

MIKE KREIDLER
STATE INSURANCE COMMISSIONER

STATE OF WASHINGTON



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OFFICE OF
INSURANCE COMMISSIONER
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BEFORE THE STATE OF WASHINGTON
OFFICE OF INSURANCE COMMISSIONER

In the Matter of the)	NOs. 11-0088 and 11-0089
)	
Ability Insurance Company,)	ORDER DENYING OIC'S
)	MOTION TO STRIKE AND
An Authorized Insurer and Respondent.))	EXCLUDE TESTIMONY OF
_____)	CRAIG BENNION

TO: Ability Insurance Company	Christopher H. Howard, Esq.
1515 South 75 th Street	Virginia R. Nicholson, Esq.
Omaha, Nebraska 68124-1655	Schwabe, Williamson & Wyatt P.C.
ATTN: Frederick J. Yosua, President	US Bank Centre
Donald Lawler, Sr. Vice President	1420 5 th Avenue, Suite 3400
	Seattle, WA 98101-4010

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

On August 3 through August 5, 2011, this matter came on for hearing to consider Ability's challenge to the Insurance Commissioner's (OIC) Order to Cease and Desist and the OIC's Order Suspending Certificate of Authority. At the hearing, Ability Insurance Company (Ability) presented the testimony of Craig Bennion as an expert witness. On September 6, the OIC filed its Motion to Strike and Exclude Testimony of Craig Bennion. On September 13, Ability submitted a Response of Ability Insurance Company to Motion to Exclude Expert Testimony of Craig Bennion supported by Declarations of Craig Bennion and Virginia R. Nicholson. On September 15, the OIC filed a Reply in Support of Motion to Strike and Exclude Testimony of Craig Bennion. At the request of the parties, oral argument was presented by the parties, by telephone, on September 15.

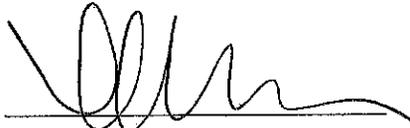
After review of the above referenced documents, the oral arguments presented by the parties, and the entire hearing file, the undersigned finds that the OIC has not shown sufficient cause why the expert testimony of Craig Bennion should be stricken or excluded. However, those of Mr. Bennion's statements which are legal conclusions will be considered only as persuasive arguments presented on behalf of Ability and will not be considered as evidence.

Based upon the above activity,

IT IS HEREBY ORDERED that Insurance Commissioner's Motion to Strike and Exclude Testimony of Craig Bennion is denied.

IT IS FURTHER ORDERED that those of Mr. Bennion's statements which are legal conclusions will be considered only as persuasive arguments presented on behalf of Ability and will not be considered as evidence.

The parties received the above ruling by email on September 16, 2011, and this written Order confirms that decision. This Order is entered this 21st day of September, 2011, at Tumwater, Washington, pursuant to Title 48 RCW and specifically RCW 48.02.080, Title 34 RCW and regulations pursuant thereto.



Patricia D. Petersen
Chief Hearing Officer
Presiding Officer

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 through normal office mailing custom, a true copy of this document to the following people at their addresses listed above: Ability Insurance Company, Attn: Frederick J. Yosua, Jr., President; Donald Lawler, Sr. Vice President; Christopher H. Howard, Esq.; Virginia R. Nicholson, Esq.; Mike Kreidler, Insurance Commissioner; Michael G. Watson, Chief Deputy Insurance Commissioner; Carol Sureau, Deputy Insurance Commissioner, Legal Affairs Division; Alan Michael Singer, Staff Attorney, Legal Affairs Division; and John F. Hamje, Deputy Insurance Commissioner.

DATED this 22nd day of September, 2011.



Kelly A. Cairns