



FILED

2013 AUG -9 P 2: 16

OFFICE OF
INSURANCE COMMISSIONER

In the Matter of

VALENTINE W. W. TAM,

License Applicant.

No. 13-0164

OIC's HEARING BRIEF

Hearings Unit, OIC
Patsie D. Peterson
Chief

FACTS

On January 30, 2013, Valentine W. W. Tam submitted an application for an insurance producer's license for a surety line (Exhibit 1). Mr. Tam appropriately answered the background questions on the application, disclosing that he had been convicted of felonies in the past. The Washington State Patrol background check revealed in a report dated February 5, 2013, that Mr. Tam was convicted of felonious second degree assault in 1993, and four felonies that arose from the same incident in 2007, wherein he took two motor vehicles without permission, possessed stolen vehicles, and possessed cocaine. In total, Mr. Tam had five prior class B and C felony convictions. He also has multiple other criminal convictions that are non-felonies, including assault and reckless endangerment (Exhibit 2).

Mr. Tam sent a letter to the OIC dated January 11, 2013, addressed to "To whom it may concern," explaining the circumstances of the felony convictions (Exhibit 3). The first felony arose from a fight Mr. Tam had with some other folks that resulted in Mr. Tam shooting at their vehicle with a gun he says he was legally carrying. He entered an Alford plea and was sentenced to four months in jail and one year of community supervision. Mr. Tam explains that the incident for which he was convicted in 2007 was a result of being evicted from his residence with his wife and two small children, and using the vehicles to get respite from the cold weather. He says he returned the cars the next day. Mr. Tam also states that before his downward spiral, he had been a successful manager of a commercial landscape company for 15 years and was a home owner, father,

and small business owner.

On February 5, 2013, Mr. Tam submitted an NAIC short form application for written consent to engage in the business of insurance pursuant to 18 USC § 1033 (Exhibit 4). Mr. Tam supplied five letters attesting to his full rehabilitation and character (Exhibit 5). One of the letters was from the Community Corrections Officer in Seattle who oversaw his community supervision. She writes that Mr. Tam was completely compliant and successfully finished his scheduled end date on March 10, 2010 for the cocaine conviction, and on October 9, 2010 for the vehicle convictions.

OIC Licensing Compliance Analyst Cheryl Penn and her manager reviewed the documentation submitted by Mr. Tam. By email letter dated February 13, 2013, Ms. Penn informed Mr. Tam that his request for a producer license was being denied pursuant to RCW 48.17.530(1)(f) "due to the recentness" of the convictions (Exhibit 6). The letter did not address the issue of an 18 USC § 1033 consent. Mr. Tam timely requested a hearing by letter dated May 6, 2013 (Exhibit 7).

NAIC guidance states that certain kinds of felonies constitute "dishonesty or breach of trust," for purposes of a §1033 consent, including taking, withholding, misappropriating or converting property (Exhibit 8). Mr. Tam has two felony convictions for possessing stolen vehicles. He also has six non-felony convictions occurring between 1995 and 2008 (See Exhibit 2).

ARGUMENT AND AUTHORITY

I. Grounds For Denial

The Insurance Code authorizes the OIC to deny a license to Mr. Tam merely due to the fact of his felony convictions under RCW 48.17.530(1)(f). Mr. Tam presented the OIC with a letter of recommendation from Brandon Drake of Brandon's Bail Bonds, a licensed surety producer, WAOIC # 776006 (Exhibit 5, page 3). Mr. Drake states that Mr. Tam is currently working at his bail bond agency, which appears to be an ongoing violation of 18 USC § 1033. In any event, the Commissioner would ask that the hearing

consider both the denial of license and consent under 18 USC § 1033. In regard to the consent, the NAIC guidance on what crimes involve “dishonesty or breach of trust” includes knowingly receiving or possessing stolen property (Exhibit 8).

II. Burden Of Proof

The preponderance of evidence standard used in civil proceedings is generally applied in administrative hearings in Washington unless otherwise mandated by statute or due process principles. *Thompson v. Dep't of Licensing*, 138 Wn.2d 783, 797, 982 P.2d 601 (1999). It is acknowledged that there may be some question regarding the appropriate standard of proof to be used in a Washington administrative proceeding to revoke an insurance agent's license in light of the recent decisions in *Nguyen v. State*, 144 Wn.2d 516, 520, 29 P.3d 698 (2001), *Eidson v. Dept of Licensing*, 108 Wn. App. 712, 32 P.3d 1039 (2001), *Nims v. Washington Bd. of Registration*, 113 Wn. App. 499, 53 P.3d 52 (2002), and *Ongom v. Department of Health*, 124 Wn. App. 935, 104 P.3d 29 (2005). However, in this matter, the facts are expected to be undisputed. The only question will be whether those facts justify denial of a producer's license to Mr. Tam.

III. The OIC Is Required By Its Mandate to Protect The Public To Deny A Producer's License To Mr. Tam At This Time.

A. The Washington Insurance Code Places A Duty On Both Agents And The OIC To Ensure Agents Are Trustworthy.

The business of insurance in Washington State is “affected by the public interest, requiring that all persons be actuated by good faith, abstain from deception, and practice honesty and equity in all insurance matters. Upon the insurer, the insured, their providers, and their representatives rests the duty of preserving inviolate the integrity of insurance.” RCW 48.01.030. By the terms of this statute, the duty of good faith and to “preserve inviolate the integrity of insurance” extends to producers, who are appointed by insurers to solicit applications for insurance on their behalf, and who may bind insurers in contract and collect premiums on behalf of companies under RCW 48.17.010.

B. The Public Has A Right To Rely Upon The Commissioner To Protect It.

The public has a right to rely on the Commissioner to ensure that a producer license is not issued to an untrustworthy individual. In other words, where the Commissioner has issued a producer license, the public has a right to rely upon that fact as evidence that the Commissioner has found that person to be trustworthy. In fact, before approving an application for a producer's license, the Commissioner is *required* to find that the individual has not committed an act that is grounds for denial under RCW 48.17.530. RCW 48.17.090(2)(b). Although conviction of a felony may not be an absolute bar to licensure¹, it is explicitly a factor in, and unquestionably relevant to, whether that person is trustworthy and therefore entitled to licensure under Chapter 48.17 RCW.

The Commissioner must consider Mr. Tam's felony convictions when evaluating his application for licensure. Because those convictions are relatively recent, and Mr. Tam has completed community supervision only about three years ago, it is too soon for the Commissioner to be able to make a finding that he is trustworthy. And if he is currently violating 18 USC § 1033, is he not also "violating any insurance laws," also grounds for denial or revocation of a license under RCW 48.17.530(1)(b)? The maximum punishment for violating 18 USC § 1033 is five years imprisonment and a fine of \$5,000, as well as being a "prohibited person," barred from working in the insurance industry.

