

STATE OF ILLINOIS
SECRETARY OF STATE
SECURITIES DEPARTMENT

IN THE MATTER OF: DANIEL C. LACEY

FILE NO. 0600494

CONSENT ORDER OF WITHDRAWAL

TO THE RESPONDENT: Daniel C. Lacey
(CRD#: 4312702)
8701 Samuel Bishop Drive
Austin, Texas 78736

c/o FSC Securities Corporation
2300 Windy Ridge Parkway Suite 1100
Atlanta, Georgia 30339

c/o Dennis R. Concilla Carlile,
Patchen & Murphy LLP.
366 East Broad Street
Columbus, Ohio 43215

WHEREAS, Respondent on the 14th day of November 2007 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 Amended Notice of Hearing of the Secretary of State, Securities Department dated February 21, 2007 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 21, 2006 NASD entered Order ACCEPTING OFFER OF SETTLEMENT submitted by the Respondent (Order) regarding DISCIPLINARY PROCEEDING NO. E062004000201, which sanctioned the Respondent as follows:
 - a. fined \$2,500; and
 - b. suspended from association from any NASD member in any capacity for a period of ten business days.

3. That the Order found:
 - a. The Respondent recommended that customer M. S. switch from a Certificate of Deposit paying 6.57% annual interest that was also collateral for a bank loan, into a variable annuity paying interest at half the rate of the CD. Because she followed the Respondent's advice, M. S. incurred a significant surrender charge and received no tax advantages. The Respondent earned over \$800 in commissions.
 - b. In January 2002, customer M. S. met the Respondent at an investment workshop directed to persons with impaired hearing. The Respondent knew that M.S. was deaf and that her investment experience was very limited. In May 2002, M. S. sought investment advice from the Respondent. She told him that her investment objective was retirement, that she was 54 years old, and that she wanted to retire at age 62. She also told the Respondent that her budget was very tight and that she needed liquidity.
 - c. During a meeting with the Respondent in May 2002, M. S. gave him documents relating to her assets and liabilities. From these documents, the Respondent knew that M. S.'s cash and investments were limited to the following:
 - (i) annual income of \$21,000, with net income of \$17,082;
 - (ii) a savings account with an approximate balance of \$1,487;
 - (iii) a checking account with an approximate balance of \$657;
 - (iv) a bank certificate of deposit, with an approximate value of \$17,200, with an annual interest rate of 6.57%, and with a maturity date of June 2005; and

- (v) a retirement savings plan with her employer with an approximate value of \$20,500,
- d. From the customer's documentation, the Respondent knew that M.S. had the following obligations and liabilities:
 - (i) rent of approximately \$500 per month;
 - (ii) a car loan which required monthly payments of \$346;
 - (iii) credit card debt of approximately \$1,685; and
 - (iv) a bank installment loan in the amount of approximately \$10,500 on which M. S. was required to make a monthly payment of \$310. The installment loan was secured by a pledge of the CD described in the preceding paragraph.
- e. In August 2002, despite knowing that the customer would have to incur an early surrender charge of \$417, the Respondent recommended that M.S. liquidate her CD, and invest all the proceeds (\$17,004) in an Ailmerica Variable Annuity. The Respondent also recommended that the customer allocate the entire premium to the fixed account, which paid only 3% and which charged an annual fee of \$30.
- f. The Respondent also falsely represented to the customer (whose marginal tax bracket was 15%) that it was advantageous from a taxation standpoint to exchange (with a surrender charge) a CD with an interest rate of 6.57% for a tax-deferred investment with an interest rate of 3%. The Respondent also falsely represented to Ailmerica, in writing, that this transaction was unsolicited. He earned a commission of \$842 on the variable annuity sale.
- g. As a result of the CD liquidation and the corresponding reduction in current income, M. S. soon had difficulty paying her installment loan and credit card obligations as well as her health care and other expenses. Consequently, M. S. redeemed her Allmerica Variable Annuity in early 2004 incurring an early surrender charge of 8%, or approximately \$1,279.
- h. The Respondent failed to have reasonable grounds for believing that his recommendation and resulting variable annuity transaction were suitable for M. S. based on her financial situation and needs.

- i. Based on the foregoing, the Respondent violated NASD Conduct Rules 2110 and 2310.
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 NASD is a self-regulatory organization as specified in Section 8.E(1)(j) of the Act.

WHEREAS, by means of the Stipulation Respondent has acknowledged, without admitting or denying the averments, that the following shall be adopted as the Secretary of State's Conclusion of Law:

That by virtue of the foregoing, 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 shall cause to have his registration as a salesperson in the State of Illinois withdrawn within three (3) days from the entry of this Consent Order and will not re-apply for registration for a period of one (1) year 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 Five Hundred dollars (\$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 Five Hundred dollars (\$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.

Consent Order of Withdrawal

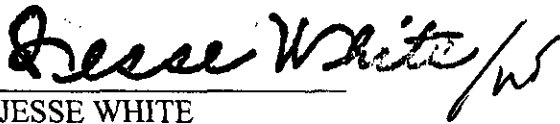
5

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.

NOW THEREFORE IT SHALL BE AND IS HEREBY ORDERED THAT:

1. The Respondent shall cause to have his registration as a salesperson in the State of Illinois withdrawn within three (3) days from the entry of this Consent Order and will not re-apply for registration for a period of one (1) year from the entry of this Consent Order.
2. The Respondent is levied costs of investigation in this matter in the amount of Five Hundred dollars (\$500.00), payable to the Office of the Secretary of State, Securities Audit and Enforcement Fund, and on January 23, 2008 has submitted Five Hundred dollars (\$500.00) in payment thereof.
3. The formal hearing scheduled on this matter is hereby dismissed without further proceedings.

ENTERED: This *23rd* day of *January* 2008.



JESSE WHITE
Secretary of State
State of Illinois