

STATE OF OKLAHOMA
DEPARTMENT OF SECURITIES
THE FIRST NATIONAL CENTER
120 N. ROBINSON, SUITE 860
OKLAHOMA CITY, OKLAHOMA 73102



In the Matter of:

Gary Edward Hibbing (CRD No. 2366990),

Respondent.

ODS File No. 13-046

FINAL ORDER

The Administrator of the Oklahoma Department of Securities ("Administrator" and "Department") issues this Order against Gary Edward Hibbing ("Respondent") pursuant to Section 1-411 of the Oklahoma Uniform Securities Act of 2004 ("Act"), Okla. Stat. tit. 71, §§ 1-101 through 1-701 (2011), and 660:2-9-8 of the Rules of the Oklahoma Securities Commission and the Administrator of the Oklahoma Department of Securities ("Rules"), 660:1-1-1 through 660:25-7-1.

For purposes of this Order, the Administrator hereby adopts the following Findings of Fact and Conclusions of Law.

Findings of Fact

Failure to Answer the Recommendation and Request a Hearing

1. On March 20, 2013, the Enforcement Division of the Department filed an *Enforcement Division Recommendation* ("Recommendation") with the Administrator, in support of the imposition of a bar against Respondent pursuant to Section 1-411 of the Act.

2. On March 26, 2013, the Administrator issued a *Notice of Service on the Administrator and Affidavit of Compliance* and a *Notice of Opportunity for Hearing* (collectively, the "Notices"), informing Respondent that the Recommendation was served on the Administrator and that Respondent had an obligation to file an answer to the Recommendation and the right to request a hearing to show why an order based on the Recommendation should not be issued, within fifteen (15) days after service of the *Notice of Opportunity for Hearing* upon him.

3. On the same date the Notices were issued, copies of the Recommendation and Notices were mailed to Respondent's last known residential address and post office box, by certified mail, return receipt requested, delivery

restricted, in compliance with Section 1-611 of the Act. These mailings were returned to the Department on April 4th and 19th, respectively, marked "Return to Sender[,] Unclaimed[,] Unable to Forward."

4. On April 18, 2013, copies of the Recommendation and Notices were mailed by certified mail, return receipt requested, delivery restricted, to Respondent at two additional addresses. The return receipts for these mailings were received by the Department on April 24, 2013, containing signatures that appear to be those of Respondent and his wife, Suzanne Kay Hibbing.

5. On April 18, 2013, copies of the Recommendation and Notices were sent by first-class mail to the same post office box they were mailed to on March 26, 2013. This mailing has not been returned to the Department.

6. To date, Respondent has not filed an answer or requested a hearing in this matter, and the allowable time period for doing so has lapsed.

Bases for Recommendation

7. From July 2002 until January 2008, Respondent was registered under the Act as an agent of Dortch Securities & Investments, Inc. ("Dortch Securities"), a broker-dealer registered under the Act until May 2009. Respondent operated from a branch office of Dortch Securities located at 414 East Third Street in Grove, Oklahoma. From the same location, Respondent also operated an insurance agency with his wife, who has not been registered under the Act.

8. On January 10, 2013, the Insurance Commissioner of the State of Oklahoma issued an *Administrative Order of Suspension Instanter* ("Instant Order") that immediately suspended Respondent's insurance licenses, fined Respondent \$3,000, and notified Respondent of his right to request a hearing on the Instant Order within a specified time period and that failure to request a hearing would result in the revocation of his licenses. The Instant Order was served upon Respondent by certified mail. Respondent did not request a hearing on the Instant Order.

9. On March 4, 2013, the Insurance Commissioner of the State of Oklahoma issued a *Final Administrative Order* revoking Respondent's insurance licenses and fining him \$3,000. The *Final Administrative Order* is attached hereto as "Exhibit A" and incorporated herein by reference.

10. The *Final Administrative Order* is based on Respondent's activities in connection with sales of annuities to two senior citizens, Michael Crisp and Norma Adams, during the years 2007 through 2010. Specifically, Respondent, among other things, engaged in the prohibited act of "twisting" by repeatedly persuading the senior citizens "to drop an existing annuity in one company and replace it with another company, using the cash value from the old annuity, under the premise that the new

annuity would not cost the individuals any out of pocket money[.]” Exhibit A, Findings of Fact ¶ 12.

11. Respondent participated in the sale of four annuities to Mr. Crisp in the amounts of approximately \$203,328, \$174,000, \$140,000, and \$122,040, during a time period slightly exceeding three years. Each purchase was made with the cash value of the prior existing annuity. Mr. Crisp paid surrender fees totaling \$94,306.49 while Respondent and his wife received commissions totaling \$52,866.15, in connection with these sales. See Exhibit A, Findings of Fact ¶¶ 1-7.

