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FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

OCT 29 1998

at 3 o'clock and 00 min. 2 M
WALTER A. Y. H. CHINN, CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

TERESA ANN LOPEZ,
Plaintiff,

vs.

ASSOCIATES FINANCIAL SERVICES
COMPANY OF HAWAII, INC.,
Defendants.

CIVIL No. 97-01384 SOM
(Other Civil Action)

NOTICE OF HEARING OF MOTION;
PLAINTIFF'S MOTION FOR SUMMARY
JUDGMENT; MEMORANDUM IN SUPPORT OF
MOTION; DECLARATION OF JOHN HARRIS
PAER; DECLARATION OF TERESA ANN
LOPEZ; DECLARATION OF CHERYL TIPTON;
DECLARATION OF JOHN F. DEXTER;
EXHIBITS A-N; AND CERTIFICATE OF
SERVICE

TERESA ANN LOPEZ,
Plaintiff,

vs.

ASSOCIATES FINANCIAL LIFE
INSURANCE COMPANY,
Defendants.

CIVIL No. 98-00205 DAE
(OTHER CIVIL ACTION)

HEARING:
DATE: DECEMBER 7, 1998
TIME: 11:15 A.M.
JUDGE: SUSAN OKI MOLLWAY


TRIAL: MARCH 16, 1999

NOTICE OF HEARING OF MOTION

TO: Tom E. Roesser, Esq.
Katherine G. Leonard, Esq.
CARLSMITH BALL WICHMAN CASE & ICHIKI
Pacific Tower
1001 Bishop Street, Suite 2200
Honolulu, Hawaii 96813

NOTICE IS HEREBY GIVEN that the above-identified Plaintiff's Motion for Summary Judgment shall come on for hearing, before the Honorable Susan Oki Mollway, Judge of the above-entitled Court, at 300 Ala Moana Boulevard, Honolulu, Hawaii, at 11:15 o'clock a.m., on December 7, 1998 or as soon thereafter as counsel can be heard.

DATED: Honolulu, Hawaii, October 28, 1998.



STANLEY E. LEVIN
JOHN HARRIS PAER
Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

TERESA ANN LOPEZ,

Plaintiff,

vs.

ASSOCIATES FINANCIAL SERVICES
COMPANY OF HAWAII, INC.,

Defendants.

CIVIL No. 97-01384 SOM
(Other Civil Action)

PLAINTIFF'S MOTION FOR SUMMARY
JUDGMENT

TERESA ANN LOPEZ,

Plaintiff,

vs.

ASSOCIATES FINANCIAL LIFE
INSURANCE COMPANY,

Defendants.

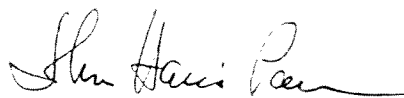
CIVIL No. 98-00205 DAE
(OTHER CIVIL ACTION)

PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

Plaintiff, Theresa Ann Lopez, by and through her attorneys, hereby move this Court for an order granting Plaintiff summary judgment as to all claims of Plaintiff. Plaintiff is entitled to this order because there are no genuine issues as to any material facts and Plaintiff is entitled to judgment as a matter of law.

This Motion is supported by the memorandum with exhibits attached, the declarations filed herewith and the records on file with the Court on the date of the hearing herein.

DATED: Honolulu, Hawaii, October 28, 1998.

A handwritten signature in cursive script, appearing to read "Stanley E. Levin".

STANLEY E. LEVIN
JOHN HARRIS PAER
Attorneys for Plaintiff

TABLE OF CONTENTS

I. INTRODUCTION..... 1

II. FACTS 2

 A. BACKGROUND INFORMATION 2

 B. THE LOAN TRANSACTION 2

 C. MR. LOPEZ’S MEDICAL HISTORY AND THE APPLICATION 4

 D. MR. LOPEZ’S DEATH AND DENIAL OF BENEFITS 5

 E. INJURY SUFFERED BY PLAINTIFF 7

 F. FACTS RELEVANT TO FIDUCIARY DUTY 8

 G. PROFIT AND INCENTIVE TO SELL CREDIT LIFE INSURANCE..... 9

 H. MR. HAMILTON’S OTHER TESTIMONY 10

 I. LACK OF WARNINGS ON THE DOCUMENTS 11

III. ARGUMENT 12

 A. THE CREDIT LIFE INSURANCE WAS VALID 12

 B. DEFENDANT LOAN COMPANY BREACHED ITS FIDUCIARY DUTIES
 TO THE PLAINTIFF 13

 C. THERE ARE TRUTH IN LENDING VIOLATIONS ON THE LOANS 16

 1. BACKGROUND OF TILA IN HAWAII 16

 2. LOAN COMPANY’S FAILURE TO REBATE THE POINTS AND INTEREST RELATING
 TO THE CREDIT INSURANCE CHARGE RESULTED IN AN INCORRECT DISCLOSURE
 OF THE FINANCE CHARGE AND THE ANNUAL PERCENTAGE RATE ON THE SEPTEMBER 30,
 1996 LOAN..... 17

 3. LOAN COMPANY’S DISCLOSURE OF THE CREDIT LIFE INSURANCE IN THE OCTOBER 25,
 1995 LOAN WAS INCORRECT 18

 D. DEFENDANTS ARE LIABLE FOR THEIR NEGLIGENT OR INNOCENT
 MISREPRESENTATIONS 19

 E. DEFENDANTS BREACHED THEIR CONTRACT WITH PLAINTIFF..... 22

 F. DEFENDANTS HAVE COMMITTED UNFAIR AND DECEPTIVE TRADE PRACTICES 22

 1. THERE ARE FOUR ELEMENTS THAT MRS. LOPEZ MUST PROVE 22

 2. DEFENDANTS ENGAGED IN A "BAIT AND SWITCH" 23

 3. LOAN COMPANY VIOLATED H.R.S, § 480-2 BY FAILING TO RETURN THE PREMIUM
 PROMPTLY, AND BY HOLDING IT FOR NEARLY SIX MONTHS AFTER THE DEATH OF MR.
 LOPEZ 23

 4. THE BANK VIOLATED H.R.S. 480-2 BY FAILING TO DISCLOSE TO THE LOPEZ’S THAT IT
 WAS AN INSURANCE AGENT AND WOULD PROFIT FROM THE SALE OF THE CREDIT LIFE
 INSURANCE PREMIUM 24

 5. LOAN COMPANY’S EFFORTS TO GET MS. LOPEZ TO REFINANCE THE LOAN WAS AN
 UNFAIR PRACTICE 25

 G. DAMAGES 26

IV. CONCLUSION 26

TABLE OF AUTHORITIES

CASES	PAGE(S)
<u>Beiter v. Decatur Federal Savings and Loan Association</u> , 150 S.E. 2d 687 (Ga., 1966).....	22
<u>Browder v. Hanley Dawson Cadillac Co.</u> , 379 N.E. 2d 1206 (1978).....	14
<u>Burnett v. Ala Moana Pawn Shop</u> , 3 F.3d 1261 (9 th Cir., 1993).....	16, 22, 23
<u>Burnett v. Ala Moana Pawn Shop</u> , Civ. No. 90-00267 ACK CD. Haw. Oct. 17, 1991).....	17
<u>Cameron v. First National Bank of Bozeman</u> , 607 P. 2d 1113 (Mont., 1980).....	15
<u>Chun v. Park</u> , 51 Haw. 462 (1969);	19
<u>Cory v. Villa Properties</u> , 180 Cal. App. 3d 592, 225 Cal. Repr. 628, 631 (1986).....	21
<u>Dias v. Bank of Hawaii I</u> , 732 F.2d 1401 (9 th Cir., 1984);	16
<u>Dias v. Bank of Hawaii II</u> , 764 F. 2d 1292 (9 th Cir., 1965).....	16
<u>Easton v. Strassburger</u> , 199 Cal. Repr. 383, 46 A.L.R. 4th 521 (1984).	20
<u>Evans v. Yegen Associates</u> , 556 F. Supp. 1219 (D. Mass., 1983).....	26
<u>First Hawaiian Bank v. Klein</u> , 41 B.R. 626, 629 (D. Haw., 1984).	16, 20
<u>Fleming v. Monumental Life Insurance Company</u> , __ F.3d __ C.A. No. 97-35118 (9 th Cir., September 1, 1998).....	12
<u>Garl v. Mihuta</u> , 361 N.E. 2d 1065 (1975).....	14
<u>In re Dickson</u> , 432 F. Supp. 752 (W.D.N.C., 1977).....	13

<u>In re Steinbrecher,</u> 110 B.R. 155, 165 (Bkrctcy., E.D. Pa. 1990),	17
<u>Jackson v. Grant,</u> 890 F. 2d 118 (9 th Cir., 1989).....	18
<u>Kessler v. Associates Financial Services of Hawaii, Inc. I,</u> 573 F.2d 577 (9 th Cir., 1977).....	16
<u>Kessler v. Associates Financial Services of Hawaii, Inc. II,</u> 639 F. 2d 498 (9 th Cir., 1981):	17
<u>Liebert v. Finance Factors Ltd.,</u> 71 Haw. 285 (1990)	24
<u>Malani v. Clapp,</u> 56 Haw. 507 (1975).	22
<u>Markham v. William Curtis Gibson III, et al.,</u> Civ. No. 97-01651 SPK CD. Haw., July 7, 1998)	17
<u>Pedro v. Associates Financial Services of Hawaii Inc.,</u> Civ. No. 87-0184 (D. Haw., Dec. 6, 1988)	17
<u>Property House v. Kelley,</u> 68 Haw. 371, 715 P. 2d 805, 810 (1986)	14
<u>Rivero v. J. P. Automobiles, Inc. dba Pflueger Honda,</u> Civ. No. 96-01010 HG (D. Haw., June 10, 1997)	13, 17
<u>Robichaud v. Athol Credit Union,</u> 225 N.E. 2d 347 (Mass., 1967),	22
<u>Semar v. Platte Valley Saving & Loan Ass'n,</u> 791 F. 2d 699 (9 th Cir., 1986).....	18, 19
<u>Shaffer v. Earl Thacker Co., Ltd.,</u> 6 Haw.App. 188 (1986)	20, 21
<u>Steele v. Ford Motor Credit Co.,</u> 783 F. 2d 1016, 1017 (11 th Cir., 1986).....	18
<u>Stone v. Davis,</u> 419 N.E. 2d 1094, <i>cert. denied</i> , 454 U.S. 1081 (1981).....	14
<u>Vaughan v. Kalyvas,</u> 342 S.E. 2d 617 (S. C. Ct. App., 1986).....	26
<u>Watkins v. Valley Fidelity Bank & Trust Co.,</u> 474 S.W. 2d 915 (Tenn., 1971).....	14

Wiginton v. Pacific Credit Corp. dba City Collectors.
2 Haw. App. 435 (1981)22

TREATISES

Merchants of Misery: How Corporate America Profits from Poverty (1996), Library of Congress
ISBN 1-56751-083-3; ISBN 1-56751-082-5; HG181.M462

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

TERESA ANN LOPEZ,

Plaintiff,

vs.

ASSOCIATES FINANCIAL SERVICES
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Defendants.

CIVIL No. 97-01384 SOM
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MEMORANDUM IN SUPPORT OF MOTION;

TERESA ANN LOPEZ,

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ASSOCIATES FINANCIAL LIFE
INSURANCE COMPANY,

Defendants.

CIVIL No. 98-00205 DAE
(OTHER CIVIL ACTION)

MEMORANDUM IN SUPPORT OF MOTION

I. INTRODUCTION

This case involves a typical sale of credit life insurance by a finance company to a consumer in connection with a mortgage loan. The Defendants typically do no underwriting prior to issuing the policy, but take all comers. They do this because the premiums and profits are so high in the credit life field. However, to bolster their profit margins even further, some creditors including Defendants herein, use a deceptively short, but all encompassing application so that they can conduct post claim underwriting in the event that claims are made. As shown herein, this is truly an unfair and deceptive practice. The lender has also violated the Truth in

Lending Act and has breached its fiduciary duties to Plaintiff.¹

II. FACTS

A. BACKGROUND INFORMATION

Plaintiff has been a museum curator for the Bishop Museum for some 10 years. She received her degree in Anthropology from the University of Hawaii in 1985. She and Mr. Lopez were married for 25 years and they have a daughter who works for the Federal Bureau of Investigation. Mr. Lopez served in the Army, worked for the Department of Health and later had his own real estate business. Plaintiff also has a real estate license and took over that business after her husband's death. Plaintiff's family has always been close, honest and hardworking. Lopez declaration ¶2.

B. THE LOAN TRANSACTION

Plaintiff and her husband entered into a consumer credit transaction with Defendant Associates Financial Services Company of Hawaii, Inc. (hereinafter "Loan Company") on October 25, 1995. They received one copy of the disclosure statement for that transaction, Exhibit "A". They also received one copy of the Notice of Right to Cancel in connection with that transaction, Exhibit "B". Lopez declaration ¶3.

That loan was made primarily for personal, family and household purposes and was secured by their home, their principal residence. Lopez declaration ¶4.

Loan Company's employee who handled that transaction with Plaintiffs at closing was Christine West. At closing, Ms. West, for the first time, mentioned credit life insurance.

¹ It is worth noting at the outset that in Merchants of Misery: How Corporate America Profits from Poverty (1996), Library of Congress ISBN 1-56751-083-3; ISBN 1-56751-082-5; HG181.M46, the award winning journalist, Michael Hudson devotes an entire chapter to Associates.

She offered Plaintiff and her husband credit life insurance for this loan, and on the spur of the moment, they agreed. Lopez declaration ¶5.

Associates Financial Life Insurance Company (hereinafter "Insurance Company") is licensed by the State of Hawaii as an insurance company and is an admitted Hawaii insurer. See Request for Admission No. 6, a true and correct copy of which is attached hereto as Exhibit "L". At all times herein, the licensed General Agent in Hawaii for Insurance Company was Beneficial Services, Inc. See Request for Admission No. 12 (Exhibit "L"). At all relevant times herein, Loan Company was licensed by the State of Hawaii as a "subagent" of Beneficial Services, Inc. for the purpose of selling credit life insurance. Request for Admission No. 13 (Exhibit "L"); see also Hamilton deposition² page 20 lines 3-24; see also Exhibit 1 to that deposition. On October 25, 1995, Ms. West was licensed as a "solicitor" by the State of Hawaii for Defendant Loan Company for the purpose of soliciting sales of credit insurance by Loan Company. Request for Admission No. 14 (Exhibit "L").

Ms. West gave Plaintiff and her husband the credit life application, told them to fill it out and sign it, and said they would then be covered by the credit life insurance, and that the payment would be included as part of the loan, which it was. Ms. West did not say or explain anything else about the credit life application or the insurance. Lopez declaration ¶6.

Plaintiff and her husband filled out the credit life application, Exhibit "C", in roughly one minute, and felt that they had done so truthfully. Ms. West left the room for a minute or so while they filled out that form and they gave it to Ms. West when she returned. Ms. West did not say anything else regarding the insurance, but the charge for credit life insurance

² A true and correct copy of the deposition transcript of Jeffrey Hamilton, taken on April 9, 1998, is attached hereto as Exhibit "N".

appeared on the disclosure statement and Plaintiff and her husband believed that they were covered. Lopez declaration ¶7.

Plaintiff and her husband signed the rest of the closing documents and received the disclosure statement (Exhibit "B") showing that they had credit life insurance and had paid \$7124.78 for it. At the time, they did not realize how expensive this coverage actually was since the premium only covered a loan of roughly \$57,000.00 (the amount financed of \$64,385.73 included the premium itself of \$7,124.78). Lopez declaration ¶8.

Defendant Associates Financial Life Insurance Company (Insurance Company) wrote the credit life insurance policy for Plaintiff's loan and they received a copy of the policy, Exhibit "D". Lopez declaration ¶9.

Plaintiff and her husband understood that Ms. West was acting as their insurance agent in offering the coverage. They believed that Ms. West was required to, and was, doing all that was necessary to protect them, and to be sure that they were receiving the coverage that she had offered them, that they had accepted, and that they had been charged for under the loan. They had an expectation that they were covered with credit life insurance and their expectation was reasonable. Lopez declaration ¶10.

Prior to her husband's death, neither Ms. West nor anyone else, ever told Plaintiff or her husband that a misstatement on the application, intentional or otherwise, would prevent their recovery under the policy. Plaintiff and her husband filled out all the forms given to them honestly and to the best of their knowledge and belief. Lopez declaration ¶¶ 11 and 12.

C. MR. LOPEZ'S MEDICAL HISTORY AND THE APPLICATION

Prior to 1996, Mr. Lopez had not seen a doctor for some 10 years, and Plaintiff and Mr. Lopez considered him to be exceptionally healthy. In the summer of 1995, Mr. Lopez

saw Dr. Frank Williams because of fatigue. Plaintiff and her husband were told that he had an aneurysm, which they understood to be a bubble on the outside wall of the artery. Dr. Williams told Mr. Lopez to continue his life normally and they would review his condition again in six months. The Lopez's were initially concerned, but after being told to continue living normally, they were no longer worried and put this out of their minds. Lopez declaration ¶13.

Mr. Lopez did not have a heart problem ever; his heart was always strong. Mr. Lopez did not have a circulatory problem; his circulation was fine and his blood pressure was normal. Plaintiff and Mr. Lopez always believed that Mr. Lopez was very healthy and that his heart and circulatory system were healthy as well. Lopez declaration ¶¶ 14 and 15.

The Lopez's felt that they had answered the questions correctly on the credit life application, and wrote Dr. Williams' name on the application. They understood that was so Loan Company could check out their answers and determine if the answers they gave were correct. The Lopez's assumed that if there were any problems or discrepancies, Loan Company would let them know immediately. Lopez declaration ¶16.

D. MR. LOPEZ'S DEATH AND DENIAL OF BENEFITS

The Lopez's made payments every month on the loan, part of which went to pay for the charge for credit life insurance. Loan Company accepted their payments month after month and never notified them of any problems or discrepancies with respect to our credit life insurance. Lopez declaration ¶17.

On March 3, 1996, Louis A. Lopez died suddenly. The death certificate, Exhibit "E", says that the cause of death was a thoracic aortic dissection. Mr. Lopez's death was caused by the bursting of the bubble on the wall of the aorta; not by a weak heart or blockage of the

circulatory system. Mr. Lopez's death was a complete surprise to the family. He did not even have a will or any other kind of estate plan. Lopez declaration ¶18.

Plaintiff notified Loan Company shortly after her husband's death and assumed that the credit life insurance would take care of the balance of the loan. Plaintiff received no word from Defendants and Plaintiff had to continue to make payments under the loan to protect her home. Lopez declaration ¶19.

On August 19, 1996, five and one-half months after her husband's death, Insurance Company wrote to Plaintiff denying her claim for benefits under the credit life policy. *See* Exhibit "F"; Lopez declaration ¶20.

At that time, Loan Company notified Plaintiff that it would return the credit life premium of \$7,124.78. Lopez declaration ¶21.

Defendant's office manager at that time, Cheryl Hursh, suggested that Plaintiff might want to apply the premium to reduce her outstanding balance and Plaintiff agreed. Ms. Hursh also suggested that Plaintiff might want to reduce her payments by refinancing the loan and Plaintiff agreed to that as well. Lopez declaration ¶¶ 22 and 23.

Plaintiff was very vulnerable at that time, still shocked over the loss of her husband, and additionally shocked over the denial of the insurance claim. Ms. Hursh was very sympathetic and Plaintiff believed she was protecting her interests; therefore, Plaintiff followed her advice and refinanced the loan on September 30, 1996. Plaintiff was given the disclosure statement and notice of right to cancel for that transaction, Exhibits "G" and "H" respectively. Lopez declaration ¶¶ 24 and 25.

On September 30, 1996, one month after its denial of claim letter and nearly seven months after Mr. Lopez's death, Loan Company did rebate the insurance premium of

\$7,124.78, but immediately reclaimed nearly half of that amount in points for the refinanced loan. It charged five points or \$2,983.24. Lopez declaration ¶26. Loan Company did not rebate any interest on the insurance premium, nor any other amount except for the premium itself. Lopez declaration ¶27; Hamilton deposition page 90 lines 14-25; page 94 line 19 - page 97 line 2. The insurance premium rebate check was written by Associates to Associates; not to the customer. That is standard operating procedure. Hamilton deposition page 97 lines 3-11.

E. INJURY SUFFERED BY PLAINTIFF

The total amount that was paid off on the old loan by the refinancing was \$59,309.89. That figure was obtained by taking the total amount due under the old loan and subtracting the premium of \$7,124.78. Hamilton deposition page 107 lines 1-12. Points are charged on the amount financed (which includes the credit life premium) and interest is charged upon the points and the origination fee as well as the credit life premium. Hamilton deposition page 114 line 1 - page 115 line 1.

When Plaintiff recovered somewhat from the death of her husband and from the denial of the insurance claim, she realized that Defendants had taken advantage of her and of her husband. Lopez declaration ¶28.

In addition to the amounts that Defendants should have paid under the credit life insurance and the additional payments that Plaintiff made to Loan Company and to another lender in refinancing her house yet again, Defendants have caused Plaintiff economic damages as well as incalculable misery at a time when she was already very weak. She lost sleep, suffered emotionally, lost time from work and generally suffered a lessening of quality of life as a direct result of Defendants' actions as described above. Lopez declaration ¶29.

F. FACTS RELEVANT TO FIDUCIARY DUTY

As a subagent, Loan Company owed Plaintiff and her husband a fiduciary duty when selling them credit life insurance. Upon issuing the policy and/or accepting payments over several months, Defendants had bound coverage. *See* Declaration of John Dexter attached hereto. The agent and subagent have similar roles and powers. The subagent appoints solicitors who can represent the company. Hamilton deposition page 16 lines 3-24.

It is the practice in the industry for customers to assume that they are covered by credit life insurance when they sign the Loan Company's request form asking for coverage and are charged the premium. At that point, customers usually do and are entitled to believe that they are covered by credit life insurance. Declaration of Cheryl Tipton, attached hereto; *see also* Declaration of John Dexter, attached hereto.

The regulatory framework for the sale of credit life insurance contemplates a "take all comers" approach. Consumers generally assume pre-claims underwriting as is typical with other types of life insurance. Consumers are generally unaware of the concept of post-claims underwriting. In exchange, credit life insurers have a higher profit expectancy than other insurers because they are allowed to charge a premium far higher than is allowed for ordinary life insurance. In addition, credit insurers have a captive market. Declaration of John Dexter, attached hereto; *see also* Consumer Federation of America Releases, Exhibits "I" and "J".

Defendant Insurance Company is essentially the sole provider of insurance for Loan Company. Defendants are affiliated companies and owned by the same company. Hamilton deposition, page 9 lines 7-20; page 31 lines 2-17.

Plaintiff, through her counsel, rescinded both loans by letter of September 19, 1997. Exhibit "K".

G. PROFIT AND INCENTIVE TO SELL CREDIT LIFE INSURANCE

In 1995, Loan Company made 689 mortgage loans of which 408 included charges for credit life insurance. There were six claims made under credit life policies in 1995 and two (one third) of those were denied. *See* Defendants' Answers to Interrogatories, a true and correct copy of which is attached hereto as Exhibit "M").

In 1996, Loan Company made 628 mortgage loans of which 341 included charges for credit life insurance. There were twelve claims made under credit life policies in 1995 and four (one third) of those were denied. Defendants' Answers to Interrogatories (Exhibit "M").

Loan Company's policy is to instruct its loan officers to try to sell credit life insurance to every eligible customer. The sale of credit life insurance contributes to the profit margin of both Defendants. Hamilton deposition page 44 lines 10-13. Loan Company's employees are instructed to tell customers that in the event of death, the remaining balance may be paid off by the insurance, but they are not instructed to tell customers when the policy would pay and when it would not pay. Hamilton deposition page 46 line 18- page 47 line 2.

Defendants print a monthly summary, called a trend report, that gives gross and net profit figures from different items, including an itemization for credit life insurance. Hamilton deposition page 71 line 14 - page 72 line 13; page 75 lines 6-15. Each branch gets their own monthly trend report and there is one for the statewide operation. Hamilton deposition page 74 line 2-7.

Part of the incentive for Loan Company to sell credit life is increase profit as shown on the trend reports. The only thing that reduces income from credit life sales are payoffs and returned premiums. These amounts may all stay in Hawaii; he does not know if the profit

goes to Insurance Company or to other affiliates. Hamilton deposition page 76 line 22 - page 79 line 23.

H. MR. HAMILTON'S OTHER TESTIMONY

Mr. Hamilton is a vice-president of Loan Company, the highest ranking officer of that company in Hawaii, but he does not know who the president is, nor who the other officers or directors are nor has he ever been to a board meeting. Hamilton deposition page 10 line 4 - page 11 line 10. He knows that the standard credit policy indicates that it is a group policy and assumes there is a master policy somewhere, but he has never seen it, does not know who has it or where it is and does not believe there is a copy in Hawaii. Hamilton deposition page 115 lines 6-25.

Mr. Hamilton does not know if the premiums stay with Loan Company or go to Insurance Company or to some other affiliate. Hamilton deposition page 35 line 19 - page 38 line 20. Mr. Hamilton does not recall any death claims other than this one.

Q: These are pretty major events, aren't they? Do these not appear significant to you?

A: No, they do not.

Q: A denial of a death claim isn't significant?

A: No.

Hamilton deposition page 50 line 19 - page 51 line 7.

Mr. Hamilton admitted that the disclosure statement was required by federal law, and that its purpose is to disclose the terms of the loan. Hamilton deposition page 83 lines 18-24. He admits that the disclosure statement discloses that the Lopez's signed for credit life insurance on the disclosure statement itself, that the disclosure statement shows that a premium was charged the Lopez's for joint credit life insurance, that such a premium actually was charged for

that insurance, and that there is nothing at all on the disclosure statement that informs the borrower that they may not actually be covered if one of them dies.

Hamilton deposition page 83 line 18 - page 85 line 9.

I. LACK OF WARNINGS ON THE DOCUMENTS

On the credit life application, the only warning concerning misstatements or possible denial of coverage, according to Mr. Hamilton, is on the bottom where it states that “If I have been required to answer questions one through six, I represent that the above answers are true and correct to the best of my knowledge and understand that these representations shall be the basis for the company’s acceptance of this application for insurance applied for...”. Mr. Hamilton also stated in this connection, that “We ask them for their doctor’s names.” He admits that the Lopez’s did give their doctor’s names, and that there is no other warning. Hamilton deposition page 87 line 1 - page 89 line 2.

Mr. Hamilton admits that Loan Company does not normally, and did not in this case, call the doctors listed on the credit life application. Hamilton deposition page 105 lines 6-13. However, they did take the time to clear Mr. Lopez’s tax liens, a much more time consuming and complicated process which is standard practice for Loan Company. Hamilton deposition page 104 line 14 -page 105 line 5.

The customer gets the policy at closing, which says:

“WHAT YOU GET

We certify that if we have been paid the premium shown in the schedule, you are insured for the coverage shown in the schedule, subject to the terms of the group policy issued to the creditor.”

See Exhibit “D”.

Mr. Hamilton does not know whether the group policy is the same as the master policy, and has never seen it. Hamilton deposition page 117 lines 5-25. He also does not know how a customer would figure out what this language means. Hamilton deposition page 118 lines 1-6.

On the first page, the policy also states Who Gets Paid and What We Will Pay. On the second page the policy states WHAT WE WON'T PAY. There are three categories: 1. Misstated Age (which is not applicable here.) 2. Suicide (which is not applicable here.) and 3. Total Disabilities Not Covered (which is not applicable here.) See Exhibit "D".

III. ARGUMENT

A. THE CREDIT LIFE INSURANCE WAS VALID

This case is controlled by the recent Ninth Circuit decision in Fleming v. Monumental Life Insurance Company, __ F. 3d __ C.A. No. 97-35118, (9th Cir., September 1, 1998). Like this case, that case was a diversity action against an insurer who issued a credit life insurance policy. Monumental offered the policy, did not require a prior physical examination, the customer filled out an application and paid the premium. The District Court held that at that point, there was a valid offer and acceptance of coverage and awarded \$241,643 plus attorneys fees.

In our case, Defendants' offered credit life to Plaintiff and her husband, did not require a prior physical, they signed for it on the disclosure statement, they were charged for it, they filled out the application, the entire premium was collected when the loan was made, and interest and points charged on that premium. Those charges were included in the monthly payments that were made by Plaintiff every month for almost a full year, even after her husband's death. Thus, here too, there was a valid offer and acceptance creating coverage.

The District Court was affirmed on appeal. The Ninth Circuit said,

“The application and accompanying letter contained sufficient information to objectively manifest Monumental’s intent to provide Arnold with \$231,463 of individual life insurance. Moreover, once Arnold received the application, he had nothing left to do but fill in a few remaining pieces of information, and return the application and deposit premium to Monumental....We conclude from these facts and circumstances that Arnold accepted Monumental’s offer of an individual life insurance policy in the amount of \$231,463.”...

“Even if [the agent] mistakenly offered Arnold \$231,463 of insurance, and the district court concluded that she did not, such a mistake does not allow Monumental to avoid the contract. Arnold did not know of the mistake and, under the circumstances, cannot be charged with such knowledge....The district court alternatively found that Monumental was estopped from invoking any limiting language in the Application, Certificate and/or Group Policy.” ...

“The ‘reasonable expectation’ doctrine provides that when an insurer creates a reasonable expectation of coverage that is not supported by the terms of an insurance policy, the expectation will prevail over the policy language.

This Court also has held, in a Truth in Lending case, that the creditor is estopped from denying its own representations. Rivero v. J. P. Automobiles, Inc. dba Pflueger Honda, Civ. No. 96-01010 HG (D. Haw., June 10, 1997), at p. 7.

Thus, it is clear that there was a valid contract for credit life insurance which should have paid off Plaintiff’s loan.

B. DEFENDANT LOAN COMPANY BREACHED ITS FIDUCIARY DUTIES TO THE PLAINTIFF

Loan Company has admitted that it was a subagent in this transaction, authorized and licensed by the State of Hawaii to sell credit life insurance, and that it profits by the sale of credit life insurance. As an insurance agent selling credit life insurance, Loan Company had a fiduciary duty to Mr. Lopez. In re Dickson, 432 F. Supp. 752 (W.D.N.C., 1977); Browder v.

Hanley Dawson Cadillac Co., 379 N.E. 2d 1206 (1978); Parnell v. First Savings and Loan 336 So. 2d 764 (Miss., 1976); Watkins v. Valley Fidelity Bank & Trust Co., 474 S.W. 2d 915 (Tenn., 1971). In Walters v. First National Bank of Newark, 433 N.E. 2d 608 (Ohio, 1982), the Court said "The fiduciary nature, at least in this respect, of the bank-customer relationship is predicated upon the bank's superior conversion with the area of loan processing, of which mortgage insurance is a component." The Court thus held that as a matter of law, in a loan application in which credit insurance is involved, the bank is a fiduciary. The Court also held that once a customer has indicated his desire for credit insurance coverage, the bank must purchase the requested insurance or advise the customer of its failure to make the purchase. *See also* Stone v. Davis, 419 N.E. 2d 1094, *cert. denied*, 454 U.S. 1081 (1981).

"[The agent] is required to exercise fidelity and good faith toward his principal in all matters within the scope of his employment....He cannot put himself in a position antagonistic to his principal's interest, by ... acting adversely to his client's interests; or by failing to communicate information he may possess or acquire which is or may be material to his employer's advantage, or otherwise." 12 Am. Jr. 2d, Brokers, Sec. 84 at 837; *see also* Property House v. Kelley, 68 Haw. 371, 715 P. 2d 805, 810 (1986); Garl v. Mihuta, 361 N.E. 2d 1065 (1975).

The Court in Property House v. Kelley, *supra*, explained the agent's duties:

"...[an] agent bears a duty to make a full, fair, and timely disclosure to the principal of all facts within the agent's knowledge which are, or may be, material to the transaction and which might affect the principal's rights and interests or influence his actions....an agent is subject to a duty to use reasonable efforts to give his principal information which is relevant to affairs entrusted to him... Restatement (Second) of Agency Sec. 381, at 182 (1958)."

715 P.2d at 805, 810.

Loan Company failed to perform its duties to ascertain and disclose pertinent facts to the Lopez's involving the application, coverage and the status of the policy. In fact, Loan Company actively represented as true, facts and information which it either knew to be false or for which it did not have sufficient basis for knowing whether those facts were true or false. Loan Company indicated to the Lopez's that they had purchased valid credit life insurance coverage and accepted their premium, and charged them interest on the payment of that premium. Loan company did not explain to the Lopez's that it would not check with their doctors and that any incorrect information might result in the denial of coverage, though this information was part of Loan Company's policy and was readily apparent in their own files. The minimal duty owed to the Lopez's by Loan Company would include a reasonable competent, diligent and timely inspection of its own manuals and communication to the Lopez's of the purpose and use of the credit life application. The facts in this case are far more favorable to Plaintiffs herein than those of any of the above cited cases. In most of those cases, the lender had not even accepted and retained the premium, while here Loan Company did charge the premium and Plaintiff paid finance charges upon the premium of more than \$1000.00. Even without such payments, the above Courts found a fiduciary relationship.

As lenders are entitled to be compensated as insurance agents, it is the duty of such lender to promptly notify the insured if he has not, or may not, receive the protection he sought. In Cameron v. First National Bank of Bozeman, 607 P. 2d 1113 (Mont., 1980), the court held that the agent had a duty to:

"immediately give written notice to such debtor and promptly make an appropriate credit to the account....The reason that those strict provisions of insurance law apply to credit life and disability business is because of the nature of this business in our present commercial world. In the credit life business insurers do not

compete with each other to get insureds, but rather they compete with each other to get agents” (such as lenders).

Here, the premium was not returned until seven months after the death of Mr. Lopez and Loan Company collected interest on that premium the entire seven months (as well as the period before Mr. Lopez’s death) and never returned any of the interest.

Finally, Defendants knew through their own records that they had accepted the premium and had not notified the Lopez’s that they would not check with the doctors they listed, nor that incorrect information might lead to denial of coverage. As stated by Judge Chinen, "If [the Bank] chooses to ignore the information and record in its own file, then it must bear the consequences." First Hawaiian Bank v. Klein, 41 B.R. 626, 629 (D. Haw., 1984). Thus, Defendants violated their fiduciary duty.

C. THERE ARE TRUTH IN LENDING VIOLATIONS ON THE LOANS

1. BACKGROUND OF TILA IN HAWAII

In Hawaii cases, the Ninth Circuit and this District Court have consistently and jealously guarded the consumer’s rights under the Truth in Lending Act, holding that the Act should be liberally Construed in light of its broad remedial purpose. Burnett v. Ala Moana Pawn Shop, 3 F.3d 1261 (9th Cir., 1993); Dias v. Bank of Hawaii I, 732 F.2d 1401 (9th Cir., 1984); Dias v. Bank of Hawaii II, 764 F. 2d 1292 (9th Cir., 1965). These Courts have recognized the importance to consumers of the disclosure requirements of TILA, and have required strict compliance with those requirements. This is in order to achieve uniform disclosures throughout the industry and the consequent benefits of comparison shopping for the best terms in financing.

