NO. 121452

IN THE SUPREME COURT OF ILLINOIS

RICHARD LEE VAN DYKE d/b/a Dick Van Dyke Registered Investment Advisor, Plaintiff-Appellee, v. JESSE WHITE, in his official capacity as Illinois Secretary of State, The Illinois Department of Securities, and TANYA SOLOV, in her official capacity as the Director of the Illinois Department of Securities, Defendants-Appellants.	)	On Appeal from the Appellate Court of Illinois, Fourth Judicial District, No. 4-14-1109 There heard on appeal from the Circuit Court of the Seventh Judicial Circuit, Sangamon County, Illinois No. 14-MR-305 Honorable John Belz, Circuit Judge

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BRIEF OF PLAINTIFF-APPELLEE
CROSS-RELIEF REQUESTED

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POINTS AND AUTHORITIES

NATURE OF THE CASE

This is an administrative review action brought by Plaintiff-Appellee, Richard Lee Van Dyke, d/b/a Dick Van Dyke Registered Investment Advisor ("Van Dyke"), challenging a decision of the Illinois Secretary of State, Securities Department ("Securities Department" or "Agency") to exercise jurisdiction over his offer and sale of fixed indexed annuity insurance policies ("FIAs"). During a twenty-month period between 2009 and 2010, Van Dyke, an insurance producer licensed by the Illinois Department of Insurance ("DOI" or "Department of Insurance"), sold 33 FIAs to 21 of his insurance clients to replace 30 existing FIAs. Although all of Van Dyke's clients were happy with the replacement FIAs and made no complaints, the Securities Department charged Van Dyke with fraudulently recommending "unsuitable" annuities in violation of Securities Department Rule 130.853 (14 Ill. Adm. Code 130.853). After an administrative hearing the Agency concluded that the FIAs were "securities" under the Illinois Securities Law of 1953, 815 ILCS 5/1 *et. seq*. ("Securities Law" or "Act"), ruled that Van Dyke committed fraud, and issued the following sanctions: 1) retroactive revocation of his Investment Advisor registrations; 2) an injunction permanently prohibiting him from selling FIAs; and, 3) a fine of $330,000.00 ($10,000.00 for each replacement) plus $23,500 in expert witness expenses. A21-A22.

The circuit court affirmed (A23-A24), but the appellate court reversed and found in favor of Van Dyke on multiple grounds. A1-A10. This Court granted the Securities Department leave to appeal. A question raised by the pleadings is whether FIAs issued by insurance companies authorized to transact business in Illinois are "securities" subject to jurisdiction and regulation under the Securities Law.

ISSUES PRESENTED FOR REVIEW

1. Whether the Securities Department lacked jurisdiction below because FIAs issued by insurance companies authorized to transact business in Illinois are not "securities" but rather are insurance products subject to the exclusive jurisdiction of the DOI.

2. Whether the Securities Department has forfeited review by failing to appeal the appellate court's ruling that its actions were arbitrary and capricious. Alternatively, whether the appellate court properly concluded that the Securities Department's "decision is arbitrary, capricious and against the manifest weight of the evidence" because the Agency: A) has no rules, regulations or expertise to regulate FIAs; B) it invented and improperly applied *ad hoc* rules without complying with the required rulemaking process; C) the criteria it relied upon – adding up selected numbers from the original and replacement FIAs and avoiding any analysis of the individual circumstances of Van Dyke's clients – has no basis in law or fact and is contrary to the comprehensive regulations adopted by the DOI; or, D) Van Dyke's clients uniformly testified in his favor, they made no complaints, and they made the choices to purchase replacement FIAs.

CROSS RELIEF ISSUES

3. Whether Van Dyke "acted as an investment advisor" when he recommended the replacement FIAs to his insurance clients.

4. Whether the fines and penalties are excessive, arbitrary, overly harsh, inconsistent with fines imposed in other cases, and/or against the manifest weight of the evidence.

5. Whether this case should be remanded with directions to permit Van Dyke to recover his attorney's fees and costs.

JURISDICTION

Van Dyke contests that the Securities Department has jurisdiction over his marketing and sale of the annuities at issue. Van Dyke continues to maintain that position, although this Court has jurisdiction to resolve this administrative review appeal pursuant to Supreme Court Rules 301, 303, 315 and 735 ILCS 5/3-112.

STATUTES AND REGULATIONS

The relevant statutes and regulations are voluminous and only a few are included in the Separate Appendix file by the Securities Department. Pursuant to Supreme Court Rule 341(h)(5), the text of the following regulations and statutes are included in Van Dyke's Supplemental Appendix ("SA").

Illinois Department of Insurance Regulations

50 Ill.Adm.Code §§ 1551.10-1551.100, 3120.10-3120.90 and 909.10-909.120. SA29-SA76.

Securities Department Regulations

14 Ill.Adm.Code §§ 130.853, 130.825, 130.845, 130.850, 130.851 and 130.852. SA77-SA86.

Illinois Securities Law of 1953

815 ILCS 5/2, 5/2.1, 5/2.11, 5/2.11b, 5/2.14, 5/2.5, 5/2.5a, 5/3, 5/8, 5/11, and 5/12. SA86-SA90.

Illinois Insurance Code

215 ILCS 5/4, 5/245.21, 5/245.22, 5/245.23, 5/245.24, 5/245.25, 5/245.60, 5/500-15 and 5/500-70. SA91-SA96.

STATEMENT OF FACTS

The Securities Department's Statement of Facts does not "contain the facts necessary to an understanding of the case, stated accurately and fairly" as required by Supreme Court Rule 341(h)(6). Accordingly, Van Dyke submits additional facts summarized below.

Van Dyke is a licensed insurance producer ("insurance producer") authorized to offer and sell insurance products in the State of Illinois, including FIAs. AR530. Insurance producers are licensed and regulated by the Department of Insurance, an agency under the control of the Governor with jurisdiction over all insurance products. SA29-SA76; SA86-SA90. Van Dyke also was a registered investment advisor from July 25, 2006 to December 31, 2007, and August 7, 2008 to December 31, 2011. AR530. Investment advisors are licensed and regulated by the Securities

Department, an agency with jurisdiction to regulate the offer and sale of "securities" as defined by the Securities Act. SA86-SA90.

THE SECURITIES DEPARTMENT'S AUDIT

In August of 2011 two Securities Department auditors, Herb Clausen and Ray DeWitt, appeared at Van Dyke's place of business to conduct an investment advisor audit. The auditors received instructions from Securities Department Senior Enforcement Attorney David Finnigan ("Finnigan" or "prosecutor") to conduct the audit after the Agency received a complaint from the adult children of one of Van Dyke's deceased clients, Jimmy Klee. AR526-29. At the time, Van Dyke had approximately 100 to 125 insurance clients, he managed the securities of three investment management clients (via a third-party money manager), and he had some financial planning clients. AR526-527.

The auditors began by reviewing Van Dyke's investment advisor files (securities files), but did not find anything wrong. AR529. Clausen reviewed the Klee file, but found only "insurance transactions." AR530. The auditors then reviewed Van Dyke's insurance files. AR526-AR531. Through an additional audit and subpoenas, the Securities Department eventually obtained thousands of pages of insurance annuity contracts, insurance application forms, suitability forms, and other documents later used to charge Van Dyke. AR530-AR532, AR1037-AR4632.

THE SECURITIES DEPARTMENT'S CHARGES

On March 7, 2013, the Securities Department filed a Notice of Hearing alleging Van Dyke "defrauded over 21 clients, all of whom are senior citizens, of $263,822.13" by recommending, over the course of a twenty-month period in 2009 and 2010, the purchase of 33 FIAs that were allegedly unsuitable to replace 31 existing FIAs. SA1-SA9, AR976-77. The charges claimed that Van Dyke's conduct in recommending the replacements violated Sections 12.A, 12.F, 12.G, 12.I and 12.J of the Securities Law; all sections generally prohibiting investment advisors from engaging in fraudulent acts when offering or recommending securities governed by the Act. SA6-SA7; AR980-981. One paragraph set forth the basis for jurisdiction, with no citation of authority:

> Under Illinois law, Indexed Annuities are securities subject to the [Securities] Act. However, if the Indexed Annuity meets certain requirements under the Act, the Indexed Annuity is exempt from registration with the Department under the Act and the persons selling them are exempt from securities salesperson and/or dealer registration under the Act. Though an Indexed Annuity may be exempt from registration, the sale of the product is still subject to the other provisions of the Act.

SA4, ¶18; AR978. With respect to suitability, the Agency alleged violation of one Securities Department regulation – 14 Ill.Adm.Code 130.853 – which generally prohibits an investment advisor from "causing to be effected by or for any client's account" transactions which are in excessive or unsuitable "in view of the financial resources and character of the account...." SA6, ¶30.

THE DEPARTMENT OF INSURANCE ACTION

The Department of Insurance filed a separate administrative action seeking to discipline Van Dyke based on the same annuity transactions at issue in the instant case. C97-C100. Following further investigation and amended charges by the DOI (SA26-SA28), Van Dyke settled the insurance action (with no admission of wrongdoing) for $6,000 to resolve allegations he failed to complete four annuity replacement forms and answered questions incorrectly on twenty-two suitability forms submitted to an insurance company issuer. SA21-SA28 (consent order dated March 11, 2015). *See also* Van Dyke's Motion to Take Judicial Notice of Subsequent Department of Insurance Orders, filed August 5, 2015 in the appellate court; and:

http://insurance2.illinois.gov/Applications/DirectorsOrders/Document/Download/4602403 (Order of Dismissal)

http://insurance2.illinois.gov/Applications/DirectorsOrders/Document/Download/4632584 (Stipulation and Consent Order)

VAN DYKE SEEKS DISMISSAL FOR LACK OF JURISDICTION

Van Dyke moved to dismiss the Securities Department's charges for lack of jurisdiction, contending: 1) the FIAs were insurance products excluded as securities from the Securities Law and were within the exclusive jurisdiction of the Department of Insurance; and, 2) the charges failed to "set forth in any manner any information as to how these insurance annuity contracts on an individual client basis are unsuitable" under the Securities Law. AR11-AR31. The Administrative Law Judge, Jon K. Ellis ("Ellis" or

"Hearing Officer"), denied the motion (AR81-AR83) and the case proceeded to hearing.

THE ADMINISTRATIVE HEARING

Twenty witnesses testified at an administrative hearing spanning six days over several months. The prosecutor presented the testimony of auditors Clausen and DeWitt, one actuary employed by the DOI (Susan Lamb), one expert witness from Virginia (Edward O'Neal, Ph.D.), and four subpoenaed Van Dyke clients. The Agency also introduced 172 exhibits consisting of: 1) thousands of pages of insurance applications, insurance annuity suitability forms, insurance contract documents, insurance forms, and planning documents; 2) spreadsheets prepared by auditor DeWitt purporting to show "losses" resulting from the replacement annuities; and, 3) a thirty-three page (33) page PowerPoint report prepared by O'Neal outlining his opinions. AR975-4984; SA98-SA264.

Van Dyke responded with testimony from Department of Insurance actuary Bruce Sartain, ten of his clients, his own testimony, and 107 exhibits. AR710-AR944; AR4985-AR5195.

Ray DeWitt and Herb Clausen

DeWitt has an associate's degree in accounting, but he is not certified or licensed in any capacity and he has no insurance expertise. AR531-32; AR563-64; AR803. Clausen received seven days of formal auditor training, but he has no experience as an investment advisor or in insurance. AR528. Together, DeWitt and Clausen identified thousands of pages of insurance annuity documents from the audit and subpoenas; all entered into evidence by Finnigan. AR526-AR773; AR1037-AR4632.

The Surrendered ING Annuities

Secretary of State (SOS) Exhibit 6, a spreadsheet produced by ING USA Annuity and Life Insurance Company ("ING"), summarizes the details of 29 of the 31 FIAs surrendered by Van Dyke's clients. SA98-SA99, AR1033-AR1034. All of the surrendered ING annuities included a contract feature called a "Market Value Adjustment" ("MVA"). "[W]hat a market value adjustment does is to cause the cash surrender value of a surrendered annuity to fluctuate depending on how interest rates have changed" since the annuity was purchased. AR608 (O'Neal). According to O'Neal,

> if interest rates have declined since the annuity was purchased and then the annuity is surrendered, then the market value adjustment is positive. And, therefore, the annuitant, if they surrendered the annuity, would get more than they would have if there was not a market value adjustment. AR608 (O'Neal).

It is undisputed that an MVA applies only if there is a surrender of the insurance annuity within the surrender charge period. Absent surrender, an MVA does not increase the value of the annuity nor does it earn interest or have value. AR711 (Sartain); AR609 (O'Neal); AR578-79 (Lamb).

The 29 surrendered ING annuities all had positive MVAs, thereby increasing the surrender value of each annuity. Nineteen of them (14 of the 21 clients) had positive MVAs exceeding the surrender charges, thereby resulting in net surrenders in excess of the contract values. SA98-SA99, AR1033-AR1034; AR615. Sartain, an actuary employed by the Department of Insurance for two decades, gave the following testimony after reviewing the ING surrender documents for Van Dyke client Earnest Dannenberger:

> Q. Would you agree with me on this instance that the application of the MVA offsets against the surrender charge and you walk away at the end of the day with an increased net amount?
>
> A. Right, correct.

AR713; SA250.

Because a positive MVA increases the net surrender value, it is one of several factors the DOI considers relevant for any annuitant contemplating "when or if to surrender an annuity." AR711-AR712. All forms relating to annuities sold by insurers, including those addressing MVA features, must be approved by the DOI. AR578.

Department of Insurance Suitability Requirements

The DOI has enacted a series of detailed regulations addressing suitability in annuity transactions, including replacement annuities. SA29-SA57. In response to questions from Finnigan, DOI auditor Lamb summarized the Department of Insurance's suitability requirements as follows:

> Q. Are you familiar with the suitability requirements for the replacement of indexed annuities?
>
> A. Yes.
>
> Q. Is that set by rule in Illinois?
>
> A. Yes....

> Q. Okay. And what are the factors that an adviser should consider in recommending or in effecting a transaction like that? ...
>
> [A.] The adviser needs to consider the individual's financial situation. Every individual's financial situation is unique, they have different needs, they have different expectations. They also need to very clearly consider the features in the current annuity contract versus the features in the potential replaced contract. (AR577).

Spreadsheets Prepared by DeWitt

Auditor DeWitt, at Finnigan's direction, prepared numerous spreadsheets entered into evidence as SOS Exhibits 143 through 148, and 155 through 157. AR549-AR555. Van Dyke has included most of these spreadsheets in his Supplemental Appendix. SA100-SA111. DeWitt prepared SOS Exhibit 143 to compile selected aggregate data on the 31 surrendered annuities, including the date of purchase, the age of each annuitant at the time of purchase, the contract values at the time of surrender, the amounts transferred after applying the MVA and surrender charges, and the insurance commissions received by Van Dyke. SA100-SA101, AR4873-AR4874; AR549. SOS Exhibit 144 lists similar aggregate data for the 33 replacement annuities purchased by Van Dyke's insurance clients. SA102-SA103, AR4875-AR4876; AR551-AR552.

The Replacement Annuities

The replacement FIAs included bonus features of 5%, 8% or 10% (23 at 10%), a feature which resulted in an immediate increase of the accumulated value by the selected percentage. AR4875-76. Most of the replacement annuities were issued by American Investors Life Insurance Company, or AVIVA ("Aviva"), and included myriad annuity polices – *e.g.,* Aviva Bonus Plus Select 12, Aviva Bonus Plus Select 6, Aviva MultiChoice Income Xtra, Aviva Multi Choice Freedom Xtra – all with various rider options, index strategy options, death benefit options and other features. AR4875-76; AR1649-68. A smaller number were issued by American Equity (four) and Allianz (four), also with differing rider options, index strategies, and the like (Allianz Master Dex 5 Plus, Allianz Master Dex X, American Equity Gold). AR1038-1040; AR1254-1257; AR1264; AR1304-1360; AR4875-76.

DeWitt prepared SOS Exhibit 145 to compare the aggregate "dollar amounts" of the old annuities to the new annuities, including two "loss" columns purporting to compare: 1) the "surrendered contract total plus MVA" to the "new contract with bonus," and, 2) the "surrendered contract total plus MVA" to the "new contract without bonus." SA104-SA105, AR4877-78; AR552. The first column calculated a total combined "loss" for the surrendered annuities at $99,480.95, while the second column calculated total combined loss at $297,457.06. SA104-SA105, AR4877-AR4878. When asked why SOS Exhibit 145 included separate loss columns for both the "new contract with bonus" and the "new contract without bonus," DeWitt testified that he was instructed by Finnigan to do so "because the [Securities] Department doesn't recognize a bonus as a reason for switching an annuity."

AR791. In addition, when questioned about why he added the MVA to the value of surrendered FIAs listed on SOS Exhibit 145, DeWitt testified:

> Q. Does a contract have an MVA value before surrender?
>
> A. No, not unless you surrender the contract.
>
> Q. Then why would you include the surrendered contract value plus the MVA against the new contract?
>
> A. I don't know.
>
> Q. Did you include the MVA in the new contract value?
>
> A. No.
>
> Q. Why did you include it on one side and not the other?
>
> A. I don't know.
>
> Q. Were you told not to?
>
> A. I was told to ... do this spreadsheet with these totals on it. (AR791).

DeWitt described his calculations as "a straight dollar review" and admitted that he did not conduct any individualized analysis:

> Q. When you were calculating what you're referring to as a loss between the old annuity and the new annuity, did you take into consideration any of the features of the new annuity that were not included in the old annuity?
>
> A. No.
>
> Q. And why didn't you?
>
> A. Because I was just putting hard numbers down.

> Q. You were simply looking at it from an economic dollar standpoint?
>
> A. Yes.
>
> Q. Would you agree with me that the individual provisions of a contract insurance policy has importance to the person that buys it? It has value?
>
> A. Yes. (AR802-AR803).

When pressed further on whether he considered the differences in "any annuity," DeWitt conceded: "No, I didn't do any analysis." AR841.

The Securities Department's Expert, Edward O'Neal, Ph.D

Edward O'Neal is a consultant from Virginia who works on a contractual basis for the Securities Department. AR605. O'Neal has an undergraduate degree in electrical engineering, a master's in business, and a Ph.D in finance (AR605); but he has never possessed an insurance license or securities license nor is he a licensed investment advisor. AR621.

At Finnigan's request, O'Neal conducted a "financial analysis" of the "transactions at issue in this case." AR606. The only documents O'Neal reviewed consisted of approximately a dozen pages provided by Finnigan's office, including: 1) SOS Ex. 143 – the spreadsheet prepared by auditor DeWitt showing surrender amounts, surrender charges and MVA; 2) SOS Ex. 6 – the ING spreadsheet listing the surrendered ING annuities with corresponding adjustments; 3) SOS Ex. 149 – three pages of an Aviva annuity contract explaining the MVA; and, 4) surrender charge schedules for the old and new annuities for four of Van Dyke's insurance clients. AR606-AR608.

Like DeWitt, O'Neal did not review any of the individual annuity contracts or other documents to compare the features of the old annuities to the new annuities. AR620-AR621; AR625; AR628. He considered only the "surrender charges" and MVA information provided by Finnigan. AR620. O'Neal testified:

> Q. But you didn't look at any of the new attributes that were attributable to the new annuities, different attributes than were from the ING?
>
> A. I didn't look at the bonus recapture.
>
> Q. Did you look at income roll-up?
>
> A. No.
>
> Q. Did you look at the income rider?
>
> A. No, I didn't.
>
> Q. Did you look at the death benefit rider?
>
> A. No.
>
> Q. Did you look at the total index strategies that were available on the new annuities as compared to the ING?
>
> A. No.... (AR628).

O'Neal's PowerPoint Presentation and "Average" Annuitant Projections

O'Neal prepared a 33 page PowerPoint presentation to explain his analysis. SA112-SA144, AR4952-4984. O'Neal concluded that the "average annuity accumulation value for the ING annuities ... surrendered, for the average client," was $77,600 per annuitant. AR610. To obtain the average, O'Neal added all the annuity accumulation values and divided the figure by the number of annuities. AR610. He then calculated, using the simple analysis, that the average amount received on each annuity after surrender (and application of the MVA) totaled "$74,900 on average," or $2,700 less per annuity. AR610-AR611; SA120. Based on a hypothetical assumption that contract interest rates would be the same on the old and new annuities, O'Neal estimated the average growth of the old annuities compared to the average for the new annuities with a graph projected out 25 years showing the new annuities slightly below the old annuities. SA122; AR612.

Using the same hypothetical assumptions, O'Neal ran estimates for Van Dyke clients George Perry, Alice Elchlepp, Earnest Dannenberger, and Shirley Ward. O'Neal selected Perry and Elchlepp because in their situations "the market value adjustment did not overcome the amount of surrender charge." He selected Dannenberger and Ward because they represented "the two that looked like they had the greatest positive benefit from the market value adjustment." AR615. For Dannenberger and Ward, the MVA exceeded the surrender charges thereby resulting in a net increase of the contract value upon surrender, which according to O'Neal occurred with "maybe 10 or 11 clients." AR615. The actual number is 14 clients and 19 of the replacement annuities. SA98-SA99, AR1033-AR1034.

O'Neal admitted that Ward's and Dannenberger's new Aviva annuities would be worth more in the future, but posited that due to what he labeled the "time value of money" and the "age factor" the replacement annuities were not "in their best interests." AR619. To reach this conclusion, O'Neal assumed that Ward and Dannenberger were more likely to need the money and would surrender their annuities early thereby incurring a hypothetical surrender charge. AR616-AR619.

O'Neal's Projections for Perry and Elchlepp vs. Actual Performance

O'Neal projected that by 2013 the cash surrender value (assuming no withdrawals) of George Perry's new Aviva annuity would increase to $133,316, compared to $153,089 for the old ING annuity, a reduction of $19,773. O'Neal gave similar projections for the "accumulation value," claiming that by 2013 Perry's new Aviva annuity would increase to $149,793, compared to $162,897 for the old ING annuity. SA124; AR614. O'Neal hypothesized that the cash value of the new annuity would never catch up to the old annuity, even when projected out 25 years. SA125; AR614

Perry's Aviva annuity statements (SA145-SA150) verify that as of March 27, 2013, he had received $14,000 in penalty-free distributions from the Aviva annuity while the cash surrender value had increased to $164,491, an amount exceeding O'Neal's projection of $133,316 by $31,175, and surpassing O'Neal's projection for the old ING annuity by $11,402. SA145-SA146, AR1643-44; AR614; *cf.* SA124, AR4964. The "accumulated value" of the Aviva replacement totaled $189,140.28, exceeding O'Neal's projection of $153,089 by $39,347, and surpassing O'Neal's projection for the old ING annuity by $26,243. SA145, AR1643; *cf.* SA124, AR4964. In addition, the Aviva replacement had a "death benefit" feature (including bonus) which had increased to $189,140.28 by 2013. SA145, AR1643. Perry testified at the hearing that he was happy with the performance of his Aviva replacement annuity (a purchase he described as "entirely" his decision), and told the Hearing Officer the value had increased "drastically." AR845; AR849.

O'Neal projected that by 2012 Alice Elchlepp's old ING annuity would have a cash surrender value of $59,617, compared to only $51,917 for the new Aviva annuity. SA127; AR614-AR615. Elchlepp's Aviva statements (SOS Ex.51) verify that in April, 2012 (latest statement in the record) the cash surrender value had increased to $59,119, or $7,202 more than O'Neal's projection for the same year and nearly equaling O'Neal's projection for the original annuity. SA127; A151. The death benefit feature of the Aviva annuity had increased to $74,038. SA151, AR1977.

O'Neal's Projections for Dannenberger and Ward vs. Actual Performance

Due to a positive MVA of $24,826, Danneberger received over $8,000 more than contract value when he surrendered his ING annuity (after deducting the surrender charge of $16,439). SA129, AR4669. O'Neal projected that the cash surrender value of Dannenberger's old ING annuity, had he kept it and not taken any withdrawals, would have increased to $142,001 in 2013, whereas the surrender value of the new annuity would increase from $120,395 in 2010 to $134,549 in 2013. SA130, AR4970; AR615. O'Neal opined that the old ING annuity would be more valuable during the "first several years following surrender," but by year ten "the cash surrender value of the new annuity then becomes greater than the surrendered annuity." AR616. O'Neal described Dannenberger's situation as "more difficult by the fact that in some years the surrendered annuity is worth more, but in other years the new annuity is worth more." AR616.

Dannenberger's annuity statements verify that as of February 27, 2013, he had received $52,782.65 in permitted withdrawals over the four year period since purchase ($10,961 to $15,338 per year). SA161-SA168, AR4544-AR4551. After the withdrawals, his cash surrender value totaled $88,102.14, a figure which, after the $52,782.65 is added, exceeded O'Neal's hypothetical projection for the new annuity and nearly equaled the projection for the old annuity. SA161, AR4544. Like Perry, Dannenberger testified that he made the decision to surrender the ING annuity and purchase the Aviva annuity; a choice he remains "very happy" with. AR729.

With Shirley Ward, O'Neal projected that by 2013 the cash surrender value of her surrendered annuity would be $62,515, compared to $58,507 for the Aviva annuity, a hypothetical reduction of $4,007. AR4980. Ward's Aviva statements (AR4243-AR4248) verify that as of March 27, 2013, the cash surrender value of the replacement annuity had increased to $67,988, an amount exceeding O'Neal's hypothetical projection by nearly $9,500 and surpassing his projection for the old annuity by over $5,000. SA155-SA160. Ward's death benefit had increased to $78,220.75. SA155.

Van Dyke Insurance Clients Subpoenaed by the Securities Department

Velma Miller purchased her replacement annuity in March of 2009, over four years prior to her testimony. AR656; AR633. Miller could not recall whether Van Dyke discussed the surrender fee or MVA (AR633), but the surrender check sent to Miller by ING listed a surrender value of \$101,704.53, a deduction for the surrender charge of \$13,123.90, and a positive MVA of \$17,603.63, resulting in a net increase and a check for over \$106,000.00. SA258, AR5199. Miller had no concerns or complaints about Van Dyke and was pleased that he took the time to answer all her questions ("all afternoon" during their first meeting). AR636.

Joleen Welch described an extended conversation Van Dyke had with her about the features of the replacement annuity. AR640. Although she did not remember a specific discussion about a market value adjustment or surrender fee (AR638), she admitted that it "very well could have been discussed." *Id.* Welch had no concerns with the way the annuities were handled, she had no complaints, and she testified that she and her husband decided to purchase the replacement after taking into consideration her own unique factors. AR641, AR644.

Shirley Ward testified that Van Dyke explained his recommendations "thoroughly to us" (her husband was also present) and "we decided that that's what we wanted to do." AR660. Prior to surrendering the annuity, Van Dyke told Ward about the surrender charge as well as the MVA. AR660. Ward also knew about the surrender charges because the insurance policy listed them. AR661; SA249, AR4987 (ING surrender check with breakdown of surrender charge and positive MVA, resulting in receipt of over $3,000 above contract value).

