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5 Attorney for
CALIFORNIA DEPARTMENT OF INSURANCE

6
7 BEFORE THE INSURANCE COMMISSIONER
8 OF THE STATE OF CALIFORNIA
9

10 In the Matter of the Certificate of
11 Authority of

File No. GG201800071

12
13 JEFFERSON NATIONAL
LIFE INSURANCE COMPANY,

**ACCUSATION and
ORDER TO SHOW CAUSE**

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15 Respondent.
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18 The California Department of Insurance alleges that:

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20 **PARTIES**

21 1. Respondent, Jefferson National Life Insurance Company, has held a
22 Certificate of Authority to transact the business of life and disability insurance in
23 California since 1961.

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1 **INVESTMENT ADVISER**

2 2. Investment Adviser met Consumer, a San Francisco resident, sometime
3 before 2008, when Investment Adviser was employed as a financial adviser at
4 Consumer's bank.¹ After Investment Adviser left the bank, she started her own wealth
5 management firm in 2011, and continued to act as a financial advisor for Consumer.

6
7 3. On October 23, 2015, Consumer signed an "investment advisory
8 agreement" with Investment Adviser's firm. Consumer was 86 years old at this time.
9 Under the agreement, Consumer would pay Investment Adviser an annual fee of 1% of
10 assets under management.

11
12 **JEFFERSON NATIONAL ANNUITIES**

13 4. Around the time the parties executed the agreement, Investment Adviser
14 convinced Consumer to purchase a variable annuity from Jefferson National.² On
15 October 21, 2015, Consumer wrote two checks to Jefferson National totaling \$100,000
16 to purchase a variable annuity in that amount. At Investment Adviser's direction,
17 Consumer made additional premium contributions to this annuity through September
18 2017, transferring funds from savings accounts and other investments until Consumer
19 had invested approximately \$636,000 in the annuity.

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21 5. One of the investments from which Consumer transferred funds was a
22 Genworth Life Insurance Company annuity. Consumer purchased this annuity in 2014
23 and it was worth approximately \$118,000 as of July 27, 2017. Consumer incurred a

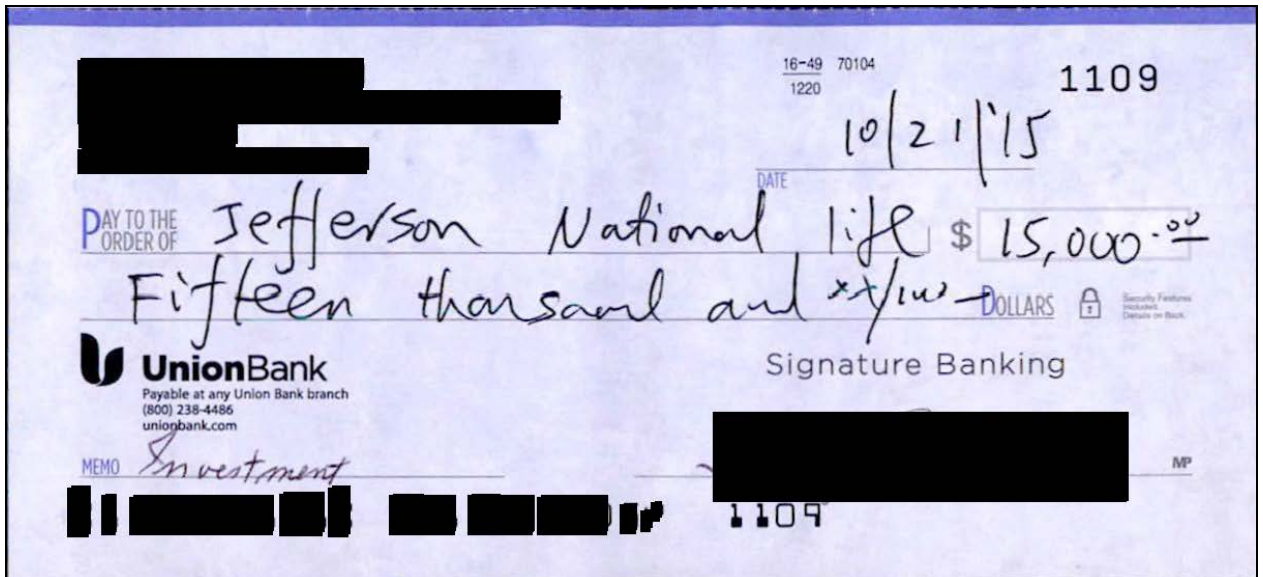
24 _____
25 ¹ As this document is available for public inspection and on the Department's website, all identifying and
26 privileged information regarding individual policyholders and others who are not a Respondent in this
27 matter is redacted under Insurance Code § 12938. The individuals' identifying information is listed in
28 Exhibit 1, which will not be available for public inspection or on the Department's website.

² A variable annuity is a contract with an insurance company in which the investor makes a payment called
a "premium," and in return, receives guaranteed future disbursements that can fluctuate based on various
factors such as financial market performance.