Both courts have also ruled in favor of the consumer against Defendant Loan Company herein. Kessler v. Associates Financial Services of Hawaii, Inc. I, 573 F.2d 577 (9th Cir., 1977); Kessler v. Associates Financial Services of Hawaii, Inc. II, 639 F. 2d 498 (9th Cir.,

1981); Pedro v. Associates Financial Services of Hawaii Inc., Civ. No. 87-0184 (D. Haw., Dec. 6, 1988). Defendants and its affiliates are among the most abusive lenders and are frequent litigators in this area nationwide.

Recently, this District Court has continued that trend, granting summary judgment to Plaintiffs in Markham v. William Curtis Gibson III, et al., Civ. No. 97-01651 SPK CD. Haw., July 7, 1998); Rivera v. J. P. Automobiles, Inc. dba Pflueger Honda, Civ. No. 96-01010 HG (D. Haw., June 10, 1997); Burnett v. Ala Moana Pawn Shop, Civ. No. 90-00267 ACK CD. Haw. Oct. 17, 1991).

2. LOAN COMPANY'S FAILURE TO REBATE THE POINTS AND INTEREST RELATING TO THE CREDIT INSURANCE CHARGE RESULTED IN AN INCORRECT DISCLOSURE OF THE FINANCE CHARGE AND THE ANNUAL PERCENTAGE RATE ON THE SEPTEMBER 30, 1996 LOAN

It is undisputed that while Loan Company did rebate the insurance charge of \$7,124.78 (nearly one year late), it did not rebate the interest charged and paid on that amount from October 25, 1995 until September 30, 1996 when the second loan was made and the insurance charge was rebated. This is nearly one year of interest charged on that \$7,124.78, at an APR of 14.4%, or approximately \$1,000.00. In addition, Defendant did not rebate the points (5%) charged on the credit life insurance; another \$350.00. Clearly these amounts render the Finance Charge and the Annual Percentage rate grossly inaccurate for that second loan.

Thus, even if one accepts Loan Company's tortured reasoning that there was no coverage and that Plaintiffs should be returned to position as if they had not purchased the insurance, still Defendant failed to make the required rebate of interest.

In In re Steinbrecher, 110 B.R. 155, 165 (Bkrtcy., E.D. Pa. 1990), the court was faced with exactly this issue. In that case, Defendant improperly charged for and improperly

disclosed the charge for credit life insurance. The court said, “Any retention of an unearned portion of a finance charge must be considered part of the finance charge of the refinanced loan. Reg. Z §226.20(a). See also Steele v. Ford Motor Credit Co., 783 F. 2d 1016, 1017 (11th Cir., 1986).” The court further stated, “because the initial finance charge was erroneously understated due to its omission of the cost of the property insurance, Mid-Penn miscalculated the rebate due and understated in all subsequent loans the dollar amount of rebate to which the debtors were entitled.” Finally, on page 166 of that opinion, the court said, “ The consequences of these conclusions are as follows: First, the debtors are entitled to have all the finance charges on all of the loans eliminated and the outstanding mortgage (or mortgages) canceled.” The court also awarded statutory damages.

Similarly, in Steele v. Ford Motor Credit Co., *supra*, the court held that a mere \$24.00 error in failing to rebate a portion of a month’s interest was enough to constitute a “material” violation, and allowed the consumer to rescind the transaction. Here, of course, the failure to rebate is far larger, more than \$1,000.00.

It is clear that the failure to properly disclose extends the three day right of rescission to three years. Thus, the rescission in this case is timely and Plaintiff is entitled to the benefits of that rescission. Semar v. Platte Valley Saving & Loan Ass’n, 791 F. 2d 699 (9th Cir., 1986); Jackson v. Grant, 890 F. 2d. 118 (9th Cir., 1989).

**3. LOAN COMPANY’S DISCLOSURE OF THE CREDIT LIFE INSURANCE
IN THE OCTOBER 25, 1995 LOAN WAS INCORRECT**

Loan Company clearly disclosed on the disclosure statement that Plaintiff and her husband had credit life insurance on the October 25, 1995 loan. The disclosure showed that they requested it, signed for it, and were charged the premium, which was included in the loan amount, and was subject to points and interest. However, when Mr. Lopez died, according to

Defendants, that disclosure was incorrect, and there really was no credit life insurance available to cover the loan.

This is an obvious violation. First of all, there was valid credit life insurance, and that should have paid off the entire loan of October 25, 1995. Thus, all amounts financed in the second loan were incorrect. There should have been no second loan at all. Thus, the disclosure statement dated September 30, 1996 violates TILA in every way. The Amount Financed should be 0. The APR should be 0, and the Finance Charge should be 0.

Plaintiff is entitled not only to statutory damages of \$2,000.00 for this loan, but is also entitled to her actual damages, which is, at least, the entire loan amount plus interest. She is also entitled to actual damages in the nature of emotional harm.

If there was no credit insurance, as Defendant claims, Loan Company should not have disclosed that there was such insurance. Then Plaintiff could have sought such insurance elsewhere. Clearly that is an incorrect and damaging disclosure.

Plaintiff has rescinded both loans within three years and is entitled to the benefits of rescission under the statute. Semar v. Platte Valley Savings & Loan Ass'n, *supra*, in addition to the statutory damages of \$2,000.00 regarding the second loan only (the first loan was more than one year old when the suit was filed).

D. DEFENDANTS ARE LIABLE FOR THEIR NEGLIGENT OR INNOCENT MISREPRESENTATIONS

Loan Company and Insurance Company are legally liable for any innocent or negligent misrepresentations they made to the Plaintiff. Chun v. Park 51 Haw. 462 (1969);

Shaffer v. Earl Thacker Co., Ltd., 6 Haw. App. 188 (1986); Easton v. Strassburger, 199 Cal. Repr. 383, 46 A.L.R. 4th 521 (1984).³

Here, the agent admittedly knew very little about credit life insurance and explained almost nothing about the insurance, except that by signing and agreeing to the charge, Plaintiff and her husband had the insurance. Defendants' forms indicated the same.

The Hawaii Court of Appeals set forth the elements of negligent misrepresentation in Shaffer, supra, at 191:

Information Negligently Supplied for the Guidance of Others (1)
One who, in the course of his business, profession or employment, or in any other transaction in which he has a pecuniary interest, supplies false information for the guidance of others in their business transactions, is subject to liability for pecuniary loss caused to them by their justifiable reliance upon the information, if he fails to exercise reasonable care or competence in obtaining or communicating the information...

6 Haw. App. 188, 191.

Defendants misrepresented the status of coverage to Plaintiff and her husband in the course of their business, in the least, because Loan Company received and kept the premiums from the sale of the credit life insurance until September 30, 1996 and never returned the interest on the insurance. This is reflected in Loan Company's own records, and is Loan Company's responsibility. First Hawaiian Bank v. Klein, supra.

Not only did the Lopez's justifiably rely upon these representations, even the loan officer thought that Mr. Lopez had valid credit life insurance. The Lopez's reliance was justified because the falsity of Loan Company's representation was not apparent, because their payment

³ Where the agent knows that it does not have a sufficient basis for the assurances of facts that it is passing along to the buyer of an insurance policy, but nevertheless makes such assurances, it is liable for negligent misrepresentation, even if those misrepresentations are innocent. Mertens v. Wolfeboro National Bank, 402 A.2d 1335, 1337 (N.H., 1979).

had been accepted and interest had been charged on that amount, and Loan company had superior knowledge of its own procedures as an insurance agent. Cory v. Villa Properties, 180 Cal. App. 3d 592, 225 Cal. Repr. 628, 631 (1986).

Loan Company refused to provide the Lopez's with the most fundamental service of determining the status of their coverage. As a licensed insurance agent in the State of Hawaii, they had a duty to check and affirm the coverage and to verify the accuracy of the information they communicated to the Plaintiffs and that Plaintiffs communicated to them. Shaffer v. Earl Thacker, *supra* at 192-3.

Even if the misrepresentations in this case were innocent, Defendant is still liable for them. The elements of innocent misrepresentation are set out in Restatement (Second) Torts (1977), Section 552C:

(1) One who, in a sale, rental, or exchange transaction with another, makes a misrepresentation of a material fact for the purpose of inducing the other to act or to refrain from acting in reliance upon it, is subject to liability to the other for pecuniary loss caused to him by his justifiable reliance upon the misrepresentation, even though it is not made fraudulently or negligently.

The court in Johnson v. Healy, 405 A.2d 54, 56 (Conn., 1978) held that a party who makes false and misleading representations which induce another to act to the first party's advantage should be held strictly liable for such misrepresentations. At the very least Defendants are liable for innocent misrepresentation because it supplied the Plaintiffs with the form for signature requesting insurance and accepted their payment by deducting it from the loan proceeds, and by charging interest on it as part of the amount financed in the loan. Thus, the Plaintiffs were justified in their reliance that they had credit life insurance. Cory v. Villa Properties, *supra*.

E. DEFENDANTS BREACHED THEIR CONTRACT WITH PLAINTIFF

The loan contract was a definite and binding contract. The contract was fully performed by Plaintiff and her husband, but unbeknownst to them, Loan Company had failed to inform the Plaintiff and her husband that it would not check with their doctors and that if Defendants decided there was a misstatement on the form, they would deny coverage. Defendants never corrected this problem and therefore, remain in breach of the contract. Malani v. Clapp, 56 Haw. 507 (1975).

In Robichaud v. Athol Credit Union, 225 N.E. 2d 347 (Mass., 1967), the mortgagor and his widow relied upon the lender's representations that the note was covered by credit life insurance. That is the exact situation in this case. In that case, the Court held that the widow was entitled to recover what she would have had if the representation had been true. Therefore, the mortgage and the note were canceled. That is exactly what should happen here. The note should have been canceled, and Ms. Lopez should have been given the property free and clear. *See also* Beiter v. Decatur Federal Savings and Loan Association, 150 S.E. 2d 687 (Ga., 1966).

F. DEFENDANTS HAVE COMMITTED UNFAIR AND DECEPTIVE TRADE PRACTICES

1. THERE ARE FOUR ELEMENTS THAT MRS. LOPEZ MUST PROVE

Wiginton v. Pacific Credit Corp. dba City Collectors, 2 Haw. App. 435 (1981) and Burnett v. Ala Moana Pawn Shop, 3 F. 3d 1261 (9th Cir., 1993) describe the elements of an unfair or deceptive practice. In paragraph 47 of the underlying opinion in Burnett (dated October 17, 1991, Civ. No. 90-00267 ACK), Judge Kay said:

"The amendments revised the elements of a cause of action under H.R.S. Section 480-2 for claims arising after May 10, 1988. The

current elements of a claim for unfair and deceptive trade practices under Section 480-2 can now be restated as follows:

- (1) a violation of H.R.S. Sec. 480-2;
- (2) injury to plaintiff's business or property resulting from such violation;
- (3) proof of the amount of damages; and
- (4) a showing that the plaintiff was a 'consumer'."

It should be noted also that a violation of H.R.S Chapter 480D is a per se violation of H.R.S. 480-2. *See* H.R.S. 480D-4(a).

2. DEFENDANTS ENGAGED IN A "BAIT AND SWITCH"

In Burnett v. Ala Moana Pawn Shop, *supra*, the Ninth Circuit held that a "bait and switch" was a prohibited practice under HRS § 480-2. Here, Defendants engaged in a similar, but more serious game of "bait and switch". Here, Defendants accepted payment for a credit life policy, disclosed that Plaintiff and her husband had valid credit life insurance, and gave them a policy. However, after Mr. Lopez' death, Defendants said that Plaintiff was not entitled to the benefits of the credit life policy. This is exactly the conduct that is prohibited, and entitles Plaintiff to treble damages.

3. LOAN COMPANY VIOLATED H.R.S, § 480-2 BY FAILING TO RETURN THE PREMIUM PROMPTLY, AND BY HOLDING IT FOR NEARLY SIX MONTHS AFTER THE DEATH OF MR. LOPEZ

Mr. Lopez died on March 3, 1996. Defendants did not return the premium until September 30, 1996 (and even then, half of it went to points on the new loan). During that period of nearly 6 months, Plaintiff continued to pay on the original loan because she was afraid Defendants would claim the loan was in default. In addition, Defendants continued to charge and collect interest on the premium amount. Assuming that Defendants were correct that there was no coverage, the premium was Plaintiff's at all times, along with interest thereon, and Defendant continued to hold Plaintiff's money for some 6 months. This is a clear breach of both Defendants' fiduciary duty and an unfair and deceptive practice as well.

This position is supported by Mr. Dexter's declaration as well as by H.R.S.

§431:10B-109(b) which states in relevant part:

"any refund of an amount paid by the debtor for the insurance shall be paid or credited promptly to the person entitled thereto."

This should mean 30 days at the most, not 6 or 7 months.

4. THE BANK VIOLATED H.R.S. 480-2 BY FAILING TO DISCLOSE TO THE LOPEZ'S THAT IT WAS AN INSURANCE AGENT AND WOULD PROFIT FROM THE SALE OF THE CREDIT LIFE INSURANCE PREMIUM

It is undisputed that Loan Company is licensed to and acted as an insurance agent in selling credit life insurance to the Lopez's and its other customers, and for this service, it makes a profit. Defendant has refused to disclose its profit, but 40 per cent of the premiums it collects for credit life insurance is typical for credit life insurance, sometimes more.

These facts were never made know to the Lopez's. As a result, the Lopez's paid \$7124.78 that they thought was going to the insurance company, while a significant portion of that (more than 50%) was going to Loan Company. The Lopez's might have been more wary had they known that Loan Company had a stake in the sale of insurance. This might have led them to another source of insurance with a more reputable agent. This failure to disclose is a violation under the recent decision of the Hawaii Supreme Court in Liebert v. Finance Factors Ltd., 71 Haw. 285 (1990). In that case, the creditor offered a tuition financing program and based payments and the insurance rate on the assumption that the creditor would forward the amount financed immediately to the school; however, instead it had an undisclosed arrangement with the school that it would forward payment in two installments. The Hawaii Supreme Court found that the arrangement was an unfair and deceptive practice in violation of §480-2.

Similarly, Loan Company's undisclosed arrangement for it to profit from the premium when it offered credit insurance to the Lopez's, is also a violation of §480-2.

This is all the more egregious because of the very nature of credit life insurance. Premiums are artificially high as a result of lack of competition, and also because actual payout is infrequent. Here, Defendants made some 749 mortgage loans involving credit insurance in 1995 and 1996 and still denied one third of their 18 claims. Credit life insurance has been called the nation's biggest rip-off by the Consumer Federation of America. See the Consumer Federation of America's Releases dated June 4, 1990 and May 20, 1992, Exhibits "I" and "J". The June 4, 1990 release states that "Credit Life insurance is by far the most overpriced insurance purchase by many consumers. Prices are nearly twice as high as they would be in a competitive market."

In addition, the May 20, 1992 release states that "the loss (or payout) ratio for all credit life policies was under 50% and that in a number of states, this ration was less than 30%. Here, Defendants refused to state their loss ratio, but they did state that of 500 to 600 policies written in each of 1995 and 1996, only a handful resulted in death claims, and a full third of those were denied by Defendants.

**5. LOAN COMPANY'S EFFORTS TO GET MS. LOPEZ TO REFINANCE
THE LOAN WAS AN UNFAIR PRACTICE**

Loan Company deceived Ms. Lopez into refinancing her loan at a time when it knew the credit insurance should have paid for the loan, and at a time when it knew that she was vulnerable by virtue of the death of her husband and Defendants' recent denial of coverage. This was deceitful for two reasons. First, the insurance should have paid off the loan. Second, a new loan with new charges and an additional five points was not in Plaintiff's interest in any event. She lost half of the returned premium immediately in the form of points. Vaughan v. Kalyvas,

342 S.E. 2d 617 (S. C. Ct. App., 1986) held that attempting to coerce a debtor into refinancing is a deceptive practice. Rushing a party to consummate a transaction is also an unfair practice. Evans v. Yegen Associates, 556 F. Supp. 1219 (D. Mass., 1983).

G. DAMAGES


Plaintiff suffered damages in the following amounts:

1. The value of the policy or the remaining loan amount plus interest (\$59,503.00 plus interest);
2. Emotional harm, pain and suffering;
3. Treble damages (\$178,509.00 plus interest), reasonable attorneys fees and costs (already several thousand dollars).

IV. CONCLUSION

For the above reasons, the Court should grant Plaintiff's Motion for Summary Judgment.

DATED: Honolulu, Hawaii, October 28, 1998.



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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

TERESA ANN LOPEZ,

Plaintiff,

vs.

ASSOCIATES FINANCIAL SERVICES COMPANY
OF HAWAII, INC.,

Defendants.

CIVIL No. 97-01384 SOM

DECLARATION OF JOHN HARRIS PAER

TERESA ANN LOPEZ,

Plaintiff,

vs.

ASSOCIATES FINANCIAL LIFE
INSURANCE COMPANY,

Defendants.

CIVIL No. 98-00205 DAE
(OTHER CIVIL ACTION)

DECLARATION OF JOHN HARRIS PAER

1. I am an attorney licensed to practice law in all of the Courts Hawaii, and am one of the attorneys for Plaintiff in the above-entitled action.

2. Exhibit "I" is a true and correct copy of the Consumer Federation of America Release dated May 20, 1992.

3. Exhibit "J" is a true and correct copy of the Consumer Federation of America Release dated June 4, 1992.

4. Exhibit "K" is a true and correct copy of a letter I wrote to the President of Associates Financial Services Company of Hawaii, dated September 19, 1997.

5. Exhibit "L" are true and correct copies of excerpts from the Response of Defendant Associates **Financial Life Insurance** Company to Plaintiff's First Set of Requests for Admissions dated August 19, 1998, and the Response of Defendant Associates **Financial Services Company of Hawaii, Inc.** to Plaintiff's First Set of Requests for Admissions dated August 19, 1998.

6. Exhibit "M" is a true and correct copy of the Defendant Associates Financial Services Company of Hawaii, Inc.'s Second Supplemental Response to Plaintiff's First Interrogatories to Defendant dated March 17, 1998.

7. Exhibit "N" are true and correct copies of excerpts from the deposition transcript of Jeffrey Hamilton, taken on October 9, 1998.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 28 day of October, 1998 at Honolulu, Hawaii.



JOHN HARRIS PAER

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

TERESA ANN LOPEZ,	)	CIVIL NO. 97-01384 SOM
)	
Plaintiff,)	
)	
vs.	)	DECLARATION OF TERESA ANN
	)	LOPEZ; EXHIBITS "A-F"
ASSOCIATES FINANCIAL SERVICES)	
COMPANY OF HAWAII, INC.)	
)	
Defendant.)	
)	
)	
)	
TERESA ANN LOPEZ,)	
)	
Plaintiff,	)	CIVIL NO. 98-00205 SOM
)	
vs.)	
)	
ASSOCIATES FINANCIAL LIFE)	
INSURANCE COMPANY,)	
)	
Defendant.)	
)	
)	

DECLARATION OF TERESA ANN LOPEZ

TERESA ANN LOPEZ declares as follows:

1. I am the Plaintiff in these actions, have personal knowledge of the facts alleged herein and know them to be true and correct. I am competent to testify to the facts alleged herein and make this declaration under penalty of law.

2. I have worked for 10 years as a museum curator for the Bishop Museum. I received a B.A. in Anthropology from the University of Hawaii in 1985. My husband, Louis A. Lopez served in the Army, worked for the Department of Health of the State of Hawaii, and later had his own real estate business. I also have a

realtor's license and took over my husband's business after his death. My husband and I were married for 25 years. We have a daughter who works for the Federal Bureau of Investigation. I believe that my family and I have always been close, honest and hardworking.

3. My husband and I entered into a consumer credit transaction with Defendant Associates Financial Services Company of Hawaii, Inc. (hereinafter "Loan Company") on October 25, 1995. We received one copy of the disclosure statement for that transaction, a copy of which is attached hereto as Exhibit "A". We also received one copy of the Notice of Right to Cancel in connection with that transaction, a true copy of which is attached hereto as Exhibit "B".

4. That loan was a refinancing of our mortgage and was made primarily for personal, family and household purposes and was secured by our home, our principal residence.

5. Loan Company's employee who handled that transaction with us at closing was Christine West. At closing, Ms. West, for the first time, mentioned credit life insurance. She offered us credit life insurance for this loan, and on the spur of the moment, we agreed.

6. Ms. West gave us the credit life application, told us to fill it out and sign it, and said we would then be covered by the credit life insurance, and that the payment would be included as part of the loan, which it was. She did not say or explain anything else about the credit life application or the insurance.

7. My husband and I filled out that form in roughly one

minute, and felt that we had done so truthfully. Ms. West left the room for a minute or so while we filled out that form and we gave it to her when she returned. She did not say anything else regarding the insurance, but the charge for credit life insurance appeared on the disclosure statement and we believed that we were covered. A true copy of that application for credit life is attached hereto as Exhibit "C".

8. We signed the rest of the closing documents and received the disclosure statement (Exhibit "B") showing that we had credit life insurance and had paid \$7124.78 for it. At the time, we did not realize how expensive this coverage actually was since that premium only covered a loan of roughly \$57,000.00 (the amount financed of \$64,385.73 included the premium itself of \$7124.78).

9. Defendant Associates Financial Life Insurance Company (Insurance Company) wrote the credit life insurance policy for our loan. We received a copy of the policy at that time. A true copy of the credit life policy is attached hereto as Exhibit "D".

10. My husband and I understood that Ms. West was acting as our insurance agent in offering us that coverage. We believed that she was required to, and was, doing all that was necessary to protect our interests and to be sure that we were receiving the coverage that she had offered us and that we had been charged for under the loan. We had an expectation that we were covered with credit life insurance and that expectation was reasonable.

11. Prior to my husband's death, neither Ms. West nor anyone else, ever told us that a misstatement on the application, intentional or otherwise, would prevent our recovery under the

policy.

12. My husband and I filled out all the forms given to us honestly and to the best of our knowledge and belief.

13. Prior to 1996, my husband had not seen a doctor for some 10 years, and we considered him to be exceptionally healthy. In the summer of 1996, he saw Dr. Frank Williams because of fatigue. He was told that he had an aneurysm, which we understood to be a bubble on the outside wall of the artery. Dr. Williams told him to continue his life normally and we would review his condition again in six months. We were initially concerned, but after being told to continue living normally, we were no longer worried and put this out of our minds.

14. My husband did not have a heart problem ever; his heart was always strong.

15. My husband did not have a circulatory problem; his circulation was fine and his blood pressure was normal. We both believed at all times that he was very healthy and that his heart and circulatory system were healthy as well.

16. We felt that we had answered the questions on the credit life application correctly, and wrote Dr. Williams' name on the application. We understood that was so Loan Company could check out our answers and determine if the answers we gave were correct. We assumed that if there were any problems or discrepancies, they would let us know immediately.

17. We made payments every month on the loan, part of which went to the charge for credit life insurance. Loan Company accepted our payments and never notified us of any problems or

discrepancies with respect to our credit life insurance. During this entire time, our expectation continued that we were covered with credit life insurance and that expectation was reasonable in light of the above facts.

18. On March 3, 1996, my husband, Louis A. Lopez died suddenly. A copy of the death certificate is attached hereto as Exhibit "E". It says that the cause of death was a thoracic aortic dissection. This was a complete surprise as we thought his health was fine. He did not even have a will or any other estate plan.

19. I notified Loan Company shortly after my husband's death and assumed that the credit life insurance would take care of the balance of the loan. I heard nothing from Defendants and had to continue to make payments on the loan to protect my home.

20. On August 19, 1996, five and one-half months after my husband's death, Insurance Company wrote to me stating that my claim for benefits under the credit life policy was denied. A true copy of that letter is attached hereto as Exhibit "F".

21. At that time, Loan Company notified me that it would return the credit life premium of \$7124.78.

22. Defendant's office manager at that time, Cheryl Hursh, suggested that I might want to apply the premium to reduce my outstanding balance and I agreed.

23. Ms. Hursh also suggested that I might want to reduce my payments by refinancing the loan and I agreed to that as well.

24. I was very vulnerable at that time, still shocked over the loss of my husband, and additionally shocked over the denial of our insurance claim.

25. Ms. Hursh was very sympathetic and I thought she was protecting my interests as best she could, and therefore, I followed her advice in refinancing the loan, which I did on September 30, 1996. True copies of the disclosure statement and notice of right to cancel given to me for that transaction are attached hereto as Exhibits "G" and "H" respectively.

26. Loan Company did rebate the insurance premium of \$7124.78, but reclaimed nearly half of that amount in points for the refinanced loan. It charged five points or \$2983.24.

27. Loan Company did not rebate any interest on the insurance premium, nor any other amount except for the premium itself.

28. When I recovered somewhat from the death of my husband and from the denial of the insurance claim, I realized that Defendants had taken advantage of me and of my husband.

29. In addition to the amounts that Defendants should have paid under the loan and the additional payments that I have made to them and to another lender in refinancing my house yet again, Defendants have caused me incalculable misery at a time when I was already very weak. I have lost sleep, suffered emotionally, have lost time from work and have generally suffered a lessening of quality of life as a direct result of Defendants' actions as described above.

FURTHER DECLARANT SAYETH NAUGHT.

DATED: Honolulu, Hawaii, 6 Oct 1998


TERESA ANN LOPEZ

29. In addition to the amounts that Defendants should have paid under the loan and the additional payments that I have made to them and to another lender in refinancing my house yet again, Defendants have caused me incalculable misery at a time when I was already very weak. I have lost sleep, suffered emotionally, have lost time from work and have generally suffered a lessening of quality of life as a direct result of Defendants' actions as described above.

FURTHER DECLARANT SAYETH NAUGHT.

DATED: Honolulu, Hawaii, _____

6 Oct 1998

Teresa Ann Lopez

TERESA ANN LOPEZ

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

TERESA ANN LOPEZ,	)	CIVIL NO. 97-01384 SOM
)	
Plaintiff,)	
)	
vs.	)	DECLARATION OF CHERYL TIPTON
)	
ASSOCIATES FINANCIAL SERVICES)	
COMPANY OF HAWAII, INC.)	
)	
Defendant.)	
)	
)	
)	
)	
)	
TERESA ANN LOPEZ,)	
)	
Plaintiff,	)	CIVIL NO. 98-00205 SOM
)	
vs.)	
)	
ASSOCIATES FINANCIAL LIFE)	
INSURANCE COMPANY,)	
)	
Defendant.)	
)	
)	
)	

DECLARATION OF CHERYL TIPTON

CHERYL TIPTON declares as follows:

1. I am an attorney licensed in the State of Hawaii since 1981, have personal knowledge of the facts alleged herein and know them to be true and correct. I am competent to testify to the facts alleged herein and make this declaration under penalty of law.

2. I worked for more than 12 years counseling Legal Aid clients about their loans with various lenders, including Associates Financial Services of Hawaii, Inc. (hereinafter "Associates"). I have reviewed hundreds of loan documents, a large number of which included credit life insurance. I sit on the medical malpractice claims panel and have done so since 1986. I am presently Senior Enforcement Attorney for the Civil Rights Commission of the State of Hawaii and have been with the Commission since 1995.

3. It is the policy and practice of finance companies, (of which Associates is one) and is the custom in the industry to sell credit life insurance at the time the loan is completed. The lender is often affiliated with the credit insurance company.

4. Credit life insurance is as extremely profitable product for lenders, and they generally want to sell as much as possible.

5. Whether an application is required or not, insurance coverage is automatically provided to those borrowers who agree to pay for it. There is no follow up evaluation of the application by the lender.

6. I have reviewed the loan disclosure statement and the insurance schedule and application for the Associates loan made to Louis and Teresa Lopez on October 25, 1995. I have also reviewed Associates' credit life insurance policy and the letter of August 19, 1996 from the claims examiner denying benefits. The documents show that the Lopez's paid Associates \$7124.78 for credit life insurance with an effective date of October 30, 1995. Contrary to the statement of the claims examiner, it is my opinion, based on my experience, that it is not the practice of lenders to evaluate information on insurance applications prior to issuing a policy; rather if the buyer signs for and pays for the insurance, coverage is automatic.

7. It is further my opinion that under these facts, the Lopez's, like most other consumers, would have a reasonable expectation that they were covered by credit life insurance.

FURTHER DECLARANT SAYETH NAUGHT.

DATED: Honolulu, Hawaii,

October 6, 1998

Cheryl Tipton
CHERYL TIPTON

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

TERESA ANN LOPEZ,	)	CIVIL NO. 97-01384 DAE
)	
Plaintiff,)	
)	
vs.	)	DECLARATION OF JOHN F. DEXTER;
	)	EXHIBIT "A"
ASSOCIATES FINANCIAL SERVICES)	
COMPANY OF HAWAII, INC.)	
)	
Defendant.)	
)	
)	
)	
TERESA ANN LOPEZ,)	
)	
Plaintiff,	)	CIVIL NO. 98-00205 DAE
)	
vs.)	
)	
ASSOCIATES FINANCIAL LIFE)	
INSURANCE COMPANY,)	
)	
Defendant.)	
)	
)	

DECLARATION OF JOHN F. DEXTER

JOHN F. DEXTER declares as follows:

1. I am an attorney licensed in the State of Oklahoma since 1981, have personal knowledge of the facts alleged herein and know them to be true and correct. I am competent to testify to the facts alleged herein and make this declaration under penalty of law.

2. I have worked intensively for more than five years in the insurance area. I have participated in and reviewed the statutory framework for many kinds of insurance, including but not limited to credit insurance, and have reviewed many loan documents, a large number of which included credit life insurance. I was Assistant General Counsel for the Oklahoma Insurance Department from 1990 - 1994. As part of my duties there, I revised and promulgated Oklahoma credit insurance regulations and assisted in the drafting of the Uniform Credit Insurance Model Act and Regulations. I was also the Commissioner's liaison to the credit insurance industry. I was also a member of the Credit Insurance Committee of the National Association of Insurance Commissioners. During 1994 and 1995, I worked for the Hawaii Insurance Bureau. A copy of my resume listing my qualifications is attached hereto as Exhibit 1 .

3. It is the policy and practice of finance companies, (of which Associates is one) and is the custom in the industry to sell credit life insurance at the time the loan is completed. The lender is often affiliated with the credit insurance company.

4. Credit life insurance is as extremely profitable product for lenders, and they generally want to sell as much as possible. For that reason, credit life insurers typically adopt a "take all comers" approach whereby little or no underwriting is done prior to the sale.

5. The regulatory framework for credit life insurance similarly contemplates a "take all comers" approach, and is a natural result of the context for credit insurance transactions. This approach is also dictated by the relationship of issuers (insurers), producers and captive reinsurers.

6. Whether an application is filled out or not, insurance coverage is generally provided to those borrowers who agree to pay for it. There is seldom any evaluation of the applicant's health by the lender, prior to policy issuance.

7. Credit life insurance is much more susceptible to unfair and deceptive practices and other consumer abuse than is other types of life insurance. The reasons for this are as follows:

a. It is an "add-on" to the primary transaction.

b. Consumers are unfamiliar with it, and are likely to presume pre-claim underwriting as with other types of life insurance.

c. The reasonable expectations of the consumer are inconsistent with the actual mechanics of the business.

8. Credit life insurers traditionally have a higher profit expectancy than other types of life insurance. Therefore, their loss ratios are regulated and prima facie rates are enforced.

9. A credit life insurance application or "good health" inquiry is very much susceptible to abuse because the nature of the transaction is such that consumers can easily be misled and confused. This is particularly true as a result of "post-claims underwriting", a nearly universal practice which is unfamiliar to most consumers.

10. I have reviewed the loan disclosure statement and the insurance schedule and application for the Associates Financial Services of Hawaii, Inc. loan made to Louis and Teresa Lopez on October 25, 1995. I have also reviewed Associates' credit life insurance policy and the letter of August 19, 1996 from the claims examiner denying benefits. The documents show that the Lopez's paid Associates \$7124.78 for credit life insurance with an effective date of October 30, 1995. Contrary to the statement of the claims examiner, it is my opinion, based on my experience, that it is not the practice of lenders to evaluate information on insurance applications prior to issuing a policy; rather if the buyer signs for and pays for the insurance, coverage is automatic.

11. The application at issue in this case is such that a consumer would reasonably expect to be covered. This is because the fact and consequences of retrospective review by the issuer were not disclosed, and because the credit life agent is, like all other life insurance agents, in a trust or fiduciary relationship with the insured.

12. It is my opinion that under these facts and documents, the Lopez's, like most other consumers, would have a reasonable expectation that they were covered by credit life insurance.

FURTHER DECLARANT SAYETH NAUGHT.

DATED: Honolulu, Hawaii, October 15, 1998


JOHN F. DEXTER

JOHN F. DEXTER

733 Bishop Street, 170-242
Honolulu, HI 96816

(808) 737-3295

SUMMARY

Seasoned attorney of fourteen years with extensive trial experience and strong background in business, regulatory, commercial and real estate transactions.

- Effective communication and organizational skills
- Aggressive, principled approach to problem-solving
- Quick command of new and difficult subject matter
- Ability to develop effective case theory and strategy

PROFESSIONAL EXPERIENCE

OKLAHOMA INSURANCE DEPARTMENT

1990-1994

Assistant General Counsel, responsible to Insurance Commissioner for successful conduct of all state and federal litigation with two or three cases set for trial at any given time. Frequent assignment to controversial, high profile policy issues and novel, cutting edge topics (banking and insurance, Indian sovereignty, company fraud, etc.).

- Sole attorney responsible for all phases of pretrial and trial including research, case scheduling, brief and argue motions and discovery in complex, document intensive cases (actuarial, economist experts).
- Illustrative issues litigated include insurance company solvency and receivership; state/federal authority under ERISA, McCarran-Ferguson and National Banking Acts; due process, equal protection issues under insurance code; D&O liability, recapture of offshore assets and reinsurance proceeds; fraudulent financial reporting, and guaranty fund liability.
- Revised and promulgated Oklahoma credit insurance regulations; committee member assisting NAIC in drafting current Uniform Credit Insurance Model Act and Reg; Commissioner's liaison to credit insurance industry.
- Counsel to Oklahoma State Property and Casualty Board, advising on policy and rating issues; represented and advised Board in annual work comp rate hearings; participated in work comp reform.
- Review, advise commissioner on proposed mergers, acquisitions, consolidations and dissolutions of domestic insurance companies.
- Commissioner's designee to Oklahoma Police and Fireman pension fund Boards with oversight of billion dollar portfolio.

PRIVATE PRACTICE

1986-90, 1983-84

Provided counsel and representation in broad range of general business, commercial and corporate matters.

- Structure, negotiate and coordinate due diligence for real estate and oil and gas ventures, asset purchases and sales, loan workouts and foreclosures; including master documents, valuations, title examination, etc.
- Residential construction and real estate contract litigation including specific performance, punitive damages; foreclosure and lender liability litigation with private and government lenders.

