

STATE OF ILLINOIS
SECRETARY OF STATE
SECURITIES DEPARTMENT

IN THE MATTER OF CRAIG L. RANDALL)
_____))

FILE NO. 1000323

CONSENT ORDER OF WITHDRAWAL

TO THE RESPONDENT Craig L. Randall (CRD # 1583963)
9875 White River Circle
Fountain Valley, California 92708

Craig L. Randall (CRD # 1583963)
c/o Planmember Securities Corp
6187 Carpinteria Avenue
Carpinteria, California 93013

WHEREAS Respondent on the 20th day of October 2010 executed a certain Stipulation to Enter Consent Order of Withdrawal (the "Stipulation"), which hereby is incorporated by reference herein

WHEREAS, by means of the Stipulation, Respondent has admitted to the jurisdiction of the Secretary of State and service of the Notice of Hearing of the Secretary of State, Securities Department, dated September 23, 2010 in this proceeding (the "Notice") and Respondent has consented to the entry of this Consent Order of Withdrawal ("Consent Order")

WHEREAS, by means of the Stipulation, the Respondent acknowledged, without admitting or denying the truth thereof, that the following allegations contained in the Notice of Hearing shall be adopted as the Secretary of State's Findings of Fact

- 1 That at all relevant times, the Respondent was registered with the Secretary of State as a salesperson in the State of Illinois pursuant to Section 8 of the Act
- 2 That on July 8, 2010 FINRA entered ORDER ACCEPTING OFFER OF SETTLEMENT ("Order") regarding Disciplinary Proceeding No 2008013152301 Which sanctioned the Respondent as follows
 - a censured
 - b suspended from association with any FINRA registrant for seven months, and

c. fined \$35,000

3 That the AWC found

SUMMARY

- (1) Beginning in December of 2006, Respondent was advised numerous times by his FINRA registered employer that FINRA (formerly known for purposes herein as "NASD") had determined that a retail seminar presentation that he was using with customers violated advertising guidelines under NASD Conduct Rule 2210(d)(1)(A) and (B) and should not be used. Respondent thereafter modified the presentation and had it approved by his firm's Compliance Department
- (2) Despite the fact that Respondent modified the presentation, he did not remove much of its violative content. Also, despite the fact that Respondent knew that the violative content should not be used, he continued to do so in five seminars that he conducted in the spring of 2007. This conduct violated NASD Conduct Rules 2210 and 2110.
- (3) In or about the summer of 2007, Respondent sought employment with another FINRA registered firm and submitted the presentation to that firm for approval with the intention of using it there. At such time, Respondent knowingly failed to disclose that FINRA had determined that the presentation violated NASD Advertising Rules and on several occasions (including in the aforementioned Letter of Caution) had notified his prior member firm of such. This conduct constituted an additional violation of Rule 2110.
- (4) Respondent subsequently became employed by this other member firm and in October of 2007, he distributed the violative presentation to other registered representatives to use with their own potential customers. This conduct violated NASD Conduct Rules 2211, 2210(d)(1)(A) and (B), and 2110. NASD Conduct Rules 2210 and 2110 Use of a Marketing Presentation By Respondent During February Through April of 2007 That Contained Misleading, Exaggerated, Unwarranted and Other Violative Statements
- (5) During the time that Respondent worked for NPC, as a means of obtaining additional customers, he used a marketing presentation during retail seminars that he conducted
- (6) The presentation was, over time, referred to by a number of names, including "Asset Protection For Seniors," "Retirement Prosperity" and Retirement "Challenges." It addressed investing for the purpose of

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retirement planning Potential customers who attended the retail seminars included senior citizens.

