

STATE OF ARIZONA

STATE OF ARIZONA  
FILED

DEPARTMENT OF INSURANCE

MAR 19 2003

DEPT. OF INSURANCE  
BY KAM

In the Matter of: )  
)  
GARY LYLE CHRISTIAN AND )  
CORNERSTONE SENIOR )  
PLANNING, L.L.C., )  
)  
Respondents. )

Docket No. 03A-001-INS

**ORDER**

On March 11, 2003, the Office of Administrative Hearings, through Administrative Law Judge Dorinda M. Lang, issued an Administrative Law Judge Decision ("Recommended Decision"), a copy of which is attached and incorporated by this reference. The Director of the Department of Insurance has reviewed the Recommended Decision and enters the following Order:

1. The recommended Findings of Fact and Conclusions of Law are adopted.
2. All licenses issued to the Respondents by the Department shall be revoked effective the date of this Order.
3. Respondents shall comply with the requirements to pay penalties and restitution as ordered by the Arizona Corporation Commission in Decision No. 64202.

NOTIFICATION OF RIGHTS

Pursuant to A.R.S. § 41-1092.09, the aggrieved party may request a rehearing with respect to this order by filing a written motion with the Director of the Department of Insurance within 30 days of the date of this Order, setting forth the basis for relief under A.A.C. R20-6-114(B). Pursuant to A.R.S. § 41-1092.09, it is not necessary to request a rehearing before filing an appeal to Superior Court.

1 The final decision of the Director may be appealed to the Superior Court of Maricopa  
2 County for judicial review pursuant to A.R.S. § 20-166. A party filing an appeal must notify the Office  
3 of Administrative Hearings of the appeal within ten days after filing the complaint commencing the  
4 appeal, pursuant to A.R.S. § 12-904(B).

5 DATED this 19<sup>th</sup> of March, 2003

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9  
10 Charles R. Cohen  
Director of Insurance

11  
12 A copy of the foregoing mailed  
13 this 19<sup>th</sup> day of March, 2003

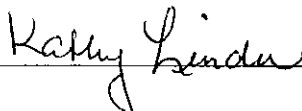
14 Sara M. Begley, Deputy Director  
15 Gerrie L. Marks, Executive Assistant for Regulatory Affairs  
16 Mary Butterfield, Assistant Director  
17 Catherine O'Neil, Consumer Legal Affairs Officer  
18 Rebecca Sanchez, Producer Licensing Administrator  
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- 4 American Investors Life Insurance Company, Inc.  
P.O. Box 2039
- 5 Topeka, KS 66601-2039
  
- 6 American National Life Insurance Company of Texas  
One Moody Plaza
- 7 Galveston, TX 77550-7999
  
- 8 American Travelers  
5700 Westown Parkway
- 9 West Des Moines, IA 50266-8221
  
- 10 Senior American Life Insurance Company  
1800 Street Road
- 11 Warrington, PA 18976
  
- 12 Illinois Annuity and Insurance Company  
P.O. Box 7149
- 13 Indianapolis, IN 46207-7149
  
- 14 Fidelity and Guaranty Life Insurance Company  
P.O. Box 1137
- 15 Baltimore, MD 21203
  
- 16 Great American Life Insurance Company  
P.O. Box 5420
- 17 Cincinnati, OH 45201-5420
  
- 18 PFL Life Insurance Company  
4333 Edgewood Road, Northeast
- 19 Cedar Rapids, IA 54299
  
- 20 American Equity Investment Life Insurance Company  
P.O. Box 71216
- 21 Des Moines, IA 50325-1216
  
- 22 Central Reserve Life Insurance Company  
17800 Royalton Road, CRL Plaza
- 23 Stongsville, OH 44136
  
- 24

- 1 Empire General Life Assurance Corporation  
P.O. Box 2606
- 2 Birmingham, AL 35202
- 3 Great Southern Life Insurance Company  
P.O. box 13487
- 4 Kansas City, MO 64199-3487
- 5 Oxford Life Insurance Company  
2721 N. Central Avenue
- 6 Phoenix, AZ 85004
- 7 Southwestern Life Insurance Company  
P.O. box 2699
- 8 Dallas, TX 75221-2699
- 9 Mutual of Omaha Insurance Company  
Mutual of Omaha Plaza
- 10 Omaha, NE 68175
- 11 Transamerica Life and Annuity Company  
P.O. Box 54178
- 12 Los Angeles, CA 90054
- 13 CNA Casualty of California  
CNA Plaza, Floor 21
- 14 Chicago, IL 60685
- 15 Life USA Insurance Company  
P.O. Box 59060
- 16 Minneapolis, MN 55459
- 17 Lincoln Benefit Life Company  
P.O. Box 80469
- 18 Lincoln, NE 68501-0469
- 19 National Western Life Insurance Company  
850 E. Anderson Lane
- 20 Austin, TX 78752-1602
- 21 Conseco Life Insurance Company  
Conseco Senior Health Insurance Company
- 22 11815 N. Pennsylvania Street  
Carmel, IN 46032

