

MIKE KREIDLER  
STATE INSURANCE COMMISSIONER



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INSURANCE COMMISSIONER

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HEARINGS UNIT  
Fax: (360) 664-2782

Hearings Unit, DIC  
Patricia D. Petersen  
Chief Hearing Officer

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

Nicole Kelly  
Paralegal  
(360) 725-7002  
[nicolek@oic.wa.gov](mailto:nicolek@oic.wa.gov)

BEFORE THE STATE OF WASHINGTON  
OFFICE OF INSURANCE COMMISSIONER

In the Matter of: )  
 )  
WILLIAM S. BENNETT, JR., )  
 )  
 )  
Licensee. )  
\_\_\_\_\_ )

No. 10-0053

AMENDED FINDINGS OF FACTS,  
CONCLUSIONS OF LAW AND FINAL  
ORDER ON HEARING

**TO:** William S. Bennett, Jr.  
914 – 140<sup>th</sup> Avenue, Suite 202  
Bellevue, WA 98005

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

The sole purpose of this Amended Findings of Facts, Conclusions of Law and Final Order on Hearing is to clarify that the date William S. Bennett, Jr. was to have surrendered his insurance producer's license was on or before Friday, March 19, 2010. This is by order of the Insurance Commissioner included in the Commissioner's Order Revoking License herein which became effective April 5, 2010. Pursuant to the terms of said Order, Mr. Bennett was to have 1) surrendered his insurance producer's license on or before March 19, 2010; and 2) ceased transacting the business of insurance on April 5, 2010 and continuing through the hearing herein and any reconsideration or appeals taken thereafter. The undersigned advised Mr. Bennett



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during prehearing conference herein on June 16, 2010, and as RCW 48.04.020(1) dictates, the Order Revoking License was not stayed. Mr. Bennett advised the undersigned at that time that he understood the terms of the Order Revoking License were in effect and that he was not working as an insurance agent anymore. [The Findings of Facts, Conclusions of Law and Final Order on Hearing entered herein specified a surrender date of February 10, 2011 but failed to reflect that because the Order Revoking License was not stayed, the producer's license was already to have been surrendered by March 19, 2010.]

Pursuant to RCW 34.05.434, 48.05.461, 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 Office of Insurance Commissioner for the state of Washington commencing at 10:00 a.m., on July 7, 2010. 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 appeared pro se, by and through Marcia G. Stickler, Esq., Staff Attorney in his Legal Affairs Division. William S. Bennett, Jr. appeared pro se.

**NATURE OF PROCEEDING**

The purpose of the hearing was to take testimony and evidence and hear arguments as to whether the Insurance Commissioner's Order Revoking License, No. 10-0053, entered by the Insurance Commissioner on March 16, 2010, should be confirmed, set aside or modified. Said Order Revoking License revokes the insurance producer's license of William S. Bennett, Jr., based upon the fact that on March 8, 2010, he was convicted of one felony count of theft of government funds in United States District Court for the Western District of Washington based on his guilty plea therein and based upon his failure to report said conviction to the Insurance Commissioner. William S. Bennett, Jr. requested this hearing to contest the Order Revoking 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. This Order is entered pursuant to Title 48 RCW and specifically RCW 48.04; and Title 34 RCW and specifically, for good cause shown, RCW 34.05.461(8).

2. On March 16, 2010, the Insurance Commissioner ("OIC") entered an Order Revoking License, No. 10-0053, revoking the insurance producer's license of William S. Bennett, Jr. ("Licensee"), and pursuant to the terms of said Order the Licensee's producer's license has been revoked from April 5, 2010 to the current time. On June 4, the Licensee filed his Demand for Hearing to contest the subject Order Revoking License. Accordingly, on June 10, the

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undersigned mailed a Notice of Receipt of Demand for Hearing, which detailed the hearing procedures to be followed and scheduled a first prehearing conference. On June 16, the first prehearing conference was held, which included all parties. The OIC was represented by Marcia Stickler, Esq., Staff Attorney in the OIC Legal Affairs Division and William S. Bennett, Jr. represented himself. During said first prehearing conference, the undersigned outlined procedure to be expected at hearing, and answered all questions and concerns of the parties. At that time, the parties agreed that the hearing should commence on July 7, 2010.

3. The Licensee is an individual who has been licensed to sell life and disability insurance in Washington State since August 4, 1989. He was a career agent with New York Life Insurance Company (New York Life) for over twenty years. The Licensee has not been the subject of any prior disciplinary actions by the OIC. The Licensee has not been the subject of any consumer complaints made to the OIC. [As a result of a change in licensing rules, insurance agents' licenses were converted to "producer's licenses" on July 1, 2009, and therefore on July 1, 2009, as with other insurance agents, the Licensee's insurance agent's license was canceled and he was issued an insurance producer's license.]