Ron Ferricks testified that he and his wife had "tried on our own with the stock markets and we were losing money," so they decided to meet with Van Dyke. AR683, AR684. Ferricks initially chose the ING annuity (AR684), but later decided to surrender that annuity to purchase two replacements from American Equity. AR685. Ferricks "knew that there would be a surrender charge because Dick told [him] that there would be a surrender charge by taking that money out of ING." AR696. Van Dyke also told him there would be a bonus recapture charge from the surrender. AR697. After comparing the features of the annuities, Ferricks made the decision to surrender. AR698. Ferricks was happy with the replacement annuities and had no concerns prior to being contacted by the Securities Department. AR699-700.

Insurance Clients Called by Van Dyke

Marilyn Klee, wife of Jimmy Klee (deceased), testified that Van Dyke discussed the surrender fees and bonus recapture fees her husband would incur by surrendering; noting that "Dick explained everything pretty thoroughly." AR776. Van Dyke and the Klees discussed a number of benefits that were not available in the ING annuity, including various rider options. AR777. Prior to deciding, the Klees "went home and discussed it," separately and away from Van Dyke, before returning to purchase the replacements. AR776-78.

George Perry first met Van Dyke in the fall of 2006. Perry had been investing in the stock market, but told Van Dyke he wanted to get out of stocks and into a safer alternative due to concern about market risk. AR843. Perry understood that an annuity is "insurance" and not a security. *Id.* He knew he would incur surrender penalties if he surrendered the ING annuities before maturity; which he understood prior to purchase. *Id.* Perry and Van Dyke met approximately once a year to discuss performance of the annuities and any additional needs he might have. AR844. During one of the meetings, Perry expressed concern that the ING annuity was not growing as quickly as he hoped it would. Van Dyke suggested an alternative Aviva annuity (American Investors Life at the time), and Perry chose to do the surrender. AR844; SA171-SA186, AR1649-AR1670.

Perry testified that the Aviva annuity had a bonus feature that immediately increased the accumulated value to allow more growth from day one; a feature he "definitely" considered beneficial. AR845. Perry acknowledged, in writing, that he received and reviewed the features, benefits and disclosure summary for the annuity, as well as the annuity contract itself. SA176, SA179-SA184. Perry had no concerns with Van Dyke, he believed Van Dyke had been fair and honest with him, and he made no complaints. AR845-46.

Prior to the hearing, Perry received calls from the Securities Department applying what he viewed as "pressure" to testify against Van Dyke. Perry recalled "that one person was asking all the questions" with another person in the background "prompting him what to do." AR849. Although Perry was not permitted to describe what was said (due to a hearsay objection by Finnigan), he had concerns because the Department left him with the impression he would have to pay back the original bonus money on the Aviva annuity after one year, which he later found out was inaccurate. AR849-AR850.

Jerry Sawyer and his wife first met Van Dyke in 2007 because they "wanted to get out of the [stock] market" and were specifically looking for insurance annuities. AR864. Three years later the Sawyers asked about other, newer annuities. Van Dyke discussed several alternatives and answered their questions and concerns, they made the decision to surrender, and they were aware of the fees associated with the replacements. AR866. At no time did the Sawyers believe Van Dyke took advantage of them, and they were "more than satisfied with the results" because the replacements served their "interests better than the ING" annuities. AR866-74.

Van Dyke clients Roger Ward, Rex Berry, Lonnie Caulk, Betty Creasey, Marilyn Hemenway and Earnest Dannenberger gave similar testimony. Roger Ward, when asked whether he had any concerns about Van Dyke (at any time), told the Hearing Officer "none whatsoever" and stated: "I know that we're just very, very happy." AR707-08. Rex Berry described detailed discussions with Van Dyke about the additional features on the replacement annuity compared to the old annuity, including being told about the surrender fee. The surrender fee was of concern, so Berry and his wife went home and discussed it before deciding to do the surrender. Berry testified that Van Dyke treated him fairly and he never had any concerns or complaints about the annuities or Van Dyke. AR719-20. Similarly, Lonnie Caulk chose to surrender his ING annuity after considering features available on the new annuity not available on the old annuity. He was aware of the surrender costs but accepted those costs because he believed he would be "better down the road" with the new annuity; a decision he remained "happy" with several years later when he testified at the hearing. Caulk had no concerns or complaints, describing Van Dyke as always answering his questions and treating him fairly. AR723-24.

Betty Creasy testified that she brought up the idea of surrendering the ING annuity with Van Dyke after she became concerned about the stability of ING. Creasy called Van Dyke and told him she wanted to surrender the ING annuity, to which Van Dyke responded: "Well, Betty, I don't know if that's the best thing to do. It hasn't matured yet." AR764. Creasy insisted, stating: "But I want out, Dick. I'm afraid they're going to go bankrupt." Van Dyke responded with: "Well, I don't think they are ... but let me check and see if I can find something you might be happier with." AR764. Two days later, Van Dyke suggested an Aviva annuity as a possible replacement, and Creasy later made the decision to switch. AR764-65. Creasy was "very much" happy with the Aviva replacement, she had no concerns or complaints about Van Dyke, and she described him as a nice man who has always been "overly patient" in answering all of her questions. AR765. *See also* M. Hemenway testimony, AR771-72; Dannenberger testimony, AR726-311.

Van Dyke's clients all prepared and signed the applications and forms necessary to purchase the annuities. *See, e.g.,* SA176-AS248. Upon surrender, ING sent checks to the clients listing the surrender fees, MVA adjustments, and other adjustments. SA249-SA262.

The Administrative Decision

On March 24, 2014, Hearing Officer Ellis issued his report and recommendation finding against Van Dyke and recommending a fine of $330,000 plus $23,500 to cover Dr. O'Neal's expert witness fees (the amounts requested by Finnigan), as well as retroactive revocation of his investment advisor licenses. SA10-SA20, C6-C16. Sixteen days later, on April 9, 2014, the Secretary issued a Final Order adopting all but one of the proposed findings. A11-A22, C18-C28. Citing to the Securities Department's suitability rule (130.853), the Final Order concluded that "[t]he Indexed Annuity transactions involved in this Matter were both unsuitable and not in the best interests of the clients due to the age of the clients, the surrender penalties incurred due to the early liquidation of the existing Indexed

Annuity contracts, the frequency of the commissions paid and no derivation of additional tax benefits." A15-A16, ¶¶24,27.

The Final Order states the record "has been reviewed by the Secretary of State or his duly authorized representative" (A11) and contains a stamped signature of "Jesse White, Secretary of State" bearing the initials of the prosecutor, David Finnigan. A21, C28; *Cf.* SA9, AR983 (Notice of Hearing, with Jesse White signature stamp and Finnigan's initials).

ARGUMENT

This case involves an administrative agency exceeding its statutory authority in what can only be fairly characterized as an arbitrary and capricious effort to ignore the contractual wishes of twenty-one satisfied insurance clients and put an Illinois licensed insurance producer out of business. Long ago the General Assembly, through the Insurance Code and Securities Law, granted sole authority to the Department of Insurance to regulate *all* annuities – whether fixed, indexed, variable or otherwise – issued by insurance companies authorized to transact business in Illinois. The Department of Insurance regulates every conceivable aspect of FIAs and other annuities. The Securities Department, by comparison, has no statutory authority to exercise jurisdiction over the marketing or sale of FIAs; nor does it have any rules, regulations, *or expertise* to do so. *Van Dyke,* 2016 IL App (4^{th}) 141109, ¶¶23-28. As a result, in this case the Agency improperly *invented* the rules as it went along.

Van Dyke initially notes that the Securities Department does not address two critical points decided by the appellate court. First, it does not dispute that the only administrative rule it relied upon in its decision – 14 Ill.Adm.Code 130.853 – is irrelevant and "has nothing to do with an insurance producer selling an annuity to an insurance client." *Van Dyke*, ¶37. Second, it does not challenge the appellate court's holding that the Agency acted in an arbitrary and capricious manner. *Van Dyke,* ¶¶35-38. Accordingly, both issues have been forfeited. *See infra,* § I(A)(2) and § II(A).

The Securities Department devotes most of its argument to inventing a claim, in a position *not alleged or advanced at any time before or during the administrative hearing*, that under federal law the insurance annuities at issue qualify as "investment contracts" under the Illinois Securities Law. The Securities Department similarly attempts to construct an argument that Van Dyke violated some sort of "fiduciary duty" to his insurance clients. Throughout its brief, however, the Agency fails to mention that it *never alleged* that Van Dyke breached a "fiduciary duty" (SA1-SA9), and it cites to *no evidence* (or statutes, regulations or relevant legal authority) to explain what such a "fiduciary duty" would entail or how such an obligation could possibly trump the applicable rules, regulations and statutory provisions of the Insurance Code.

STANDARD OF REVIEW

Whether an administrative agency has jurisdiction over a particular matter is a legal issue subject to *de novo* review. *Integrated Research Services, Inc. v. Illinois Secretary of State,* 328 Ill.App.3d 67, 70 (1st Dist. 2002). Similarly, "an agency's interpretation of the meaning of the language of a statute constitutes a pure question of law" in which "review is independent and not deferential." *Cinkis v. Village of Stickney Mun. Officers Electoral Bd.,* 228 Ill.2d 200, 210 (2008). Although factual findings by an administrative agency are entitled to substantial deference and are reviewed under a manifest weight of the evidence standard of review, "deference ... is not boundless" and "review cannot amount to a rubber stamp of the proceedings below merely because the Board heard witnesses, reviewed records, and made the requisite findings." *Walker v. Dart*, 2015 IL App (1st) 140087, ¶¶36-37.

In addition, Illinois courts do not hesitate to intervene when an administrative official "has acted arbitrarily and capriciously and thereby abused the discretionary power vested in him." *Dorfman v. Gerber*, 29 Ill. 2d 191, 196-96 (1963) (reversing decision by Director of Insurance to revoke insurance licenses, finding the decision "clearly arbitrary and capricious and ... an abuse of discretionary power"). In determining whether an agency has acted arbitrarily, "administrative agencies must follow their own rules as written, without making *ad hoc* exceptions or departures therefrom" when adjudicating disputes. *Springwood Associates v. Health Facilities Planning Bd.,* 269 Ill.App.3d 944, 947 (4th Dist.1995). Put another way, agency action is considered arbitrary and capricious if it "contravenes the legislature's intent, fails to consider a crucial aspect of the problem, or offers an explanation which is so implausible that it runs contrary to agency expertise." *General Service Emp. Union v. Ill. Edu. Labor Rel. Bd.,* 285 Ill.App.3d 507, 515 (1st Dist. 1996).

Finally, typically an agency's decision may be upheld only based on the reasoning of the agency itself, as reviewing courts should not supply a basis for a decision that the agency itself has not provided. *Citizens Util. Co. of Ill. v. Ill. Commerce Comm'n*, 124 Ill.2d 195, 211 (1988); *Walker*, 2015 IL App (1st) 140087, ¶¶36-37.

I. THE DEPARTMENT OF INSURANCE HAS EXCLUSIVE JURISDICTION OVER THE MARKETING AND SALE OF ALL ANNUITIES ISSUED BY INSURANCE COMPANIES AUTHORIZED TO TRANSACT BUSINESS IN ILLINOIS.

The Department of Insurance has a long history of regulating every conceivable aspect of insurance annuities sold to Illinois consumers. The Securities Department, on the other hand, has no rules, regulations or *expertise* in this area; and no jurisdiction over insurance annuities. Any other conclusion conflicts with the Insurance Code and would lead to an absurd, unreasonable and unworkable system that could not have been intended by the General Assembly. *Cf. Van Dyke,* ¶¶39-40 (aggregate approach utilized by Securities Department conflicted with Department of Insurance regulations requiring individualized analysis and comparison); *In re: B.C.*, 176 Ill.2d 536, 550 (1997) (statutory language must be interpreted "in a manner that avoids absurd, unjust, unreasonable or inconvenient results which could not have been intended by the legislature").

A. For Over Ninety Years the General Assembly has Excluded Insurance Annuities from Regulation by the Securities Department and has Instead Conferred Sole Jurisdictional Authority on the Department of Insurance.

The appellate court held that the plain language of the Securities Law excludes all insurance annuities (including FIAs) from regulatory jurisdiction by the Securities Department. *Van Dyke,* ¶24. The Act defines a "security" to include a "face amount certificate," a definition which expressly excludes annuities issued by Illinois authorized insurers. *Id.* 815 ILCS 5/2.1, 5/2.14. Construction of the Act as a whole, and considering each section in connection with every other section, fully supports the appellate court's analysis. *See Bonaguro v. County Officers Elect. Bd.,* 158 Ill.2d 391, 397 (1994). Indeed, a search of the *entire Securities Law* – over 43,000 words – reveals only three hits to the term "annuity." Two are in the definition of a "face amount certificate contract" in 815 ILCS 5/2.14, while the other is in 815 ILCS 5/6 (Registration of Face Amount Certificates). Section 2.14 reads:

> Sec. 2.14. "Face amount certificate contract" means any form of "face amount certificate" or "periodic payment plan certificate" (as so designated and defined under the Federal Investment Company Act of 1940) and shall also mean any form of annuity contract (*other than an annuity contract issued by a life insurance company authorized to transact business in this State*).

815 ILCS 5/2.14 (emphasis added). The language of Section 2.14 unambiguously excludes the insurance annuities at issue. *Van Dyke*, ¶24.

See also Board of Education of Springfield School Dist. 186 v. Attorney General of Illinois, 2017 IL 120343, ¶¶24-25, 28 (plain language of statute must be applied as written; interpretation which disregards other language or leads to absurd result must be avoided).

The Insurance Code, by comparison, has long granted exclusive authority to the DOI to regulate all aspects of annuities marketed to Illinois consumers. The Insurance Code plainly defines the annuities at issue as Class 1 insurance:

> Sec. 4. Classes of insurance. Insurance and insurance business shall be classified as follows:
>
> Class 1. Life, Accident and Health.
>
> (a) Life. Insurance on the lives of persons and every insurance appertaining thereto or connected therewith *and granting, purchasing or disposing of annuities*. Policies of life or endowment insurance *or annuity contracts* or contracts supplemental thereto which contain provisions for additional benefits in case of death by accidental means, ... *to give a special surrender value*, or special benefit, *or an annuity*, ... *shall be deemed to be policies of life or endowment insurance or annuity contracts within the intent of this clause.*

SA93, 215 ILCS 5/4 (emphasis added). Under Illinois law, *only* insurance producers licensed by the DOI are permitted to recommend or sell annuities to Illinois residents. SA94; 215 ILCS 5/500-15(a). Persons without such a license, including registered investment advisors, are prohibited from recommending, selling or even offering advice with respect to any aspect of insurance annuities. SA92-SA93; 215 ILCS 5/500-15(a)&(b). In fact, it is a *Class 4 felony* for a registered investment advisor to offer "any advice, counsel, opinions or service with respect to the benefits, advantages, or disadvantages" of any insurance annuity that could be issued in Illinois. SA93, 215 ILCS 5/500-15(d).

Over three decades ago the Securities Department got it right on this jurisdictional issue. On August 7, 1984, Securities Department enforcement attorney Dan O'Neill issued an interpretive letter responding to an inquiry about "whether variable annuity contracts fall under the jurisdiction of 'securities' in the State of Illinois, and if so, what type of security." SA97, *In re: Variable Annuity Contracts,* 1984 WL 44885 (Ill. Sec. Dept.). O'Neill responded:

> Variable annuity contracts do fall within the terms of The Illinois Securities Law of 1953 (the "Act"), as amended. (See §2.1, §2.14 and §6 of the same.) But, when the annuities are issued by an insurance company authorized to do business in this state, those annuities are specifically *excluded from and exempted* from Illinois Securities Department jurisdiction. They are then the <u>sole</u> jurisdiction of the Illinois Department of Insurance.

SA97, 1984 WL 44885 ("1984 Interpretive Letter") (underlining in original).

The Securities Department's drastic change in position (and creation of unpublished *ad hoc* rules to implement that change) is particularly inappropriate in light of the history of the Act. The Securities Law has excluded insurance annuities for nearly a century dating back to 1925:

> The word "securities" shall mean and include stock, treasury stock, bonds, debentures, investment contracts, notes, evidences of indebtedness, participation certificates, certificates of shares or interest,… annuity contracts *unless issued by insurance companies,* bankers shares, trustees shares,... and any other instrument commonly known as a security.

Ill. Rev. Stat. Ch. 121 ½ Para. 97(1) (1925) (emphasis added). Later, in 1955, the General Assembly re-classified annuities as "face amount certificates" while retaining the exclusion for insurance annuities. 815 ILCS 5/2.14; R. Vol. III, Tabs 10-26.

To justify its change in position, the Securities Department argues that the statutory language is “ambiguous” and, as such, deference should be given to the expertise of the agency charged with enforcing the Act. Appt’s brief, pp. 25, 36-38. This approach should be rejected for at least three reasons. First, there is no ambiguity in the statutory language. Second, the Securities Department has *no expertise* in this area. Third, the Agency’s post-hearing attempts to supply reasoning for its arbitrary enforcement action is an independent basis for affirming the appellate court. *Greer v. Ill. Housing Dev. Auth.*, 122 Ill.2d 462, 505-06 (1988) (agency action is arbitrary and capricious if it is a “sudden and unexplained” change in policy).

1. The Department of Insurance has enacted comprehensive rules to regulate FIAs and all other insurance annuities.

The Department of Insurance, via the rulemaking process through the Joint Committee on Administrative Rules (“JCAR”), has developed comprehensive rules for regulating *every conceivable aspect* of annuities issued by insurance companies authorized to transact business in Illinois. SA44-SA76; 50 Ill.Adm.Code 909.10 to 909.120; 3120.10 to 3120.90. The DOI’s rules include detailed suitability regulations adopted for the purpose of mandating “standards and procedures ... insurance producers” must follow in any annuity transaction to ensure that the individual needs and financial objectives of each consumer are appropriately addressed. SA44; 3120.10(a). The DOI regulations apply to "*any* recommendation to purchase, exchange *or replace* an annuity made to a consumer by an insurance producer ... result[ing] in the purchase, exchange *or replacement* recommended." SA45, 3120.20 (emphasis added). Illinois insurance producers are required to evaluate, using forms approved by the DOI, specific factors as to each individual client including: 1) age; 2) annual income; 3) financial situation and needs, including the financial resources used for the funding of the annuity; 4) financial experience; 5) financial objectives; 6) intended use of the annuity; 7) financial time horizon; 8) existing assets, including investment and life insurance holdings; 9) liquidity needs; 10) liquid net worth; 11) risk tolerance; and, 12) tax status. SA48, 3120.40.

Other DOI rules regulate insurance producer licensing, training, definitions of relevant terms, compliance, discipline, recordkeeping, advertising, commissions, promotion of annuities and the like. SA44-SA75, 50 Ill.Adm.Code 3120.10-3120.90; 909.10-909.120. Insurance producers are required to take steps to ensure that the consumer is aware, in every annuity transaction, of the various features of the particular annuity sold and that the annuity "as a whole" is suitable "*for the particular consumer based on his or her suitability information.*" SA49, 3120.50 (emphasis added). For "replacement" annuities, there are additional requirements including analysis of surrender charges and fees of the old annuity versus the replacement annuity, whether the "consumer would benefit from product enhancements and improvements" from the replacement, and whether the client has had another "annuity exchange or replacement and, in particular, an exchange or replacement within the preceding 36 months." SA49-SA50, 3120.50.

2. The Securities Department, by its own admission, has no rules, regulations or written criteria to regulate annuities marketed by insurers and insurance producers in Illinois.

Throughout the administrative proceedings below, the Securities Department relied on a single suitability regulation (rule 130.853) as its basis for charging Van Dyke with fraud and ultimately fining him over $350,000.00. SA6, AR930, ¶30; A15-A16, ¶24. 14 Ill.Adm.Code 130.853, entitled "Account Transactions," prohibits an investment advisor from:

> Effecting or causing to be effected by or for any *client's account*, any transactions of purchase or sale which are excessive in size or frequency or unsuitable in view of the financial resources and character *of the account*, shall constitute an act, practice, or course of business on the part of the registered investment adviser or its representative effecting such transactions or causing the transactions to be effected that is fraudulent, deceptive or manipulative. (SA77).

The appellate court held that "section 130.853 has nothing to do with an insurance producer selling an annuity to an insurance client ... [because] Van Dyke did not manage any accounts for his insurance clients. He acted as an insurance agent in the facilitation of the sale insurance contracts." A9, ¶37; *Van Dyke,* ¶37. The Securities Department does not challenge the appellate court's holding that rule 130.853 is inapplicable, and it is too late to do so in its reply brief. S. Ct. Rule 341(h)(4)(7) (points not argued in opening brief are forfeited and cannot be raised in reply brief); *Vancura v. Katris*, 238 Ill.2d 352, 372-73 (2010) (issues not argued in appellate brief are forfeited).

Forfeiture aside, in the unlikely event this Court should choose to consider the issue there is *no merit* to the Agency's attempt to apply rule 130.853 to Van Dyke. Rule 130.853 must be considered in context with the corresponding securities regulations and relevant statutory authority. *People ex rel. Lisa Madigan v. Wildermuth,* 2107 IL 120763, ¶¶17-18 (language must be considered in its entirety, reading all parts together and considering relevant provisions in context with surrounding language). For example, rule 130.845(a)(5) requires registered investment advisors to maintain records "showing separately *all securities* acquired by the clients of the investment advisor and indicating thereon the proper identification of this *individual account*." SA82, 130.845(a)(5) (emphasis added). Similarly, investment advisors must maintain copies of dealer confirmations "of all transactions placed by the investment advisor for any *account*," as well as a list of "all *accounts* in which the investment adviser is vested with discretionary power." SA82-SA83, 130.845(a)(6-7). *See also* SA78-SA81 (analogous rules for securities dealers).

The Securities Department has never explained how a rule plainly designed to regulate investment advisors managing *accounts* of *securities* clients has anything to do with whether an insurance annuity is suitable for an insurance client. Obviously it makes no sense to apply rule 130.853 to an insurance producer recommending an insurance annuity, as registered investment advisors *cannot*, without risking a Class 4 felony, offer "*any* advice, counsel, opinion or service with respect to the benefits, advantages or disadvantages" of any annuity policy issued by an insurance company authorized to do business in Illinois. SA93-94; 215 ILCS 5/500-15(d).

Furthermore, the plain language of rule 130.853 requires an individualized analysis of transactions for each "client's [singular] account ... which are excessive in size or frequency or unsuitable in view of the financial resources and character of the account." A77, §130.853. The Securities Department never conducted *any* individualized analysis; nor did it consider the individual needs, financial status, or wishes of Van Dyke's individual insurance clients.

3. The Securities Department has *no expertise* to regulate insurance annuities.

A simple review of the arbitrary manner in which the Agency prosecuted Van Dyke – *i.e.,* by inventing *ad hoc* rules during the course of a disciplinary proceeding (*Van Dyke*, ¶¶28, 38-40) – illustrates that the Securities Department has *no expertise* to regulate insurance annuities. The Agency's lack of any rules or regulations is apparently why the prosecutor presented the testimony of Susan Lamb from the Department of Insurance. But Lamb's testimony did not help the Agency's case; it did the opposite.

Lamb made it crystal clear, and the DOI regulations confirm, that a proper suitability analysis requires careful consideration of each individual's financial situation. Lamb testified that "[e]very individual's financial situation is unique, they have different needs, they have different expectations." Accordingly, insurance producers must "very clearly consider the features in the current annuity contract versus the features in the potential replaced contract." AR577. But the Agency's witnesses never performed such an analysis. Instead, both DeWitt and O'Neal – witnesses with no insurance qualifications (or securities expertise) – neither performed nor were asked to perform the individualized comparison described by Lamb. AR802-803; AR841; AR620-AR621; AR625; AR628; AR630.

The reason courts sometimes defer to an administrative agency is that typically the agency, as the entity charged with enforcement, has developed "expertise" through the employment of professionals with regulatory experience, the enactment of appropriate rules and regulations through the JCAR process, and the development of a substantial body of regulatory decisions and precedent; all of which provide guidance to practitioners and notice to persons licensed by the agency of what is and is not permissible. *Abrahamson v. Illinois Dep't of Prof'l Regulation,* 153 Ill.2d 76, 98 (1992); *Provena Covenant Medical Center v. Dep't of Revenue,* 236 Ill.2d 368, 387 n.9 (2010). But that is the very problem with the agency's position. The

Securities Department *has no expertise* to regulate Van Dyke or any other insurance producer.

What is particularly troubling is that the suitability analysis the Securities Department performed is precisely *the opposite* of what is required under the Insurance Code. *Van Dyke,* ¶¶36, 39-40. At the prosecutor's direction, the Agency's witnesses focused only on aggregate surrender charges and fees by computing "averages" (O'Neal) or "putting hard numbers down" (DeWitt) in an effort to manipulate raw data and come up with aggregate "loss" figures later rubber stamped by the Hearing Officer as fraud. AR630; AR802-03. The Securities Department never performed – in fact it avoided – *any* analysis of the individual financial needs, expectations, or concerns of Van Dyke's clients. AR620. The Agency's actions constitute the very essence of arbitrary and capricious behavior by an administrative body. *See infra,* § II.

B. The Securities Department's Post-Hearing Position that FIAs are "Investment Contracts" has no Basis in the Record and is Contrary to Both Federal Law and Illinois Law.

The Securities Department dedicates much of its brief to developing a post-hearing position that insurance annuities are "investment contracts" pursuant to *federal law*. This claim has no basis in the record or case law.

1. The chronology in the administrative proceedings illustrates one of the many fatal flaws with the Securities Department's post-hearing "investment contract" theory.

The chronology of what happened in the administrative proceedings is particularly instructive. Early on, Van Dyke moved to dismiss the charges for lack of jurisdiction arguing that the plain language of Section 2.14 expressly excluded any "annuity issued by an insurance company authorized to transact business in [Illinois]" from regulation by the Securities Department. AR11-AR31. In response, the Securities Department did not mention, or even intimate, that the FIAs were "investment contracts." Instead, the prosecutor analyzed the definition of "face amount certificate contracts" in Section 2.14 of the Securities Law, compared it to other portions of the Act where "face amount certificates" were mentioned, and argued that the exclusion was "merely intended to reflect that such annuities are not required to be registered in Illinois" (AR70-74); a conclusory argument which makes no sense and is contrary to Section 2.14. *Van Dyke,* ¶¶23-24.