- (7) Additionally, in early 2005, NPC approved an outside business activity in which Respondent held seminars, also known as "boot camps " During these boot camps, Respondent trained insurance agents (at that time, however, not registered representatives) with respect to the sale of insurance and annuities Also during these boot camps, Respondent distributed copies of his retail marketing presentation to the attending insurance agents At no time did NPC permit the outside business activity to be used to train registered representatives
- (8) On December 7, 2006, NASD Advertising Regulation notified NPC by letter that portions of the presentation that Respondent was using violated NASD Rule 2210 entitled "Communications with the Public" (the "December 2006 Letter") In this letter, Advertising Regulation identified violative statements that were contained in the presentation and the subsections of Rule 2210 that were violated
- (9) Respondent's supervisor at NPC told him about the December 2006 Letter shortly after it was received by that firm. Additionally, a member of NPC's Compliance Department verbally instructed Respondent not to use the presentation until further notice
- (10) On January 31, 2007, NASD Advertising Regulation issued a Letter of Caution to NPC concerning the presentation's deficiencies
- (11) The Letter of Caution indicated that the following portions of the presentation "failed to provide a sound basis for evaluating the products and services being discussed and/or offered" in violation of NASD Conduct Rule 2210(d)(1)(A) "
 - a A slide concerning investor investment objectives only identified two out of the four objectives that were being referenced within the statement that "MOST INVESTORS HAVE 4 PRIMARY OBJECTIVES "
 - b A slide indicating "WE REPRESENT COMPANIES WHO NOW OFFER FROM 3-5% CASH BONUS ADDED TO YOUR ACCOUNT" failed to identify the companies that were referenced, and failed to disclose that annuity bonuses may be subject to various restrictions and limitations
 - c A slide labeled "1035 Exchange Opportunities," which discussed the exchange of one annuity for another, failed to provide material information regarding both the old and new policies costs,

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premiums, surrender charges, possible contestability features and tax issues.

- d A slide concerning the volatility of investment values failed to disclose that volatility could result in loss of principal invested.
 - e A slide claimed that a split annuity "means guaranteed income" but failed to disclose that such income consists of both the return of principal and any interest or other return that is earned. It also failed to explain the claim "Approx 90% TAX FREE."
 - f A second slide concerning split annuities failed to explain the expenses, charges and consequences of early withdrawals associated with such annuities.
 - g A third slide discussing "split annuities" promised a 7% yield but failed to provide a basis for that representation.
- (12) The Letter of Caution stated that the presentation contained "numerous misleading, exaggerated or unwarranted statements in violation of NASD Rule 2210(d)(1)(B)," including
- a A slide stated that "WE ARE HERE TO SHOW YOU HOW YOU MAY ACHIEVE THE STEADY HITS "
 - b Certain slides stated that "YOU MUST TAKE TIME TO INVEST IT'S HOW TO ACHIEVE FINANCIAL SUCCESS" and "HOW MANY OF YOU WOULD COME IN TO SEE US IF WE COULD SHOW YOU HOW TO GET MORE INCOME?"
 - c A slide stated that "YOU CAN GIVE THE FEDERAL GOVERNMENT THE SAHARA DESERT AND IN 5 YEARS THERE WOULD BE A SHORTAGE OF SAND "
 - d A slide stated "LISTEN CLOSELY BECAUSE WE ARE GOING TO SHOW YOU HOW TO POSSIBLY DOUBLE YOUR INCOME "
 - e A slide stated THAT A LIVING TRUST "AVOIDS ATTORNEY'S FEES" despite the fact that there may be legal fees associated with setting up such a trust
 - f A slide depicting an airplane falling from the sky was misleading in that it implied that investors who do not seek professional advice will fail

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- g Old and new policy cash values and net gains contained in the slide labeled "1035 Exchange Opportunities" constituted performance projections, also violating NASD Rule 2210 (d)(1)(D)
 - h A slide discussing mutual funds and variable annuities failed to advise investors to consider their investment objectives, risks, charges and expenses relating to such products before investing. This also violated NASD Rule 2210(e) and Rule 482(b)(1) promulgated under the Securities Act of 1933, which together require these disclosures.
- (13) Respondent was advised of the Letter of Caution at or about the time it was received by NPC.
- (14) Respondent altered the presentation and re-submitted it to NPC. On February 14, 2007, a member of the firm's Compliance Department approved the modified presentation for use with insurance agents and retail customers. The compliance officer also re-submitted the presentation to NASD Advertising Regulation.
- (15) Respondent knew, or should have known, that the presentation still contained several statements that NASD Advertising Regulation had previously identified in the NASD December 2006 Letter and the letter of Caution as misleading, exaggerated, unwarranted and otherwise violative. Nevertheless, Respondent used it at five retail seminars between February and April 2007. A total of approximately 193 retail customers attended these seminars.
- (16) By letter dated April 24, 2007 (the "April 2007 Letter"), NASD Advertising Regulation advised NPC that the presentation "fail[ed] to comply with applicable standards and must not be used." The April 2007 letter noted that the presentation had been the "subject of an investigation in which [NPC] received a Letter of Caution." According to the April 2007 letter, while "there was some attempt to make revisions, many of the revisions are unsatisfactory and do not completely address the concerns cited in the Letter of Caution."
- (17) In the April 2007 Letter, NASD Advertising Regulation identified the following "repeated misleading exaggerated or unwarranted statements or claims that were noted in the Letter of Caution," and thus violated NASD Rule 2210(d)(1)(B) (emphasis added). These statements and claims included, but were not limited to
 - a Notwithstanding certain revised disclosure made on the slide depicting an airplane falling from the sky, the slide was still misleading, in violation of NASD Rule 2210(d)(1)(B), by