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1 "providing incorrect, misleading, incomplete or materially untrue information in the  
2 license application", "having admitted or been found to have committed any insurance  
3 unfair trade practice or fraud", violation of Department rules or an Order of the Director,  
4 "obtaining or attempting to obtain a license through misrepresentation or fraud", "using  
5 fraudulent, coercive or dishonest practices or demonstrating incompetence,  
6 untrustworthiness or financial irresponsibility in the conduct of business", and "making  
7 any misrepresentation to any policyholder for the purpose of inducing or tending to  
8 induce such policyholder to lapse, forfeit, surrender, retain or convert any insurance  
9 policy".

10 3. At hearing, the Department established the following facts by a  
11 preponderance of the evidence:

12 4. Mr. Christian's record with the Department was blemished by a Consent  
13 Order entered on April 1, 1999. In it he admitted to promoting a life insurance policy  
14 without informing the prospective insureds that it was a life insurance policy, presented  
15 a business card showing a business name and address not registered or reported to  
16 the Department as his name and address, presented a brochure with another business  
17 name under which he was operating and which was not registered with the Department,  
18 and told a prospective insured that the State Insurance Guaranty Fund would  
19 guarantee his money up to \$100,000. These acts constituted violations of the Arizona  
20 licensing laws governing insurance producers.

22 5. On September 13, 1999, Respondents contracted with World Cash Providers,  
23 L.L.C. ("World Cash") and Hotel Connect, L.L.C. ("Hotel Connect") to sell their products  
24 for a commission. On January 14, 2000, Respondents contracted with Mobile Cash  
25 Systems, L.L.C. ("Mobile Cash") to sell its products on commission. Mobile Cash was  
26 created when World Cash and Hotel Connect were prohibited from selling securities in  
27 California. All three companies had principals in common. Unfortunately, the clients  
28 who invested in these products lost a great deal of money. The Department found  
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1 Respondents committed several violations in the course of selling World Cash, Hotel  
2 Connect and Mobile Cash.

3 6. While selling for the companies in question, Mr. Christian advised his clients  
4 to withdraw funds from annuities that carried withdrawal penalties. One client, Frances  
5 King, paid \$1,249.85 in March 1999 as a penalty for surrendering her current annuity to  
6 invest in one that Mr. Christian sold to her. Then, in or around October 1999, Mr.  
7 Christian approached her again and advised that she invest in World Cash and Hotel  
8 Connect. She incurred penalties totaling \$16,157.25 on March 17, 2000 by  
9 surrendering the annuity that Mr. Christian had sold her and investing in the companies.  
10 On or about December 19, 1999, before she paid the penalties, Mr. Christian paid  
11 \$1,500 to Mrs. King to offset some of the penalty she would later incur by investing in  
12 his sale. She and other clients who invested in Hotel Connect, World Cash, and Mobile  
13 Cash lost over \$2,000,000. Many were angry and felt that Mr. Christian had cheated  
14 them or had not been cautious enough in advising them. One client testified that Mr.  
15 Christian repeatedly promised that he would never put her in harm's way. He also paid  
16 money to other clients, though one of them was not his own client, to offset their penalty  
17 charges for transferring money to World Cash and Hotel Connect.

18  
19 7. The Respondents also ran afoul of the Arizona Corporation Commission. On  
20 July 18, 2001, after the companies in question were prohibited from operating in  
21 California, the Corporation Commission filed a Notice of Opportunity for Hearing  
22 Regarding Proposed Order to Cease and Desist, for Restitution, for Administrative  
23 Penalties, for Revocation, and or Other Affirmative Action In the Matter of Hotel  
24 Connect, et al. On November 8, 2001, Mr. Christian entered into a Consent Order  
25 admitting that from April 1999 to June 2000 he sold investments in the now failed Hotel  
26 Connect, World Cash and Mobile Cash companies. He also admitted that he failed to  
27 disclose that there would be transfers of investor funds between Hotel Connect and  
28 World Cash or other companies, that he misrepresented the safety of the investments  
29 and failed to disclose specific risks, and that he failed to disclose material financial or  
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1 background information about the issuers or their principals. He admitting making  
2 representations regarding how the products would be distributed, delivered and placed  
3 in service but did not disclose that many of the products were never delivered.

