

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

BEFORE THE INDIANA  
COMMISSIONER OF INSURANCE

CAUSE NUMBER: 5725-AG08-1119-285

IN THE MATTER OF:

Jeffery A. Coddington )  
Agent/Respondent )

1001 Maple Drive West )  
Lebanon, Indiana 46052 )

Type of Agency Action: Enforcement )

Indiana Insurance License No.: 1172200 )

**FILED**

JUL 08 2009

STATE OF INDIANA  
DEPT. OF INSURANCE

**FINAL ORDER**  
**DENYING ENFORCEMENT DIVISION'S OBJECTION AND MODIFYING**  
**ALJ's FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDED**  
**ORDER**

The Commissioner of the Indiana Department of Insurance, Carol Cutter, having read and reviewed the Administrative Law Judge (ALJ) John Kissling's Findings of Fact, Conclusions of Law, and Recommended Order, Enforcement Division's Objections to Findings of Fact, Conclusions of Law and Recommended Order of May 8, 2009, and now being duly advised in the premises **DENIES** said Objection; and pursuant to Indiana Code 4-21.5-3-29 and as ultimate authority in this case issues this Final Order **MODIFYING** ALJ Kissling's Findings of Fact, Conclusions of Law, and Recommended Order of May 8, 2009.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**


The Commissioner incorporates ALJ Kissling's Findings of Fact and Conclusions of Law in this Final Order.

**ORDER**

The Commissioner now Orders:

1. Respondent shall pay a fine to the Indiana Department of Insurance in the amount of one thousand (\$1000.00) dollars within sixty (60) days of the issuance of this Final Order.
2. Respondent shall complete twelve (12) hours of continuing education related to annuities, including at least one (1) course in suitability of annuities, none of which shall count toward Respondent's regular continuing education requirement under Ind. Code § 27-1-15.7-2, within six (6) months of the issuance of this Final Order.
3. Respondent's insurance license is placed on probation for a period of one (1) year from the issuance of this Final Order.
4. If Respondent fails to meet the obligations set forth in paragraphs 1. and 2. of this Final Order his insurance license will be immediately revoked.

ALL OF WHICH IS ORDERED by the Commissioner this 14<sup>th</sup> day of July, 2009.

  
\_\_\_\_\_  
Carol Cutter, Commissioner  
Indiana Department of Insurance

Distribution:

Jeffery A. Coddington  
1001 Maple Drive West  
Lebanon, Indiana 46052

Laura Levenhagen, Attorney  
Indiana Department of Insurance  
311 West Washington Street, Suite 300  
Indianapolis, Indiana 46204

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NOV 20 2008

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**STATEMENT OF CHARGES**

The Enforcement Division of the Indiana Department of Insurance (the "Department"), pursuant to the Indiana Administrative Orders and Procedures Act, Indiana Code Section 4-21.5-1 *et seq*, and the Agent Licensing provisions, Indiana Code Section 27-1-15.6 *et seq*, files charges against Jeffery A. Coddington, a resident insurance producer licensed in the State of Indiana:

**FACTS**

1. Respondent Jeffery A. Coddington is a resident of Indiana. Respondent is a licensed non-resident insurance producer in Indiana, holding license number 517444.
2. In August of 2005 Respondent recommended that his client, Charles L. Stultz, then an approximately ninety (90) year old Indiana resident, place the entirety of his life savings into two Bankers Life Insurance annuities.
3. To avoid age restrictions placed on the sale of annuities by Bankers Life Insurance Respondent listed Mr. Stultz's daughter Mary Graham as the owner of the policy without her knowledge or consent.
4. Respondent intentionally misrepresented information to Charles Stultz and Mary Graham regarding the ownership of the two Bankers Life Insurance annuities purchased with Charles Stultz's money.

5. In May of 2007 Respondent, having been terminated by Bankers Life Insurance, went back to Charles Stultz and recommended that he withdraw all of his money from the Bankers Life Insurance annuities he had recommended two years ago and place the funds with Respondent's new company.

6. Charles Stultz withdrew the funds as Respondent advised and as a result incurred significant surrender penalties and tax consequences.

**COUNT I**

7. Averments 1 through 6 are repeated as incorporated by reference herein.

8. Respondent's conduct, as alleged herein, is a violation of Indiana Code 27-1-15.8-12(b)(8).

9. Respondent is subject to penalties including, but not limited to, probation, suspension, or revocation of Respondent's Indiana (non-resident or resident) insurance license, and fines in accordance with Indiana Code 27-1-15.6-12(b)(2)(A)

WHEREFORE, the Department, by counsel, Laura A. Willett, requests that the Commissioner permanently revoke the producer licenses of the Respondent, impose a fine of ten thousand dollars (\$10,000.00) per violation, and award restitution to Charles Stultz.

