

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



In the Matter of:

Gary Edward Hibbing (CRD No. 2366990),

Respondent.

ODS File No. 13-046

**NOTICE OF SERVICE ON THE ADMINISTRATOR**  
**AND**  
**AFFIDAVIT OF COMPLIANCE**

STATE OF OKLAHOMA    )  
  )  
COUNTY OF OKLAHOMA)       ss.

The undersigned affiant, of lawful age, being first duly sworn upon oath deposes and states:

1. That he is the Administrator of the Oklahoma Department of Securities ("Administrator").
2. That a copy of the Notice of Opportunity for Hearing ("Notice") with Enforcement Division Recommendation ("Recommendation") attached was delivered to Affiant in the office of the Administrator pursuant to Section 1-611 of the Oklahoma Uniform Securities Act ("Act"), Okla. Stat. tit. 71, §§ 1-101 through 1-701 (2011).
3. That the Administrator has received service of process on behalf of Respondent, pursuant to Section 1-611 of the Act.
4. That a copy of the Notice, with the Recommendation attached, and a copy of this Notice of Service on the Administrator and Affidavit of Compliance are being sent this 26th day of March, 2013, by certified mail, return receipt requested, delivery restricted to addressee, to the last known address of Respondent, in compliance with Section 1-611 of the Act.
5. That this Affidavit of Compliance is declared filed of record as of the date set forth below in compliance with Section 1-611 of the Act.

FURTHER AFFIANT SAYETH NOT.

Dated this 26th day of March, 2013.

(SEAL)

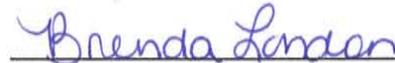


IRVING L. FAUGHT, ADMINISTRATOR OF THE  
OKLAHOMA DEPARTMENT OF SECURITIES

Subscribed and sworn to before me this 26th day of March, 2013.

(SEAL)



  
Notary Public

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



In the Matter of:

Gary Edward Hibbing (CRD No. 2366990),

Respondent.

ODS File No. 13-046

**NOTICE OF OPPORTUNITY FOR HEARING**

1. On the 21st day of March, 2013, the attached Enforcement Division Recommendation ("Recommendation") was left in the office of the Administrator of the Oklahoma Department of Securities ("Administrator").

2. Pursuant to 660:2-9-1 of the Rules of the Oklahoma Securities Commission and the Administrator of the Department of Securities ("Rules"), Okla. Admin. Code §§ 660:1-1-1 through 660:25-7-1, and Section 1-411 of the Oklahoma Uniform Securities Act of 2004 ("Act"), Okla. Stat. tit. 71, §§ 1-101 through 1-701 (2011), the Administrator hereby gives notice to Respondent of his obligation to file an answer and his right to request a hearing to show why an order based on the Recommendation should not be issued.

3. The answer must be in writing and received by the Administrator within fifteen (15) days after service of this Notice. As required by 660:2-9-2 of the Rules, the answer shall indicate whether Respondent requests a hearing and shall specifically admit or deny each allegation contained in the Recommendation or state that Respondent does not have, and is unable to obtain, sufficient information to admit or deny each allegation. If Respondent intends in good faith to deny only a part of an allegation, Respondent shall specify so much of it as is true and shall deny only the remainder.

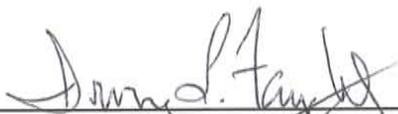
4. Failure to file an answer in compliance with 660:2-9-2 of the Rules, to include a request for a hearing as provided for herein, shall result in the issuance of an order barring Respondent from registration under the Act and from association with a broker-dealer or investment adviser registered under the Act pursuant to Section 1-411 of the Act and 660:2-9-2 of the Rules.

5. Upon receipt of a written request, pursuant to 660:2-9-2 of the Rules, a hearing on the Recommendation shall be promptly scheduled or a written order denying hearing shall be issued.

6. Notice of the date, time and location of the hearing shall be given to Respondent not less than forty-five (45) days in advance thereof, pursuant to 660:2-9-2 of the Rules.

Witness my Hand and the Official Seal of the Oklahoma Department of Securities this 26th day of March, 2013.