4 8. The Arizona Corporation Commission consent order concluded that  
5 Respondents had sold securities without being registered as dealers or salesmen  
6 exempt from registration. In fact, the Hotel Connect Subscription Agreement (Exhibit  
7 20) states in capital letters that the product is not registered as a security under the  
8 Securities Act of 1933 and may not be sold except in accordance with "such laws". The  
9 Corporation Commission consent order concluded that Respondents had offered or  
10 sold securities that were neither registered or exempt from registration, and that they  
11 had violated A.R.S. § 44-1991(A)(2) by making untrue statements or misleading  
12 omissions of material facts. At no material time was Mr. Christian registered in Arizona  
13 to deal or broker securities.

14 9. The Arizona Corporation Commission consent order ordered Respondents to  
15 pay administrative penalties in the amount of \$25,000. It also ordered Respondents,  
16 jointly and severally with the other Respondents who were subject to the applicable  
17 Decision by the Commission, to pay restitution totaling \$2,569,700.

18 10. On January 17, 2001, Mr. Christian submitted a license renewal application  
19 to the Department that answered "No" to a question asking whether he'd had any  
20 judgment, order or determination made against him in any administrative proceeding  
21 not previously disclosed to the Department in a license application. In a five part  
22 question asking whether there were any pending proceedings against him in a civil,  
23 administrative, other judicial or quasi-judicial action or "in which an indictment, criminal  
24 complaint or information has been issued naming (Mr. Christian) as a defendant", he  
25 answered "no" to the portions of the question asking about actions based on  
26 incompetence or a source of injury and/or loss to anyone. He failed to answer the  
27 question with regard to being a defendant in any pending proceeding based on fraud or  
28 misrepresentation. He answered "yes" to the portions of the question that asked about  
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1 any actions based on dishonesty in business or financial matters and any cause arising  
2 out of an insurance transaction, but did not reveal a lawsuit filed against him in  
3 September 2000 by an investor in Hotel Connect and World Cash.

4 11. In his defense, Mr. Christian established the following facts at hearing:

5 12. Mr. Christian went to a four-year bible college, worked as a youth pastor,  
6 then traveled with a gospel singing group. He found his way into insurance sales in  
7 1982. When a man he met asked him to sell Hotel Connect and World Cash, he  
8 declined at first. But he attended two seminars and heard famous athletes and  
9 performers endorsing the products. The companies showed him contracts they had  
10 with major restaurants and proved that they had favorable write-ups in Dunn &  
11 Bradstreet, the Better Business Bureau, and the International Franchise Association,  
12 which named it as one of its five preferred vendors. He also saw the cash ticket  
13 machines sold by World Cash in a Kentucky Fried Chicken restaurant while he was  
14 visiting his son. In order to follow up on the potential of the World Cash investment, he  
15 asked the supervisor there and at two other Kentucky Fried Chicken restaurants how  
16 they liked the machines. He also visited six McDonald's restaurants in Phoenix and  
17 talked to their managers. They all reported great increases in their business because  
18 of them. Meanwhile, a bond market crash dragged down the value of an annuity he  
19 had sold to many clients and they were unhappy with it. Mr. Christian decided to sell  
20 Hotel Connect and World Cash to some of his clients.  
21

22 13. Mr. Christian did not believe that the investments were securities. The  
23 companies had showed him opinion letters from attorneys in large, well-known firms  
24 stating that the investments were not securities. The World Cash sales agreement  
25 (Exhibit U) specifically states that it is not a security and notifies the purchaser that they  
26 are not protected by securities law. The opinion letter in Exhibit H states that the facts  
27 were not independently verified. However, the letter is in regards only to World Cash  
28 and the facts stated in the letter do reflect the way World Cash operated. Mr. Christian  
29 has filed suit against the attorneys who wrote the opinion letters. His attorneys testified  
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1 that they believe the case is promising. The attorney hired as a securities expert  
2 testified that he would not expect Mr. Christian to understand the phrasing of the  
3 capitalized paragraph of the Hotel Connect Subscription Agreement. In support of this  
4 statement, Mr. Christian offered expert testimony that the statement would not pass a  
5 generally accepted readability test that is used by the Department itself on insurance  
6 policies. If the lawsuit is successful, Mr. Christian intends to use some of the money to  
7 pay back the investors.