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implying that investors who do not seek professional advice will fail

- b The slide stating that "YOU CAN GIVE THE FEDERAL GOVERNMENT THE SAHARA DESERT AND IN 5 YEARS THERE WOULD BE A SHORTAGE OF SAND" was still exaggerated
- c The slide claiming that a split annuity "means guaranteed income" that is "Approx 90% TAX FREE" was still misleading as it "completely mischaracterize how an annuity works (i.e., the income stream)" in that the 90% tax free income constitutes a return of income on the first (i.e., fixed) annuity only.

(18) Also in the April 2007 Letter, Advertising Regulation indicated that, in violation of Rule 2210(d)(1)(A), the presentation "failed to provide investors [with] a sound basis for evaluating the products and services being discussed and/or offered " In that regard, the letter noted that the following repeat violations were cited in the Letter of Caution

- a The slide labeled "1035 Exchange Opportunities" was still violative in that it constitute an oversimplification of a Section 1035 annuity exchange and focused only on the increase in the death benefit that occurred as result of the exchange Other aspects, many of which were noted in the Letter of Caution (such as, the old new policies' costs, premium, surrender fees, possible contestability features and tax issues) were not addressed in the slide
- b The slide concerning the volatility of investment values was still incomplete as while it mentioned that a loss of principal could occur, it still failed to disclose that volatility could result in a loss of principal
- c The slide discussing "split annuities" and indicating a 7% yield still failed to provide a basis for that representation
- d While the slide discussing mutual funds and variable annuities was revised to advise investors to consider their investment objectives, risks, charges and expenses relating to such products before investing, it failed to explain that the investments' prospectuses contained this and other relevant information, again in violation of NASD Rule 2210(c) and Rule 482(b)(1) promulgated under the Securities Act of 1933, which together require these disclosures

(19) On or about May 2, 2007, Respondent received a copy of the April 2007 Letter

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- (20) Respondent used the presentation during February through April of 2007 in seminars that were attended by customers, thus violating NASD Conduct Rule 2210(dxIXA) and (B) and NASD Conduct Rule 2110. Respondent Submitted a Marketing Presentation To a Member Firm Without Disclosing that it Contained Misleading, Exaggerated, Unwarranted and either Violative Statements.
- (21) After receiving the April 2007 Letter stating that the presentation contained repeat violations and could not be used. Respondent modified the presentation
- (22) On June 6, 2007, NPC submitted the newly revised presentation to NASD Advertising Regulation
- (23) On July 13, 2007, NASD Advertising Regulation provided comments to NPC with respect to a single slide of the newly created presentation
- (24) On July 17, 2007, after changes were made to the presentation to address NASD Advertising Regulation's few remaining comments, the presentation was again approved by NPC for use with insurance agents and retail customers
- (25) In the summer of 2007, Respondent sought employment with another member firm, PlanMember, in part so that unlike while he was employed by NPC, registered representatives could attend his "boot camps" Respondent caused a copy of a proposed presentation to be submitted to that firm with the intention of using it there. This proposed presentation reverted back to an earlier draft containing violative content that Respondent had used during 2007 and earlier.
- (26) Accordingly, despite having knowledge of the violative nature of the presentation and its regulatory history, the version of the presentation that Respondent submitted to PlanMember still contained much of the misleading, exaggerated, unwarranted and other violative statements that had been the subject of the December 2006 Letter, the Letter of Caution and the April 2007 Letter.
- (27) Respondent failed to disclose the regulatory history of the presentation to PlanMember. This regulatory history included that NPC had received the Letter of Caution and other notices referred to above regarding the misleading, exaggerated, unwarranted and other violative statements that it contained, as well as the fact that NPC had ordered him to cease using it.
- (28) By submitting to his prospective employer a presentation that included content which Respondent knew to be violative without disclosing its