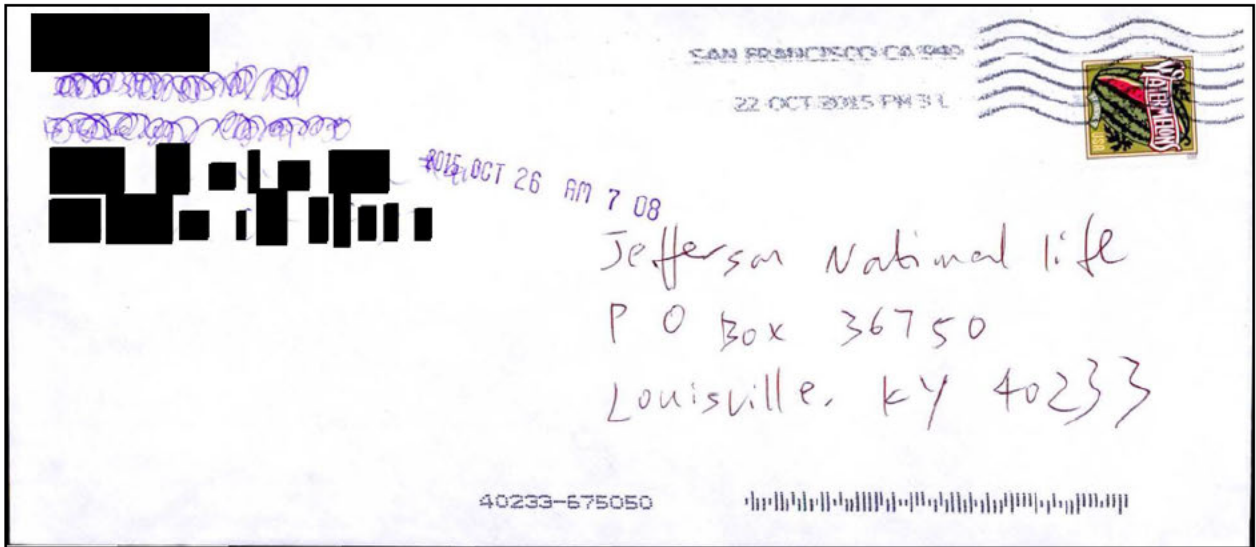
1 surrender charge of \$6,400.20 in order to transfer the funds to Jefferson National.³

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3 6. Another investment from which Consumer transferred funds was an AXA
4 Equitable Life Insurance Company annuity. This annuity was worth approximately
5 \$151,000 as of July 26, 2017. Consumer incurred a surrender charge of \$7,942.62 in
6 order to transfer the funds to Jefferson National.

7
8 7. Investment Adviser completed the annuity application for Consumer.
9 Consumer only signed the application. Many of the premium contributions to the annuity
10 were made through personal checks. Consumer only signed these checks and entered
11 the "memo" details. Investment Adviser entered the rest of the information on the
12 checks, such as Jefferson National's name as the payee and the amount to be paid.
13 This is shown by comparing the writing on the check with the writing on the envelope
14 that Investment Adviser used to mail the check to Jefferson National:



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26
27 ³ A surrender charge is an early withdrawal penalty incurred when the policyholder removes funds from or
28 cancels a policy ("surrenders") at a certain point in time. The surrender charge generally decreases the
longer a policy is held.



8. In August 2017, Investment Adviser convinced Consumer to purchase another Jefferson National variable annuity. Consumer initially invested almost \$50,000 into this annuity and later added approximately \$4,600 more over the next two months. The money to fund this annuity was transferred from Consumer's investments with Fidelity Brokerage Services. Investment Adviser completed the annuity application for Consumer. Consumer only signed the application.

9. In July 2018, the Department interviewed Consumer regarding the annuities. Below are selected portions of the recorded interview:

Investigator: "Did she tell you...what a variable annuity is and how it works?"

Consumer: "No, because she does the investments, right? That's why she does it, so I don't know but she knows it, she's a broker so she's supposed to know."

I: "You have two annuities."

C: "Is that what I have?"

I: "Is that what you have? You've got with...with Jefferson National."

C: "Jefferson. Yeah. When I heard Jefferson, it make me sick. Because I don't know very much about those things."

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I: "All the money in that Jefferson National, it's over \$600,000."

C: "Is that right?...Oh my God. That's why when I heard the name Jefferson, it made me so mad. And sick. Because I don't know what's going on."

C: "She was very friendly and I thought she was my good friend."

I: "A lot of money was moved from various insurance products that you had. And you have...an IRA annuity. And that money came from Fidelity Broker Services."

C: "Oh, Fidelity. Yes. And I told her, don't touch that Fidelity...I told her never to touch [that]."

I: "Did she ever have you sign documents that were blank?"

C: "Yes. That's right."

I: "It was blank?"

C: "Yeah."

END OF INVESTMENT ADVISER RELATIONSHIP WITH CONSUMER

10. Investment Adviser had Consumer surrender a State Life Insurance Company annuity worth approximately \$58,000 as of September 22, 2017. Consumer incurred a surrender charge of \$2,339.37, as well as tax penalties and loss of other benefits under the policy.

