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**STATE OF WASHINGTON
OFFICE OF THE INSURANCE COMMISSIONER**

In the Matter of

BRYAN K. JARRETT,

Licensee.

OAH Docket No. 2013-INS-0005#

NO. 13-0246

WAOIC No. 732718

NPN No. 11818456

**OIC RESPONSE TO
PETITION FOR REVIEW OF
INITIAL ORDER**

The Office of the Insurance Commissioner takes issue with Judge Kim’s Initial Order and Mr. Jarrett’s petition in several respects. Some are of little consequence, but others require a response.

The first point of disagreement is with the implication of Judge Kim’s finding of fact 19. Mr. Jarrett did not “completely own up” to his misdeeds in his deposition in March 2014. At the deposition, accompanied by his attorney, Adam Scott, Mr. Jarrett testified that he confessed to Farmers Insurance that he wrote numerous life insurance policies for a sister Farmers company without consent, and forged the signatures on the accompanying applications and bank withdrawal authorizations, at the same

1 time he voluntarily approached his supervisor, Tracy Niles, and admitted
2 writing the six commercial policies (AR Exhibit 26, pp. 6-7). The
3 investigation done by Farmers did not mention the life policies at all. The
4 extensive report by Mr. Hogue of Farmers dealt only with the commercial
5 policies (AR Exhibits 1A, 1B, and 1C). There is a disconnect there.

6 Surely, had Mr. Jarrett's forgeries and the bogus life policies been
7 known to Farmers at the same time as the commercial policies, they would
8 have been included in the Hogue report, or in some report, somewhere.
9 Because the business owners involved with the commercial policies were
10 aware of the commercial policies, and not happy about them, Mr. Jarrett
11 really had no choice but to preemptively confess to them as things began to
12 crumble around him. The life policies owners, on the other hand, were
13 none the wiser and likely would not have ever known about them even after
14 they were cancelled for lack of premium payment. Not one ever
15 complained because none of them knew they had life insurance with
16 Farmers. There is no evidence that Mr. Jarrett discussed the life policies
17 with anyone at Farmers.

18 The record reflects that it was OIC investigator, Mr. Talarico, who
19 informed Farmers New World Life, the underwriter of the life policies, of
20 their existence (AR Exhibit 13, pp. 1-2). The record also reflects that
21 Denise Collins, Mr. Jarrett's former assistant, was the person who told Mr.
22 Talarico how she came upon the life policies while making cold calls to
23 people who had other insurance with Farmers (AR Exhibit 20, pp.1-2). Mr.
24 Jarrett made statements at the deposition trying to discredit Ms. Collins as
25 being an unstable woman (AR Exhibit 26, pp 25-26). While technically,
26

1 Mr. Jarrett owned up to the life policies at deposition, there is no evidence
2 that he “owned up” to them to Farmers, ever.

3 Second, Judge Kim states in conclusion of law 6. that the OIC failed
4 to consider a set of facts, and that such facts were unknown to the OIC until
5 Mr. Jarrett’s deposition and the hearing. He also concludes that Mr.
6 Jarrett’s failure to cooperate with Mr. Talarico “was the primary cause” for
7 the OIC’s inability to consider those facts. But considered they were, and
8 well before the hearing. The hearing record contains absolutely zero
9 inquiry about or discussion of the OIC’s ongoing deliberative process in
10 this case. Judge Kim apparently concluded that no further discussions
11 were had at the OIC after the revelations in the deposition. His conclusion
12 was wrong. Far from being a conclusion of law, it is best described as a
13 presumptive conclusion of fact based on nothing in the record but mere
14 supposition.

15 Obviously unknown to Judge Kim, the OIC has a standard procedure
16 it uses in cases of alleged producer misconduct to determine the course of
17 the OIC’s actions, if any, in response. All matters are considered at the
18 close of the investigation by a producer enforcement panel of OIC staff that
19 discusses and arrives at a plan for enforcement. This group of mid-level
20 and senior staff is known as the Producer Enforcement Group (PEG). This
21 is how the Office of the Insurance Commissioner initially considered Mr.
22 Jarrett’s case. Revocation of his producer license was the PEG’s
23 determination based on the investigation. However, after the partial
24 disclosure of his misdeeds and other facts disclosed at the deposition, as
25 mentioned by Judge Kim in conclusion of law 6., the matter was revisited
26 with the PEG. The unknown “facts” listed by Judge Kim were in fact