It was not until *after* the hearing that the prosecutor, in a short passage of his written closing argument, asserted that the replacement annuities were "investment contracts" under the Securities Law. In a one sentence argument, supported by a short footnote, the prosecutor *for the first time* argued that "[i]ndexed annuities (and variable annuities) are investment contracts and are therefore securities in Illinois." The footnote did not mention federal law, but instead cited to two Illinois non-annuity cases and one Illinois annuity case decided in 1924. AR151, n.1 (citing *Fidelity Investment Assoc. v. Emmerson,* 235 Ill.App. 9, 10, 17 (1924), *rev'd on other grounds,* 318 Ill. 548 (1925)). Later, *after* the case was appealed to the circuit court, the Securities Department advanced its "investment contract" position as its central argument by claiming – in *yet another new position* – that *federal law* supports a claim that FIAs are "investment contracts."[1] C211-C218.

2. The Securities Department never alleged that the annuities were "investment contracts," nor did it introduce *any* evidence to support such a claim.

The Notice of Hearing – which contains over 45 paragraphs of conclusory legal and factual allegations against Van Dyke – never mentions the term "investment contract" nor does it cite the Department's "investment contract" regulation. In fact, a search of the thousands of pages of testimony and exhibits offered during the hearing does not result in a single hit to the term "investment contract." AR975-AR5234. There is not a scintilla of competent evidence in the record to support the Securities Department's post-hearing "investment contract" theory. This is because the annuities at issue are *policies of insurance* fully approved by the DOI through its exclusive

[1] In the appellate court, the Securities Department abandoned its reliance on *Fidelity*, likely because the case was decided prior to the exclusion enacted by the General Assembly in 1925 and it did not involve an annuity issued by an insurance company (*see Fidelity,* 235 Ill.App. at 2,8); *Universal Underwriters v. Long,* 215 Ill.App.3d 396, 400 (4th Dist. 1991) (appellate court cases decided before 1935 are not precedential).

regulatory authority over all insurance annuity products. In fact, many of the exhibits introduced by the prosecutor contain unambiguous language stating: 1) "This is an insurance contract. *It is not a security*. If you select an Index Allocation, you do not own shares of an index. You do not own any equity or bond investments" (AR1346); and, 2) "I understand that this indexed annuity *is not a security* and that I have not invested directly in the stock market or any market index." SA245-SA246, AR1180, AR1240 (emphasis added). *See also* AR4698, AR4701, AR4764, AR4830 ("When you buy an equity-indexed annuity you own an insurance contract. You are not buying shares of any stock or index.").

Rather than cite to the record, the Securities Department repeatedly invents terminology like "hybrid contracts ... that pose investment risks to buyers," "complex, hybrid investment contract[s]" that "unsophisticated investors may not recognize ... are not in their best interests," "complex investment products," and "'complex products' imposing greater financial risks" to consumers. Appt's brief, *passim*. It is possible that the Securities Department may attempt, in its reply brief, to rely on testimony of its so-called expert, Dr. O'Neal, to support its post-hearing claim. For example, in its one-sided Statement of Facts, the Securities Department begins with the following two sentences:

> This matter arose from investment transactions in which Van Dyke, a registered investment adviser with the Secretary of State, recommended that 21 of his clients liquidate financial contracts that they owned called EIAs to replace them with 33

> newly purchased EIAs. These financial contracts are "complex securities" that unsophisticated investors may not understand. (R606).

Appt's brief, p.4. Although it is true that O'Neal initially described the annuities as "complex securities" (R606), the Agency omits that O'Neal later admitted he had no basis (or expertise) to give such an opinion:

> Q. Have you ever had a securities license?
>
> A. No.
>
> Q. Have you ever had an insurance license?
>
> A. No.
>
> Q. You testified earlier to the effect that indexed annuities are securities; is that correct?
>
> A. I don't know if I testified to that or not.
>
> Q. I believe you did.
>
> A. Okay. Maybe I did.
>
> Q. Are you familiar with the Illinois securities law?
>
> A. No.
>
> Q. All right. Are you familiar with federal securities law?
>
> A. I'm familiar with a little bit of it, but I'm not a legal expert.
> …
>
> Q. If I were to tell you that indexed annuities – in fact all annuities issued by an insurance company authorized to do business in the State of Illinois are defined as insurance in Illinois, would you disagree with that?
>
> A. No. (AR621-22).

Even if O'Neal had expertise on this point – which he does not – such testimony is improper and irrelevant. *Todd W. Musburger, Ltd. v. Meier*, 394 Ill.App.3d 781, 800-801 (1st Dist. 2009) (experts are not permitted to opine on issues of law, which are questions for judges to determine).

The Final Order does not contain any analysis – or mention of – the term "investment contract." This poses a serious problem for the Securities Department, as its decision may be upheld *only* based on the reasoning of the agency itself. Reviewing courts should not supply a basis for a decision that the agency itself has not provided. C*itizens Utility Co. v. Commerce Comm.,* 214 Ill.2d 195, 211 (1988). There is simply no basis, in fact or law, for the Securities Department's post-hearing "investment contract" theory.

3. Federal law does not support the Securities Department's investment contract theory.

The Securities Department's portrayal of federal law is inaccurate. Historically, the Securities Act of 1933, 15 U.S.C. 77a *et. seq.,* exempted from securities regulation "[a]ny insurance or endowment policy or *annuity contract* or optional annuity contract, issued by a corporation *subject to the supervision of the insurance commissioner*, bank commissioner, or any agency or officer performing like functions, of any State." 15 U.S.C. §77c(a)(8 (emphasis added); *American Equity Inv. Life Ins. Co. v. S.E.C.*, 613 F.3d 166, 168 (D.C.Cir. 2009); 17 C.F.R. 230.151. Despite the exemption, the Supreme Court ruled that certain *variable annuities* were subject to federal securities regulation. *SEC v. Variable Annuity Life Ins. Co.* (*"VALIK"*)*,* 359 U.S. 65, 69-

72 (1959) (variable annuities); *SEC v. United Benefit Life Insurance Co.,* 387 U.S. 202 (1967) (flexible fund annuity which had the same features as a variable annuity).

FIAs, on the other hand, were first introduced in the mid-1990s and were always considered exempt from federal securities laws. *American Equity,* 613 F.3d at 170-71. Within approximately a decade, sales of FIAs reached $24.8 billion with nearly sixty insurance companies selling them. *Id.* In 2007, the SEC proposed a new rule (Rule 151A) in *an attempt* to make FIAs "subject to the full panoply of the requirements set forth by the [federal] Act." *Id.* at 167. The SEC's efforts failed in 2009 when the Court of Appeals for the D.C. Circuit struck the rule down as "arbitrary and capricious" because it failed to comply with the Administrative Procedure Act. *Id.* at 177-179. The SEC subsequently withdrew and abandoned Rule 151A. *See* 75 Fed. Reg. 64641-01 (Notice of Withdrawal, Oct. 20, 2010).

Thereafter, as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 and the Harkin Amendment, Congress resolved any doubt by confirming that FIAs would remain exempt from regulation by the SEC and expressly reaffirmed the authority of states to regulate them solely as insurance products. *See* Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 15 U.S.C. § 989J, 124 Stat. 1376, 1949–50 (2010); NAFA *amicus* brief, pp. 5-7; ACLI *amicus* brief, pp. 19-20; F&G *amicus* brief, pp. 23-24.

The Securities Department does not mention Dodd-Frank and instead argues that federal law is the opposite of what it actually is. The Agency argues at length, relying primarily on the two half-century old Supreme Court cases cited above (*United Benefit* and *VALIC*), that FIAs are securities subject to regulation under the federal law. Appt's brief, pp. 29-33. Those cases are irrelevant not only for the reasons stated above, but because neither remotely supports the position that FIAs – which contain guaranteed minimum payments – are subject to regulation by securities agencies. *See, e.g., Malone v. Addison Ins. Mktg., Inc.*, 225 F. Supp. 2d 743, 749–51 (W.D. Ky. 2002) (following detailed analysis of *VALIC* and *United Benefit*, holding that FIAs are exempt from federal securities laws); *Ming Chu Wun v. N. Am. Co. for Life & Health Ins.*, No. 2:11-CV-00760-KJD, 2012 WL 893750, at 2 (D. Nev. Mar. 15, 2012) (FIA regulated by state insurance department exempt from federal securities laws).

Lastly, the Securities Department post-hearing "investment contract" theory fails for a more fundamental reason. The prosecutor's case against Van Dyke was brought under *Illinois law*, not federal law. *Cf. VALIC*, 359 U.S. at 69 (noting there is no uniformity state court rulings on annuities, and it is up to state courts to interpret state securities laws). On this point, the Securities Department relies on irrelevant non-annuity cases which have nothing to do with the issue presented. *See, e.g., Daleiden v. Wiggins Oil Co.,* 118 Ill.2d 528, 536 (1987) (oil and gas venture constituted a security because

Securities Law includes "fractional undivided interest in oil, gas, or other mineral lease, right, or royalty" in definition of "security"); *Integrated Research Services, Inc.,* 328 Ill.App.3d at 70 (investment in foreign currency trading account in which investment firm had complete discretion to make trades and investor could lose substantial portion of principal held to be a security). *See also* ALCI *amicus* brief, pp. 21-22.

4. Every Illinois appellate court to address the issue has concluded that annuities issued by insurance companies authorized to transact business in Illinois are *not* securities.

In addition to the fourth district in *Van Dyke,* two other Illinois appellate courts have determined that annuities issued by Illinois authorized insurers are *not* securities under the Securities Law. The second district first addressed the issue in *Rasgaitis v. Waterstone Financial Group, Inc*., 2013 IL App (2d) 111112. In *Rasgaitis,* investors who purchased life insurance annuities sued a registered investment advisor and others alleging fraud, negligence and various other claims, but the trial court dismissed the action based in part on the 3 year statute of limitations in Section 13 of the Securities Law. *Rasgaitis,* ¶¶21-23. The appellate court reversed, holding that the "[a]ction is not governed by the Securities Law" of 1953. *Id.* ¶*37. Cf. American Mut. Reins. Co. v. Calvert Fire Ins.*, 52 Ill.App.3d 922 (1st Dist. 1977) (federal and Illinois securities laws inapplicable to reinsurance contract).

More recently, in *Babiarz v. Stearns*, 2016 IL App (1st) 150988, the first district reached the same conclusion. After carefully analyzing federal law (including Dodd-Frank) and Illinois law, the court found that annuities are not securities, but are instead insurance products. *Id.* ¶¶25-28. Accordingly, "[i]t is apparent that, in practice, the Illinois Department of Insurance regulates FIAs." *Id.* ¶32.

C. The Securities Department's Remaining Statutory Interpretation Arguments Consist of Inappropriate Attempts to Invent a Justification for the Agency's Arbitrary and Capricious Prosecution of Van Dyke.

In addition to the repeatedly shifting and evolving positions summarized above, the Securities Department advances other positions – never alleged in the Notice of Hearing or addressed through any evidence presented at the hearing – designed to ignore the plain language of the Act and justify the arbitrary, capricious and unauthorized enforcement action it took against Van Dyke.

1. The Securities Department's Section 3.M position is contrary to the plain language of the Act and leads to an absurd result.

The Securities Department suggests that *Babiarz* and *Rasgaitis* (and *Van Dyke*) got it wrong because Section 2.14, when considered in conjunction with Section 3.M of the Act, should not be read to exclude insurance annuities from Agency regulation. Appt's brief, pp. 43-44. The Securities Department argues that Section 3.M merely "exempts" insurers from the requirement of registering annuity contracts as "securities," but does not otherwise preclude it from considering such annuity contracts as "securities" for purposes of enforcement under Sections 11 and 12. *Id.* Section 3.M says nothing of the sort. The pertinent language of Section 3.M is as follows:

> Sec. 3. The provisions of Sections 2a, 5, 6 and 7 [registration provisions] of this Act shall not apply to any of the following *securities*:...
>
> M. Any *security* issued by and representing an interest in or a debt of, or guaranteed by, any insurance company organized under the laws of any state.

SA87; 815 ILCS 5/3.M (emphasis added). Section 3.M has nothing to do with whether an *annuity* issued by an insurer is a *security.* An insurance annuity is *not* a *security*, because Section 2.14 of the Act unambiguously says it is not. *Id.*; *Bonaguro,* 158 Ill.2d at 397 (all parts of statute must be considered in connection with every other part or section). If this Court accepts the Securities Department's position, *every* insurance producer licensed by the Illinois Department of Insurance would be subject to regulation by the Securities Department; a result that could not have been intended by the General Assembly. *In re: B.C.*, 176 Ill.2d at 550 (unreasonable or absurd result must be avoided).

2. The General Assembly's decision, nearly one-half century ago, to place *all* variable annuities under the exclusive jurisdiction of the Department of Insurance further supports the appellate court's statutory interpretation.

The General Assembly's intent to exclude the Securities Department from regulating *all* insurance annuities is so complete that nearly a half century ago, in 1972, it conferred *sole* jurisdiction over *variable annuities* upon the Department of Insurance by enacting Section 5/245.24 of the Insurance Code:

> Notwithstanding any other provision of law, the Director [of the Department of Insurance] has sole authority to regulate the issuance and sale of variable contracts, and to promulgate such reasonable rules and regulations as may be appropriate to carry out the purposes and provisions of this Article.

SA92, 215 ILCS 5/245.24. The *Van Dyke* court reasoned that it "make[s] little sense for the legislature to place variable annuities out of the reach of the Securities Department but then subject annuity products such as indexed annuities to securities regulation." *Van Dyke,* ¶25. Indeed, if variable annuity contracts – which do not have minimum guaranteed values like the FIAs at issue here – are within the exclusive jurisdiction of the DOI, it is a *non sequitur* and absurd to suggest that the Securities Department can magically regulate indexed annuities. *In re: B.C.*, 176 Ill.2d at 550.

Despite the plain language of Section 5/245.24, the Securities Department advances the untenable position that the DOI's authority is limited to "regulating the companies issuing variable contracts" and overseeing "registration and maintenance of such contracts" because the Insurance Code "neither refers to salespersons nor addresses sales of variable contracts to individual buyers." Appt's, brief, pp. 40-41, *citing* 50 Ill.Adm.Code § 1451.20 [should be § 1551.20], 215 ILCS 5/245.21, 5/245.22, 5/245.23, 5/245.24, 5/245.25 and 5/245.60. The only way to reach such an awkward result is to *ignore* the plain language of the very portions of the

Insurance Code (and insurance regulations) cited by the Securities Department.

Section 5/245.24 expressly confers on the Director "sole authority to regulate the issuance *and sale* of variable contracts," as well as authority to "promulgate reasonable rules and regulations as may be appropriate." SA92, 215 ILCS 5/245.24 (emphasis added). To that end, the Director promulgated detailed regulations to license and regulate "variable contract producers" authorized to recommend variable annuities to Illinois consumers. SA30, 50 ILCS 1551.20 (defining "Variable Contract Producer"); SA39-40, 1551.90 ("[n]o producer shall be eligible to sell or offer for sale a variable contract unless ... the producer also is licensed as a variable contract producer."). The DOI regulations require that all "individual variable annuity" contracts issued to Illinois consumers include detailed provisions providing for grace periods, protections for overdue payments, options for surrender, and other protections the Director determines are "favorable to the holders of such" policies. SA34-SA36, 1551.60. In enforcing these comprehensive regulations, the Director has the same disciplinary authority over variable contract producers as other insurance producers. *Id.* 1551.90(e); 215 ILCS 5/500-15(a); 215 ILCS 5/500-70.

Van Dyke has included in his Supplemental Appendix all of the statutory provisions and regulations cited by the Securities Department, as well the other relevant DOI regulations designed to regulate, license and discipline "variable contract producers" who recommend and market variable annuities to Illinois consumers. SA29-SA43, SA91-SA93. There is no possible reading of these comprehensive statutory and regulatory provisions that remotely supports the Securities Department's position.

3. The Securities Department's "fiduciary duty" claim is not supported by any evidence, allegations or relevant legal authorities.

The Notice of Hearing did not include *any* allegations that Van Dyke violated a fiduciary duty, nor did it identify any section of the Securities Law or any agency rule, regulation or other basis for claiming that Van Dyke breached a fiduciary duty by recommending the replacement annuities to his insurance clients. Not a single witness testified regarding such a duty; in fact, the term "fiduciary" was never mentioned by *any* witness during the hearing. Despite the absence of evidence (or allegations) on this non-issue, the Hearing Officer included the following findings in his recommended decision (immediately after the paragraph relying on rule 130.853):

> 25. Under a suitability standard, a registered investment adviser and investment adviser representative only needs to recommend a product that meets the client's needs. Under a fiduciary standard, a registered investment adviser and investment adviser representative needs to consider alternative products, and disclose all conflicts and the fact that some products pay higher commissions than others.
>
> 26. As a registered investment adviser and investment adviser representative, the Respondents are held to a fiduciary standard who must act in the best interests of their clients.

SA16, C12. The Final Order adopted these findings without any citation to the record, charges or legal authority. A16, AR253. Yet, the Securities

Department devotes the last fourteen pages of its brief to arguing that federal and state law somehow magically supports a finding that Van Dyke breached a fiduciary duty to his insurance clients when he recommended the FIAs at issue. Appt's brief, pp. 49-62. The cases cited are not only irrelevant, but they fail to support the Securities Department's apparent position that some amorphous "fiduciary duty" trumps the applicable rules, regulations and statutory provisions of the Insurance Code. The Securities Department never explains – because it has no rules, regulations or expertise in this area – what "fiduciary" obligations Van Dyke was required to follow or violated; nor does it explain how a fiduciary duty (which by its very nature would require an individualized analysis as to each specific client) could possibly support the "aggregate" analysis invented by the Agency.

Finally, to the extent an insurance producer arguably owes a fiduciary duty under Illinois law, by statute such obligations are limited to the handling of money entrusted to the producer. *See* 735 ILCS 5/2-2201(b) (insurance producers do not owe a fiduciary duty except in the limited situation where a producer wrongfully retains or misappropriates money received as premiums or to pay out a claim). There are no allegations in this case that Van Dyke misappropriated any insurance premiums. To the contrary, each and every insurance client of Van Dyke received the replacement annuity insurance policies they paid for, and they were all satisfied with those policies. *See, e.g.,* AR636 (Miller); AR644 (Welch); AR845-46 (Perry); AR866-74 (Sawyers); AR765 (Creasy).

II. THE SECURITIES DEPARTMENT HAS FORFEITED REVIEW OF THE APPELLATE COURT'S HOLDING THAT ITS ACTIONS WERE ARBITRARY AND CAPRICIOUS; ALTERNATIVELY, THE APPELLATE COURT'S RULINGS ARE FULLY SUPPORTED BY THE RECORD.

In addition to the jurisdictional issue of whether FIAs are "securities" under the Act, Van Dyke argued to the appellate court that "the Department failed to prove fraud and acted arbitrarily *or, in the alternative*, any findings of fraud are against the manifest weight of the evidence. *Van Dyke*, ¶33 (emphasis added). The appellate court agreed, holding: "Here, we find the Secretary's decision is arbitrary, capricious, *and* against the manifest weight of the evidence." *Id.* ¶36. The appellate court's arbitrary and capricious finding is an independent basis for affirming reversal of the Final Order in favor of Van Dyke.

A. The Securities Department's Failure to Address or Respond to the Appellate Court's Arbitrary and Capricious Finding Results in Forfeiture.

The appellate court concluded that the Securities Department acted in an "arbitrary and capricious manner" because it has no "rules or written criteria for evaluating insurance annuities that would indicate its expertise in that area" and the only rule it alleged Van Dyke violated – Rule 130.853 – does not apply. *Id.* ¶¶35-38. An administrative agency's decision may be reversed for a myriad of reasons, two of which are: 1) the agency exercises its authority in an arbitrary and capricious manner; or, 2) the decision is against the manifest weight of the evidence. *Id.* ¶34. The appellate court concluded that *both* deficiencies existed. *Id.* ¶¶35-36. Ultimately the appellate court held, quite properly, that the actions of the Agency were based on an arbitrary and capricious invention of *ad hoc* rules by the prosecutor – including his arbitrary declaration that "the Department doesn't recognize a bonus as a reason for switching an annuity." *Id.* ¶38. *See also id.* at ¶28 (the Agency "attempts to define securities to include indexed annuities in a disciplinary proceeding, as opposed to the rulemaking process that would be subject to comment and challenge").

The Securities Department has not challenged, in either its PLA or brief, the appellate court's finding that the Agency acted in an arbitrary and capricious manner. Accordingly, the issue has been forfeited *twice*. *Buenz v. Frontline Transportation Co.,* 227 Ill.2d 302, 320–21 (2008) (issue not included in PLA is forfeited); S. Ct. Rule 341(h)(4)(7); *Vancura,* 238 Ill.2d at 372-73 (2010).

B. In the Unlikely Event this Court Chooses to Address the Forfeited Issue, the Appellate Court's Holdings that the Agency's Findings are "Arbitrary, Capricious, *and* Against the Manifest of the Evidence" are Correct.

Because forfeiture is a limitation on the parties but not on the Court, in the unlikely event this Court chooses to consider the issue Van Dyke addresses it below. *Jackson v. Bd. of Election Comm'rs*, 2012 IL 111928, ¶33 (reviewing courts are not bound by forfeiture rules, but the "principle is not and should not be a catchall that confers upon reviewing courts unfettered authority to consider forfeited issues at will").

The Securities Department's arbitrary application of newly created *ad hoc* rules is readily apparent from the testimony of the Securities Department's witnesses. The Securities Department spent $23,500, later assessed to Van Dyke, for an expert with no insurance or securities expertise to review a dozen pages of documents and give hypothetical opinions which bore no resemblance to any established rule or regulation. O'Neal admitted that for Dannenberger and Ward – as well as the 17 other ING surrenders when the MVA exceeded the surrender charges (SA98-SA99, AR615) – the replacement Aviva annuities would be more valuable in the future (at the point where the "lines cross" on his projections, *see* SA131, SA141), yet he claimed that the Aviva replacement annuities were not "in their best interests" because after applying the "time value of money" and what he termed the "age factor" he *assumed* they were more likely to need the money and surrender the Aviva annuities. AR616-619.

Not only is O'Neal's hypothetical analysis pure gobbledygook – *i.e.,* nowhere found in any rule, regulation, written standard or publication of the Securities Department (or the Department of Insurance for that matter) – it ignores the very suitability worksheets signed by Van Dyke's clients. The suitability worksheets signed by Dannenberger and Ward – which were never provided by Finnigan to O'Neal – verify that they did not intend to surrender the Aviva replacements, they both had other sources of income (pension, Social Security), and they had sufficient liquid assets for living expenses and emergencies other than the money needed to purchase the Aviva annuity. AR4566-AR4567 (Dannenberger); AR4253-AR4254 (Ward). The same is true for the suitability worksheets signed by many of Van Dyke's other insurance clients. SA174-SA175 (Perry), SA193-SA194 (G. Sawyer); SA197-SA198 (Elchlepp); SA199-SA200 (Caulk); SA227-SA228 (B. Sawyer).

The Securities Department's reliance on *Nat'l Assn for Fixed Annuities v. Perez*, 217 F.Supp.3d 1 (D.D.C. 2016), illustrates the fatal flaw with its position throughout the proceedings below. *Perez* involved a challenge to three final rules promulgated by the Department of Labor under ERISA that substantially modified the Department's fiduciary rules by imposing for the first time specific fiduciary obligations on insurance companies, insurance agents and others when they offer and sell FIAs and variable annuities to employee benefit plans and IRAs governed by ERISA. The rulemaking process *took six years*, beginning in 2010 and ending with final rules promulgated in April of 2016. *Id.* at 21-22. Following the initial proposal, the Department of Labor received over 300 comment letters, held an extensive public hearing where 38 witnesses testified, and received another 60 comment letters. Thereafter, due to the concerns raised and the impact of the proposed rules on the relevant stakeholders, the Department withdrew its proposal and later issued a revised proposal. It then held a four-day public hearing, made the transcript available online, and received and reviewed over three thousand comment letters and thirty petitions containing over 300,000 signatures before adopting the rules. *Id. at* 22-34.

The Securities Department cannot just make up the rules as it goes along – *e.g.,* Finnigan's rule that "the Department doesn't recognize a bonus as a reason for switching an annuity," or O'Neal's "age factor" and "time value of money" rules – and then manufacture evidence by creating irrelevant and misleading "spreadsheets" based on "aggregate" data about surrender fees and MVA values to refute the voluntary choices of 21 satisfied clients who never claimed to be defrauded in any fashion. O'Neal's testimony added *nothing* relevant to this case. Ironically, the prosecutor himself elicited the following devastating testimony from his own expert:

> Q. Professor O'Neal, your analysis is a strict economic analysis; is that correct?
>
> A. Yes, it is.
>
> Q. So other facts about certain features of the annuities, between the new annuity and old annuity, wouldn't be a factor in your analysis?
>
> A. Well, I mean, the question was, did I consider, you know, some of the other features, the death benefit or some of the others. I didn't consider that for either one of the annuities, not just the new annuities.
>
> Q. Because you were strictly looking at it from an economic point of view and an actual dollar amount that could be quantified?
>
> A. That's right.

AR630. Thereafter, O'Neal admitted that the purchase of an annuity should be "based upon individual needs," which "changes from one person to another." *Id.* He also acknowledged that a particular feature advantageous to one insurance client may well be different for another client. *Id.*

DeWitt gave similar testimony, admitting that his "hard numbers" did not take into consideration *any* of the features of the new annuities versus the old annuities. AR802-AR803. Even with the raw aggregate numbers, DeWitt admitted his analysis was arbitrary. DeWitt was aware that an MVA does not have any value except during surrender, yet he added the MVA to the pre-surrendered contract totals on his spreadsheets to calculate the "loss" when making a comparison to the new annuities. When asked why he did that, he responded, "I don't know" and admitted: "I was told to ... do this spreadsheet with these totals on it." AR791. DeWitt then testified as follows:

> Q. Then how can you calculate a loss when you have not included the actual calculation from a surrender and an MVA?
>
> [A] Because what we were trying to compare was the contract value and the market value adjustment before the contract was surrendered to the new contract. . . .
>
> Q. By your understanding of MVA, you cannot make that calculation because MVA doesn't apply before a contract is surrendered?
>
> A. Right.
>
> Q. It calls into question the entire calculation on 145; does it not?
>
> A. Sure.
>
> Q. For each and every one of those individuals that are on there?
>
> A. Yeah.

Q. Your loss calculation is simply are not taking into consideration all the factors, correct?

A. Right. AR794.

The Securities Department does not contest that DeWitt arbitrarily eliminated consideration of the bonus features of the replacement annuities after receiving instructions from Finnigan that "the [Securities] Department doesn't recognize a bonus as a reason for switching an annuity." *Van Dyke,* ¶38. Invalidation of this non-published rule makes it apparent that even the "aggregate" approach used by the Agency supports the voluntary choices made by Van Dyke's cases. For example, the Final Order listed the aggregate numbers from DeWitt's spreadsheets, including the surrender penalty charges, bonus recapture fees, and the total contract values for the surrendered annuities ($2,327,904.95) versus the amounts credited to the new annuities ($2,246,897.59), or a difference of $81,007.36. A12-A13, ¶11, C20. This difference omits the positive bonus total on the new annuities of $199,565.17 from Dewitt's spreadsheet (because of Finnigan's unpublished rule), which when added back in results in a net aggregate gain of $118,557.81. SA102-SA103, SOS Ex. 144.

