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STATE OF WASHINGTON  
OFFICE OF THE INSURANCE COMMISSIONER

*In the Matter of*

BRYAN K. JARRETT,

Petitioner.

OAH Docket No. 2013-INS-0005  
Agency No. 13-0246  
WAOIC 732718

PETITION FOR REVIEW OF INITIAL  
ORDER

PETITIONER Bryan Jarrett, by and through the undersigned attorney, hereby petitions the Office of the Insurance Commissioner for review of the Initial Order entered by the Office of Administrative Hearings in the above-captioned matter.

**I. PROCEDURAL HISTORY AND FACTS**

1.1 A hearing in this matter was held on April 22-23, 2014, at the Washington State Office of Administrative Hearings in Spokane Valley, Washington, before Administrative Law Judge Mark Kim.

1.2 On July 9, 2014, ALJ Kim entered an Initial Order in this matter. The Initial Order contains 28 Findings of Fact, all of which are adopted by Mr. Jarrett and are incorporated by reference herein.

1.3 The Initial Order does not include a finding of fact with respect to whether OIC considered additional evidence—which the ALJ strongly indicated weighed in favor of a remedy

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1 other than revocation—that OIC learned of after concluding its investigation and before the  
2 hearing date.

## 3 II. ISSUES AND POSITION SUMMARIES

4 2.1 Mr. Jarrett adopts Conclusions of Law Nos. 1-2, contained in the Initial Order.

5 2.2 The Initial Order concludes as a matter of law that Mr. Jarrett clearly violated  
6 RCW 48.17.530(1)(j), “forging another’s name to an application for insurance,” which Mr.  
7 Jarrett admitted to. Conclusion of Law No. 3.

8 2.3 Conclusion of Law No. 3 also states that Mr. Jarrett’s “admitted actions support  
9 the conclusion that he also violated subsections (1)(e), (1)(g), and (1)(h) of RCW 48.17.530.”

10 Mr. Jarrett conceded in his Closing Argument that his admitted actions violated RCW  
11 48.17.530(1)(h). Mr. Jarrett notes that the Initial Order does not conclude that violations of  
12 RCW 48.1.530(1)(e) or (g) were proven by a preponderance of the evidence or admission. The  
13 Initial Order does not include a finding that Mr. Jarrett is not a trustworthy person.

14 2.4 Mr. Jarrett agrees with Conclusion of Law No. 4.

15 2.5 Mr. Jarrett agrees that the Office of Administrative Hearings, an administrative  
16 agency created by statute, lacks authority to fashion equitable remedies, and may only reverse or  
17 amend the order revoking Mr. Jarrett’s license upon a finding that the order was arbitrary and  
18 capricious. Conclusion of Law No. 5.

19 2.6 Conclusion of Law No. 6 states that OIC considered that Mr. Jarrett did not  
20 financially benefit from his actions and that the insureds in question were not financially harmed.  
21 The evidence shows that OIC learned early in its investigation that Mr. Jarrett did not benefit  
22 financially and that no consumers were harmed by his actions, but it does not show that these  
23 facts played a role in the OIC’s deliberations regarding which sanctions to impose.



1 for him to assess the costs and benefits of engaging in professional misconduct the same way  
2 again. It did not consider that Mr. Jarrett has no prior disciplinary history with OIC. It did not  
3 consider Mr. Jarrett's community involvement and reputation for good character. It did not  
4 consider that youth and inexperience played a role in Mr. Jarrett's poor decision making, or that  
5 Mr. Jarrett had grown personally and professionally. It did not consider that the culture at  
6 Farmers encouraged the type of misconduct Mr. Jarrett had committed or that Mr. Jarrett had  
7 moved on from Farmers, in part because he did not want to be a part of that kind of environment.