(SEAL)



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

CERTIFICATE OF MAILING

The undersigned hereby certifies that on the 26th day of March, 2013, a true and correct copy of the above and foregoing *Notice of Opportunity for Hearing* and the *Enforcement Division Recommendation* were mailed by certified mail, return receipt requested, delivery restricted, with postage prepaid thereon, addressed to:

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

Brenda London  
Brenda London, Paralegal

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

**ENFORCEMENT DIVISION RECOMMENDATION**

The Enforcement Division of the Oklahoma Department of Securities ("Department") submits the following Findings of Fact, Authorities, and Conclusions of Law to the Administrator of the Department ("Administrator") in support of the imposition of a bar 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).

**Findings of Fact**

1. 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, Suzanne Kay Hibbing, who has not been registered under the Act.

2. 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.

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

4. The Final 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.

5. 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.

6. 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.

7. 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.

**Authorities**

Section 1-411 of the Act states, in pertinent part:

C. If the Administrator finds that the order is in the public interest and paragraphs 1 through 6, 8, 9, 10, 12 or 13 of subsection D of this section authorizes the action, an order under this act may censure, impose a bar, impose a civil penalty in an amount not to exceed a maximum of Five Thousand Dollars (\$5,000.00) for a single violation or Two Hundred Fifty Thousand Dollars (\$250,000.00) for multiple violations on a registrant, and/or recover the costs of the investigation from a registrant and if the registrant is a broker-dealer or investment adviser, from any partner, officer, or director, any person having a similar function or any person directly or indirectly controlling the broker-dealer or investment adviser.

D. A person may be disciplined under subsections A through C of this section if the person:

\* \* \*

5. Is the subject of an order, issued after notice and opportunity for hearing by:

\* \* \*

e. the insurance regulator of a state denying, suspending, or revoking the registration of an insurance agent[;]

\* \* \*

13. Has engaged in dishonest or unethical practices in the securities, commodities, investment, franchise, banking, finance or insurance business within the previous ten (10) years[.]

**Conclusions of Law**

1. 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.

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

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

4. It is in the public interest for the Administrator to bar Respondent from registration under the Act and from association with a broker-dealer 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.

WHEREFORE, it is recommended that the Administrator issue an order barring Respondent from registration under the Act and from association with a broker-dealer or investment adviser registered under the Act, and imposing such other sanctions as deemed appropriate and authorized by law.

Respectfully submitted,



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Terra Shamas Bonnell  
Robert E. Fagnant  
Enforcement Attorneys  
Oklahoma Department of Securities  
120 North Robinson, Suite 860  
Oklahoma City, OK 73102  
Telephone: (405) 280-7700  
Facsimile: (405) 280-7742  
Email: [tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov);  
[rfagnant@securities.ok.gov](mailto:rfagnant@securities.ok.gov)

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 4<sup>th</sup> 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 4<sup>th</sup> 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

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

7000 0520 0022 7150 1482

Notice 13-046 TB

Postage	\$ 66	3-26-13	Postmark Here
Certified Fee	310		
Return Receipt Fee (Endorsement Required)	255		
Restricted Delivery Fee (Endorsement Required)	475		
<b>Total Postage &amp; Fees</b>	<b>\$ 11.06</b>		

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

by mailer)  
 \_\_\_\_\_  
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 for Instructions

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

7000 0520 0022 7150 1499

Notice 13-046 TB

Postage	\$ 66	3-26-13	Postmark Here
Certified Fee	310		
Return Receipt Fee (Endorsement Required)	255		
Restricted Delivery Fee (Endorsement Required)	475		
<b>Total Postage &amp; Fees</b>	<b>\$ 11.06</b>		

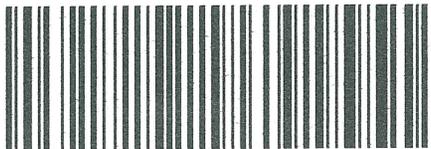
Gary E. Hibbing  
 P.O. Box 452350  
 Grove, OK 74345

by mailer)  
 \_\_\_\_\_  
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 for Instructions

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

RECEIVED  
OKLAHOMA DEPT.  
OF SECURITIES  
2013 APR -4 A 9:42

**CERTIFIED MAIL**



7000 0520 0022 7150 1482



**RESTRICTED DELIVERY**

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

ANSK  
LB/S

MIXIE 731 DE 1 0004/02/13  
RETURN TO SENDER  
UNCLAIMED  
UNABLE TO FORWARD  
BC: 73102749499 \*2557-01819-02-13

73102@7494