At the prosecutor's direction, the Agency's witnesses focused only on surrender charges and fees by computing "averages" (O'Neal) or "putting hard numbers down" (DeWitt) in an effort to manipulate the data and come up with aggregate "loss" figures later rubber stamped by the Hearing Officer as fraud. AR630; AR802-03. Illinois courts have not hesitated to reverse administrative rulings under far less egregious abuses of administrative authority. *See, e.g., Walker,* 2015 IL App (1st) 140087, ¶¶51-52 (merit board decision to discharge employee for violating unwritten drug policy after positive drug test reversed as arbitrary and capricious); *General Service Employees Union,* 285 Ill.App.3d at 517 (reversing because Board, by "arbitrarily determining that a new test would now be applied," departed from prior practice and acted in arbitrary manner); *Springwood Associates,* 269 Ill.App.3d. at 951-52 (reversing agency's decision to approve application of skilled nursing facility because agency, by failing to apply the factors required by its own rules, acted in an arbitrary and capricious manner).

C. The Securities Department's Findings of Fraud – Whether Based on Section 12.J of the Act or Otherwise – are Against the Manifest Weight of the Evidence.

The Securities Department argues that the appellate court "disregarded" evidence showing that Van Dyke violated Section 12J of the Act "by recommending investments that were not in his clients' best interests and engaging in fraudulent and manipulative conduct." Appt's brief, p.45. According to the Agency, Van Dyke was subject to section 12.J because he "acted as an investment advisor when he recommended the challenged transactions" to his insurance clients. *Id.* There are at least three fatal flaws with the Securities Department's position. First, the arbitrary and capricious finding discussed above is an independent basis for affirming the appellate court. Second, as addressed in the cross-relief section of Van Dyke's brief, at all relevant times Van Dyke was acting as an insurance producer; not as a registered investment advisor (to avoid repetition, Van Dyke incorporates herein Section III(A) of this brief). Third, the Agency's decision is against the manifest weigh of the evidence because there is *no competent evidence* in the record that Van Dyke defrauded *any* of his insurance clients.

The Securities Department makes no credible attempt to dispute the summary of the evidence and testimony of Van Dyke's clients included in the appellate court's decision. Fourteen of Van Dyke's insurance clients testified that they were satisfied with their replacement annuities and acknowledged that *they made the decisions* to switch; and seven were not even called as witnesses. There is no dispute that Van Dyke's clients reviewed and signed the required application forms, rider forms and other DOI approved forms acknowledging they were aware of the various benefits, features, surrender charges and fees associated with the replacement annuities. *Van Dyke,* 2016 IL App (4th) 141109, ¶41. Examples of those forms are included in Van Dyke's Supplemental Appendix. SA171-SA262.

The Securities Department, instead of addressing the plain language of the thousands of pages of insurance exhibits *it offered* into evidence, ignores the insurance policies entirely (and the testimony of Van Dyke's clients) in one fell swoop by arguing, without citing to the record, that "[s]uch boilerplate statements and small-print recitations of contract terms provide at most conflicting evidence regarding each client's reasonable reliance." Secretary's brief, p. 46. The annuity contracts, annuity applications, and other insurance documents at issue were all reviewed and approved by the Department of Insurance. AR578 (Lamb). There is nothing "boilerplate" about these documents. For example, the documents received by Van Dyke's clients accurately listed the gross cash surrender amount, the surrender charge, the MVA adjustment and the "net amount" received, which in most cases resulted in the MVA offsetting or wiping out the surrender charge entirely. SA246-SA262.

In addition to the forms, Van Dyke's clients testified they were aware of the surrender charges, bonus features, the enhanced benefits of the replacement annuities compared to the older annuities, and the like; which led to *their decisions* to replace the annuities based on their individual needs. *See infra,* SOF, pp. 20-25. But it makes no difference to the Securities Department what *any* of Van Dyke's individual clients wanted, knew or decided because in the prosecutor's view they are "unsophisticated investors" who have no idea what they are doing. If this Court accepts such an affront to settled principles of contract law (and basic principles of due process), all insurances producer in the State of Illinois should immediately turn in their licenses and leave the State of Illinois.

In a further effort to ignore the contractual wishes of Van Dyke's clients and invent a non-existent fraud claim, the Securities Department cites to DeWitt's testimony to argue that Van Dyke signed suitability confirmation forms for his clients misrepresenting that there would be no surrender penalties of any kind (*e.g.,* R557-62, R1872-73, 2472-74), and specifying penalty rates that were below the actual rates (*e.g.,* R557-59, 686, 1872-73). The Securities Department is referring to the same forms at issue in the separate action brought against Van Dyke by the Department of Insurance. It is no secret what happened with those forms. On the annuities where the MVA exceeded the surrender charge, Van Dyke did not list a surrender charge because the MVA completely wiped it out (or, as DOI actuary Sartain put it, "offset" the surrender charge (AR713)), and on the others he reduced the surrender charge percentage by the amount of the increase from the MVA. *Compare* SA98-SA99 (SOS Ex. 6) to *e.g.,* AR1656-AR1659, AR1752-AR1755, AR1872-AR1873, AR2116-AR2117, and AR2473-AR2474. The Department of Insurance fully investigated these issues and reached a settlement with Van Dyke whereby he paid $6,000 with no admission of wrongdoing. SA21-SA28.

The Securities Department, rather than cite to *competent evidence* of fraud (there is none), engages in a game of semantics by pointing to testimony from DeWitt and Lamb to argue that "the MVA did not constitute such a credit, but instead is a separate contract feature from the surrender charge." Appt's brief, p. 54. Regardless of the wording – offset, credit, separate contract feature, or otherwise – the undisputed evidence is that the MVA resulted in a corresponding *increase* in the net surrender value that each and every insurance client understood. *See, e.g.,* SA249-SA261.

The lack of *any* competent evidence in the record is further illustrated by the conflicting and arbitrary spreadsheets the Agency continues to rely upon even to this day. For example, the Securities Department argues that "even including bonuses, Van Dyke's clients still lost almost $100,000 in the replacement transactions from surrender charges and penalties. (R808-12, 4877-78)." Appt's brief, pp. 56-57. With respect to George Perry, the Agency claims that "even with the bonuses, the Department's evidence showed that Perry immediately lost over $2,000 in surrender penalties from his replacement transactions (R4877)." Appt's brief, p. 60. The Agency is referring to SOS Ex. 145 – included in Van Dyke's Supplemental Appendix at SA104 – the spreadsheet DeWitt prepared wherein he added the MVA to the "surrendered contract total" to calculate his aggregate comparison to the "new contract with bonus." SA104. But the *undisputed testimony* is that an MVA applies only if there is a surrender of the insurance annuity within the surrender charge period. Absent surrender, an MVA does not increase the value of the annuity nor does it earn interest or have *any* value. AR711 (Sartain); AR609 (O'Neal); AR578-79 (Lamb). For this reason, DeWitt ultimately had to admit that adding the MVA to the surrendered annuities [as he was "instructed" to do] was improper and made no sense. AR791, AR794.

The Securities Department charged Van Dyke with repeated conclusory allegations of *fraud,* and then inundated him with thousands of pages of insurance annuity documents; documents which demonstrated that each and every insurance client applied for and agreed to the terms of the replacement annuities at issue. The bulk of the Agency's case consisted of DeWitt identifying, reading from and giving opinions and calculations about selected portions of thousands of pages of insurance annuity documents using spreadsheets prepared using irrelevant figures and data in a format directed by Finnigan (contrary to what is required under the Insurance Code). AR531-AR562. Later, after Van Dyke's counsel had an opportunity to sift through these massive documents to question DeWitt about his conclusions, Finnigan stated: "I'm going to object. There's no foundation – he's never been certified or testified that he's an expert on insurance products or, you know, familiar with them." AR803. An absolutely true and accurate objection, but stunning in light of the Agency's substantial reliance on DeWitt's testimony to interpret and opine about aggregate losses, alleged errors on insurance forms, projections about bonus fees, and how none of Van Dyke's clients "could come out ahead." AR549-AR563.

No administrative agency could do what the Securities Department did in a civil court of law. Indeed, under Illinois law there are heightened pleading and burden of proof requirements for fraud claims. Specifically, a fraud complaint must allege "with specificity and particularity, facts from which fraud is the necessary or probable inference, including what misrepresentations were made, when they were made, who made the misrepresentations and to whom they were made." *Connick v. Suzuki Motor*

Co., 174 Ill.2d 482, 496-97 (1996). A plaintiff in a fraud case bears the burden of proving fraud by *clear and convincing evidence*. *Brody v. Finch Univ. of Health Sciences,* 298 Ill.App.3d 146, 161 (2d Dist. 1998); *Lidecker v. Kendall College*, 194 Ill.App.3d 309, 314 (1990).

Although in most administrative proceedings (including here) the burden of proof is the lesser preponderance of the evidence standard, even under that relaxed standard this Court held long ago that more is required when an administrative agency charges, as here, an individual with conduct constituting a crime. In *Dresner v. Civil Service Commission,* 398 Ill. 219 (1947), this Court held that where an administrative proceeding involves conduct constituting a crime, while the "charge need only be proved by a preponderance of the evidence, ... the evidence of guilt should be *clear and convincing*." *Id.* at 227. *See also McCleary v. Board of Fire and Police Comm.,* 251 Ill.App.3d 988, 1001 (2d Dist. 1993).

The appellate court's rulings, with the exceptions listed below, are correct and should be affirmed.

III. VAN DYKE'S REQUEST FOR CROSS RELIEF

The appellate court concluded that the Securities Department had jurisdiction over Van Dyke because "at all relevant times ... he marketed and otherwise held himself out to clients as a registered investment advisor." *Van Dyke,* ¶30. To reach this conclusion, the appellate court accepted the Securities Department's summary of evidence in the record which purportedly supported the Agency's determination that Van Dyke acted as an investment advisor when he recommended one or more of the replacement annuities. Van Dyke disagrees with the appellate court's analysis and therefore requests cross relief to contest this finding. In addition, Van Dyke sought other relief never addressed by the appellate court (*e.g.,* an award of attorney's fees) and therefore requests cross-relief on those points as well.

A. Section 12J of the Act is Inapplicable because Van Dyke was Not Acting as an Investment Advisor When he Recommended Replacement Annuities to his Insurance Clients During the Twenty Month Period at Issue.

The words "acting as an investment advisor" must be construed in the context of the definition of an "investment advisor" included in the Securities Law. The definition plainly states that an investment advisor must be rendering advice relating to "securities" to be acting as an investment advisor:

> "Investment advisor" means any person who, for compensation, engages in ... advising others ... as to the value *of securities* or as to the advisability of investing in, purchasing or selling *securities* or who ... issues or promulgates analyses or reports *concerning securities*, or any financial planner who . . . provides the *foregoing investment advisory services* to others for compensation . . . .

SA88; 815 ILCS 5/2.11. *See also* SA89; 815 ILCS 5.2.11b. Van Dyke was not acting as an investment advisor because all of his conduct in this case involved recommending insurance annuities (which are *not* securities). The language of Section 12J, when considered in context with the definition contained in Section 5/2.11, requires that an investment advisor must be giving advice relating to "securities" to be in violation of Section 12J. *See*

People ex rel. Lisa Madigan v. Wildermuth, 2107 IL 120763, ¶¶17-18 (statute must be considered in its entirety, reading all parts together and considering the relevant provisions in context with the surrounding statutory language).

To the limited extent the Securities Department relies on the record for its claim that Van Dyke was "acting as an investment advisor," it cites only to irrelevant evidence from time periods not at issue in the Notice of Hearing. The following quote from the Agency's brief represents the sum and substance of the "evidence" it claims supports its Section 12.J position:

> Van Dyke held himself out as a registered investment adviser in his financial planning agreement with Jimmy Klee (R779-80, 1035-36), and in his confidentiality agreement for financial planning services with Gerald and Barbara Sawyer (R1532) ... Van Dyke prepared financial plans for clients in which he identified himself as a registered investment adviser, recommended the sale and purchase of investments (including indexed annuities), and represented that "[t]his summary is based on my professional opinion as a Registered Investment Advisor..." (R1779-82; *see, e.g.,* R2127-30, 2824-28). In his agenda for meetings with clients, Van Dyke identified concerns about their specific stock holdings and proposed indexed annuities as the solution. (R1536). Accordingly, Van Dyke's Clients testified that they relied on him for investment advice or viewed him as their financial adviser (R658, 708, 720, 724, 730, 765, 768-69)....

Appt's brief, pp. 47.

The above-quote is designed to lead the reader to conclude that when Van Dyke recommended replacement annuities during the period between "February 2009 through October 2010," he was somehow *acting as* a registered investment advisor. What the Securities Department does not tell the Court is that with one exception *all* of the documents cited are from 2005-

2007, long *before* Van Dyke recommended the replacement insurance annuities in 2009 and 2010. The "confidentiality agreement" and "agenda for meetings" are from May of 2007 and relate to an analysis performed by Van Dyke for Barb and Jerry Sawyer before they purchased their initial ING annuities. R1532-R1536 (SOS Exs. 33-34). The "financial plans" quoted are for George Perry in October of 2006, Joleen Welch and her husband in October of 2005, and Don and Alice Elchlepp in September of 2006. R1779-R1782 (Perry); R2127-R2129 (Elchlepp); R2824-R2828 (Welch). These documents are wholly *irrelevant* to the insurance transactions at issue – the replacement annuities – all of which occurred many years later in 2009 and 2010. C10, ¶¶11-14, C12-C14, ¶¶30-35.

Immediately after citing the irrelevant 2005-2007 documents, the Securities Department takes its inventive approach a step further by stating: "Accordingly, Van Dyke's Clients testified that they relied on him for investment advice or viewed him as their financial adviser (R658, 720, 724, 730, 765, 768-69)." Appt's brief, p. 47. The obvious goal from the paragraph structure and the use of the adverb "accordingly" is to lead the reader to believe that Perry, Elchlepp, Welch and the Sawyers testified that they believed Van Dyke was acting as their investment adviser when they purchased the replacement annuities. The testimony cited, however, is to isolated and out-of-context portions of the prosecutor's direct or cross of six *different* insurance clients – Ward, Berry, Caulk, Dannenberger, Creasy and

Hemenway – about their general understanding when they first went to see Van Dyke in 2005, 2006 or 2007. R658,708,720,724,730,765,768-69.

There is *no competent evidence* that Van Dyke was acting as an investment advisor when he recommended the replacement annuities in 2009 and 2010. Of the twenty-one insurance clients at issue in the Notice of Hearing, *only one,* Jimmy Klee, had retained Van Dyke to perform investment advisor services during the time frame the replacement annuities were recommended. Klee and his wife, Marilyn, paid Van Dyke a $1,975 retainer in July of 2009 for financial planning services (100% refundable in the first year, if the Klees were not satisfied) (AR1035-AR1036, SOS Ex. 7)). The agreement had nothing to do with the two replacement annuities Klee purchased *fifteen months* later on October 15, 2010. AR1038, AR1060.

Van Dyke has never disputed that he acted as an investment advisor early on when he had investment advisor agreements with some of his clients and assisted them with liquidation of certain securities to purchase the original annuities. But the Securities Department *never alleged* that he acted improperly in any of those earlier transactions. Quite the contrary, the Agency's position has always been that Van Dyke's clients should not have surrendered the earlier ING during the twenty month period in 2009 and 2010, even though they made the decisions to do so with full knowledge and consent and they were happy with the replacements. The Agency's inaccurate characterization of the record on appeal to invent a Section 12J position is akin to the arbitrary approach it took throughout these proceedings when it created *ad hoc* rules and then manipulated aggregate surrender charge and MVA data in a manner directly contrary to the *individualized* DOI regulations Van Dyke was required to follow.

B. The Fines and Penalties are Arbitrary, Excessive, Contrary to the Evidence, and Inconsistent with the Fines Imposed in Other Cases

Van Dyke has already described why the Agency's fraud findings are arbitrary and capricious, and he adopts those same points here. *See supra*, §§ II(A)-(C). In addition, the fines imposed in this case, $330,000 (10k per replacement FIA) plus $23,500 to reimburse the Department for Dr. O'Neal's testimony, are unprecedented, oppressive, and wholly inconsistent with the record and fines imposed in other cases. The total fines requested by Ellis were simply rubber stamped by the Hearing Officer with no reasoning or analysis. Van Dyke has located only one Securities Department case, cited on page 42 of the Agency's brief, involving analogous insurance annuities (a case involving the same prosecutor and Hearing Officer). In *Senior Financial Strategies, Inc., d/b/a Pinnacle Investment Advisers,* 2011 WL 3295987 (2011), Finnigan obtained a fine from Ellis of $10,000 against *two* investment advisors who were also licensed insurance producers ($5,000 per advisor) after the Agency presented essentially the same aggregate analysis later presented against Van Dyke. In *Pinnacle,* twelve insurance clients were found to be defrauded (relying on Rule 130.853), yet the fine requested was only \$10,000. *See Pinnacle,* 2011 WL 3295987. Here, Finnigan asked for, and Ellis rubber stamped, thirty five times the fine issued in *Pinnacle.*

Illinois courts frequently reverse analogous arbitrary and capricious penalties issued by administrative agencies. *Roman v. Cook County Sheriff*'s *Merit Comm.,* 2014 IL App (1st) 123308, ¶147 (1st Dist. 2014) (reversing penalties imposed on correctional officers, finding them grossly disproportional to penalties in analogous cases); *Gruwell v. Illinois Dept of Prof. Reg.,* 406 Ill.App.3d 283 (4th Dist. 2010) (25k fine in administrative proceeding reversed as excessive and overly harsh because it was 233% higher than the fine imposed for another respondent). *Id.* at 296-97.

During the proceedings in the appellate court, Van Dyke's counsel conducted a Westlaw search of all cases where Hearing Officer Ellis issued a recommended decision for the Securities Department and located a total of 66 decisions. SA265-SA268 (list of cases with citations and fines). In *every* case, including 26 prosecuted by Finnigan, Ellis issued a recommendation in favor of the Securities Department and the Department adopted, in whole or in part, those findings. Interestingly, in two cases decided by Ellis the Agency adopted Ellis' decision entirely but rejected his recommended finding of fraud because "fraud was not alleged in the Notice of Hearing." *In re: Some Music, Inc.*, 2003 WL 21685881; *In re: Touch Scientific*, 2003 WL 21685873 (2003). The highest fine imposed in any of the 66 cases was \$70,000, with most at less than $10,000 or no fine at all (e.g., censure or other sanction). SA265-SA268 (listing cases).

Finally, the administrative irregularities and abuses in this case are further reflected by the manner in which the Agency issued its Final Order. Unless the Securities Department is taking the position that Jesse White personally reviewed the massive administrative record prior to adopting the decision (which obviously did not occur in the 16 days between Ellis' recommendation and the Final Order), Finnigan's initials next to the Secretary's signature stamp appear to mean only one thing; to wit, the prosecutor himself adopted the recommended decision. *See* 14 Ill.Adm.Code 130.1123(d) (requiring that the Secretary review the record prior to accepting or rejecting recommended decision of hearing officer). A21, C28; *Cf.* SA9.

C. This Court Should Remand this Matter to the Circuit Court with Instructions to Award Van Dyke his Attorneys Fees.

In the proceedings below, Van Dyke asked for attorney's fees due to the Securities Department's creation of *ad hoc* rules in violation of 5 ILCS 100/10-55. The plain language of Section 100/10-55 states that "[i]n any case in which a party has *any administrative rule* invalidated by a court for any reason, *including but not limited to the agency's exceeding its statutory authority* or the agency's failure to follow statutory procedures in the adoption of the rule, the *court shall award* the party bringing the action the reasonable expenses of the litigation, including reasonable attorney's fees. 5 ILCS 100/10-55(c) (emphasis added). A rule is defined as a principle, procedure, or regulation governing conduct or action, and attorney fees are appropriate even where an agency has not formally adopted a rule but is instead relying on a procedure which has the effect, force or impact of a rule. *Ackerman v. Department of Public Aid*, 128 Ill.App.3d 982, 983 (3d Dist. 1984). This is just such a case.

The Securities Department's creation of *ad hoc* rules to invent a fraud claim against Van Dyke and disregard the contractual wishes of his clients is an unprecedented abuse of administrative authority. Unable to find any problems with Van Dyke's securities files, the Securities Department subpoenaed and analyzed all of his *insurance files* (as many as 125 clients), selected the ones involving "replacement annuities" over a twenty-month period that had "surrender charges" or "bonus recapture fees," and then created unpublished procedures to permit the agency to manipulate the bonus and MVA data in an arbitrary manner with the no consideration or analysis of whether the replacement annuities were suitable based on each individual client's unique needs, wishes and financial status.

If the Securities Department genuinely viewed Van Dyke's conduct as having fraudulently caused massive "losses" to 21 "senior citizens," as charged [most were in their early to mid-60s (SA169)], it had the option to request that the Attorney General institute forfeiture proceedings pursuant Section 5/11.I(3) of the Securities Law. 815 ILCS 5/11.I(3). Instead, it proceeded with this arbitrary administrative enforcement action to impose unprecedented fines of over $350,000 which, if it wins this appeal, will not compensate any of the alleged "victims" (who are, after all, happy with their insurance annuities) but instead will be deposited in the Securities Department's Audit and Enforcement Fund to fund future arbitrary proceedings against licensed insurance producers. A21, C28.

CONCLUSION

For the foregoing reasons, Van Dyke requests an order affirming the appellate court and remanding this case to the circuit court with directions to award Van Dyke his attorney's fees, and for such other relief as this Court deems appropriate.

Dated: June 8, 2018

Respectfully submitted,

/s/ William P. Hardy

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CERTIFICATION OF COMPLIANCE

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of the brief, excluding the pages containing the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a) is 17,344 words.

/s/ William P. Hardy

William P. Hardy

CERTIFICATE OF SERVICE

I, William P. Hardy, attorney for Plaintiff-Appellee, certify that I electronically filed and served the foregoing brief with the Clerk of the Illinois Supreme Court, and that I caused one copy to be served on the attorneys listed below by email, on June 8, 2018:

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Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct.

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SUPPLEMENTAL APPENDIX

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STATE OF ILLINOIS
SECRETARY OF STATE
SECURITIES DEPARTMENT

IN THE MATTER OF: RICHARD LEE VAN DYKE DBA DICK VAN DYKE REGISTERED INVESTMENT ADVISER	File No. 1100244

Notice of Hearing

TO THE RESPONDENTS: Richard Lee Van Dyke (CRD Number 5182299)
DBA Dick Van Dyke Registered Investment
Adviser(CRD Number 141251)

c/o Michael D. Morehead
Hinshaw & Culbertson
400 S. Ninth St., Suite 200
Springfield, IL 62701

You are hereby notified that pursuant to Section 11.F of the Illinois Securities Law of 1953, ~~[815~~ ILCS 5/1 et seq.] (the "Act") and 14 Ill. Adm. Code 130, Subpart K, a public hearing will be held at 300 W. Jefferson St., Suite 300A, Springfield, Illinois 62702, on the 15th Day of May, 2013 at the hour of 10:00 a.m., or as soon thereafter as counsel may be heard, before Jon K. Ellis, or such other duly designated Hearing Officer of the Secretary of State.

Said hearing will be held to determine whether an Order should be entered against Richard Lee Van Dyke D/B/A Dick Van Dyke Registered Investment Adviser ("Dick Van Dyke") which retroactively revokes or suspends his Investment Adviser and Investment Adviser Representative registrations. Additionally, said hearing will be held to determine whether an order which prohibits the Respondents from offering or selling securities in the State of Illinois and granting such other relief as may be authorized under the Act including but not limited to imposition of a monetary fine in the maximum amount pursuant to Section 11 of the Act, payable within ten (10) days of the entry of the Order.

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SECRETARY OF STATE
EXHIBIT NUMBER 1

The grounds for such proposed action are as follows:

Summary

This case involves a former registered investment adviser and investment adviser representative who during the time period he was registered with the Illinois Securities Department ("the Department") defrauded over 21 clients, all of whom are senior citizens, of $263,822.13. Dick Van Dyke holds himself out as an author and nationally recognized retirement educator who is an expert on Indexed Annuities and retirement planning. Dick Van Dyke specifically targets senior citizens through his web site, newspaper advertisements and free lunch seminars. Some of the seminars were characterized as educational workshops on social security benefits for persons age 55 or older. Dick Van Dyke recommended and sold 31 transactions that resulted in the early surrender of Indexed Annuities in order to purchase new Indexed Annuities. For these transactions Dick Van Dyke received $160,937.05 in commissions but his clients lost $263,822.13 in surrender charges, penalties and other fees. In addition, Dick Van Dyke, in all but one transaction, had sold the surrendered Indexed Annuity and had received $155,341.51 in commissions from the transactions.

1. Richard Lee Van Dyke DBA Dick Van Dyke Financial Registered Investment Adviser ("Dick Van Dyke") was an Investment Adviser and Investment Adviser Representative registered in Illinois from July 25, 2006 through December 31, 2007 and August 7, 2008 through December 31, 2011. He is also licensed to sell insurance in the State of Illinois.

2. Beginning in 2006, Dick Van Dyke advertised financial and retirement planning seminars held at local hotels, restaurants and other venues offering free dinners and other meals.

3. Some of the seminars were advertised as Social Security Workshops and were described as: "our educational workshop designed for individuals and couples 55 or older."

4. In addition to newspaper advertisements and retirement planning seminars, Dick Van Dyke also from 2006 through the present maintained a web site located at dickvandykefinancial.com.

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5. Through his website and other advertisements, Dick Van Dyke states that he is a "...nationally recognized retirement educator" and his web site contains purported educational retirement planning videos and other materials.

6. Additionally, he advertises that he has a designation of CSA, Certified Senior Adviser.

7. Dick Van Dyke's advertisement, marketing and purported retirement planning educational materials are primarily targeted towards senior citizens.

8. Through these seminars, his website and other advertisements, Dick Van Dyke obtained investment advisory clients and in later meetings provided investment advice, financial planning and recommendations to purchase financial products including Indexed Annuities.

9. Sales of some of these financial products, including Indexed Annuities, were effected through Dick Van Dyke Financial, Ltd., a wholly owned corporation of Richard Lee Van Dyke.

10. As of August 2011, the Respondents had over 100 clients.

11. On or about August 2011, the Department initiated an audit/examination of the Respondents.

12. During its audit and investigation, the Department discovered that from February 2009 through October 2010, the Respondents effected 31 purchase transactions involving the liquidation of their clients' previously owned Indexed Annuities to purchase one or more new Indexed Annuities.

