

**BEFORE THE INSURANCE COMMISSIONER OF THE
STATE OF OKLAHOMA**

FILED
MAR 04 2013
INSURANCE COMMISSIONER
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

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.

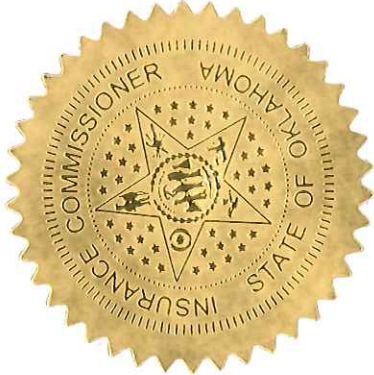
3. Respondents violated 36 O.S. § 1435.13(A)(7) having been found to have committed insurance unfair trade practices and fraud.

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