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regulatory history, Respondent engaged in conduct that is inconsistent with high standards of commercial honor and just and equitable principles of trade and violated NASD Conduct Rule 2110 NASD Conduct Rules 2211, 2210(dXIXA) and (B) and 2110. Respondent Used a Marketing Presentation During October of 2007 that Contained Misleading, Exaggerated, Unwarranted and Other Violative Statements

- (29) Respondent joined PlanMember in September of 2007. At or about such time at PlanMember's request, he further modified the presentation.
- (30) On October 2, 2007, the modified presentation was approved by PlanMember's Compliance Department for unrestricted use, including for use with registered representatives. As set forth above, at the time of this approval, Respondent had failed to disclose the presentation's regulatory history to PlanMember, as well as the fact that NPC had prohibited him from using it.
- (31) On October 5, 6 and 7, 2007, Respondent held a "boot camp" regarding the sale of insurance and annuities. This "boot camp" was attended by approximately a dozen financial professionals. Unlike the "boot camps" that Respondent conducted while employed by NPC, this "boot camp" was attended by registered representatives.
- (32) At this "boot camp," Respondent distributed a modified version of the presentation to the aforementioned attendees for use in conducting their own retail seminars.
- (33) Also during October of 2007, Respondent distributed yet another modified version of the presentation to registered representatives at PlanMember who were scheduled to attend future "boot camps."
- (34) As described below, notwithstanding the aforementioned modifications, the presentations that are referred to in paragraphs 35 and 36 above still contained misleading, exaggerated, unwarranted and otherwise violative content that had previously been identified by NASD Advertising Regulation, as well as additional violative content.
- (35) On October 22, 2007 and November 5, 2007, NASD Advertising Regulation, now known as FINRA's Department of Advertising Regulation, verbally notified PlanMember that as detailed below, the presentation was still violative.
- (36) On November 6, 2007, PlanMember notified Respondent via a letter dated November 6, 2007 that

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- (a) FINRA Advertising Regulation still had "significant concerns" about the presentation, which had a "significant regulatory filing history".
 - (b) it "[could not see how [the presentation] could be used in its current form" and
 - (c) the matter was a "high priority" since it was apparent that the presentation focused on senior citizens (*Italics in original*)
- (37) In a letter sent by FINRA Advertising Regulation to Respondent c/o PlanMember, dated November 9, 2007, FINRA stated that "materially similar versions of the [p]resentation were [previously] brought to [its] attention," at which time NASD Advertising Regulation informed respondent's former employer of its significant regulatory concerns. FINRA Advertising Regulation also stated in this letter that Respondent should "cease use of the [p]resentation immediately" and questioned why, in light of the presentation's long regulatory history, it was still being used
- (38) Additionally, in a letter sent to PlanMember dated November 12, 2007, FINRA Advertising Regulation stated that the presentation, which was approved by the firm on October 2, 2007, still did "not comply with applicable standards and must not be used "
- (39) FINRA Advertising Regulation further stated in its November 12, 2007 letter that, in violation of Rule 2210(d)(1)(A), the presentation once again failed to provide investors with a sound basis for evaluating the products and services being discussed and/or offered. Examples of the violative statements noted by Advertising Regulation in this regard, included that
- a The slide concerning investor investment objectives again only identified two out of the four objectives that were being referenced within the statement that "MOST INVESTORS HAVE 4 PRIMARY OBJECTIVES "
 - b Among other things, the slide labeled "1035 Exchange Opportunities" again failed to provide material information regarding both the old and new policies (e.g., age and health of the insured, costs, premiums, surrender charges, possible contestability features and tax issues)
 - c The slide concerning the volatility of investment values was still incomplete in that it again failed to disclose that volatility could result in a loss of principal