13. All of the purchase transactions reviewed by the Department involved persons age 58 or older at the time of the transactions with the oldest person at age 82.

14. In total, $2,304,715.09 of Indexed Annuities were surrendered before their surrender period had expired and $2,055,474.60 of new Indexed Annuities were purchased in these 31 transactions.

15. The surrendered annuities were all issued by one insurance company and included a Market Value

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Adjustment which was a derivative value calculated by a formula tied to current U.S. interest rates. This value could be positive or negative and would be applied to the accumulated value of the Indexed Annuity to determine a final accumulated value. The surrender charge is calculated as a percentage of the final accumulated value.

16. In these 31 transactions the surrendered Indexed Annuities had positive Market Value Adjustments resulting in higher accumulated values for the surrendered Indexed Annuities and greater surrender charges.

17. Indexed Annuities are financial products meant to be held by investors for the long term. As such, if an Indexed Annuity is liquidated or surrendered early before the completion of a surrender period, the investor is subject to a surrender charge based upon the length of time the Indexed Annuity was held. The surrender penalty is reduced based upon the length of time the product is held. In addition, if an Indexed Annuity is surrendered/liquidated early, the investor may be subject to a recapture of any bonus paid to the investor upon the initial purchase of the Indexed Annuity.

18. Under Illinois law, Indexed Annuities are securities subject to the Act. However, if the Indexed Annuity meets certain requirements under the Act, the Indexed Annuity is exempt from registration with the Department under the Act and the persons selling them are exempt from securities salesperson and/or dealer registration under the Act. Though an Indexed Annuity may be exempt from registration, the sale of the product is still subject to the other provisions of the Act.

19. The Department's analysis of the above transactions determined that 28 existing Indexed Annuities held by the Respondents' clients were liquidated resulting in $263,822.13 in losses from surrender charges, other penalties and fees.

20. The remaining funds, minus some client withdrawals were used to purchase new, replacement Indexed Annuities. Dick Van Dyke earned $160,937.05 in commissions from the sale of these new replacement Indexed Annuities.

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21. In all of the transactions but one, the existing Indexed Annuity had been sold to the client by Dick Van Dyke and for which Dick Van Dyke earned $155,341.51 in commissions.

22. In total, Dick Van Dyke earned $316,278.56 in commissions from the sale of these Indexed Annuities while his clients lost $263,822.13 due to surrender charges, penalties and fees.

23. In all 31 transactions, the new Indexed Annuities had higher fees imposed by the insurance company for that Indexed Annuity than the previous Indexed Annuity. The higher fees ranged from 0.6% to 2.95% percent of the account value charged on an annual basis.

24. Additionally, twelve of the new Indexed Annuities offered a bonus dollar amount to the investment for which the investor paid an additional fee of 1.05% for a period of six or twelve years depending on the specific Indexed Annuity.

25. All of the above transactions were solicited and made at the recommendation of Dick Van Dyke or as part of investment advice and/or financial planning provided by the Respondents.

26. The following three examples are illustrative of the fraudulent and deceptive nature of the recommended transactions.

27. GS and BS are husband and wife ages 66 and 64 at the time of the replacement transaction. Dick Van Dyke solicited and recommended to them to surrender three Indexed Annuities he sold individually to them (two to GS and 1 to BS) in 2007 in order to purchase three new Indexed Annuities in April 2010. This transaction of the surrender of three Indexed Annuities in order to purchase three new Indexed Annuities caused BS and GS to suffer a total of $32,820.14 in surrender charges and other penalties. Dick Van Dyke earned commissions of $18,008.25 on top of the $16,642.10 he had previously earned from selling the surrendered Index Annuities in 2007 to the couple for a total of $34,650.35.

28. RF, age 65 at the time of the transaction, was solicited and recommended by Dick Van Dyke to surrender one Indexed Annuity sold to him in 2009 in order to

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purchase two new Indexed Annuities in October 2010. This transaction of the surrender of one Indexed Annuity in order to purchase two new Indexed Annuities caused RF to suffer surrender charges and other penalties of $26,841.43. Dick Van Dyke earned commissions of $9,654.52 on top of the $11,189.80 he earned from selling the surrendered Indexed Annuity to RF in 2009 for a total of $20,844.32.

29. JW, age 63 at the time of the transaction, was solicited and recommended by Dick Van Dyke to surrender two Indexed Annuities sold to her in 2005 in order to purchase three new Indexed Annuities in February 2009. This transaction of the surrender of two Indexed Annuities in order to purchase three new Indexed Annuities caused JW to suffer surrender charges and other penalties of $25,835.56. Dick Van Dyke earned commissions of $18,601.61 on top of the $19,423.36 he earned from selling the two surrendered Indexed Annuities to JW in 2005 for a total of $38,024.97.

30. Rule 853 of the Rules and Regulations Under the Illinois Securities Law of 1953, 14 Admin Code 130.100 et seq., provides: "Effecting or causing to be effected by or for any client's account, any transactions of purchase or sale which are excessive in size or frequency or unsuitable in view of the financial resources and character of the account, shall constitute an act, practice, or course of business on the part of the registered investment adviser or its representatives effecting such transactions or causing the transactions to be effected that is fraudulent, deceptive or manipulative."

31. That Section 12.A of the Act provides, inter alia, that it shall be a violation of the Act for any person to offer or sell any security except in accordance with the provisions of this Act.

32. That Section 12.F of the Act provides, inter alia, that it shall be a violation of the Act for any person to engage in any transaction, practice or course of business in connection with the sale or purchase of securities which works or tends to work a fraud or deceit upon the purchaser or seller thereof.

33. That Section 12.G of the Act provides, inter alia, that it shall be a violation of the Act for any person to obtain money or property through the sale of securities

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by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.

34. That Section 12.I of the Act provides, inter alia, that it shall be a violation of the Act for any person to employ any device, scheme or artifice to defraud in connection with the sale or purchase of any security, directly or indirectly.

35. That Section 12.J of the Act provides, inter alia, that it shall be a violation of the Act for any person when acting as an investment adviser, investment adviser representative, or federal covered investment adviser, by any means or instrumentality, directly or indirectly:

(1) To employ any device, scheme or artifice to defraud any client or prospective client;

(2) To engage in any transaction, practice, or course of business which operates a fraud or deceit upon any client or prospective client; or

(3) To engage in any act, practice, or course of business which is fraudulent, deceptive or manipulative.

36. That by virtue of the foregoing, the Respondents have violated sections 12.A, F, G, I and J of the Act.

37. That Section 8.E.1 (b) provides, inter alia, that the registration of an investment adviser or investment adviser representative may be suspended or revoked if the Secretary of State finds that the investment adviser or investment adviser representative has engaged in any unethical practice in connection with any security; the offer or sale of securities or any fraudulent business practice.

38. That Section 8.E.1 (f) provides, inter alia, that the registration of an investment adviser may be suspended or revoked if the Secretary of State finds that the

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investment adviser has failed reasonably to supervise the advisory activities of any of its investment adviser representatives or employees and the failure has permitted or facilitated a violation of Section 12 of the Act.

39. That Section 8.E.1 (g) provides, inter alia, that the registration of an investment adviser or investment adviser representative may be suspended or revoked if the Secretary of State finds that the investment adviser or investment adviser representative has violated any provisions of the Act.

40. That Section 8.E.1 (m) provides, inter alia, that the registration of an investment adviser or investment adviser representative may be suspended or revoked if the Secretary of State finds that the investment adviser or investment adviser representative has conducted a continuing course of dealing of such nature as to demonstrate an inability to properly conduct the business of the investment adviser or investment adviser representative.

41. That by virtue of the foregoing, the Respondents' registrations are subject to suspensions or revocations pursuant to Section 8.E.1(b), (f), (g) and (m) of the Act.

42. That Section 8.E.3 provides, inter alia, that the Secretary of State may institute a revocation or suspension proceeding within 2 years after withdrawal became effective and enter a revocation or suspension order as of the last date on which registration was effective.

43. That Section 11.E(2) of the Act provides, inter alia, that if the Secretary of State shall find that any person has violated subsections F, G, I or J of Section 12 of the Act, the Secretary of State may by written order prohibit the person from offering or selling any securities in this State.

44. That Section 11.E(4) of the Act provides, inter alia, that if the Secretary of State, after finding that any provision of the Act has been violated, may impose an order of censure or a fine as provided by rule, regulation or order not to exceed $10,000.00 for each violation of the Act.

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45. That by virtue of the foregoing, the Respondents are subject to a fine of up to $10,000.00 per violation, an order of censure an order which permanently prohibits the Respondents from offering or selling securities in the State of Illinois and an order that suspends or revokes their investment adviser and/or investment adviser representative registrations in the State of Illinois.

You are further notified that you are required pursuant to Section 130.1104 of the Rules and Regulations (14 Ill. Adm. Code 130) (the "Rules"), to file an answer to the allegations outlined above or a Special Appearance pursuant to Section 130.1107 of the Rules, or other responsive pleading within thirty days of the receipt of this notice. Your failure to do so within the prescribed time shall be deemed an admission of the allegations contained in the Notice of Hearing and waives your right to a hearing.

Furthermore, you may be represented by legal counsel; may present evidence; may cross-examine witnesses and otherwise participate. A failure to so appear shall constitute default.

Delivery of notice to the designated representative of any Respondent constitutes service upon such Respondents.

Dated this 7th day of March, 2013.

Jesse White

Jesse White
Secretary of State
State of Illinois

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STATE OF ILLINOIS - SECRETARY OF STATE
SECURITIES DEPARTMENT

IN THE MATTER OF: RICHARD LEE VAN DYKE DBA DICK VAN DYKE REGISTERED INVESTMENT ADVISER	)	File No. 1100244

HEARING OFFICER REPORT AND RECOMMENDATION

I - INTRODUCTION

This Matter is before the Hearing Officer, Jon K. Ellis, duly appointed by Jesse White, Secretary of State, pursuant to a Notice of Hearing dated March 7, 2013 and an Amended Notice of Hearing dated June 13, 2013 issued to the Respondents Richard Lee Van Dyke dba Dick Van Dyke Registered Investment Adviser, hereinafter referred to as "the Respondents."

Said Matter was heard on April 15, 2013, June 19, 2013, July 22, 2013, July 23, 2013, July 25, 2013, July 26, 2103, August 21, 2013, and August 22, 2013 to provide the Respondents with an opportunity to contest the allegations outlined in the Notice of Hearing and the Amended Notice of Hearing and to determine whether to grant relief available under the Illinois Securities Law of 1953 (815 ILCS 5/1 et seq.), hereinafter referred to as "the Act," as outlined in said Notices, should the allegations be deemed proven. A written post-Hearing Closing Argument was submitted by the Securities Department (hereinafter referred to as "the Department") on October 3, 2013, the Respondents submitted their written Closing Argument on October 14, 2013, and the Department submitted its written Reply Closing Argument on October 22, 2013.

The Respondents appeared in person, and by and through their counsel Michael D. Morehead, at the hearing of this Matter, and filed their respective Answers to the allegations in this Matter as required by law. Enforcement Attorneys David Finnigan, Shannon Bond and Jane Bunten represented the Department.

II - NATURE OF THIS MATTER

A. The Department alleges in the Notice of Hearing and Amended Notice of Hearing that this Matter involves a former registered investment adviser and investment adviser representative who during the time period they were registered with the Department defrauded over 21 clients, all of whom are senior citizens, of $263,822.13.

The Department further alleges that the Respondents: hold themselves out as an author and nationally recognized retirement educator who is an expert on Indexed Annuities and

PLAINTIFF'S EXHIBIT A

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retirement planning; specifically target senior citizens through their web site, newspaper advertisements and free lunch seminars; characterize some of their seminars as educational workshops on social security benefits for persons age 55 or older; recommended and sold 31 Indexed Annuities that resulted in the early surrender of existing Indexed Annuities in order to purchase the new Indexed Annuities; received $160,937.05 in commissions for these 31 new Indexed Annuities but their clients lost $263,822.13 in surrender charges, penalties and other fees; in all but one transaction had sold the surrendered Indexed Annuities and had received $155,341.51 in commissions from those transactions; and recorded their clients' telephone conversations in violation of Article 14 of the Criminal Code of 2012.

The Department further alleges that: in total, $2,304,715.09 of Indexed Annuities were surrendered before their surrender period had expired and $2,055,474.60 of new Indexed Annuities were purchased in these 31 transactions; the surrendered annuities were all issued by one insurance company and included a Market Value Adjustment (MVA) which was a derivative value calculated by a formula tied to current U.S. interest rates; this MVA could be positive or negative and would be applied to the accumulated value of the Indexed Annuity to determine a final accumulated value; the surrender charge is calculated as a percentage of the final accumulated value; and the following three examples are illustrative of the fraudulent and deceptive nature of the recommended transactions:

1. that GS and BS are husband and wife, ages 66 and 64 at the time of the replacement transaction. The Respondents solicited and recommended to them to surrender three Indexed Annuities he sold individually to them (two to GS and one to BS) in 2007 in order to purchase three new Indexed Annuities in April 2010. This transaction of the surrender of three Indexed Annuities in order to purchase three new Indexed Annuities caused BS and GS to suffer surrender charges and other penalties of $32,820.14. The Respondents earned commissions of $18,008.25 on top of the $16,642.10 they had previously earned from selling the surrendered Index Annuities in 2007 to the couple, for a total of $34,650.35 in commissions;

2. that RF, age 65 at the time of the transaction, was solicited and recommended by the Respondents to surrender one Indexed Annuity sold to him in 2009 in order to purchase two new Indexed Annuities in October 2010. This transaction of the surrender of one Indexed Annuity in order to purchase two new Indexed Annuities caused RF to suffer surrender charges and other penalties of $26,841.43. The Respondents earned commissions of $9,654.52 on top of the $11,189.80 they earned from selling the surrendered Indexed Annuity to RF in 2009, for a total of $20,844.32 in commissions; and

3. that JW, age 63 at the time of the transaction, was solicited and recommended by the Respondents to surrender two Indexed Annuities sold to her in 2005 in order to purchase three new Indexed Annuities in February 2009. This transaction of the surrender of two Indexed Annuities in order to purchase three new Indexed Annuities caused JW to suffer surrender charges and other penalties of $25,835.56. The Respondents earned commissions of $18,601.61 on top of the $19,423.36 they earned from selling the two surrendered Indexed Annuities to JW in 2005, for a total of $38,024.97 in commissions.

The Department further alleges that by virtue of the foregoing, the Respondents have violated Sections 12.A, F, G, I and J of the Act and Article 14 of the Criminal Code of 2012.

B. The Department requests the Hearing Officer to find the Respondents in violation of Sections 12.A, 12.F, 12.G, 12.I and 12.J of the Act, and that the Illinois Secretary of State, by written order, permanently prohibit the offer or sale of securities by the Respondents in the State of Illinois, impose a fine of $430,000.00 for 33 violations of the Act and for 10 violations of Article 14 of the Illinois Criminal Code of 2012 calculated at $10,000.00 per violation, recovery of investigation and witness costs of $23,500.00, impose a public censure, and revoke their investment adviser and investment adviser representative registrations in the State of Illinois, all in accordance with Sections 8.E(1), 8.E(3), 11.E(2) and 11.E(4) of the Act.

III - EVIDENCE OF THE DEPARTMENT

A. DOCUMENTARY

The Department offered the following Exhibits, which were admitted by the Hearing Officer: Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171 and 172.

B. TESTIMONY

The Department called Securities Department Enforcement Auditors Herb Clausen and Ray E. DeWitt, Department of Insurance Actuary Susan M. Lamb, Edward S. O'Neal, Ph.D., Richard Lee Van Dyke, and Illinois residents Velma Miller, Joleen Welch, Shirley K. Ward and Ronald G. Ferricks to present oral testimony at the hearing.

IV - EVIDENCE OF THE RESPONDENTS

A. DOCUMENTARY

The Respondents filed their Answers to the allegations set forth in the Notice of Hearing and the Amended Notice of Hearing as instructed by the Notices and as is required by Section 130.1104 of the Procedures for Administrative Hearings (14 *Ill.Admin.Code* Section 130.1104). The Respondents appeared in person and by counsel at the hearing of this Matter.

The Respondents offered the following Exhibits, which were admitted by the Hearing Officer: Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106 and 107.

B. TESTIMONY

The Respondents called Department of Insurance Life Actuary Bruce D. Sartain, Securities Department Enforcement Auditor Ray E. DeWitt, Richard Lee Van Dyke, and Illinois residents Roger L. Ward, Rex K. Berry, Lonnie E. Caulk, Ernest C. Dannenberger, Betty Creasey, Marilyn Hemenway, Marilyn Klee, George Perry, Gerald Sawyer and Barbara Sawyer to present oral testimony at the hearing.

V - FINDINGS OF FACT

The Hearing Officer, being fully advised in the premises, finds as follows:

1. The pleadings, Exhibits and testimony have been offered and received from the Department and the Respondents, and a proper record of all proceedings has been made and preserved as required by law.

2. The Hearing Officer has ruled on all motions and objections timely made and submitted.

3. The Hearing Officer and the Secretary of State Securities Department have jurisdiction over the parties herein and the subject matter dealt with herein, due and proper notice having been previously given as required by statute in this Matter.

4. The Respondents were registered as an Investment Adviser and Investment Adviser Representative in Illinois from ~~July 25, 2006 through December 31, 2007 and August 7, 2008~~ through December 31, 2011. The Respondent Richard Lee Van Dyke is also licensed to sell insurance in the State of Illinois.

5. Beginning in 2006, the Respondents advertised financial and retirement planning seminars, Social Security Workshops and educational workshops designed for individuals and couples 55 or older.

6. In addition to newspaper advertisements and retirement planning seminars, the Respondents also from 2006 to March, 2013 maintained a web site.

7. The Respondents' advertisements stated that Dick Van Dyke is a "...nationally recognized retirement educator" and has a designation of "Certified Senior Adviser."

8. Through these seminars, the website and other advertisements, the Respondents obtained investment advisory clients and in later meetings provided investment advice, financial planning and recommendations to purchase financial products including Indexed Annuities.

9. Sales of some of these financial products, including Indexed Annuities, were effected through Dick Van Dyke Financial, Ltd., a wholly owned corporation of the Respondent Richard Lee Van Dyke.

10. On or about August 2011, the Department initiated and conducted compliance audits of the Respondents pursuant to Section 11 of the Act.

11. During its audit and investigation, the Department reviewed documents that disclosed that from February 2009 through October 2010, the Respondents effected 33 Indexed Annuity purchase transactions involving the liquidation of 30 previously-owned Indexed Annuity contracts by 21 of the Respondents' clients, resulting in surrendered annuity contract commissions of $183,161.58, and $177,417.42 in new annuity contract commissions to the Respondents. Twenty-nine of the 30 previously-owned Indexed Annuity contracts had been recommended for purchase by the Respondents. Five of 29 of the surrendered annuity contracts had eight years remaining until they could be surrendered without penalty, 20 contracts had seven years remaining until they could be surrendered without penalty, and four contracts had six years remaining until they could be surrendered without penalty. Surrender penalty charges ranged from $2,078.39 to $21,291.66. Six surrendered contracts had bonus recapture fees that ranged from $2,232.01 to $8,940.48. Twenty-nine of the surrendered annuity contracts had positive market value adjustments. The contract values for the 30 surrendered Indexed Annuities totaled $2,327,904.95. However, the final amount credited to the 21 clients only totaled $2,246,897.59. Eleven of the 30 surrendered annuities resulted in eight clients having taxable income reported.

12. All of the 33 new Indexed Annuity purchase transactions reviewed by the Department involved persons from 61 to 82 years of age.

13. All but one of the 33 new Indexed Annuities featured higher fees and the start of new surrender penalty periods. Eight of the new Indexed Annuity contracts had 12 year surrender penalty periods, 21 had 10 year surrender penalty periods, and four had six year surrender penalty periods. Twenty-four of the new Indexed Annuities had 10% bonuses, eight had 5% bonuses, and one had an 8% bonus. However, four of the new Indexed Annuity contracts required the owners to wait 15 years before having access to the full bonus value upon surrender, seven had to wait 12 years, 14 had to wait for 10 years, and four had to wait for six years. The four Indexed Annuity contracts that did not have bonus recapture periods provided that the owner may receive less than the premiums paid if the annuity contracts were surrendered within the surrender penalty periods.

14. All of the 33 transactions were solicited and made at the recommendation of the Respondents or as part of investment advice or financial planning provided by the Respondents.

15. Section 2.1 of the Act defines the term "Security" as any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit sharing agreement, collateral trust certificate, pre-organization certificate or subscription, transferable share, investment contract, investment fund share, face-amount certificate, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas or other mineral lease, right or royalty, any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option or privilege entered into on a national securities exchange relating to foreign currency, or, in general, any interest or instrument commonly known as a "Security," or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. "Security" does not mean a mineral investment contract or a mineral deferred delivery contract; provided, however, the Department shall have authority to regulate these contracts as hereinafter provided.

16. Section 2.5 of the Act defines the term "Sale or Sell" to include the full meaning of that term as applied by or accepted in the courts of this State, and shall include every contract of sale or disposition of a security or interest in a security for value.

17. Section 2.5a of the Act defines the term "Offer" to include every offer to sell or otherwise dispose of, or solicitation of an offer to purchase, a security or interest in a security for value; provided that the term "Offer" shall not include preliminary negotiations or agreements between an issuer and any underwriter or among underwriters who are or are to be in privity of contract with an issuer, or the circulation or publication of an identifying statement or circular or preliminary prospectus, as defined by rules or regulations of the Secretary of State.

18. The Indexed Annuities that are the subject of this Matter are securities subject to the Act. Although an Indexed Annuity is exempt from registration with the Department, the offer or sale of an Indexed Annuity is still subject to the other provisions of the Act.

19. Section 12.A of the Act provides, inter alia, that it shall be a violation of the Act for any person to offer or sell any security except in accordance with the provisions of the Act.

20. Section 12.F of the Act provides, inter alia, that it shall be a violation of the Act for any person to engage in any transaction, practice or course of business in connection with the sale or purchase of securities which works or tends to work a fraud or deceit upon the purchaser or seller thereof.

21. Section 12.G of the Act provides, inter alia, that it shall be a violation of the Act for any person to obtain money or property through the sale of securities by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.

22. Section 12.I of the Act provides, inter alia, that it shall be a violation of the Act for any person to employ any device, scheme or artifice to defraud in connection with the sale or purchase of any security, directly or indirectly.

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23. Section 12.J of the Act provides, inter alia, that it shall be a violation of the Act for any person when acting as an investment adviser, investment adviser representative, or federal covered investment adviser, by any means or instrumentality, directly or indirectly:

(1) To employ any device, scheme or artifice to defraud any client or prospective client;

(2) To engage in any transaction, practice, or course of business which operates a fraud or deceit upon any client or prospective client; or

(3) To engage in any act, practice, or course of business which is fraudulent, deceptive or manipulative.

24. Section 130.853 of the Rules and Regulations promulgated under the Act (14 *Ill. Admin. Code* Section 130.853) provides that "[e]ffecting or causing to be effected by or for any client's account, any transactions of purchase or sale which are excessive in size or frequency or unsuitable in view of the financial resources and character of the account, shall constitute an act, practice or course of business on the part of the registered investment adviser or its representative effecting such transactions or causing the transactions to be effected that is fraudulent, deceptive or manipulative."

25. Under a suitability standard, a registered investment adviser and investment adviser representative only needs to recommend a product that meets the client's needs. Under a fiduciary standard, a registered investment adviser and investment adviser representative needs to consider alternative products, and disclose all conflicts and the fact that some products pay higher commissions than others.

26. As a registered investment adviser and investment adviser representative, the Respondents are held to a fiduciary standard who must act in the best interests of their clients.

27. The Indexed Annuity transactions involved in this Matter were both unsuitable and not in the best interests of the clients due to the age of the clients, the surrender penalties incurred due to the early liquidation of the existing Indexed Annuity contracts, the frequency of the commissions paid, and no derivation of additional tax benefits.

28. The Department's burden of proof is the preponderance of the evidence.

29. The Illinois Supreme Court in *People v. Clark*, 2014 IL 115776 (March 20, 2014), and in *People v. Melongo*, 2014 IL 114852 (March 20, 2014), ruled as unconstitutional Article 14 ("the eavesdropping statute") of the Criminal Code of 2012.

30. At all times relevant hereto, the Respondents offered and sold at least 33 Indexed Annuity security transactions in violation of the Act.

31. At all times relevant hereto, the Respondents engaged in a transaction, practice or course of business in connection with the sale of at least 33 Indexed Annuity contracts which worked or tended to work a fraud or deceit upon the purchasers thereof by representing to and misleading their clients who liquidated an existing annuity contract to purchase a new annuity contract that the surrender penalty charges to be incurred would be recovered by a positive market value adjustment, that the new annuity contract provided favorable bonuses and interest thereon, and that the new annuity was a better investment over their current annuity and in the client's best interests.

32. At all times relevant hereto, the Respondents obtained money through the sale of at least 33 Indexed Annuity contracts by means of an untrue statement of a material fact or an omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, by representing to and misleading their clients who liquidated an existing annuity contract to purchase a new annuity contract that the surrender penalty charges to be incurred would be recovered by a positive market value adjustment, that the new annuity contract provided favorable bonuses and interest thereon, and that the new annuity was a better investment over their current annuity and in the client's best interests, that the new annuity would not be a replacement annuity, that funds to purchase the new annuity did not come from an existing annuity, and that there were not any settlement fees, surrender charges or penalties of any kind.

33. At all times relevant hereto, the Respondents signed or circulated statements or other papers or documents required by any provision of the Act or pertaining to any security knowing or having reasonable grounds to know any material representation contained therein to be false or untrue by representing to and misleading their clients who liquidated an existing annuity contract to purchase a new Indexed Annuity contract that the surrender penalty charges to be incurred would be recovered by a positive market value adjustment, that the new annuity contract provided favorable bonuses and interest thereon, that the new annuity was a better investment over their current annuity and in the client's best interests, that the new annuity would not be a replacement annuity, that funds to purchase the new annuity did not come from an existing annuity, and that there were not any settlement fees, surrender charges or penalties of any kind.

34. At all times relevant hereto, the Respondents employed devices, schemes or artifices to defraud in connection with the sale of securities directly or indirectly, by representing to and misleading their clients who liquidated an existing annuity contract to purchase a new Indexed Annuity contract that the surrender penalty charges to be incurred would be recovered by a positive market value adjustment, that the new annuity contract provided favorable bonuses and interest thereon, that the new annuity was a better investment over their current annuity and in the client's best interests, that the new annuity would not be a replacement annuity, that funds to purchase the new annuity did not come from an existing annuity, and that there were not any settlement fees, surrender charges or penalties of any kind.