EXHIBIT 1

- Representation of debtors, including adversarial proceedings, under Chapter 7, 11, and 13 of Title 11.
- Investor and promoter counsel in private offering litigation related to unregistered security sales and material misrepresentation claims.
- Formation and Board Counsel to "C" and nonprofit corporations [501 (c) (3) and (4)]; advise on manufacturer compliance with SARA Title III and action by private foundations under citizen suit provisions of SARA Title III, Clean Air and Water Acts.
- Defense Counsel in one state criminal trial (embezzlement) resulting in acquittal.

CHEYENNE PETROLEUM COMPANY
In-house Counsel, Mgr. Land Operations

1984-85

Directed \$5 million lease acquisition budget. Supervised, five employees and outside counsel; negotiated industry joint ventures for drilling program, and responsible for negotiations and drafting of all contracts (joint venture, gas and oil sales, operating agreements etc.). Represented in administrative hearings before Oklahoma Corporation Commission.

AMAREX, INC.
In-house Counsel, Land Dept.

1981-82

Responsible for lease acquisition, title curative and state/federal regulatory compliance related to \$25 million annual drilling programs in Texas, California, Louisiana, North Dakota, Arkansas and Alaska. Negotiated, drafted all industry joint venture agreements.

GETTY OIL COMPANY
Landman

1980-81

Directed lease acquisition activities in Anadarko Basin of Western Oklahoma, including acquisition on federal, state leases by competitive bid and compliance with BLM regulations for drilling operations on federal lands.

OKLAHOMA CORPORATION COMMISSION
Law Clerk

1979-80

Performed legal research on selected issues in gas, electric and transmission and telephone utility regulation for General Counsel.

EDUCATION

Oklahoma City University
 Juris Doctorate

Attended:
 Loyola University of Chicago
 University of the Americas--Pueblo, Mexico

University of Oklahoma
 B.A. English Literature

HONORS AND MEMBERSHIPS

- National Association of Attorneys' General Seminar on Insurance Fraud. Speaker: "ERISA Preemption--An Exception to the McCarran-Ferguson Act." April, 1994.

- Oklahoma City University Seminar on Regulation of Employee Leasing. Speaker: "Regulatory Authority of the Oklahoma Insurance Department." October, 1992.
- Former Member. Credit Insurance Committee of National Association of Insurance Commissioners. 1993/1994.
- Member. Oklahoma State Bar Association. 1981-94.
- Participant. YMCA Young Persons' Mentor Program. 1992-93
- American Jurisprudence Award, Trusts. 1979.

PUBLICATIONS

"Petroleum Geology for Lawyers and Laymen." O.B.A. Continuing Legal Education Series, 1980.

REFERENCES

- | | |
|--|----------------|
| Martin M. Simons
Consulting Actuary, Insurance Division
Hawaii Dept. of Commerce
1010 Richards
Honolulu, HI 96816 | (808) 586-2790 |
| Richard W. Hill
President, Hill Construction, Inc.
2091 Alaeloa
Honolulu, HI 96821 | (808) 737-0114 |
| Cathy J. Weatherford
Oklahoma Insurance Commissioner
1901 N. Walnut
Oklahoma City, OK 73105 | (405) 521-2746 |
| Honorable Marion P. Opala
Oklahoma Supreme Court Justice
202 State Capitol Building
Oklahoma City, OK 73105 | (405) 521-3839 |
| Thomas L. Howard, Esq.
Baker, Worthington
4 West Irving Street
Chevy Chase, MD 20815 | (301) 986-5778 |

ADDENDUM TO
RESUME

INSURANCE BUREAU

1994-1995

Rules Analyst at HIB re: work comp manual; special projects, e.g. work comp reform.

PRIVATE PRACTICE

1995-1998

Class counsel in class action litigation in behalf of gas royalty owners against defendant oil companies.

DISCLOSURE STATEMENT

HAWAII
VARIABLE-FIXED RATE
REAL ESTATE L.A.

BORROWER (Called "you" or "your") LOPEZ, LOUIS A LOPEZ, TERESA A 157 KUUMELE PLACE KAILUA HI 96734		LENDER (Called "we" or "us") ASSOCIATES FINANCIAL SERVICES COMPANY OF HAWAII, INC. 116 HEKILI STREET RM 104 KAILUA HI 96734	
CO-BORROWER:			

DATE OF LOAN 10/25/95	ACCOUNT NUMBER 0316924
--------------------------	---------------------------

ANNUAL PERCENTAGE RATE The cost of your credit as a yearly rate. 14.48%	FINANCE CHARGE The dollar amount the credit will cost you. \$ 94160.00	Amount Financed The amount of credit provided to you or on your behalf. \$ 64385.73	Total of Payments The amount you will have paid after you have made all payments as scheduled. \$ 158545.73
---	--	---	---

PAYMENT SCHEDULE - Payments are payable monthly
 180 Payments 1 at \$ 1253.06 followed by 179 at \$ 878.73 followed by 0 at \$.00
 1st Payment Date 12/15/95

VARIABLE RATE: If this is a variable interest rate loan, this transaction has a variable rate feature for which variable rate disclosures have been provided earlier.

PREPAYMENT: If you pay off early, you may will not have to pay a penalty. You will not be entitled to a refund of the loan fee or loan origination fee.

SECURITY: You are giving a security interest in your real estate located at: 157 KUUMELE PLACE KAILUA HI
 You are giving a security interest in the real estate being purchased and which is located at: _____

ASSUMPTION: If this loan is a purchase money transaction, someone buying your home may, subject to conditions, be allowed to assume the remainder of the mortgage on the original terms.

See your contract documents for additional information about non-payment, default, any required repayment of your indebtedness in full before the scheduled date, security interests, prepayment penalties and prepayment refunds. e means estimate.

This is a variable interest rate loan. [Signature] BORROWER [Signature] BORROWER
 This is a fixed interest rate loan. _____ BORROWER _____ BORROWER

INSURANCE:

Credit insurance is not required to obtain this loan and will not be provided unless you sign below. Insurance provided by us may be issued by an affiliated company which expects to profit from the insurance.

TYPE	TERM OF INSURANCE	PREMIUM	SIGNATURE
Single Credit Life Insurance	_____ months, beginning on the Effective Date of Insurance.	\$ \$.00	I want single credit life insurance.
Joint Borrower Credit Life Insurance	180 months, beginning on the Effective Date of Insurance.	\$ 7124.78	We want joint borrower credit life insurance. <u>[Signature]</u>
Credit Accident and Health Insurance	_____ months, beginning on the Effective Date of Insurance.	\$ \$.00	I want credit accident and health insurance.
Involuntary Unemployment Insurance	_____ months, beginning on the Effective Date of Insurance.	\$ \$.00	I want involuntary unemployment insurance.

CANCELLATION OPTION: You may cancel all, but not part of, the credit insurance coverages on this loan by returning the credit insurance certificates to the office where the loan was made. The unearned credit insurance premium will be credited to your account. If cancellation occurs within 15 days from the above date, the entire credit insurance premium will be credited to your account. Even though a credit is made to your account because the credit insurance is cancelled, you will still be obligated to continue making payments on your loan as scheduled.

NOTICE: SEE OTHER SIDE FOR ADDITIONAL PROVISIONS.

I have received a copy of this statement.
[Signature] BORROWER [Signature] BORROWER
[Signature] BORROWER 25 OCT 1995 DATE
[Signature] BORROWER 25 OCT 1995 DATE

A0000020

<input checked="" type="checkbox"/> ORIGINAL (1)
<input type="checkbox"/> BORROWER COPY (1)
<input type="checkbox"/> CO-BORROWER COPY (1)

NOTICE OF RIGHT TO CANCEL

Your Right to Cancel

You are entering into a transaction that will result in a (mortgage/lien/ security interest) (or/in) your home. You have a legal right under federal law to cancel this transaction, without cost, within three business days from whichever of the following events occurs last:

- (1) the date of the transaction, which is OCTOBER 25, 1995
or
(2) the date you received your Truth in Lending disclosures:
or
(3) the date you received this notice of your right to cancel.

If you cancel the transaction, the (mortgage/lien/security interest) is also cancelled. Within 20 calendar days after we receive your notice, we must take the steps necessary to reflect the fact that our (mortgage/lien/security interest) (or/in) your home has been cancelled, and we must return to you any money or property you have given to us or to anyone else in connection with this transaction.

You may keep any money or property we have given you until we have done the things mentioned above, but you must then offer to return the money or property. If it is impractical or unfair for you to return the property, you must offer its reasonable value. You may offer to return the property at your home or at the location of the property. Money must be returned to the address below. If we do not take possession of the money or property within 20 calendar days of your offer, you may keep it without further obligation.

How to Cancel

If you decide to cancel this transaction, you may do so by notifying us in writing, at

Name of Creditor ASSOCIATES FINANCIAL SERVICES COMPANY OF HAWAII, INC.
116 HEXILI STREET RM 104, KAILUA, HI 967340000
(Address of Creditor's Place of Business)

You may use any written statement that is signed and dated by you and states your intention to cancel, or you may use this notice by dating and signing below. Keep one copy of this notice because it contains important information about your rights.

If you cancel by mail or telegram, you must send the notice no later than midnight of OCTOBER 28, 1995
(or midnight of the third business day following the latest of the three events listed above). If you send or deliver your written notice to cancel some other way, it must be delivered to the above address no later than that time.

I WISH TO CANCEL

Consumer's Signature Date

The undersigned acknowledges receipt of two completed copies of this notice this 25 day of OCTOBER, 1995

Handwritten signatures of Creditor and Consumer

Table with 2 columns: Copy Type, Count. Includes rows for ORIGINAL (1), BORROWER COPY (2), and CO-BORROWER COPY (2).

A0000023

EXHIBIT: B



INSURANCE SCHEDULE

CREDITOR BENEFICIARY ASSOCIATES FINANCIAL SERV. CO. 115 HEXILL STREET RM 104 KAILUA HI 967340000		ACCOUNT NUMBER 0316924	GROUP POLICY NUMBER HP0002
SECOND BENEFICIARY * <i>Jennifer A Lopez (Daughter)</i>		AGE 47	ORIGINAL AMOUNT OF DECREASING LIFE INSURANCE \$ *****67,855.01*
INSURED (called you) ADDRESS LOUIS A LOPEZ 157 KUUMELE PLACE KAILUA HI 96734		AGE 44	AMOUNT OF LEVEL LIFE INSURANCE \$ NONE
CO-INSURED TERESA A		AGE 44	MONTHLY DISABILITY INDEMNITY \$ NONE
Effective Date of Insurance 10/30/95		TERM OF DECREASING LIFE INSURANCE 180 mos	Indebtedness Insured Gross <u>N/A</u> Net <u>X</u>
TERM OF LEVEL LIFE INSURANCE N/A mos		TERM OF DISABILITY INSURANCE N/A mos	Single Decreasing Life Premium \$ N/A
Maximum Amount of Life Insurance \$ 125,000.00		Maximum Disability Benefit \$ 80,000.00	Joint Decreasing Life Premium \$ **7,124.78*
Maximum Monthly Disability Indemnity \$ 1,000.00		Maximum Monthly Disability Indemnity \$ 1,000.00	Single Level Life Premium \$ N/A
			Joint Level Life Premium \$ N/A
			Disability Insurance Premium \$ N/A
			Waiting Period 14 Days
			Elimination Period NONE Days
			TOTAL CREDIT LIFE AND DISABILITY INSURANCE PREMIUM \$ *****7,124.78*

The only insurance effective under this certificate is that for which a premium is paid.

APPLICATION FOR CREDIT INSURANCE

Answers to questions 1 - 6 are required only when the amount of life insurance coverage will be greater than \$7,500.00

SINGLE LIFE INSURANCE (applicant only)
 JOINT LIFE INSURANCE (applicant and co-applicant)
 SINGLE TOTAL DISABILITY INSURANCE (applicant only)
 JOINT TOTAL DISABILITY INSURANCE (available to applicant and co-applicant ONLY if joint life insurance is elected)

I, the undersigned applicant, hereby apply for the credit insurance coverage checked above in connection with the account for which I am applying. To the best of my knowledge, the answers given to the questions below are true.

(If insurance is desired only on the applicant, only those questions applicable to the applicant need be answered.)

	APPLICANT		CO-APPLICANT	
	YES	NO	YES	NO
1. Have you during the past 5 years received medical advice, consultation, treatment or taken medication (prescription or non-prescription) for: Paralysis Cirrhosis Alcoholism Cerebral hemorrhage Cancer Hypertension High blood pressure Sugar diabetes Asthma Drug addiction Leukemia	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Have you during the past 5 years received medical advice, consultation, treatment or taken medication (prescription or non-prescription) for disease or disorder of the: Heart or circulatory system Kidneys Lungs	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. Have you during the past 10 years: A. Had or been told you had Acquired Immune Deficiency Syndrome (AIDS) or AIDS Related Complex (ARC)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
B. Received advice or treatment in connection with any of the categories mentioned in (A) above?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
C. Tested positive for HIV or antibodies to the AIDS (Human T-Cell Lymphotropic, Type III; HTLV-III) virus?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4. Have you during the past 5 years received medical advice, consultation, treatment or taken medication (prescription or non-prescription) for disease or disorder of the back or neck?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A	N/A
5. Have you during the past 3 years had an application for life insurance rejected by any life insurance company?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6. Have you during the past 6 months been advised by a physician to have an operation?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

I understand that I am not eligible for insurance if I will have attained the age of 78 prior to the maturity date of the account in connection with which this insurance is applied for. If I have been required to answer questions 1 - 6, I represent that the above answers are true and correct to the best of my knowledge and understand that these representations shall be the basis for the company's acceptance of this application for the insurance applied for.

I UNDERSTAND THAT THE MAXIMUM TERM OF LIFE INSURANCE MAY BE LESS THAN THE TERM OF THE ACCOUNT. FURTHER, IF I AM APPLYING FOR TOTAL DISABILITY INSURANCE, I UNDERSTAND THAT THE MAXIMUM TERM OF TOTAL DISABILITY INSURANCE MAY BE LESS THAN THE TERM OF THE ACCOUNT.

Name and address of your and your co-applicant's family doctor and date of last visit. (Complete only when answers to questions 1-6 have been required.)

DR FRANK Williams / DR. KAMAKA

Proposed term of account 180	Signature of applicant <i>[Signature]</i>	Applicant's date of birth 3/31/48
Date of application 10-25-95	Signature of co-applicant <i>TERESA G. LOPEZ</i>	Co-applicant's date of birth 6/30/51

I have witnessed the applicant(s) answers and signature(s) to this application.

Signature of witness
Christie O'Neil

HI467850

07-0000 (REV. 1-00)

ORIGINAL (1)
BORROWER COPY (1)

A0000022

01010.02

EXHIBIT C



ASSOCIATION OF FINANCIAL LIFE INSURANCE COMPANIES
A Tenne

FINANCIAL LIFE INSURANCE COMPANY
A Tenne
not Insurance Company, herein called the Company

Adm
Home Off

5-17-95
O. Box 223727, Dallas, Texas 75222-3727
Century Blvd. Ste. 800, Nashville, TN 37214

INSURANCE SCHEDULE

CREDITOR BENEFICIARY		ACCOUNT NUMBER	GROUP POLICY NUMBER	
SECOND BENEFICIARY			ORIGINAL AMOUNT OF DECREASING LIFE INSURANCE \$	
INSURED (called you) ADDRESS		AGE	AMOUNT OF LEVEL LIFE INSURANCE \$	
CO-INSURED		AGE	MONTHLY DISABILITY INDEMNITY \$	
Effective Date of Insurance			Indebtedness covered	
TERM OF DECREASING LIFE INSURANCE		mos	Gross	Net
TERM OF LEVEL LIFE INSURANCE		mos	Single Decreasing Life Premium	\$
TERM OF DISABILITY INSURANCE		mos	Joint Decreasing Life Premium	\$
Maximum Amount of Life Insurance		\$ 125,000.00	Single Level Life Premium	\$
Maximum Disability Benefit		\$ 60,000.00	Joint Level Life Premium	\$
Maximum Monthly Disability Indemnity		\$ 1,000.00	Single Disability Insurance Premium	\$
			Waiting Period	14 Days
			Elimination Period	NONE Days
			TOTAL CREDIT LIFE AND DISABILITY INSURANCE PREMIUM \$	

The only insurance effective under this certificate is that for which a premium is paid.

NOTE - THE LIFE INSURANCE BENEFIT MAY NOT COMPLETELY PAY OFF YOUR ACCOUNT. THE DISABILITY INSURANCE BENEFIT MAY BE LESS THAN YOUR MONTHLY PAYMENT.
 MAXIMUM TERM OF LIFE INSURANCE 180 MONTHS
 MAXIMUM TERM OF DISABILITY INSURANCE 60 MONTHS
 No disability insurance is provided for any installments on your account scheduled more than 60 months after the effective date of insurance.

WHAT YOU GET

We certify that if we have been paid the premium shown in the schedule, you are insured for the coverage shown in the schedule, subject to the terms of the group policy issued to the creditor.

WHO GETS PAID

Claim payments are made to the creditor beneficiary named in the schedule to pay off or reduce your account balance. If claim payments are more than your account balance, the difference will be paid to you or to the second beneficiary named in the schedule, if any, or to your estate.

WHAT WE WILL PAY

Single Life Insurance Benefit. If you die while insured for single life insurance coverage, we will pay the amount of insurance in force at the time of your death after we receive proof of your death.

Joint Life Insurance Benefit. If you or your co-insured die while insured for joint life coverage, we will pay the amount of insurance in force at the time you or your co-insured die after we receive proof of death. Only one death benefit is payable under this certificate.

Amount of Decreasing Life Insurance. Subject to the maximum amount of life insurance shown in the schedule, if you are insured for gross balance decreasing life insurance, the amount of decreasing life insurance is the original amount of decreasing life insurance shown in the schedule until the first payment due date. After that your insurance declines each month by an equal amount. That amount is the original amount of decreasing life insurance divided by the number of months in the term of decreasing life insurance shown in the schedule. If you are insured for net balance decreasing life insurance, the amount of decreasing life insurance is the original amount of decreasing life insurance shown in the schedule until the first payment due date. After that the amount of insurance is the scheduled unpaid principal balance due on the account on the date of your death.

Amount of Level Life Insurance. The amount of level life insurance remains as the amount of level life insurance shown in the schedule until the end of the term of level life insurance shown in the schedule.

Maximum Amount of Life Insurance. The maximum benefit payable in the event of death during the term of the insurance is limited to the maximum amount of life insurance shown in the schedule. If the original amount of your account exceeds this maximum, the life insurance benefit will not completely pay off your account balance. We determine the amount of life insurance in two steps. When gross balance decreasing life insurance is purchased, first we'll divide the maximum amount of life insurance by the original account balance to obtain a ratio. Then we'll multiply the ratio by the scheduled unpaid account balance on the date of death. The result will be the amount of life insurance benefit we'll pay. When net balance decreasing life insurance is purchased, first we'll divide the maximum amount of life insurance by the original principal balance to obtain a ratio. Then, we'll multiply this ratio by the scheduled unpaid principal balance on the date of death. The result will be the amount of life insurance benefit we'll pay.

Single Total Disability Insurance Benefit. (INSURED ONLY) If you are insured for total disability insurance, we will pay a benefit if you file written proof that you became totally disabled while insured and continue to be totally disabled for at least the waiting period shown in the schedule. Payment will be calculated from the first day of disability following the elimination period shown in the schedule. The daily benefit will be equal to 1/30th of your monthly disability indemnity shown in the schedule for each day of disability to be compensated. Payments will stop when you are not totally disabled anymore or when benefits are paid to the end of the term of disability insurance shown in the schedule, whichever comes first. The maximum monthly benefit is limited to the maximum monthly disability indemnity shown in the schedule.

WITHIN 15 DAYS FROM THE DATE THE ACCOUNT BEGINS, THE INSURED SHALL BE PERMITTED TO RETURN THE CERTIFICATE OF INSURANCE TO THE CREDITOR AND TO RECEIVE A REFUND OF ANY PREMIUM PAID FOR THE INSURANCE IF NOT SATISFIED WITH THE INSURANCE FOR ANY REASON.

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07-000 (REV. 1-88)

SCORROWER COPY (1)

6101762

Deposition Exhibit No. 60
Deposition of Jeffery Hamilton
Date 2-27-98 A0000409

12 4/9/98
Jeffery Hamilton

EXHIBIT D

Joint Total Disability Insurance Benefit. (INSURED AND CO-INSURED.) Available ONLY if joint life insurance is elected.) If you and your co-insured are insured for total disability insurance, we will pay a benefit if you OR your co-insured file written proof that you OR your co-insured became totally disabled while insured and continue to be totally disabled for at least the waiting period shown in the schedule. Payment will be calculated from the first day of disability following the elimination period shown in the schedule. The daily benefit will be equal to 1/30th of your monthly disability indemnity shown in the schedule for each day of disability to be compensated. Payments will stop when you OR your co-insured are not totally disabled anymore or when benefits are paid to the end of the term of disability insurance shown in the schedule, whichever comes first. The maximum monthly benefit is limited to the maximum monthly disability indemnity shown in the schedule. In the event of simultaneous disability, only single benefit payments are due. (PAYMENTS ARE NOT DOUBLED.) However, payments will continue until both you and your co-insured are no longer disabled. You and your co-insured cannot combine days disabled and must separately meet the waiting period shown in the schedule. Consecutive disabilities will be treated as separate claims. In the event of overlapping days, only one benefit is due during that time and will be paid on the first claimant. (IN NO INSTANCE WILL BENEFITS BE DOUBLED UNDER THIS CERTIFICATE.)

Definition of Total Disability. During the first 12 consecutive months of total disability, total disability means that you are not able to perform the important duties of your occupation because of sickness or accidental injury and are receiving regular care and treatment by a licensed physician or practitioner of the healing arts. After the first 12 consecutive months of total disability, the definition changes and requires that you not be able to perform the duties of any occupation for which you are reasonably qualified by education, training, or experience. You will be required to give us written proof of your continuing total disability at reasonable intervals.

WHAT WE WON'T PAY

Misstated Age. If you stated your age on the maturity date of the insured account will be 75 or less, and this is not correct, we will return your premium when we discover this and will not pay any benefits. However, if you correctly stated your age making you ineligible and we do not return your premium within 75 days of the effective date, and prior to a claim, you are insured. This also applies to your co-insured, if you applied for joint life coverage or joint life and joint total disability coverage.

Suicide. We won't pay any claim if you commit suicide within 12 months of the effective date shown in the schedule; but we will refund the life insurance premium. This also applies to your co-insured, if you applied for joint life coverage.

Total Disabilities Not Covered. We won't pay the claim or refund the premium if disability is a result of (1) childbirth, abortion or miscarriage or by pregnancy, whether existing on the date a certificate is issued to any insured or developing thereafter; (2) intentionally self-inflicted injuries; (3) operating, riding in or descending from a non-scheduled aircraft; (4) pre-existing conditions which manifested themselves to the insured by requiring medical diagnosis or treatment within six months preceding the taking of the application for insurance and which caused loss within six months following the effective date of coverage; provided, however, that disability commencing thereafter resulting from such conditions shall be covered.

PARTIAL PAYOFF

If the original amount of life insurance shown in the schedule is less than the original amount of your account, the life insurance benefit may not completely pay off your account balance. See paragraph titled "Maximum Amount of Life Insurance" to calculate the partial payoff.

If the monthly disability indemnity shown in the schedule is less than your monthly payment, you will have to pay the creditor the difference each month.

NOTE: If the term of the insurance shown in the schedule is less than the actual term of your account the insurance will not remain in force for any months remaining after the end of the term of insurance.

WHEN INSURANCE STOPS - REFUNDS

This insurance stops at the end of the term shown in the schedule, when any life insurance benefit is paid, or when your account balance is paid off, renewed or refinanced or otherwise stops, whichever happens first. This insurance will also stop if the collateral for the account is repossessed or its title is transferred. If your insurance stops before the end of the term shown in the schedule for any reason other than as a result of a life benefit being paid, you will be given a refund or a credit on your account of unearned premium. Refunds for decreasing credit life insurance and disability insurance will be calculated according to the Rule of 78 formula. Refunds for level life insurance will be calculated on a pro-rata basis. Refunds or credits of less than \$1.00 won't be made. When termination of life/disability insurance is a result of your death, the life insurance premium paid to the company is deemed earned and no refund is due; however, disability insurance premium is not earned and will be refunded.

WHAT YOUR CONTRACT IS AND HOW YOUR STATEMENTS AFFECT IT

The group policy, the application for the group policy, riders, amendments and endorsements, if any, your attached application, if any, and this certificate are the complete contract of insurance. All statements made by you in your application are considered to have been made to the best of your knowledge and belief. No statement can be used to void this insurance or deny a claim unless that statement is in your signed application. After 24 months from the date of the application, no statement made by you in your application can be used to void this insurance or deny a claim unless that statement was made fraudulently.

RULES FOR FILING A TOTAL DISABILITY CLAIM

You must write us or our agent about your total disability claim within 30 days after the beginning of your disability or as soon after that as you can. We will send you claim forms within 15 days after you tell us about the claim. If we don't send the forms in 15 days you can simply send us written proof of your total disability. The proof must show the date and cause of the total disability and how serious it is, and it must be signed by a physician or chiropractor. The proof of total disability must be sent to us no later than 90 days after your total disability ends. If it is impossible to file within 90 days, you must file as soon as you can. Unless you have been legally incapable of filing the proof of total disability, we won't accept it if it is filed after 18 months from the time it should have been filed. You can't start any legal action until 60 days after you send us the proof of your total disability, and you can't start any legal action more than 36 months after the proof is filed.

RULES FOR FILING A LIFE CLAIM

We must be given a certified copy of the death certificate as proof of a life claim.

CONFORMITY WITH STATE STATUTES

Any part of the certificate which, on the effective date of the certificate, conflicts with the statutes of the state where the certificate was delivered is changed to conform to the minimum standards of those statutes.

PHYSICAL EXAMINATION AND AUTOPSY

We at our own expense have the right, and you must allow us the opportunity, to examine your person as often as is reasonably required while a claim is pending and to make an autopsy in case of death, if it is not forbidden by law.

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47-08

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10 p. 2
A0000408

1. DECEASED - FIRST NAME Louis		MIDDLE NAME Adam		LAST NAME Lopez, Jr.		2. SEX Male	3. DATE OF DEATH (MONTH, DAY, YEAR) March 3, 1996	
4a. RACE Hawaiian-Chinese-Portuguese		4b. IS PERSON OF SPANISH ORIGIN? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		5a. AGE - LAST BIRTHDAY (YEARS) 47		5b. UNDER 1 YR. 5c. UNDER 1 DAY		6. DATE OF BIRTH (MONTH, DAY, YEAR) March 31, 1948
7a. ISLAND OF DEATH Oahu		7b. CITY, TOWN OR LOCATION OF DEATH Honolulu		7c. HOSPITAL OR OTHER INSTITUTION NAME (IF NOT IN EITHER, GIVE STREET AND NUMBER) The Queen's Medical Center				7d. IF HCSP OR INST. INDICATE DOG OF-LAW, EML, INPATIENT, SUP Inpatient
8. STATE OF BIRTH (IF NOT IN U.S.A. NAME COUNTRY) Hawaii		9. CITIZEN OF WHAT COUNTRY U.S.A.		10. MARRIED, NEVER MARRIED, WIDOWED, DIVORCED (SPECIFY) Married		11. SURVIVING SPOUSE (IF WIFE, GIVE MAIDEN NAME) Teresa A. Lindekucel		12. HAS RECEIVED (BY U.S. ARMY FORCES) (Specify "a" or "b") Yes
13. SOCIAL SECURITY NUMBER 576-50-1946		14a. USUAL OCCUPATION (GIVE KIND OF WORK DONE DURING MOST OF WORKING LIFE, EVEN IF RETIRED) Real Estate Broker		14b. KIND OF BUSINESS OR INDUSTRY Brokerage Firm		14c. EDUCATION (Specify highest grade completed) 110		14d. EDUCATION (Specify) Coll 4
15a. RESIDENCE - STATE Hawaii		15b. COUNTY Honolulu		15c. CITY, TOWN, OR LOCATION Kailua		15d. NUMBER, STREET AND ZIP 157 Kuumele Place 96734		
16. FATHER - FIRST NAME Louis		MIDDLE NAME Adam		LAST NAME Lopez, Sr.		17. MOTHER - FIRST NAME Beverly		MIDDLE NAME Agnes
18a. INFORMANT - NAME Teresa A. Lopez				18b. MAILING ADDRESS (STREET OR P.O. BOX, CITY OR TOWN, STATE, ZIP) 157 Kuumele Place Kailua, Hawaii 96734				
19a. BURIAL, CREMATION, REMOVAL (SPECIFY) Cremation		19b. CEMETERY OR CREMATORY - NAME Windward Crematory		19c. LOCATION Kaneohe		STATE Hawaii		
19d. DATE (MONTH, DAY, YEAR) March 5, 1996		19e. PERMIT NUMBER #1129		20a. FUNERAL HOME - NAME Hawaiian Memorial Park Mortuary		20b. FUNERAL DIRECTOR - SIGNATURE <i>June B. Sage</i>		
21a. To the best of my knowledge, death occurred at the time, date and place and due to the cause(s) and circumstances stated and described below (Items #21a through #27g where applicable) (Signature and Title) <i>Collin Dang, M.D.</i>		21b. DATE SIGNED (MO., DAY, YR.) 3/4/96		21c. TIME OF DEATH 3:12 P		22a. On the basis of examination and/or investigation, in my opinion death occurred at the time, date and place and due to the cause(s) and circumstances stated and described below (Items #22a through #27g where applicable) (Signature and Title) <i>Collin Dang, M.D.</i>		
21d. NAME OF ATTENDING PHYSICIAN IF OTHER THAN CERTIFIER (TYPE OR PRINT)		21e. TIME OF DEATH		22b. DATE SIGNED (MO., DAY, YR.)		22c. TIME OF DEATH		
21f. NAME OF ATTENDING PHYSICIAN IF OTHER THAN CERTIFIER (TYPE OR PRINT)		21g. TIME OF DEATH		22d. PRONOUNCED DEAD (MO., DAY, YR.)		22e. PRONOUNCED DEAD (TIME)		
23. NAME AND ADDRESS OF CERTIFIER (PHYSICIAN, MEDICAL EXAMINER OR CORONER) (TYPE OR PRINT) Collin Dang, M.D. 1380 Lusitana St. #912 Honolulu, Hawaii 96813								
24a. REGISTRAR - SIGNATURE <i>R. Chare</i>				24b. DATE RECEIVED BY LOCAL REGISTRAR MAR - 5 1996		24c. DATE FILED BY STATE REGISTRAR MAR - 5 1996		
PART I. DEATH WAS CAUSED BY: ENTER ONLY ONE CAUSE PER LINE FOR (a), (b), AND (c)								
IMMEDIATE CAUSE								
(a) <i>acute Type A thrombotic dissociation with myocardial infarction</i>								
DUE TO, OR AS A CONSEQUENCE OF:								
(b) <i>Recent Type B thrombotic dissociation with myocardial infarction</i>								
DUE TO, OR AS A CONSEQUENCE OF:								
(c) <i>Myocardial dissociation with myocardial infarction</i>								
PART II. OTHER SIGNIFICANT CONDITIONS: CONDITIONS CONTRIBUTING TO DEATH BUT NOT RELATED TO CAUSE GIVEN IN PART I(a)								
25a. AUTOPSY (YES OR NO) No								
25b. IF YES, WERE FINDINGS CONSIDERED IN DETERMINING CAUSE OF DEATH?								
27a. ACCIDENT, SUICIDE, HOMICIDE, OR UNDETERMINED (SPECIFY)		27b. DATE OF INJURY (MONTH, DAY, YEAR)		27c. TIME OF INJURY		27d. DESCRIBE HOW INJURY OCCURRED		
27e. INJURY AT WORK? (SPECIFY YES OR NO)		27f. PLACE OF INJURY-AT HOME, FARM, STREET, FACTORY, OFFICE BLDG, ETC. (SPECIFY)						
27g. LOCATION (STREET OR R.F.D. NO., CITY OR TOWN, STATE)								

MAR 11 1996

I CERTIFY THIS IS A TRUE COPY OR
ABSTRACT OF THE RECORD ON FILE IN
THE HAWAII STATE DEPARTMENT OF HEALTH
Alvin T. Onaka, Ph.D.
STATE REGISTRAR

Associates Financial Life Ins.
P.O. Box 223727
Dallas, TX 75222-3727

August 19, 1996

TO THE ESTATE OF:
Louis A. Lopez
157 Kuumele Place
Kailua, HI 96734

RE: Claim No.: 1535282
Loan No.: 0316924
Creditor: Associates Financial Services

TO WHOM IT MAY CONCERN:

We have completed our investigation into the request for benefits under the Credit Life Insurance Policy which was written in conjunction with the above loan through the Associates Financial Services Company.

When Mr. Lopez applied for this insurance coverage on 10/30/95, he completed an Insurance Health Application. This Insurance Health Application reads as follows:

Question No. 2:

"Have you during the past 5 years received medical advice, consultation, treatment or taken medication (prescription or non-prescription) for disease or disorder of the:
Heart or circulatory system Kidneys Lungs"

These are answered "no".

We have received copies of Mr. Louis Lopez's medical records from Ultimate Health Programs of Hawaii, Frank Allen Williams, M.D., 33 S. King St., Suite 201, Honolulu, Hawaii and Dr. Collin Dang. These records reveal Mr. Lopez was treated for thoracic aortic aneurysm within the five (5) years prior to the effective date of this insurance coverage. The following chart lists the dates of treatment, diagnoses, and the medications/treatments that were prescribed.

A0000228

Page Two
Louis A. Lopez
Claim No.1535282
August 19, 1996

DATES	DIAGNOSES/PHYSICIANS	MEDICATIONS/TREATMENTS
8/22/95	Thoracic aortic aneurysm	
8/29/95	Thoracic aortic aneurysm Chest X-ray of 8/29/95 confirms diagnosis of aortic aneurysm * Dr. Frank Williams	
9/1/95	Referred for CT Scan. CT shows a 5.4 cm aneurysm of descending aorta.	Type I dissection.
9/7/95	Aortic aneurysm dissection "Instructed patient to not ever run out of Atenolol." * Frank Williams, M.D.	Take Atenolol 25 mg. every day
9/8/95	Chronic Type B thoracic aortic dissection, present diameter of aneurysm, 5.5 cm. * Collin Dang, M.D.	
9/11/95	Follow-up visit. Aneurysm	Continue taking Atenolol 25 mg. every day.

Had the true and complete information been given on this Health Application, the Credit Life Insurance would not have been issued. The Company must now take the same position it would have taken had the true and complete information been given, and that is to declare the insurance null and void and of no effect as of the date of loan and insurance, 10/30/95.

For these and other reasons, none of which are waived, the Company hereby takes the position that there is no basis for claim.

We are contacting the Associates Branch Office which handles Mr. Lopez's loan to refund all premiums paid for this coverage.