12. Respondent participated in the sale of two annuities to Ms. Adams in the amounts of approximately \$55,225 and \$51,902, during a time period slightly exceeding one year. The second purchase was made with the cash value of the prior existing annuity. Ms. Adams paid surrender fees totaling \$7,077.57 while Respondent and his wife received commissions totaling \$8,846.29, in connection with these sales. See Exhibit A, Findings of Fact ¶¶ 8-10.

13. In connection with the sales of these annuities to Mr. Crisp and Ms. Adams, Respondent has been found to have violated:

- a. “36 O.S. § 1435.13(A)(2) by violating Oklahoma insurance laws and regulations: 36 O.S. §§ 1204(1) and (12); 4034, 4035 and 4036; OAC 365: 25-3-9, 25-17-6 and 25-17-7.” Exhibit A, Conclusions of Law ¶ 1.
- b. “36 O.S. § 1435.13(A)(5) by intentionally misrepresenting the terms of actual insurance contracts and applications for insurance.” Exhibit A, Conclusions of Law ¶ 2.
- c. “36 O.S. § 1435.13(A)(7) having been found to have committed insurance unfair trade practices and fraud.” Exhibit A, Conclusions of Law ¶ 3.
- d. “36 O.S. § 1435.13(A)(8) by using fraudulent, coercive or dishonest practices and by demonstrating incompetence, untrustworthiness and financial irresponsibility in the conduct of business in this state.” Exhibit A, Conclusions of Law ¶ 4.

To the extent any of these Findings of Fact are more properly characterized as Conclusions of Law, they should be so considered.

Conclusions of Law

1. Respondent was served with the Recommendation and Notices in compliance with Section 1-611 of the Act.

2. Respondent is the subject of an order, issued by the insurance regulator of the state of Oklahoma after notice and opportunity for hearing, revoking his insurance licenses.

3. Respondent has engaged in dishonest and unethical practices in the insurance business within the previous ten (10) years.

4. The Administrator is authorized to bar Respondent from registration under the Act and from association with a broker-dealer and/or investment adviser registered under the Act, pursuant to Section 1-411 of the Act.

5. It is in the public interest for the Administrator to bar Respondent from registration under the Act and from association with a broker-dealer and/or investment adviser registered under the Act.

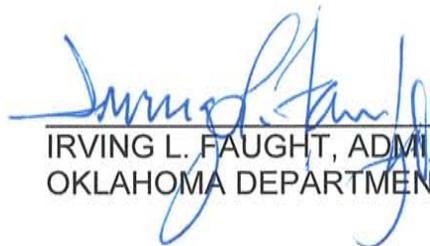
To the extent any of these Conclusions of Law are more properly characterized as Findings of Fact, they should be so considered.

ORDER

IT IS HEREBY ORDERED that, pursuant to Section 1-411 of the Act, Respondent is barred from registration, in any capacity, under the Act and from association with a broker-dealer and/or investment adviser registered under the Act.

Witness my Hand and the Official Seal of the Oklahoma Department of Securities this 28th day of May, 2013.

(SEAL)



IRVING L. FAUGHT, ADMINISTRATOR OF THE
OKLAHOMA DEPARTMENT OF SECURITIES

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 28th day of May, 2013, a true and correct copy of the above and foregoing *Final Order* was mailed, by certified mail, return receipt requested, with postage prepaid thereon, addressed to:

Gary E. Hibbing
P.O. Box 452350
Grove, OK 74345

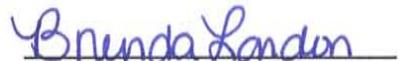
Gary E. Hibbing
3201 Scenic Drive
Grove, OK 74344

Gary E. Hibbing
2712 Mutt Mantle Lane
Grove, OK 74345

Gary E. Hibbing
1610 Dilar Drive
Grove, OK 74344

The undersigned also hereby certifies that on the 28th day of May, 2013, a true and correct copy of the above and foregoing *Final Order* was mailed by first-class mail, with postage prepaid thereon, addressed to:

Gary E. Hibbing
P.O. Box 452350
Grove, OK 74345



Brenda London, Paralegal

BEFORE THE INSURANCE COMMISSIONER OF THE
STATE OF OKLAHOMA

STATE OF OKLAHOMA, ex rel. JOHN D. DOAK, Insurance Commissioner,
Petitioner,
v.
GARY EDWARD HIBBING, a licensed insurance producer and SUZANNE KAY HIBBING, a licensed insurance producer,
Respondents.

