MIKE KREIDLER
STATE INSURANCE COMMISSIONER

DECLARATION OF MAILING
I declare under penalty of perjury under the laws of the State of Washington that on the date listed below, I mailed or caused delivery of a true copy of this document to parties below
DATED this 14th day of December, 2005 at Tumwater, Washington.
Signed: Wendy Galloway

STATE OF WASHINGTON

OFFICE OF
INSURANCE COMMISSIONER
HEARINGS UNIT
Fax: (360) 664-2782

Phone: (360) 725-7000

FILED
DEC 12 2005
Hearings Unit, OIC
Patricia D. Petersen
Chief Hearing Officer

Patricia D. Petersen
Chief Hearing Officer
(360) 725-7105

Wendy Galloway
Administrative Assistant
(360) 725-7002
WendyG@OIC.wa.gov.

BEFORE THE STATE OF WASHINGTON
OFFICE OF INSURANCE COMMISSIONER

In the Matter of:	)	NO. D05-103
VISSUTTY TEDDY YIN,	)	**FINDINGS OF FACTS, CONCLUSIONS OF LAW AND ORDER TERMINATING PROCEEDING**
Licensee.	)	

TO: Vissutty Teddy Yin
10035 16th Avenue S.W.
Seattle, Washington 98146

COPY TO: Mike Kreidler, Insurance Commissioner
Michael G. Watson, Chief Deputy Insurance Commissioner
John F. Hamje, Deputy Commissioner, Consumer Protection
Carol Sureau, Deputy Commissioner, Legal Affairs
Charles Brown, Senior Staff Attorney, Legal Affairs
Office of the Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

Pursuant to RCW 34.04.090, 34.04.120, 48.04.010 and WAC 10-08-210, and after notice to all interested parties and persons, the above-entitled matter came on regularly for hearing before the Insurance Commissioner for the state of Washington on September 12, 2005 in Tumwater, Washington. All persons to be affected by the above-entitled matter were given the right to be present at such hearing during the giving of testimony, and had reasonable opportunity to inspect all documentary evidence. The Insurance Commissioner (OIC) was represented by Charles D. Brown, OIC Senior Staff Attorney. Vissutty Teddy Yin (Licensee) appeared pro se.

Pursuant to RCW 34. 05.461(3), the parties are advised that they may seek reconsideration of this order by filing a request for reconsideration under RCW 34.05.470 with the undersigned within 10 days of the date of service (date of mailing) of this order. Further, the parties are

advised that, pursuant to RCW 34.05.514 and 34.05.542, this order may be appealed to Superior Court by, within 30 days after date of service (date of mailing) of this order, 1) filing a petition in the Superior Court, at the petitioner's option, for (a) Thurston County or (b) the county of the petitioner's residence or principal place of business; and 2) delivery of a copy of the petition to the Office of the Insurance Commissioner; and 3) depositing copies of the petition upon all other parties of record and the Office of the Attorney General in the United States mail. If a party chooses to file a petition in the Superior Court, he or she may, but is not required to, first file a request for reconsideration. For further information or to obtain copies of the applicable statutes, the parties may contact the administrative assistant to the undersigned.

NATURE OF PROCEEDING

The purpose of the hearing was to take testimony and evidence and hear arguments as to whether the OIC's Order Not to Issue, Renew, or Reinstate License, No. D05-103, entered by the Insurance Commissioner on March 15, 2005, should be confirmed, set aside or modified. Said Order Not to Issue, Renew, or Reinstate License orders that Vissutty T. Yin shall not be issued an insurance agent's license in the state of Washington, nor shall his old license be renewed or reinstated, based upon facts alleged therein. The Licensee requested this hearing to contest this Order Not to Issue, Renew, or Reinstate License.

FINDINGS OF FACTS

Having considered the evidence and arguments presented at the hearing, and the documents on file herein, the undersigned presiding officer designated to hear and determine this matter finds as follows:

1. The hearing was duly and properly convened and all substantive and procedural requirements under the laws of the state of Washington have been satisfied.

