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OFFICE OF
INSURANCE COMMISSIONER

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BEFORE THE STATE OF WASHINGTON
OFFICE OF INSURANCE COMMISSIONER

In the Matter of)	Docket No. 13-0164
)	
VALENTINE W. W. TAM,)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
Applicant.)	AND FINAL ORDER
)	

TO: Valentine W. W. Tam
Brandon's Bail Bonds, Inc.
P.O. Box 192
Everett, WA 98206

COPY TO: Mike Kreidler, Insurance Commissioner
James T. Odiome, J.D., CPA, Chief Deputy Insurance Commissioner
John F. Hamje, Deputy Commissioner, Consumer Protection Division
AnnaLisa Gellermann, Esq., Deputy Commissioner, Legal Affairs Division
Marcia Stickler, Staff Attorney, Legal Affairs Division
Office of the Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

Pursuant to RCW 34.05.434, 34.05.461, 48.04.010 and WAC 10-08-210, and after notice to all interested parties and persons the above-entitled matter came on regularly for hearing before the Washington State Insurance Commissioner commencing at 10:00 a.m. on August 19, 2013. All persons to be affected by the above-entitled matter were given the right to be present at such hearing during the giving of testimony, and had reasonable opportunity to inspect all documentary evidence. The Insurance Commissioner appeared pro se, by and through Marcia Stickler, Esq., Staff Attorney in his Legal Affairs Division. Valentine William Walani Tam appeared pro se.



NATURE OF PROCEEDING

The purpose of the hearing was to take testimony and evidence and hear arguments as to whether the Washington State Insurance Commissioner's decision to deny the application of Valentine William Walani Tam for a Washington resident insurance producer's license for a surety line should be upheld, and whether the Insurance Commissioner's denial of his NAIC Short Form Application for Consent to Engage in the Business of Insurance should be upheld. The Insurance Commissioner based its denial on the fact that Mr. Tam had several felony convictions fairly recently, citing RCW 48.17.530(1)(f) which gives the OIC authority to deny a license if the applicant has been convicted of a felony. On May 7, 2013, Mr. Tam filed a Demand for Hearing to contest the Insurance Commissioner's denial of his license application. By agreement of the parties, the hearing herein was held on August 19, 2013.

FINDINGS OF FACT

Having considered the evidence and arguments presented at the hearing, and the documents on file herein, the undersigned presiding officer designated to hear and determine this matter finds as follows:

1. Pursuant to RCW 34.05.434, 34.05.461, 48.04.010 and WAC 10-08-210, and after notice to all interested parties and persons, the above-entitled matter came on regularly for hearing before the Washington State Insurance Commissioner ("OIC") commencing on August 19, 2013. All persons to be affected by the above-entitled matter were given the right to be present at such hearing during the giving of testimony, and had reasonable opportunity to inspect all documentary evidence. The OIC was represented by Marcia Stickler, Esq., Staff Attorney in his Legal Affairs Division. Valentine William Walani Tam ("Tam") appeared pro se. This Order is properly entered pursuant to Title 48 RCW and specifically RCW 48.04; Title 34 RCW; and regulations pursuant thereto.

2. Valentine Tam ("Applicant") is an approximately 42 year old individual who is a resident of Everett, WA. [Ex. 1.] He attended Punahou High School in Honolulu and graduated with an approximately 3.7 grade point average. He received a full scholarship to Pepperdine College but instead moved to Seattle. In Seattle he worked for a landscape company for ten years, promoting up to General Manager, where he was responsible for major sites including Boeing and Microsoft. He was also a homeowner, father and small business owner. [Testimony of Tam.]

3. On January 30, 2013 Tam submitted an OIC application for a Washington insurance producer's license to engage in sureties. [Ex. 1.] He truthfully responded to the background questions therein, disclosing the fact that he had been convicted of several felonies. On January 11, 2013, Tam submitted a letter to the OIC explaining the circumstances of the felony

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convictions. [Ex. 3.]

4. On February 5, 2013, Tam submitted an NAIC Short form Application for Written Consent to Engage in the Business of Insurance Pursuant to 18 U.S.C. Sec. 1033 and 1034 to the OIC. [Ex. 4.] Pursuant to 18 U.S.C. Sec. 1033, individuals who have been convicted of any criminal felony involving dishonesty or a breach of trust are not permitted to engage in the business of insurance in Washington state, or obtain a Washington insurance producer's license, unless they obtain a Letter of Written Consent to Engage in the Business of Insurance issued by the OIC. Along with this Application, Tam disclosed his background once again and supplied five letters attesting to his full rehabilitation and character. [Ex. 5.] One of the letters was from the Community Corrections Officer I Seattle who oversaw his community supervision: she writes that Tam was completely compliant and successfully finished his scheduled end date on March 10, 2010 for the cocaine conviction and on October 9, 2010 for the vehicle convictions. [Ex. 5.]