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- d The slide claiming that a split annuity "means guaranteed income" that is "Approx. 90% TAX FREE" again failed to disclose that such claim applied only to income from the immediate fixed annuity
 - e The slide discussing "split annuities" and indicating a 7% yield again failed to provide a basis for that representation
- (40) FINRA Advertising Regulation additionally stated in its November 12, 2007 letter that the presentation violated Rule 2210(d)(1)(B), in that it again contained misleading, exaggerated or unwarranted statements and claims. Examples of the violative statements noted by Advertising Regulation in this regard included that:
- a The slide stating that "WE ARE HERE TO SHOW YOU HOW YOU MAY ACHIEVE THE STEADY HITS" again was misleading by promising successful investment results and failing to reflect the inherent risks associated with investing (i.e., fluctuating values and uncertainty of returns)
 - b The slides stating that "YOU MUST TAKE TIME TO INVEST . IT'S HOW TO ACHIEVE FINANCIAL SUCCESS" and "HOW MANY OF YOU WOULD COME IN TO SEE US IF WE COULD SHOW YOU HOW TO GET MORE INCOME" were subject to the same concerns as the slide referred to immediately above.
 - c The slide depicting an airplane falling from the sky was again misleading in that it implied that investors who do not seek professional advice will fail
 - d The slide stating that "YOU CAN GIVE THE FEDERAL GOVERNMENT THE SAHARA DESERT AND IN 5 YEARS THERE WOULD BE A SHORTAGE OF SAND" was still violative
 - e The slide stating "LISTEN CLOSELY BECAUSE WE ARE GOING TO SHOW YOU HOW TO POSSIBLY DOUBLE YOUR INCOME" was again exaggerated
 - f The slide stating that a living trust "AVOIDS ATTORNEY'S FEES" was again misleading since there may be legal fees associated with setting up such a trust
- (41) Respondent used presentations at PlanMember that violated NASD Conduct Rules 2211 2210(d)(1)(A) and (B) and 2110 Based on the

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foregoing. Respondent violated NASD Conduct Rules 2211, 2210, 2210(dXIXA) and (B), and 2110.

4. That Section 8 E(1)(j) of the Act provides, inter alia, that the registration of a salesperson may be revoked if the Secretary of State finds that such Salesperson has been suspended by any self-regulatory organization Registered under the Federal 1934 Act or the Federal 1974 Act arising from Any fraudulent or deceptive act or a practice in violation of any rule, regulation or standard duly promulgated by the self-regulatory Organization
- 5 That FINRA is a self-regulatory organization as specified in Section 8 E (1)(j) of the Act

Whereas, by means of the Stipulation, the Respondent acknowledged, without admitting or denying the truth thereof, that the Secretary of State has adopted the following additional Finding of Fact

- (42). That the Respondent terminated his registration as a salesperson in the State of Illinois on October 1, 2010

WHEREAS, by means of the Stipulation Respondent has acknowledged, without admitting nor denying the averments, that the following shall be adopted as the Secretary of State's Conclusion of Law:

The Respondent's registration as a salesperson **in the State** of Illinois is subject to revocation pursuant to Section 8.E(1)(j) of the Act

WHEREAS, by means of the Stipulation Respondent has acknowledged and agreed that he will not re-apply for registration as a salesperson in the State of Illinois for a period of two (2) years from the entry of this Consent Order

WHEREAS, by means of the Stipulation Respondent has acknowledged and agreed that he shall be levied costs incurred during the investigation of this matter in the amount of One Thousand Five Hundred dollars (\$1,500 00). Said amount is to be paid by certified or cashier's check, made payable to the Office of the Secretary of State, Securities Audit and Enforcement Fund

WHEREAS, by means of the Stipulation Respondent has acknowledged and agreed that he has submitted with the Stipulation a certified or cashier's check in the amount of One Thousand Five Hundred dollars (\$1,500 00) to cover costs incurred during the investigation of this matter Said check has been made payable to the Office of the Secretary of State, Securities Audit and Enforcement Fund.

WHEREAS, the Secretary of State, by and through his duly authorized representative, has determined that the matter related to the aforesaid formal hearing may be dismissed without further proceedings

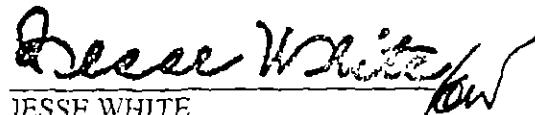
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NOW THEREFORE IT SHALL BE AND IS HEREBY ORDERED THAT

- 1 The Respondent shall not re-apply for registration as a salesperson in the State of Illinois for a period of two (2) years from the entry of this Consent Order
- 2 The Respondent is levied costs of investigation in this matter in the amount of One Thousand Five Hundred dollars (\$1,500 00), payable to the Office of the Secretary of State, Securities Audit and Enforcement Fund, and on October 26, 2010 has submitted One Thousand Five Hundred dollars (\$1,500 00) in payment thereof.
- 3 The formal hearing scheduled on this matter is hereby dismissed without further proceedings

ENTERED This 26th day of October 2010



JESSE WHITE
Secretary of State
State of Illinois

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