2. The Licensee is a young man who has held a resident insurance agent's license to conduct life and disability and property and casualty insurance in the state of Washington. He held this license from April 30, 2003 to February 5, 2005, when it expired. [Ex. 1.]

3. The Licensee worked as an insurance agent for the Farmers Insurance Group of Companies (FIG) until on or about October 2003, when he surrendered his appointment with that company. At that time, FIG was terminating him for failure to sell enough life insurance policies.

4. At the time that FIG was terminating him, the Licensee became depressed and simply left the office for approximately one week. Later he returned, packed some of his office supplies in a plastic bag to take home, and departed. [Testimony of Licensee.]

5. Subsequently, on or about February 2004, when cleaning out his remaining office supplies from his desk area, Ron Nation, FIG's District Manager of the district in which the Licensee had worked, and who was his supervisor (Nation), who worked with him most closely [Testimony of Ron Nation], found four receipts [Ex. 2] for which there were no funds, as follows (one additional receipt, unclear as to any detail and not identified by Farmers as related to any payment or missing funds, was included in the Insurance Commissioner's Order but because not substantiated is considered not either received or missing):

1. Miguel Alvarado-Raymundo	$122.	Cash
2. Dok Sokham	$380.	Cash
3. Te and Men San	$560.	Cash
4. Ana M. Rubio	$587.	Money Order

6. FIG (Aretina C. Trepczyk) attempted to contact the Licensee about this matter by letter dated February 25, 2004 [Ex. 3] and received no response. FIG again attempted to contact the Licensee by letter dated November 15, 2004 [Ex. 4] and received a response from the Licensee on January 5, 2005. [Ex. 5.] In his letter, the Licensee recognized his accountability and responsibility for all of the financial transactions which occurred during his appointment. He recited the names and amounts concerned (the same names and amounts as recited by FIG) and promised to pay back those missing premiums. At the same time, the Licensee searched through a plastic bag in which he had taken home the contents of his office, found the money order for $587, uncashed, that was made by Ana M. Rubio and returned it to Farmers with his letter.

7. The FIG office in which the Licensee worked was a large open room with several desks in it. The Licensee occupied one of the desks as his office. Further, this large open room was connected to space occupied by other, separate, businesses which all had access to the large open room in which the Licensee's desk sat. These other businesses were United Temp Service [Ex. 6], CPS Travel Service [Ex. 7], Community Entertainment Center [Ex. 8] and Angkor Insurance. [Ex. 9]. Further, as with the other desks in the work room, the Licensee's desk did not lock. [Testimony of Nation.]

8. The Licensee's supervisor has stated, under oath, that he believed that the Licensee did not take these premium monies and did not convert them to his own use. [Testimony of Nation.] Because of the accessibility of the Licensee desk to other agents and staff and to other separate businesses, and the fact that the desk does not lock, it is most likely someone else went through the Licensee's office area and took those funds. [Testimony of Ron Nation.] Further, the Licensee had left other checks and receipts in his office area when he left, which were not taken, which Mr. Nation found and turned over to FIG audit department. [Testimony of Ron Nation.]

9. The Licensee has exhibited no pattern of problems with nonpayment of funds, and is an honest, hard working, trusted employee of FIG. [Testimony of Ron Nation.] Further, there were no problems with any lapses in coverage and there was no injury to any consumer caused

by the activities at issue herein. This situation was caused by lack of administrative control. [Testimony of Ron Nation.]

10. The Licensee has not been the subject of any complaints directed to the Insurance Commissioner. There may have been one inquiry in the past relative to an administrative rating question, not concerning money. [Testimony of Ron Nation.]