5. After review, by letter dated February 13, 2013, the OIC denied Tam's application for a Washington insurance producer's license. The OIC based its denial on the "recentness" of the above referenced felony convictions. [Ex. 6.] The OIC cited RCW 48.17.530(1)(f) which gives the OIC authority to deny a license if the applicant has been convicted of a felony. The OIC's letter did not address the disposition of Tam's February 5, 2013 Application for Consent to Engage in the Business of Insurance.

6. As disclosed in his application for an insurance producer's license [Ex. 1], in the routine State Patrol report obtained by the OIC February 5, 2013 [Ex. 2] and his testimony, Tam was convicted of felonious second degree assault in 1993. He entered an Alford plea, was sentenced to four months in jail and one year of community supervision. In 2007 Tam was also convicted of three felonies arising from a single incident wherein Tam had been convicted from his residence along with his wife and two small children, and used two vehicles not belonging to him to get respite from the cold weather. He returned the vehicles the next day. At the time of his arrest for this offense, Tam also had cocaine in his pocket and so he was also charged and convicted with the felony of possession of a controlled substance. He spent a total of 12 months in prison for these offenses, and was released in October 2008. [Testimony of Tam.]

7. Since his release jail in October 2008, Tam has worked and attended AA meetings regularly. [Ex. 5, p.1.] He was court-ordered to successfully complete a certified chemical dependency treatment program, which he began on March 21, 2009: he reported as directed, submitted clean urine samples as required and attended all treatment groups as directed, successfully completing his chemical dependency treatment program on June 6, 2009. [Ex. 5.] In December 2009 Tam was transferred to the caseload of Washington Department of Corrections, Seattle Police Department, Community Corrections Officer Emily Isaacs. At that time, he was attending school, working, had stable housing and was making positive steps forward. [Ex. 5 p.1, statement of probation officer Emily Isaacs.] Tam successfully completed his probation for Possession of a Controlled Substance-Cocaine on March 10, 2010, and

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successfully completed his probation for Possession of a Stolen Vehicle on October 9, 2010. [Ex. 5, p.1.] Tam was violation-free during his entire time on probation. [Ex. 5, p.1.] Tam testifies, and there is no evidence to suggest otherwise, that he has had no criminal or other problems since that time. [Testimony of Tam.]

8. From 2009 to 2011, two years, Tam worked for Ann Aina, President/CEO of With Aloha. Ms. Aina states that he was a very responsible, dependable, individual who is self-motivated and works very well independently. She understands he had difficult times in his life but believes he is fully rehabilitated. She further advises she would hire him back with no hesitation. [Ex. 5, p.2, statement of employer Ann Aina.]

9. Since February 2011, Tam has been employed by Triton Home Monitoring in Everett. Triton is a home monitoring company whose clients are primarily courts and probation officers and involves primarily the installation and monitoring of ankle bracelets, and performing drug testing, on persons who are out of jail on bail or who are on probation or other court-related situations. Triton was formed in 2008 by Brandon Drake, who has owned and operated it since that time and who has been a Washington insurance producer dealing in sureties for seven years. After 2008, Drake formed, and continues to own and operate, Brandon's Bail Bonds, which is a bail bonds company located on the same premises as Triton. Brandon's Bail Bonds currently employs three insurance producers. Triton is a separate corporation from Brandon's Bail Bonds, its activities and location on the premises are separate. Tam has not worked for Brandon's Bail Bonds, and he has not engaged in any activities in his employment with Triton which require that he be licensed as an insurance producer. [Testimony of Drake; Testimony of Tam.]

10. Brandon Drake has known Tam for approximately eight years, both before and after his jail sentence. Mr. Drake has entrusted his personal house keys to Tam and has entrusted Tam to stay in his personal residence when his family was gone. [Testimony of Drake.] Tam has also had access to the business' office safe which continually contains deposits of funds paid by clients and during Tam's employment there those funds have never once been found to be short. [Testimony of Drake.] Mr. Drake is an astute businessman with careful control over his businesses, and the funds received, deposited, then transferred to his bank accounts. His offices require fairly comprehensive checks and balances on incoming and outgoing funds. Although he has had trouble with other employees before Tam's employment there Mr. Drake would have noticed if there were any discrepancy of funds. [Testimony of Drake.] In addition, the insurer which underwrites the bonds which Mr. Drake's business sells conducts an audit of the business twice each year. [Testimony of Drake.] Mr. Drake is willing to post a \$100,000 bond to ensure that the Applicant performs the services of an insurance producer honestly and accurately. [Testimony of Drake.] Currently, Mr. Drake has three insurance producers working for him, and the office requires many checks and balances on incoming and outgoing funds, regular audits by the insurance carrier underwriting the bail bonds, and other checks on the funds as they are paid, deposited into the safe, then deposited into the bank. If there had been a discrepancy in funds during the Applicant's employ in his offices, Mr. Drake would have caught the discrepancy. [Testimony of Drake.] Mr. Drake would like to have Tam licensed as a Washington insurance

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producer and have him work for his business as a licensed bail bond (surety) agent. [Testimony of Drake; Ex. 5 p.3, statement of Drake.] In addition to Drake and Aina, Tam has other individuals who state that they have worked with him and believe that he is a rehabilitated individual who is reliable, dependable and deserves a second chance at this point. [Ex. 5, pgs. 1-6, statement of Cherokee Picccc/Bail Bond by Nate; statement of Donna Miller who was head of the Clean and Sober Housing where Tam lived for two years beginning January 2010; statement of Lisa Oliver who has known him for 20 years; Tam Ex. 9, statement of Kimberly Precour, Bail Bondsman; Tam Ex. 10, statement of David Metters.]