C. Mr. Tam Has Shown Himself To Be Untrustworthy In The Past And Has Not Yet Had Adequate Time To Show Himself To Be Trustworthy In The Present.

Mr. Tam is quite candid about his past, although he basically blames other people for his crimes (see Exhibit 3) The OIC expects there will be no dispute as to the facts of this

¹ RCW 9.96A.020 RCW 9.96A.020 states, in part:

Notwithstanding any other provisions of law to the contrary, a person shall not be disqualified . . . to . . . engage in any occupation . . . for which a license . . . is required to be issued by the state of Washington . . . solely because of a prior conviction of a felony; PROVIDED, This section shall not preclude the fact of any prior conviction of a crime from being considered. However, a person . . . may be denied a license . . . to . . . engage in an occupation . . . by reason of the prior conviction of a felony if the felony for which he was convicted directly relates to the . . . specific occupation . . . for which the license . . . is sought, and the time elapsed since the conviction is less than ten years.

Similarly, RCW 9.96A.050 states:

The provisions of this chapter shall prevail over any other provisions of law which purport to govern the denial of licenses . . . on the grounds of a lack of good moral character, or which purport to govern the suspension or revocation of such a license . . . on the grounds of conviction of a crime.

case. This includes the fact that Mr. Tam can show an exemplary history both during and following his incarceration. He states, and his record shows, that he made productive use of his time in prison, and that he has been able to obtain and maintain employment following his release (See Exhibit 5). However, despite Mr. Tam's impressive record, OIC believes that granting Mr. Tam a producer license at this early stage is inconsistent with its mandate to protect the insurance-buying public.

Mr. Tam is expected to argue that dealing drugs and shooting at vehicles and misappropriating several cars are not the types of crimes of dishonesty or breach of trust that should require a §1033 consent or denial of an insurance producer's license. However, the actual circumstances of these felonies are not included in the Washington State Patrol rap sheet. We have to take Mr. Tam's word for the context, and all of them are really not his fault: it was cold, they had been evicted through no fault of their own, they tried to run him over, she stole money from his aunt, he used drugs to dull the pain of loss. These are familiar excuses that countless insurance producers try to use when they are caught committing dishonest acts such as converting premium monies. OIC expects that Mr. Tam will provide ample evidence during the hearing that he made productive use of his time in prison and that he has been an honest, productive member of society since his release from community supervision. This is an excellent start. But the OIC cannot make a good-faith finding that Mr. Tam is now trustworthy on the basis of this short history.

CONCLUSION

Mr. Tam has been convicted of five felonies. He has provided testimonials that show that he has done well on and since his release from supervision. The OIC has high hopes for his future, and looks forward to being able to license him in the future. Consistent with its mandate to protect the public, however, OIC cannot make a finding that Mr. Tam is trustworthy based upon the short amount of time that he has been out of custody. While OIC hopes and believes that he will be able to continue his exemplary progress, it cannot make a finding based on this hope. The public has a right to rely upon a person's insurance producer license as proof that the OIC has performed its duty and made a

finding, based on the facts, that the licensee is trustworthy. OIC cannot yet make this finding with respect to Mr. Tam because there has been insufficient time for him to re-establish his trustworthiness.

The OIC respectfully requests that this tribunal protect the people of Washington by upholding the denial of Mr. Tam's application for a producer license and denying a consent to engage in the business of insurance.

Exhibits to be Presented

- Exhibit 1 Application for resident surety producer license dated January 30, 2013 (3 pgs.)
- Exhibit 2 WSP Web Search Transcript of Mr. Tam as of 2-5-2013 (8 pgs.)
- Exhibit 3 Undated Letter from Mr. Tam to "whom it may concern" (2 pgs.)
- Exhibit 4 NAIC Short Form Application for Consent To Engage in the Business of Insurance dated February 5, 2013 (4 pgs.)
- Exhibit 5 Six testimonial letters regarding Mr. Tam's character and behavior (6 pgs.)
- Exhibit 6 Email letter dated February 13, 2013 from OIC's Cheryl Penn to Mr. Tam denying him a producer license (1 pg.)
- Exhibit 7 Letter from Mr. Tam dated May 6, 2013, requesting a hearing (1 pg.)
- Exhibit 8 Excerpt from 2011 NAIC Guidance on felonies that require an 18 USC § 1033 consent, pages 36 and 37 (2 pgs.)

Respectfully Submitted this 9th day of August, 2013.

Marcia G. Stickler
Legal Affairs Division
Office of the Insurance Commissioner
(360) 725-7048 or MarciaS@oic.wa.gov

APPLICATION SUMMARY

GENERAL INFORMATION

Application Type Original Application Transaction # 329413 Application Date 01/30/2013
Licensee Name Tam, Valentine W DOB [REDACTED]
Resident Licensee? Y Resident License State N US Citizen? Y
NPN # WAOIC # CRD #

ADDRESS DETAILS

Mailing Address	Business Address	Residence Address
PO BOX 192 EVERETT WA 98206 PHONE:425-268-7527 brandonsbonding@yahoo.com	1315 HEWITT AVE EVERETT WA 98201 PHONE:425-339-1515 brandonsbonding@yahoo.com	2826 RUCKER AVE EVERETT WA 98201 PHONE:425-346-4918 brandonsbonding@yahoo.com

License Type	Class	Working Agent	Representative
Insurance Producer	S	Agent	Y

EXHIBIT / PAGE /

APPLICATION SUMMARY

Employee Name	City	State	Country	Position Held	Start Date	End Date
Brandon's Bail Bonds	Everett	Washington	United States	Admin Asstistant	01/01/2011	
Kahalenakekai	Snohomish	Washington	United States	Shipping Manager	03/07/2009	10/15/2010
Kevin's Mobile Repair	Kirkland	Washington	United States	Mechanic's Assistant	10/15/2010	01/01/2011