1 reported, discussed, and vigorously debated by the PEG in regard to settling
2 the matter with a sanction short of revocation (OIC Response to Petition
3 Exhibit 1). Revocation was still the PEG's decision (OIC Response to
4 Petition Exhibit 2). In other words, contrary to Judge Kim's conclusion of
5 "law," the facts he alludes to were indeed known to the OIC prior to the
6 hearing. Those facts did not change the decision of the PEG to pursue the
7 Order Revoking License. The PEG and the Office of the Insurance
8 Commissioner take a very dim view of forgery and of sending business
9 owners to collections for insurance they did not ask for, or in some cases,
10 didn't even know about. Consumer harm is not limited to financial harm.
11 To the Office of the Commissioner, five business owners being lied to and
12 having to fight with an insurance company to undo Mr. Jarrett's handiwork
13 was consumer harm enough.

14 Mr. Jarrett requested the sanction now suggested by Judge Kim,
15 probation with monitoring, shortly before the deposition (OIC Response to
16 Petition Exhibit 3). And probation with a monitor was specifically
17 discussed at the conclusion of the deposition (see AR Exhibit 26, pp. 64 et
18 seq.). As implied by the discussion, the suggestion of the lesser sanction
19 was thereafter presented to the PEG. That less stringent sanction was
20 rejected by the PEG at its March 26, 2014 meeting. As a matter of candor
21 to the tribunal, it should be made clear that Mr. Scott was well aware that
22 his suggested settlement of a probationary license with monitoring was
23 presented to the PEG, and rejected. Mr. Scott's Issue and Position
24 Summary item 2.7, and his disingenuous assertion that the Office of the
25 Insurance Commissioner did not consider all of the facts should be
26 completely disregarded. He is not being truthful.

1 “The business of insurance is one affected by the public interest,
2 requiring that all persons be actuated by good faith, abstain from deception,
3 and practice honesty and equity in all insurance matters. Upon the insurer,
4 the insured, their providers, and their representatives rests the duty of
5 preserving inviolate the integrity of insurance.” RCW 48.01.030.

6 The Office of the Insurance Commissioner does not consider the
7 above statutory provision to be an aspirational adage. When Mr. Jarrett
8 wrote the six fictitious policies and submitted fourteen sets of applications
9 and bank authorizations with forged signatures, he did not abstain from
10 deception, nor did he practice honesty and equity. Although he finally
11 admitted the majority of the allegations in the Order Revoking License in
12 his March 7, 2014 deposition, he did not admit to them for nearly two years,
13 as Judge Kim acknowledged.

14 At hearing, Mr. Jarrett tried mightily to maintain a remorseful
15 posture, but could not help but defend some of his past practices and
16 attitudes. All of the character witnesses were asked to participate by Mr.
17 Jarrett, and he gave each of them some background on the matters involved
18 in the hearing. It was obvious that Mr. Jarrett had given a somewhat vague,
19 minimized version of events to each witness. All of the witnesses
20 expressed the idea that these events took place longer ago than they actually
21 did. One said that these events occurred when Mr. Jarrett was “just a kid.”
22 One hazarded a guess that these events transpired “in 2002, 2004?” One
23 used the term “long ago.” Mr. Jarrett seems to have also minimized the
24 nature and extent of his misconduct. One witness referred to being told of
25 “skipped steps” Mr. Jarrett failed to take when writing insurance policies.
26 One witness reported Mr. Jarrett as having said the violations were nothing

1 but a “brain fart.” Another said the matter was about “a few policies that
2 shouldn’t have been written.” One witness, Ryan Donckers, didn’t really
3 know anything at all about the allegations or the reason for the hearing.
4 The witnesses also referred to “peer pressure,” or “pressure from Farmers”
5 as Mr. Jarrett’s stated excuse for the allegations. One specified that “bad
6 role models” had had a negative influence on Mr. Jarrett, leading him
7 astray.