4. In 1995, the Licensee sold a New York Life Insurance and Annuity Corporation universal life insurance policy with a \$600,000 benefit to his client T.D. Sam Baxter ("Baxter."). [OIC Hearing Memorandum, Ex. 4, New York Life policy.] In October 2009, the Licensee arranged for Baxter to replace the New York Life policy with a John Hancock Life Insurance Company universal life policy with the same \$600,000 benefit. When the policy application was written, the Licensee admits, and it is here found, that he informed Mr. Baxter that there would be no surrender charge associated with the replacement policy. [Testimony of Licensee; OIC Hearing Memorandum, Ex. 8, written statement of Baxter; Ex. 1 written statement of Baxter.] On the "Important Notice Regarding Replacement of Life Insurance - Washington" form, which the Licensee completed and gave to the client as required by Washington law, the Licensee represented to the client that he would incur no surrender charge. [OIC Hearing Memorandum, Ex. 4.] The policy did in fact carry a surrender charge if cancelled during the first fifteen years of its term. After further review of the old policy, and before delivering the new policy to Mr. Baxter, the Licensee informed Baxter that he had failed to disclose there would be a \$3,000 surrender charge. [Testimony of Licensee; OIC Hearing Memorandum, Ex. 8, written statement of Baxter; Ex. 1 written statement of Baxter.] The Licensee assured Baxter, however, that the \$3,000 surrender charge would be more than made up in future premium savings; he also emphasized that the new policy was guaranteed to continue to age 100 at the proposed premium, whereas the old policy would not have continued at the current premium due to interest rate reductions over the years; and the old policy was not guaranteed to continue to age 100 even at the new policy's premium amount. [Testimony of Licensee; OIC Hearing Memorandum, Ex. 8, written statement of Baxter; Ex. 1 written statement of Baxter.] Therefore, Mr. Baxter believes that he was left in a better position after having bought the new policy through the Licensee. [Id.]

5. In August 2006, the Licensee's mother died. At the time of her death, his mother had been receiving monthly federal survivorship benefit payments from the Veterans Administration ("VA"), more specifically called Dependency and Indemnity Compensation payments. While

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the Licensee promptly notified the Social Security Administration and New York Life of her death and therefore those benefits stopped the next month, the VA was not informed. Apparently the Licensee believed that notifying the Social Security Administration would be sufficient notification to the VA as well, but it was not. For this reason, the VA continued to send the Licensee's mother's monthly payments for deposit into his mother's bank account, to which the Licensee had access. The Licensee admits, and it is here found, that he did withdraw some of these funds and used these funds to pay for his own basic expenses, paid some of it back and then when he needed money again later he withdrew some more (eventually totaling approximately \$45,000 which the Licensee withdrew and used to pay for his own basic expenses). [Testimony of Licensee; OIC Hearing Memorandum Ex. 6, written statement of Licensee; Ex. 1, written statement of Licensee.] In July 2009, two federal agents from the VA visited the Licensee's office and at that time the Licensee gave them a written statement admitting what he had done and asked them how to repay it. They advised the Licensee that they would instruct him in the future how to handle repayment. Even though the VA was aware of the payments in July 2009 and the Licensee was charged with benefits fraud in September 2009, the VA benefits were still paid through December 2009 for a total of \$46,494.

6. The Licensee was instructed how to repay the funds to the VA in approximately December 2009 and shortly thereafter, on or about December 16, 2009, the Licensee mailed to the VA a cashier's check for \$50,444, which was the full amount due to repay these funds. [Testimony of Licensee; OIC Hearing Memorandum, Ex. 6, written statement of Licensee.]

7. On December 16, 2009, the Licensee pled guilty to one count of theft of government funds, a felony in violation of 18 U.S.C. Sec. 641. On March 8, 2010, he was sentenced in the U.S. District Court for the Western District of Washington and pursuant thereto is currently serving three years of probation and 120 hours of community service. [OIC Hearing Memorandum, Ex. 7, U.S. District Court Judgment dated March 8, 2010.]

8. The Licensee did not report the felony conviction to the OIC as required.

9. Effective March 1, 2010, after over twenty years with New York Life, the Licensee's affiliation with his broker-dealer, NYLIFE Securities, LLC was terminated based upon his conviction of the felony. Also at or about that time his contract to represent New York Life was terminated. [OIC Hearing Memorandum Ex. 6, written statement of the Licensee.]

10. William S. Bennett, Jr., the Licensee, appeared as a witness on his own behalf. Mr. Bennett presented his testimony in a clear and credible manner and exhibited a willingness to cooperate in every way throughout this proceeding.

11. Based upon the facts found above, it is reasonable that the OIC's Order Revoking License of William S. Bennett, Jr. should be upheld.

**CONCLUSIONS OF LAW**

1. The hearing was duly and properly convened and all substantive and procedural

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requirements under the laws of the state of Washington have been satisfied. This Order is entered pursuant to Title 48 RCW, Title 34 RCW and regulations applicable thereto.

