

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
1511 PONTIAC AVENUE, BUILDINGS 68 AND 69
CRANSTON, RHODE ISLAND 02920

IN THE MATTER OF:

STEPHEN E. GAGNON,

DBR No. 125C086

RESPONDENT.

CONSENT ORDER

The Director of the Rhode Island Department of Business Regulation ("Department") enters this Consent Order Making Findings and Imposing Remedial Sanctions ("Order") under Section 602 of the Rhode Island Uniform Securities Act of 1990 ("RIUSA"), Section 7-11-101 *et seq.* of the Rhode Island General Laws, 1989, as amended, and R.I. Gen. Laws § 27-2.4-1 *et seq.* with regard to the above-referenced Respondent. The Director has determined to resolve this matter, without instituting administrative proceedings and entering this Order making the findings and imposing the remedial sanctions set forth below.

II.

On the basis of this Order and the Offer, the Director finds that:

1. Respondent is a registered representative currently licensed in the State of Rhode Island and has maintained licensure as a registered representative various broker-dealers since December 8, 1989.
2. Respondent is also licensed as an Insurance Producer pursuant to R.I. Gen. Laws § 27-2.4-1 *et seq.*

3. Currently, Respondent is licensed as a registered representative in this State with CCO Investment Services Corp., a position he has held since August 30, 2010.
4. Respondent holds Rhode Island insurance producer license number 1072649 first issued February 13, 1995 and expiring January 31, 2014. He is authorized by that license to sell, solicit and negotiate, Life, Health, Accident and Sickness and Variable Life and Variable Annuity insurance products.
5. On April 15, 2011, the Securities Division received a written complaint from one JW (the "Complainant") alleging that in July 2007 the Respondent, while working as a registered representative with LPL Financial LLC, replaced an AXA Equitable Variable Annuity he sold to her three years earlier while employed with Commonwealth Financial Network with two Nationwide Variable Annuities (the "Nationwide Annuities").
6. Specifically, on April 16, 2004, the Complainant purchased AXA Equitable Accumulator Variable Annuity, contract number 304 613 732 (the "AXA Annuity"), with an initial contribution of \$262,171.75.
7. Subsequently, on July 13, 2004 and July 20, 2004, the Complainant made additional contributions to the AXA Annuity of \$45,774.70 and \$33,307.03, respectively, increasing the total amount invested in the AXA Annuity to \$341,253.68.
8. On June 30, 2007, the total account value of the AXA Annuity was \$420,603.26.
9. On July 31, 2007, a surrender request for the full value, \$411,269.77, was processed in the AXA Annuity. The surrender amount was subject to the following charges: a 5% Withdrawal Charge of \$17,062.68, a Guaranteed Minimum Death Benefit Charge of \$735.30, and a Guaranteed Minimum Income Benefit Charge of \$796.58. The net

amount paid to the Complainant after charges totaling \$18,594.56 were assessed was \$392,675.21.

10. In the written complaint submitted by the Complainant the Complainant alleges that the Respondent convinced her “to terminate [the AXA annuities] so that he could enroll me into a ‘better plan’...which I later discovered was completely inappropriate when compared to the former AXA investment.”

“I discovered I was locked into an account for seven years and would not be able to access any principle [sic.] until 2014.”

“I was given no information and no prospective[sic.]...as to this Nationwide investment.... a totally inappropriate investment for me at this age.”

“I later learned that because the AXA contract was liquidated prior to the four-year surrender limitation I had to pay a penalty....”

11. During the course of the investigation the Division requested information and documents material to the inquiry from the issuers of the annuities, AXA and Nationwide, and LPL, the broker-dealer involved in the replacement transaction.

12. One of the documents provided by LPL in its response to the Division’s request was titled *Important Information Regarding Your Variable Annuity Replacement* (the “Disclosure Document”). The Disclosure Document is required by LPL for annuity replacements and consists of four main sections on four pages. Page 1 identifies the variable annuity to be purchased and the sub-account allocation; Page 2 contains *Proposed Annuity Contract Information*; Page 3 contains *Existing Contract Information*; Page 4 is the acknowledgment and signature page.

13. On page 3 containing the existing contract information the Respondent wrote “[y]ou have acknowledged that you will not incur any surrender charge on the annuity you are replacing as part of this transaction.”
14. On page 4 there is a notation indicating that the date the Disclosure Document was provided or mailed to the client was 7/16/2007.
15. In addition, on page 4 of the Disclosure Document the signed name “Jeanne E. Wilkinson” appears on the *Client Signature* line; the printed name “Jeanne Wilkinson” appears on the *Client Name* line; the date “7-16-07” appears on the *Date Line*.
16. Further on page 4 an unreadable signature appears on the *OSJ Branch Manager Signature* line; the printed name “Stephen E. Gagnon” appears on the *OSJ Branch Manager (Print)* line; the date “7-16-07” appears on the *Date Line*.
17. On December 7, 2011, the Complainant reviewed the Disclosure Document in the presence of her attorney. Upon reading the information provided on Page 3, the Complainant denied the statement attributed to her by the Respondent that read “[y]ou have acknowledged that you will not incur any surrender charge on the annuity you are replacing as part of this transaction.” The Complainant stated that she was never told of, nor did she discuss, any surrender charges associated with the transaction. She was first made aware of them by an investment adviser with whom she consulted sometime after the Nationwide contract was issued.
18. On that same date, December 7, 2011, during the same Disclosure Document review the Complainant, upon viewing Page 4, the signature page, stated that the signature “Jeanne E. Wilkinson” that appeared on the Client Signature Line was not hers; she did not sign or acknowledge this Disclosure Document.