35. At all times relevant hereto, the Respondents when acting as an investment adviser and an investment adviser representative, by any means or instrumentality, directly or indirectly, employed devices, schemes or artifices to defraud clients or prospective clients, engaged in transactions, practices, or courses of business which operates as a fraud or deceit upon clients or prospective clients, or engaged in acts, practices or courses of business which is fraudulent, deceptive or manipulative, by representing to and misleading their clients who liquidated an existing annuity contract to purchase a new Indexed Annuity contract that the surrender penalty charges to be incurred would be recovered by a positive market value adjustment, that the new annuity contract provided favorable bonuses and interest thereon, that the new annuity was a better investment over their current annuity and in the client's best interests, that the new annuity would not be a replacement annuity, that funds to purchase the new annuity did not come from an existing annuity, and that there were not any settlement fees, surrender charges or penalties of any kind.

36. By virtue of the foregoing, the Respondents have violated Sections 12.A, F, G, I and J of the Act.

37. Section 8.E.(1)(b) provides, inter alia, that the registration of an investment adviser or investment adviser representative may be suspended or revoked if the Secretary of State finds that the investment adviser or investment adviser representative has engaged in any unethical practice in connection with any security, the offer or sale of securities or in any fraudulent business practice.

38. Section 8.E.(1)(f) provides, inter alia, that the registration of an investment adviser may be suspended or revoked if the Secretary of State finds that the investment adviser has failed reasonably to supervise the advisory activities of any of its investment adviser representatives or employees and the failure has permitted or facilitated a violation of Section 12 of the Act.

39. Section 8.E.(1)(g) provides, inter alia, that the registration of an investment adviser or investment adviser representative may be suspended or revoked if the Secretary of State finds that the investment adviser or investment adviser representative has violated any provisions of the Act.

40. Section 8.E.(1)(m) provides, inter alia, that the registration of an investment adviser or investment adviser representative may be suspended or revoked if the Secretary of State finds that the investment adviser or investment adviser representative has conducted a continuing course of dealing of such nature as to demonstrate an inability to properly conduct the business of the investment adviser or investment adviser representative.

41. By virtue of the foregoing, the Respondents' registrations are subject to suspension or revocation pursuant to Section 8.E.(1)(b), (f), (g) and (m) of the Act.

42. Section 8.E.(3) provides, inter alia, that the Secretary of State may institute a registration revocation or suspension proceeding within two years after registration withdrawal became effective and enter a revocation or suspension order as of the last date on which registration was effective.

43. Section 11.E(2) of the Act provides, inter alia, that if the Secretary of State shall find that any person has violated subsections F, G, I or J of Section 12 of the Act, the Secretary of State may by written order temporarily or permanently prohibit or suspend the person from offering or selling any securities in this State.

44. Section 11.E(4) of the Act provides, inter alia, that the Secretary of State, after finding that any provision of the Act has been violated, may impose a fine as provided by rule, regulation or order not to exceed $10,000.00 for each violation of the Act, may issue an order of public censure, and may charge as costs of investigation all reasonable expenses, including attorney's fees and witness fees.

VI - CONCLUSIONS OF LAW

1. The actions, statements, representations, and/or omissions of the Respondents made in connection with the failure to offer or sell any security in accordance with the provisions of the Act are violations of Sections12.A of the Act.

2. The actions, statements, representations, and/or omissions of the Respondents made in connection with the offer or sale of securities and that worked or tended to work a fraud or deceit upon Illinois purchasers are violations of Section 12.F of the Act.

3. The actions, statements, representations, and/or omissions of the Respondents which were untrue or misleading of material facts and were made to obtain money from Illinois purchasers are violations of Section 12.G of the Act.

4. The actions, statements, representations, and/or omissions of the Respondents employing any device, scheme or artifice to defraud in connection with the sale of any security, directly or indirectly, are violations of Section 12.I of the Act.

5. The actions, statements, representations, and/or omissions of the Respondents when acting as an investment adviser or investment adviser representative, by any means or instrumentality, directly or indirectly: (1) to employ any device, scheme or artifice to defraud any client or prospective client; (2) to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client; or (3) to engage in any act, practice, or course of business which is fraudulent, deceptive or manipulative, are violations of Section 12.J of the Act.

By virtue of the foregoing and because of the Findings of this Order, the pleadings, the Exhibits admitted as Secretary of State Exhibit Nos. 1 through 40, inclusive, and 42 through 172, inclusive, and the testimony, the Respondents are subject to a fine of up to $10,000.00 per violation for at least 33, and possibly more, separate violations of the Act, an order of censure, an order which temporarily or permanently prohibits the Respondents from offering or selling securities in the State of Illinois, an order that suspends or revokes their investment adviser and investment adviser representative registrations in the State of Illinois, and costs of investigation all reasonable expenses, including attorney's fees and witness fees.

The entry of a final written Order that revokes the Respondents' investment adviser and investment adviser representative registrations, permanently prohibits the Respondents from offering or selling securities in the State of Illinois, publicly censures the Respondents, imposes a fine upon the Respondents, and provides for the Department to recover costs of investigation and expert witness fees, is proper in this Matter, given the conduct of the Respondents as described in the pleadings, the Exhibits, and the testimony.

VII – RECOMMENDATION

The Hearing Officer therefore recommends that a written Final Order be entered:

1. pursuant to Section 8.E.(1) of the Act that revokes the Respondents' investment adviser and investment adviser representative registrations in the State of Illinois;

2. pursuant to Section 11.E.(2) of the Act that permanently prohibits the offer or sale of securities by the Respondents in the State of Illinois;

3. pursuant to Section 11.E.(4) of the Act that imposes a fine on the Respondents in the amount of $330,000.00 for at least 33 separate violations of the Act; and

4. pursuant to Section 11.E.(4) of the Act that directs the Respondents to pay an additional amount of $23,500.00 for the Department to recover its costs of investigation and expert witness fees.

A copy of any Final Order entered in this Matter shall be sent to the Respondents Richard Lee Van Dyke dba Dick Van Dyke Registered Investment Adviser, and their counsel, by Certified Mail, Return Receipt Requested.

ENTERED: March 24, 2014

Jon K. Ellis

Jon K. Ellis
Hearing Officer
1035 South 2nd Street
Springfield, Illinois 62704
(217) 528-6835

STATE OF ILLINOIS
DEPARTMENT OF INSURANCE

IN THE MATTER OF:

Richard L. Van Dyke
815 Flaggland Drive
Sherman, Illinois 62684

and

Dick Van Dyke Financial, LTD.
1028 S. Walnut Street
Springfield, Illinois 62704-2851

STIPULATION AND CONSENT ORDER

WHEREAS Richard L. Van Dyke ("Licensee") is a licensed insurance producer in the State of Illinois and Dick Van Dyke Financial, Ltd ("Business Entity") is a licensed business entity in the State of Illinois;

WHEREAS the Licensee and Business Entity are aware of the actions, steps and remedies which the Director of Insurance is authorized to take under Section 500-70 of the Illinois Insurance Code (215 ILCS 5/500-70);

WHEREAS the Licensee and Business Entity are advised that the Department of Insurance ("Department") has caused an investigation to be commenced to determine whether or not such causes and conditions exist as would authorize the Acting Director of Insurance ("Acting Director") to take such actions and steps or pursue such remedies as are provided in Section 500-70 of the Illinois Insurance Code (215 ILCS 5/500-70);

WHEREAS the Licensee and Business Entity are aware of and understand the nature of this investigation and the charges and his various rights in connection therewith, including the right to counsel, notice, hearing, and appeal under Section 500-70 of the Illinois Insurance Code (215 ILCS 5/500-70) and Part 2402, Title 50 of the Illinois Administrative Code (50 Ill. Adm.

Code 2402); and

WHEREAS the Licensee and Business Entity do not admit to violations of the Illinois Insurance Code or Title 50 of the Illinois Administrative Code, but, for the purpose of resolving all matters raised by the investigation without the necessity of an administrative hearing, enters into this Stipulation and Consent Order;

NOW THEREFORE, IT IS agreed by and between Licensee and Business Entity and the Acting Director as follows:

I. To waive the Notice and Hearing as required under Section 500-70 of the Illinois Insurance Code (215 ILCS 5/500-70).

II. To stipulate that the Acting Director alleges the following:

a. During or about the months of September 2009 and October 2010, the Licensee and Business Entity sold consumers annuities. The Licensee and Business Entity failed to complete replacement forms even though the funds came from previously surrendered annuities.

b. The Licensee and Business Entity solicited and completed annuity applications and applicable Customer Identification and Suitability Worksheets. A review of the applications and worksheets reveals that Licensee and Business Entity answered questions incorrectly on these forms.

c. During or about July 2012, the Licensee and Business Entity failed to obtain approval from Aviva Life and Annuity Company and American Equity Investment Life Insurance Company for annuity advertising on the Business Entity website.

III. The Licensee consents to entry of the following Order based upon the above stipulations.

NOW THEREFORE, IT IS HEREBY ORDERED by the undersigned Acting Director, pursuant to Section 500-70 of the Illinois Insurance Code (215 ILCS 5/500-70), that the Licensee:

A. Shall comply with all provisions of the Illinois Insurance Code;

B. Shall not violate provisions of the insurance laws of the State of Illinois, to wit:

a. Shall answer all questions correctly, accurately and honestly on all applications for insurance, suitability forms and other applicable forms; and

b. Shall obtain and maintain approval from insurers prior to any advertising.

C. Shall pay a civil penalty of $6,000.00 payable to the Acting Director of Insurance, State of Illinois within 30 days of the entry date of this Order.

This Stipulation and Consent Order supersedes the Amended Order of Revocation dated December 17, 2014. Hearing No. 15-HR-0031 shall be dismissed based upon the entry of this Stipulation and Consent Order.

A material violation of the above Stipulation & Consent Order shall subject the Licensee to further administrative action pursuant to Section 500 of the Illinois Insurance Code (215 ILCS 5/500) and Section 5/407.2 (215 ILCS 5/407.2).

Nothing contained herein shall prohibit the Acting Director from taking any and all appropriate action should the Licensee violate any of the provisions of this Stipulation and Consent Order or any provisions of the Illinois Insurance Code or Title 50 of the Illinois Administrative Code.

Richard L. Van Dyke, Licensee and as authorized
representative of Dick Van Dyke Financial Ltd, Business Entity

State of Illinois)
)SS
County of Sangamon)

Subscribed and sworn to
before me this 6th day of
March, 2015

OFFICIAL SEAL
KATHLEEN BENNER
NOTARY PUBLIC - STATE OF ILLINOIS
MY COMMISSION EXPIRES:07/30/17

Kathleen Benner
Notary Public

DEPARTMENT OF INSURANCE
of the State of Illinois;

Date: 3-9-15

James A. Stephens
Acting Director

STATE OF ILLINOIS
DEPARTMENT OF INSURANCE

IN THE MATTER OF THE
REVOCATION OF LICENSING
AUTHORITY OF:

RICHARD L. VAN DYKE
And
DICK VAN DYKE FINANCIAL, LTD.

HEARING NO. 13-HR-0192

ORDER OF DISMISSAL

WHEREAS, on March 8, 2013, an Order of Revocation was issued by the former Director of Insurance, Andrew Boron ("Director"), to Richard L. Van Dyke ("Respondent") and Dick Van Dyke Financial, LTD. (" DVD") (collectively, "Respondents"), revoking the Illinois insurance producer license of the Respondent and business entity license of DVD;

WHEREAS, on May 8, 2013, a Notice of Hearing was issued by the Director setting an original hearing date of June 26, 2013 pursuant to Respondents' request for a hearing, submitted by their attorney Michael D. Morehead of Hinshaw & Culbertson, LLP;

WHEREAS, on May 14, 2013, the Respondents via letter submitted a request to reschedule the hearing date;

WHEREAS, on June 5, 2013, an Order was issued by the appointed Hearing Officer continuing this matter generally;

WHEREAS, on December 17, 2014 an Amended Order of Revocation (attached) was issued by the Director, superseding the previously issued Order of Revocation dated March 8, 2013;

WHEREAS, the Respondents have requested a formal hearing with respect to the December 17, 2014 Amended Order of Revocation;

WHEREAS, on February 13, 2015, a Notice of Hearing was issued by Acting Director, James A. Stephens setting a hearing date of March 31, 2015 (15-HR-0031) pursuant to Respondents' request for a hearing;

WHEREAS, the Acting Director of Insurance being otherwise fully advised in the premises.

NOW THEREFORE, IT IS HEREBY ORDERED that Hearing No. 13-HR-0192 is dismissed.

DEPARTMENT OF INSURANCE
STATE OF ILLINOIS

DATE: March 5, 2015

James A. Stephens
Acting Director of Insurance

STATE OF ILLINOIS
DEPARTMENT OF INSURANCE

IN THE MATTER OF THE
REVOCATION OF LICENSING
AUTHORITY OF:

Richard L. Van Dyke
815 Flaggland Drive
Sherman, Illinois 62684

and

Dick Van Dyke Financial, Ltd.
1028 S. Walnut Street
Springfield, Illinois 62704-2851

AMENDED ORDER OF REVOCATION

I, Andrew Boron, Director of Insurance, Illinois Department of Insurance, hereby revoke the license of Richard L. Van Dyke (Licensee) and Dick Van Dyke Financial, Ltd. (Business Entity) to take effect 30 days from the date of mailing of this Order pursuant to Section 5/500-70 of the Illinois Insurance Code (215 ILCS 5/500-70).

Based upon an investigation and review of the Licensee by the Producer Regulatory Unit of the Department of Insurance, the Director alleges that:

A. During or about the months of September 2009 and October 2010, the Licensee and Business Entity sold consumers annuities. The Licensee and Business Entity failed to complete replacement forms even though the funds came from previously surrendered annuities.

By the above actions, the Licensee has failed to present to the applicant a "Notice Regarding Replacement of Life Insurance or Annuity" and failed to submit to the replacing insurer with the application such "Notice" in violation of 50 Illinois Adm. Code 917.60(b)(1) and (2). Therefore, the Licensee and Business Entity have violated an insurance rule and demonstrated incompetence, untrustworthiness and

EXHIBIT
1

irresponsibility in the conduct of business in this State which are grounds for revocation and for levying a civil penalty pursuant to Section 5/500-70(a)(2) and (8) of the Illinois Insurance Code (215 ILCS 5/500-70(a)(2) and (8)).

B. The Licensee and Business Entity solicited and completed annuity applications and applicable Customer Identification and Suitability Worksheets. A review of the applications and worksheets reveals that Licensee and Business Entity answered questions incorrectly on these forms.

By failing to answer the questions correctly annuity applications and suitability worksheets, the Licensee and Business Entity have used dishonest practices, demonstrated incompetence, untrustworthiness and financial irresponsibility in the conduct of business in this State which are grounds for revocation and for levying a civil penalty pursuant to Section 5/500-70(a)(8) of the Illinois Insurance Code (215 ILCS 5/500-70(a)(8)).

C. During or about July 2012, the Licensee and Business Entity failed to obtain approval from Aviva Life and Annuity Company and American Equity Investment Life Insurance Company for annuity advertising on the Business Entity website.

By failing to obtain the approval from the insurers prior to disseminating the advertisements, the Licensee and Business Entity failed to comply with 50 Illinois Adm. Code 909.30(b). Therefore, the Licensee and Business Entity have violated an insurance law on five (5) occasions and have demonstrated incompetence and untrustworthiness which are grounds for revocation and for levying a civil penalty pursuant to Section 5/500-70(a)(2) and (8)) of the Illinois Insurance Code (215 ILCS 5/500-70(a)(2) and (8)).

This Amended Order of Revocation supersedes the previous Order of Revocation dated March 8, 2013. This Amended Order of Revocation shall take effect 30 days from the date of mailing but shall be stayed if within the 30 day period, a written request for hearing is filed with the Director. Any correspondence concerning this Amended Order of Revocation shall be addressed to the Department of Insurance, Producer Regulatory Unit, 320 West Washington Street, Springfield, Illinois 62767-0001.

The Licensee and Business Entity is hereby notified that he is assessed a civil penalty of $25,000.00 by the Director of Insurance. The civil penalty shall be paid within 30 days of the date of mailing of the Order, but shall be stayed if within the 30 day period a written request for hearing is filed with the Director.

50 Ill. Adm. Code 2402 governs hearings before the Department of Insurance. Section 5/408(5)(a) of the Illinois Insurance Code (215 ILCS 5/408(5)(a)) and 50 Ill. Adm. Code 2402.270(d) provide that the costs of a hearing may be assessed against the parties.

DEPARTMENT OF INSURANCE of the
State of Illinois;

Date: December 17, 2014

Andrew Boron
Director of Insurance

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TITLE 50: INSURANCE
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SUBCHAPTER t: SEPARATE ACCOUNTS
PART 1551 VARIABLE CONTRACTS
SECTION 1551.10 AUTHORITY

Section 1551.10 Authority

This Part is issued by the Director of Insurance pursuant to:

a) Section 401 of the Illinois Insurance Code which empowers the Director *"... to make reasonable rules and regulations as may be necessary for making effective..."* the insurance laws of this State; and

b) Section 245.24 of the Illinois Insurance Code, which empowers the Director *"... to promulgate such reasonable rules and regulations as may be appropriate to carry out the purposes and provisions of ..."* Article XIV½ of the Illinois Insurance Code.

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SECTION 1551.20 DEFINITIONS

Section 1551.20 Definitions

"Code" means the Illinois Insurance Code [215 ILCS 5].

"Company" means a stock or mutual legal reserve life insurance company or a fraternal benefit company that operates on a legal reserve basis. It does not include an assessment legal reserve company, or any other company as that term is defined in Section 2(e) of the Code.

"1983 Table "a"" means the mortality table developed by the Society of Actuaries Committee to Recommend a New Mortality Basis for Individual Annuity Valuation and adopted as a recognized mortality table for annuities in June 1982 by the National Association of Insurance Commissioners.

"Producer" means any person who is licensed as a life insurance producer under the Illinois Insurance Code. The term producer also includes any person who represents a fraternal benefit company, operating on a legal reserve basis, and who solicits, negotiates or effects, for or on behalf of the fraternal benefit company, policies or contracts for insurance covering risks in this State.

"Securities Examination" means proof of passing either the NASD Series 6 or Series 7 Qualification Examinations or any superseding NASD examination that grants a person authority to sell variable contracts.

"Variable Contract" means any policy or contract that provides for life insurance or annuity benefits that vary according to the investment experience of any separate account or accounts maintained by the insurer as to that policy or contract, as provided for in Section 245.21 of the Code; or any policy or contract that is registered under the Securities Act of 1933, as amended (15 USC 77a et seq.), and that provides for benefits that vary according to the performance of an index, when the funds are not guaranteed as to principal or a stated rate of interest and in which the supporting assets are held and reported in a noninsulated separate account in which changes in asset values substantially match changes in contractual benefits from inception of the contract.

"Variable Contract Producer" means a producer who sells or offers to sell any variable contract.

(Source: Amended at 39 Ill. Reg. 9369, effective June 26, 2015)

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SECTION 1551.30 QUALIFICATION OF INSURANCE COMPANIES TO ISSUE VARIABLE CONTRACTS

Section 1551.30 Qualification of Insurance Companies to Issue Variable Contracts

a) Before any company shall deliver or issue for delivery variable contracts within this State it shall submit to the Director:

1) A general description of the kinds of variable contracts it intends to issue in this State,

2) If requested by the Director, a copy of the statutes and regulations of its state of domicile under which it is authorized to issue variable contracts, and

3) If requested by the Director, biographical data with respect to officers and directors of the company on the forms prescribed in Management Information Reports (50 Ill. Adm. Code 915).

b) The Director may require additional information to be filed prior to authorizing a company to transact a variable contract business.

c) The Director shall notify the company, in writing, that it is authorized to transact a variable contract business in this State.

(Source: Amended at 25 Ill. Reg. 4208, effective March 5, 2001)

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SECTION 1551.40 SEPARATE ACCOUNTS

Section 1551.40 Separate Accounts

A domestic company issuing variable contracts shall establish one or more separate accounts pursuant to Section 245.21 of the Code, subject to the following provisions of this Section:

a) Reserves for:

1) benefits guaranteed as to dollar amount and duration, and

2) funds guaranteed as to principal amount or stated rate of interest, which may be maintained in a separate account if a portion of the assets of such separate account at least equal to such reserve liability is invested in accordance with the laws and regulations of this State governing the investments of life insurance companies. Such portion of the assets also shall not be taken into account in applying the investment limitations otherwise applicable to the investments of the company. If a variable contract includes incidental minimum guarantees as referred to in Section 1551.60(c)(3)(B) of this Part, this subsection (a)(2) shall apply only to the reserves for any excess of such minimum guarantees over the reserves for the benefits that would be payable under the contract if there were no such minimum guarantees.

b) The company shall maintain in each separate account assets with a value at least equal to the reserves and other contract liabilities with respect to such account, except as may otherwise be approved by the Director.

c) All provisions of the Illinois Insurance Code and any administrative regulations issued thereunder applicable to the officers and directors of insurance companies with respect to conflicts of interest shall also apply to members of any separate account's committee, board or other similar body. No officer or director of such company nor any member of the committee, board or body of a separate account shall receive directly or indirectly any commission or any other compensation with respect to the purchase or sale of assets of such separate account.

d) Any insurance company which issues or delivers variable contracts shall establish such administrative and accounting procedures as are necessary to properly identify the one or more separate accounts of the company derived from or in relation to contributions, premiums or considerations received by it under such contracts and which meet the standards specified in Section 133(1) of the Illinois Insurance Code [215 ILCS 5/133(1)].

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SECTION 1551.50 FILING OF CONTRACTS

Section 1551.50 Filing of Contracts

a) The filing requirements applicable to variable contracts shall be those filing requirements otherwise applicable under existing statutes and regulations of this State with respect to individual and group life insurance and annuity contract form filings, to the extent appropriate as determined by the Director.

b) Individual contracts which provide for both fixed and variable benefits (which are specified at the time of the sale of such contracts) shall show, separately, the consideration to be paid for the fixed benefits and for the variable benefits.

c) In the sale of an individual variable contract, made in correlation with the sale of either a fixed life insurance policy or a fixed annuity contract, there shall be a disclosure to the prospective purchaser which shows the consideration to be paid for the variable contract separately from the other charges. If any benefits or nonforfeiture values which may accrue prior to the death of the insured are involved in the presentation of such a correlated sale, the value of such fixed life insurance policy or such fixed annuity must be shown separately from any other values.

d) Companies filing variable contracts shall include a certification by an officer of the company affirming that they will not sell the product subsequent to the Director's approval unless the Securities and Exchange Commission has provided an effective date for any securities registration required by federal law.

(Source: Amended at 25 Ill. Reg. 4208, effective March 5, 2001)

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PART 1551 VARIABLE CONTRACTS
SECTION 1551.60 CONTRACTS PROVIDING FOR VARIABLE BENEFITS

Section 1551.60 Contracts Providing for Variable Benefits

a) Illustrations of benefits payable under any variable contract shall not include projections of past investment experience into the future or attempted predictions of future investment experience; provided, however, that the form of illustration found in Appendix A of this Part may be utilized by companies in the sale of immediate variable annuities only.

b) No individual variable annuity contract calling for the payment of periodic stipulated payments shall be delivered or issued for delivery in this State unless it contains in substance the following provisions or provisions which in the opinion of the Director are more favorable to the holders of such contracts:

1) A provision that there shall be a period of grace of 30 days or of one month, within which any stipulated payment to the insurer falling due after the first may be made, during which period of grace the contract shall continue in force. The contract may include a statement of the basis for determining the date as of which any such payment received during the period of grace shall be applied to produce the values under the contract arising therefrom;

2) A provision that, at any time within 1 year from the date of default, in making periodic stipulated payments to the insurer during the life of the annuitant and unless the cash surrender value has been paid, the contract may be reinstated upon payment to the insurer of such overdue payments as required by the contract, and of all indebtedness to the insurer on the contract, including interest. The contract may include a statement of the basis for determining the date as of which the amount to cover such overdue payments and indebtedness shall be applied to produce the values under the contract arising therefrom;

3) A provision specifying the options available in the event of default in a periodic stipulated payment. Such options may include an option to surrender the contract for a cash value as determined by the contract, and shall include an option to receive a paid-up annuity if the contract is not surrendered for cash, the amount of such paid-up annuity being determined by applying the value of the contract at the annuity commencement date in accordance with the terms of the contract.

c) No individual variable life insurance policy shall be delivered or issued for delivery in this State unless it contains in substance the following provisions or provisions which in the opinion of the Director are more favorable to the holders of such policies:

1) A provision that there shall be a period of grace of 30 days or of one month, within which payment of any premium after the first may be made, during which period of grace the policy shall continue in force, but if a claim arises under the policy during such period of grace before the overdue premiums or the deferred premiums of the current policy year, if any, are paid, the amount of such premiums, together with interest not in excess of 6% per annum, may be deducted from any amount payable under the policy in settlement. The policy may contain a statement of the basis for determining any variation in benefits that may occur as a result of the payment of premium during the period of grace.

2) A provision that the policy will be reinstated at any time within 3 years from the date of default, unless the cash surrender value has been paid or unless the period of extended insurance has expired, upon the application of the insured and the production of evidence of insurability, including good health, satisfactory to the insurer and the payment of an amount not exceeding the greater of:

A) all overdue premiums and the payment of any other indebtedness to the insurer upon said policy with interest at a rate not exceeding 6% per annum compounded annually, or

B) 110% of the increase in cash surrender value resulting from reinstatement.

3) A provision for cash surrender values and paid-up insurance benefits available as non-forfeiture options under the policy in the event of default in a premium payment after premiums have been paid for a specified period.

A) If the policy does not include a table of figures for the options so available, the policy shall provide that the company will furnish at least once in each policy year a statement showing the cash value as of a date no earlier than the prior policy anniversary.

B) The method of computation of cash values and other non-forfeiture benefits, as described either in the policy or in a statement filed with the Commissioner, Director or Superintendent of the jurisdiction in which the policy is delivered, shall be in accordance with actuarial procedures that recognize the variable nature of the policy. The method of computation must be such that, if the net investment return credited to the contract at all times from the date of issue should be equal to the assumed investment increment factor if the contract provides for such a factor, or 3½% if not, with premiums and benefits determined accordingly under the terms of the policy, the resulting cash values and other non-forfeiture benefits would be at least equal to the minimum values required by Section 229.2 of the Illinois Insurance Code [215 ILCS 5/229.2] for a fixed dollar policy with such premiums and benefits. The method of computation may disregard incidental minimum guarantees as to the dollar amounts payable. Incidental minimum guarantees include, for example, but are not to be limited to, a guarantee under a policy which provides for an assumed investment increment factor that the amount payable at death or maturity shall be at least equal to the amount that otherwise would have been payable if the net investment return credited to the contract at all times from the date of issue had been equal to such factor.

d) Any variable annuity contract delivered or issued for delivery in this State shall stipulate the investment increment factors to be used in computing the dollar amount of variable benefits or other variable contractual payments or values thereunder, and may guarantee that expense and/or mortality results shall not adversely affect such dollar amounts. In the case of an individual variable annuity contract under which the expense and mortality results may adversely affect the dollar amount of benefits, the expense and mortality factors shall be stipulated in the contract.