11. In approximately September 2017, staff at Consumer's bank became suspicious about the nature of the various transactions they had witnessed. The bank staff contacted Consumer with their concerns, and Consumer ended her relationship with Investment Adviser shortly afterward. Investment Adviser's guidance to Consumer to surrender various investments resulted in Consumer incurring a total of \$16,682.19 in surrender charges.

1 **JEFFERSON NATIONAL FAILURE TO PROPERLY OVERSEE**
2 **ANNUITY SALES TO INVESTMENT ADVISER CLIENTS**

3 12. Jefferson National created a sales process where unaffiliated investment
4 advisers had unchecked authority to recommend its annuities to clients and represent to
5 the company that the annuities were suitable for a consumer's needs. Jefferson
6 National's only involvement in this process was that its agent simply had to sign the
7 purchase application for the annuity. Jefferson National did not, as a rule, interact with
8 the consumer directly during the sales process to confirm that the consumer understood
9 the terms of the annuity they were buying, and that the annuity was suitable for the
10 consumer's needs. It's not clear that a consumer would ever have any interaction with
11 the company in this sales process, as Jefferson National stated in a June 2019 letter to
12 the Department's investigator:

13 requirements. The agents/registered representatives may or may not be part of the
14 conversation advisers have with their clients about the Monument Advisor
15 product but are always available to discuss the features and benefits of Monument
16 Advisor if the adviser or customer feel that is needed. As such, and because
17 JNLIC may not be aware of the specific nature of the conversations between the
18 independent IARs and the customer, advisers can determine how much of the
19 agency service they need, using as much or as little of the service as desired. We

20 **ORDER TO SHOW CAUSE**

21 13. WHEREAS, the facts alleged in Paragraphs 4 through 6 provide the
22 Insurance Commissioner with reason to believe that Jefferson National failed to comply
23 with the statutes governing requirements for replacement of life insurance and annuity
24 policies, by recommending that an insured 65 years of age or older purchase an
25 unnecessary replacement annuity, as specified in California Insurance Code
26 § 10509.8(a);

1 14. WHEREAS, any insurer that violates the statutes governing requirements
2 for replacement of life insurance and annuity policies is liable for an administrative
3 penalty of \$10,000 for each violation, or, if the violation is with a frequency as to indicate
4 a general business practice or the violation is knowing, an administrative penalty of no
5 less than \$30,000 and no more than \$300,000 for each violation, pursuant to California
6 Insurance Code § 10509.9(c) and (d);
7

8 15. WHEREAS, the Insurance Commissioner may suspend or revoke the
9 certificate of authority of any insurer that violates the statutes governing requirements for
10 replacement of life insurance and annuity policies, pursuant to California Insurance Code
11 § 10509.9(e)
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13 16. WHEREAS, the facts alleged in Paragraphs 2 through 12 provide the
14 Insurance Commissioner with reason to believe that Jefferson National failed to establish
15 a system to supervise recommendations and to set forth standards and procedures for
16 recommendations to consumers that result in transactions involving annuity products, so
17 that the insurance needs and financial objectives of consumers at the time of the
18 transaction are appropriately addressed, as required by California Insurance Code
19 § 10509.910;
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21 17. WHEREAS, the facts alleged in Paragraphs 2 through 12 provide the
22 Insurance Commissioner with reason to believe that Jefferson National failed to establish
23 a supervision system that was reasonably designed to achieve compliance with the
24 statutes governing suitability requirements for annuity transactions, as required by
25 California Insurance Code § 10509.914(f)(1);
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1 18. WHEREAS, any insurer that violates the statutes governing suitability
2 requirements for annuity transactions is subject to an order by the Insurance
3 Commissioner to take reasonably appropriate corrective action for any consumer
4 harmed by such a violation, pursuant to California Insurance Code § 10509.916(a)(1);
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6 19. WHEREAS, any insurer that violates the statutes governing suitability
7 requirements for annuity transactions is liable for an administrative penalty of \$10,000 for
8 each violation, or, if the violation is with a frequency as to indicate a general business
9 practice or the violation is knowing, an administrative penalty of no less than \$30,000
10 and no more than \$300,000 for each violation, pursuant to California Insurance Code
11 §§ 10509.916(a)(3) and 10509.9(c) and (d);
12

13 20. WHEREAS, the Insurance Commissioner may suspend or revoke the
14 certificate of authority of any insurer that violates the statutes governing suitability
15 requirements for annuity transactions, pursuant to California Insurance Code
16 §§ 10509.916(a)(3) and 10509.9(e);
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18 NOW, THEREFORE, IT IS ORDERED that, pursuant to California Insurance
19 Code §§ 10509.9 and 10509.916, Jefferson National is to show cause, at a hearing to be
20 held at a time and place fixed herein, why the Insurance Commissioner should not issue
21 an order to Jefferson National for the penalties, sanctions, and corrective action
22 described in Paragraphs 14, 15, 18, 19, and 20.
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24 Dated: February 2, 2021

CALIFORNIA DEPARTMENT OF INSURANCE

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27 By: _____
 Eugene Kalinsky
 Attorney for
28 CALIFORNIA DEPARTMENT OF INSURANCE