19. The sanctions in this Order are authorized by the RIUSA, specifically §7-11-212(b)(2) – Willful Violation of the RIUSA and Rules; §7-11-212(b)(8) – Unethical or Dishonest Practices; Rule 212(a)-1A.17 – Violating any Material Rule of any Securities Exchange or National Securities Association; Rule 212(a)-1B.9 – Sales Representative Violation of any of the Above (i.e., Rule 212(a)-1A.3 - Suitability and 212(a)-1A.18 - Failed to Furnish Prospectus) and § 7-11-501 – Fraudulent and Other Prohibited Practices.
20. Revocation of Respondent's Insurance Producer License is pursuant to R.I. Gen. Laws § 27-2.4-14(a)(8).
21. Respondent cannot afford the legal action required to contest the Director's allegations and enters into this Consent Order prior to the Director holding an evidentiary hearing.

III.

Based on the foregoing, the Director determines that the following sanctions are in the public interest, appropriate for the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of RIUSA.

Accordingly, IT IS HEREBY ORDERED that:

- A. Respondent's Investment Adviser Representative license and Insurance Producer License revoked and surrendered effective April 1, 2013.
- B. Respondent shall immediately cease and desist from any further violations of Section 212 and Rule 212-a-1.B.1 of RIUSA and R.I. Gen. Laws § 27-2.4-1 *et seq.*;
- C. Respondent shall have the right to apply for re-registration as a broker-dealer, sales representative, investment advisor and/or investment advisor representative

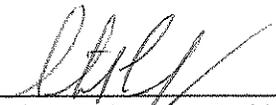
and/or Insurance Producer in the State of Rhode Island after 10 years. The Department does not make any representation nor should this term be construed in any way as a promise, guarantee, agreement and/or consent to any future license. Respondent shall be subject to all licensing/registration requirements at the time of application and subject to approval by the Department;

- D. The Department has the right to deny any future application and Respondent has the right to a hearing pursuant to the Administrative Procedures Act, R.I. Gen. Laws § 42-35-1 *et seq.* to contest that denial.
- E. Additional violations of RIUSA and/or R.I. Gen. Laws § 27-2.4-1 *et seq.* may be grounds for significant and substantial penalties such as revocation or suspension, administrative penalties up to Ten Thousand Dollars (\$10,000) per violation and the imposition of criminal and civil sanctions.

RECOMMENDATION

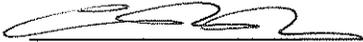
CONSENTED TO AS TO FORM AND SUBSTANCE BY:

Respondents by:



Stephen E. Gagnon, By his counsel,
Chip Muller, Esq.

Date: 3/7/13



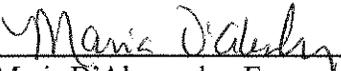
Chip Muller, Esq.
as counsel to Stephen E. Gagnon,

Date: _____

Department by:



Neena Sinha Savage, Esq.
Chief of Legal Services



Maria D'Alessandro, Esq.
Deputy Director, Division of Securities

Date: 3/21/13

Date: 3/21/13



Elizabeth Kelleher Dwyer, Esq.
General Counsel, Insurance Division



Joseph Torti III
Deputy Director, Insurance Division

Date: 3/21/13

Date: 3/22/13

RECOMMENDED BY:



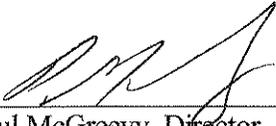
Ellen R. Balasco, Hearing Officer

Date: 3/22/13

ORDER

I hereby ✓ approve _____ reject the Consent Order as agreed to by and between the parties in the above entitled matter.

Order Number: 13-013



Paul McGreevy, Director

Date: 25 March 2013

THIS CONSENT ORDER CONSTITUTES A FINAL ORDER OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO RHODE ISLAND GENERAL LAWS TITLE 42, CHAPTER 35. AS SUCH, THIS ORDER MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN THE COUNTY OF PROVIDENCE WITHIN THIRTY (30) DAYS OF THE DATE OF THIS DECISION. SUCH APPEAL, IF TAKEN, MAY BE COMPLETED BY FILING A PETITION FOR REVIEW OF SAID COURT. HOWEVER, RESPONDENT UNDERSTANDS THAT BY WAIVING ITS RIGHT TO A COMPLETE HEARING AND AGREEING TO THIS CONSENT ORDER, THE ABOVE RIGHTS ARE WAIVED AND IF ANY TERMS OF THIS CONSENT ORDER ARE VIOLATED, RESPONDENT'S LICENSE SHALL BE SUBJECT TO SUSPENSION OR REVOCATION.

CERTIFICATION

I hereby certify on this ^{25th} day of March, 2013 that a copy of the within order was sent by first class mail and certified, postage prepaid, to

Stephen E. Gagnon
Registered Representative
CCO Investment Services Corp.
725 Canton Street
Compliance Dept- MCN 220
Norwood, MA 02062

and by hand-delivery to: Maria D'Alessandro, Deputy Director, Securities Division, Dennis Murray, Chief Securities Examiner; William Hawkins, Securities Examiner, Joseph Torti III, Deputy Director, Insurance Division, Elizabeth Kelleher Dwyer, General Counsel, Insurance Division and Neena Sinha Savage, Chief of Legal Services.