Case No. 13-0001-DIS

FILED
MAR 04 2013
INSURANCE COMMISSIONER
OKLAHOMA

FINAL ADMINISTRATIVE ORDER

COMES NOW the State of Oklahoma, ex rel. John D. Doak, Insurance Commissioner, by and through his undersigned attorney, and alleges and states as follows:

JURISDICTION

1. John D. Doak is the Insurance Commissioner of the State of Oklahoma and is charged with the duty of administering and enforcing all provisions of the Oklahoma Insurance Code, 36 O.S. §§ 101 et seq.
2. Respondent Gary Hibbing is licensed by the State of Oklahoma as a resident insurance producer holding license number 189505. His address of record with the Oklahoma Insurance Department is P. O. Box 452350, Grove, Oklahoma 74345.
3. Respondent Suzanne Hibbing is licensed by the State of Oklahoma as a resident insurance producer holding license number 40015122. Her address of record with the Oklahoma Insurance Department is P. O. Box 452350, Grove, Oklahoma 74345.
4. The Insurance Commissioner may place on probation, censure, suspend, revoke



or refuse to issue or renew a license issued pursuant to the Oklahoma Producer Licensing Act and/or may levy a fine up to \$1,000.00 for each occurrence of a violation of the Oklahoma Insurance Code, 36 O.S. § 1435.13(A) and (D).

5. If the Insurance Commissioner finds that the public health, safety or welfare imperatively requires emergency action, and incorporates a finding to the effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. 75 O.S. §§ 314(C)(2), 314.1, OAC 365:1-7-9(a).

FINDINGS OF FACT

1. Gary Hibbing sold an Aviva annuity policy #529115 to senior citizen Michael Crisp in the premium amount of \$203,328.48 in Crisp's home on February 7, 2007. The source of the premium came in the form of a check payable to Crisp from a liquidated annuity #P79A6520841 with AIG Sun America Life Assurance Company in the amount of \$217,326.73. The surrender charge for liquidating the annuity was \$13,998.25. Gary Hibbing was paid commission in the amount of \$17,282.95 for the sale of the Aviva annuity.

2. Gary Hibbing sold an Allianz annuity policy # 70636098 to Michael Crisp in the premium amount of \$174,000 in Crisp's home on March 7, 2008. The source of the premium came in the form of a check payable to Crisp from the liquidated proceeds from the Aviva policy surrendered on February 26, 2008. Crisp incurred a \$28,291.68 surrender fee when he replaced the Aviva policy with the Allianz policy.

3. Although Gary Hibbing met with Michael Crisp at his home and sold him the Allianz policy, Hibbing's wife, Suzanne Hibbing, signed and completed the Allianz application and the required product suitability form, representing to Allianz that she was the selling producer. Crisp never met Suzanne Hibbing and dealt strictly with Gary Hibbing. The

documents submitted to Allianz stated that the source of the annuity's premium was a savings/checking account and that the Allianz annuity was not a replacement policy. Suzanne Hibbing was paid a commission in the amount of \$13,920.00.

4. Gary Hibbing sold Forethought annuity policy ##200035209 to Michael Crisp in the premium amount of \$140,000.00 in Crisp's home on April 3, 2009. The premium source for the Forethought annuity came from the liquidated proceeds from the Allianz policy. Crisp incurred a \$15,460.20 surrender fee when he replaced the Allianz policy with the Forethought policy. Suzanne Hibbing signed and completed the Forethought application and required product suitability form, representing to Forethought that she was the selling producer.

5. Suzanne Hibbing checked "no" where the Forethought suitability form asked whether it was a replacement policy and checked that the source of the premium was from a certificate of deposit. Crisp incurred a surrender fee in the amount of \$18,278.18 when he replaced the Allianz policy with the Forethought policy. Suzanne Hibbing was paid a commission in the amount of \$11,900.00 for this sale.

6. Gary Hibbing sold Allianz annuity policy #70815526 to Michael Crisp in the premium amount of \$122,039.97 in Crisp's home on April 29, 2010. The premium source for the Allianz policy came from the proceeds of the Forethought annuity liquidated on April 27, 2010. Crisp incurred an \$18,278.18 surrender fee when he replaced the Foremost policy with the Allianz policy.

7. Gary Hibbing completed the application and product suitability form. The documents submitted to Allianz stated that it was not a replacement policy, that the source of funds was a certificate of deposit and that the surrender charge was 0%. Gary Hibbing was paid a commission in the amount of \$9,763.20 for this sale.