Q. No.	Question	Response
1.	Have you ever been convicted of a crime, had a judgment withheld or deferred, or are you currently charged with committing a crime? If you have a felony conviction involving dishonesty or breach of trust, have you applied for written consent to engage in the business of insurance in your home state as required by 18 USC 1033? If so, was consent granted? (Attach copy of 1033 consent approved by home state.)	Yes No N/A
2.	Have you ever been named or involved as a party in an administrative proceeding including FINRA sanction or arbitration proceeding regarding any professional or occupational license or registration?	No
3.	Has any demand been made or judgment rendered against you or any business in which you are or were an owner, partner, officer or director, or member or manager of a limited liability company, for overdue monies by an insurer, insured or producer, or have you ever been subject to a bankruptcy proceeding? Do not include personal bankruptcies, unless they involve funds held on behalf of others.	No
4.	Have you been notified by any jurisdiction to which you are applying of any delinquent tax obligation that is not the subject of a repayment agreement?	No
5.	Are you currently a party to, or have you ever been found liable in, any lawsuit, arbitration or mediation proceeding involving allegations of fraud, misappropriation or conversion of funds, misrepresentation or breach of fiduciary duty?	No
6.	Have you or any business in which you are or were an owner, partner, officer, director, or member or manager of a limited liability company, ever had an insurance agency contract or any other business relationship with an insurance company terminated for any alleged misconduct?	No
7.	Do you have a child support obligation in arrearage?	No
8.	In response to a "yes" answer to one or more of the Background Questions for this application, are you submitting document(s) to the NAIC/NIPR Attachments Warehouse?	No

EXHIBIT 1 PAGE 2

1. I hereby certify that, under penalty of perjury, all of the information submitted in this application and attachments is true and complete. I am aware that submitting false information or omitting pertinent or material information in connection with this application is grounds for license revocation or denial of the license and may subject me to civil or criminal penalties.
2. Unless provided otherwise by law or regulation of the jurisdiction, I hereby designate the Insurance Commissioner to be my agent for service of process regarding all insurance matters in the respective jurisdiction and agree that service upon the Insurance Commissioner is of the same legal force and validity as personal service upon myself.
3. I further certify that I grant permission to the Insurance Commissioner for which this application is made to verify information with any federal, state or local government agency, current or former employer, or insurance company.
4. I further certify that, under penalty of perjury, a) I have no child support obligation, b) I have a child support obligation and I am currently in compliance with that obligation, or c) I have identified my child support obligation arrearage on this application.
5. I authorize the jurisdictions to which this application is made to give any information concerning me, as permitted by law, to any federal, state or municipal agency, or any other organization and I release the jurisdictions and any person acting on their behalf from any and all liability of whatever nature by reason of furnishing such information.
6. I acknowledge that I understand and comply with the insurance laws and regulations of the jurisdictions to which I am applying for licensure/registration.
7. For Non-Resident License Applications, I certify that I am licensed and in good standing in my home state/resident state for the lines of authority requested from Washington State.
8. I hereby certify that upon request, I will furnish the jurisdiction(s) to which I am applying, certified copies of any documents attached to this application or requested by the jurisdiction(s).

Fee Description	Amount (USD)
License Fee (Insurance Producer)	\$20.00
Filing Fee	\$5.00
Total Fee	\$25.00

WSP WATCH

WASHINGTON STATE PATROL
WASHINGTON ACCESS TO CRIMINAL HISTORY

Web Search Transcript

Washington State Patrol
Identification and Criminal History Section
P.O. Box 42633
Olympia, Washington 98504-2633
Telephone (360) 534-2000

This report was generated from a transaction run on 02/05/2013 at 12:34
Conviction Criminal History RCW 10.97.050(1)

Pursuant to the purpose of inquiry, A possible match was found in the Washington State Criminal History Repository based on the descriptors provided:
TAM, VALENTINE DOB [REDACTED]

WASHINGTON STATE CRIMINAL HISTORY RECORD FOR SID/WA16411084
WASHINGTON STATE PATROL
IDENTIFICATION AND CRIMINAL HISTORY SECTION
P.O. BOX 42633
OLYMPIA, WASHINGTON 98504-2633

CRIMINAL HISTORY INFORMATION AS OF 02/05/2013

NOTICE

THE FOLLOWING TRANSCRIPT OF RECORD IS FURNISHED FOR OFFICIAL USE ONLY. SECONDARY DISSEMINATION OF THIS CRIMINAL HISTORY RECORD INFORMATION IS PROHIBITED UNLESS IN COMPLIANCE WITH THE WASHINGTON STATE CRIMINAL RECORDS PRIVACY ACT, CHAPTER 10.97 RCW.

POSITIVE IDENTIFICATION CAN ONLY BE BASED UPON FINGERPRINT COMPARISON. BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY SHOULD BE REQUESTED FOR SUBSEQUENT USE. WHEN EXPLANATION OF A CHARGE OR DISPOSITION IS NEEDED, COMMUNICATE DIRECTLY WITH THE AGENCY THAT SUPPLIED THE INFORMATION TO THE WASHINGTON STATE PATROL.

THIS CONVICTION RECORD INCLUDES INFORMATION FOR WHICH A PERSON IS CURRENTLY BEING PROCESSED BY THE CRIMINAL JUSTICE SYSTEM.

***** EXHIBIT 2 PAGE 1 *****
MASTER INFORMATION

NAME: TAM, VALENTINE W DOB: 11/19/1971
SID NUMBER: WA16411084
DOC NUMBER: 716635

PERSON INFORMATION

SEX RACE HEIGHT WEIGHT EYES HAIR PLACE OF BIRTH CITIZENSHIP
M A 511 180 BRO BLK HI US
W WA

OTHER NAMES USED OTHER DATES OF SOC SEC MISC NUMBER
TAM, VALENTINE BIRTH USED NUMBER
TAM, VALENTINE WILLIAM
TAM, VALENTINE WILLIAM W
TAM, VALENTINE WILLIAM WALANI
VALTAM, VALENTINE
WALANI, VALENTINE W
WALANITAM, VALENTINE W
WALANTITAM, VALENTINE

CONVICTION AND/OR ADVERSE FINDING SUMMARY

5 FELONY(S) DISPOSITION DATE
POSSESSION OF A STOLEN VEHICLE CLASS B FELONY 12/05/2007
TAKE MTR VEH W/O PERMISSION-2 CLASS C FELONY 12/05/2007
TAKE MTR VEH W/O PERMISSION-2 CLASS C FELONY 12/05/2007
CONT SUB-POSS NO PRESCRIPTION CLASS C FELONY 12/05/2007
ASSAULT-2 CLASS B FELONY 12/14/1993V
4 GROSS MISDEMEANOR(S)
DOMESTIC VIOL COURT ORD VIOL 03/14/2008
ASSAULT-4 05/17/2007V
RECKLESS ENDANGERMENT-2 07/28/1995V
ASSAULT-4 06/21/1995V
1 MISDEMEANOR(S)
DRIVE W/LICENSE SUSP OR REVOKED-3 09/04/2007
1 CLASSIFICATION(S) UNKNOWN
STALKING 07/28/1995

DOC SUMMARY

CONT SUB-POSS NO PRESCRIPTION COMMITMENT 04/01/2008
POSSESSION OF A STOLEN VEHICLE COMMITMENT 04/01/2008
TAKE MTR VEH W/O PERMISSION-2 COMMITMENT 04/01/2008

CRIMINAL HISTORY INFORMATION

THE ARRESTS LISTED MAY HAVE BEEN BASED ON PROBABLE CAUSE AT THE TIME OF ARREST OR ON A WARRANT. PROBABLE CAUSE ARRESTS MAY OR MAY NOT RESULT IN THE FILING OF CHARGES. CONTACT THE ARRESTING AGENCY FOR INFORMATION ON THE FORMAL CHARGES AND/OR DISPOSITIONS.