2. Pursuant to the above Findings of Fact, on or about September 29, 2009, William S. Bennett, Jr., the Licensee, completed the "Important Notice Regarding Replacement of Life Insurance – Washington" form given to the client as required by WAC 284-23-440, but incorrectly stated thereon that the client would incur no surrender charges when in fact he would incur \$3,000 in surrender charges. Although the Licensee contacted his client and corrected this statement with the client before delivery of the new policy, and his client was not hurt thereby, in incorrectly completing said form, the Licensee violated WAC 284-23-440. Further, RCW 48.17.530(1)(b) authorizes the OIC to revoke an insurance producer's license for violating any insurance laws or rules of the OIC, and in so violating WAC 284-23-440 the Licensee violated a rule of the OIC as contemplated by RCW 48.17.530(1)(b).

3. RCW 48.17.530(1)(f) authorizes the OIC to revoke an insurance producer's license for *having been convicted of a felony*. Pursuant to the above Findings of Fact, on March 8, 2010, William S. Bennett, Jr., the Licensee, was convicted of one count of felony theft of government funds in United States District Court for the Western District of Washington. Therefore, it is hereby concluded that upon learning of this conviction, the OIC properly revoked the insurance producer's license of William S. Bennett, Jr.

4. RCW 48.17.530(1)(h) provides that the OIC may revoke an insurance producer's license if the licensee is shown to have *us[ed] fraudulent, coercive, or dishonest practices, or demonstrat[ed] incompetence, untrustworthiness, or financial irresponsibility in this state or elsewhere; ....* Given the totality of facts in this case, as found in Findings of Facts above, the undersigned cannot conclude that the incorrect statement on Baxter's replacement form was other than a mistake and, in itself, would not amount to sufficient reason for revocation. However, given the repeated acceptance of funds from the VA when the Licensee knew that they were no longer lawfully payable – and converting those funds for his personal use – makes it impossible to reach a conclusion which is less significant than that the Licensee has demonstrated financial irresponsibility in this state as contemplated by RCW 48.17.530(1)(h). Therefore, it is hereby concluded that the OIC properly revoked the insurance producer's license of William S. Bennett, Jr. pursuant to this statute.

5. RCW 48.17.540(2) provides that the OIC may revoke any producer's license *(a) by an order served ... upon the licensee not less than fifteen days prior to the effective date thereof....* Pursuant to the above Findings of Facts, the OIC properly revoked the producer's license of this Licensee as authorized by RCW 48.17.540(2).

6. RCW 48.17.597(2) requires an insurance producer to report to the commissioner *any criminal prosecution of the insurance producer...taken in any jurisdiction* within thirty days of the initial pretrial hearing date, *including a copy of the initial complaint filed, the order resulting from the hearing and any other relevant legal documents*. Pursuant to the above Findings of Facts, it is here found that, in his failure to report the fact of his criminal prosecution and conviction, the Licensee violated RCW 48.17.597(2). Further, RCW 48.17.530(1)(b) authorizes

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the OIC to revoke an insurance producer's license for violating any insurance laws or rules of the OIC., and in so doing violated a provision of the insurance code as contemplated by RCW 48.17.530(1)(b).

7. Based upon the above Finding of Fact, it is reasonable to conclude that the Insurance Commissioner's Order Revoking License, No. 10-0053, revoking the insurance producer's license of William S. Bennett, Jr., should be upheld.

**ORDER**

On the basis of the foregoing Findings of Facts and Conclusions of Law,

**IT IS HEREBY ORDERED** that the Insurance Commissioner's Order Revoking License, No. 10-0053, to the effect that the insurance producer's license of William S. Bennett, Jr. is revoked, is upheld.

**IT IS FURTHER ORDERED** that the Licensee's insurance producer's license was, pursuant to the OIC's Order Revoking License entered on March 16, 2010, to have been surrendered to the Office of the Insurance Commissioner by close of business on March 19, 2010, and shall remain so surrendered.

This Order is entered at Tumwater, Washington, this 1<sup>st</sup> day of March, 2011, pursuant to RCW 34.05, Title 48 RCW and regulations applicable thereto.

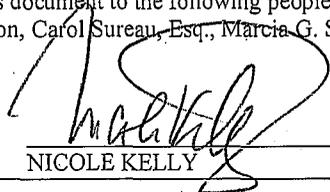
  
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**PATRICIA D. PETERSEN**  
**PRESIDING OFFICER**

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. For further information or to obtain copies of the applicable statutes, the parties may contact the paralegal to the undersigned.

Declaration of Mailing

I declare under penalty of perjury under the laws of the State of Washington that on the date below, I mailed or caused delivery through normal office mailing custom, a true copy of this document to the following people at their addresses listed above:  
William S. Bennett, Jr., Mike Kreidler, Michael G. Watson, Carol Sureau, Esq., Marcia G. Stickler, Esq., and John F. Hamje.

DATED this 1<sup>st</sup> day of March, 2011.

  
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NICOLE KELLY