8. Gary Hibbing sold a Forethought annuity policy #200037747 to senior citizen Norma Adams in the premium amount of \$55,225.14 in her home on April 1, 2009. Suzanne Hibbing signed and completed the application and required product suitability form, representing to Forethought that she was the selling producer. She was paid a commission of \$4,694.12.

9. Gary Hibbing sold an Allianz annuity policy # 70815543 to Norma Adams in the premium amount of \$51,902.15 at her home on May 4, 2010. The premium funding for the Allianz annuity came from the liquidated proceeds in surrendering the Forethought policy on April 27, 2010. Adams incurred a surrender fee in the amount of \$7,077.57 when she replaced the Forethought policy with the Allianz policy.

10. Gary Hibbing completed the application and the required product suitability form. The product suitability form stated that that the Allianz policy was not a replacement policy for the Forethought policy, that the source of funds was a certificate of deposit and that the surrender charge was 0%. He received a commission in the amount of \$4,152.17.

11. Crisp and Adams are mature adults at retirement age with a minimal understanding of investment principles. These clients placed great reliance and trust in the investment decisions made for them by Hibbing. Hibbing took advantage of his clients' unsophisticated investment background by concealing material facts about the nature of the investment products he suggested so that the clients purchased annual replacement annuities to their detriment.

12. Each time that Crisp and Adams were persuaded to drop an existing annuity in one company and replace it with another company, using the cash value from the old annuity, under the premise that the new annuity would not cost the individuals any out of pocket money, the Hibblings engaged in the prohibited act of "twisting". Each time that the Hibblings

submitted an application to the insurance companies, they misrepresented to the insurers that they were not replacement annuities and that there were no surrender charges incurred by the applicants.

13. The Hibbings replaced these annuities in a deliberate and concerted effort to receive exorbitant upfront commissions each year at the financial expense of senior citizens. The Hibbings knew that cancelling an annuity prior to the first anniversary of the effective date would result in paying their commissions back to the insurance companies. They waited a few weeks until after the anniversary date of the effective date was surpassed and then requested cancellation of the annuities to the detriment of Crisp and Adams.

CONCLUSIONS OF LAW

1. Respondents violated 36 O.S. § 1435.13(A)(2) by violating Oklahoma insurance laws and regulations: 36 O.S. §§ 1204(1) and (12); 4034, 4035 and 4036; OAC 365: 25-3-9, 25-17-6 and 25-17-7.

2. Respondents violated 36 O.S. § 1435.13(A)(5) by intentionally misrepresenting the terms of actual insurance contracts and applications for insurance.

3. Respondents violated 36 O.S. § 1435.13(A)(7) having been found to have committed insurance unfair trade practices and fraud.

4. Respondents violated 36 O.S. § 1435.13(A)(8) by using fraudulent, coercive or dishonest practices and by demonstrating incompetence, untrustworthiness and financial irresponsibility in the conduct of business in this state.

ORDER

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Insurance Commissioner that the **Emergency Order of Suspension Instante**r entered in this matter on January 11, 2013 is a **FINAL ADMINISTRATIVE ORDER**, that no hearing was requested and Respondents' licenses are hereby **REVOKED**. In accordance with 36 O.S. § 1435.13(D), Respondents are **EACH FINED THREE THOUSAND DOLLARS (\$3,000.00)** payable within thirty (30) days of receipt of this Order.

WITNESS My Hand and Official Seal this ^{4th} day of March 2013.




PAUL WILKENING
FIRST DEPUTY COMMISSIONER
STATE OF OKLAHOMA

CERTIFICATE OF MAILING

I, Julie Meaders, hereby certify that a true and correct copy of the above and foregoing Final Administrative Order was mailed via certified mail with postage prepaid and return receipt requested on this 4th day of March, 2013 to:

Gary Hibbing
P.O. Box 452350
Grove, OK 74345

CERTIFIED MAIL NO: 7001 0320 0003 9967 0265

Suzanne Hibbing
P.O. Box 452350
Grove, OK 74345

CERTIFIED MAIL NO: 7001 0320 0003 9967 0272

and that notification was sent to:

NAIC/RIRS
and to all appointing insurers

and that a copy was delivered to:

Licensing Division

Anti-Fraud Unit/Investigations Division



Julie Meaders

7000 0520 0022 7150 1994

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

FO 13-046 TB

Postage	\$ 66	5-28-13	Postmark Here
Certified Fee	310		
Return Receipt Fee (Endorsement Required)	255		
Restricted Delivery Fee (Endorsement Required)			
Total Postage & Fees	\$ 6.31		