We have based our decision on facts available to us. If you do not agree with this, or if you feel other important information should be included in our evaluation, please submit this information for our review. If you wish to discuss this claim with us, you may contact us at 1-800-336-8913.

Sincerely,

Stan Madison
Claims Examiner

wh

A0000229

cc: Associates Financial Services Ross Inouye, Group Director

DISCLOSURE STATEMENT

HAWAII
VARIABLE-FIXED RATE
REAL ESTATE I.B.

BORROWER (Called "you" or "your") LOPEZ, TERESA A 157 KUUMELE PLACE KAILUA HI 96734		LENDER (Called "we" or "us") ASSOCIATES FINANCIAL SERVICES COMPANY OF HAWAII, INC. 116 HEKILI STREET 104 KAILUA HI 96734	
CO-BORROWER:			
DATE OF LOAN 09/30/96	ACCOUNT NUMBER 0317460		
ANNUAL PERCENTAGE RATE The cost of your credit as a yearly rate. 14.17%	FINANCE CHARGE The dollar amount the credit will cost you. \$ 82799.66	Amount Financed The amount of credit provided to you or on your behalf. \$ 59664.89	Total of Payments The amount you will have paid after you have made all payments as scheduled. \$ 142464.55
PAYMENT SCHEDULE - Payments are payable monthly 120 Payments 119 at \$ 717.18 followed by 1 at \$ 57120.13 followed by 0 at \$.00 1st Payment Date 11/04/96			
VARIABLE RATE: If this is a variable interest rate loan, this transaction has a variable rate feature for which variable rate disclosures have been provided earlier.			
PREPAYMENT: If you pay off early, you <input checked="" type="checkbox"/> may <input type="checkbox"/> will not have to pay a penalty. You will not be entitled to a refund of the Prepaid Finance Charge.			
SECURITY: <input checked="" type="checkbox"/> You are giving a security interest in your real estate located at: <u>157 KUUMELE PLACE KAILUA HI</u> <input type="checkbox"/> You are giving a security interest in the real estate being purchased and which is located at: _____			
ASSUMPTION: If this loan is a purchase money transaction, someone buying your home may, subject to conditions, be allowed to assume the remainder of the mortgage on the original terms.			
See your contract documents for additional information about non-payment, default, any required repayment of your indebtedness in full before the scheduled date, security interests, prepayment penalties and prepayment refunds, e means estimate.			

This is a variable interest rate loan. _____ BORROWER
 This is a fixed interest rate loan. *Teresa Lopez* BORROWER

INSURANCE:

Credit insurance is not required to obtain this loan and will not be provided unless you sign below. Insurance provided by us may be issued by an affiliated company which expects to profit from the insurance.

TYPE	TERM OF INSURANCE	PREMIUM	SIGNATURE
Single Credit Life Insurance	_____ months, beginning on the Effective Date of Insurance.	\$.00	I want single credit life insurance.
Joint Borrower Credit Life Insurance	_____ months, beginning on the Effective Date of Insurance.	\$.00	We want joint borrower credit life insurance.
Credit Accident and Health Insurance	_____ months, beginning on the Effective Date of Insurance.	\$.00	I want credit accident and health insurance.
Involuntary Unemployment Insurance	_____ months, beginning on the Effective Date of Insurance.	\$.00	I want involuntary unemployment insurance.

CANCELLATION OPTION: You may cancel all, but not part of, the credit insurance coverages on this loan by returning the credit insurance certificates to the office where the loan was made. The unearned credit insurance premium will be credited to your account. If cancellation occurs within 15 days from the above date, the entire credit insurance premium will be credited to your account. Even though a credit is made to your account because the credit insurance is cancelled, you will still be obligated to continue making payments on your loan as scheduled.

NOTICE: SEE OTHER SIDE FOR ADDITIONAL PROVISIONS.

I have received a copy of this statement.
Teresa Lopez BORROWER
21 Sept 1996 Deposition Exhibit No. _____
21 Sept 96 Date _____

ORIGINAL (1)
 BORROWER COPY (1)
 CO-BORROWER COPY (1)

A0000017

000001 REV. 9-90

01400A.05

EVHIRT G

9 4/9/98
Teresa Lopez

NOTICE OF RIGHT TO CANCEL

Your Right to Cancel

You are entering into a new transaction to increase the amount of credit provided to you. We acquired a (mortgage/lien/security interest) (or/in) your home under the original transaction and will retain that (mortgage/lien/security interest) in the new transaction. You have a legal right under federal law to cancel the new transaction, without cost, within three business days from whichever of the following events occurs last:

- (1) the date of the new transaction, which is SEPTEMBER 30, 1996 ;
- or
- (2) the date you received your new Truth in Lending disclosures;
- or
- (3) the date you received this notice of your right to cancel.

If you cancel the new transaction, your cancellation will apply only to the increase in the amount of credit. It will not affect the amount that you presently owe or the (mortgage/lien/security interest) we already have (or/in) your home. If you cancel, the (mortgage/lien/security interest) as it applies to the increased amount is also cancelled. Within 20 calendar days after we receive your notice of cancellation of the new transaction, we must take the steps necessary to reflect the fact that our (mortgage/lien/security interest) (or/in) your home no longer applies to the increase of credit. We must also return any money you have given to us or anyone else in connection with the new transaction.

You may keep any money we have given you in the new transaction until we have done the things mentioned above, but you must then offer to return the money at the address below. If we do not take possession of the money within 20 calendar days of your offer, you may keep it without further obligation.

How to Cancel

If you decide to cancel the new transaction, you may do so by notifying us in writing, at

Name of Creditor ASSOCIATES FINANCIAL SERVICES COMPANY OF HAWAII, INC.

116 HEKILI STREET 104, KAILUA, HI 967340000

(Address of Creditor's Place of Business)

You may use any written statement that is signed and dated by you and states your intention to cancel, or you may use this notice by dating and signing below. Keep one copy of this notice because it contains important information about your rights.

If you cancel by mail or telegram, you must send the notice no later than midnight of OCTOBER 3, 1996

(date)

(or midnight of the third business day following the latest of the three events listed above). If you send or deliver your written notice to cancel some other way, it must be delivered to the above address no later than that time.

I WISH TO CANCEL

Consumer's Signature _____ Date _____

The undersigned acknowledges receipt of two completed copies of this notice this 30 day of SEPTEMBER, 19 96

Ariessa Ann Long

Consumer

Consumer

<input checked="" type="checkbox"/>	ORIGINAL (1)
<input type="checkbox"/>	BORROWER COPY (2)
<input type="checkbox"/>	CO-BORROWER COPY (2)

Deposition Exhibit No. 2

Deposition of *Long*

Date 2-13-98

A000013

EXHIBIT 1



Consumer Federation of America

Clearinghouse No. 45,773B
Accession No. 1095961

Embargoed for release: Wednesday, May 20, 1992

CREDIT LIFE INSURANCE REVISITED: A CONTINUING CONSUMER RIPOFF

Prepared by
Stephen Brobeck
Consumer Federation of America

With the assistance of
James H. Hunt
National Insurance Consumer Organization

In 1990, the Consumer Federation of America (CFA) and National Insurance Consumer Organization (NICO) released a report entitled "Credit Life Insurance: The Nation's Worst Insurance Ripoff." It found that the loss (or payout) ratio for all credit life policies was under 50% and that, in a number of states, this ratio was less than 30%. The report also concluded that this insurance is not needed by most borrowers. Most are already protected by other life insurance policies or by other assets. And the families of those with neither may have higher priorities than repaying the debt if the borrower dies.

In 1992, CFA and NICO re-examined credit life insurance to see if the product had improved. As in 1990, the two organizations computed charges and loss ratios by state for a policy on a \$10,000 loan at 12% APR repayable over 48 months (see accompanying table). Here is what was found.

EXHIBIT I

1) Since the June 1990 release of the first study, eight states -- Alabama, Florida, California, Iowa, New Hampshire, Oregon, Texas, and Wisconsin -- lowered credit life insurance rates. As a result, the nationwide loss ratio improved from 37.9% in 1989 to 41.5% in 1990 to an even higher, but undetermined, percentage in 1991. (The CFA-NICO estimated nationwide loss ratio of 43% in the earlier study was based on assumed levels of mortality that proved to be slightly too high.)

2) In most states, credit life insurance is still a ripoff. Only New York meets the 70% minimum loss ratio standard set by CFA and NICO. And only New York, Maine, and the District of Columbia meet the 60% minimum loss ratio level defined by a National Association of Insurance Commissioners (NAIC) model standard. In addition to these three states, only nine others -- Vermont, Wisconsin, New Jersey, California, Pennsylvania, Arizona, Oregon, Florida, and Maryland -- have an overall loss ratio of at least 50%. In seven states -- Hawaii, New Mexico, North Carolina, Mississippi, Oklahoma, South Carolina, and Louisiana -- the loss ratio is less than 30%.

CHARGES FOR CREDIT LIFE INSURANCE BY STATE

\$10,000 Loan at 12% APR Repayable in 48 Months

States	Credit Life Charges			Claims as % of		Rate \$100/ Year
	(1) Single Premium	(2) Finance Charge	(3) Total Charge	(4)* Single Premium	(5)* Total Charge	
New York (net only)	\$ 118	\$ 31	\$ 149	71%	56%	.27
Maine (net only)	123	32	155	63	50	.28
Vermont (net only)	135	36	171	57	45	.31
Minnesota (net only)	163	43	206	43	34	.37
Wisconsin	170	44	214	50	40	.33
New Hampshire	177	47	224	42	33	.34
New Jersey	183	48	231	51	40	.35
Massachusetts (net only)	186	49	235	38	30	.42
Mass. Auto Dealers (Net)	142	37	179	31	25	.32
District of Columbia	206	55	261	64	51	.40
California	206	55	261	51	40	.40
North Dakota, Utah	206	55	261	38	30	.40
Texas	206	55	261	36	28	.40
Hawaii	206	55	261	27	21	.40
Rhode Island	209	55	264	40	32	.41
Pennsylvania	212	56	268	55	44	.41
Arizona	228	60	288	52	41	.44
Oregon	233	61	294	53	42	.45
Ohio	244	64	308	47	37	.47
Michigan	249	65	314	45	36	.48
Florida	259	69	328	50	40	.50
Illinois, Wyoming	259	69	328	39	31	.50
Connecticut	259	69	328	32	25	.50
Maryland	266	70	336	54	43	.51
Virginia	268	70	338	40	32	.51
Iowa	302	76	378	34	27	.58
Missouri, Washington	313	82	395	39	31	.60
Idaho, Kentucky	313	82	395	32	25	.60
Montana, South Dakota	313	82	395	31	25	.60
Alaska	313	82	395	30	24	.60
West Virginia	325	86	411	41	32	.62
Nebraska	334	89	423	32	25	.64
Delaware	340	90	423	45	36	.65
Nevada	340	90	423	33	26	.65
Arkansas, Georgia	340	90	423	32	25	.65
Indiana, Kansas	340	90	423	30	24	.65
New Mexico	340	90	423	27	21	.65
Tennessee	343	90	433	33	26	.66
Colorado	367	97	464	30	24	.70
North Carolina	367	97	464	27	21	.70
Alabama	422	111	533	30	24	.80
Mississippi	422	111	533	27	21	.80
Oklahoma	434	115	549	29	23	.85
South Carolina	434	115	549	26	21	.85
Louisiana	533	140	673	23	18	1.00
LA, with dismemberment	675	178	853	19	15	1.25

* Columns (4) and (5) show loss ratios (explained below) based on experience in 1988-1990. The source is Credit Life and Accident and Health Experience by State, National Association of Insurance Commissioners (NAIC), March, 1992.

Notes on Credit Life Insurance

1. Credit life insurance pays off a loan on the death of the debtor. Credit disability insurance, not shown here but also highly profitable in most states, covers monthly payments while the debtor is sick. Rates for credit life and disability insurance do not vary by age. Under Truth-in-Lending, credit insurance is voluntary, but the way in which coverage is sold often leaves consumers with the impression it is mandatory.
2. Life insurance sold with first mortgage loans is not usually called credit life insurance. Its sale differs in several respects from life insurance sold with consumer credit. The data shown exclude first mortgage life insurance.
3. Premiums shown for most states are based on "prima facie" rates, meaning the maximum rates that may be charged in the absence of claims experience justifying higher rates. Premiums for NY, DC, PA and MD are somewhat below prima facie standards in those states since enforcement of "loss ratio" standards appears to produce lower average rates. The premium for credit life insurance is almost always a one-time charge (except on credit card debts) that itself becomes part of the loan, so the total cost of credit life is the one-time charge, or single premium, plus the finance charge attributable to it.
4. MA, ME, MN, NY and VT limit credit life insured amounts to the declining, scheduled principal balances; this is called "net debt" coverage. Other states allow "gross debt" coverage, meaning that scheduled coverage is equal each month to the sum of remaining monthly payments due on the debt, an amount that includes at all times the unearned finance charge, that is, the portion of the finance charge that would be refunded at death. In the case of VA, for example, the death benefit in the first month is \$12,978, even though only \$10,268 plus one month's interest of \$103 is required to pay off the loan if the debtor dies during the month. Excess coverage under gross debt credit life insurance reduces to zero in the last month of the loan term. For the loan illustrated, gross coverage exceeds net coverage by 17% meaning that 17% more coverage is sold, and charged for, than the amount needed to pay off the loan at any time. Rates per \$100 (of gross initial coverage) per year for MA, ME, MN, NY and VT have been adjusted to be comparable to other states shown.
5. The ratio of claims to premiums is known as a "loss ratio." Loss ratios are often used in health insurance and property insurance to define reasonableness of premium rates. Sellers of Medicare Supplements, for example, must meet loss ratio targets of 65% for individually issued policies and 75% for group policies. Credit life insurance is group insurance. The cost of credit life insurance is not only the premium paid but also the finance charge added to the premium. It is at least arguable, therefore, that "loss ratio" for credit life should be defined as

the ratio of claims to the total amount the consumer pays. Claims as a percent of total charges represents a better measure of value from the consumer's perspective; this ratio is more comparable to loss ratios in other lines of insurance where premiums are paid annually, or more frequently, rather than in one sum for the whole debt term, which averages about three years. We have shown loss ratios both as a percent of the single premium (the conventional way) and as a percent of total charges. The National Association of Insurance Commissioners recommends a loss ratio of at least 60% of the single premium; only NY, ME and DC met this standard.

6. The loss ratios shown in Columns (4) and (5) are based on prima facie earned premiums rather than on actual earned premiums, except as noted. A few insurers, notably CUNA Mutual, which sells to credit unions, do not charge the maximum rate permitted in the higher rate states. The higher loss ratios these insurers experience tend to increase statewide actual loss ratios.

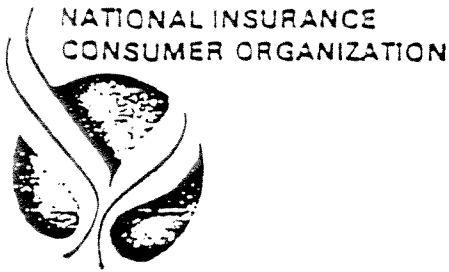
7. Since 1988, AL, FL, GA, IA, MA, MI, MN, NH, NJ, ND, OR, TX, UT, and WI have lowered prima facie maximum credit life rates in varying degrees. Because credit life coverage extends over several years, it takes several years for lower rates to have an effect on loss ratios. On the other hand, credit life insurers often have some ability to control claims by tightening eligibility criteria. When rates are lowered in a state, credit insurers are pressured by creditors to maintain commission levels. One way to do this is to lower claims by adding health questions to the eligibility procedure. (This practice arguably serves the interests of consumers if it excludes claims on terminally ill persons and if further reductions in prima facie maximum rates are later ordered by the state to match lower loss ratios.) In Columns (4) and (5), we have increased the NAIC prima facie loss ratios of some states where it appeared recent rate changes would have such an effect.

8. A dozen states appear to allow "dismemberment" coverage to be added to loans at an extra charge. We believe the claim cost to be less than \$.01/\$100/year, meaning the coverage is nearly worthless. The worst offender is LA, at \$.25/\$100/yr. AL is \$.10; FL, KY, NV, and WV are \$.05; IA is \$.045; AZ is \$.04; and, GA, MI, and PA are less than \$.02. The rate data comes from a reliable source, but we don't know the extent to which the coverage is sold nor whether the premiums and claims are included in the NAIC data. Since the rate is so egregious in LA, we have shown its effect in that state.

9. Maximum rates vary in a few states according to type of lender; in those states, rates for banks were used. Rates in NY vary by creditor size and could be about 6% lower or higher. A few states allow higher rates for small loan companies, whose customers tend to be somewhat older.

10. A significant percentage of credit life sales are on joint debtors at rates averaging perhaps 1.67 times single life rates. The NAIC has not published studies of joint life experience. The multiple of 1.67 is reasonable in the low rate states, excessive in the high rate states.

11. Creditors -- such as auto dealers, banks and finance companies -- seek credit insurers that pay the highest commissions or other compensation. The higher the premium rate, the higher the available compensation, of course. This phenomenon, in which competitive forces tend to raise prices to consumers rather than lower them, is known as "reverse competition." Credit insurance has been called "the hidden insurance," since the insurance transaction is made part of a complex credit instrument. Although credit insurance charges are disclosed pursuant to the Truth-in-Lending Act, the nature of the coverage and the manner of its sale make it impossible for consumers to compare prices with alternative sources of coverage. This is why all states have rate ceilings. Creditors may receive both commissions ("up-front" compensation) and any amounts left over at the end of an accounting period after the insurer has paid death claims and deducted its negotiated expense and profit charges. Larger creditors may own the credit insurance company. Total compensation to creditors varies dramatically by state, of course, and by type of creditor; auto dealers, with the youngest age group, typically receive the largest margins. Compensation from credit life insurance, exclusive of finance charges on premiums, averages close to 50% in the United States; the range is from 20% or less in NY to 70% or more in LA. Note that a creditor receiving a 50% commission, for example, earns 50% of the finance charge on the premium without advancing any funds on behalf of the consumer.



NATIONAL INSURANCE
CONSUMER ORGANIZATION



Consumer Federation of America

Embargoed for release: Monday, June 4, 10:00 a.m.

CREDIT LIFE INSURANCE: THE NATION'S WORST INSURANCE RIPOFF

Prepared by
Stephen Brobeck
Consumer Federation of America

With the assistance of
James H. Hunt
National Insurance Consumer Organization

Summary

Credit life insurance is by far the most overpriced insurance purchased by many consumers. Prices are nearly twice as high as they would be in a competitive market. In 1988, consumers were overcharged nearly \$1 billion. Yet, this insurance is not needed by most borrowers. What sustains this consumer ripoff is the way credit life is sold -- by lenders, who profit from its sale, as an add-on to installment loans. The only remedy to this problem is more effective state regulation coupled with extensive consumer education.

Introduction

Credit life insurance is term life insurance offered by lenders that pays off an installment loan if the borrower dies. It is sold by banks, finance companies, auto dealers, and other lenders to the large majority of consumers taking out an installment loan. Credit life is written by insurance companies, most of whom specialize in credit insurance. A number of credit life insurance companies have been set up by the lenders themselves.

At the end of 1988, there was \$251 billion of credit life insurance outstanding and more than 70 million policies. In this year, consumers paid \$2.1 billion in credit life premiums and received \$0.9 billion in benefits. As the accompanying table indicates, on a \$10,000 48-month installment loan at 12% APR, in several states borrowers routinely pay more than \$400 for this insurance (more than \$500 when finance charges on the premium are

The Problem

Loss Ratios Low: The most noxious features of credit life insurance are that it is exorbitantly priced in most states and not needed by most consumers. The best index of price fairness for insurance products is the loss ratio -- the proportion of premiums paid out in claims. The remaining portion is retained by lenders as commissions and by insurers for administrative expenses and profit. In auto insurance markets, consumer groups complain about loss ratios of 60% or 70%. But in credit insurance markets, in 1988 these estimated ratios ranged, among states, from 22% to 71%, with a national average of 43%. In six states, \$.30 or less of every \$1.00 in premiums was paid out in death benefits.

Overcharges Approach \$1 Billion Annually: To what extent are consumers overcharged? That depends on how cheaply credit life could be sold. A report published by the American Association of Retired Persons estimated that a loss ratio of 75% allows both insurers and their lender agents to earn a reasonable profit. In 1989, those credit unions which offer credit life insurance to members paid 61% of premium dollars in claims and an additional 20% in reimbursements, experience refunds, and dividends, for a total payout rate of 81%. These ratios are nearly double the average loss ratio on credit life insurance policies offered by for-profit institutions. They suggest that consumers are paying nearly twice as much as they should be for this insurance. In 1988, the difference between the actual 43% estimated loss ratio and a 75% loss ratio represented \$910 million.

Overcharges Vary by State: These overcharges are greater in some states than in others (see table). In states such as Maine and New York, consumers are overcharged little if at all. In other states, however, they are overcharged by 200-300%. The most reasonably priced credit life insurance is sold in New England. Maine, New York, Vermont, and New Hampshire are four of the five states with the highest loss ratios. The worst gouging takes place in the South. Louisiana, Alabama, Mississippi, Georgia, North Carolina, and South Carolina are among the eight states with the lowest loss ratios.

Coverages Are Excessive: Massachusetts, Maine, New York, and Vermont require "net debt" coverage where only principal balances are insured. Other states, however, authorize "gross debt" coverage where the unearned finance charge, as well as the loan principal, is insured. In the case of California, Hawaii, Minnesota, and Wisconsin, for example, the death benefit in the first month is \$12,901, even though only \$10,206 plus one month's interest of \$102 is required to pay off the loan if the debtor dies during the month. For this loan, gross coverage exceeds net coverage by 17%, so that 17% more coverage is sold than necessary to cover the loan. For technical reasons, this increases premiums 26% except in New Hampshire, New Jersey, Ohio,

Pennsylvania, Rhode Island, Utah, and Virginia. Rates shown in the table per \$100 of gross initial coverage per year for Massachusetts, Maine, New York, and Vermont have been adjusted to be comparable to other states shown.

Credit Life Not Needed by Most Borrowers: In a 1979 article, Consumer Reports concluded that "for most consumers ... credit insurance makes no sense." Instead, it recommends that those who are inadequately insured should consider increasing coverage on their existing life insurance policy. Yet, this upgrading of coverage may not be necessary if borrowers have sufficient assets to cover the debt and other expenses. And even if they do not, they may have higher priorities than repaying the debt.

The Causes

Lenders Mislead Uninformed Borrowers: On the majority of all installment loans, borrowers purchase credit life insurance. One lender admitted that his institution sells this insurance to 99% of consumers taking out these loans, though this percentage is lower at most lending institutions. Why do so many borrowers buy high-priced insurance coverage they probably do not need? There are several reasons. First, some purchasers are not aware that they have bought this insurance. A 1978 Purdue University study found that 30% were not aware they had done so, and a 1977 Federal Trade Commission study learned that 12% did not know they had made this purchase. Second, other purchasers feel compelled to get the insurance because the lender states or implies that they must do so to obtain the loan. Various studies have found that between 14% and 45% of purchasers thought it was required. Third, some lenders play on the emotions of borrowers. They say things to borrowers such as: "You'd like credit life insurance, wouldn't you, to protect your family in the event you die." Fourth, lenders commonly make it difficult for borrowers to refuse credit life by building this insurance into the monthly payment. Thus, refusal necessitates redoing the loan papers. Fifth, these consumers are not given information by lenders that would allow them to evaluate the fairness of the price. Lenders rarely, if ever, disclose loss ratios. Moreover, the charges for credit life insurance look modest compared to the finance charges on the loan principal. Thus, it is not surprising that so many borrowers purchase credit life.

"Reverse Competition": In normal markets, sellers compete with each other to sell to consumers. In the credit life insurance market, however, lenders are the real shoppers. They shop insurance companies for the best deal for themselves, especially for high commissions. These commissions routinely exceed 40% and, in the highest rate states, can exceed 70%. They are then passed on by lenders to "captive borrowers," as

business by offering the highest commission, and thus high priced insurance, is referred to as "reverse competition."

Other Lender Benefits: Lenders are eager to sell credit insurance not just because of high commissions. Since credit life premiums are financed, lenders earn interest on them (see table). Perhaps even more importantly, credit life insurance guarantees repayment of the loan. Lenders would much prefer to collect an unpaid debt from an insurance company (except in those cases where the lenders own the insurance company) than from the estate of the deceased.

Inadequate State Regulation: Subject to constraints from governors and state legislatures, state insurance departments have the authority to regulate credit life insurance, and all do. The problem is that most do so inadequately. There is a consensus among regulators that because of the absence of real competition, a floor must be placed on the loss ratio, so that insurers are compelled to pay a set proportion of premiums out as benefits. In fact, the National Association of Insurance Commissioners has adopted a model regulation calling for a 60% loss ratio. To date, in only four states -- Maine, New York, Vermont, New Jersey -- is the loss ratio this high. Yet, even a 60% ratio overcharges consumers.

In some states, such as Virginia, California, and North Carolina, insurance regulators have tried to regulate credit life insurance more adequately but have been overruled by their legislatures. Auto dealers in particular have been an especially powerful lobby for preserving the status quo.

Solutions

A variety of solutions have been proposed to remedy these problems. Many involve improved disclosures. For example, one proposal would require the costs of credit life insurance to be included in the finance charge. The problem with this approach is that most consumers would still not know how overpriced or unnecessary this insurance usually is.

There are only two effective solutions. First, state insurance departments must require a minimum 70% loss ratio on credit life insurance policies, and state legislatures must support this requirement. This would force a drastic reduction in price in almost all states while still allowing insurers and lenders to cover administrative expenses and earn a reasonable profit.

Second, state insurance departments and others should undertake a massive consumer education campaign to explain to consumers that there are other options to the purchase of credit

life from lenders, including buying no coverage. Such a campaign cannot be considered a success until market penetration rates fall from their current levels to less than 25%.

CHARGES FOR CREDIT LIFE INSURANCE BY STATE

States	Credit Life Charges on 48-month \$10,000 Loan at 12% APR			Loss Ratio Claims as % of	
	Single Premium	Finance Charge	Total Charge	Single Premium	Total Charge
ME	\$123	\$32	\$155	71%	56%
NY	124	33	157	70	56
VT	135	36	171	65	51
NJ	183	48	231	62	49
MA	186	49	235	47	37
NH	193	51	244	59	46
UT	205	54	259	55	44
CA, HI, MN, WI	206	54	260	55	44
RI	209	55	264	54	43
AZ, PA	228	60	288	50	40
OH	244	64	308	47	37
MI	249	66	315	46	36
DC	254	67	321	45	36
CT, IL, ND, TX, WY	259	68	327	44	35
VA	268	71	339	43	34
OR	286	76	362	40	32
MD	291	77	368	39	31
AK, FL, ID, MO, MT, SD, WA	313	83	396	37	29
NB	334	88	422	34	27
AR, DE, IN, IA, KA, KY, NV, NM	340	90	430	34	27
TN	345	91	436	33	26
WV	351	93	444	33	26
CO, NC	367	97	464	31	25
GA	394	104	498	29	23
MS	422	111	533	28	22
OK, SC	449	119	568	26	21
AL, LA	533	141	674	22	17

Notes:

1. Premiums shown are based on maximum rates allowed by each state in the absence of claims experience justifying higher rates. A few states in the Northeast require lower rates for creditors with low claims rates; in these states higher claims ratios may apply. Maximum rates vary in some states according to type of lender. In those states, rates for banks were used. Rates in New York vary by creditor size and could be about 6% lower or higher. A few states allow higher rates for small loan companies.

2. Death claim costs are estimated at \$88 or less in Massachusetts, Maine, New York, and Vermont and at \$117 or less in the other states. These costs are used in the numerators of the claims ratios. The ratio of the estimated claims cost to the single premium is known as the loss ratio. Claims as a percentage of total charges represents a better measure of value from the consumer's perspective; this ratio is more comparable to loss ratios in other lines of insurance where premiums are paid annually, rather than in one sum for the whole debt term.

3. Kentucky and West Virginia charges include "dismemberment" coverage at \$.05 per \$100 per year, judged nearly worthless. Some debts in Florida may also include dismemberment at the same rate, but it is not included in the charges shown for this state.

JOHN HARRIS PAER
Attorney at Law
41 B Kepola Place
Honolulu, Hawaii 96817
Telephone: (808) 595-7179

September 19, 1997

VIA FAX AND MAIL
262-9115

President
Associates Financial Services
Company of Hawaii, Inc.
116 Hekili Street 104
Kailua, Hawaii 96734

Re: Lopez v. Associates Financial Services Company of Hawaii, Inc.
Loan No.: 0316924 and 0317460

Dear Sir:

Please be advised that this office represents Ms. Teresa Lopez.

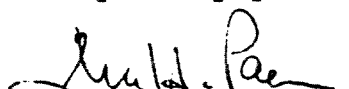
It is her position that she was not provided with accurate and required disclosures under the Federal Truth in Lending Act regarding her loans on or about October 25, 1995 and September 30, 1996. For example, the Notice of Right to Rescind, the Annual Percentage Rate, Finance Charge and Amount Financed were not properly disclosed. These claims are also violations of HRS §480-2 and entitle Ms. Lopez to treble damages.

Therefore, please be advised that Ms. Lopez hereby rescinds those transactions as well as any other loans she had with you. The Truth in Lending Act provides for a three day rescission period; however, that period does not start to run until all the material disclosures required by the Act are made. In this case disclosures were never made properly. If you claim that proper disclosure was made, please send me copies of the same.

In addition, the credit life insurance should have paid off the loan upon the death of Mr. Lopez.

If you are interested in settling this matter, please contact me immediately. Ms. Lopez intends to institute litigation in federal district court to obtain the relief due her.

Very truly yours,


John Harris Paer

cc: Ms. Teresa Lopez

EXHIBIT

K

CARLSMITH BALL

KATHERINE G. LEONARD 5576-0
2200 Pacific Tower
1001 Bishop Street
Honolulu, Hawaii 96813
Tel. No. (808) 523-2500

Attorneys for Defendants
ASSOCIATES FINANCIAL SERVICES
COMPANY OF HAWAII, INC. AND
ASSOCIATES FINANCIAL LIFE
INSURANCE COMPANY

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

TERESA ANN LOPEZ,	)	CIVIL NO. 97-01384 DAE
	)	CIVIL NO. 98-00205 DAE
Plaintiff,)	
	)	RESPONSE OF DEFENDANT ASSOCIATES
vs.	)	FINANCIAL LIFE INSURANCE COMPANY
	)	TO PLAINTIFF'S FIRST SET OF
ASSOCIATES FINANCIAL SERVICES	)	REQUESTS FOR ADMISSIONS DATED
COMPANY OF HAWAII, INC.,	)	AUGUST 19, 1998
)	
Defendant.	)	TRIAL: MARCH 16, 1999
)	
_____)	
TERESA ANN LOPEZ,)	
)	
Plaintiff,)	
)	
vs.)	
)	
ASSOCIATES FINANCIAL LIFE)	
INSURANCE COMPANY,)	
)	
Defendant.)	
_____)	

4. As part of that transaction, Loan Company's employee, Ms. Christine West, asked Mr. and Mrs. Lopez if they wanted to purchase credit life insurance for the transaction, and they agreed to do so.

Admit _____ Deny _____

Objection. AFLIC lacks personal knowledge as to whether as part of that transaction, Loan Company's employee, Ms. Christine West, asked Mr. and Mrs. Lopez if they wanted to purchase credit life insurance for the transaction and therefore the request is denied in this regard. (_____, attorney). AFLIC admits that the Lopezes purchased credit life insurance.

5. The insurance was obtained through Defendant Insurance Co.

Admit _____ X _____ Deny _____

6. Defendant Insurance Co. is a Tennessee corporation, a non-domestic (in Hawaii) insurer.

Admit _____ Deny _____

AFLIC admits that it is a Tennessee corporation and that it is an admitted Hawaii insurer. The request is otherwise denied.

7. Ms. West did not explain anything about the insurance to Mr. and Mrs. Lopez except that they had to sign and date the disclosure statement requesting the insurance and fill out the application form which she gave them. A copy of that application form is attached hereto as Exhibit "C".

Admit _____ Deny _____

Objection, AFLIC lacks personal knowledge as to whether Ms. West did not explain anything about the insurance to Mr. and Mrs. Lopez except that they had to sign and date the disclosure statement requesting the insurance and fill out the application form which she gave them and therefore the request is denied in this regard. (_____, attorney). Deny all other allegations.

8. Ms. West left the room while they were filling out the application form.

Admit _____ Deny _____

Objection, AFLIC lacks personal knowledge as to this request and therefore the request is denied. (_____, attorney).

9. When Ms. West returned, she took the application form without further explanation regarding the insurance.

Admit _____ Deny _____

Objection, AFLIC lacks personal knowledge as to this request and therefore the request is denied. (_____, attorney).

10. Neither Ms. West nor anyone else ever told Mr. and Mrs. Lopez that a misstatement, intentional or otherwise, would prevent their recovery under the policy.

Admit _____ Deny _____X_____

11. Mr. and Mrs. Lopez filled out all forms given to them by Defendant Loan Co. honestly and to the best of their knowledge and belief.

Admit _____ Deny _____X_____

12. At all times herein, the licensed general agent in Hawaii for Defendant Insurance Co. was Beneficial Services, Inc.

Admit _____X_____ Deny _____

13. At all relevant times herein, Defendant Loan Co. was licensed in Hawaii as a *subagent* of Beneficial Services, Inc.

Admit _____X_____ Deny _____

14. On October 25, 1995, Christine West was licensed as a solicitor for Defendant Loan Co.

60. The profit structure is set deliberately high for credit life insurance as part of its design so that everyone who requests will be eligible with age restrictions only.

Admit _____ Deny _____

Objection, ~~vague~~ and ambiguous, overbroad, not relevant, not likely to lead to relevant evidence. (KGL, attorney). Otherwise denied.

DATED: Honolulu, Hawaii, September 18, 1998.


KATHERINE G. LEONARD

Attorney for Defendants
ASSOCIATES FINANCIAL SERVICES
COMPANY OF HAWAII, INC. and
ASSOCIATES FINANCIAL LIFE
INSURANCE COMPANY

CARLSMITH BALL

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Attorneys for Defendants
ASSOCIATES FINANCIAL SERVICES
COMPANY OF HAWAII, INC. AND
ASSOCIATES FINANCIAL LIFE
INSURANCE COMPANY

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

TERESA ANN LOPEZ,	)	CIVIL NO. 97-01384 DAE
	)	CIVIL NO. 98-00205 DAE
Plaintiff,)	
	)	RESPONSE OF DEFENDANT ASSOCIATES
vs.	)	FINANCIAL SERVICES COMPANY OF
	)	HAWAII, INC. TO PLAINTIFF'S FIRST SET
ASSOCIATES FINANCIAL SERVICES	)	OF REQUESTS FOR ADMISSIONS DATED
COMPANY OF HAWAII, INC.,	)	AUGUST 19, 1998
)	
Defendant.	)	TRIAL: MARCH 16, 1999
)	
<hr/>		
TERESA ANN LOPEZ,)	
)	
Plaintiff,)	
)	
vs.)	
)	
ASSOCIATES FINANCIAL LIFE)	
INSURANCE COMPANY,)	
)	
Defendant.)	
<hr/>		

5. The insurance was obtained through Defendant Insurance Co.

Admit _____ X _____ Deny _____

6. Defendant Insurance Co. is a Tennessee corporation, a non-domestic (in Hawaii) insurer.

Admit _____ Deny _____

Associates admits that AFLIC is a Tennessee corporation and that it is an admitted Hawaii insurer. The request is otherwise denied.