8 It was readily apparent at hearing that Mr. Jarrett is popular and well-
9 liked in his sphere of the Spokane Valley business community. He
10 obviously charmed Judge Kim, too. The witnesses called by Mr. Jarrett at
11 hearing remained steadfastly supportive of him despite hearing Mr. Jarrett’s
12 deposition testimony that it was his own vanity and desire to remain the top
13 Farmers salesman in Spokane that primarily drove Mr. Jarrett. Some were
14 incredulous when they were read an excerpt wherein Mr. Jarrett admits to
15 the forgeries and says that he “knew from start to finish that these policies
16 were bogus” (AR Exhibit 26, pp. 48-49). Only one witness, Sandra Bartell,
17 seemed to be at all disturbed by what she heard. The testimony of these
18 witnesses was a testament to their affection for and loyalty to Mr. Jarrett.
19 But Mr. Jarrett’s sanitized version of the allegations didn’t give his
20 witnesses a true picture of his entire character upon which to comment, and
21 further illustrates that Mr. Jarrett wanted good references without having to
22 tell the whole story and possibly lose any residual prestige in the
23 community.

24 Mr. Jarrett spent much of his hearing testimony decrying the lack of
25 ethics training and the poor ethical practices in the culture at Farmers
26 Insurance. Without naming names, he implied that many of the leaders at

1 Farmers were immature, disloyal, intemperate cheats who routinely cut
2 professional and personal corners without peril or consequence. He implied
3 that they were in part the bad influences who led to his ethical demise and
4 the violations, as he had apparently informed his witnesses.

5 Yet, Mr. Jarrett claimed to be a totally new man. He testified at
6 hearing that he was very happy being in an environment like Pemco
7 Insurance, then his current employer, where ethics is the foremost principle
8 and he couldn't cheat if he wanted to. Pemco would save him from falling
9 back into his old ways. Yet, he did not inform Pemco when he accepted a
10 job there in September 2013 that an Office of the Insurance Commissioner
11 investigation into fraud, forgery, and misrepresentation was ongoing (AR
12 Exhibit 26, pp. 53-55). The Order Revoking License was entered on
13 September 6, 2013.

14 While it is certainly understandable why one would want to hold off
15 on telling an employer that one has been sanctioned by the Office of the
16 Insurance Commissioner until the matter was final, doing so is not a
17 transparent and honest acceptance of responsibility. To a significant
18 degree, Mr. Jarrett was hired by Pemco under cloudy, if not outright false,
19 pretenses. And it appeared from Mr. Jarrett's testimony at hearing that
20 while he says he has accepted moral responsibility for his violations of the
21 insurance code, he has not accepted the real world consequences of them.
22 Given the disciplinary track record the Office of the Insurance
23 Commissioner has on producers who have committed acts that are listed as
24 the most serious causes for revocation in RCW 48.17.530(1), Mr. Jarrett
25 should have expected to be revoked by the Office of the Insurance
26 Commissioner.

1 Revocation remains the appropriate resolution of this matter, rather
2 than probation and monitoring. Part of producer regulatory oversight and
3 enforcement is deterrence and a sentinel effect to other producers. In the
4 insurance world, Mr. Jarrett's violations were intolerable and egregious.
5 The wrong message is sent when grievous misconduct is vitiating or
6 assuaged by merely apologizing and claiming redemption, without a proven
7 track record demonstrating such redemption. The reason one needs a
8 license to sell, solicit and negotiate insurance in the first place is that the
9 business of insurance involves trust and honesty as well as technical
10 knowledge and skill. The Office of the Insurance Commissioner requires a
11 State Patrol background check and fingerprints in order to be licensed as a
12 producer.

13 Mr. Jarrett wanted to be the best, the most productive, the best
14 citizen, friend and colleague. He was literally the captain of the football
15 team in college. He all but admitted at hearing that his ego and exaggerated
16 sense of entitlement led him to illegal acts to stay on top. One of his
17 witnesses concurred, saying that he sympathized with Mr. Jarrett because it
18 must be hard to accept playing by rules that may result in failure when you
19 have never suffered adversity. We did not see anything at the hearing to
20 show that Mr. Jarrett has really accepted being less than a star. And as he
21 testified at hearing, he could do well in any field of sales, not just insurance.
22 Other salespeople do not require a professional license, but insurance
23 producers are held to a higher standard than other salespeople. A
24 probationary license with monitoring would tell Mr. Jarrett and the public
25 that the Office of the Insurance Commissioner is willing to accept the most
26

1 | severe breaches of trust and potential criminal activity without employing
2 | the most severe sanctions.