Gary E. Hibbing
P.O. Box 452350
Grove, OK 74345

by mailer)

for Instructions

7000 0520 0022 7150 2007

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

FO 13-046 TB

Postage	\$ 66	5-28-13	Postmark Here
Certified Fee	310		
Return Receipt Fee (Endorsement Required)	255		
Restricted Delivery Fee (Endorsement Required)			
Total Postage & Fees	\$ 6.31		

Gary E. Hibbing
3201 Scenic Drive
Grove, OK 74344

by mailer)

for Instructions

7000 0520 0022 7150 2014

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

FO 13-046 TB

Postage	\$ 66	5-28-13	Postmark Here
Certified Fee	310		
Return Receipt Fee (Endorsement Required)	255		
Restricted Delivery Fee (Endorsement Required)			
Total Postage & Fees	\$ 6.31		

Gary E. Hibbing
2712 Mutt Mantle Lane
Grove, OK 74345

by mailer)

for Instructions

7000 0520 0022 7150 2021

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

FO 13-046 TB

Postage	\$ 66	5-28-13	Postmark Here
Certified Fee	310		
Return Receipt Fee (Endorsement Required)	255		
Restricted Delivery Fee (Endorsement Required)			
Total Postage & Fees	\$ 6.31		

Gary E. Hibbing
1610 Dilar Drive
Grove, OK 74344

by mailer)

for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Gary E. Hibbing
3201 Scenic Drive
Grove, OK 74344

FD 13-046 TB

2. Article Number (Copy from service label)

7000 0520 0022 7150 2007

PS Form 3811, July 1999

Domestic Return Receipt

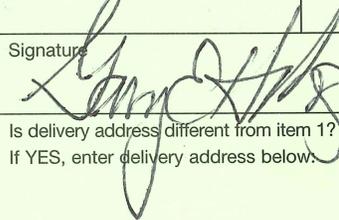
102595-00-M-0952

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of Delivery

C. Signature

X



Agent
 Addressee

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type

- Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

CERTIFIED MAIL

OKLAHOMA DEPARTMENT OF SECURITIES
First National Center, Suite 860
120 North Robinson
Oklahoma City, Oklahoma 73102

2013 JUN - 7 A 8: 22

RECEIVED
OKLAHOMA DEPT
OF SECURITIES



7000 0520 0022 7150 2021



Gary E. Hibbing
1610 Dilar Drive
Grove, OK 74344

NSG

NIXIE 731 DE 1009 0006/04/13

RETURN TO SENDER
NO SUCH NUMBER
UNABLE TO FORWARD

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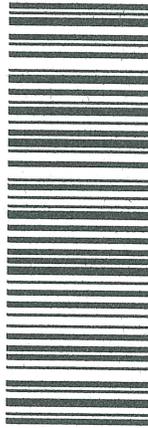
7310207494
743448510 RC

CERTIFIED MAIL

OKLAHOMA DEPARTMENT OF SECURITIES
First National Center, Suite 860
120 North Robinson
Oklahoma City, Oklahoma 73102

2013 JUN - 7 A 8: 22

RECEIVED
OKLAHOMA DEPT
OF SECURITIES



7000 0520 0022 7150 2014



Gary E. Hibbing
2712 Mutt Mantle Lane
Grove, OK 74345

NSG

NIXIE 731 7E 1009 0006/04/13

RETURN TO SENDER
ATTEMPTED - NOT KNOWN
UNABLE TO FORWARD

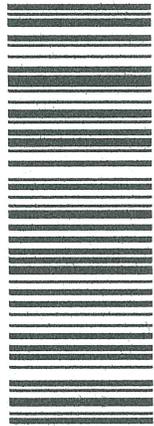
BC: 73102749499 *0957-01074-28-38

7310207494

OKLAHOMA DEPARTMENT OF SECURITIES
First National Center, Suite 860
120 North Robinson
Oklahoma City, Oklahoma 73102

RECEIVED
OKLAHOMA DEPT.
OF SECURITIES
2013 JUN 25 A 11:36

CERTIFIED MAIL



7000 0520 0022 7150 1994

UNITED STATES POSTAGE
PITNEY BOWES
\$06.31⁰
02 1R
0002002312 MAY 28 2013
MAILED FROM ZIPCODE 73102

S-30-13-5

Gary E. Hibbing
P.O. Box 452350
Grove, OK 74345

NIXIE 731 SE 1009 0006/24/13
RETURN TO SENDER
UNCLAIMED
UNABLE TO FORWARD

BC: 73102749499 *0857-04804-28-40

734200094