7. Ms. West did not explain anything about the insurance to Mr. and Mrs. Lopez except that they had to sign and date the disclosure statement requesting the insurance and fill out the application form which she gave them. A copy of that application form is attached hereto as Exhibit "C".

Admit _____ Deny _____ X _____

8. Ms. West left the room while they were filling out the application form.

Admit _____ Deny _____

Admit only that Ms. West left the room while the Lopezes filled out part of the Application. Otherwise denied.

9. When Ms. West returned, she took the application form without further explanation regarding the insurance.

Admit _____ Deny _____

Admit Ms. West reviewed the responses, accepted the Application and issued the Certificate for insurance based on the Lopezes "No" answers. Otherwise denied.

10. Neither Ms. West nor anyone else ever told Mr. and Mrs. Lopez that a misstatement, intentional or otherwise, would prevent their recovery under the policy.

Admit _____ Deny _____ X _____

11. Mr. and Mrs. Lopez filled out all forms given to them by Defendant Loan Co. honestly and to the best of their knowledge and belief.

Admit _____ Deny _____X_____

12. At all times herein, the licensed general agent in Hawaii for Defendant Insurance Co. was Beneficial Services, Inc.

Admit _____X_____ Deny _____

13. At all relevant times herein, Defendant Loan Co. was licensed in Hawaii as a *subagent* of Beneficial Services, Inc.

Admit _____X_____ Deny _____

14. On October 25, 1995, Christine West was licensed as a solicitor for Defendant Loan Co.

Admit _____X_____ Deny _____

15. Christine West and Defendant Loan Co. were the agents of Mr. and Mrs. Lopez in connection with the purchase of credit life insurance from Defendant Insurance Co.

Admit _____ Deny _____X_____

16. Christine West and Defendant Loan Co., in the instant transaction, had primary responsibility to the insureds, Mr. and Mrs. Lopez.

Admit _____ Deny _____X_____

59. The sale of credit life insurance resulted in profit to Defendants and its affiliates of more than 50% of the total premiums charged in 1997.

Admit _____ Deny _____

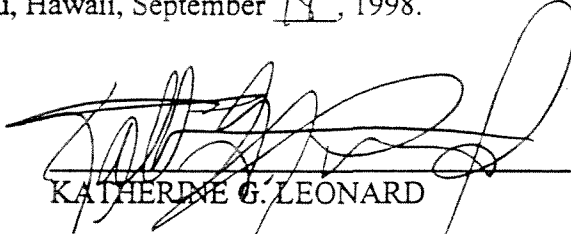
Objection, ~~vague~~ and ambiguous, overbroad, not relevant, not likely to lead to relevant evidence. (K. Leonard, attorney). Otherwise denied.

60. The profit structure is set deliberately high for credit life insurance as part of its design so that everyone who requests will be eligible with age restrictions only.

Admit _____ Deny _____

Objection, ~~vague~~ and ambiguous, overbroad, not relevant, not likely to lead to relevant evidence. (K. Leonard, attorney). Otherwise denied.

DATED: Honolulu, Hawaii, September 19, 1998.



KATHERINE G. LEONARD

Attorney for Defendants
ASSOCIATES FINANCIAL SERVICES
COMPANY OF HAWAII, INC. and
ASSOCIATES FINANCIAL LIFE
INSURANCE COMPANY

CARLSMITH BALL

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Pacific Tower, Suite 2200
1001 Bishop Street
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Tel. No. (808) 523-2500

Attorneys for Defendant
ASSOCIATES FINANCIAL SERVICES
COMPANY OF HAWAII, INC.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

TERESA ANN LOPEZ,	)	CIVIL NO. 97-01384 DAE
)	
Plaintiff,	)	DEFENDANT ASSOCIATES
	)	FINANCIAL SERVICES COMPANY OF
vs.	)	HAWAII, INC.'S SECOND
	)	SUPPLEMENTAL RESPONSE TO
ASSOCIATES FINANCIAL SERVICES)	)	PLAINTIFF'S FIRST
COMPANY OF HAWAII, INC.,	)	INTERROGATORIES TO DEFENDANT
	)	DATED MARCH 17, 1998
Defendant.)	
)	
_____)	

**DEFENDANT ASSOCIATES FINANCIAL SERVICES COMPANY OF
HAWAII, INC.'S SECOND SUPPLEMENTAL RESPONSE TO PLAINTIFF'S
FIRST INTERROGATORIES TO DEFENDANT DATED MARCH 17, 1998**

Defendant ASSOCIATES FINANCIAL SERVICES COMPANY OF
HAWAII, INC. ("Associates"), by and through its counsel, Carlsmith Ball hereby



responds to Plaintiffs' First Interrogatories to Defendant Associates dated March 17, 1998 as follows:

INTERROGATORIES

1. Please state the name of the person or persons furnishing information for the answers to these interrogatories.

Answer:

Defendant Associates Financial Services Company of Hawaii, Inc.

("Defendant") furnished the information for these answers.

The following people helped provide information for these answers (including the further responses which are still pending): Steve Massey, SVP, Compliance & Installations; Mark J. Morrison, V.P. & Controller/AIG Accounting; Albert J. Rudnickas, SVP, Consumer Life and P & C Claims Administration Servicing Team; Sheryl Hursh; Christine West; and Jeff Hamilton. In addition, in-house paralegals Kate Meler and Marjorie Alice Bennett helped compile information from business records and counsel for Defendant assisted in Defendant's response.

2. Please list and identify separately the owners, officers, directors of Defendant as well as the owners, officers and directors of Associates Financial Life Insurance Company. Please also identify the employees of Defendant's Kailua office from January 1, 1995 to the present.

Answer:

Defendant objects to this question on the grounds that it is overly broad, harassing, burdensome, and seeks information that is irrelevant and unlikely to lead to the discovery of admissible evidence in this action. Defendant also objects to the extent that this question seeks discovery that should be directed to Associates Financial Life Insurance Company, the defendant in a separate lawsuit filed by Plaintiff. Notwithstanding this objection, Defendant is providing herewith a corporate listing for Defendant and related entities. Defendant is owned by Associates Financial Services Company, Inc., which is owned by the Associates Investment Company, which is owned by Associates Corporation of North America, which is owned by Associates First Capital Corporation, a publicly owned corporation. In addition, the Kailua office employee who dealt with Plaintiff and her late husband in 1995 was Christine West, and in 1996 and 1997 Sheryl Hursh was the Kailua office employee who dealt with Plaintiff.

3. Please state separately the number of mortgage loans and non-mortgage loans made by Defendant in the State of Hawaii for the period January 1, 1995 to present.

Answers:

Defendant objects to this question as overly broad, irrelevant and unlikely to lead to the discovery of admissible evidence. In addition, Defendant objects because it considers this information to be proprietary.

The mortgage loans numbers for the State of Hawaii are as follows:

1995: 689

1996: 628

1997: 530

- a. For the mortgage loans above, please state the number that combined the sale of credit life insurance.

Answer:

Defendant objects to this question as irrelevant and unlikely to lead to the discovery of admissible evidence. In addition, Defendant objects because it considers this information to be proprietary.

The mortgage loans numbers including credit life are as follows:

1995: 408

1996: 341

1997: 197

- b. For the non-mortgage loans above, please state the number that contained the sale of credit life insurance.

Answer:

Defendant objects to this question as irrelevant and unlikely to lead to the discovery of admissible evidence. In addition, Defendant objects because it considers this information to be proprietary.

- c. For the mortgage loans above that contained credit life insurance, please state how many claims were made under the credit life insurance.

Answer:

Defendant objects to this question as irrelevant and unlikely to lead to the discovery of admissible evidence. In addition, Defendant objects to this question as unduly burdensome and expensive to respond to because Defendant does not have reports or summaries on credit life insurance claims and would have to review each and every individual file for Hawaii customers to formulate a response.

<u>1995</u>	<u>Claims Made</u>	<u>Claims Paid</u>	<u>Claims Denied</u>
Hawaii Loans (w/Credit Life Insurance)	46	40	6
Kailua Branch Loans	5	5	0
Real Estate Loans	6	4	2
Kailua Real Estate Loans	0	0	0
<u>1996</u>	<u>Claims Made</u>	<u>Claims Paid</u>	<u>Claims Denied</u>
Hawaii Loans	63	58	5
Kailua Branch Loans	4	3	1
Real Estate Loans	12	8	4
Kailua Real Estate Loans	1	0	1
<u>1997</u>	<u>Claims Made</u>	<u>Claims Paid</u>	<u>Claims Denied</u>
Hawaii Loans	66	66	0
Kailua Branch Loans	4	4	0
Real Estate Loans	8	8	0
Kailua Real Estate Loans	2	2	0

- d. For the claims that were made, please state how many were paid under the credit life insurance, how many were denied, and how many are still pending.

Answer:

Defendant objects to this question as irrelevant and unlikely to lead to the discovery of admissible evidence. In addition, Defendant objects to this question as unduly burdensome and expensive to respond to because Defendant does not have reports or summaries on credit life insurance claims and would have to review each and every individual loan file for Hawaii customers to formulate a response.

See Answer to 3.c. above.

- e. Please list the names and addresses of the individuals that made the claims that were denied.

Answer:

Defendant objects to this question as irrelevant and unlikely to lead to the discovery of admissible evidence. In addition, Defendant objects to this question as unduly burdensome and expensive to respond to because Defendant does not have reports or summaries on credit life insurance claims and would have to review each and every individual loan file for Hawaii customers to formulate a response.

Defendant also objects to releasing information regarding other individual customers as such information is propriety, and constitutes trade secrets and the release of this information would be unduly annoying, harassing, embarrassing and burdensome.

- f. For each credit life insurance claim denied, please list the reasons for each such denial.

Answer:

Defendant objects to this question as irrelevant and unlikely to lead to the discovery of admissible evidence. In addition, Defendant objects to this question as unduly burdensome and expensive to respond to because Defendant does not have reports or summaries on credit life insurance claims and would have to review each and every individual loan file for Hawaii customers to formulate a respond.

- g. How many of these policies, claims and denials involved Associates Financial Life Insurance Company?

Answer:

Defendant objects to this question as irrelevant and unlikely to lead to the discovery of admissible evidence. In addition, Defendant objects to this question as unduly burdensome and expensive to respond to because Defendant does not have reports or summaries on credit life insurance claims and would have to review each and every individual loan file for Hawaii customers to formulate a respond.

All or nearly all of the credit life insurance policies originated by Defendant during the relevant periods involved Associates Financial Life Insurance Company.

4. Please state separately the number of mortgage loans and non-mortgage loans made by Defendant's Kailua, Hawaii office for the period January 1, 1995 to the present.

Answer:

Defendant objects to this question as overly broad, irrelevant and unlikely to lead to the discovery of admissible evidence. In addition, Defendant objects because it considers this information to be proprietary.

The mortgage loans numbers for the Kailua Branch are as follows:

1995: 50

1996: 25

1997: 31

- a. For the mortgage loans above, please state the number that contained the sale of credit life insurance.

Answer:

Defendant objects to this question as irrelevant and unlikely to lead to the discovery of admissible evidence. In addition, Defendant objects because it considers this information to be proprietary.

The mortgage loan numbers including credit life are as follows:

1995: 33

1996: 12

1997: 11

- b. For the non-mortgage loans above, please state the number that contained the sale of credit life insurance.

Answer:

Defendant objects to this question as irrelevant and unlikely to lead to the discovery of admissible evidence. In addition, Defendant objects because it considers this information to be proprietary.

- c. For the mortgage loans above that contained credit life insurance, please state how many claims were made under the credit life insurance.

Answer:

Defendant objects to this question as irrelevant and unlikely to lead to the discovery of admissible evidence. In addition, Defendant objects to this question as unduly burdensome and expensive to respond to because Defendant does not have reports or summaries on credit life insurance claims and would have to review each and every individual loan file for Kailua customers to formulate a response.

See Answer to 3.c. above.

- d. For the claims that were made, please state how many were paid under the credit life insurance, how many were denied, and how many are still pending.

Answer:

Defendant objects to this question as irrelevant and unlikely to lead to the discovery of admissible evidence. In addition, Defendant objects to this question as

unduly burdensome and expensive to respond to because Defendant does not have reports or summaries on credit life insurance claims and would have to review each and every individual loan file for Kailua customers to formulate a response.

See Answer to 3.c. above.

- e. Please list the names and addresses of the individuals that made the claims that were denied.

Answer:

Defendant objects to this question as irrelevant and unlikely to lead to the discovery of admissible evidence. In addition, Defendant objects to this question as unduly burdensome and expensive to respond to because Defendant does not have reports or summaries on credit life insurance claims and would have to review each and every individual loan file for Kailua customers to formulate a response.

Defendant also objects to releasing information regarding other individual customers as such information is propriety, and constitutes trade secrets and the release of this information would be unduly annoying, harassing, embarrassing and burdensome.

- f. For each credit life claim denied, please state the reason for each such denial.

Answer:

Defendant objects to this question as irrelevant and unlikely to lead to the discovery of admissible evidence. In addition, Defendant objects to this question as unduly burdensome and expensive to respond to because Defendant does not have

reports or summaries on credit life insurance claims and would have to review each and every individual loan file for Kailua customers to formulate a response.

- g. How many of these policies, claims and denials involved Associates Financial Life Insurance Company.

Answer:

Defendant objects to this question as irrelevant and unlikely to lead to the discovery of admissible evidence. In addition, Defendant objects to this question as unduly burdensome and expensive to respond to because Defendant does not have reports or summaries on credit life insurance claims and would have to review each and every individual loan file for Kailua customers to formulate a response.

All or nearly all of the credit life insurance policies originated in the Kailua Branch during the relevant periods involved Associates Financial Life Insurance Company.

5. Please state whether compensation of any kind is paid by Associates Financial Life Insurance Company, or by anyone else, to the Defendant, its employees, or anyone else for the credit life insurance policies that are originated by Defendant. If so, please describe in detail the method of determining that compensation.

Answer:

Defendant objects to this question as overly broad and ambiguous, as well as irrelevant and unlikely to lead to the discovery of admissible evidence.

Notwithstanding this objection, neither Defendant nor its employees receive any direct compensation of any kind for the credit life insurance policies that are originated by Defendant.

No compensation of any kind is paid by Associates Financial Life Insurance Company to the Defendant, its employees, or anyone else for the credit life insurance policies that are originated by Defendant. No compensation of any kind is paid by anyone else to the Defendant or anyone else for the credit life insurance policies that are originated by Defendant. The only compensation of any kind paid by anyone to employees of Defendant that may possibly be considered to be for the credit life insurance policies that are originated by Defendant is by means of bonus plans in which some employees of Defendant may participate, which plans provide only a relatively small portion of an employee's total compensation, and which plans change from time to time and vary for different groups of employees. None of those bonus plans pay direct compensation of any kind for the credit life insurance policies that are originated by Defendant, but they do in some cases pay compensation based in part upon whether the financial performance of the branch office or offices in which the employee works exceeds certain targets of overall financial performance. One component of the overall performance is the credit life insurance sold by a branch. This financial performance component is the only component used in the bonus plans which relates in any way to the origination of credit life insurance.

Not all of the bonus plans include a component for financial performance. Even where applicable, financial performance is only one of many components that determine whether a bonus is earned. The sale of credit life insurance by a branch cannot alone produce a bonus because the bonus is payable only when the overall financial performance of the branch exceeds the target results and the other bonus criteria are satisfied. With this response, Defendant is providing the Branch Employee, Branch Manager and Group Manager Incentive Plans in effect as of 1995 attached hereto and Bates number stamped A0000589 through A0000606.

6. Please describe the corporate affiliation between Associates Financial Life Insurance Company and Defendant, indicating any common ownership, common officers and/or directors, and any other affiliation.

Answer:

Defendant and Associates Financial Life Insurance Company are both indirect subsidiaries of Associates First Capital Corporation, a publicly owned corporation.

See also Exhibit A hereto.

7. Is Defendant licensed in the State of Hawaii to sell credit life insurance? If so, identify and describe the license(s) so authorizing Defendant.

Answer:

Defendant is licensed to transact credit life insurance. See document Bates-stamped A0000426, previously produced to Plaintiff.

8. Is Defendant a credit life insurance agent for Associates Financial Life Insurance Company? If so, describe fully the terms of that agency.

Answer: No.

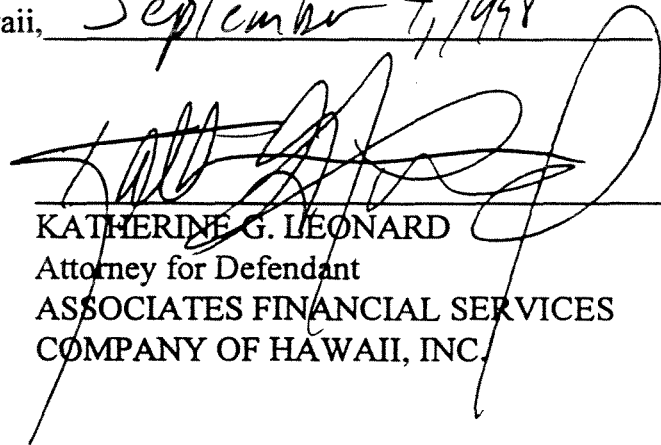
9. Is Defendant a credit life insurance agent for any other company? If so, please identify that company(ies) and state how many credit life policies have been originated for that company(ies) in the period from January 1, 1995 to present.

Answer: No.

As to the objections made above:

DATED: Honolulu, Hawaii,

September 4, 1998



A large, stylized handwritten signature in black ink, appearing to read 'Katherine G. Leonard', is written over a horizontal line.

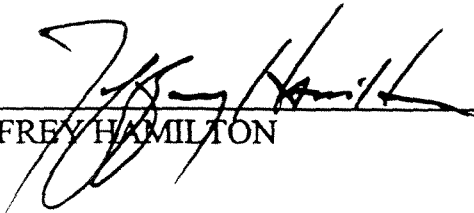
KATHERINE G. LEONARD
Attorney for Defendant
ASSOCIATES FINANCIAL SERVICES
COMPANY OF HAWAII, INC.

VERIFICATION

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

JEFFREY HAMILTON, being first duly sworn under oath, deposes and says that he has read the foregoing answers to interrogatories and the same are true to the best of his information, knowledge and belief.

FURTHER AFFIANT SAYETH NAUGHT.



JEFFREY HAMILTON

Subscribed and sworn to before me on
this 2nd day of September, 1998.

Janice M. Reyes Janice M. Reyes
Notary Public, State of Hawaii

My commission expires: 12/7/99

Performance

PLUS

Dear Branch Employee:

Welcome to "Performance Plus," the 1995 Associates branch employee cash incentive award program. As an Associates branch employee, you have the opportunity to earn quarterly awards when your branch meets or exceeds the "Performance Plus" goals outlined below. These cash awards are in addition to your regular salary, and will be paid for "Performance Plus." Goals have been established in five key areas that have major importance to our 1995 Business Plan.

- Personal Loan Growth
- Real Estate Unit Volume
- Expense/Waived Fee Reduction
- 30+ CD Control
- Customer Satisfaction

As a branch employee, you will work as part of your branch team, each quarter, to achieve top levels of performance, and eligibility for the resulting "Performance Plus" cash awards!

Please take this opportunity to familiarize yourself with the attached program rules and award information. First quarter scoring examples have been included to assist you in calculating your branch score during each quarter of the program.

"Performance Plus" is your opportunity to have your performance mean cash awards every quarter of 1995. We look forward to rewarding you for your success as you cash in on "Performance Plus!"

Sincerely,



T. R. Slone

A0000589

PERFORMANCE PLUS SCORING AND AWARDS

I. PERSONAL LOAN GROWTH (Quarterly percentage growth of Personal Loan outstanding dollars vs. prior quarter)

<u>Percent Growth</u>	<u>Award Per Employee</u>
0.1% - 1.0%	\$100
1.1% - 2.0%	\$200
2.1%+	\$300

II. REAL ESTATE UNIT VOLUME (Improvement vs. prior quarter)

<u>Improvement</u>	<u>Award Per Employee</u>
10.0% - 14.9%	\$100
15.0% - 19.9%	\$200
20.0% - 49.9%	\$300
50.0%+	\$500

III. EXPENSE/WAIVED FEE REDUCTION (Reduction vs. same quarter, prior year)

Includes waived fees and the following branch controllable expenses:

Overtime	Communications
Supplies	Travel
Collections	Credit Bureau
Credit Investigation	All Other

The goal for this category is a 10% reduction in expenses/waived fees versus the same quarter, prior year. The Performance Plus cash award is 10% of the dollar reduction, above the 10% goal, paid into a pool to be divided among all eligible employees.

IV. 30+ AVERAGE DAILY CD CONTROL (Improvement vs. prior month)

The goal for this category is to maintain an acceptable average daily 30+ CD percentage, as measured against the established standard. The CD monthly "standard" is determined by adding 5% to the prior month end CD percentage. The award is \$100 per employee, per month, when the average daily CD percentage, computed as of month end, does not exceed the standard. Complete details will be included in your program materials package.

V. CUSTOMER SATISFACTION INDEX (CSI) (Measured quarterly)

CSI COMPUTATION

The CSI will be a combination of three elements, each one being evaluated separately, then weighted and added together for an overall branch CSI score. Each of the three elements is listed below:

- A. Loan Closing Index (LCI) - An outbound telephone survey will be conducted with our loan closing customers by an outside research firm. The customers will be asked to evaluate the branch's delivery of The Ten Quality Service Promises. The LCI is worth 30% of the total CSI score.

B. Customer Relationship Index (CRI) - An outbound telephone survey will be conducted with our customers at various times of their relationship with us. The customers will be asked to evaluate the branch's delivery of the Ten Quality Service Promises. The CRI is worth 30% of the total CSI score.

C. Operational Index (OI) - Quarterly Renewal % + Quarterly FB% + Quarterly ATPC% - Quarterly P/O%. Points determined for the CSI would be based on the tiered level described below. The OI is worth 40 % of the total CSI score.

<u>Operational Index</u>	<u>Points added to CSI</u>
6.0 and above	40 points
5.0 to 5.9	32 points
4.0 to 4.9	24 points
3.0 to 3.9	16 points
2.0 to 2.9	8 points
less than 2.0	0 points

CSI awards will be based on the following award scale, quarterly:

<u>CSI Points</u>	<u>Award Per Employee</u>
90+	\$200
80-89	\$100
70-79	\$ 0
69 or less*	(\$100)

* This category carries a \$100 penalty per employee if the branch is below standard. Penalty will be assessed against awards earned for other categories. Complete details on CSI calculations will be included in your program materials package.

FIRST QUARTER GOALS

Information on first quarter goals set for your branch will be forwarded later in January. This information will explain what performance levels you need to reach to be rewarded at the various cash levels in "Performance Plus." Goals will be assigned by comparing individual branch results from the last quarter of 1994 to "Performance Plus" levels to be awarded in 1995.

TRACKING

Your branch's results in "Performance Plus" will be calculated by Branch Planning and sent to your location on a quarterly basis. Use this status report to update your standings on the "Performance Plus" tracking poster to measure your success in the program each quarter. First quarter tracking posters will be sent with first quarter branch goals.

PROGRAM ELIGIBILITY

No branch employee awards are earned if the branch does not achieve internal growth during the quarter.

All cash awards will be paid quarterly. Participants must be actively employed by The Associates throughout the entire quarter, and at the time of awards distribution, to earn that quarter's cash awards. Active employment does not include employees on leave of absence for any reason. Employees who begin or end a leave of absence during the quarter are not eligible for awards. Employees who transfer during the program are eligible for cash awards based on their location at the end of the quarter. No award is earned until paid.

Branch Managers are not included in this program. Branch Sales Managers will be eligible to earn 1.5 times the full-time employee award. (This replaces the Branch Sales Manager 1994 Bonus Program.) Part-time employees are eligible to earn one half the cash award earnings of full-time employees, if they average 20 hours per week during the quarter.

Cash awards are reported as income and are subject to standard income tax deductions.

Quarterly results will be subject to audit. Manipulation of data will not be tolerated. Associates Financial Services Company, Inc. reserves the right to amend or cancel this program at any time. The decisions of management concerning participation shall be final.

A0000592

1995 'PERFORMANCE PLUS' SCORING EXAMPLES

1) PERSONAL LOAN GROWTH (Compared to prior quarter ending outstandings)

If your branch had personal loan outstandings at 12/31/94 of ...	\$1,800,000
... and you finish the 1st quarter with personal loan outstandings of ...	\$1,840,500
... then your internal growth for the quarter is ...	\$40,500
... or as a percentage of your start point ...	2.25%

Based on the award ranges for personal loan growth, each employee in the branch would receive a first quarter award in this category of ...

\$300

(Note: The growth will be adjusted for acquisitions and transfers to calculate internal growth. No distinction will be made between locally-sourced and corporate acquisitions.)

2) REAL ESTATE UNIT VOLUME (Compared to prior quarter unit volume)

If your branch had real estate unit volume in the 4th quarter of 1994 equal to ...	7
... and you finish the 1st quarter with real estate unit volume of ...	9
... then your volume unit increase for the quarter is ...	2
... or as a percentage of your prior quarter ...	28.57%

Based on the award ranges for real estate unit volume, each employee in the branch would receive a first quarter award in this category of ...

\$300

3) EXPENSE/WAIVED FEE REDUCTION (Compared to same quarter prior year)

If your branch had controllable expenses and waived fees in the 1st quarter of 1994 equal to ...	\$34,500
... and you finish the 1st quarter of 1995 with controllable expenses and waived fees equal to ...	\$26,400
... then your reduction from the same quarter/prior year is equal to ...	\$8,100
... or as a percentage of the same quarter/prior year ...	23.48%
... and since this is over 10%, you will qualify for the award.	

Since your savings were ...	\$8,100
... and the savings at a 10% reduction would have been ...	\$3,450
... the "excess savings" over 10% is equal to ...	\$4,650

The award that is shared by the branch employees (excluding the manager) is 10% of the "excess savings" ...

\$465

If the branch has 3 employees (excluding the manager), each employee in the branch would receive a first quarter award in this category of ...

\$155

4) 30+ CD AVERAGE DAILY % (Compared to prior month-end plus 5%)
(Sum of every day's 30+ CD Ratio divided by the number of work days)

If your branch had a 30+ CD ratio at 12/31/94 of ... 6.1%
... then your target for January's average daily 30+ CD % is ... 11.1%
If your branch maintains an average daily 30+ CD ratio in January of ... 10.9%
... each employee in the branch would be "credited" with a January
award in this category of ... \$100

If your branch had a 30+ CD ratio at 1/31/95, of ... 6.0%
... then your target for February's average daily 30+ CD % is ... 11.0%
If your branch maintains an average daily 30+ CD ratio in February of ... 10.7%
... each employee in the branch would be "credited" with a February
award in this category of ... \$100

If your branch had a 30+ CD ratio at 2/28/95, of ... 5.7%
... then your target for March's average daily 30+ CD % is ... 10.7%
If your branch maintains an average daily 30+ CD ratio in March of ... 10.6%
... each employee in the branch would be "credited" with a March
award in this category of ... \$100

Based on the branches' performance in each month, each employee
in the branch would receive a first quarter award in this category of ...

\$300

5) CUSTOMER SATISFACTION INDEX (Quarterly)

If your branch achieves a Customer Satisfaction Index in the 1st quarter equal to 94

Then based on the award ranges for the Customer Satisfaction Index, each employee
in the branch would receive a first quarter award in this category of ...

\$200

TOTAL BONUS PER EMPLOYEE FOR THE FIRST QUARTER EXAMPLE

\$1,255

(Less applicable taxes; awards will not be "grossed up.")

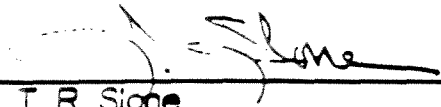
A0000594


ASSOCIATES FINANCIAL SERVICES COMPANY, INC.

U.S. BRANCH OPERATIONS

BRANCH MANAGER INCENTIVE PLAN

APPROVAL PAGE

APPROVED BY:  Date _____
T. R. Stone

APPROVED BY:  Date 1-31-95
J. M. McQuillan



INTER-OFFICE

Date: February 10, 1995
To: Branch Managers
cc: H. J. Fullen
R. L. Janning
K. E. Mize
SVPs
OVPs
Group Managers
From: T. R. Slone
Subject: 1995 Branch Manager Incentive Plan

Attached you will find the 1995 Branch Manager Incentive Plan.

Since controlling delinquency is very important to our overall success, the 1995 plan has added a delinquency component. You can now earn an additional 10% of your quarterly bonus if the average daily delinquency percentage for your branch does not exceed "standard" for the quarterly incentive period. Please review the new section in the attached plan document that explains the delinquency component.

Besides this addition, the basic plan has not changed. It will continue to provide you the opportunity to earn a significant bonus based on your branch's profit and growth.

Thank you for your hard work. Remember that you are important to our overall success.

My best wishes for a successful and profitable 1995.

Sincerely,


T. R. Slone

"1995: Commitment Keeps the Drive Alive"

ASSOCIATES FINANCIAL SERVICES COMPANY, INC.
BRANCH MANAGER
INCENTIVE PLAN

ELIGIBILITY FOR PARTICIPATION

Only those persons actively employed as a Branch Manager within the Associates Financial Services Company, Inc. (the "Participant"), as defined within the Salary Administration Program, are eligible for participation in this Plan.

PURPOSE

The objective of the Branch Manager Incentive Plan is to provide an opportunity for Branch Managers to participate directly in the profits of their branch and thereby earn supplemental income when profits are produced and the profit ratio exceeds the minimum profit ratio.

The program is aimed at rewarding the top producers relative to profit performance.

BASE SALARY

The Corporation maintains a Salary Administration Program independent of this Plan. Base salary is the primary source of compensation and this plan shall serve only as a means to potentially earn supplemental income for superior operating performance as defined within this document.

PROFIT AND PROFIT RATIOS

The branch's fully allocated contribution to profit will be the basis for the bonus. It will include an allocation of administrative overhead representing State and Division administration, Consumer Headquarters and Corporate expense. It will not include adjustments to loss reserves related to receivable growth (liquidation) nor retroactive adjustments to insurance income. These items, which are not allocated, have been considered in establishing the Minimum Profit Ratio (MPR).

The Minimum Profit Ratio by branch is established on a state basis and approved by the Executive Vice Presidents, taking into account state regulatory environments and overall Corporate profit objectives and strategies.

To provide a partial allowance for the impact of large and dramatic increase (or decrease) in money cost ratios, the company reserves the right to adjust the Minimum Profit Ratio at any time during the program year.

BONUS AWARDS

The quarterly bonus will be calculated as a percentage of the branch profit. The percentage will be determined as follows:

<u>Profit Ratio Over MPR</u>	<u>Percentage of Branch Profit for Bonus Calculation</u>
0.0 to .99%	.75%
1.0 to 1.99%	1.00%
2.0 to 2.99%	1.25%
3.0 to 3.99%	1.50%
4.0 to 4.99%	1.75%
5.0 to 5.99%	2.00%
6.0 to 6.99%	2.25%
7.0 to 7.99%	2.50%
8.0 to 8.99%	2.75%
9.0 to 9.99%	3.00%

**For each 1% increment in the Profit Ratio Over MPR above 9.99%,
the Percentage of Branch Profit is increased by .25%**

Internal Growth Adjuster

- o Branches with liquidation for the period will receive 75% of the calculated bonus.
- o Branches with internal growth up to 2.5% for the period will receive 100% of the calculated bonus.
- o Branches with internal growth over 2.5% for the period will receive 125% of the calculated bonus.

NOTE: Internal growth calculation will net out transfers and acquisitions. Additionally, transfers from a CPO office to a branch will not be deducted from internal growth.

30+ Average Daily CD Control

The Branch Manager's quarterly bonus, including the Internal Growth adjustment, if any, will be increased by 10%, if the average daily delinquency percentage does not exceed "standard" for the quarterly incentive period.

"Standard" is the average of the month end percentages for the branch for the three months in the incentive period plus 5%.

Example:	<u>Avg. Daily Delinquency For Branch During Month</u>	<u>Month End Delinquency</u>
Jan	9.8	4.5
Feb	9.3	4.7
March	9.1	4.6
Avg. for Quarterly Incentive Period	9.4	4.6+5.0 = 9.6 = "Standard"

Bonus Calculation:

9.4 < 9.6

Therefore, Branch Manager will be eligible to receive a 10% increase in the quarterly bonus.

Example:

SAMPLE BRANCH # 1		SAMPLE BRANCH # 2	
Branch profit \$ for QTR	\$179,000	Branch profit for the QTR	\$297,000
Branch profit % for the QTR	9.50%	Branch profit % for the QTR	8.80%
State MPR	5.00%	State MPR	5.00%
Branch profit % O/U MPR	4.50%	Branch profit % O/U MPR	3.80%
% of profit \$ for calculation	1.75%	% of profit \$ for calculation	1.50%
Bonus calculation based on profit	\$3,132.50	Bonus calculation based on profit	\$4,455.00
Beginning O/S	\$7,500,000	Beginning O/S	\$11,400,000
Internal growth for QTR	\$246,500	Internal growth for QTR	(\$34,000)
Internal growth %	3.29%	Internal growth %	-30%
Internal growth adjuster	125%	Internal growth adjuster	75%
Bonus adjusted for growth	\$3,915.63	Bonus adjusted for growth	\$3,341.25
Average daily delinquency percentage does not exceed "standard" for quarter 10% X 3915.63 =	\$391.56	Average daily delinquency percentage does not exceed "standard" for quarter 10% X 3341.25 =	\$334.13
Total Quarterly Bonus	\$4,307.19	Total Quarterly Bonus	\$3,675.38

BONUS PAYMENT DATES

The incentive award under this program will be calculated and paid approximately 60 days after the end of the incentive period.

WINDFALL PROFITS

The division has the discretionary power of changing the bonus awards to adjust for "windfall" profit situations normally associated with, but not limited to, substantial loss recoveries for which the operating area had no responsibility, new branch openings, bulk transfers, etc. Any adjustments must be approved by the Division Senior Vice President and the Executive Vice President.

PLAN PARTICIPATION

A Participant may enter the Plan at any time. Participation in the Plan may be retroactively revoked for violating Company policy and the President may determine not to award an incentive when in his/her judgement actual results of the Participant's branch vary from the reported results or subsequent variances are encountered or for failure to follow Company policies, violation of loan laws, irregularities in branch operations or practices and other similar matters.