3 | Earning a second chance requires total acceptance of the
4 | consequences of misconduct, especially gross misconduct. Shading of
5 | unflattering facts and rationalizations blaming corporate "culture" do not
6 | reflect true and complete repentance. As Mr. Jarrett has not yet proven that
7 | he deserves a second chance, Mr. Jarrett's petition for review of the
8 | revocation should be denied. Judge Kim's suggestion of a lesser sanction
9 | should likewise be rejected.

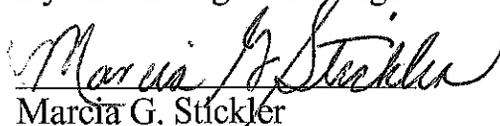
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11 | Respectfully submitted this 11th day of August, 2014.

12 |
13 | 

14 | MIKE KREIDLER
15 | Insurance Commissioner

16 | By and through his designee

17 | By



18 | Marcia G. Stickler
19 | Insurance Enforcement Specialist
20 | Legal Affairs Division

21 | **EXHIBITS**

22 | Exhibit 1: Declaration of Christine M. Tribe, dated August 11, 2014. (1
23 | page)

24 | Exhibit 2: Email from Lisa Borchert to PEG members, et al. dated March
25 | 27, 2014. (2 pages)

26 | Exhibit 3: Email from Adam Scott to Marcia Stickler dated February
14, 2014. (1 page)

1 CERTIFICATE OF MAILING

2 The undersigned certifies under the penalty of perjury under the laws
3 of the state of Washington that I am now and at all times herein mentioned,
4 a citizen of the United States, a resident of the state of Washington, over the
5 age of eighteen years, not a party to or interested in the above-entitled
6 action, and competent to be a witness herein.
7

8 On the date given below I caused to be served the foregoing OIC
9
10 RESPONSE TO PETITION FOR REVIEW OF INITIAL ORDER on the
11 following individuals via Hand Delivery, US Mail and Facsimile at the
12 below indicated addresses:
13

14 **VIA HAND DELIVERY AND EMAIL TO:**

15 OIC Hearings Unit
16 Attn: George Finkle, Presiding Hearings Officer
17 5000 Capitol Blvd
18 Tumwater, WA 98501
19 GFinkle@JDRLLC.com
20 Forbes@JDRLLC.com

21 **VIA US MAIL:**

22 Adam Scott, Esq.
23 The Rosenberg Law Group, PLLC
24 1700 – 7th Avenue, 21st Floor
25 Seattle, WA 98101

26 **SIGNED** this 11th day of August, 2014, at Tumwater, Washington.

27 
28 _____
29 Christine Tribe

STATE OF WASHINGTON
THE OFFICE OF THE INSURANCE COMMISSIONER

In Re the Matter of:

BRYAN K. JARRETT,

Licensee.

OIC NO. 13-0246

OAH Docket No. 2013-INS-0005

DECLARATION OF
CHRISTINE M. TRIBE

I, Christine M. Tribe, am over the age of eighteen and do voluntarily provide this declaration freely and without threats or promises, and state under penalty of perjury under the laws of the State of Washington that the following facts are personally known to me, and, if called upon to do so, I could and would testify competently to them.

1. I am employed as a Paralegal 2 in the Legal Affairs Division of the Office of the Insurance Commissioner. I have been employed as a Paralegal 2 with the State of Washington for thirteen years, with the Office of the Insurance Commissioner for the past ten of those years.
2. I was present at the deposition of Bryan K. Jarrett, conducted by Marcia G. Stickler, Legal Affairs Division, at Tumwater, Washington on March 7, 2014. A true and accurate transcript of the deposition is at Exhibit 26 of the administrative proceedings record in the matter now under review. I was able to fully hear and observe Mr. Jarrett during the entire deposition.
3. Information not then fully known to the OIC was imparted by Mr. Jarrett in the course of his testimony. He acknowledged writing the commercial and life insurance policies as alleged in the Order Revoking License No. 13-0246. He admitted forging the signatures on fourteen applications for life insurance. He acknowledged that he had not informed his current employer, Pemco Insurance, of the administrative proceedings pending. He professed regret and remorse.

DECLARATION OF CHRISTINE M. TRIBE

Page 1 of 2

EXHIBIT / **PAGE** /

He described in detail his community involvement and newly reignited religious belief. He also described the toll the allegations of the OIC had in his personal and family life, and the fact that he was a new father.