EXHIBIT 2 PAGE 2

AN ARREST IS NOT A CONVICTION OR FINDING OF GUILT.

ARREST 10

DATE OF ARREST: 03/14/2008

NAME USED: TAM, VALENTINE WILLIAM WALANI
 CONTRIBUTING AGENCY: WA0310500 MARYSVILLE POLICE DEPARTMENT
 LOCAL ID: 0008131 PCN: 524673592 TCN: WA3105000100077715

ARREST OFFENSES

DISPOSITION

CONTRIBUTOR OR RESPONSIBLE AGENCY:
 WA031031J MARYSVILLE MUNICIPAL
 COURT
 COURT CASE NO: C6119L
 REFER TO 09/27/2007

ARREST 9

DATE OF ARREST: 10/19/2007

NAME USED: TAM, VALENTINE W
 CONTRIBUTING AGENCY: WA031013C SCSO - CORRECTIONS BUREAU
 LOCAL ID: 2007021531 PCN: 492350869 TCN: WA3100000100133311

ARREST OFFENSES

DISPOSITION

CONTRIBUTOR OR RESPONSIBLE AGENCY:
 WA031015J SNOHOMISH COUNTY
 SUPERIOR COURT
 COURT CASE NO: 07100033640

STATUS: GUILTY
 0272600 TAKE MTR VEH W/O PERMISSION
 -2
 RCW: 9A.56.075(2)
 CLASS C FELONY
 STATUS DATE: 12/05/2007

SENTENCE: SENT. DESC. ;
 SENT: 19 MOS PRISON CT 1, (TIME NOT INDICATED FOR CT
 2), CPTS, DNA TESTING,
 INELIGIBLE TO POSSESS
 FIREARMS.

STATUS: GUILTY
 0272600 TAKE MTR VEH W/O PERMISSION
 -2
 RCW: 9A.56.075(2)
 CLASS C FELONY
 STATUS DATE: 12/05/2007

COMMENT: VIOL DATE 10/08/2007

ARREST 8

DATE OF ARREST: 09/27/2007

NAME USED: TAM, VALENTINE WILLIAM WALANI
 CONTRIBUTING AGENCY: WA0310500 MARYSVILLE POLICE DEPARTMENT

EXHIBIT 2 PAGE 3

LOCAL ID: B0028772

PCN: 524657449

TCN: WA3105000100061563

ARREST OFFENSES

DISPOSITION

CONTRIBUTOR OR RESPONSIBLE AGENCY:
WA031031J MARYSVILLE MUNICIPAL
COURT
COURT CASE NO: C6119L

STATUS: GUILTY
0044500 DOMESTIC VIOL COURT ORD
VIOL

RCW: 26.50.110(1)
DOMESTIC VIOLENCE
GROSS MISDEMEANOR
STATUS DATE: 03/14/2008

SENTENCE: JAIL: 365 DS,
JAIL SUS.: 335 DS
FINE: \$5000.00, FINE SUS.:
\$4500.00

ARREST 7

DATE OF ARREST: 08/26/2007

NAME USED: TAM, VALENTINE WILLIAM
CONTRIBUTING AGENCY: WA031013C SCSO - CORRECTIONS BUREAU
LOCAL ID: 2007017736 PCN: 492323985 TCN: WA3100000100106355

ARREST OFFENSES

DISPOSITION

CONTRIBUTOR OR RESPONSIBLE AGENCY:
WA031015J SNOHOMISH COUNTY
SUPERIOR COURT
COURT CASE NO: 07100025655

STATUS: GUILTY
0270980 POSSESSION OF A STOLEN
VEHICLE

RCW: 9A.56.068
CLASS B FELONY
STATUS DATE: 12/05/2007

SENTENCE: SENT. DESC.:
POSSESS STOLEN VEHICLE:
BASED ON DOSA, 19 MOS
PRISON/19 MOS CUSTODY;
WORK RELEASE IF ELIGIBLE;
CREDIT FOR TIME SERVED;
CREDIT FOR TIME SERVED;
DNA TESTING; INELIGIBLE TO
POSSESS FIREARMS; APPENDIX
A.

ARREST 6

EXHIBIT ARREST: 0000007

4

NAME USED: TAM, VALENTINE WILLIAM
CONTRIBUTING AGENCY: WA031013C SCSO - CORRECTIONS BUREAU
LOCAL ID: 2007012917 PCN: 465101458 TCN: WA3100000200108572

ARREST OFFENSES

DISPOSITION

CONTRIBUTOR OR RESPONSIBLE AGENCY:
WA031023J SNOHOMISH COUNTY SOUTH
DISTRICT COURT
COURT CASE NO: C00041095

STATUS: GUILTY
0763300 DRIVE W/LICENSE SUSP OR
REVOKED-3
RCW: 46.20.342 (1) (C)
MISDEMEANOR
STATUS DATE: 09/04/2007

SENTENCE: JAIL: 10 DS
FINE: \$250.00

ARREST 3

DATE OF ARREST: 01/25/2007

NAME USED: TAM, VALENTINE WILLIAM
CONTRIBUTING AGENCY: WA031013C SCSO - CORRECTIONS BUREAU
LOCAL ID: 2007001859 PCN: 465037644 TCN: WA3100000200044509

ARREST OFFENSES

DISPOSITION

CONTRIBUTOR OR RESPONSIBLE AGENCY:
WA031023J SNOHOMISH COUNTY
DISTRICT COURT
COURT CASE NO: C00076693

STATUS: GUILTY
0113400 ASSAULT-4
RCW: 9A.36.041 (2)
DOMESTIC VIOLENCE
GROSS MISDEMEANOR
STATUS DATE: 05/17/2007

SENTENCE: JAIL: 365 DS,
JAIL SUS.: 350 DS
FINE: \$5000.00, FINE SUS.:
\$4700.00

ARREST 4

DATE OF ARREST: 08/24/2006

NAME USED: TAM, VALENTINE WILLIAM
CONTRIBUTING AGENCY: WA031013C SCSO - CORRECTIONS BUREAU
LOCAL ID: 162712 PCN: 464980016 TCN: WA3100002900822683

ARREST OFFENSES

DISPOSITION

CONTRIBUTOR OR RESPONSIBLE AGENCY: WA031015J SNOHOMISH COUNTY

EXHIBIT 2 PAGE 5

SUPERIOR COURT
COURT CASE NO: 07100002540

STATUS: GUILTY
0736110 CONT SUB-POSS NO PRESCRIPTI
ON

RCW: 69.50.4013(2)
CLASS C FELONY
STATUS DATE: 12/05/2007

COMMENT: COCAINE

SENTENCE: SENT. DESC.:
POSSESS CONTRL SUBST: 18
MOS PRISON; CREDIT FOR
TIME SRVD; 9 TO 12 MOS
COMM CUST CUSTODY (ALSO
INDICATES COMM CUSTODY FOR
MAX/MIN TERM SENTENCES);
DNA TESTING; INELIGIBLE TO
POSSESS FIREARMS.