11. The Insurance Commissioner asserts in his Order that the Licensee admitted to FIG [Ex. 5] to taking premium monies and converting them to his personal use. In fact, the Licensee did not admit to either taking the premium monies or converting them to his personal use: in the subject letter to FIG, the Licensee states that he is *accountable and responsible for all the financial transactions occurred during my appointment (sic).* In this letter, the Licensee was not admitting that he took the premium monies or that he converted them to his personal use. Instead, he was taking responsibility for the fact that those premium monies, which were from his clients and for which he retained receipts, was missing. [Testimony of Licensee.]

12. The Insurance Commissioner asserts in his Order that FIG, through its Audit Manager, Greg Dahinden, has provided documentation supporting the conclusion that the former licensee converted these premium monies to his personal use. This is not the case: FIG has furnished only copies of the four receipts relative to the four consumers who paid monies at issue herein. While the Licensee should not have simply left for one week without telling his colleagues, and should have more carefully kept custody of these premium funds and turned them over to FIG promptly – which funds total $1,062.00 now that he has found and returned the $587.00 money order – so that they did not go missing, it is not found that the Licensee either took the funds himself or converted them to his own use.

13. Greg Dahinden, who is the Audit Manager for Farmers Insurance Group in Tigard, Oregon, appeared by telephone as the sole witness on behalf of the Insurance Commissioner. Mr. Dahinden presented his testimony in a clear, detailed and credible manner and exhibited no apparent biases.

14. The Licensee, Vissutty Teddy Yin, appeared as a witness on his own behalf. Mr. Yin presented his testimony in a clear, detailed and credible manner and exhibited no apparent biases.

15. Ronald A. Nation appeared as a witness on behalf of the Licensee. Mr. Nation presented his testimony in a clear, detailed and credible manner and exhibited no apparent biases.

16. Based upon the findings of facts above, to the effect that the Licensee did not take the subject premium funds and did not convert them to his own use, it is reasonable that the Insurance Commissioner's Order Not to Issue, Renew, or Reinstate License, No. D05-103, be set aside.

CONCLUSIONS OF LAW

1. Based upon the above findings of facts, to the effect that it has been found that the Licensee did not either take the premium funds or convert them to his own use, it is hereby concluded that the Licensee has not demonstrated that he is untrustworthy or incompetent or a source of injury or loss to the public or not qualified to be licensed as an insurance agent or solicitor, as contemplated by RCW 48.17.530(1)(h).

2. Further, based upon the above findings of facts, it cannot be concluded that the Licensee has willfully violated or knowingly participated in the violation of any provision of the insurance code or any proper order or regulation of the Insurance Commissioner, and so it is here concluded that the Licensee did not violate RCW 48.17.530(1)(b).

3. Further, based upon the above findings facts, it cannot be concluded that the Licensee has misappropriated or converted to his own use or has illegally withheld moneys required to be held in a fiduciary capacity, and so it is here concluded that the Licensee did not violate RCW 48.17.530(1)(d).

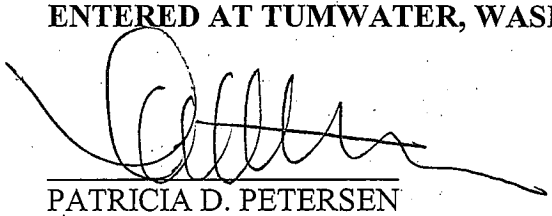
4. Based upon the above Conclusions of Law, to the effect that the Licensee did not violated the subject laws, it is here concluded that the Insurance Commissioner's Order Not to Issue, Renew, or Reinstate, No. D05-103, should be set aside.

ORDER

Based upon the above activity,

IT IS HEREBY ORDERED that, pursuant to RCW 48.04.020(1), the Commissioner's Order Not to Issue, Renew or Reinstate License is set aside and that the proceeding in this matter is terminated.

ENTERED AT TUMWATER, WASHINGTON, this 12th day of December, 2005.



PATRICIA D. PETERSEN
Presiding Officer