1) In computing the dollar amount of variable benefits or other contractual payments or values under an individual variable annuity contract:

A) The annual net investment increment assumption shall not exceed 5%, except with the approval of the Director;

B) To the extent that the level of benefits may be affected by future mortality results, the mortality factor shall be determined from the 1983 Table "a" or any modification of that table not having a lower life-expectancy at any age, or, if approved by the Director, from another table.

2) "Expense," as used in subsection (d) of this Section, may exclude some or all taxes, as stipulated in the contract.

e) Any individual variable life insurance policy delivered or issued for delivery in this State shall stipulate the investment increment factor to be used in computing the dollar amount of variable benefits or other variable contractual payments or values thereunder and shall guarantee that expense and mortality results shall not adversely affect such dollar amounts.

f) The reserve liability for variable contracts shall be established pursuant to the requirements of Section 223 of the Illinois Insurance Code [215 ILCS 5/223] in accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees, provided such actuarial procedures meet the approval of the Director.

(Source: Amended at 39 Ill. Reg. 14559, effective October 22, 2015)

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SECTION 1551.70 REQUIRED REPORTS

Section 1551.70 Required Reports

a) Any company issuing individual variable contracts shall mail to the contractholder at least once in each contract year after the first at his last address known to the company, a statement or statements reporting the investments held in the separate account. The company shall submit annually to the Director a statement of the business of its separate account or accounts in such form as may be prescribed by the National Association of Insurance Commissioners.

b) Any company issuing individual variable contracts shall mail to the contractholder at least once in each contract year after the first at his last address known to the company, a statement reporting as of a date not more than four months previous to the date of mailing:

1) in the case of an annuity contract under which payments have not yet commenced,

A) the number of accumulation units credited to such contract and the dollar value of a unit, or

B) the value of the contractholder's account; and

2) in the case of a life insurance policy, the dollar amount of the death benefit.

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SECTION 1551.80 FOREIGN OR ALIEN COMPANIES

Section 1551.80 Foreign or Alien Companies

If the law or regulation in the place of domicile of a foreign or alien company provides a degree of protection to the policyholder and the public which is substantially equal to that provided by applicable provisions of the Illinois Insurance Code and this Part, the Director, to the extent deemed appropriate, may consider compliance with such law or regulation as compliance with applicable provisions of the Illinois Insurance Code and this Part. The state of entry of an alien company shall be deemed its place of domicile for the purposes of this Part.

(Source: Amended at 25 Ill. Reg. 4208, effective March 5, 2001)

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SECTION 1551.90 LICENSING OF PRODUCERS FOR VARIABLE CONTRACTS

Section 1551.90 Licensing of Producers for Variable Contracts

a) No producer shall be eligible to sell or offer for sale a variable contract unless, prior to making any solicitation or sale of such a contract, the producer also is licensed as a variable contract producer. No agent of a fraternal benefit company, which operates on a legal reserve basis, shall be eligible to be licensed as a variable contract producer unless the producer also is licensed as a life insurance producer.

b) Any producer who participates only in the sale or offering for sale of variable contracts that are not registered under the Federal Securities Act of 1933 (15 USC 77(a) et seq.) need not be licensed as a variable contract producer.

c) Any producer applying for a license as a variable contract producer shall do so by filing with this Department proof of passing the NASD Series 6 or 7 examination or any superseding examination that grants authority to sell variable contracts.

d) Any person licensed in this State as a variable contract producer shall immediately report to the Director:

1) any suspension or revocation of the variable contract producer's license or life insurance producer's license in any other State or Territory of the United States,

2) the imposition of any disciplinary sanction (including suspension or expulsion from membership, suspension or revocation of or denial of registration) imposed by any national securities exchange, or national securities association, or any federal, or state or territorial agency with jurisdiction over securities or variable contracts,

3) any judgement or injunction entered against the producer on the basis of conduct deemed to have involved fraud, deceit, misrepresentation, or violation of any insurance or securities law or regulation.

e) The Director may reject any application or suspend or revoke or refuse to renew any variable contract producer's license upon any ground that would bar such applicant or such producer from being licensed to sell life insurance contracts in this State. The rules governing any proceeding relating to the suspension or revocation of a life insurance producer's license shall also govern any proceeding for suspension or revocation of a variable contract producer's license.

f) Renewal of a variable contract producer's license shall follow the same procedure established for renewal of a producer's license to sell life insurance contracts in this State.

(Source: Amended at 25 Ill. Reg. 4208, effective March 5, 2001)

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SECTION 1551.100 DISCLOSURE

Section 1551.100 Disclosure

a) The following information shall be furnished to an applicant for a contract of variable life insurance prior to execution of the application:

1) A summary description of the insurance company and its principal activities.

2) A summary explanation in non-technical terms of the principal variable features of the contract and of the manner in which any variable benefits reflect the investment experience of a separate account.

3) A brief description of the investment policy for the separate account with respect to such contract.

4) A list of investments in the separate account as of a date not earlier than the end of the last year for which an annual statement has been filed with the Director of the state of domicile.

5) Summary financial statements of the insurance company and the separate account based upon the last annual statement filed with such Director, except that for a period of 4 months after the filing of any annual statement the summary required by this subsection (a)(5) may be based upon the annual statement, immediately preceding such last annual statement, filed with the Director.

b) The insurance company may include such additional information as it deems appropriate.

c) A copy of the statement containing the information required by subsection (a) shall be filed with the Director prior to any use of the statement and shall be subject to disapproval if found to be inaccurate or misleading.

(Source: Amended at 25 Ill. Reg. 4208, effective March 5, 2001)

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SECTION 1551.APPENDIX A VARIABLE ANNUITIES ONLY

Section 1551.APPENDIX A Variable Annuities Only

[Name of Company]

Hypothetical Illustration of Benefits
From An Immediate Variable Annuity

Prepared for	John Doe
Age & Sex	65 Male
Annuity Form	Life Annuity with 120
	Months Certain
Single Purchase Payment	$15,000

Annuity payments will vary as described in the prospectus, and in accordance with the actual investment results.

An interest rate of 3½% is used in calculating the initial payment. If the investment result after charges and taxes, as described in the prospectus, is equal to the interest rate assumed for the annuity, the annuity payment for that period will be unchanged. If the investment result is greater, the annuity payment will increase; if less, the payment will decrease.

The table below illustrates the effect of three hypothetical annual rates of investment return. The hypothetical rates of investment return shown are after provision for any taxes chargeable to the account, but before deduction of other charges.

		MONTHLY ANNUITY PAYMENT AT AGE			
Hypothetical Investment Result	First Payment	70	75	80	85
8%	$92.64	$109.40	$129.19	$152.56	$180.16
4%	92.64	90.42	88.26	86.15	84.09
0%	92.64	74.18	59.39	47.56	38.08

The investment results bear no relationship to past or future investment results. Actual investment results will vary from month to month and actual payments may be more or less than shown above.

Use of this material is prohibited unless preceded or accompanied by a current prospectus which sets forth the sales expenses and other material information.

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TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE SUBCHAPTER ii: INSURANCE PRODUCERS, LIMITED INSURANCE REPRESENTATIVES AND REGISTERED FIRMS
PART 3120 SUITABILITY IN ANNUITY TRANSACTIONS
SECTION 3120.10 PURPOSE

Section 3120.10 Purpose

a) The purpose of this Part is to set forth standards and procedures for recommendations by insurers or insurance producers to consumers that result in a transaction involving annuity products so that the insurance needs and financial objectives of consumers at the time of the transaction are appropriately addressed.

b) Nothing in this Part shall be construed to create or imply a private cause of action for a violation of this Part.

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SECTION 3120.20 SCOPE

Section 3120.20 Scope

This Part shall apply to any recommendation to purchase, exchange or replace an annuity made to a consumer by an insurance producer, or an insurer when no producer is involved, that results in the purchase, exchange or replacement recommended.

(Source: Amended at 35 Ill. Reg. 16087, effective September 26, 2011)

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SECTION 3120.30 EXEMPTIONS

Section 3120.30 Exemptions

Unless otherwise specifically included, this Part shall not apply to recommendations involving:

a) Direct response solicitations where there is no recommendation based on information collected from the consumer pursuant to this Part;

b) Contracts used to fund:

1) An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA);

2) A plan described by sections 401(a), 401(k), 403(b), 408(k) or 408(p) of the Internal Revenue Code (IRC) (26 USCS 401 et seq.), as amended, if established or maintained by an employer;

3) A government or church plan defined in section 414 of the IRC, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under section 457 of the IRC;

4) A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;

5) Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or

6) Formal prepaid funeral contracts.

(Source: Amended at 35 Ill. Reg. 16087, effective September 26, 2011)

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SECTION 3120.40 DEFINITIONS

Section 3120.40 Definitions

Annuity means an insurance product under State law that is individually solicited, whether the product is classified as an individual or group annuity.

Code means the Illinois Insurance Code [215 ILCS 5].

Continuing Education Provider or CE Provider means an individual or entity that is approved to offer continuing education courses pursuant to 50 Ill. Adm. Code 3119.

Department means the Department of Insurance.

Director means the Director of the Illinois Department of Insurance.

FINRA means the Financial Industry Regulatory Authority or a succeeding agency.

Insurance Producer means a person required to be licensed under the laws of this State to sell, solicit, or negotiate insurance, including annuities.

Insurer means an entity required to be licensed under the laws of this State to provide insurance products, including annuities.

Recommendation means advice provided by an insurance producer, or an insurer when no producer is involved, to an individual consumer that results in a purchase, exchange, or replacement of an annuity in accordance with that advice.

Replacement means a transaction in which a new policy or contract is to be purchased, and it is known or should be known to the proposing producer, or to the proposing insurer if there is no producer, that by reason of the transaction an existing policy or contract has been or is to be:

Lapsed, forfeited, surrendered or partially surrendered, assigned to the replacing insurer or otherwise terminated;

Converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits or other policy values;

Amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid;

Reissued with any reduction in cash value;

Used in a financed purchase.

Suitability Information means information that is reasonably appropriate to determine the suitability of a recommendation, including the following:

Age;

Annual income;

Financial situation and needs, including the financial resources used for the funding of the annuity;

Financial experience;

Financial objectives;

Intended use of the annuity;

Financial time horizon;

Existing assets, including investment and life insurance holdings;

Liquidity needs;

Liquid net worth;

Risk tolerance; and

Tax status.

(Source: Amended at 35 Ill. Reg. 16087, effective September 26, 2011)

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SECTION 3120.50 DUTIES OF INSURERS AND INSURANCE PRODUCERS

Section 3120.50 Duties of Insurers and Insurance Producers

a) In recommending to a consumer the purchase of an annuity or the exchange of an annuity that results in another insurance transaction or series of insurance transactions, the insurance producer, or the insurer when no producer is involved, shall have reasonable grounds for believing that the recommendation is suitable for the consumer on the basis of the facts disclosed by the consumer as to his or her investments and other insurance products and as to his or her financial situation and needs, including the consumer's suitability information, and that there is a reasonable basis to believe all of the following:

1) The consumer has been reasonably informed of various features of the annuity, such as the potential surrender period and surrender charge, potential tax penalty if the consumer sells, exchanges, surrenders or annuitizes the annuity, mortality and expense fees, investment advisory fees, potential charges for and features of riders, limitations on interest returns, insurance and investment components and market risk;

2) The consumer would benefit from certain features of the annuity, such as tax-deferred growth, annuitization or death or living benefit;

3) The particular annuity as a whole, the underlying subaccounts to which funds are allocated at the time of purchase or exchange of the annuity, and riders and similar product enhancements, if any, are suitable (and in the case of an exchange or replacement, the transaction as a whole is suitable) for the particular consumer based on his or her suitability information; and

4) In the case of an exchange or replacement of an annuity, the exchange or replacement is suitable, including taking into consideration whether:

A) The consumer will incur a surrender charge, be subject to the commencement of a new surrender period, lose existing benefits (such as death, living, or other contractual benefits), or be subject to increased fees, investment advisory fees or charges for riders and similar product enhancements;

B) The consumer would benefit from product enhancements and improvements; and

C) The consumer has had another annuity exchange or replacement and, in particular, an exchange or replacement within the preceding 36 months.

b) Prior to the execution of a purchase, exchange or replacement of an annuity resulting from a recommendation, an insurance producer, or an insurer when no producer is involved, shall make reasonable efforts to obtain the consumer's suitability information.

c) Except as permitted under subsection (d), an insurer shall not issue an annuity recommended to a consumer unless there is a reasonable basis to believe the annuity is suitable based on the consumer's suitability information.

d) Recommendation to Consumers

1) Except as provided under subsection (d)(2), neither an insurance producer, nor an insurer, shall have any obligation to a consumer under subsection (a) or (c) related to any annuity transaction if:

A) No recommendation is made;

B) A recommendation was made and was later found to have been prepared based on materially inaccurate information provided by the consumer;

C) A consumer refuses to provide relevant suitability information and the annuity transaction is not recommended; or

D) A consumer decides to enter into an annuity transaction that is not based on a recommendation of the insurer or the insurance producer.

2) An insurer's issuance of an annuity subject to subsection (d)(1) shall be reasonable under all the circumstances actually known to the insurer at the time the annuity is issued.

e) An insurance producer or, when no insurance producer is involved, the responsible insurer representative, shall, at the time of sale:

1) Make a record of any recommendation subject to Section 3120.50(a) of this Part;

2) Obtain a customer signed statement documenting a customer's refusal to provide suitability information, if any; and

3) Obtain a customer signed statement acknowledging that an annuity transaction is not recommended if a customer decides to enter into an annuity transaction that is not based on the insurance producer's or insurer's recommendation.

f) Supervision of Recommendations

1) An insurer shall establish a supervision system that is reasonably designed to achieve the insurer's and its insurance producers' compliance with this Part, including, but not limited to, the following:

A) The insurer shall maintain and incorporate reasonable procedures to inform its insurance producers of the requirements of this regulation into relevant insurance producer training manuals;

B) The insurer shall establish standards for insurance producer product training and shall maintain reasonable procedures to require its insurance producers to comply with the requirements of Section 3120.60 of this Part;

C) The insurer shall provide product-specific training and training materials that explain all material features of its annuity products to insurance producers;

D) The insurer shall maintain procedures for review of each recommendation prior to issuance of an annuity that are designed to ensure that there is a reasonable basis to determine that a recommendation is suitable. The review procedures may apply a screening system for the purpose of identifying selected transactions for additional review and may be accomplished electronically or through other means, including, but not limited to, physical review. Such an electronic or other system may be designed to require additional review only of those transactions identified for additional review by the selection criteria;

E) The insurer shall maintain reasonable procedures to detect recommendations that are not suitable. This may include, but is not limited to, confirmation of consumer suitability information, systematic customer surveys, interviews, confirmation letters and programs of internal monitoring. Nothing in this subsection (f)(1)(E) prevents an insurer from complying with this subsection (f)(1)(E) by applying sampling procedures, or by confirming suitability information after issuance or delivery of the annuity; and

F) The insurer shall annually provide a report to senior management, including the senior manager responsible for audit functions, that details a review, with appropriate testing, reasonably designed to determine the effectiveness of the supervision system, the exceptions found, and corrective action taken or recommended, if any.

2) Nothing in this subsection (f) restricts an insurer from contracting for performance of a function (including maintenance of procedures) required under subsection (f)(1). An insurer is responsible for taking appropriate corrective action and may be subject to sanctions and penalties pursuant to Section 3120.90 of this Part regardless of whether the insurer contracts for performance of a function and regardless of the insurer's compliance with

subsection (f)(3).

3) An insurer's supervision system under subsection (f)(1) shall include supervision of contractual performance under this subsection (f)(3). This includes, but is not limited to, the following:

A) Monitoring and, as appropriate, conducting audits to assure that the contracted function is properly performed; and

B) Annually obtaining a certification from a senior manager who has responsibility for the contracted function that the manager has a reasonable basis to represent, and does represent, that the function is properly performed.

4) An insurer is not required to include in its system of supervision an insurance producer's recommendations to consumers of products other than the annuities offered by the insurer.

g) An insurance producer shall not dissuade, or attempt to dissuade, a consumer from:

1) Truthfully responding to an insurer's request for confirmation of suitability information;

2) Filing a complaint;

3) Cooperating with the investigation of a complaint.

h) Sales made in compliance with FINRA requirements pertaining to suitability and supervision of annuity transactions shall satisfy the requirements of this Part. This subsection applies to FINRA broker-dealer sales of variable annuities and fixed annuities if the suitability and supervision is similar to those applied to variable annuity sales. However, nothing in this subsection shall limit the Director's ability to enforce (including investigate) the provisions of this Part.

i) For subsection (h) to apply, an insurer shall:

1) Monitor the FINRA member broker-dealer using information collected in the normal course of an insurer's business; and

2) Provide to the FINRA member broker-dealer information and reports that are reasonably appropriate to assist the FINRA member broker-dealer to maintain its supervision system.

(Source: Amended at 35 Ill. Reg. 16087, effective September 26, 2011)

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SECTION 3120.60 INSURANCE PRODUCER TRAINING

Section 3120.60 Insurance Producer Training

a) An insurance producer shall not solicit the sale of an annuity product unless the insurance producer has adequate knowledge of the product to recommend the annuity and the insurance producer is in compliance with the insurer's standards for product training.

b) The training requirements of subsection (c)(4) may be approved as contiuning education courses under Section 500-35(b)(1) of the Code.

c) Training Requirements

1) An insurance producer who engages in the sale of annuity products shall complete a one-time four hour credit training course approved by the Department.

2) Insurance producers who hold a life insurance line of authority after June 30, 2012 and who desire to sell annuities shall complete the requirements of this Section by July 1, 2012. Individuals who obtain a life insurance line of authority may not engage in the sale of annuities until the annuity training course required under this Section has been completed.

3) The minimum length of the training required under this Section shall be sufficient to qualify for at least four CE credits, but may be longer. When an annuity product offers any long term care benefits as defined in 50 Ill. Adm. Code 2012.30, the insurance producer shall complete the training requirements in 50 Ill. Adm. Code 2012.121 prior to selling the annuity product.

4) The training required under this Section shall include information on the following topics:

A) The types of annuities and various classifications of annuities;

B) Identification of the parties to an annuity;

C) How fixed, variable and indexed annuity contract provisions affect consumers;

D) The application of income taxation of qualified and non-qualified annuities;

E) The primary uses of annuities; and

F) Appropriate sales practices, replacement and disclosure requirements.

5) Providers of courses intended to comply with this Section shall cover all topics listed in the prescribed outline and shall not present any marketing information or provide training on sales techniques or provide specific information about a particular insurer's products. Additional topics may be offered in conjunction with and in addition to the required outline.

6) The satisfaction of these training requirements in any state that are substantially similar to the provisions of this Section shall be deemed to satisfy the training requirements of this Section in this State.

7) An insurer shall verify that an insurance producer has completed the annuity training course required under this Section before allowing the producer to sell an annuity product for that insurer. An insurer may satisfy its responsibility under this subsection (b)(10) by obtaining certificates of completion of the training course or obtaining reports provided by commissioner-sponsored database systems or vendors or from a reasonably reliable commercial database vendor that has a reporting arrangement with approved insurance education providers.

(Source: Old Section 3120.60 renumbered to Section 3120.70; new Section 3120.60 added at 35 Ill. Reg. 16087, effective September 26, 2011)

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SECTION 3120.70 COMPLIANCE MITIGATIONS; PENALTIES

Section 3120.70 Compliance Mitigations; Penalties

a) An insurer is responsible for compliance with this Part. If a violation occurs, either because of the action or inaction of the insurer or its insurance producer, the Director may order:

1) An insurer to take reasonably appropriate corrective action for any consumer harmed by the insurer's, or by its insurance producer's, violation of this Part;

2) A general agency, an independent agency or the insurance producer to take reasonably appropriate corrective action for any consumer harmed by the insurance producer's violation of this Part; and

3) Appropriate penalties and sanctions, including, but not limited to, those set forth in Section 3120.90 of this Part. b) Any applicable penalty for a violation of this Part may be reduced or eliminated at the sole discretion of the Director if corrective action for the consumer was taken promptly after a violation was discovered or the violation was not part of a pattern or practice.

(Source: Renumbered from Section 3120.60 and amended at 35 Ill. Reg. 16087, effective September 26, 2011)

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SECTION 3120.80 RECORDKEEPING

Section 3120.80 Recordkeeping

a) Insurers, general agents, independent agencies and insurance producers shall maintain and be able to make available to the Director records of the information collected from the consumer and other information used in making the recommendations that were the basis for insurance transactions for 7 years after the insurance transaction is completed by the insurer. An insurer is permitted, but shall not be required, to maintain documentation on behalf of an insurance producer.

b) Records required to be maintained by this Part may be maintained in paper, photographic, microprocess, magnetic, mechanical or electronic media, or by any process that accurately reproduces the original document.

(Source: Renumbered from Section 3120.70 and amended at 35 Ill. Reg. 16087, effective September 26, 2011)

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SECTION 3120.90 NONCOMPLIANCE

Section 3120.90 Noncompliance

Violation of the requirements of this Part may be considered evidence of misrepresentation under Section 149 of the Illinois Insurance Code and/or a deceptive act or practice prohibited under Sections 423 and 424 of the Illinois Insurance Code.

(Source: Renumbered from Section 3120.80 and amended at 35 Ill. Reg. 16087, effective September 26, 2011)

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PART 909 ADVERTISING AND SALES PROMOTION OF LIFE INSURANCE AND ANNUITIES

The General Assembly's Illinois Administrative Code database includes only those rulemakings that have been permanently adopted. This menu will point out the Sections on which an emergency rule (valid for a maximum of 150 days, usually until replaced by a permanent rulemaking) exists. The emergency rulemaking is linked through the notation that follows the Section heading in the menu.

AUTHORITY: Implementing Sections 149, 151, 236, 237, 426 and Article XXXI and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/149, 151, 236, 237, 401, 426 and Article XXXI].

SOURCE: Filed April 26, 1976, effective May 7, 1976; codified at 7 Ill. Reg. 3460; amended at 14 Ill. Reg. 13584, effective August 14, 1990; amended at 15 Ill. Reg. 15665, effective October 18, 1991; amended at 22 Ill. Reg. 3027, effective June 1, 1998; amended at 22 Ill. Reg. 16468, effective September 1, 1998; amended at 26 Ill. Reg. 16500, effective October 28, 2002; amended at 28 Ill. Reg. 4591, effective March 1, 2004; transferred from the Department of Insurance to the Department of Financial and Professional Regulation pursuant to Executive Order 2004-6 on July 1, 2004; amended at 31 Ill. Reg. 12732, effective January 1, 2008; recodified from the Department of Financial and Professional Regulation to the Department of Insurance pursuant to Executive Order 2009-04 at 39 Ill. Reg. 4164.

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SECTION 909.10 AUTHORITY

Section 909.10 Authority

This Part is issued by the Director of Insurance pursuant to Sections 401 and 500-145 of the Illinois Insurance Code [215 ILCS 5/401 and 500-145], which empower the Director *to make reasonable rules and regulations as may be necessary for making effective* the insurance laws of this State. The purpose of this Part is to set forth minimum standards and guidelines to assure a full and truthful disclosure to the public of all material and relevant information in the advertising or solicitation of life insurance policies and annuity contracts. This Part implements the Illinois Insurance Code [215 ILCS 5] by defining acts and practices that constitute a violation of one or more of the following Sections of the Illinois Insurance Code: Sections 149, 151, 236, 237 and 426 and Article XXXI [215 ILCS 5/149, 151, 236, 237 and 426 and Article XXXI], which generally relate to the use of false or misleading statements and certain prohibited actions in the sale of insurance and that apply variously to life insurance companies and to insurance producers and solicitors.

(Source: Amended at 31 Ill. Reg. 12732, effective January 1, 2008)

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SECTION 909.20 DEFINITIONS

Section 909.20 Definitions

For the purpose of this Part:

Advertisement shall not include:

Communications or materials used within an insurer's own organization and not intended for dissemination to the public;

Communications with policyholders other than material urging policyholders to purchase, increase, modify, reinstate or retain a policy;

A general announcement from a group or blanket policyholder to eligible individuals on an employment or membership list that a policy or program has been written or arranged, provided the announcement clearly indicates that it is preliminary to the issuance of a booklet explaining the proposed coverage.

Advertisement means material designed to create public interest in life insurance or annuities or in an insurer, or to induce the public to purchase, increase, modify, reinstate or retain a policy including:

Printed and published material, audio-visual material and descriptive literature of an insurer used in direct mail, newspapers, magazines, radio and television scripts, billboards and similar displays;

Descriptive literature and sales aids of all kinds issued by an insurer or agent, including but not limited to circulars, leaflets, booklets, depictions, illustrations and form letters;

Material used for the recruitment, training, and education of an insurer's sales personnel, agents, solicitors and brokers which is designed to be used or is used to induce the public to purchase, increase, modify, reinstate or retain a policy;

Prepared sales talks, presentations, and material for use by sales personnel, agents, solicitors and brokers.

Code means the Illinois Insurance Code [215 ILCS 5].

Currently Payable Scale means a scale of non-guaranteed elements in effect for a policy form as of the preparation date of the illustration, or declared to become effective within the next 95 days of the preparation date.

Department means the Department of Insurance.

Director means the Director of the Illinois Department of Insurance.

Disciplined Current Scale means a scale of non-guaranteed elements constituting a limit on illustrations currently being illustrated by an insurer that is reasonably based on actual recent historical experience, as certified annually by an illustration actuary designated by the insurer. The standards established by the Actuarial Standards Board (ASB) (1720 I Street, N.W., 7th Floor, Washington, D.C. 20006) (Actuarial Standard of Practice No. 24, Compliance with the NAIC Life Insurance Illustrations Model Regulation as of December 1995, no subsequent dates or editions) may be relied upon if the standards:

Are consistent with all provisions of this Part;

Limit a disciplined current scale to reflect only actions that have already been taken or events that have already occurred;

Do not permit a disciplined current scale to include any projected trends of improvements in experience or any assumed improvements in experience beyond the illustration date; and

Do not permit assumed expenses to be less than minimum assumed expenses.

Illustrated Scale means a scale of non-guaranteed elements, currently being illustrated for policies other than variable life insurance, individual and group annuity contracts, credit life insurance, or life insurance policies and certificates with guaranteed death benefits of $10,000 or less, or illustrated death benefits less than $15,000, that is not more favorable to the policy owner than the lesser of:

The disciplined current scale; or

The currently payable scale.

Insurance Producer means a person required to be licensed under the laws of this State to sell, solicit, or negotiate insurance [215 ILCS 5/500-10].

Insurer shall include any organization or person which issues life insurance or annuities to residents of this State.