ARREST 3

DATE OF ARREST: 08/25/1995

NAME USED: TAM, VALENTINE W
CONTRIBUTING AGENCY: WA0310500 MARYSVILLE POLICE DEPARTMENT
LOCAL ID: 10814 PCN: N/A TCN: N/A

ARREST OFFENSES

DISPOSITION

CONTRIBUTOR OR RESPONSIBLE AGENCY:
WA0310500 MARYSVILLE POLICE
DEPARTMENT
COURT CASE NO: 9502927

STATUS: GUILTY
02230 STALKING
RCW: 9A.46.110
CLASS UNKNOWN
STATUS DATE: 07/28/1995

CONTRIBUTOR OR RESPONSIBLE AGENCY:
WA0310500 MARYSVILLE POLICE
DEPARTMENT
COURT CASE NO: 9502855

STATUS: GUILTY
00462 RECKLESS ENDANGERMENT-2
RCW: 9A.36.050
GROSS MISDEMEANOR
STATUS DATE: 07/28/1995

ARREST 2

EXHIBIT 2 ARREST PAGE 18/1995 6

NAME USED: TAM, VALENTINE WILLIAM W
CONTRIBUTING AGENCY: WA0310000 SNOHOMISH COUNTY SHERIFF
LOCAL ID: 100931 PCN: N/A TCN: N/A

ARREST OFFENSES

DISPOSITION

CONTRIBUTOR OR RESPONSIBLE AGENCY:
WA031053C EVERGREEN DISTRICT COURT
COURT CASE NO: 4725C

STATUS: GUILTY
01135 ASSAULT-4
RCW: 9A.36.041
DOMESTIC VIOLENCE
GROSS MISDEMEANOR
STATUS DATE: 06/21/1995

ARREST 1

DATE OF ARREST: 04/06/1993

NAME USED: TAM, VALENTINE W
CONTRIBUTING AGENCY: WA0310000 SNOHOMISH COUNTY SHERIFF
LOCAL ID: 100931 PCN: N/A TCN: N/A

ARREST OFFENSES

DISPOSITION

CONTRIBUTOR OR RESPONSIBLE AGENCY:
WA031015J SNOHOMISH COUNTY
SUPERIOR COURT
COURT CASE NO: 931011011

STATUS: GUILTY
01034 ASSAULT-2
RCW: 9A.36.021(1)(C)
WEAPON
CLASS B FELONY
STATUS DATE: 12/14/1993

COMMENT: .38 CALIBER PISTOL

SENTENCE: SENT. DESC.:
CHG 01; JAIL - 4 MOS, COMM
SUPV - 12 MOS

STATE DEPARTMENT OF CORRECTIONS

CUSTODY HISTORY

COMMITMENT

DATE: 04/01/2008

NAME USED: TAM, VALENTINE WILLIAM WALANI DOC NUMBER: 716635
CONTRIBUTING AGENCY: WAC23025C WA DOC-SHELTON CORRECTIONS
COURT CASE NO: 071002540 COUNTY/STATE: SNOHOMISH
CHARGE: 0736110 CONT SUB-POSS NO PRESCRIPTION CLASS C FELONY
69.50.4013(2)

DOO: 04/01/2008

EXHIBIT 2 PAGE 7

COURT CASE NO: 071025655 COUNTY/STATE: SNOHOMISH
CHARGE: 0270980 POSSESSION OF A STOLEN VEHICLE CLASS B
FELONY
9A.56.068 .

DOC: 04/01/2008

COURT CASE NO: 071033640 COUNTY/STATE: SNOHOMISH
CHARGE: 0272600 TAKE MTR VEH W/O PERMISSION-2 CLASS C FELONY
9A.56.075 (2)

DOC: 04/01/2008

NO KNOWN SEX/KIDNAPPING OFFENDER REGISTRATIONS

NO KNOWN APPLICANT DETAILS

GLOSSARY OF TERMS IS AVAILABLE IN THE CRIMINAL JUSTICE TRAINING MANUAL (CJTM)
LOCATED AT <http://www.wsp.wa.gov/crime/crimhist.htm>

RESOURCES

ADMINISTRATIVE OFFICE OF THE COURTS (AOC)-----WWW.COURTS.WA.GOV
WSP CHRU -----CRIMHIS@WSP.WA.GOV OR
(360) 534-2000
DEPARTMENT OF CORRECTIONS (DOC)-----WWW.DOC.WA.GOV
WSP SOR UNIT----- (360) 534-2000
WSP CRIME LAB CODIS----- (206) 262-6020
RCW-----HTTP://APPS.LEG.WA.GOV/RCW/
LEGISLATION-----HTTP://APPS.LEG.WA.GOV
END OF RECORD

EXHIBIT 2 PAGE 8

Valentine Tam
2826 Rucker Ave Apt 6
Everett, WA. 98201
January 11, 2013

To whom it may concern,

This letter is in hopes that you could understand and possibly accept that in certain circumstances people are given a second chance to change the way they live their lives and become citizens that are truly a positive influence in society. I feel that I have become that person and given the opportunity can make a difference in the lives of others who have been through similar situations which I have 5 years ago. Honestly what I am asking for is a miracle. Anyone looking at my history without knowing me would undoubtedly form an inaccurate opinion of the person who I have become today. Below is a brief description of my charges with explanations.

12/14/93: Assault-2. I had gotten into an earlier verbal altercation with three individuals. As I was walking back to my vehicle the three individuals were driving down the street and attempted to run me over from the center lane which I stood. I pulled out my weapon which I was fully licensed to carry and shot at the vehicle to protect myself. Unfortunately the prosecutor did not see it that way. I took an Alfred Plea which basically meant I didn't believe I was guilty but because of the evidence against me I felt I would have been convicted if I went to trial.

