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STATE OF VERMONT
DEPT. OF BANKING, INS, SEC. & HCA

STATE OF VERMONT
DEPARTMENT OF FINANCIAL REGULATION

IN RE: MARK J. BEAN	)))	DOCKET NO. 15-028-I

STIPULATION AND CONSENT ORDER

The Insurance Division of the Vermont Department of Financial Regulation ("Department") and Mark J. Bean ("Respondent") stipulate and agree to the following:

JURISDICTION AND AUTHORITY

1. Pursuant to the authority contained in 8 V.S.A. §§ 11-13, 15, 18, 4800, 4804, 4813g, 4723, 4724 and 4726, the Commissioner of the Department ("Commissioner") is charged with enforcing the insurance laws of the State of Vermont.
2. Pursuant to the authority contained in 8 V.S.A. §§ 4726 and 4804, the Commissioner may investigate any person engaged in the business of insurance in Vermont in order to determine whether that person has engaged in any unfair or deceptive acts or practices; and may suspend or revoke the license of any producer for any violations of the insurance laws of the state of Vermont; and may impose an administrative penalty for any violations thereof.
3. Respondent acknowledges and admits the jurisdiction of the Commissioner over the subject matter of this Stipulation and Consent Order.

FINDINGS AND CONCLUSIONS

4. Respondent was issued a Vermont resident insurance producer license # 743795 with an effective date of March 4, 2011. Respondent's resident producer insurance license was issued pursuant to the licensing requirements set forth in Chapter 131 of Vermont Statutes Annotated Title 8.

5. Respondent's qualifications or authorized lines of insurance that he may currently engage in are: life, accident and health, and property and casualty pursuant to 8 V.S.A. § 4813g (a)(1), (2), (3) and (4).
6. The Department investigated the activities of Respondent as they relate to the recommendation, solicitation and/or sales of insurance product annuities to Vermont consumers.
7. The Department found that Respondent recommended, solicited and/or sold annuity insurance policies that were unsuitable for the persons who were solicited and sold the annuities.
8. In 2014, Respondent recommended, solicited and sold an annuity insurance policy to certain elderly Vermont consumers. To fund the annuity, Respondent instructed the consumers to close and "cash-out" several accounts they held either individually or jointly including those containing both non-qualified and qualified funding sources.
9. The non-qualified fund sources included monies from savings, checking, or CD accounts. Respondent also instructed these consumers to close and "cash-out" a qualified Individual Retirement Account, ("IRA") to purchase the annuity, and as a result the consumers suffered significant tax implications. Respondent drove the consumers to and from several financial institutions to close out their accounts including the IRA account.
10. Respondent filled out and signed the annuity applications and suitability forms for the consumers as their insurance agent, attesting to the accuracy of the recording, statements and representations made, including that Respondent selected the options on the applications and suitability forms stating that non-qualified funds were the only source of

funds for the annuity, when both non-qualified and qualified (IRA) funds were actually used to purchase the annuity.

11. The Department found that Respondent recommended, solicited and/or sold an annuity policy to Vermont consumers that were unsuitable for their needs in violation of 8 V.S.A. § 4724(16).
12. The Department also found that in the conduct of his affairs pertaining to this annuity sale, Respondent engaged in conduct that was in violation of 8 V.S.A. § 4804(a)(9).
13. Respondent knew or should have known that there were significant tax implications to the consumers upon the closing and cashing-out of a qualified IRA account.
14. Respondent knew or should have known how to accurately fill out annuity suitability forms and applications indicating the proper source of funds. Instead Respondent made omissions or selected inaccurate options on the annuity applications and suitability forms.
15. In addition, after the consumers filed a complaint against him, Respondent attempted to use his relationship of trust he had with them by inappropriately approaching them in an attempt to have them withdraw their complaint.
16. Full restitution has been made to the aforementioned consumers. In addition, Respondent was charged back the commission he had previously earned on the sale.

STIPULATIONS, TERMS AND ADMINISTRATIVE PENALITIES

17. Respondent acknowledges his understanding of all terms, conditions, undertakings and obligations contained in this Stipulation and Consent Order.
18. Respondent wishes to resolve this matter instead of proceeding to a hearing by entering into this Stipulation and Consent Order with the Department on the terms and conditions set forth here.