8 OIC's ability to consider all of the facts and circumstances of Mr. Jarrett's case prior to  
9 revoking his license was somewhat limited—in part because of Farmers' willingness to sacrifice  
10 its former agent, and also because of Mr. Jarrett's regrettable reluctance to own up to his  
11 mistakes during the investigation. But, once OIC became aware of additional facts and  
12 circumstances relevant to the choice of appropriate sanctions, it was not obliged to stick with the  
13 sanction that should be reserved for the worst violations.

14 The Commissioner should recognize that not every person who has ever behaved  
15 dishonestly is unworthy of holding an insurance producer license. A more reasonable  
16 interpretation of RCW 48.17.530(1)(h) is the one that the Washington Court of Appeals has  
17 applied: the proper test is whether a licensee is a trustworthy person. See *Chandler v. Office of*  
18 *Ins. Com'r*, 141 Wn.App. 639, 660, 173 P.3d 275 (2007). The fact that Mr. Jarrett has written  
19 hundreds of insurance policies for Washington consumers in the years since he left Farmers—  
20 without so much as a hint of any violations or concerns from OIC—should help the  
21 Commissioner determine that he is a trustworthy person.

22 Revocation of Mr. Jarrett's license would also run counter to the goal of deterring  
23 violations of Chapter 48.17 RCW. RCW 48.17.530(1) provides the following range of possible

1 sanctions: probation, suspension, and revocation. No one was harmed by Mr. Jarrett's conduct  
2 and he did not benefit financially. If these facts result in revocation of a producer license, it  
3 would send a message to licensees contemplating conduct in violation of RCW 48.17.530 that is  
4 more serious than what Mr. Jarrett admitted to, which *would* harm consumers (e.g., conversion,  
5 pursuant to subsection (1)(d)), that they might as well do it if there is an opportunity for financial  
6 gain and the sanction is the same as for what Mr. Jarrett did. Mr. Jarrett's conduct was not so  
7 egregious that he should be denied even an opportunity to demonstrate his redemption. This can  
8 surely be accomplished by imposing sanctions other than revocation while also adequately  
9 protecting insurance consumers.

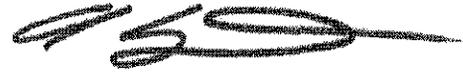
#### 10 IV. REQUEST FOR RELIEF

11 After a full hearing on all of the evidence, the ALJ concluded that revocation of Mr.  
12 Jarrett's license is disproportionate to his actions and the consequences of those actions. The  
13 Commissioner has the authority to impose a penalty that corresponds to the level of misconduct,  
14 and which reflects mitigating factors not previously considered, and also deter other licensees  
15 from similar conduct. The Commissioner could put Mr. Jarrett's license on probationary status  
16 and require him to be supervised by a mentor-colleague who would monitor his professional  
17 conduct and submit reports to OIC. Licensees who have committed misconduct, which was at  
18 least as serious as what Mr. Jarrett did, have entered into this arrangement with OIC. Based on  
19 the forgoing discussion and the ALJ's recommendation, Mr. Jarrett respectfully requests the  
20 Commissioner to impose a probationary period of an appropriate length, during which time Mr.  
21 Jarrett's professional conduct will be monitored by a workplace mentor. If the Commissioner  
22 finds that some period of suspension is necessary, Mr. Jarrett respectfully requests that  
23 suspension be limited to a period of one-year.

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DATED July 29, 2014

The Rosenberg Law Group, PLLC



Adam Scott, WSBA No. 42726  
Attorney for Bryan Jarrett

PETITION FOR REVIEW-6

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V. CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the state of Washington that on July 29, 2014, I sent the forgoing Petition for Review, via the manner indicated, to the following:

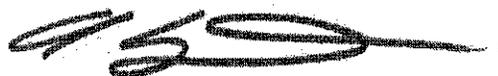
U.S. Mail and Facsimile

Office of the Insurance Commissioner  
Chief Hearing Officer  
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July 29, 2014, Seattle, Washington



Adam Scott