8 14. Mr. Christian thought the investments were very promising and even sold  
9 them to members of his family. He did all he could think of to investigate whether they  
10 were good products. He did ask for financial statements as part of his due diligence but  
11 was told that, since they were a "private placement", the companies were not required  
12 to provide them. He did not understand that a private placement is a securities term.  
13 He also testified that he did not understand the warning on Exhibit 20 that the Hotel  
14 Connect investment was a security and he also thought that the attorney letter applied  
15 to all the related investments, not just World Cash. Nevertheless, Mr. Christian did not  
16 expect the investments to fail, and many of his clients still like him and believe in him.

17 15. When World Cash stopped making the monthly payments it promised, he  
18 wrote letters to the company and even made a trip to see the president and investigate  
19 why the payments had stopped. Although he now feels the companies were a fraud,  
20 one company officer even committed suicide when it failed.

21 16. Mr. Christian testified that he did not pressure his clients to invest in the  
22 companies and tried to confirm that his payments for the surrender penalties would not  
23 be considered rebating before he paid them. He stated that he did not withhold  
24 information from the clients, read the applications to them, they understood and  
25 invested under their own volition. Frances King told him and signed a letter confirming  
26 that she did not hold Mr. Christian accountable for her losses.

27 17. Regarding his answers on the application, Mr. Christian stated that the  
28 wording was confusing. He stated that he asked several people how to answer them  
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1 and even asked Department Investigator Bob Hill. He testified that he was advised that  
2 he was safe in answering the way he did. His expert on readability also testified that  
3 the application did not pass the standardized readability test either.

4 18. He argued that if he can't continue as an insurance producer, he doesn't  
5 know how he will ever pay his restitution to the clients. He feels he has few career  
6 options at this point in his life.

#### 7 CONCLUSIONS OF LAW

8 1. Mr. Christian's conduct, as set forth above, constitutes providing incorrect and  
9 untrue information on his license application, violating the applicable statutory chapter  
10 or a rule, subpoena or order of the Director, and attempting to obtain a license through  
11 misrepresentation or fraud, a violation of A.R.S. § 20-295(A)(1), (2), and (3).

12 2. Mr. Christian's conduct, as set forth above, constitutes using dishonest  
13 practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility  
14 in the conduct of business in this state or elsewhere, within the meaning of A.R.S. § 20-  
15 295(A)(8).

16 3. Mr. Christian's conduct, as set forth above, constitutes the making of any  
17 misrepresentation to any policyholder for the purpose of inducing or tending to induce  
18 the policy holder to lapse, forfeit, surrender, retain or convert any insurance policy,  
19 within the meaning of A.R.S. § 20-443(5).

20 4. Grounds exist to suspend, revoke or refuse to renew Mr. Christian's  
21 insurance license, impose a civil penalty upon him and order restitution pursuant to  
22 A.R.S. §§ 20-295(A), (D), and (F).

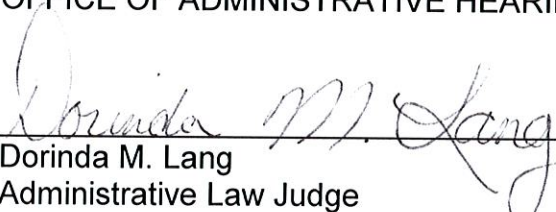
23 5. Because Mr. Christian is listed on Cornerstone's license as a principal and  
24 the only licensed producer, grounds exist to suspend, revoke or refuse to renew  
25 Cornerstone's insurance license, impose a civil penalty, and/or order restitution based  
26 on Mr. Christian's conduct, as set forth above, which is determined to be in violation of  
27 A.R.S. § 20-295(A) pursuant to the provisions of A.R.S. § 20-295(B), (D) and (F).  
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1  
2 **RECOMMENDED ORDER**

3 Based on the above, it is recommended that all licenses that the Department  
4 issued to Gary Lyle Christian and Cornerstone Senior Planning, L.L.C. be revoked  
5 and/or refused renewal commencing on the effective date of the Order entered in this  
6 matter. It is further recommended that if the Director or the Department should ever  
7 consider granting another license to either Respondent, that the granting of that license  
8 be contingent upon their having complied with the penalties and restitution ordered in  
9 their consent order with the Arizona Corporation Commission in Decision No. 64202.  
10

11 Done this day, March 11, 2003  
12

13 OFFICE OF ADMINISTRATIVE HEARINGS

14   
15 \_\_\_\_\_  
16 Dorinda M. Lang  
17 Administrative Law Judge  
18

19 Original transmitted by mail this  
20 17 day of march, 2003, to:  
21

22 Department of Insurance  
23 Charles R. Cohen  
24 ATTN: Kathy Linder  
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27 By   
28  
29  
30