CHANGES OF ASSIGNMENT

Participants who are transferred during the plan period, or persons who are promoted to a participating position during the period, will receive a prorated payment based on the results of each assignment during the period.

For example, a participant who is transferred after 4 months would receive the full, first quarter bonus earnings of the prior area plus $\frac{1}{3}$ of the second quarter bonus earnings of the prior area and $\frac{2}{3}$ of the second quarter bonus earnings of the new area.

TERMINATION

The Branch Manager Incentive Plan is for continuing employees of the Company who are actively at work during the incentive periods and nothing contained in the Plan shall vest any right to the incentive awards until payment is actually made. No award is earned until paid. The termination of active employment for whatever reason, other than by death or retirement, before the incentive awards are paid voids all rights to eligibility for such awards.

ADMINISTRATION

The administration, interpretation and operation of this Plan will be primarily the responsibility of the President. All determinations of the President shall be final, binding and conclusive.

PLAN AMENDMENTS AND TERMINATION

The Corporation reserves the right to amend or terminate this Plan at any time without notice, at its sole discretion. This Plan does not constitute a contract of employment or term or condition of employment.

AT-WILL EMPLOYMENT


Nothing in this plan shall be construed as creating a contract or term of employment. Employment remains at-will and may be terminated by the employee or the Corporation at any time for any reason or no reason at all.

ASSOCIATES FINANCIAL SERVICES COMPANY, INC.

U. S. BRANCH OPERATIONS

GROUP MANAGER INCENTIVE PLAN

APPROVAL PAGE

APPROVED BY:  DATE: 1-28-97
T. R. Slone

**ASSOCIATES FINANCIAL SERVICES COMPANY, INC.
GROUP MANAGER
INCENTIVE PLAN**

Revised 1/1/97

I ELIGIBILITY FOR PARTICIPATION

Only those persons actively employed as a Group Manager within the Associates Financial Services Company, Inc. ("Participant"), as defined within the Salary Administration Program, are eligible for participation in this Plan.

II PURPOSE

The objective of the Group Manager Incentive Plan is to provide an opportunity for Group Managers to participate directly in the growth and profitability of their branches and thereby earn supplemental income when growth and/or profits are produced and the branches meet or exceed their customer service index rating.

The program is aimed at rewarding the top producers relative to growth and profitability.

III BASE SALARY

The Corporation maintains a Salary Administration Program independent of this Plan. Base salary is the primary source of compensation and this Plan shall serve only as a means to potentially earn supplemental income for superior operating performance as defined within this document.

IV. INCENTIVE AWARDS

A Group Manager may be eligible to receive a quarterly incentive award. The quarterly incentive award is calculated by multiplying the average quarterly incentive award for all of the Branch Managers under his/her supervision, as calculated by the BMIP incentive formula, by a factor.

The exact factor is determined as follows:

<u>Factor</u>	<u>Number of Branches Managed at the End of the Quarterly Incentive Period</u>
2.00	Less than 9 branches
2.25	9 or 10 branches
2.50	More than 10 branches

Branch Managers who did not receive an incentive award should be included for purposes of determining the average quarterly incentive award.

V. INCENTIVE PAYMENT DATES

Incentive awards will be paid quarterly approximately 30 days after the end of the quarterly incentive period.

VI. WINDEALL PROFITS

The division has the discretionary power of changing the incentive awards to adjust for "windfall" profit situations normally associated with, but not limited to, substantial loss recoveries for which the operating area had no responsibility, new branch openings, bulk transfers, etc. Any adjustments must be approved by the Group President.

VII. PLAN PARTICIPATION

A Participant may enter the Plan at any time. Participation in the Plan may be retroactively revoked for violating Company policy and the President of Consumer Branch Operations may determine not to award incentive payments when in his/her judgement actual results of the Participant's group vary from the reported results or subsequent variances are encountered, or for failure to follow Company policies, violation of loan laws, irregularities in group operations or practices, and other similar matters.

VIII. CHANGES OF ASSIGNMENT

Participants who are transferred during the quarterly incentive period, or persons who are promoted to a participating position during the quarterly incentive period, will receive a prorated payment based on the results of each assignment during the quarterly incentive period.

For example, a participant who is transferred May 1 would receive the full, first quarter incentive award earnings of the prior area plus 1/3 of the second quarter incentive award earnings of the prior area and 2/3 of the second quarter incentive award earnings of the new area.

IX. TERMINATION

The Group Manager Incentive Plan is for continuing employees of the Company who are actively at work during the quarterly incentive periods and nothing contained in the Plan shall vest any right to the incentive awards until the payment is actually made. No award is earned until paid. The termination of active employment, for whatever reason, other than by death or retirement, before the incentive awards are paid, voids all rights to eligibility for such awards.

X. ADMINISTRATION

The administration, interpretation, and operation of this Plan will be primarily the responsibility of the President of Consumer Branch Operations. All determinations of the President of Consumer Branch Operations shall be final, binding, and conclusive.

XI. PLAN AMENDMENTS AND TERMINATION

The Corporation reserves the right to amend or terminate this Plan at any time without notice, at its sole discretion. This Plan does not constitute a contract of employment or term or condition of employment.

XII. AT-WILL EMPLOYMENT

Nothing in this plan shall be construed as creating a contract or term of employment. Employment remains at-will and may be terminated by the employee or the Corporation at any time for any reason or no reason at all.

DEPOSITION OF JEFFREY HAMILTON TAKEN ON APRIL 9, 1998

PAGE 1 TO PAGE 124

RALPH ROSENBERG COURT REPORTERS

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EXHIBIT N

[1] A. Yes.
 [2] Q. When did you start working after that?
 [3] A. Let me answer that by saying I started in the
 [4] finance business in 1965.
 [5] Q. That's fine. And prior to that -
 [6] A. Various jobs.
 [7] Q. Who did you start with in 1965 in the finance
 [8] business?
 [9] A. The company was known as Budget Finance.
 [10] Q. And how long did you work there?
 [11] A. I started on October 11, 1965. We were
 [12] purchased by Associates in 1972.
 [13] Q. Okay. So you started working for Associates
 [14] in 1972?
 [15] A. Correct.
 [16] Q. What was your position then?
 [17] A. Branch manager.
 [18] Q. How long were you a branch manager and where
 [19] were you?
 [20] A. First assignment as branch manager for
 [21] Associates was 1972 in Waipahu branch. I left there in
 [22] 1978 and went to work for Dial Finance on the Big
 [23] Island.
 [24] Q. How long did you work there?
 [25] A. My total time with Norwest - Dial was bought

[1] by Norwest. So then I worked for them for about 15
 [2] years, then returned to Associates.
 [3] Q. So when did you return to Associates?
 [4] A. March 1st, 1993.
 [5] Q. What was your position when you returned?
 [6] A. Division vice president.
 [7] Q. And is that what your position is now?
 [8] A. Yes.
 [9] Q. What are the duties of division vice
 [10] president?
 [11] A. I'm responsible for the operations in Hawaii,
 [12] the total operations in Hawaii.
 [13] Q. My understanding is you're the highest ranking
 [14] person in Hawaii.
 [15] A. Correct.
 [16] Q. Is that correct?
 [17] A. Correct.
 [18] Q. Who is your supervisor?
 [19] A. His name is Ed Wooten, W-o-o-t-e-n. He's
 [20] executive vice president.
 [21] Q. Where is he?
 [22] A. Out of Dallas corporate office.
 [23] Q. Now, when you say "corporate office," that's not
 [24] Associates Financial Services Company of Hawaii, Inc.?
 [25] A. It is not.

[1] Q. What is it?
 [2] A. That's a good question. We've just recently
 [3] undergone some changes with corporate structuring
 [4] because of the stock thing. So it would be the
 [5] Associates Corporation of North America, I believe, now.
 [6] Q. Is that Inc. or is that just Associates?
 [7] A. That's part of Associates First Capital Corp.,
 [8] which is the parent.
 [9] Q. Is that a holding company?
 [10] A. No. We are public traded.
 [11] Q. I'm sorry to - the latter company, does it
 [12] own all - let me ask you this: Who owns Associates
 [13] Financial Services Company of Hawaii?
 [14] A. Associates First Capital Corp.
 [15] Q. Do they also own the company that Mr. Wooten
 [16] works for?
 [17] A. Yes.
 [18] Q. Do they also own Associates Financial Life
 [19] Insurance Company?
 [20] A. Yes.
 [21] Q. And has that been true since 1995?
 [22] A. I don't know.
 [23] Q. Who would know that?
 [24] MS. LEONARD: If you know. You're not to
 [25] guess.

[1] A. I would assume Ed Wooten would know. I don't
 [2] know.
 [3] BY MR. PAER:
 [4] Q. Who is the president of Associates Financial
 [5] Life Insurance Company, Inc.?
 [6] A. I don't know.
 [7] Q. Of the Hawaii company, you don't know?
 [8] A. No. Associates -
 [9] Q. - Financial -
 [10] A. No. Restate the question.
 [11] Q. Okay. If you know, who is president of
 [12] Associates Financial Services Company of Hawaii, Inc.?
 [13] MS. LEONARD: That's a different question.
 [14] MR. PAER: Okay. I'm sorry.
 [15] MS. LEONARD: Go ahead and answer the last
 [16] question, Jeff.
 [17] A. I don't know.
 [18] BY MR. PAER:
 [19] Q. Okay. Do you know who any of the officers of
 [20] that company are?
 [21] A. I know I'm one of them.
 [22] Q. You're a vice president?
 [23] A. Right.
 [24] Q. All right. Do you know who the members of the
 [25] board of directors are for that company?

[1] A. No.
 [2] Q. None of them?
 [3] A. No.
 [4] Q. You're not one?
 [5] A. I'm going to have to say I think I am.
 [6] Q. A director?
 [7] A. A director.
 [8] Q. Have you ever been to a directors meeting, a
 [9] board meeting?
 [10] A. No.
 [11] Q. Are board meetings ever held, to your
 [12] knowledge, in Hawaii?
 [13] MS. LEONARD: Objection. Compound. Vague and
 [14] ambiguous.
 [15] BY MR. PAER:
 [16] Q. You can answer it.
 [17] A. I don't know.
 [18] Q. Other than your attorneys, have you discussed
 [19] this case with anybody?
 [20] A. No.
 [21] Q. You haven't talked the case over with Sheryl
 [22] Hursh or -
 [23] A. No, I have not.
 [24] Q. Have you discussed it with Ed Wooten?
 [25] A. No, I have not.

[1] Q. You obtained a license for Associates to sell
 [2] different kinds of insurance; is that correct?
 [3] A. No, I did not.
 [4] Q. Okay.
 [5] MR. PAER: Would you mark that Exhibit 1,
 [6] please?
 [7] (Exhibit 1 marked for identification.)
 [8] BY MR. PAER:
 [9] Q. Showing you what's been marked Exhibit 1, can
 [10] you tell me what that is?
 [11] A. That's a subagent license for the license -
 [12] for the lines of insurance that are listed.
 [13] Q. Your name is shown on there as designated
 [14] representative?
 [15] A. Correct.
 [16] Q. How did you come to get that?
 [17] A. The license?
 [18] Q. This license.
 [19] A. This license was obtained when I became a
 [20] subagent when I was with Norwest Financial, as part of
 [21] my duties there. When I transferred - when I moved
 [22] back to Associates, the license was transferred to
 [23] Associates.
 [24] Q. Does that change your answer to the question
 [25] earlier that -

[1] A. Restate the question.
 [2] MR. PAER: Can you restate that question?
 [3] (Record was read as requested.)
 [4] A. I did not.
 [5] BY MR. PAER:
 [6] Q. You did not?
 [7] A. No.
 [8] Q. You didn't obtain this license for Associates?
 [9] A. No, I didn't.
 [10] Q. How did it happen?
 [11] A. I'll repeat what I said earlier. I was
 [12] required as part of my job with Norwest Financial to be
 [13] the subagent for different lines of insurance that
 [14] Norwest sold during my tenure with them. When I moved
 [15] back to Associates, this license was transferred to --
 [16] by the corporate offices to the Associates Financial
 [17] Services Company of Hawaii.
 [18] I did not obtain a license for Associates
 [19] Financial Services to sell insurance in the state.
 [20] Q. So somebody in the corporate office of
 [21] Associates obtained the license with you as designated
 [22] representative; is that what you're saying?
 [23] MS. LEONARD: Objection. His answer speaks
 [24] for itself. Misstates his answer.
 [25] MR. PAER: He can say no. I'm trying to

[1] understand what he's saying.
 [2] A. Would you restate your question for me?
 [3] BY MR. PAER:
 [4] Q. Are you telling me that someone in the
 [5] corporate offices of Associates Financial Services
 [6] Company of Hawaii, Inc. or some other corporate office
 [7] of Associates had the license transferred with you as
 [8] designated representative?
 [9] A. Yes.
 [10] Q. Okay. Was it the corporate office of
 [11] Associates Financial Services of Hawaii, Inc. or was it
 [12] some other Associates office?
 [13] A. Well, I do know it was handled by our
 [14] corporate offices in Dallas. Specifically which part of
 [15] the corporate offices, I do not know.
 [16] Q. It was done with your consent, I take it.
 [17] A. Yes.
 [18] Q. Did you have to sign anything to complete the
 [19] transfer?
 [20] A. I don't remember.
 [21] Q. Okay. Do you remember how you got the license
 [22] in the first place with either Dial or Norwest?
 [23] A. I remember that very well.
 [24] Q. What did you have to do? Did you take an exam
 [25] or --

[1] A. Yes.
 [2] Q. Anything else?
 [3] A. There was an appointment by -- I remember
 [4] there's forms that have to be completed in order to be
 [5] appointed as general or subagent and I do remember that.
 [6] It's been a number of years, but yes, other than the
 [7] licensing, there was an appointment to that position.
 [8] Q. An appointment and an exam?
 [9] A. Examination for any of these licenses is
 [10] required by the state. Once you pass the examination,
 [11] you have to be appointed either a general agent or
 [12] subagent by an authorized insurance carrier here in
 [13] Hawaii.
 [14] Q. And who was that that appointed you?
 [15] A. I don't remember.
 [16] Q. Do you have to be appointed when you transfer
 [17] the license?
 [18] A. I don't know.
 [19] Q. Are you appointed by anybody now, if you know?
 [20] A. I don't know.
 [21] Q. Okay. What is your understanding as to the
 [22] difference between a general agent and a subagent?
 [23] MS. LEONARD: Objection. Calls for a legal
 [24] conclusion.
 [25] MR. PAER: I'm asking for his understanding.

[1] BY MR. PAER:
 [2] Q. You can answer it.
 [3] A. Very similar roles. They both have very
 [4] similar powers. There is some provisions in the
 [5] insurance code that as a subagent I would not be able to
 [6] do, and I'd have to go back to the textbooks to refresh
 [7] my memory on that. Basically, it's very similar to
 [8] being a general agent.
 [9] Q. What are the powers that a general agent has?
 [10] MS. LEONARD: Objection. Calls for a legal
 [11] conclusion.
 [12] BY MR. PAER:
 [13] Q. What is your understanding of the powers that
 [14] a general agent has?
 [15] A. General agent has the ability to manage an
 [16] agency, appoint solicitors, countersign insurances or
 [17] various lines of insurance policies and related duties.
 [18] Q. Does a subagent have the power to appoint
 [19] solicitors?
 [20] A. Yes.
 [21] Q. What is a solicitor?
 [22] A. Someone appointed by an agent, subagent or
 [23] general agent to represent the company in which the type
 [24] of insurance line is being sold.
 [25] Q. Is Exhibit 1 the only insurance license that

[1] Associates Financial Services Company of Hawaii, Inc.
 [2] has?
 [3] A. I believe so.
 [4] Q. You're not aware of any others?
 [5] A. No.
 [6] Q. Are you aware of any licenses held by any of
 [7] the employees of Associates Financial Services Company
 [8] of Hawaii, Inc.?
 [9] A. Could you clarify that question?
 [10] Q. What I'm trying to get at is: Do your
 [11] employees write insurance under this license or do they
 [12] have their own license?
 [13] A. They're appointed under this license.
 [14] Q. So you're not aware of any licenses held by
 [15] employees individually?
 [16] MS. LEONARD: Objection. Vague and ambiguous.
 [17] BY MR. PAER:
 [18] Q. Either you are or you aren't.
 [19] MS. LEONARD: There could be different kinds
 [20] of licenses, John. It's a vague question.
 [21] A. I'm having difficulty understanding what it is
 [22] you're asking.
 [23] BY MR. PAER:
 [24] Q. Are you aware of any employee that holds an
 [25] insurance license other than this one?

[1] MS. LEONARD: Objection. Vague and ambiguous.
 [2] You can answer if you understand the question.
 [3] THE WITNESS: Well, the question is not right.
 [4] MS. LEONARD: I know. Then you can't
 [5] understand it.
 [6] THE WITNESS: Yeah.
 [7] A. I can't answer that.
 [8] BY MR. PAER:
 [9] Q. Why not?
 [10] A. Well, you need to state the question in a
 [11] manner in which I can understand it.
 [12] Q. Why can't you answer that question?
 [13] A. I just said that. So if you want to restate
 [14] it in a way I can answer it, I'll certainly answer it
 [15] for you.
 [16] Q. This is an insurance license, is it not,
 [17] Exhibit 1?
 [18] A. Right. It is.
 [19] Q. Okay. Does any other employee of Associates
 [20] Financial Services Company of Hawaii, Inc. have
 [21] personally an insurance license or license to sell any
 [22] kind of insurance or not?
 [23] A. Yes.
 [24] Q. Who?
 [25] A. Many employees.

Page

Page 22

[1] Q. Okay. What types of licenses do they have?
 [2] A. Life, accident, health, property and casualty.
 [3] Q. When they sell insurance for Associates
 [4] Financial Services Company of Hawaii, Inc., they sell
 [5] them under the license Exhibit 1 or under their own
 [6] licenses?
 [7] A. In order for them to sell insurance, they
 [8] would have to be appointed as a solicitor under this
 [9] license.
 [10] Q. Okay. So are they subagents of this license,
 [11] in your understanding, or -
 [12] A. No.
 [13] Q. Okay.
 [14] A. They're solicitors.
 [15] Q. And how do they get appointed?
 [16] A. After successfully passing the examinations
 [17] required by the State, there's an affidavit along with
 [18] an application for solicitors license that's completed.
 [19] They're signed, notarized. I sign off as the subagent
 [20] for our corporation and it's submitted to the insurance
 [21] division for issuance of a license.
 [22] Q. So all of the employees who have licenses as
 [23] solicitors are appointed through this license,
 [24] Exhibit 1 -
 [25] A. Correct.

[1] this license, Exhibit 1, allows Associates to sell
 [2] credit life insurance?
 [3] A. Credit life insurance in this state comes
 [4] under the limited license provision of the insurance
 [5] code. As a subagent or a general agent of an authorized
 [6] carrier that is authorized to sell credit life, the
 [7] provisions of this particular license, to my
 [8] understanding, would allow for that.
 [9] Q. So is it your understanding, then, that
 [10] anything that you can do with a limited license you
 [11] could also do with a subagent's license?
 [12] MS. LEONARD: Objection. Misstates the
 [13] answer.
 [14] MR. PAER: I'm not stating the answer. I'm
 [15] asking a question.
 [16] BY MR. PAER:
 [17] Q. Is that your understanding or not?
 [18] MS. LEONARD: Objection. Vague and ambiguous.
 [19] THE WITNESS: You'll need to restate the
 [20] question, please.
 [21] BY MR. PAER:
 [22] Q. All right. My question is that a subagent's
 [23] license includes all of the powers of a limited license
 [24] plus some others; is that right? Is that your
 [25] understanding?

Page 20

Page 23

[1] Q. - is that correct?
 [2] A. (Witness nods.)
 [3] Q. Are there any other licenses that any
 [4] employees hold, other than as solicitors?
 [5] A. No.
 [6] Q. Is it your understanding that Exhibit 1 allows
 [7] - I'm going to call Associates Financial Services
 [8] Company of Hawaii, Inc. just Associates.
 [9] So is it your understanding that Exhibit 1
 [10] allows Associates to sell life insurance?
 [11] MS. LEONARD: Objection. Calls for a legal
 [12] conclusion.
 [13] BY MR. PAER:
 [14] Q. You can answer.
 [15] A. Would you restate the question?
 [16] Q. Is it your understanding that Exhibit 1 allows
 [17] Associates to sell life insurance?
 [18] A. Would you clarify "life insurance"?
 [19] Q. No. I think the question is fairly clear. If
 [20] you want to clarify your answer in some way -
 [21] A. I'll answer by saying yes.
 [22] Q. Okay. Is it your understanding that Exhibit 1
 [23] allows Associates to sell credit life insurance?
 [24] A. Yes.
 [25] Q. You see on the document it says Authorized

[1] MS. LEONARD: If that's not your
 [2] understanding, you can simply answer no. If it is, you
 [3] can answer yes. If you don't understand the question,
 [4] you can say you don't understand the question. I
 [5] mean -
 [6] A. It would depend on the authorized insurer that
 [7] you were representing as a sub or general.
 [8] BY MR. PAER:
 [9] Q. Why would it depend on the insurer?
 [10] A. They may not be in the business of credit
 [11] insurance.
 [12] Q. Well, if they are -
 [13] A. Then it would.
 [14] Q. Okay. So credit life is specifically provided
 [15] for in the limited license section; is that your
 [16] understanding?
 [17] A. Yes.
 [18] Q. It's not specifically provided for in the
 [19] subagent section; is that your understanding?
 [20] MS. LEONARD: Objection. Vague and ambiguous.
 [21] Repeat my general objection to the calling for legal
 [22] conclusions.
 [23] THE WITNESS: Do you want to try that question
 [24] again?
 [25] BY MR. PAER:

Page 21

Page 24

[1] Insurance Classes, and then it shows Life, yeah?
 [2] A. Correct.
 [3] Q. But it doesn't show credit life, does it?
 [4] A. No, it doesn't.
 [5] Q. Okay. How do you come by your understanding
 [6] that Exhibit 1 allows Associates to sell credit life?
 [7] MS. LEONARD: I'm going to object. John, if
 [8] you'd like, I'll just put a standing objection on the
 [9] record to the extent that these questions about
 [10] insurance requirements call for legal conclusions.
 [11] Mr. Hamilton is not a lawyer and he's not here
 [12] to give expert testimony on Hawaii's insurance laws, and
 [13] I object to your asking those questions.
 [14] MR. PAER: You can have a standing objection.
 [15] I'm asking for his understanding.
 [16] MS. LEONARD: As long as we're clear you're
 [17] asking for his understanding and you understand he's not
 [18] here to give legal conclusions -
 [19] MR. PAER: I understand that.
 [20] MS. LEONARD: - for the company or anyone
 [21] else.
 [22] MR. PAER: I understand that.
 [23] THE WITNESS: Would you restate the question?
 [24] BY MR. PAER:
 [25] Q. What do you base your understanding on that

[1] Q. Credit life insurance is not specifically
 [2] discussed in the subagent section; is that your
 [3] understanding?
 [4] A. No.
 [5] Q. It's not your understanding?
 [6] A. No, it's not my understanding.
 [7] Q. So credit life insurance is discussed in the
 [8] subagent section?
 [9] A. I do remember a section in the examination
 [10] that covered limited licenses, and limited licenses
 [11] apply primarily to credit life, accident and health and
 [12] certain types of travel insurance.
 [13] Q. All right. And are those also mentioned in
 [14] the subagent section?
 [15] A. The distinction between a subagent and a
 [16] general agent is very similar.
 [17] Q. But I'm talking about the distinction between
 [18] a limited license and a subagent's license.
 [19] A. A limited license and a subagent's license are
 [20] very different.
 [21] Q. Okay.
 [22] A. And I explained earlier the duties of a
 [23] subagent and general agent. The question you're asking
 [24] about a limited license - when you use the terminology
 [25] limited license, that refers to a license that covers

[1] A. No.
 [2] Q. Okay. Let me qualify that by credit life.
 [3] Does that change your answer? That is, is Associates
 [4] Financial Services - Associates Financial Life
 [5] Insurance Company the only insurance company that writes
 [6] credit life for -
 [7] A. Yes.
 [8] Q. - Associates of Hawaii?
 [9] A. Yes.
 [10] Q. Have you ever seen the master policy for
 [11] credit life?
 [12] A. No.
 [13] Q. Is there one?
 [14] A. I don't know.
 [15] Q. Do you know if the credit life is a group
 [16] life?
 [17] A. I believe it is.
 [18] Q. Okay. If it is - and I'm sure it is, too -
 [19] would there be a master policy, normally?
 [20] MS. LEONARD: Objection. Calls for a legal
 [21] conclusion.
 [22] A. I don't know.
 [23] BY MR. PAER:
 [24] Q. You don't know whether there would be or not?
 [25] A. No.

[1] Q. But you've never seen a master policy?
 [2] A. I don't recall seeing one.
 [3] Q. I take it in getting your license and the work
 [4] you've done through insurance, you know what a fiduciary
 [5] duty is or you have an understanding of what it is.
 [6] A. I have an understanding.
 [7] Q. Can you tell me what your understanding is?
 [8] A. When you're dealing with public money or other
 [9] - someone else's money, that's the fiduciary part, and
 [10] you have a duty to safeguard or whatever that money.
 [11] That's basically what that means.
 [12] Q. Okay. Or it can be a duty to protect the
 [13] person whose money it is or -
 [14] A. Yeah. It's all part of that.
 [15] Q. As a general proposition, is it your
 [16] understanding that a life insurance agent has a
 [17] fiduciary duty to the person that they are writing life
 [18] insurance or soliciting life insurance for?
 [19] MS. LEONARD: Objection. Calls for a legal
 [20] conclusion.
 [21] A. No.
 [22] BY MR. PAER:
 [23] Q. I'm asking for your understanding.
 [24] A. No.
 [25] Q. No, it's not your understanding?

[1] A. Not my understanding.
 [2] Q. Okay. Let me just clarify this. If I go to
 [3] the life insurance agent to buy term life or whole life
 [4] or something like that, it's not your understanding that
 [5] that agent would have a fiduciary duty to me?
 [6] MS. LEONARD: Objection. Calls for a legal
 [7] conclusion.
 [8] A. I don't know.
 [9] BY MR. PAER:
 [10] Q. You don't know?
 [11] A. No.
 [12] Q. Do you have an understanding as to whether an
 [13] agent who sells credit life has a fiduciary duty to the
 [14] customer?
 [15] MS. LEONARD: Objection. Calls for a legal
 [16] conclusion.
 [17] BY MR. PAER:
 [18] Q. If you know.
 [19] A. No.
 [20] Q. No, they don't, or no, you don't know?
 [21] A. No, they don't.
 [22] Q. Why do you feel they don't with credit life
 [23] and you don't know with regular life? Is there a
 [24] difference?
 [25] A. Yes.

[1] Q. What's the difference?
 [2] A. Credit life covers the credit transaction,
 [3] whereas the life insurance insures the life of the
 [4] individual.
 [5] Q. Okay. And why would that affect the fiduciary
 [6] duty?
 [7] MS. LEONARD: Objection. Calls for a legal
 [8] conclusion.
 [9] BY MR. PAER:
 [10] Q. You understand I'm asking you for your
 [11] understanding on all this.
 [12] A. Yes, I understand.
 [13] Q. Why would that difference affect whether or
 [14] not someone has a fiduciary duty?
 [15] A. I don't know.
 [16] Q. You said you were the highest ranking, I
 [17] guess, officer of Associates Financial Services Company
 [18] of Hawaii, Inc. earlier, is that right?
 [19] A. In Hawaii?
 [20] Q. In Hawaii.
 [21] A. Yes.
 [22] Q. Is there anybody else in Hawaii that is either
 [23] above you in rank or charged with more responsibility
 [24] than you regarding credit life insurance?
 [25] A. Not that I'm aware of.

[1] Q. Okay. Now, there are commission schedules,
 [2] are there not, that regulate what the seller of credit
 [3] life insurance is allowed to take as a commission, is
 [4] that correct, in Hawaii?
 [5] MS. LEONARD: Objection.
 [6] A. No.
 [7] BY MR. PAER:
 [8] Q. No?
 [9] A. No.
 [10] Q. There's nothing set by law that regulates
 [11] commissions -
 [12] MS. LEONARD: Objection. Calls for a legal
 [13] conclusion.
 [14] A. No.
 [15] BY MR. PAER:
 [16] Q. How do you determine commission on credit
 [17] life, or how does one -
 [18] A. There are no commissions.
 [19] Q. Okay. Where does the premium go, then,
 [20] the credit life? Does it all go to the insurer?
 [21] A. Premiums go - premiums go to the corporation.
 [22] Q. Which corporation?
 [23] A. Associates corporation.
 [24] Q. Which one? Does it - premiums go to
 [25] Associates Financial Services Company of Hawaii, Inc.?

[1] A. No.
 [2] Q. Do they go to Associates Financial Life
 [3] Insurance Company?
 [4] A. I don't know.
 [5] Q. You don't know where the premium goes?
 [6] A. No. I just know they go to the corporation.
 [7] Q. It's your understanding as a general practice
 [8] - or it's your understanding that a company or a person
 [9] who writes credit life is not entitled to a commission,
 [10] in Hawaii, of any kind?
 [11] A. That's my understanding.
 [12] Q. Okay. How does the money go to the
 [13] corporation? Trace with me, if you will, what happens
 [14] to a credit life insurance premium that's been - that
 [15] is charged in connection with a loan.
 [16] MS. LEONARD: Objection. Vague and ambiguous.
 [17] A. I don't know how to answer that.
 [18] BY MR. PAER:
 [19] Q. Answer it as best you can, unless you don't
 [20] understand the question.
 [21] MS. LEONARD: Would you like to restate the
 [22] question, John?
 [23] MR. PAER: Only if he tells me he doesn't
 [24] understand it.
 [25] A. Give me a moment to formulate how I can answer

[1] this.
 [2] Okay. All of the transactions are handled
 [3] electronically. So when a branch inputs a loan and the
 [4] insurance product or products are sold, the total loan
 [5] includes the insurance charges, and based on a general
 [6] ledger accounting, those numbers are all reported,
 [7] tracked, and beyond that, I don't know - I don't think
 [8] there's anything more to that.

BY MR. PAER:

[9] Q. There's no check that's cut to Associates
 [10] Financial Life Insurance Company, for example -

[11] A. No.

[12] Q. - for the premium?

[13] Is there an electronic credit given to
 [14] Associates Financial Life Insurance Company?

[15] A. I don't know.

[16] Q. Okay. How do you know that Associates
 [17] Financial - how do you know that Associates of Hawaii,
 [18] your company, doesn't keep any of the premium?

[19] A. Because of the accounting system, we maintain
 [20] only a depository relationship with a bank locally, for
 [21] the deposit of local funds, meaning payments. But
 [22] beyond that, there's no other accounting set up for the
 [23] exchange of any other finance income, insurance income,
 [24] anything related to that. It's all handled by way of
 [25]

[1] the general ledger.

[2] Q. I guess what I'm saying is that doesn't tell
 [3] you that the premium leaves Associates of Hawaii, does
 [4] it?

[5] A. I don't know how to answer that.

[6] Q. Is it possible that the entire premium could
 [7] stay with Associates of Hawaii?

[8] MS. LEONARD: Objection. Calls for
 [9] speculation. Anything is possible.

[10] A. I don't know how to answer that either.

BY MR. PAER:

[11] Q. Really? You don't know where the premium
 [12] goes?

[13] A. No, I don't.

[14] Q. It might go to Associates Financial Services
 [15] - I mean, it might go to the life insurance company, it
 [16] might stay with Associates of Hawaii or it might go to
 [17] some other corporate entity, and you just don't know; is
 [18] that correct?

[19] A. That's correct.

[20] Q. You may have covered this, but I take it,
 [21] then, you're not aware that even by electronic transfer
 [22] that the premium for credit life insurance goes anywhere
 [23] outside of Hawaii.

[24] MS. LEONARD: Objection. Vague and ambiguous.
[25]

[1] A. I don't know how to answer that.

BY MR. PAER:

[2] Q. Well -

[3] A. Your - I don't know.

[4] Q. Okay. All right. Is it your understanding
 [5] that insurance agents normally get commissions on
 [6] policies they write?

[7] MS. LEONARD: Objection. Calls for
 [8] speculation.

[9] A. I don't know.

BY MR. PAER:

[10] Q. You don't know what the general practice in
 [11] the -

[12] A. No, I don't. I'm not in the insurance
[13] business.

[14] Q. What training have you had in insurance?

[15] MS. LEONARD: Objection. Overbroad. Do you
 [16] want to give us a time period, or is this since the
 [17] beginning of time?

BY MR. PAER:

[18] Q. Since you started working with - in the
 [19] finance industry.

[20] MS. LEONARD: What training has he had?

BY MR. PAER:

[21] Q. What training have you ever had in insurance?
[22]
[23]
[24]
[25]

[1] A. As a trainee, many years ago, we were taught
 [2] about the products that we were offering. We were, by
 [3] way of manuals, you know, written material -

[4] Q. This is Dial or Norwest or Associates?

[5] A. This would have been Budget.

[6] Q. Budget?

[7] A. Uh-huh.

[8] Q. Okay.

[9] A. And we were - we offered credit life and
 [10] credit disability insurance and we were trained by
 [11] various methods as to how to offer these products -

[12] Q. Okay.

[13] A. - what the products were and -

[14] Q. I'm only - go ahead.

[15] A. We were provided on-the-job training by
 [16] working with another more experienced individual when it
 [17] came to actually closing a loan that had the products -
 [18] the customer had indicated they wanted the products.
 [19] And we observed and were also involved in being trained
 [20] on explaining the coverage to the individual, making
 [21] sure that the forms were properly completed.

[22] Q. Okay. Did Budget or Dial or Norwest get
 [23] commissions, to your knowledge, for writing credit life?

[24] A. No.

[25] Q. Okay. What do you explain to somebody when

[1] you sell them credit life?

[2] MS. LEONARD: Objection. Vague and ambiguous.
 [3] Assumes facts not in evidence.

[4] MR. PAER: He just told me that's one of the
 [5] things they trained him on, so -

[6] MS. LEONARD: In 1965 or somewhere
 [7] thereabouts. Are you talking about presently?

[8] BY MR. PAER:

[9] Q. At the time you were just mentioning, what
 [10] types of things did you tell people?

[11] A. In the -

[12] Q. Regarding credit life.

[13] A. Basically, that the credit life insurance may
 [14] cover the balance of their loan in the event of death.

[15] Q. Okay. Anything else?

[16] A. Not that I remember.

[17] Q. Okay. Is that what Associates tells people
 [18] now?

[19] A. Basically.

[20] Q. Anything else?

[21] MS. LEONARD: Objection. Overly broad. What
 [22] Associates tells people?

[23] BY MR. PAER:

[24] Q. Its employees who are selling credit life, what
 [25] are they trained to tell people, if anything, different

[1] than that?

[2] A. Basically, that's what they're trained -
 [3] they're trained to understand the basic provisions of
 [4] credit life. They're trained to offer it to customers.

[5] Q. Okay. And they tell the customers what the
 [6] basic provisions are?