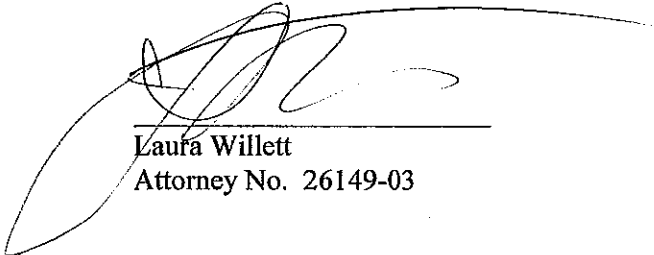
Respectfully submitted,

\_\_\_\_\_  
Laura A. Willett  
Attorney No. 26149-03

**CERTIFICATE OF SERVICE**

This is to certify that a copy of the foregoing Statement of Charges has been served upon Respondents in the captioned proceeding by mailing a copy of the same by First Class U.S. Mail, postage, this 20th day of November, 2008.

**Jeffery A Coddington  
1001 Maple Dr. West  
Lebanon, Indiana 46052**



\_\_\_\_\_  
**Laura Willett**  
Attorney No. 26149-03

Indiana Department of Insurance  
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311 West Washington Street  
Indianapolis, In. 46204-2787  
317/233-4243 - telephone  
317/232-5251 - facsimile

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**FILED**

MAY 08 2009

STATE OF INDIANA  
DEPT. OF INSURANCE

Indiana Resident License No.: 1172200

Type of Agency Action: Enforcement

**NOTICE OF FILING OF RECOMMENDED ORDER**

The parties of this action are hereby notified that the Administrative Law Judge's Findings of Fact, Conclusions of Law and Recommended Order are deemed filed as of this date.

To preserve an objection to this order for judicial review, you must object to the order in a writing that: 1) identifies the basis for your objection with reasonable particularity; and 2) is filed with the Commissioner of the Department of Insurance within eighteen (18) days from the date of this Order.



John R. Kissling Jr.  
Administrative Law Judge

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MAY 08 2009

STATE OF INDIANA  
DEPT. OF INSURANCE

Indiana Resident License No.: 1172200

Type of Agency Action: Enforcement

**FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND RECOMMENDED ORDER**

Administrative Law Judge, John R. Kissling, Jr., having considered and reviewed all of the evidence, will now render a decision in the matter of Respondent Jeffery Coddington ("Respondent"), which came to be heard on the 10th day of February, 2009 at 10:08 a.m. in the second floor conference room at the offices of the Indiana Department of Insurance ("Department"), 311 W. Washington St., Indianapolis, Indiana.

The Indiana Department of Insurance was represented by counsel, Laura Levenhagen. Respondent was present and unrepresented by counsel. Witnesses testified under oath, evidence was heard, and exhibits were received into evidence.

Based upon the evidence presented at said hearing, the Administrative Law Judge now makes the following Findings of Fact and Conclusions of Law, and issues his Recommended Order as follows:



### FINDINGS OF FACT

1. Respondent has an suspended resident producer license, license number 1172200.
2. Respondent was sent notification of the hearing date and time by U.S. Certified Mail #7004 1160 0000 3839 5300.
3. On June 6, 2007, a complaint was received against Respondent. The complaint was filed by Mary Graham daughter of the ninety-one (91) year old insured Charles Stultz, client of Respondent. The complaint stated that Charles Stultz had put life savings in two policies at Bankers Life & Casualty Co. Respondent had filled out paperwork and had Mary Graham sign as Power of Attorney. Respondent put Mary Graham as policy holder without her consent not Charles Stultz. . (Exhibit 1).
4. The Department received a response from Respondent regarding the complaint. Respondent states "the presentation was at Charles Stultz kitchen table. At the table were his two daughters: Mary Graham and Karen Wyatt and then Charles Stultz. I explained how annuities worked, surrender charges, 2 percent bonus, beneficiaries, annuitants, age limits, tax deferral. Explained age limit to daughters, Mr. Stultz was 91 years old at time. The daughters stated they take care of the dad not brother and I told them since you care for him, one of you should be the annuitant." (Exhibit 3).
5. Respondent after termination from Bankers Life went to Charles Stultz and requested that he withdrawal his money from the two (2) Bankers Life annuities and place his money with new products that Respondent was now selling. Mr. Stultz withdrew his money from the two (2) Banker Life annuities as Respondent requested and accrued surrender penalties

on both annuities. Total surrender penalties \$18,841.94 were incurred but were removed by Bankers Life. (Exhibit 6).