6/21/95, 7/28/95, 7/28/95: Stalking, Reckless Endangerment, and Assault 4. All these have to do with the same person. My Aunt had an employee who stole from her. I saw her and her boyfriend one day and proceeded to follow them. At the time I did not have a cell phone to call for help. As I was following them I got ran off the road by him. Because they called first to 911 I ended up getting charged with it. I'm not denying looking for them or following them at all I'm just saying there was a valid reason for this.

5/17/07, 12/05/07, 3/14/08: I had three very important men in my life, my Grandfather, my Uncle and my best friend Ken. Sept. 5, 2006 my Uncle died, Nov. 23, 2006 my Grandfather died and Dec. 19, 2006 Ken died and 12 days later we got an eviction notice on the house we had bought on an owner contract because the owner, Ken, was not

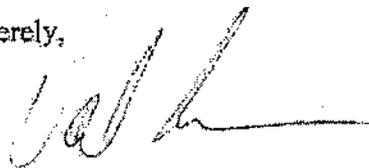
EXHIBIT 3 PAGE 1

making the payments. I can honestly say I lost it. My wife and I were out on the streets with our 2 infant children. I turned to drugs to help ease the pain and began to let my family down. The 2 "Taking motor vehicles w/o permission" and "Possession of stolen vehicles" were because the weather was cold and my wife and I needed a place to stay for the night. Nothing was ever taken out of the cars and they were returned the next day. The Domestic Violence was with my wife whom I'm still with after 21 years. No one thought we could ever make it but we did.

I'm not sure if you're one person or a committee who will make the decision on this truly life changing decision for me. I just wanted you to understand there is a man, father and husband who made some very terrible mistakes in his life but also at one point was a supervisor for the state's largest commercial landscape company for 15 years, I was a home owner, small business owner, a husband and father.

Working here has given me a new outlook at my future. Not many if anyone would take a chance on me like Brandon did and entrust me with what he has. Now I'm asking you, I'm begging you to allow me to go the next step.

Sincerely,

A handwritten signature in black ink, appearing to read "Valentine Tam", with a long horizontal flourish extending to the right.

Valentine Tam

**SHORT FORM APPLICATION
FOR WRITTEN CONSENT
TO ENGAGE IN
THE BUSINESS OF INSURANCE
PURSUANT TO
18 U.S.C. § 1033 AND 1034**



Notice to Applicant: 18 U.S.C. § 1033 prohibits certain activities by or affecting persons engaged, or proposing to become engaged, in the business of insurance:

- (e)(1)(A) Any individual who has been convicted of any criminal felony involving dishonesty or a breach of trust, or who has been convicted of an offense under this section, and who willfully engages in the business of insurance whose activities affect interstate commerce or participates in such business, shall be fined as provided in this title or imprisoned not more than 5 years, or both.
- (B) Any individual who is engaged in the business of insurance whose activities affect interstate commerce and who willfully permits the participation described in subparagraph (A) shall be fined as provided in this title or imprisoned not more than 5 years, or both.
- (e)(2) A person described in paragraph (1)(A) may engage in the business of insurance or participate in such business if such person has the written consent of any regulatory official authorized to regulate the insurer, which consent specifically refers to this section.

This Application will be reviewed by the chief insurance regulatory official in this state to determine whether the Applicant should be given written consent to engage in the business of insurance or participate in the business pursuant to 18 U.S.C. § 1033(e)(2).

You must answer every question on the Application. If a question does not apply, indicate N/A in the space provided for the answer. Your answers are not limited to the space provided on the Application. Attach additional pages as needed. The Department of Insurance will not process incomplete Applications. Additional information may be requested.

PLEASE TYPE

SECTION I - APPLICANT INFORMATION

1. Full Name of Applicant:

TAM VALENTINE WILLIAM WALANI
Last Name First Name Middle

Have you ever been known by or used another name, including maiden name? yes no
If yes, identify: VAL TAM

Home Address: 2826 RUCKER AVE APT 6 EVERETT WA 98201
Street Address City State Zip

Mailing Address: _____
P.D. Box or Street Address City State Zip

Home Telephone Number: 425 341 1910
Work Telephone _____

_____ or been issued another social security number? NO If so, provide an explanation and previous/other social security number(s)

Place and Date of Birth: KANEHOE, HI _____

(Answer all questions fully and completely. Failure to answer the questions fully will result in delays in the application process. You are not limited to the space below. Attach additional pages if needed).

SECTION II - CRIMINAL HISTORY

1. List any felony(s) for which you have been arrested, charged, indicted, or convicted. Include details of any negotiated plea agreements and pleas of nolo contendere to an information or indictment. Attach a full description of your acts involved in the aforementioned matters. Include dates of charge, location, and nature of offense. Attach additional pages if needed.

2. Provide details of the conviction for which you are seeking written consent and the final disposition of these matter(s), including sentence; dates of incarceration; dates of probation/parole (if you are currently under probation/parole, include the name and phone number of person supervising your parole or probation; restitution paid; fines/costs ordered; fines/costs paid; and pardons granted. Include information as to whether or not your civil and political rights have been restored. Attach additional pages if needed.

SECTION III - PRESENT/PROPOSED INSURANCE EMPLOYMENT

1. Please specify the name and address of your current or proposed employer to which the requested exemption will apply.

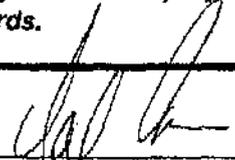
2. Please describe in detail the office, position, and title to which the requested exemption will apply and a complete description of the activities, duties and responsibilities. Please attach or describe any proposed or current written or oral agreements, contracts, or understandings with any entity engaged in the business of insurance as defined by 18 U.S.C. § 1033. (If consent is given, it will be applicable to the activities described herein.) Please include your date of employment or proposed date of employment.

SECTION IV - ATTACHMENTS

Attach the following documents to this Application for written consent. Applications without attachments, or applications with incomplete attachments, will be returned to the applicant.

1. Certified copy of the applicant's criminal history.
2. Certified copy of the indictment, criminal complaint, or docket sheet or other initiating documents for the charge(s) which is the subject of this Application.
3. A certified copy of the order of judgment and sentence of the court for the conviction that is the subject of this Application, including certification of completion and performance of all conditions imposed by the court.
4. An affidavit from the individual that seeks to employ you stating in detail the duties and responsibilities that you are performing or are to perform for them and for which you seek written consent and that it is that individual's opinion that the performance of these responsibilities does not constitute a threat to the public.