[7] A. Yes. Yes, they do, because at the time -
 [8] yes, they do.

[9] Q. What are those?

[10] A. That the - as I mentioned earlier, that the
 [11] policy will cover the - may cover - correct that
 [12] it's not will. It's may cover the remaining unpaid
 [13] balance at the time of death.

[14] Q. Is that about it or do they tell them more
 [15] than that or -

[16] A. That's basically what we tell the customer.

[17] Q. Now, I want to go back to something else.

[18] Is this a true statement: That Associates Financial
 [19] Services Company of Hawaii, Inc. is licensed and
 [20] registered in Hawaii as an insurance agent for the
 [21] purpose of selling credit life insurance? Is that true
 [22] or not?

[23] MS. LEONARD: Objection. Vague and ambiguous.
 [24] Calls for a legal conclusion.

[25] A. I don't know.

[1] BY MR. PAER:
 [2] Q. You don't know?
 [3] A. As I mentioned earlier, I'm not really
 [4] familiar with how Associates Life Insurance and
 [5] Associates Financial Services Company of Hawaii are - I
 [6] don't - I'm not - I don't know the answer to how
 [7] they're structured as far as your question is concerned.
 [8] Q. Let me repeat that. Is Associates licensed
 [9] and registered in Hawaii as an insurance agent for the
 [10] purpose of selling credit life insurance?
 [11] MS. LEONARD: Asked and answered. He said he
 [12] doesn't know.
 [13] BY MR. PAER:
 [14] Q. You don't know?
 [15] A. I don't know.
 [16] Q. Do you know if Associates Financial Services
 [17] Company of Hawaii, Inc. is an agent, an insurance agent
 [18] for Associates Financial Life Insurance Company?
 [19] A. I believe so.
 [20] Q. And as an agent, what do they do?
 [21] A. Offer various insurance products.
 [22] Q. Okay. And do they have a license - does
 [23] Associates of Hawaii have a license to do that, Exhibit
 [24] 1?
 [25] A. I believe so.

[1] Q. Is it registered to do that?
 [2] A. I - I would believe so.
 [3] Q. Okay. Do you know approximately how many
 [4] credit life policies are sold in Hawaii every year?
 [5] A. No.
 [6] Q. Do you know approximately how many credit life
 [7] policies are sold in connection with mortgage loans -
 [8] A. No.
 [9] Q. - a year?
 [10] You do know, I take it, that Associates
 [11] employees are encouraged to offer credit life in every
 [12] loan where they feel that the person might be eligible.
 [13] A. Yes.
 [14] Q. Is it fair to say that the number of credit
 [15] life policies are in the thousands each year?
 [16] A. Could you be more specific?
 [17] Q. Yeah. In the state of Hawaii, does Associates
 [18] write at least a thousand credit life policies every
 [19] year?
 [20] A. Yes.
 [21] Q. Do they write a thousand in connection with
 [22] mortgage loans?
 [23] A. I don't know.
 [24] Q. Is it fair to say that in not just mortgage
 [25] loans, but in all loans, there's at least 5,000 credit

[1] life policies written a year?
 [2] A. I don't know.
 [3] Q. You know it's more than a thousand, but you
 [4] don't know if it's 5,000?
 [5] A. Correct.
 [6] Q. Do you have credit life insurance seminars
 [7] that you attend periodically?
 [8] A. That I attend?
 [9] Q. Yes.
 [10] A. No.
 [11] Q. Do employees of Associates attend such
 [12] seminars periodically, other employees besides you?
 [13] A. Yes.
 [14] Q. How often are those?
 [15] A. That would vary.
 [16] Q. Once a year?
 [17] A. Well, a seminar - seminars and the content of
 [18] the seminars vary, so it's conceivable that an employee
 [19] would - could attend a seminar sometime during the year
 [20] that would have something related to the offering of
 [21] insurance products.
 [22] Q. So it's possible, but not certain that it
 [23] would be every year?
 [24] A. Yes.
 [25] Q. And it might be every couple of years or might

[1] not be at all or -
 [2] MS. LEONARD: Objection. Vague and ambiguous.
 [3] Is that a question, John?
 [4] MR. PAER: I'm trying to get -
 [5] A. I would generally say it's at least once a
 [6] year; possibly more.
 [7] BY MR. PAER:
 [8] Q. What would the training consist of?
 [9] A. Product knowledge - generally, it's product
 [10] knowledge and helping the employee to understand how to
 [11] offer the products.
 [12] Q. Okay. In "how to offer," do you mean
 [13] salesmanship?
 [14] A. No. It would be more appropriate to - as
 [15] related to product knowledge, helping the employees to
 [16] help the customers understand the benefits of the
 [17] product.
 [18] Q. So does that go with what you were telling me
 [19] before; that, for example, with credit life they would
 [20] tell them in the event of death, then the remaining
 [21] balance would get paid off, that kind of thing?
 [22] A. May be paid off.
 [23] Q. May be paid off?
 [24] A. Yes.
 [25] Q. Is it general practice for them to say when it

[1] would and wouldn't be paid off or -
 [2] A. No, it would not.
 [3] Q. Now, I take it there's - well, I don't take
 [4] it. Is there similar training for truth in lending;
 [5] that is, about once a year, also?
 [6] A. We have training throughout the year on all
 [7] aspects of our business.
 [8] Q. So it's sort of on an ad hoc basis?
 [9] A. Well, we have like - we have a formal
 [10] training program. We also do much of our training in
 [11] the way of on-the-job training. We also supplement that
 [12] with seminars.
 [13] Q. What's the formal training program?
 [14] A. It consists of manuals, reading materials.
 [15] There are some tests or quizzes that they take. And
 [16] then the - there's a formal review process - not a
 [17] formal review, but a review process after the
 [18] examination. And there's a series of training work
 [19] books that they have to go through in order to -
 [20] Q. That's on all - I'm sorry. Go ahead.
 [21] A. There's a whole series of work books people go
 [22] through.
 [23] Q. That's on all aspects of the -
 [24] A. Yes, it is.
 [25] Q. Can you describe what the training is that

[1] relates specifically to truth in lending, if you know,
 [2] and specifically relates to credit life?
 [3] MS. LEONARD: Objection. Compound.
 [4] BY MR. PAER:
 [5] Q. Start with just truth in lending.
 [6] A. No, I don't.
 [7] Q. If you can, describe the particular training
 [8] that relates to credit life, if you know.
 [9] A. No, I don't.
 [10] Q. Okay. You know, I take it, that in this case
 [11] the life insurance company declined the death claim.
 [12] A. Yes.
 [13] Q. Is that right?
 [14] Are you aware of any other death claims that
 [15] were denied by the life insurance company?
 [16] MS. LEONARD: Objection. Are you asking him
 [17] if he's generally aware that death claims are
 [18] occasionally - or specifically -
 [19] MR. PAER: I'm asking specifically if he's
 [20] aware of any cases.
 [21] MS. LEONARD: Any specific cases?
 [22] MR. PAER: Yeah.
 [23] A. No, not any specific cases.
 [24] BY MR. PAER:
 [25] Q. Okay. Are you aware in general terms of any

[1] cases that death claims were denied?
 [2] A. Yes.
 [3] Q. Okay. Can you tell me about those?
 [4] MS. LEONARD: Objection. Overtly broad. Vague
 [5] and ambiguous.
 [6] BY MR. PAER:
 [7] Q. If you can answer, you can answer.
 [8] A. Could you repeat the question?
 [9] Q. You said you can remember - that you know in
 [10] general terms something about other cases in which death
 [11] claims were denied. I want to know what you remember
 [12] about that.
 [13] A. I don't recall any specific details. All I
 [14] know is -
 [15] Q. There were others?
 [16] A. There were others, yes.
 [17] Q. More than one in the last year?
 [18] A. I don't know.
 [19] Q. More than one in the last five years?
 [20] A. Yes.
 [21] Q. More than five in the last five years?
 [22] A. I don't know.
 [23] Q. Okay. How did you find out about these?
 [24] A. About what?
 [25] Q. The denial of other death claims.

[1] A. In most cases, in my capacity as vice
 [2] president, I will have to sign the authorization to
 [3] refund the premium, which requires, generally, my level
 [4] of approval. So that's how I know.
 [5] Q. Okay. So I take it you're saying that that's
 [6] the normal practice: if they denied a death claim, they
 [7] refund the premium.
 [8] A. To my knowledge.
 [9] Q. When was the last time you did that, you
 [10] refunded a premium?
 [11] A. I don't recall.
 [12] Q. After this case or before this case?
 [13] A. When was this case?
 [14] Q. The death in this case was March 3rd, '96, and
 [15] I think the premium was refunded around September of
 [16] '96.
 [17] A. '96?
 [18] Q. I believe.
 [19] A. I don't recall signing any refunds for denial
 [20] of death claims since - from that period. Like I said,
 [21] it's very difficult to recall. It's just very difficult
 [22] to recall any of them.
 [23] Q. These are pretty major events, aren't they?
 [24] Do these not appear significant to you?
 [25] A. No, they do not.

[1] Q. A denial of a death claim isn't significant?
 [2] MS. LEONARD: Objection. Calls for
 [3] speculation. Vague and ambiguous.
 [4] What do you mean "significant," John?
 [5] BY MR. PAER:
 [6] Q. To you.
 [7] A. No.
 [8] Q. Okay. What about disability, accident
 [9] and health, denials of those; does that follow the same
 [10] pattern or -
 [11] MS. LEONARD: Objection. Vague and ambiguous.
 [12] What pattern?
 [13] BY MR. PAER:
 [14] Q. That you have to write the check if there's a
 [15] denial.
 [16] A. You need to restate the question.
 [17] Q. If there's a denial of a disability, accident
 [18] and health - credit accident and health claim, what
 [19] happens then? Is the premium refunded?
 [20] A. Yes.
 [21] Q. And you have to sign off on that?
 [22] A. Yes.
 [23] Q. How often does that happen?
 [24] A. I don't recall.
 [25] Q. Can you remember 20 of those in the past three

[1] years?
 [2] A. No.
 [3] Q. Less than that?
 [4] MS. LEONARD: Are you asking him to guess or
 [5] speculate?
 [6] A. I will not guess. I don't know.
 [7] BY MR. PAER:
 [8] Q. Okay. You don't know if it's been more than
 [9] 20?
 [10] A. I don't know.
 [11] Q. Do you know if it's been more than ten?
 [12] A. I don't know.
 [13] Q. Do you know if it's been more than one?
 [14] A. In the last how many years?
 [15] Q. Three years.
 [16] A. I don't know.
 [17] Q. Okay. Now, when you sign off on, say, the
 [18] credit life - strike that.
 [19] If there's a denial of credit life and the
 [20] premium is going to be refunded and you sign off, what
 [21] happens then? Do they get a check?
 [22] A. The branch issues the check, correct.
 [23] Q. Where do the funds come from for that?
 [24] A. From our general accounting system.
 [25] Q. Does that come from Associates Financial Life

[1] Insurance Company?
 [2] A. No, not that I'm aware of.
 [3] Q. Does it come from any other corporate entity?
 [4] A. It comes from our centralized checking
 [5] account.
 [6] Q. When you say "our" -
 [7] A. Associates corporation.
 [8] Q. The Associates Financial Services Company of
 [9] Hawaii, Inc., or -
 [10] A. Each branch has checks issued to them drawn on
 [11] a master account.
 [12] Q. Is the master account -
 [13] A. And each branch will have an individual -
 [14] they're licensed by the state, so that could be
 [15] Associates Financial Services Company of Kailua, for
 [16] example - or of Hawaii, in Kailua. But the checks are
 [17] basically issued drawn on a master account.
 [18] Q. In Hawaii or somewhere else?
 [19] A. Our centralized banking is somewhere in the
 [20] Mainland, for the checks that we write. They're not
 [21] drawn on a local bank.
 [22] Q. Let me just go back. There's not a - there's
 [23] a separate corporation for Associates Financial Services
 [24] Company of Kailua or something like that?
 [25] A. Not that I'm aware of.

[1] Q. Each branch isn't separately incorporated?
 [2] A. No. They're all part of the whole Associates.
 [3] There is some little divisions on the license that's
 [4] issued under Chapter 412, but basically we're all under
 [5] Associates Financial Services Company of Hawaii, Inc.
 [6] Q. What I'm trying to get at is if you know where
 [7] the money comes from to write that check.
 [8] A. I don't know.
 [9] Q. So you don't know whether it comes from the
 [10] Mainland or -
 [11] A. No. As I mentioned, all checks written in
 [12] Hawaii are out of a master account, some bank in the
 [13] Mainland.
 [14] Q. Is that account just for the Associates
 [15] Financial Services Company of Hawaii? I mean, it's not
 [16] mixed in with Associates of Colorado, is it?
 [17] A. I don't know.
 [18] Q. You don't know?
 [19] A. (Witness nods.)
 [20] Q. You don't know whether Associates of Hawaii
 [21] has its own separate account or whether it's mixed in
 [22] with everybody else?
 [23] A. That's correct.
 [24] Q. Have you ever heard of Edward Matthews?
 [25] A. Yes.

Page 65

- [1] Q. Having said that, I thought you told me
- [2] before you don't know what happens to the premium.
- [3] A. True.
- [4] MS. LEONARD: Is there a question?
- [5] BY MR. PAER:
- [6] Q. That's true?
- [7] A. Uh-huh.
- [8] Q. You don't know whether it all goes to the life
- [9] insurance company, whether some of it stays with the
- [10] Hawaii company or whether -
- [11] A. I told you about a general accounting system.
- [12] But beyond that, I'm not familiar with how - you know,
- [13] you're asking specifically as far as compensation to an
- [14] employee -
- [15] Q. Or the company.
- [16] A. Then, I don't know.
- [17] Q. So you're saying the employee doesn't get -
- [18] A. Correct.
- [19] Q. - any compensation?
- [20] A. They do not.
- [21] Q. But Associates of Hawaii might; you don't
- [22] know?
- [23] A. I don't know.
- [24] Q. Well, you may have answered this already. Do
- [25] you know the corporate affiliation between Associates

Page 68

- [1] Financial Life Insurance Company and Associates of
- [2] Hawaii?
- [3] A. No, I don't.
- [4] Q. Are you familiar with the credit insurance
- [5] regulations in Hawaii?
- [6] A. Somewhat.
- [7] Q. Do you know whether they have been changed
- [8] since 1995?
- [9] A. No, I don't.
- [10] MR. PAER: I don't mind going ahead. If you
- [11] want to take a break, I'm going to start with some
- [12] exhibits - whatever is most convenient.
- [13] MS. LEONARD: Let's take ten minutes.
- [14] (Break taken.)
- [15] (Exhibits 2 through 5 marked for
- [16] identification.)
- [17] BY MR. PAER:
- [18] Q. Before we get into the exhibits, let me ask
- [19] you, what is your understanding as to what the incentive
- [20] is for Associates Financial Services Company of Hawaii
- [21] to sell credit life. What do they get out of that?
- [22] A. It's all part of the operating income.
- [23] Q. For who?
- [24] A. For the corporation.
- [25] Q. Which corporation?

Page 69

- [1] A. I'd have to say it would be the Hawaii
- [2] corporation.
- [3] Q. Okay. So the credit life insurance premium is
- [4] part of the operating income for the Hawaii corporation?
- [5] MS. LEONARD: Objection. Misstates the
- [6] previous question and answer.
- [7] BY MR. PAER:
- [8] Q. Does it?
- [9] A. Could you restate that for me?
- [10] Q. Well, I thought you said that the incentive to
- [11] sell credit life is it goes to the operating income of
- [12] the Hawaii company.
- [13] A. As I mentioned earlier, it's all part of
- [14] everything that we do. That's all I know. I mean, it
- [15] - you're trying to put it into a narrow picture. I'm
- [16] saying it's all part of the big picture. That's the
- [17] only way I can answer it.
- [18] Q. You mean it increases the profit of all of the
- [19] Associates companies, so there's benefit to the Hawaii
- [20] company in that way or -
- [21] A. I don't know.
- [22] Q. Okay. Is there any specific benefit that
- [23] you're aware of to the Hawaii company from selling
- [24] credit life?
- [25] A. I don't know.

Page 70

- [1] Q. Okay. Why do you sell credit life?
- [2] A. To provide protection to our customers who
- [3] desire the coverage.
- [4] Q. Is that the only reason?
- [5] A. No. Ultimately, the corporation, the total
- [6] corporation, earns income off of the premium.
- [7] Q. But you don't know whether the Hawaii
- [8] corporation -
- [9] A. Yes, I don't know.
- [10] Q. Does the Hawaii corporation post results?
- [11] Does it post any kind of -
- [12] A. We have a summary of results, sure.
- [13] Q. You do?
- [14] A. Uh-huh.
- [15] Q. What goes into that?
- [16] A. Everything.
- [17] Q. Does credit life go into that?
- [18] A. It's broken down - each type of finance
- [19] income, insurance premiums, late charges, yeah,
- [20] everything is kind of summarized on that report.
- [21] Q. How often does that report come out; every
- [22] month?
- [23] A. Yes. Uh-huh.
- [24] Q. Is it monthly? That's a monthly report?
- [25] A. Yes. We get it monthly.

Page 71

- [1] Q. It's not weekly or biweekly?
- [2] A. No. It's a monthly report.
- [3] Q. Who prepares that report?
- [4] A. I believe it's our systems group in South
- [5] Bend, Indiana.
- [6] Q. Then they send it to you?
- [7] A. Correct.
- [8] Q. Does that report reflect what happens to the
- [9] credit life premiums -
- [10] A. No.
- [11] Q. - or do you know?
- [12] But it does reflect what profit is charged to
- [13] you relating to each of these items?
- [14] A. No. It's a summary of - it's a financial
- [15] summary of what this division has done on a
- [16] month-to-month basis, which encompasses everything we
- [17] do.
- [18] Q. And "this division," meaning Hawaii?
- [19] A. Yes. Uh-huh.
- [20] Q. Is that like a profit statement, profit and
- [21] loss statement or something like that, or income
- [22] statement?
- [23] A. We refer to it as a trend.
- [24] Q. Does it give you gross profit or net profit
- [25] figures?

Page 72

- [1] A. It does.
- [2] Q. Is credit life insurance included in those
- [3] gross and net profit figures?
- [4] A. Yes.
- [5] Q. Do you know how that's measured?
- [6] A. No.
- [7] Q. Is it itemized?
- [8] A. Yes. Yes.
- [9] Q. Okay. How many pages is it typically, this
- [10] report?
- [11] A. One.
- [12] Q. One page?
- [13] A. (Witness nods.)
- [14] Q. Can you describe it for me category by
- [15] category as you go down the sheet?
- [16] A. It's a long, long page. I'll give you what I
- [17] can recollect.
- [18] Q. Okay.
- [19] A. It has total receivables and income generated
- [20] off the total portfolio on line one.
- [21] Line two breaks down real estate portfolio.
- [22] Next, line three, is personal loan or non-
- [23] real estate portfolio.
- [24] Line four is, I believe, revolving credit.
- [25] And then there's several lines for product -

[1] further product definition, such as revolving sales,
 [2] revolving mortgages, and those are more specific to
 [3] volume.
 [4] And then we have a line that shows product -
 [5] production by product line. In other words, whether
 [6] we're doing like a refinance or a new customer, present
 [7] borrower, new borrower, former borrower. It shows -
 [8] There's another line for the breakdown of the
 [9] credit insurance product lines.
 [10] Q. What does that breakdown show?
 [11] A. It shows the gross premium, the premium to
 [12] volume percentage and in each of the categories in which
 [13] we sell those products, such as real estate or personal
 [14] loans.
 [15] And then the next line would be related to -
 [16] it will have pay-off information. You know, who's -
 [17] the number and the dollar amount of pay-offs, both real
 [18] estate and personal loans.
 [19] It shows some other statistical information
 [20] with regard to, you know, like number of bankruptcies,
 [21] that kind of stuff.
 [22] There's one line that shows delinquency.
 [23] And the last two lines relate to branch
 [24] operating expenses and then branch operating income as a
 [25] percentage to average net advance. That's about it.

[1] Q. Is this for each branch or -
 [2] A. Each branch gets a trend of their own.
 [3] Q. And the state gets a trend?
 [4] A. Trend, right.
 [5] Q. Now, there's a trend for each branch, a trend
 [6] for the state as a whole?
 [7] A. Uh-huh.
 [8] Q. Are there any other trends?
 [9] A. Yeah. There's a group summary.
 [10] Q. And a group is what?
 [11] A. Made up of the branches that are assigned in
 [12] our group.
 [13] Q. Are there two groups?
 [14] A. Currently. Well, two groups and a specialized
 [15] group, so there are actually three groups.
 [16] Q. What is the specialized group?
 [17] A. That are in my direct control, and that has
 [18] our collections center, recovery center.
 [19] Q. Do the trends show a gross profit or net
 [20] profit or anything like that?
 [21] A. Shows a gross income, not profit. And it does
 [22] show a net - not a net. It shows a profit as a
 [23] percentage of average net advance.
 [24] Q. What does that mean?
 [25] A. Average net advance is the sum total of your

[1] receivables over a 12-month period. You take an average
 [2] and then your gross finance income after expenses. The
 [3] difference is your net based on your average net
 [4] advance, which is the way we count our beans or measure
 [5] our money, you might say.
 [6] Q. The credit life portion of that, how is that
 [7] figured?
 [8] A. That comes in - all of that income is lumped
 [9] under other. There's a little box that says Other
 [10] Income.
 [11] Q. But there is a box for credit life?
 [12] A. There's a line that breaks down each product,
 [13] yes.
 [14] Q. And credit life is a product?
 [15] A. Correct.
 [16] Q. In a typical month, what is the rough
 [17] proportion of credit life income to -
 [18] A. I don't know.
 [19] Q. Is it over five percent?
 [20] A. No.
 [21] Q. It's less than five percent?
 [22] A. I believe it's less than five.
 [23] Q. Of total profits?
 [24] A. Oh. No. You're talking about - no. I
 [25] cannot give you that figure, because I don't know that

[1] figure. I'm sorry. I misunderstood you.
 [2] Q. Do you recall the most recent document, the
 [3] most recent trend you've gotten?
 [4] A. Which would have been February.
 [5] Q. Yeah. Roughly, what was the gross income in
 [6] February?
 [7] MS. LEONARD: Objection. Irrelevant. And
 [8] that's highly proprietary information.
 [9] BY MR. PAER:
 [10] Q. You can answer.
 [11] MS. LEONARD: Well, wait. Before -
 [12] A. I don't know.
 [13] MS. LEONARD: Okay. You can answer -
 [14] A. I don't know. I mean -
 [15] BY MR. PAER:
 [16] Q. Do you know what the credit life portion was?
 [17] A. No, I do not.
 [18] Q. Was the credit life portion above 50,000?
 [19] A. I don't know.
 [20] Q. You don't know if it was above 50,000?
 [21] A. I don't know.
 [22] Q. Going back to my question, then, is part of
 [23] the incentive for Associates to sell credit life is
 [24] increased profit, as shown by these trend statements?
 [25] Is that right?

[1] A. I'd have to say yes.
 [2] Q. I mean, you're selling credit life to make
 [3] money, right?
 [4] A. Uh-huh.
 [5] THE REPORTER: Yes?
 [6] THE WITNESS: Yes.
 [7] BY MR. PAER:
 [8] Q. Does the credit life line or information that
 [9] you get on the trend show you what the gross premiums
 [10] were for credit life?
 [11] A. Yes.
 [12] Q. Does it show you the net premiums -
 [13] A. No.
 [14] Q. - to the company?
 [15] A. No.
 [16] Q. Just the gross premiums?
 [17] A. Correct.
 [18] Q. Do all of the gross premiums show up as income
 [19] for the Hawaii company?
 [20] A. No.
 [21] Q. How is it - what is subtracted -
 [22] A. Payoffs and - pay-offs. I mean, if we have
 [23] to refund any unearned premium on a short pay-off.
 [24] Sometimes we have a lot of pay-offs, and therefore, the
 [25] gross premium minus the refunds - the refunds exceed

[1] the gross premium, so we've actually had, in some cases,
 [2] a debit shown rather than a credit.
 [3] Q. Is there anything other than the refunds that
 [4] - or pay-offs that are subtracted from the gross
 [5] premiums to get the income for the Hawaii companies?
 [6] A. Not that I'm aware of.
 [7] Q. So they show you what your gross credit life
 [8] premiums were for the month for the whole state or for
 [9] each individual branch, however?
 [10] A. Correct.
 [11] Q. And then they subtract from that pay-offs and
 [12] refunded premiums. And then the remaining amount is
 [13] profit to the Hawaii companies; is that correct?
 [14] A. Well, it may not be a profit, though. As I
 [15] explained to you, it may be - actually, on the trend it
 [16] may show as a debit.
 [17] Q. Either profit or loss.
 [18] A. Yeah.
 [19] Q. Depending on whether there were more -
 [20] MS. LEONARD: Could be something else. You're
 [21] asking him if it all shows up as profit? Is that the
 [22] question?
 [23] MR. PAER: Yeah.
 [24] A. No, it doesn't.
 [25] BY MR. PAER:

[1] Q. What else does it -
 [2] A. As I said, it will depend on the refund. It's
 [3] a line item. It all gets dumped into an other - a
 [4] specific column that says other, and if it's - if we've
 [5] written more premiums than we've given in refunds, then
 [6] there will be a credit to that gross section there.
 [7] Otherwise, it won't be a contribution to profit.
 [8] Q. So it's either a profit or a loss, depending
 [9] on how much -
 [10] A. It's part of the profit, correct.
 [11] Either part of the profit or part of the
 [12] reduction of profit.
 [13] Q. Okay. But the components, though, are the
 [14] gross premiums written against those refunded in
 [15] pay-offs?
 [16] A. Correct.
 [17] Q. And that's it?
 [18] A. Right.
 [19] Q. I think there's something here I'm not
 [20] understanding. To me, that sounds like of the total
 [21] premiums, it all stays in Hawaii, none of it goes to the
 [22] life insurance company.
 [23] A. I don't know.
 [24] Q. Well, I thought you were telling me that the
 [25] gross premiums -

[1] A. I'm telling you how it's reported. I don't
 [2] know the actual mechanics of what goes on.
 [3] Q. That's how -
 [4] A. That's what I see on the report, yeah.
 [5] Q. All right. Let me show you what's been marked
 [6] as Exhibit 2. Just for informational, I guess, this was
 [7] Exhibit 1 to Christine West's deposition. It's several
 [8] pages, A19, A20, A21, A22, A23 and A24.
 [9] Directing your attention to A19, have you ever
 [10] seen that document before?
 [11] MS. LEONARD: Just for clarification, do you
 [12] mean other than perhaps yesterday or sometime this week
 [13] when he may have discussed the file with me? Is that -
 [14] MR. PAER: I want to know if he's seen it
 [15] before. If he saw it when he talked to you, he can
 [16] still say he's seen it. I don't want to know what your
 [17] discussions were, but -
 [18] MS. LEONARD: Okay.
 [19] A. Yes.
 [20] BY MR. PAER:
 [21] Q. When was the first time you saw it?
 [22] A. I don't recall the - I don't recall the date.
 [23] Q. Was it within the last week? I'm asking for
 [24] the first time.
 [25] A. I know, and I'm trying to - trying to give

[1] you an honest answer.
 [2] Okay. The best way to answer this would have
 [3] been yesterday.
 [4] Q. Yesterday was the first time you've ever seen
 [5] this?
 [6] A. Uh-huh.
 [7] THE REPORTER: Yes? Instead of uh-huh, would
 [8] you please -
 [9] A. Yes. Yesterday was the first time I looked at
 [10] these documents.
 [11] BY MR. PAER:
 [12] Q. Can you tell me what the first page, A19, is?
 [13] A. Loan agreement.
 [14] Q. Okay. This is the loan for Mr. and Mrs. Lopez
 [15] in 1995; is that right?
 [16] A. Correct.
 [17] Q. The first time you saw A20 was yesterday,
 [18] also?
 [19] A. Correct.
 [20] Q. What is A20?
 [21] A. Loan disclosure statement.
 [22] Q. Okay. Now, what is your understanding of the
 [23] purpose of the disclosure statement?
 [24] MS. LEONARD: Objection to the extent it calls
 [25] for a legal conclusion.

[1] A. As it says. It discloses the terms of the
 [2] loan.
 [3] BY MR. PAER:
 [4] Q. And if you take a minute to look at that, what
 [5] terms of the loan does it disclose to the borrower?
 [6] A. Date of the loan, annual percentage rate,
 [7] finance charge, amount financed, total of payments,
 [8] payment schedule, security, type of - in this case, it
 [9] was a mortgage, so it indicates whether it's a variable
 [10] or fixed rate mortgage, and it also discloses the
 [11] insurance, if any, that was sold. In this particular
 [12] document, it discloses the life insurance that was sold.
 [13] Q. Is it your understanding that this is the
 [14] primary document that a customer is supposed to rely on
 [15] or can rely on to describe the terms of his loan - his
 [16] or her loan?
 [17] MS. LEONARD: I object to the extent it calls
 [18] for a legal conclusion.
 [19] A. It's part of the documents that are provided
 [20] - that provide full disclosure.
 [21] BY MR. PAER:
 [22] Q. It is the disclosure statement; right?
 [23] A. Uh-huh. It also makes up part of the total
 [24] package that the customer gets when they make the loan.
 [25] Q. Is it your understanding that this is the main

[1] part - the most important part that the customer can
 [2] look at and rely on to know the terms of his loan?
 [3] MS. LEONARD: I'm going to object. He's
 [4] answered that twice now.
 [5] BY MR. PAER:
 [6] Q. I understand you said it was part of the total
 [7] package. I'm asking you if it's the most important part
 [8] for the customer to know the terms of his loan.
 [9] MS. LEONARD: Also object to the extent it
 [10] calls for a legal conclusion. And I would object to the
 [11] extent it doesn't ask for his personal knowledge. You
 [12] appear to be asking what is important to the customer.
 [13] A. I'd have to say I don't know.
 [14] BY MR. PAER:
 [15] Q. You don't know whether it's the most
 [16] important?
 [17] A. No, I don't know if it's the most important.
 [18] Q. You do know what's required by federal law, I
 [19] take it.
 [20] A. Yes.
 [21] Q. And you do know, also, that it's required that
 [22] at least part of its purpose as required by federal law
 [23] is to disclose the terms of the loan?
 [24] A. Yes.
 [25] Q. You do know that it does disclose, in this

[1] case, that a premium of \$7,124.78 was charged to the
 [2] borrowers for joint credit life insurance -
 [3] A. Yes.
 [4] Q. - is that right?
 [5] It says above the insurance that it will not
 [6] be provided unless you sign below; is that right?
 [7] A. That's what it says.
 [8] Q. And they did sign below, yeah?
 [9] A. Yes.
 [10] Q. And the Lopeses were charged that amount for
 [11] this insurance?
 [12] A. Correct.
 [13] Q. Is there anyplace on this document that tells
 [14] them that they may not have credit life insurance for
 [15] any reason, on this document, on the disclosure
 [16] statement?
 [17] A. Do you want to repeat the question? I'm
 [18] trying to understand what you're saying.
 [19] Q. Is there anything on this document that tells
 [20] Mr. and Mrs. Lopez that for any reason they might not
 [21] have credit life insurance?
 [22] A. That they may not have credit life insurance?
 [23] Q. Yes.
 [24] A. What does that mean? I don't understand what
 [25] that means.

Page

Page 88

[1] Q. You don't understand what that means?

[2] A. No.

[3] Q. That if they die, the loan won't be paid off.

[4] A. No. There's nothing on that document that

[5] talks about that.

[6] Q. Okay. So there's nothing on the disclosure

[7] statement that tells them that they may not be covered

[8] if one of them dies?

[9] A. That I'm aware of, yes.

[10] Q. Turning to page A22 of Exhibit No. 2 to your

[11] deposition, do you know what - have you seen this

[12] document before?

[13] A. Yes.

[14] Q. Do you know what it is?

[15] A. Yes.

[16] Q. I take it you saw it yesterday, also.

[17] A. Yes.

[18] Q. What is this?

[19] A. Application for credit insurance.

[20] Q. What is the usual procedure, if you know, for

[21] filling out this document?

[22] A. Typically, after having offered the insurance

[23] coverage to the consumer, the branch will either - at

[24] the time of - generally at the time of loan closing,

[25] have them - this would have been printed out and the

Page 86

[1] customer is given an opportunity to - depending on the

[2] size of the loan - we require this form to be completed

[3] when it's over \$7,500, and this loan obviously was, so

[4] they would be asked to look over this form and read

[5] the questions that are asked and initial either yes or

[6] no with respect to answering the question. Then they're

[7] also asked to sign again and date the forms.

[8] Q. This generally happens at closing?

[9] A. Yes. There are times when we do - we will

[10] ask customers - if they've asked for insurance, this

[11] form is going to be completed - some of the questions

[12] may have been asked prior to the loan closing.

[13] Q. Except for the handwritten portion, I take it,

[14] the form would be filled out and presented to them -

[15] A. Correct.

[16] Q. - and they would fill it in.

[17] A. It's printed out - it's all part of the loan.

[18] Q. Is there anything on this form that tells the

[19] customer that if they sign and are charged for the

[20] insurance, that they may not have it?

[21] A. I believe there is. Again, I'm not all that

[22] familiar with this.

[23] MS. LEONARD: I'm going to object. The

[24] document speaks for itself, John. Do you want him to

[25] simply read the document to you?

Page 87

[1] MR. PAER: I want to - I want to know where

[2] on - Associates has denied coverage and I want to know

[3] how the customer is supposed to know that they might not

[4] get coverage for any reason.

[5] A. Well, if you go down to the bottom, below the

[6] numbered item six, in the second part of that, which

[7] says, if I have been required to answer questions one

[8] through six, I represent that the above answers are true

[9] and correct to the best of my knowledge and understand

[10] that these representations shall be the basis for the

[11] company's acceptance of this application for the

[12] insurance applied for -

[13] BY MR. PAER:

[14] Q. Okay. Is there anything else on that

[15] document?

[16] A. The next paragraph below that, and then they

[17] also indicated their - as you can see on the document,

[18] they have to - we ask them to list their doctor's name,

[19] and proposes that - it gives you the proposed term of

[20] the date of the application. The customer signs it.

[21] It's witnessed.

[22] Q. They did list their doctors' names, yeah?

[23] A. Correct.

[24] Q. Okay. So my question is: Is there anything

[25] else other than that sentence that you just read that

[1] you feel tells the customer they might have a problem

[2] later on, that they might later on be denied coverage if

[3] one of them dies?

[4] A. No.

[5] Q. Okay. It doesn't say that if any of these

[6] questions are not answered correctly you can be denied

[7] coverage, does it?

[8] MS. LEONARD: Are you asking him if those

[9] particular words are printed on this form, John?

[10] MR. PAER: Or anything to that effect.

[11] MS. LEONARD: Well, I'd say the document

[12] speaks for itself. He's already answered that.

[13] BY MR. PAER:

[14] Q. You can answer the question.

