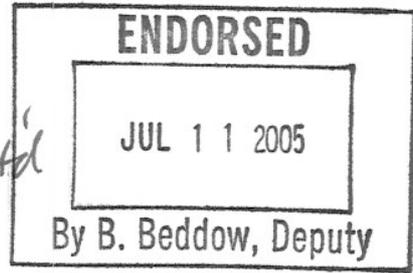


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Encl



5 Attorneys for Respondents

7 SUPERIOR COURT OF CALIFORNIA
8 SACRAMENTO COUNTY

10 AMERICAN EQUITY INVESTMENT LIFE)
INSURANCE COMPANY, a corporation)

Case No. 05CS00042

11 Petitioner,

JUDGMENT DENYING PETITION FOR WRIT OF MANDAMUS

12 vs.

Hearing Date: June 17, 2005
Time: 10:30 a.m.
Dept: 33

14 WILLIAM P. WOOD, in his capacity as)
15 Corporations Commissioner of the State of)
California, and the CALIFORNIA)
16 DEPARTMENT OF CORPORATIONS,)

17 Respondents.
18

19 This matter came regularly before this court on June 17, 2005 for hearing in Department 33
20 of the Superior Court, the Honorable Lloyd Connelly presiding. Robert W. Hogeboom and Robert J.
21 Cerny appeared as attorneys for Petitioner AMERICAN EQUITY INVESTMENT LIFE
22 INSURANCE COMPANY (hereinafter "AEI"). Douglas M. Gooding appeared as attorney for
23 Respondent Corporations Commissioner of the State of California, and the Department of
24 Corporations.

25 The record of the administrative proceedings having been received into evidence and
26 examined by the court, briefs having been filed and received, and arguments having been presented,
27 the court finds and orders as follows:

28 1. The Department of Corporations does have jurisdiction in this matter to apply and enforce the

1 California Corporations Code.
2 2. The standard the court applied to the factual findings of the Administrative Law Judge is whether
3 or not her findings were supported by substantial evidence.
4 3. The Decision of the California Corporations Commissioner, adopting the Proposed Decision of
5 the Administrative Law Judge, is incorporated as part of the decision herein by this court.
6 4. The court finds that Gloria Walton was an appointed agent of AEI; that her compensation was
7 determined by AEI; that she used AEI forms; that she could be fired by AEI; and that with respect to
8 the transaction with Mrs. Rickaby, Gloria Walton was acting as an agent of AEI under California
9 Civil Code Section 2330.
10 5. Viewing the totality of the evidence, including all reasonable inferences therefrom, the court finds
11 that AEI's agents, Gentry and Walton, contacted clients under the guise of offering a service of
12 updating clients' trust documents; but that this was a program designed to sell AEI annuities; that the
13 introductory letter referred to estate planning, financial review, and market risk and its downside;
14 that the purpose of the agent's review was to identify what funds were available to purchase an
15 annuity; that Walton had the forms available, including the Mondschein forms, to accomplish the
16 sale of securities to purchase an annuity; and that the weight of evidence establishes that Walton's
17 actions, as an agent of AEI, constitute investment advice as to the advisability of switching from one
18 investment to another investment under the California Corporations Code. The evidence considered
19 by the court included the testimony of Walton, Ms. Rickaby and that of another Gentry client, Mrs.
20 Goguen.
21 6. The court finds there is substantial evidence, including all reasonable inferences therefrom, to
22 support the Decision of the Department of Corporations.
23 7. Therefore, the court orders that the petition for writ of mandamus is DENIED. Costs are awarded
24 to Respondent.

25 Let judgment be entered accordingly.

26 Dated: JUL 11 2005

27 **LLOYD G. CONNELLY**
28 _____
Judge of the Superior Court