I, Valentine Tam (name of applicant), swear under penalty of law that my statements in the attached Application, and the documents appended thereto, are true and correct and complete. I understand that my statements in the Application and the attachments to my Application will be relied upon by the Insurance Commissioner of the State of Washington in the execution of his or her duties under the Insurance Code, and 18 U.S.C. § 1033, in making a decision on this Application. I understand that if I have made any false statement in this Application, or if there are any false statements included in the attachments to this Application, I may be criminally prosecuted under any state criminal or administrative remedies available and that any insurance license(s) that I currently hold, or for which I have applied, will be subject to suspension or revocation. I further understand that these false statement(s) would also constitute a violation of 18 U.S.C. § 1033. For purposes of this Application, I do not contest the validity of any felony conviction upon which this request would be granted. *By signing this Application, I acknowledge that the Insurance Department, for the State of Washington may conduct an independent investigation to confirm the information in this Application and I expressly consent and authorize any person, business or agency to release any information the Insurance Department may request as part of the investigation, including but not limited to, records of my former employment, state and federal tax returns, business records, and banking records.*


 Signature of Applicant

2/5/13
 Date

STATE OF WASHINGTON }
 COUNTY OF SNOHOMISH }

Subscribed, sworn to, and acknowledged before me by Valentine Tam to be his/her free act and deed this 5th day of February, 2013.




 Notary Public, State at Large

9/20/2016
 My Commission Expires



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
SEATTLE POLICE DEPARTMENT WEST PRECINCT
830 VIRGINIA STREET, SEATTLE, WA 98101
206.615.0459 desk, 206.610.7011 cell, 206.615.0453 fax.

December 17, 2012

To Whom It May Concern:

Valentine Tam (DOC 716635) was sentenced in Snohomish County Superior Court on 3.17.08 under cause AB 07-1-00254-0 for Possession of a Controlled Substance – Cocaine and Snohomish County cause AC 07-1-02565-5 for Possession of a Stolen Vehicle. He was Court-ordered to successfully complete a certified chemical dependency treatment program, which he began on 3.21.09. He reported as directed, submitted clean urine samples as required and attended all treatment groups as directed. Tam subsequently completed his chemical dependency treatment program on 6.6.09.

Tam was transferred to my caseload in December 2009 and continued to maintain his compliant behavior. He was going to school, working on the side, had stable housing and was making positive steps forward.

Tam successfully reached his scheduled end date on 3.10.10 for cause AB and then on 10.9.10 for AC. He was violation-free during his entire time on supervision.

Thank you,

Emily Isaacs

Emily Isaacs
Community Corrections Officer 2
Seattle Metro 265



With Aloha, Inc.

8532 127th Avenue SE
Snohomish, WA 98290
Phone: 877-300-4253
E-mail: admin@withaloha.com
Website: www.withaloha.com

January 09, 2013

To Whom It May Concern:

I am writing this letter in regards to Valentine W.W. Tam.

Mr. Tam worked for my company from 2009-2011. He played a very important role to the start up of With Aloha, Inc. He researched suppliers, designed our logo and brochures and worked in production of products. He worked his shift and many overtime hours during this time. He never took a sick day in the 2 years he was with our company.

Mr. Tam is a very responsible dependable individual who is self-motivated and works very well independently. He has had some very difficult times in his life, but is fully rehabilitated in my opinion and is determined to stay on the right path.

It was a great loss to our company when he moved on to new ventures. I would hire him back with no hesitation.

If you should need any further information, please feel free to contact me at any time.

Respectfully,

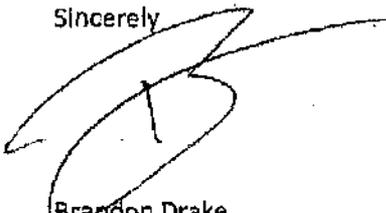
Ann Alna
President/CEO
With Aloha, Inc.

To whom it may concern,

I am the owner and operator of Brandon's Bail bonds. I currently have an employee that I would like to become a licensed bail bond agent. His name is Valentine Tam and I have known him for the past five years. It has been a pleasure working with Val and I personally believe that he will make a wonderful bond agent. His integrity and trust worthiness goes without mention. He is truly an upstanding citizen that has turned his life around and deserves a great future. I have every belief that Val will make decisions that would affect my business in a positive light, he has a manner in which he connects to customers and easily exhibits a natural misdeemeanor that is pleasing and welcoming.

Please extend to Valentine the opportunity to serve our community and move forward with his life in this future endeavor.

Sincerely



Brandon Drake

Brandons Bail Bonds

Brandon's Bail Bonds Inc
PO BOX 192
Everett, WA 98206

#2041



YOUR LETTER

Nate Hingson <bailbondbynate@gmail.com>
To: TAM.VAL71@gmail.com

Wed, Dec 19, 2012 at 2:38 PM

BAIL BOND BY NATE
19427 40TH AVE W
LYNNWOOD, WA 98036
425.640.2828

To Whom It May Concern:

This letter is to attest to the character of Valentine Tam. I've known Val in a variety of capacities for about 3 years now. He has worked at Brandon's Bail Bonds as a collection agent for awhile and has also help my company with information leading to the arrest of many fugitives. Val is very generous with his time and money when it comes to helping others. I personally know of at least 2 people has has tried to help rehabilitate off the streets with success with only asking that they pay it forward. I was very shocked to know of his past, he is not that that person whom I have heard storys of. Val is one of the few people I know whom have been to prison and since lead a positive, productive life as a member of our community. I believe he should be given the chance to further his career in an industry that he has a true calling and passion for.

Sincerely,

Cherokee Pierce
Bail Bond by Nate agent
#1998

EXHIBIT 5 PAGE 4

January 13, 2013

To whom it may concern,

My name is Donna Miller; I was head of the Clean and Sober Housing where Val Tam lived for two years. In January of 2010 Val and his wife came to live in the Pioneer Housing on Belmont in Seattle, WA. He was compliant with all and every drug testing attended house meetings when told and did his weekly chores without being reminded. During their stay, the Tam's and I became close friends. From what I know of their past history and what I know of them I can see the drastic change. Val has every intention of keeping a crime and drug free life to keep his family. I am very proud of what Val has accomplished in the short time I have known him. I have total faith and trust that Val will succeed in life.

If you have any questions please feel free to call 425-343-9444

Sincerely

Donna Miller

January 4, 2013

To Whom It May Concern,

I am writing on behalf of Valentine Tam. Valentine is my Nephew in-Law and I have known him for last 20 years.

Val has been through some very rough times and made some mistakes that he was incarcerated for in the past. Since his release he has made tremendous strides in putting his life back on track in a positive manner. I have witnessed his dedication to working at Brandon's Bail Bonds. He has also engaged in community activities this past year by assisting in providing the homeless with a Thanksgiving Dinner.

Both Val and his wife stay in constant communication with me and visit my home at least once a week. I have seen Val rededicate his life to his wife and their new baby. He has been focused on turning over a new leaf and has held strong to that focus.