19. Respondent waives his right to a hearing before the Commissioner or the Commissioner's designee, and all other procedures otherwise available under Vermont law, the rules of the Department, the provisions of Chapter 25 of Title 3 regarding contested cases, or any right he may have to judicial review by any court by way of suit, appeal, or extraordinary remedy with respect to the terms of the Stipulation and Consent Order set forth here.
20. For the purpose of settlement of the issues contained in this Stipulation and Consent Order, Respondent consents to the entry of this Stipulation and Consent Order.
21. Respondent agrees not to contest the validity of the findings contained herein in the event of any future administrative or judicial actions.
22. Respondent agrees to the immediate voluntary surrender of his life insurance qualification and line of authority as described at 8 V.S.A. § 4813g (a)(1); and therefore Respondent agrees that he will no longer be licensed and authorized by the Department to engage in the recommendation, solicitation, sale and/or servicing of any and all life insurance policies or accounts including, but not limited to, annuities.
23. Respondent also agrees to the immediate voluntary surrender of his accident and health line of authority as described at 8 V.S.A. § 4813g (a)(2).
24. Respondent agrees that he is immediately and permanently barred to engage in and be licensed in any insurance qualifications and lines of authority in Vermont except for the property and casualty lines of authority as described in 8 V.S.A. § 4813g (a)(3), (4).
25. Therefore, Respondent's qualifications to engage in the lines of authority for property and casualty pursuant to 8 V.S.A. § 4813g (a)(3) and (4) remain active, and his producer license remains active for these lines of authority only.

26. Respondent agrees to pay the Department's expenses in this matter of **Nine-Hundred Dollars ($900.00)** and an administrative penalty of **One-Thousand Five-Hundred Dollars ($1,500.00)** for a total of **Two-Thousand Four-Hundred Dollars ($2,400.00).**
27. Respondent agrees to make payments in forty (40) monthly installments by check to the Department, and as such, Respondent agrees to pay to the Department **Sixty Dollars ($60.00) per month for forty (40) months** with payment to be received by the Department by the first day of each month **starting on December 1, 2015**. Respondent agrees to make full payment to the Department on or before March 1, 2019.
28. The Department will apply the monies paid by Respondent to the Department's expenses first, and once expenses are paid, the Department will apply the remaining payments made by Respondent to the administrative penalties.
29. If payment to the Department is not made by the Respondent as described above, or if Respondent defaults in any of his obligations set forth in this Stipulation and Consent Order, the Commissioner may vacate this Stipulation and Consent Order, at her sole discretion and without opportunity for administrative hearing, after providing Respondent notice and an opportunity to cure default(s) within ten (10) days after the date of notice.
30. Respondent consents to the entry of this Stipulation and Consent Order and agrees to be fully bound by its terms and conditions. Respondent acknowledges that noncompliance with any of the terms and conditions may constitute a separate violation of the insurance laws of the state of Vermont.
31. This Stipulation and Consent Order is entered into solely for the purpose of settlement of this administrative matter with the Department, and is not intended to be used for any other purpose. For any person or entity that is not a party to this Stipulation and Consent

Order, it does not limit any other causes of action or remedies by other entities including other entities or agencies of the State of Vermont against the Respondent and/or any private causes of action or remedies against the Respondent.

32. Nothing contained in this Stipulation and Consent Order shall restrain or limit the Department in responding and addressing any consumer complaint about Respondent filed with the Department or shall preclude the Department from pursuing any other violation of law.

Dated at Montpelier, Vermont this 28 day of October, 2015.

Mark J. Bean

STATE OF VERMONT
COUNTY OF Washington

Sworn to and subscribed before me this 28th day of October, 2015.

Paulette A. O'Bryan
Notary Public

My Commission Expires: 2/10/19

ACCEPTED BY:

Date: 10/30, 2015

Kaj Samsom, Deputy Commissioner,
Insurance Division, Vermont Department of Financial Regulation

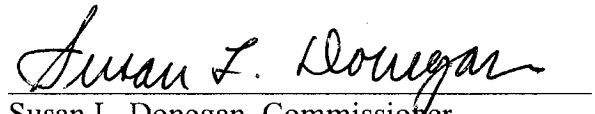
ADMINISTRATIVE CONSENT ORDER

IT IS HEREBY ORDERED THAT:

1. All of the above provisions of the Stipulation and Consent Order are incorporated by reference herein.
2. Respondent immediately voluntarily surrenders his life insurance line of authority and qualifications described at 8 V.S.A. § 4813g (a)(1), and therefore Respondent is no longer licensed to engage in the recommendation, solicitation, sale, and/or servicing of any and all life insurance policies or accounts, including but not limited to, annuities.
3. Respondent also immediately voluntarily surrenders his accident and health line of authority and qualifications as described at 8 V.S.A. § 4813g (a)(2).
4. Respondent retains only his property and casualty lines of authority pursuant to 8 V.S.A. § 4813g (a)(3) and (4), as part of his Vermont resident producer license #743795.
5. Respondent is immediately and permanently barred to engage in and be licensed in any insurance qualifications and lines of authority in Vermont except for the property and casualty lines of authority as described in 8 V.S.A. § 4813g (a)(3), (4).
6. Respondent will pay the Department's expenses of **Nine-Hundred Dollars ($900.00)** and an administrative penalty of **One-Thousand Five-Hundred Dollars ($1,500.00)** for a total of **Two-Thousand Four-Hundred Dollars ($2,400.00)** in monthly installments over 40 months starting on December 1, 2015, as described herein.

Entered at Montpelier, Vermont this 30th day of October, 2015.

BY ORDER OF THE COMMISSIONER



Susan L. Donegan, Commissioner
Vermont Department of Financial Regulation