11. The OIC's position is, generally, that there should be five years between conviction of a felony and receipt of an insurance producer's license. However the OIC acknowledges that there are situations which are exceptions to this guideline. It is here found that Tam's case appears to be one of those situations which should be an exception to this guideline, based upon his history, his activities before and since his convictions and the support of those around him including his current employer Brandon Drake.

12. Jeff Baughman, Manager of the OIC's Licensing Division, appeared and testified on behalf of the OIC. Mr. Baughman presented his evidence in a detailed and credible manner and presented no apparent biases.

13. Valentine Tam, the Applicant, appeared and testified on his own behalf. Mr. Tam presented his evidence in a detailed and credible manner and presented no apparent biases.

14. Brandon Drake, owner of Triton Home Monitoring and Brandon's Bail Bonds and the individual who has employed the Applicant since February 2011, appeared and testified on behalf of the Applicant. Mr. Drake presented his evidence in a detailed and credible manner and presented no apparent biases.

15. Based upon the above Findings of Facts, it is reasonable that Tam's application for a Washington insurance producer's license be granted on condition that he successfully complete a one year probationary period. It also appears reasonable that Tam's NAIC Application for a Letter of Written Consent be granted, also on condition that he successfully complete this same probationary period of one year. Probation should be under terms set by the OIC; the OIC (Licensing Division) testified it is organized to management of probationary periods of this type, and that it currently manages several probationary periods for others. Probation for both the Washington insurance producer's license and the Letter of Written Consent shall both commence on the date the Applicant is issued a Washington insurance producer's license. Should the Applicant fail to successfully complete this period of probation, his insurance producer's license and letter of written consent shall be automatically withdrawn.

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CONCLUSIONS OF LAW

Based upon the above Findings of Facts, it is hereby concluded:

1. The adjudicative proceeding herein was duly and properly convened and all substantive and procedural requirements under the laws of the state of Washington have been satisfied. This Order is entered pursuant to Title 48 RCW and specifically RCW 48.04; Title 34 RCW; and regulations applicable thereto.
2. RCW 48.17.530(1)(f) provides that the OIC may place on probation, ... an insurance producer's license, ... if an individual has been convicted of a felony. 18 U.S.C. Sec. 1033 provides that, in order to engage in the business of insurance, an individual convicted of certain specified types of felonies must first obtain a Letter of Written Consent from the OIC.
3. It is hereby concluded that based upon careful consideration of the circumstances and testimony and other evidence presented both by the OIC and Tam, Tam should be granted a Washington insurance producer's license and given a Letter of Written Consent to Engage in the Business of Insurance Pursuant to 18 U.S.C. Sec. 1033 and 1034. Said license, and letter, shall include a one year probationary period under terms set by the OIC. If the probationary period is not successfully completed then the insurance producer's license is automatically revoked and the letter of written consent is automatically withdrawn.

ORDER

On the basis of the foregoing Findings of Facts and Conclusions of Law,

IT IS HEREBY ORDERED that Tam shall be granted a Washington resident insurance producer's license forthwith. Said license shall impose a probationary period of one year from the time the license is issued, under terms set by the OIC. Should the Applicant fail to successfully complete this period of probation, his insurance producer's license shall be automatically revoked.

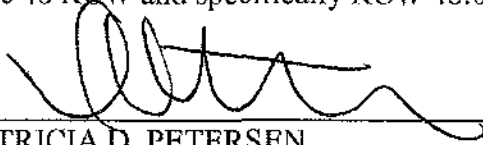
IT IS FURTHER ORDERED that Tam shall be provided with a Letter of Written Consent to Engage in the Business of Insurance Pursuant to U.S.C. Sec. 1033 and 1034. Said Letter shall impose a probationary period of one year from the time his Washington insurance producer's license is issued, under terms set by the OIC. Should the Applicant fail to successfully complete this period of probation, this Letter of Written Consent shall be automatically withdrawn.

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ENTERED AT TUMWATER, WASHINGTON, this 18th day of November, 2013, pursuant to Title 48 RCW and specifically RCW 48.04 and Title 34 RCW and regulations applicable thereto.




PATRICIA D. PETERSEN
Chief Presiding Officer

Declaration of Mailing

I declare under penalty of perjury under the laws of the State of Washington that on the date listed below, I mailed or caused delivery through normal office mailing custom, a true copy of this document to the following people at their addresses listed above: Valentine Tam, Mike Kreidler, James T. Odiorne, John F. Hanje, Esq., Jeff Baughman, Marcia G. Stickler, Esq., and Charles Brown, Esq.,

DATED this 19th day of November, 2013.


KELLY A. CAIRNS