permanent record for referral. Additionally, this Disciplinary Action Notice 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. The Department reserves all rights and remedies under the Arkansas Insurance Code with regard to any continuing or additional investigation into your conduct as a licensee. If you feel that this Disciplinary Action Notice 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/tal

cc: Taryn Lewis, Investigator