4. Mr. Jarrett's demeanor appeared sincere and he was at moments emotional during the deposition.

5. As a result of the deposition, Ms. Stickler decided that the Producer Enforcement Group, which had ordered the revocation based on the OIC investigation, should be made aware of the contents of the deposition testimony and Mr. Jarrett's affect. Ms. Stickler wanted the enforcement panel to have all of the information available to it in light of the gravity of an Order Revoking License that had previously been issued, but which had been stayed pending a hearing.

6. I was present when Ms. Stickler presented the matter again to the Producer Enforcement Group on March 26, 2014, describing the deposition. I participated in the discussion, conveying my impressions from the deposition in regard to Mr. Jarrett.

7. I was present for a detailed and frank discussion at the Producer Enforcement Group about the revelations in the deposition and whether they ought to change the decision from revocation to a lesser sanction. The Producer Enforcement Group voted to continue the proceedings toward revocation of Mr. Jarrett's producer license.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF WASHINGTON STATE THAT THE FOREGOING IS TRUE AND CORRECT.

Dated this 8th day of August, 2014.

Christine M. Tribe
Signature of Declarant

CHRISTINE M. TRIBE
Christine M. Tribe

Stickler, Marcia (OIC)

From: Borchert, Lisa (OIC)
Sent: Thursday, March 27, 2014 2:22 PM
To: Bertrand, Mike (OIC); Borchert, Lisa (OIC); Brown, Charles (OIC); Colman, Darryl (OIC);
Durphy, Mark (OIC); Gellermann, AnnaLisa (OIC); Hanson, Allison (OIC); Molnes, Renee
(OIC); Myrum, Candice (OIC); Pace, Josh (OIC); Stickler, Marcia (OIC); Talarico, Tom (OIC);
Tribe, Christine (OIC); Baughman, Jeff (OIC); Hamje, John (OIC)
Subject: Final Recommendations from 3/26 PEG meeting
Attachments: 3-26-2014 FINAL RECOMMENDATIONS.docx

For your review.

Thank you,

Lisa Borchert

Complaint Coordinator, Legal Affairs Division
Washington State Office of the Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255
360-725-7060 | lisab@oic.wa.gov | www.insurance.wa.gov | Facsimile: 360-586-2022
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Protecting insurance consumers
(Insurance Consumer Hotline 1.800.562.6900)

EXHIBIT 2 PAGE 1

PRODUCER ENFORCEMENT GROUP
March 26, 2014

1. Licensee/Issue Stephen Nims
OIC Case No. 1131108
Presented by Stickler
Committee Recommendation: \$500.00 fine & advisory letter to producer and surplus lines broker

2. Licensee/Issue McSwain Financial Services, LLC
OIC Case No. 1163886
Presented by Stickler
Committee Recommendation: \$250.00 fine

3. Licensee/Issue Bryan K. Jarrett
OIC Case No. 1063232
Presented by Stickler
Committee Recommendation: up hold revocation decision

4. Licensee/Issue
OIC Case No.
Presented by
Committee Recommendation:

5. Licensee/Issue
OIC Case No.
Presented by
Committee Recommendation:

6. Licensee/Issue
OIC Case No.
Presented by
Committee Recommendation:

7. Licensee/Issue
OIC Case No.
Presented by
Committee Recommendation:

8. Licensee/Issue
OIC Case No.
Presented by
Committee Recommendation:

9. Licensee/Issue
OIC Case No.
Presented by
Committee Recommendation:

10. Licensee/Issue
OIC Case No.
Presented by
Committee Recommendation:

Stickler, Marcia (OIC)

From: Adam Scott [adam@rosenberglawgroup.net]
Sent: Thursday, February 13, 2014 6:12 PM
To: Stickler, Marcia (OIC)
Subject: Bryan Jarrett (for settlement)

Marcia,

Please consider the following outline for a possible settlement:

- 3-years probation; OIC monitoring.
- Reimbursement of the State's investigation costs.
- Restitution
- Additional continuing insurance education *ethics* hours.
- Forfeiture of life and health insurance lines of authority.

Let's set up a time for a phone conversation.

Sincerely,

Adam Scott
Attorney at Law
The Rosenberg Law Group, PLLC
1700 7th Avenue, 21st Floor
Seattle, WA 98101
T: (206) 357-8420
F: (206) 407-3097
adam@rosenberglawgroup.net

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EXHIBIT 3 PAGE 1