### CONCLUSIONS OF LAW

1. The Commissioner of Insurance has jurisdiction over both the subject matter and the parties to this action.
2. This hearing was held in compliance with the Administrative Orders and Procedures Act of the Indiana Code.
3. The Commissioner has the discretionary authority to revoke the Respondent's license to sell insurance and to fine Respondent.
4. Service of process was completed via the use of the United States Mail in compliance with the statute and due process requirements.
5. In the statement of charges, facts 2, 3, 4, 5, & 6 were stated as the basis from which to conclude that the Respondent violated I.C. §27-1-15.8-12(b)(8). In examining the facts as stated in the charge, evidence presented refutes the facts in 2, 3, 4, 5, & 6 as described herein.

In fact #2 that charge states that "Respondent recommended that his client, Charles L. Stultz, then an approximately ninety (90) year old Indiana resident, place the entirety of his life savings into two Bankers Life Insurance annuities."

No evidence was presented that the "entirety of his life savings" was place in the two annuities. Quite the contrary, testimony was presented that Charles Stultz did not need the money implying that there are other funds or resources available.

In fact #3 the charge states that "to avoid age restrictions placed on the sale of annuities

by Bankers Life Insurance Respondent listed Mr. Stultz's daughter Mary Graham as the owner of the policy without her knowledge or consent."

Mary Graham was shown on the application as the annuitant, not the owner. Only hearsay was presented that Bankers Life had such restrictions for issuing new annuities. No actual underwriting guides or rules were submitted into evidence. The application is clear that Mary Graham was the annuitant and she was not only listed on the application as filling the annuitant capacity, but she signed her own name on the application confirming that she was the annuitant. The charge stating that Respondent made Mary Graham the owner without her knowledge or consent is contrary to the facts presented for two reasons. First, the application does not show her as the owner. Secondly, the fact that Mary signed the application as annuitant indicates that her position as annuitant was not only known to her, but done with her knowledge and consent.

In fact #4 the charge states "Respondent intentionally misrepresented information to Charles Stultz and Mary Graham regarding the ownership of the two Bankers Life Insurance annuities purchased with Charles Stultz's money."

This court concludes that the evidence presented does not support misrepresentation on the part of the Respondent. The application clearly shows Mary Graham as annuitant. Testimony from the one daughter still living, the son, and Charles Stultz himself shows that they did not understand the annuity or the titles of the parties, but this does not in itself indicate that four and a half years ago Respondent misrepresented the facts. No copy of the policy or sales presentation literature was presented into evidence to indicate that the Respondent misrepresented information. Conflicting parole evidence was

presented that the two daughters and one son were only to be the contingent beneficiaries and had signed thinking they were power of attorneys, not owners of the annuity, but the signed application shows Charles Stultz as beneficiary and only one contingent beneficiary.

In fact #5 the charge states that "In May of 2007 Respondent having been terminated by Bankers Life Insurance went back to Charles Stultz and recommended that he withdraw all of his money from the Bankers Life Insurance annuities he had recommended two years ago and place the funds with Respondent's new company."

There was no evidence presented that Respondent's recommendation occurred or the sale ever took place. Evidence was presented in the form of the agents contract with Bankers that he may have violated his contract by inducing Charles Stultz to buy another annuity but this Court concludes that this evidence presented does not support the claim that I.C. §27-1-15.8-12-(b)(8) was violated.

In fact #6 the charge states that "Charles Stultz withdrew the funds as Respondent advised and as a result incurred significant surrender penalties and tax consequences."

The annuity termination alternatives as stated in the policy were not presented by either the Department or the Respondent as no copy of the policy was presented nor were the specific claims or dollar amounts Charles Stultz incurred. The method of termination and payout was not presented into evidence. While the charge stated there were tax consequences, no tax consequences were presented into evidence.

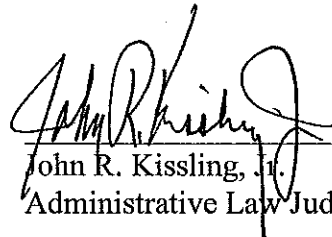
6. Findings of Fact that can be adopted as Conclusions of Law are hereby incorporated herein as such.

**RECOMMENDED ORDER**

With the Findings of Fact and the Conclusions of Law as stated, the Administrative Law Judge now recommends to the Commissioner of Insurance the following:

1. The Department failed to carry its burden of proof to sustain a violation of I.C. §27-1-15.8-12(b)(8).

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this 8<sup>TH</sup> day of May, 2009.

  
\_\_\_\_\_  
John R. Kissling, Jr.  
Administrative Law Judge

Distribution:

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