[15] A. Again, I would again refer you to that part of

[16] the document that says, I represent that the above

[17] answers are true and correct to the best of my

[18] knowledge and understand that these representations

[19] shall be the basis for the company's acceptance of this

[20] application for the insurance applied for.

[21] Q. Okay. And my question is: It doesn't say

[22] that if any of the answers are incorrect, you can be

[23] denied coverage, does it?

[24] A. It does not specifically say that.

[25] Q. Is there anything else that you're aware of

Page 89

[1] that tells the customer they may be denied coverage?

[2] A. Not that I'm aware of.

[3] Q. I'm going to give you Exhibit 3, which has

[4] documents A25, 26, 27, 28, 29 - not 30 - 31, 32, and

[5] ask you first of all if you can confirm that those are

[6] the correct numbers.

[7] A. Okay.

[8] Q. Those are the correct numbers?

[9] A. Yes.

[10] Q. Now, have you seen that document before?

[11] A. No.

[12] Q. Ever?

[13] A. No.

[14] Q. Do you know what it is?

[15] A. Yes.

[16] Q. Do you know how to read it?

[17] A. Yes.

[18] Q. Okay. What is it?

[19] A. Well, the first three pages are a copy of the

[20] computer screen print that basically is the customer's

[21] account.

[22] Q. Just to save time, is it essentially a ledger

[23] that tells you what happened in the account?

[24] A. That's - that would be a fair statement.

[25] Q. It shows the payment history?

Page 90

[1] A. Right.

[2] Q. And it has some notes?

[3] A. Some notes, yes.

[4] Q. Now, does it show that this loan was paid

[5] timely or delinquent or -

[6] A. Yes, it does.

[7] Q. It shows it was paid timely?

[8] A. Uh-huh.

[9] Q. And I will represent to you that Mr. Lopez

[10] died on March 3rd, 1996.

[11] And it shows that it was paid timely even

[12] after that, doesn't it?

[13] A. Yes.

[14] Q. And then at some point on page two, it shows

[15] an insurance refund of the premium; is that correct?

[16] A. Yes. Correct.

[17] Q. When was that?

[18] A. September 20, 1996.

[19] Q. Okay. Do you know why that was?

[20] A. Yes.

[21] Q. Why was that?

[22] A. The claim was denied by our insurance company.

[23] Q. Okay. What is the purpose, then, of refunding

[24] the premium?

[25] A. It's required by our company.

[1] Q. Okay. Is it required by law, do you know?
 [2] A. I don't know.
 [3] Q. And is it required by your company to put the
 [4] borrower back in the position -- since they claim that
 [5] they should not have gotten credit life, to put them
 [6] back in the position where they would have been had they
 [7] not purchased the credit life?
 [8] A. I don't understand the question.
 [9] Q. We'll probably deal more with this later, but
 [10] -- we'll do this.
 [11] MR. PAER: Why don't you mark this Exhibit 6?
 [12] (Exhibit 6 marked for identification.)
 [13] MS. LEONARD: Isn't Exhibit 4 next?
 [14] MR. PAER: Yes, but it's already been marked.
 [15] MS. LEONARD: What are Exhibits 4 and 5?
 [16] MR. PAER: Exhibit 4 is the enrollment
 [17] authorization. Exhibit 5 --
 [18] MS. LEONARD: Do you have a Bates stamp? I'm
 [19] sorry.
 [20] MR. PAER: What's that?
 [21] MS. LEONARD: Bates stamp?
 [22] MR. PAER: A222.
 [23] MS. LEONARD: Okay.
 [24] MR. PAER: And Exhibit 5 is A289. Exhibit 5
 [25] is Exhibit 4 to Christine West's deposition.

[1] MS. LEONARD: Thank you.
 [2] (Discussion off the record.)
 [3] BY MR. PAER:
 [4] Q. Let me show you Exhibit 6 and I want to refer
 [5] you particularly to -- I want to refer you particularly
 [6] to the middle of the page that there are several
 [7] paragraphs.
 [8] Is it a fair summary of those paragraphs that
 [9] the company is saying we're denying coverage and we're
 [10] going to make the refunds to bring you back to the time
 [11] of the loan as if you had not purchased the credit life?
 [12] MS. LEONARD: Well, I'm going to object,
 [13] because, A, the document speaks for itself; B, this
 [14] document was not issued by Jeff, it's not signed by
 [15] Jeff. It's not -- it has no indication that Jeff has
 [16] anything to do with this, and that he could -- calls for
 [17] a legal conclusion, a factual conclusion outside his
 [18] personal knowledge.
 [19] If you want him to simply read this to you for
 [20] the record, he can read that aloud for the record, but
 [21] he can't speak to some other company's intent.
 [22] MR. PAER: That's not what I'm asking him.
 [23] BY MR. PAER:
 [24] Q. What I'm asking you is: Is it your
 [25] understanding that the refund that's described on the

[1] second page of Exhibit 3 is designed to bring the
 [2] customers back to where they were had they not bought
 [3] the insurance?
 [4] A. Could you clarify your statement with regard
 [5] to bring the customer back to where they were had they
 [6] not bought the insurance? I don't understand.
 [7] Q. At least financially, because the company is
 [8] saying that they -- they were not eligible for
 [9] insurance, for whatever reason, and are not paying the
 [10] claim, that they are returning the premium and trying to
 [11] make it as if they had never bought the insurance in the
 [12] first place.
 [13] MS. LEONARD: Same objection. And it's
 [14] compound.
 [15] BY MR. PAER:
 [16] Q. Do you understand the question?
 [17] A. I don't know.
 [18] Q. You don't know what?
 [19] A. I don't know how to answer your question.
 [20] Q. Okay. Do you know what the company wants to
 [21] do when they've denied coverage in this case? What is
 [22] their purpose in returning the premium?
 [23] MS. LEONARD: Objection. Vague and ambiguous.
 [24] What company are we talking about, John?
 [25] BY MR. PAER:

[1] Q. Your company, Associates.
 [2] MS. LEONARD: Of Hawaii?
 [3] MR. PAER: Uh-huh.
 [4] A. Associates Financial -- we'll just say the
 [5] Hawaii company is following direction given by the
 [6] insurance company.
 [7] BY MR. PAER:
 [8] Q. So you don't know why they're doing what
 [9] they're doing?
 [10] A. No, I don't.
 [11] Q. You're just taking direction --
 [12] A. Right.
 [13] Q. -- from somebody else?
 [14] All right. Now, on page A28 of Exhibit 3, it
 [15] tells you what direction you're supposed to take, does
 [16] it not, on the X marks over there?
 [17] A. Correct.
 [18] Q. What does it say? Could you read that?
 [19] A. Please refund all premiums charged for credit
 [20] life coverage, plus interest. Please call
 [21] 1-214-541-7068 to advise when refund has been made.
 [22] Q. And the refund was made, wasn't it?
 [23] A. Correct.
 [24] Q. On September 20th?
 [25] A. Correct.

[1] Q. But it wasn't made plus interest, was it?
 [2] A. It does not appear to have been.
 [3] Q. Okay. In fact, on page A28, there's some
 [4] handwritten notes to ask about the interest refund; is
 [5] that right?
 [6] A. Correct.
 [7] Q. Do you know why the interest wasn't refunded?
 [8] A. No, I don't.
 [9] Q. Okay. Do you know what the normal procedure
 [10] is?
 [11] A. To my knowledge, the normal procedure is to
 [12] refund the full premium as directed.
 [13] Q. Plus interest or not?
 [14] A. This is an interest-bearing account. There's
 [15] no interest to refund, to my knowledge. I mean, it's
 [16] not -- the interest is charged at the point -- on a
 [17] daily basis. So if you're refunding all of the
 [18] insurance, logically you would credit the whole thing to
 [19] the account and there'd be no interest.
 [20] Q. But you charged interest on the insurance.
 [21] A. We charged interest on the total loan, which
 [22] the insurance premium was part of.
 [23] Q. That's right.
 [24] A. Okay.
 [25] Q. Isn't that the interest they're talking about

[1] refunding when they say plus interest?
 [2] A. I don't know.
 [3] Q. But it's not your policy to -- or so far as
 [4] you know, they don't know normally refund interest as
 [5] well as the premium?
 [6] A. I don't know.
 [7] Q. Okay. Who would know?
 [8] A. Who would know? I don't know specifically who
 [9] would know.
 [10] Q. No one in Hawaii would know, if you wouldn't
 [11] know, I take it.
 [12] A. That I'm aware of.
 [13] Q. No one that you're aware of in Hawaii would
 [14] know?
 [15] A. Correct.
 [16] Q. Nonetheless, you do admit, I take it, that the
 [17] Hawaii company did not follow the instructions as set
 [18] forth on page A28 from the insurance company. Is that
 [19] right?
 [20] MS. LEONARD: Objection to the extent it calls
 [21] for something outside of Jeff's personal knowledge.
 [22] A. Say the question again.
 [23] BY MR. PAER:
 [24] Q. The Hawaii company did not follow the
 [25] instructions of the insurance company, did it, in this

[1] case, because they didn't refund any interest?

[2] A. Correct.

[3] Q. Okay. Going back to number six, the first

[4] page of number six is the check refunding the amount of

[5] the insurance premium; is that correct?

[6] A. It appears to be.

[7] Q. And that check is written from Associates to

[8] Associates; is that right?

[9] A. That's correct.

[10] Q. Do you know why that is?

[11] A. Just standard operating procedure.

[12] Q. Isn't standard operating procedure to refund

[13] the premium to the customer?

[14] A. No. It can either go to the account or the

[15] customer.

[16] Q. Okay. And you don't normally write it to the

[17] customer and have them endorse it back over to you?

[18] You just write it to yourself? When I say "you" and

[19] "yourself," I mean the company, of course.

[20] A. If the refund was to be made to the customer,

[21] obviously the check would be payable to the customer.

[22] If it's going to be credited to the account, then it's

[23] made payable the - it's made payable to Associates and

[24] credited to the account, as you saw in that other

[25] exhibit.

[1] Q. Which other - this one?

[2] A. Correct.

[3] Q. So it is not normal that you would make it to

[4] the customer and have them sign it over to you?

[5] MS. LEONARD: Asked and answered.

[6] BY MR. PAER:

[7] Q. Is that right?

[8] A. My answer was it would depend on whether it's

[9] being credited to the account.

[10] Q. If it is being credited to the account, this

[11] is the normal way you would do it?

[12] A. I believe so.

[13] Q. You would not write it to the customer and

[14] have them sign it back over to you?

[15] A. I believe so.

[16] Q. Do you know whose signature that is on the

[17] check?

[18] A. No, I don't.

[19] Q. But you had to approve it? You had to approve

[20] this process; is that right?

[21] A. Typically, I do have to sign a form,

[22] typically. I don't recollect signing a form for

[23] every single one of them.

[24] Q. Now, on Exhibit 3, A29, what is that?

[25] A. That appears to be credit insurance claimant's

[1] proof of death. I don't know. I'm not familiar with

[2] the form.

[3] Q. With this form?

[4] A. Yeah.

[5] Q. Okay. Showing you Exhibit 4, can you tell me

[6] what that is?

[7] A. Yes. It's a product called Home Security

[8] Plan.

[9] Q. Okay. And how does that work?

[10] A. It's a non-insurance product that provides

[11] benefits to the consumer.

[12] Q. What are the benefits?

[13] A. There's a whole list of them. I'm not

[14] familiar with many of them. But it provides - if

[15] you're a homeowner, for example, it provides, I believe,

[16] the first \$500 of coverage in the event of some sort of

[17] a claim on - a property claim. It provides with

[18] emergency room medical service coverage in the event of

[19] a child - provided it's not organized - you know, an

[20] organized sport of some sort. There's a whole gamut

[21] of -

[22] Q. I thought you said it was a non-insurance

[23] product.

[24] A. Correct. It is.

[25] Q. The way you're saying it, it provides coverage

[1] for - it pays you in the event of loss. How is that a

[2] non-insurance?

[3] A. It allows for, I believe, up to - and it

[4] might be just a flat \$500. If you had a claim on your

[5] property - let's say your home was - had a fire and

[6] you had a claim for \$10,000, it will provide coverage, I

[7] believe, up to \$500. In other words, coverage meaning

[8] it will provide compensation to that consumer for about

[9] \$500, I believe.

[10] Q. I guess my question is: How is that different

[11] from insurance?

[12] MS. LEONARD: I'm going to object to the

[13] extent it call for a legal conclusion.

[14] MR. PAER: I'm just trying to get what he

[15] meant by saying it wasn't insurance.

[16] A. Because it's not, not insurance.

[17] BY MR. PAER:

[18] Q. Well, how do you -

[19] A. It's a service product policy that provides a

[20] wide range of benefits to the consumer.

[21] Q. I guess what I'm trying to understand is some

[22] of the benefits are payment for loss, which is what I

[23] think of in terms of insurance, payment for loss -

[24] A. Not necessarily. If you belong to, for

[25] example, to AAA Auto Club and somebody breaks in to your

[1] car, you might be - part of their policy would provide

[2] for some sort of theft deterrent or something. But this

[3] is nothing more than a service product which provides

[4] monetary benefits for certain provisions of this plan.

[5] Q. Okay. Is this one of the products that shows

[6] up on Associates' trend, monthly trend statement?

[7] A. It's part of the other income, correct.

[8] Q. And do you know what happens to the money

[9] that's - the premiums that are charged - the premiums

[10] or price charged for this? I mean, is there a - well,

[11] do you know what happens to the money that's charged for

[12] that?

[13] A. Yes.

[14] Q. What?

[15] A. The consumer purchases the product and we send

[16] the enrollment form application along with a check to

[17] the company that sells this - this is an outside

[18] company that sells this product.

[19] Q. How much is the check for, in this case?

[20] A. It will depend on the plan. The plans go from

[21] one to three years.

[22] Q. Okay. How many years is this?

[23] A. This is a three - this was a three-year plan.

[24] The premium was \$309.95.

[25] Q. How much goes to the outside company and how

[1] much stays with Associates?

[2] A. Well, the entire check goes to the company.

[3] Q. Yeah.

[4] A. As far as what we get back as a company, I do

[5] not know.

[6] Q. But you get something back, because it shows

[7] up on your profit - on your trend line.

[8] A. The gross premium or the gross amount of this

[9] particular sale, likewise with other products, is what

[10] we see.

[11] Q. Is what you -

[12] A. - see on the trend.

[13] Q. Okay. But then there's minus some figure and

[14] then there's a figure -

[15] A. No. There's no minus figure.

[16] Q. On this, there's no minus figure?

[17] A. No. Because in this case, if there's a claim

[18] filed or, as I was mentioning earlier, refunds, if a

[19] customer cancelled this, I don't know how - I don't

[20] know how that shows up on the trend. Okay?

[21] Q. Okay. So you cut - Associates cuts a check,

[22] in this case in the amount of 309.95?

[23] A. Correct.

[24] Q. And sends it off to what company? Is it Home

[25] Security Plan? Is that the name of -

Page 1.

- (1) A. No. That's just the name of the plan. I
 (2) don't - you know, I'm sorry. I just cannot recall the
 (3) name of the -
 (4) Q. The company?
 (5) A. The company, yeah. It might be American
 (6) Bankers or something. I'm sorry. I'm just drawing a
 (7) blank.
 (8) Q. American Bankers is an insurance company,
 (9) right?
 (10) A. I believe so. They sell a variety of
 (11) products. I'm not really sure on the name of the
 (12) company. I'm sorry. I just can't seem to remember it.
 (13) Q. In any event, Associates is not selling this
 (14) for free for American Bankers or whoever the company is.
 (15) They're getting paid something for this; right?
 (16) A. Certainly.
 (17) Q. But you don't know how much?
 (18) A. No, I don't.
 (19) Q. And you don't know whether it comes to
 (20) Associates Finance of Hawaii or to one of the other
 (21) affiliates, or do you?
 (22) A. I do know that we don't - as the Hawaii
 (23) corporation specifically, we don't get a check sent
 (24) directly to us. This is all part of the general ledger
 (25) accounting for the whole company.

Page 104

- (1) Q. But it does appear on your trend statement at
 (2) some -
 (3) A. As part of other income.
 (4) Q. So the Hawaii company gets some part of the
 (5) 309.95, but you don't know how much?
 (6) A. Correct.
 (7) Q. Is that fact disclosed to the consumer
 (8) anywhere?
 (9) A. What fact?
 (10) Q. That part of the 309.95 goes to the Hawaii
 (11) company.
 (12) A. I don't believe - I don't think so. I don't
 (13) believe so.
 (14) Q. Showing you Exhibit 5 in this case, have you
 (15) seen that document before?
 (16) A. Yes.
 (17) Q. As it says, it's a release of state tax lien.
 (18) That's something that you require prior to making a
 (19) loan?
 (20) A. If we're aware of a tax lien, yes.
 (21) Q. You require it be cleared up -
 (22) A. Yes.
 (23) Q. - prior to - or in connection with the loan?
 (24) A. Right. It's part of the -
 (25) Q. Part of the pay-out or whatever?

Page 105

- (1) A. Yeah. In order to get a title policy,
 (2) generally you have to clear out tax liens.
 (3) Q. Okay. And that's standard practice for you
 (4) guys?
 (5) A. Yes.
 (6) Q. Just something I meant to ask you before - I
 (7) think I know the answer. But on Exhibit 2, number A22,
 (8) when the customer fills out their doctors' names, as
 (9) they did in this case, it's my understanding that it's
 (10) not Associates' practice to check with the doctors prior
 (11) to issuing the policy and closing the loan. Is that
 (12) correct?
 (13) A. Correct.
 (14) Q. What is the purpose of having the doctors
 (15) listed?
 (16) A. In the event a question did arise, that they
 (17) would know - there would be a record of what doctor we
 (18) could communicate with - or the insurance company.
 (19) Q. When you say a question, you mean a question
 (20) as to whether the claim was valid or not, I take it.
 (21) Is that what you mean?
 (22) A. That's my understanding.
 (23) MS. LEONARD: Off the record.
 (24) (Discussion off the record.)
 (25) (Exhibit 7 marked for identification.)

Page 106

- (1) BY MR. PAER:
 (2) Q. Showing you Exhibit 7, I assume you first saw
 (3) that yesterday. Is that right?
 (4) A. Yes.
 (5) Q. Can you tell me what Exhibit 7 is?
 (6) A. Standard loan agreement.
 (7) Q. And is it your understanding that Exhibit 7 is
 (8) essentially the refinancing of the October '95 loan
 (9) after Mr. Lopez's death, by Mrs. Lopez?
 (10) A. I don't know that.
 (11) Q. Well, maybe you could look it over and see.
 (12) A. I would need to see other documentation to
 (13) confirm that it was a refinance.
 (14) Q. Okay. What do you - maybe I can short-
 (15) circuit this a bit. Just a second.
 (16) Showing you Exhibit 3, again, it's the -
 (17) MR. PAER: Would you mark this Exhibit 8.
 (18) please?
 (19) (Exhibit 8 marked for identification.)
 (20) BY MR. PAER:
 (21) Q. Showing you Exhibit 8 and Exhibit 7, does that
 (22) help you? To speed things, this isn't a trick question.
 (23) A. I know. I just want to be sure I'm giving you
 (24) the right answer.
 (25) Yes.

Page 107

- (1) Q. In Exhibit No. 8, the total disbursed to pay
 (2) off the old loan is 59,309 and 80 something cents; is
 (3) that right?
 (4) A. Correct.
 (5) Q. Does that come from the ledger here, from the
 (6) number under the return of the premium?
 (7) A. Correct.
 (8) Q. So essentially, what they did is took the
 (9) amount due, subtracted the \$7,124.78 premium, and the
 (10) balance due was the 59,309 and 80 something cents; is
 (11) that right?
 (12) A. It appears that that's correct.
 (13) Q. Okay.
 (14) (Discussion off the record.)
 (15) MR. PAER: Let's make this nine, please.
 (16) (Exhibit 9 marked for identification.)
 (17) BY MR. PAER:
 (18) Q. Exhibit No. 9, I take it, is the disclosure
 (19) statement for the 1996 loan by Mrs. Lopez. Is that
 (20) right?
 (21) A. It appears to be.
 (22) MR. PAER: If you'd make that number ten -
 (23) (Exhibit 10 marked for identification.)
 (24) MS. LEONARD: Is it a complete copy?
 (25) THE WITNESS: You're missing the back of it.

Page 108

- (1) BY MR. PAER:
 (2) Q. Is there a back?
 (3) A. I believe so. Isn't there another part that
 (4) shows the disbursements?
 (5) Q. Oh, yes. We had that. I don't have it right
 (6) here. But there would be a back side - a back side of
 (7) this page showing disbursement figures of the loan?
 (8) A. That's right.
 (9) Q. And showing you Exhibit No. 10 -
 (10) MS. LEONARD: John, Exhibit 10 appears to be
 (11) two different documents out of sequence. Is that what
 (12) you intended?
 (13) MR. PAER: No, it's not. Thank you.
 (14) MS. LEONARD: You're welcome.
 (15) BY MR. PAER:
 (16) Q. Exhibit No. 10 is just one document. Can you
 (17) tell me what that is, please?
 (18) A. It's a letter from Sheryl Hursh to me
 (19) requesting approval - or reapproval of the application
 (20) for loan on Lopez.
 (21) Q. And did you approve it?
 (22) A. I believe I did.
 (23) Q. She is saying in there, isn't she, that by
 (24) doing this loan, Associates is doing even better annual
 (25) percentage rate wise than they were before? Is that a

[1] fair statement?

[2] A. Could you restate the question?

[3] Q. Is it a fair statement to say that she says to

[4] you in that letter that Associates would be doing better

[5] than they were before, even with the change she

[6] proposes?

[7] A. No, it's not a fair statement.

[8] Q. What is wrong with that statement?

[9] A. Well, the earlier loan had a higher annual

[10] percentage rate. The refinance had a lower annual

[11] percentage rate. So, therefore, the difference is that

[12] we're not making as much money as we were making on the

[13] prior loan.

[14] Q. Doesn't it say this will still yield a higher

[15] agreed rate, 13.25, than the one we have now of 12.74?

[16] A. Correct.

[17] Q. But the agreed rate does not make a better

[18] loan for you guys?

[19] A. Not necessarily.

[20] Q. What does the agreed rate do?

[21] A. The agreed rate is the difference between an

[22] annual percentage rate minus the points, if any were

[23] charged. That's an agreed rate.

[24] Q. And that may or may not make it a better loan?

[25] A. Correct.

[1] Q. Do you know in this case?

[2] A. I'd have to look at the documents to answer

[3] that.

[4] MR. PAER: Can you make this the next number?

[5] (Exhibit 11 marked for identification.)

[6] BY MR. PAER:

[7] Q. Showing you Exhibit No. 11, do these reflect

[8] the charges on this loan, the second loan, of September

[9] 1996?

[10] A. I would need to see the front page of this

[11] document, the transmittal letter, in order to determine

[12] the date. It's not dated.

[13] Q. Okay. Going back to Exhibit No. 8, which is

[14] dated 9/30/96, it shows the same information, I think,

[15] does it not?

[16] MS. LEONARD: Do you want to let him look at

[17] them both or -

[18] MR. PAER: Sure.

[19] A. Yes.

[20] BY MR. PAER:

[21] Q. We probably can do it from number eight if you

[22] like, because that does have the date on it. Maybe it's

[23] easier.

[24] It shows a loan origination fee of five points

[25] essentially, is that right, 2,983.24?

[1] A. That's incorrect.

[2] Q. Okay.

[3] A. Do you want to restate the question? That's

[4] not correct.

[5] Q. To me, it says loan discount five percent to

[6] lender -

[7] A. Thanks.

[8] Q. - 2983.

[9] A. That's correct.

[10] Q. Is there a difference between -

[11] A. Loan origination fee -

[12] Q. And -

[13] A. - and points are different.

[14] Q. Discount is points?

[15] A. Correct.

[16] Q. And origination fee is slightly different?

[17] A. Correct.

[18] Q. What is the loan origination fee?

[19] A. What is it? \$150.

[20] Q. Yes. But what's the difference between that

[21] and points?

[22] A. Under truth in lending, they're both the same

[23] - they're treated the same. It's part of the finance

[24] charge, part of the annual percentage rate.

[25] Q. So what is the difference?

[1] A. We charge a - as allowable by law, we charge

[2] a fee to originate real estate loans.

[3] Q. That's the \$150 fee?

[4] A. Correct.

[5] Q. Then the points are five points; correct?

[6] A. Correct.

[7] Q. So what happened in this case is, of Mrs.

[8] Lopez's \$7,100 return of premium, almost half of that

[9] went to loan origination fee and points right off the

[10] top, yeah?

[11] A. That's not correct.

[12] Q. What's not correct about that?

[13] A. The points and origination fee are spread out

[14] over the life of this particular loan.

[15] The refund that was made on insurance was made

[16] to the balance and dropped the balance immediately down

[17] to where it would be - in other words, the full refund

[18] of that insurance affected the balance immediately.

[19] These points and origination fee are going to

[20] be earned over the life of this loan, which was, I

[21] believe, ten years - fifteen years.

[22] Q. Points and origination fee are not normally

[23] rebated, are they?

[24] A. We have a policy if the loan is refinanced in

[25] under a year, they are. I mean, the points are refunded

[1] on a pro rata basis and the origination fee is not.

[2] Q. Is not?

[3] A. Uh-huh.

[4] Q. That's if it's within a year?

[5] A. Correct.

[6] Q. If it's more than a year?

[7] A. It is not.

[8] Q. It's not at all?

[9] A. Correct.

[10] Q. So if this loan isn't paid off in a year, the

[11] points are earned within that year; right?

[12] A. Correct.

[13] Q. So Associates has essentially taken 3,000 of

[14] the \$7,000 back, if not right away, within the year,

[15] have they not?

[16] A. No.

[17] Q. Okay. Why not?

[18] A. As I said, points are spread out over the life

[19] of the loan, as far as earning the income from the

[20] points.

[21] You asked on the refund - if the loan is paid

[22] off - refinanced in under a year, then we refund part

[23] of the points back to the consumer. We don't earn all

[24] of those points within that first year unless it's a

[25] refund basis.

[1] Q. Not only are the points charged right away,

[2] interest is charged on the points, too, aren't they?

[3] A. That's part of the total loan, correct, which

[4] is disclosed.

[5] Q. So you are taking - I'm not saying it's not

[6] disclosed. I'm saying that you're taking - between the

[7] origination fee and points, you're taking \$3,000 and

[8] charging interest on top of that from the day that this

[9] loan was made; isn't that right?

[10] A. The points and origination fee are part of the

[11] total amount financed to the borrower. And as I said,

[12] that - those points are earned over the life of the

[13] loan.

[14] Q. You mean part of the finance charge?

[15] A. That's correct, they are part of the finance

[16] charge.

[17] Q. But they are also - they are treated as a

[18] prepaid finance charge, aren't they, so that you can

[19] charge interest on top of those finance charges?

[20] A. In the event of early pay-off, yes.

[21] Q. No, not in the event of early pay-offs.

[22] Period.

[23] When you figure out the loan, you're charging

[24] interest upon the points and the origination fee; isn't

[25] that right?

[1] A. Correct.
 [2] MR. PAER: Okay. Can you mark this Exhibit
 [3] 12, please?
 [4] (Exhibit 12 marked for identification.)
 [5] BY MR. PAER:
 [6] Q. Showing you Exhibit 12, can you tell me what
 [7] that is?
 [8] A. Basically, a standard insurance policy.
 [9] Q. That's the policy -
 [10] A. Yeah. It's basically a policy, credit policy.
 [11] Q. It indicates that it's a group policy, doesn't
 [12] it?
 [13] A. Correct.
 [14] Q. Doesn't that mean to you that there must be a
 [15] master policy somewhere?
 [16] A. I would have to assume that, sure.
 [17] Q. But you don't know who has that or where it
 [18] is?
 [19] A. No, I don't.
 [20] Q. You don't have a copy in Hawaii of it, that
 [21] you're aware of?
 [22] A. Not that I'm aware of.
 [23] Q. Might it be on file with the State, or is that
 [24] not something that they do?
 [25] A. I don't know.

[1] Q. You've never heard of a master policy for any
 [2] of this credit life; is that right?
 [3] A. I know there has to be a master - a group
 [4] master policy, however you want to word that. Beyond
 [5] that, that's all I know.
 [6] Q. And you've never seen it on the Mainland or
 [7] anywhere else?
 [8] A. No.
 [9] Q. Okay. Do you know why we don't have a copy of
 [10] this information on the top filled in?
 [11] I'll represent to you that this document was
 [12] produced by Associates, and I'm just wondering how come
 [13] you or we don't have this filled in up here.
 [14] A. No, I don't.
 [15] Q. Does that indicate that they weren't given
 [16] this document or -
 [17] A. I don't know.
 [18] Q. Now, are you pretty familiar with this
 [19] document?
 [20] A. No, I'm not.
 [21] Q. I mean, just general -
 [22] A. General, yeah.
 [23] Q. Not the one in this case.
 [24] A. I have a general - yeah.
 [25] Q. Do you know what it's for?

[1] A. It's -
 [2] MS. LEONARD: Can I see this?
 [3] MR. PAER: I'm sorry. Sure.
 [4] MS. LEONARD: Okay.
 [5] A. In general, it's basically a - an insurance
 [6] policy. It outlines the provisions of the contract for
 [7] insurance.
 [8] BY MR. PAER:
 [9] Q. And when does the customer get this?
 [10] A. At loan closing.
 [11] Q. At closing?
 [12] A. Uh-huh.
 [13] Q. Now, it says What You Get up at the top, yeah?
 [14] A. Uh-huh.
 [15] Q. And it says, We certify we've been paid the
 [16] premium and you're insured for the coverage shown in the
 [17] schedule subject to the terms of the group policy issued
 [18] to the creditor.
 [19] Do you know what group policy they're talking
 [20] about? Is that the master policy we've been discussing?
 [21] A. I don't know.
 [22] Q. You've never seen that group policy that
 [23] they're - that's referred to in here, so far as you
 [24] know?
 [25] A. Correct.

[1] Q. If you don't know what it is, how would a
 [2] customer figure out what they're talking about, if you
 [3] know?
 [4] MS. LEONARD: Objection. Calls for
 [5] speculation.
 [6] A. No, I don't know.
 [7] BY MR. PAER:
 [8] Q. I'm sorry?
 [9] A. I don't know.
 [10] Q. You don't know.
 [11] If you were a customer and you wanted to see
 [12] what the terms of that group policy were, what would you
 [13] do?
 [14] A. Me personally?
 [15] Q. Sure.
 [16] MS. LEONARD: Calls for speculation.
 [17] BY MR. PAER:
 [18] Q. - or any customer.
 [19] A. Probably call the State Insurance Division.
 [20] Q. And do you feel that the State Insurance
 [21] Division would have a copy of it?
 [22] A. I would assume they would.
 [23] Q. Do you know whether they do or not?
 [24] A. No, I don't.
 [25] Q. There's nothing in this document that tells

[1] the customer how to go about finding the terms of that
 [2] policy, is there?
 [3] A. I would have to read this thoroughly to
 [4] answer.
 [5] Q. Take a look.
 [6] MS. LEONARD: It appears there's holes punched
 [7] through part of the address at the top and on the second
 [8] page.
 [9] MR. PAER: Okay.
 [10] THE WITNESS: Your question, again, please?
 [11] MR. PAER: Could you read it back, please?
 [12] (Record was read as requested.)
 [13] BY MR. PAER:
 [14] Q. When I say "that policy," I mean the group
 [15] policy that's referred to on the first page.
 [16] A. It does not appear to.
 [17] Q. Then it says What We Will Pay, and for joint
 [18] life it says, I think, as you discussed before, if one
 [19] of them dies, we'll pay the amount of insurance in force
 [20] at the time after we receive proof of death, and only
 [21] one death benefit will be paid; is that right?
 [22] A. That's what it says.
 [23] Q. It doesn't say that you might not be covered
 [24] for any reason, does it?
 [25] MS. LEONARD: Are you referring to the fourth

[1] paragraph down on the first page, John?
 [2] MR. PAER: Yes.
 [3] (Discussion off the record.)
 [4] A. No. It just says that - it states who gets
 [5] paid and what they will pay.
 [6] BY MR. PAER:
 [7] Q. It doesn't say how they might not be covered?
 [8] A. Correct.
 [9] Q. Then on the next page it says What We Won't
 [10] Pay, on the - about a little less than a third -
 [11] maybe a quarter of the way down. Do you see that?
 [12] A. Uh-huh. Okay.
 [13] Q. Okay? Now, there are three categories of what
 [14] we won't pay. One is misstated age; is that correct?
 [15] A. Correct.
 [16] Q. One is suicide and one is total disabilities
 [17] not covered; is that right?
 [18] A. Correct.
 [19] Q. None of those items are applicable in this
 [20] case, are they?
 [21] A. I don't know.
 [22] Q. There was no misstated age that you're aware
 [23] of, is there?
 [24] A. You're asking me for something I can't give
 [25] you.

State of Hawaii



INSURANCE DIVISION

This is to certify that ASSOCIATES FINANCIAL SERVICES CO. OF HI, INC.
has been duly licensed as a **SUBAGENT**
in the State of Hawaii on NOV 29, 1991

with authorized insurance class(es)

Casualty Life Surety
Disability Marine
Fire Motor Vehicle
Designated Representative(s)

JEFFERY S. HAMILTON

License Number 106336

4/9/98
Jeffery Hamilton
Robert Carpenter
Insurance Commissioner

The above-named licensee, having complied with the requirements of the law, is hereby licensed to transact the above-named classes of insurance. This license is valid until terminated by surrender, revocation, or failure to extend. A new license will not be issued upon extension. This license shall remain in the possession of the licensee named herein until termination, at which time it must be delivered to the Commissioner.

EVJ:BIT

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF HAWAII

TERESA ANN LOPEZ,

Plaintiff,

vs.

ASSOCIATES FINANCIAL SERVICES
COMPANY OF HAWAII, INC.,

Defendants.

CIVIL No. 97-01384 SOM

CERTIFICATE OF SERVICE

TERESA ANN LOPEZ,

Plaintiff,

vs.

ASSOCIATES FINANCIAL LIFE
INSURANCE COMPANY,

Defendants.

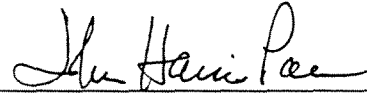
CIVIL No. 98-00205 DAE
(OTHER CIVIL ACTION)

CERTIFICATE OF SERVICE

THE UNDERSIGNED HEREBY certifies that a true and correct copy of the foregoing was served on the date of filing by United States Mail upon the following:

Tom E. Roesser, Esq.
Katherine G. Leonard, Esq.
CARLSMITH BALL WICHMAN CASE & ICHIKI
Pacific Tower
1001 Bishop Street, Suite 2200
Honolulu, Hawaii 96813

DATED: Honolulu, Hawaii, October 28, 1998.

A handwritten signature in cursive script, appearing to read "John Harris Paer".

STANLEY E. LEVIN
JOHN HARRIS PAER
Attorneys for Plaintiff