I am very proud of the strides he has made over the last few years and am very thankful that he works so hard to provide a good life for his family.

Sincerely,



Lisa Oliver

Penn, Cheryl (OIC)

From: Penn, Cheryl (OIC)
Sent: Wednesday, February 13, 2013 7:51 AM
To: 'Val Tam'
Subject: License Denial

Mr. Tam

We are denying your application for a insurance producer's license due to the recentness of four of your five felony convictions. RCW 48.17.530 (1) (f) give the Insurance Commissioner authority to deny a license if the applicant has been convicted of a felony. It is our recommendation that you wait until ten years have passed (December 2017) before reapplying for a license.

You have the right to demand a hearing to contest this decision. During this hearing, you can present your argument that the decision should not have been entered for legal and/or factual reasons and/or to explain the circumstances surrounding the activities which are the subject of this decision. You may be represented by an attorney if you wish, although it is not required. In many hearings before this agency parties do choose to represent themselves without an attorney. Your Demand for Hearing must be made within 90 days after the date of this decision, which is the date of this email, or your Demand will be invalid and this decision will stand.

Your Demand for Hearing should be sent to Hearing Unit, Office of the Insurance Commissioner, P.O. Box 40255, Olympia, WA, 98504-0255, and must briefly state how you are harmed by this decision and why you disagree with it. You will then be notified both by telephone and in writing of the time and place of your hearing. If you have questions concerning filing a Demand for Hearing or the hearing process, please telephone the Hearings Unit, at 360-725-7002.

You are entitled to a refund of your license application fees. A refund request will be submitted on your behalf. You should receive your mailed refund within 3-6 weeks of the date of this email.

Cheryl Penn & , Licensing Compliance Analyst

Consumer Protection Division

Washington State Office of the Insurance Commissioner

360.725.7153 | cherylp@oic.wa.gov | www.insurance.wa.gov

P.O. Box 40257, Olympia, WA 98504-0257 / fax 360.586.2019

• wainsurance.blogspot.com • Twitter: [@WAinsuranceblog](https://twitter.com/WAinsuranceblog) • [Facebook.com/WSOIC](https://www.facebook.com/WSOIC)

Protecting Insurance Consumers

(Insurance Consumer Hotline 1.800.562.6900)

EXHIBIT 6 PAGE 1

BRANDON'S BAIL BONDS, INC. LIC#2041

May 06, 2013

Brandon's Bail Bonds, Inc.
PO Box 192
Everett, WA 98206
(425) 339-1515

To Whom It May Concern-

My name is Valentine Tam and I am writing this letter contesting the OIC decision dated Feb. 13, 2013. I feel given the circumstances I should be given a chance to plead my case in person. This decision has greatly affected my advancement in an industry I have come to love and excel in. I have witnesses to attest to my lifestyle change both in and out of the industry. Thank you for your time and consideration.

Valentine Tam
Brandon's Bail Bonds Inc.



1315 Hewitt Ave
Everett, WA 98201
USA

PHONE (425) 339-1515
FAX (425) 339-5544
E-MAIL brandonsbonding@yahoo.com
WEB www.brandonsbonding.com

(B) Examples of crimes involving “dishonesty or breach of trust”

The most important factor for determining whether a particular crime involves “dishonesty or breach

of trust” is whether the statutory elements of the crime involve “dishonesty or breach of trust.” If such

elements are involved in the crime, then 18 U.S.C. § 1033 is triggered. Further, it is important to remember that the crime in question must be a felony conviction to trigger the prohibition.

Below is a listing of criminal offenses that may be qualified offenses for the purposes of 18 U.S.C. §

1033.

1. Any type of fraud, including, but not limited to, insurance fraud, mail fraud, mortgage fraud, Medicare fraud, land fraud, tax fraud, securities fraud, and criminal fraud;
2. Counterfeiting or passing counterfeit money;
3. Bribery and bribe receipt;
4. Any crime involving false pretenses;
5. Money laundering;
6. Extortion;
7. Forgery or any crime involving the falsification of documents;
8. Embezzlement;
9. Criminal impersonation;
10. Fraudulent conveyance of property;
11. Fraudulent use of credit or debit card;
12. Knowingly issuing a bad check;
13. Any crime involving the making or utterance of a false statement;
14. Perjury and subornation of perjury;
15. Knowingly possessing a forged instrument;
16. Knowingly receiving or possessing stolen property;
17. Theft by deception;
18. Witness/evidence tampering; and
19. Crimes of financial exploitation.

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There has been concern that serious crimes — including, for example, manslaughter, rape, burglary

or robbery, arson, unlawful sexual conduct, child abuse, molestation or other crimes against children,

kidnapping and murder — might not contain an element of dishonesty or a breach of trust and, despite their seriousness, might not be a trigger for this prohibition status. The focus of the U.S. Congress when enacting Section 1033 was not on the relative seriousness of different felonies, but on

the relevance of the crime to the person’s fitness to participate in the financial industry. If state law

bars additional classes of convicted felons from participating in the business of insurance — or if state courts interpret the phrase “dishonesty or breach of trust” in an analogous state statute differently than do federal courts — the state retains the authority to apply its own law. These Guidelines only address questions of federal law; questions of state law must be decided on a state-by-state basis.

OTHER RELATED LEGISLATION

As further guidance, recent pending legislation may be helpful. On Nov. 6, 2001, the U.S. House of Representatives adopted HR 1408: Financial Services Anti-Fraud Network Act. HR 1408 advises that certain types of convictions (defined as "relevant information") will be provided by the FBI to state insurance regulators when conducting background investigations on persons engaged in the business of conducting financial activity. HR 1408 defines "relevant information" as:

"Relevant Information"

1. All felony convictions
2. All misdemeanors convictions involving:
 - A. Financial activity
 - B. "Dishonesty or breach of trust," as per 18 U.S.C. § 1033, including taking, withholding, misappropriating or converting money or property
 - C. Failure to comply with child support obligations
 - D. Failure to pay taxes
 - E. Domestic violence/child abuse
 - F. Crimes of violence
 1. Burglary of a dwelling
 2. Threat of great bodily harm
 3. Use or attempted use of physical force
 4. Use, attempt or threat to use a deadly weapon
 5. Murder, manslaughter, kidnapping, robbery, aggravated assault, forcible sex offenses, arson, extortion (or attempts)

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ATTACHMENT D

DEPARTMENT OF INSURANCE PROCEDURES

GOVERNING PERSONS SUBJECT TO 18 U.S.C. § 1033

[Drafting Note: These procedures are merely a model or guide for the implementation of 18 U.S.C. §

1033. The various state insurance departments are free to either accept or reject, in whole or in part, the procedures set out herein.]

INTRODUCTION

The Violent