Non-guaranteed Elements means premiums, benefits, values, credits or charges under a policy of life insurance that are not guaranteed or not determined at issue.

Policy shall include any policy, plan, certificate, contract, agreement, statement of coverage, rider or endorsement which provides for life insurance or annuity benefits.

Preneed Funeral Contract or Prearrangement shall mean an arrangement by or for an individual before the individual's death relating to the purchase or provision of specific funeral or cemetery merchandise or services.

(Source: Amended at 31 Ill. Reg. 12732, effective January 1, 2008)

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SECTION 909.30 APPLICABILITY**

Section 909.30 Applicability

a) This Part shall apply to any life insurance or annuity advertisement intended for dissemination in this State.

b) Every insurer shall establish and at all times maintain a system of control over the content, form and method of dissemination of its advertisements. All such advertisements, regardless of by whom written, created, designed or presented, shall be the responsibility of the insurer.

(Source: Amended at 22 Ill. Reg. 3027, effective June 1, 1998)

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SECTION 909.40 FORM AND CONTENT OF ADVERTISEMENTS

Section 909.40 Form and Content of Advertisements

a) Advertisements shall be truthful and not misleading in fact or by implication. The form and content of an advertisement shall be sufficiently complete and clear so as to avoid deception. It shall not have the capacity or tendency to mislead or deceive. Whether an advertisement has the capacity or tendency to mislead or deceive shall be determined by the Director of Insurance from the overall impression that the advertisement may be reasonably expected to create upon a person of average education or intelligence within the segment of the public to which it is directed.

b) No advertisement shall use the terms "investment," "investment plan," "founder's plan," "charter plan," "expansion plan," "profit," "profits," "profit sharing, " "interest plan," "savings," "savings plan," or other similar terms in connection with a policy in a context or under such circumstances of conditions as to have the capacity or tendency to mislead a purchaser or prospective purchaser of such policy to believe that he will receive, or that it is possible that he will receive, something other than a policy or some benefit not available to other persons of the same class and equal expectation of life.

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SECTION 909.50 DISCLOSURE REQUIREMENTS

Section 909.50 Disclosure Requirements

a) The information required to be disclosed by this Part shall not be minimized, rendered obscure or presented in an ambiguous fashion or intermingled with the text of the advertisement so as to be confusing or misleading.

b) No advertisement shall omit material information or use words, phrases, statements, references or illustrations if such omission or such use has the capacity, tendency or effect of misleading or deceiving purchasers or prospective purchasers as to the nature or extent of the insurance, any policy benefit payable, loss covered, premium payable or state or federal tax consequences. The fact that the policy offered is made available to a prospective insured for inspection prior to consummation of the sale, or an offer is made to refund the premium if the purchaser is not satisfied, does not remedy misleading statements.

c) In the event an advertisement used "Non-Medical," "No Medical Examination Required" or similar terms where issue is not guaranteed, such terms shall be accompanied by a further disclosure of equal prominence and in juxtaposition thereto to the effect that issuance of the policy may depend upon the answers to the health questions.

d) An advertisement shall not use as the name or title of a life insurance policy or an annuity, any phrase which does not include the words "life insurance" or "annuity" unless accompanied by other language clearly indicating it is life insurance.

e) An advertisement shall prominently include the specific title of the type of the policy being marketed and such title shall not be misleading as to the policy benefits.

f) An advertisement of an insurance policy marketed by the direct response techniques shall not state or imply that because there is no agent or commission included, there will be a cost savings to prospective purchasers unless such is the fact. No such cost savings may be stated or implied without justification satisfactory to the Director prior to use.

g) An advertisement for a policy containing graded or modified benefits shall prominently display any limitation of benefits. If the premium is level and coverage decreases or increases with age or duration, such fact shall be prominently disclosed.

h) An advertisement for a policy with non-level premiums shall prominently describe the premium changes.

i) Dividends and Other Non-Guaranteed Elements

1) An advertisement shall not utilize or describe dividends or other non-guaranteed elements in a manner which is misleading or has the capacity or tendency to mislead.

2) An advertisement shall not state or imply that the payment or amount of dividends is guaranteed. If dividends or other non-guaranteed elements are illustrated they must be based on the insurer's illustrated scale and the illustration must contain a statement to the effect that they are not to be construed as guarantees or estimates of dividends to be paid in the future.

3) An advertisement shall not state or imply that illustrated dividends under a participating policy and/or pure endowments will be or can be sufficient at any future time to assure, without the further payment of premiums, the receipt of benefits, such as a paid-up policy, unless the advertisement clearly and precisely explains:

A) what benefits or coverage would be provided at such time, and

B) under what conditions this would occur.

j) An advertisement shall not state that a purchaser of a policy will share in or receive a stated percentage or portion of the earnings on the general account assets of the company.

k) Testimonials or Endorsements by Third Parties

1) Testimonials used in advertisements must be genuine; represent the current opinion of the author; be applicable to the policy advertised, if any; and be accurately reproduced. In using a testimonial the insurer acknowledges as its own all of the statements contained therein, and such statements are subject to all the provisions of this Part.

2) If the individual making a testimonial or an endorsement has a financial interest in the insurer or a related entity as a stockholder, director, officer, employee or otherwise, or receives any benefit directly or indirectly other than required union scale wages, such fact shall be disclosed in the advertisement.

3) An advertisement shall not state or imply that an insurer or policy has been approved or endorsed by a group of individuals, society, association or other organization unless such is the fact and unless any proprietary relationship between an organization and the insurer is disclosed. If the entity making

the endorsement or testimonial is owned, controlled or managed by the insurer, or receives any payment or other consideration from the insurer for making such endorsement or testimonial, such fact shall be disclosed in the advertisement.

l) An advertisement shall not contain statistical information relating to any insurer or policy unless it accurately reflects recent and relevant facts. The source of any such statistics used in an advertisement shall be identified therein.

m) Introductory, Initial or Special Offers and Enrollment Periods

1) An advertisement of an individual policy or combination of such policies shall not state or imply that such policy or combination of such policies is an introductory, initial or special offer or that applicants will receive substantial advantages not available at a later date, or that the offer is available only to a specified group of individuals, unless such is the fact. An advertisement shall not describe an enrollment period as "special" or "limited" or use similar words or phrases in describing it when the insurer uses successive enrollment periods as its usual method of marketing its policies.

2) An advertisement shall not state or imply that only a specific number of policies will be sold, or that a time is fixed for the discontinuance of the sale of the particular policy advertised because of special advantages available in the policy.

3) An advertisement shall not offer a policy which utilizes a reduced initial rate in a manner which over emphasizes the availability and the amount of the initial premium. When an insurer charges an initial premium that differs in amount from the amount of the renewal premium payable on the same mode, all references to the reduced initial premium shall be followed by an asterisk or other appropriate symbol which refers the reader to that specific portion of the advertisement that contains a full rate schedule for the policy being advertised.

4) An enrollment period during which a particular insurance policy may be purchased on an individual basis shall not be offered within this State unless there has been a lapse of not less than six months between the close of the immediately preceding enrollment period for the same policy and the opening of the new enrollment period. The advertisement shall specify the date by which the applicant must mail the application, which shall be not less than ten days and not more than forty days following the date on which such enrollment period is advertised for the first time. This Part applies to all advertising media: i.e., mail, newspapers, radio, television, magazines and periodicals, by any one insurer. The phrase "any one insurer" includes all the affiliated companies of a group of insurance companies under common management or control. This Part does not apply to the use of a termination or cut-off date beyond which an individual application for a guaranteed issue policy will not be accepted by an insurer in those instances where the application has been sent to the applicant in response to his request. It is also inapplicable to solicitations to employees or members of a particular group or association which otherwise would be eligible under

specific provisions of the Insurance Code for group or blanket insurance. In cases where an insurance product is marketed on a direct mail basis to prospective insureds by reason of some common relationship with a sponsoring organization, this Part shall be applied separately to such sponsoring organization.

n) An advertisement of a particular policy shall not state or imply that prospective insureds shall be or become members of a special class, group, or quasi-group and as such enjoy special rates, dividends or underwriting privileges, unless such is the fact.

o) An advertisement shall not make unfair or incomplete comparisons of policies, benefits, dividends or rates of other insurers. An advertisement shall not falsely or unfairly describe other insurers, their policies, services or methods of marketing.

p) An advertisement for the solicitation or sale of a preneed funeral contract or prearrangement as defined in Section 909.20 of this Part, which is funded or to be funded by a life insurance policy or annuity contract, shall disclose the following:

1) the fact that a life insurance policy or annuity contract is involved or being used to fund a prearrangement as defined in Section 909.20 of this Part,

2) the nature of the relationship among the soliciting producer or producers, the provider of the funeral merchandise or services, the administrator and any other persons,

3) the fact that the family or representative of the deceased has the right to change the choice of the prearranged provider of funeral/cemetery merchandise and services upon the demise of the insured,

4) the fact that in the event the policy proceeds exceed the prearranged cost for funeral/cemetery merchandise and services, the excess proceeds will be payable to a secondary beneficiary.

(Source: Amended at 22 Ill. Reg. 3027, effective June 1, 1998)

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TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER l: PROVISIONS APPLICABLE TO ALL COMPANIES
PART 909 ADVERTISING AND SALES PROMOTION OF LIFE INSURANCE AND ANNUITIES
SECTION 909.60 IDENTITY OF INSURER

Section 909.60 Identity of Insurer

a) The name of the insurer shall be clearly identified, and if any specific individual policy is advertised it shall be identified either by form number or other appropriate description. An advertisement shall not use a trade name, any insurance group designation, name of the parent company of the insurer, name of the particular division of the insurer, service mark, slogan, symbol or other device or reference without disclosing the name of the insurer, if the advertisement would have the capacity or tendency to mislead or deceive as to the true identity of the insurer or create the impression that a company other than the insurer would have any responsibility for the financial obligation under a policy.

b) No advertisement shall use any combination of words, symbols or physical materials which by their content, phraseology, shape, color, or other characteristics are so similar to a combination of words, symbols or physical materials used by a governmental program or agency or otherwise appear to be of such a nature that they tend to mislead prospective insureds into believing that the solicitation is in some manner connected with such governmental program or agency.

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SECTION 909.70 JURISDICTIONAL LICENSING AND STATUS OF INSURER

Section 909.70 Jurisdictional Licensing and Status of Insurer

a) An advertisement which is intended to be seen or heard beyond the limits of the jurisdiction in which the insurer is licensed shall not imply licensing beyond such limits.

b) An advertisement may state that an insurer is licensed in the state where the advertisement appears, provided it does not exaggerate such fact or suggest or imply that competing insurers may not be so licensed.

c) An advertisement shall not create the impression that the insurer, its financial condition or status, the payment of its claims or the merits, desirability or advisability of its policy forms or kinds of plans of insurance are recommended or endorsed by any governmental entity. However, where a governmental entity has recommended or endorsed a policy form or plan, such fact may be stated if the entity authorizes its recommendation or endorsement to be used in an advertisement.

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SECTION 909.80 STATEMENTS ABOUT AN INSURER

Section 909.80 Statements about an Insurer

An advertisement shall not contain statements, pictures, or illustrations which are false or misleading, in fact or by implication, with respect to the assets, liabilities, insurance in force, corporate structure, financial condition, age or relative position of the insurer in the insurance business. An advertisement shall not contain a recommendation by any commercial rating system unless it clearly defines the scope and extent of the recommendation.

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SUBCHAPTER 1: PROVISIONS APPLICABLE TO ALL COMPANIES
PART 909 ADVERTISING AND SALES PROMOTION OF LIFE INSURANCE AND ANNUITIES
SECTION 909.85 ADVERTISING AND MARKETING OF ANNUITIES AND VARIABLE LIFE CONTRACTS

Section 909.85 Advertising and Marketing of Annuities and Variable Life Contracts

With respect to annuities and variable life contracts, any advertisement or other device designed to produce leads based on a response from a potential insured that is directed toward persons age 65 or older shall prominently disclose that an insurer or insurance producer may contact the applicant if that is the fact. In addition, an insurer or insurance producer who makes contact with a person as a result of acquiring that person's name from a lead generating device shall disclose that fact in the initial contact with the person.

a) No insurer, insurance producer, solicitor, or other person or other entity shall solicit persons age 65 and older in this State through the use of a name that is deceptive or misleading.

b) Advertisements shall not employ words, letters, initials, symbols or other devices that are so similar to those used by governmental agencies, a nonprofit or charitable institution, senior organization, or other insurer that they could have the capacity or tendency to mislead the public.

c) No advertisement may imply that the reader may lose a right or privilege or benefits under federal, State, or local law if he or she fails to respond to the advertisement.

d) An insurer, insurance producer, or other entity may not use an address so as to mislead or deceive as to the true identity, location, or licensing status of the insurer, insurance producer, or other entity.

e) In addition to any other prohibition on untrue, deceptive, or misleading advertisements, no advertisement for an event where insurance products will be offered for sale may use the terms "seminar", "class", "informational meeting", or substantially equivalent terms to characterize the purpose of the public gathering or event unless it adds the words "and insurance sales presentation" immediately following those terms in the same type size and font as those terms.

(Source: Added at 31 Ill. Reg. 12732, effective January 1, 2008)

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PART 909 ADVERTISING AND SALES PROMOTION OF LIFE INSURANCE AND ANNUITIES
SECTION 909.90 ADVERTISING RECORDS AND CERTIFICATE

Section 909.90 Advertising Records and Certificate

a) Each insurer shall maintain at its home or principal office a complete file containing a specimen copy of every printed, published or prepared advertisement hereafter disseminated in this State, with a notation indicating the manner and extent of distribution and the form number of any policy advertised. The file shall be subject to inspection by this Department. All the advertisements shall be maintained in the file for a period of either four years or until the filing of the next regular report of examination of the insurer, whichever is the longer period of time.

b) Every insurer subject to the provisions of this Part shall prepare and maintain a certificate of compliance that will be placed on file with the company, together with the materials identified in subsection (a). The certificate shall be executed by an authorized officer of the insurer wherein it is stated that, to the best of his or her knowledge, information and belief, the advertisements which were disseminated by or on behalf of the insurer in this State during the preceding statement year, or during the portion of such year when this Part was in effect, complied or were made to comply in all respects with the provisions of this Part and the Insurance Laws of this State as implemented and interpreted by this Part.

(Source: Amended at 31 Ill. Reg. 12732, effective January 1, 2008)

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PART 909 ADVERTISING AND SALES PROMOTION OF LIFE INSURANCE AND ANNUITIES
SECTION 909.100 NONCOMPLIANCE

Section 909.100 Noncompliance

Violation of the requirements of this Part shall be an unfair trade practice, and evidence of incompetence or untrustworthiness in the conduct of business under Section 500-70(a)(7) and (8) of the Code.

(Source: Amended at 31 Ill. Reg. 12732, effective January 1, 2008)

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SECTION 909.110 CONFLICT WITH OTHER RULES

Section 909.110 Conflict with Other Rules

It is not intended that this Part conflict with or supersede any rules currently in force or subsequently adopted in this State governing specific aspects of the sale or replacement of life insurance including, but not limited to, rules dealing with life insurance cost comparison indices, deceptive practices in the sale of life insurance and replacement of life insurance policies. Consequently, no disclosure required under any such rules should be deemed to be an advertisement within the meaning of this Part.

(Source: Amended at 22 Ill. Reg. 3027, effective June 1, 1998)

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SUBCHAPTER I: PROVISIONS APPLICABLE TO ALL COMPANIES
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SECTION 909.120 SEVERABILITY PROVISION

Section 909.120 Severability Provision

If any Section or portion of a Section of this Part, or the applicability thereof to any person or circumstance, is held invalid by a court, the remainder of the Part, or the applicability of such provision or circumstances, shall not be affected.

(Source: Amended at 22 Ill. Reg. 3027, effective June 1, 1998)

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ADMINISTRATIVE CODE

TITLE 14: COMMERCE
SUBTITLE A: REGULATION OF BUSINESS
CHAPTER I: SECRETARY OF STATE
PART 130 REGULATIONS UNDER ILLINOIS SECURITIES LAW OF 1953
SECTION 130.853 ACCOUNT TRANSACTIONS

Section 130.853 Account Transactions

Effecting or causing to be effected by or for any client's account, any transactions of purchase or sale which are excessive in size or frequency or unsuitable in view of the financial resources and character of the account, shall constitute an act, practice, or course of business on the part of the registered investment adviser or its representative effecting such transactions or causing the transactions to be effected that is fraudulent, deceptive or manipulative.

(Source: Amended at 21 Ill. Reg. 15892, effective December 1, 1997)

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ADMINISTRATIVE CODE

TITLE 14: COMMERCE
SUBTITLE A: REGULATION OF BUSINESS
CHAPTER I: SECRETARY OF STATE
PART 130 REGULATIONS UNDER ILLINOIS SECURITIES LAW OF 1953
SECTION 130.825 RECORDS REQUIRED OF DEALERS AND CUSTOMER FEES

Section 130.825 Records Required of Dealers and Customer Fees

a) Every dealer registered by the Secretary of State shall keep the following books and records:

1) blotters (or other records of original entry) containing an itemized daily record of all purchases and sales of securities, all receipts and deliveries of securities (including certificate numbers), all receipts and disbursements of cash and all other debits and credits. The record shall show the account for which each transaction was effected, the name and amount of securities, the unit and aggregate purchase or sale price (if any), the trade date, and the name or other designation of the person from whom purchased or received or to whom sold or delivered;

2) ledgers (or other records) reflecting all assets and liabilities, income, and expense and capital accounts;

3) ledger accounts itemizing separately as to each cash and margin account of every customer and of the dealer and partners thereof, all purchases, sales, receipts and deliveries of securities and commodities for the account and all other debits and credits to the account;

4) ledgers (or other records) reflecting the following:

A) securities in transfer

B) dividends and interest received

C) securities borrowed and securities loaned

D) monies borrowed and monies loaned (together with a record of the collateral thereof and any substitutions in the collateral)

E) securities failed to receive and failed to deliver;

5) a securities record or ledger reflecting separately for each security as of the

clearance dates, all "long" or "short" positions (including securities in safekeeping) carried by the dealer for its account or for the account of its customers or partners and showing the location of all securities long and offsetting position to all securities short and in all cases the name or designation of the account in which each position is carried;

6) a memorandum of each brokerage order, and of any other instruction, given or received for the purchase or sale of securities whether executed or unexecuted. The memorandum shall show the terms and conditions of the order or instructions and of any modification or cancellation thereof, the account for which entered, the time of entry, the price at which executed and, to the extent feasible, the time of execution or cancellation. Orders entered pursuant to the exercise of discretionary power by the dealer, or any employee thereof, shall be so designated. The term "instruction" shall be deemed to include instructions between partners and employees of a dealer. The term "time of entry" shall be deemed to mean the time when such dealer transmits the order or instruction for execution, or, if it is not so transmitted, the time when it is received;

7) a memorandum of each purchase and sale of securities for the account of the dealer showing the price and, to the extent feasible, the time of execution;

8) copies of confirmations of all purchases and sales of securities and copies of notices of all other debits and credits for securities, cash and other items for the account of customers and partners of the dealer;

9) a record in respect of each cash and margin account with the dealer containing the name and address of the beneficial owner; provided that, in the case of a joint account or an account of a corporation, the records are required only in respect of the person or persons authorized to transact business for the account;

10) a record of all puts, calls, spreads, straddles and other options in which the dealer has any direct or indirect interest or which the dealer has granted or guaranteed, containing, at least, an identification of the security and the number of units involved.

b) This Section shall not be deemed to require a member of a national securities exchange to make or keep records of transactions cleared for the member by another member as are customarily made and kept by the clearing member.

c) Every dealer registered by the Secretary of State shall preserve, for a period of not less than 3 years, the first 2 years in an easily accessible place:

1) all check books, bank statements, cancelled checks and cash reconciliations;

2) all bills receivable or payable (or copies thereof), paid or unpaid, relating to the business of the dealer;

3) originals of all communications received and copies of all communications

sent by the dealer (including interoffice memoranda and communications) relating to the business of the dealer;

4) all trial balances, computation of aggregate indebtedness and net capital (and working papers in connection therewith), financial statements, branch office reconciliations and internal audit working papers relating to the business of the dealer;

5) all guarantees of accounts and all powers of attorney and other evidence of the granting of any discretionary authority given in respect of any account, and copies of the resolution empowering an agent to act on behalf of a corporation;

6) all written agreements (or copies thereof) entered into by a dealer relating to business of the dealer, including agreements with respect to any account.

d) For a period of not less than 3 years after the closing of any customer's account, any account cards or records which relate to the terms and conditions with respect to the opening and maintenance of the account shall be preserved by every registered dealer.

e) Every registered dealer shall preserve during the life of the enterprise and of any successor enterprise all partnership agreements, certificates or articles or, in the case of a corporation, all articles of incorporation or charter, minute books and stock certificate books.

f) After a record or other documents have been preserved for 2 years, a photograph thereof on film may be substituted therefor for the balance of the required time.

g) Every dealer registered by the Secretary of State shall maintain within this State, in an easily accessible place, all records required by this Section. A written request for the waiver of the provisions of this Section may be made to the Secretary of State to permit any registered dealer to maintain any of the records required by this Section, in some place other than the State of Illinois. In determining whether or not the provisions of this Section should be waived, the Secretary of State shall consider, among other things, whether the main office of the dealer is in a place outside the State of Illinois or whether the dealer clears all or some of its transactions and uses all or some of the bookkeeping facilities of some other dealer whose main office is outside the State of Illinois.

h) The records (or a copy thereof) required by this Section must be maintained in each office in this State, if any, from which the transaction with respect to those records occurred.

i) Every dealer shall disclose in writing to customers at the time of opening an account, any custody, service, maintenance or similar fee that may be charged to the customer and the basis upon which each charge is determined. Customers shall receive written notice at least 45 days prior to the imposition of any new custody, service, maintenance or similar fee, or any changes to existing fees of that nature.

(Source: Amended at 20 Ill. Reg. 14185, effective October 21, 1996)

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TITLE 14: COMMERCE
SUBTITLE A: REGULATION OF BUSINESS
CHAPTER I: SECRETARY OF STATE
PART 130 REGULATIONS UNDER ILLINOIS SECURITIES LAW OF 1953
SECTION 130.845 RECORDS REQUIRED OF INVESTMENT ADVISERS

Section 130.845 Records Required of Investment Advisers

a) Except as provided in subsection (d) of this Section, every investment adviser registered by the Secretary of State shall keep the books and records set out in this Section unless otherwise designated by the Secretary of State:

1) ledgers (or other records) reflecting all assets and liabilities, income and expense, and capital accounts;

2) a record showing all payments received, including date of receipt, purpose and from whom received, and all disbursements, including date paid, purpose and to whom made;

3) a record showing all receivables and payables;

4) records showing separately for each client the securities purchased or sold, and, to the extent it has been made available to the investment adviser, the date and amount of and price at which such purchases or sales were executed. If available to the investment adviser, this record should also show the name of the security dealer who handled the transaction;

5) records showing separately all securities acquired by the clients of the investment adviser and indicating thereon the proper identification of this individual account, the date, amount and price at which such securities were purchased or sold by or for each client; or, in the alternative, a record showing all securities (other than securities enumerated in Section 3.A of the Act) bought or sold by or for the accounts of all clients of the investment adviser in each month, the total number of shares or principal amount of each security bought or sold and the lowest and highest price at which purchases or sales were made during the month;

6) copies of dealer's confirmations of all transactions placed by the investment adviser for any account, and the other dealer's confirmations as may be supplied to the investment adviser by a client or dealer;

7) a list showing all accounts in which the investment adviser is vested with

discretionary power, unless the records required by subsections (a)(4) and (5) of this Section are maintained in such manner as to disclose which are discretionary accounts, provided that the provisions of subsections (a)(4) and (5) of this Section shall not apply:

A) to any securities with respect to which the investment adviser renders no services of a supervisory or other nature; or

B) to any securities or transactions which a client declines to disclose to the investment adviser;

and provided further that the provisions of subsections (a)(4), (5), (6) and (7) above shall not apply to the accounts of any investment adviser where the services consist solely of the distribution of written or printed publications on a subscription basis.

b) Additional Records

1) Every investment adviser registered by the Secretary of State shall preserve for a period of not less than 3 years, the first 2 years in an easily accessible place, all records required by subsection (a) of this Section and the following additional records:

A) all check books, bank statements, cancelled checks and cash reconciliations;

B) all bills or statements (or copies thereof), paid or unpaid, relating to the business of such investment adviser;

C) originals of all communications received and copies of all communications sent by such investment adviser relating to the business of the investment adviser;

D) all power of attorneys and other evidence of the granting of any discretionary authority in any account, and copies of resolutions empowering an agent to act on behalf of any client;

E) all written agreements (or copies thereof), entered into by an investment adviser relating to the business of the investment adviser, including agreements with respect to any account, which agreements shall set forth the fees to be charged and the manner of computation and method of payment thereof.

2) For a period of not less than 3 years after the closing of any client's account, all required records relating to such account shall be preserved by every registered investment adviser.

3) Every registered investment adviser shall preserve, during the life of the enterprise and of any successor enterprise, all partnership agreements, certificates or articles, or, in the case of a corporation, all articles of

incorporation or charter, minute books and stock certificate books.

4) After a record or other document has been preserved for 2 years, a photograph thereof on film may be substituted for the balance of the required time.

c) Any records required by this Section may be maintained:

1) in such manner that the identity of any client or clients to whom a registered investment adviser renders investment supervisory service is indicated by numerical, alphabetical, code or similar designations, or

2) in duplicate with one set of the records having the identity of any client or clients to whom a registered investment adviser renders investment supervisory service deleted or indicated by numerical, alphabetical, code or similar designation, as may be appropriate to the record required.

d) This Section shall not apply to any investment adviser that is registered or licensed as such in the state in which it maintains its principal place of business and is in compliance with the applicable books and records requirements of the state in which it maintains its principal place of business.

(Source: Amended at 21 Ill. Reg. 15892, effective December 1, 1997)

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TITLE 14: COMMERCE
SUBTITLE A: REGULATION OF BUSINESS
CHAPTER I: SECRETARY OF STATE
PART 130 REGULATIONS UNDER ILLINOIS SECURITIES LAW OF 1953
SECTION 130.850 ACCOUNT TRANSACTIONS

Section 130.850 Account Transactions

a) No dealer or salesperson shall effect transactions for any customer's account which are excessive in size or frequency or unsuitable in view of the financial resources of the customer.

b) No dealer shall effect any transaction of purchase or sales unless immediately after effecting the transaction the dealer makes a record of the transaction which record includes the name of the customer, the name, amount and price of the securities, and the date and time when the transaction took place.

c) Each dealer shall keep or preserve, for at least 3 years, records as the dealer may be required to make pursuant to the provisions of paragraph (b) of this section.

STATUTES INVOLVED

Illinois Securities Law of 1953 (815 ILCS 5/1 et. seq.)

815 ILCS 5/2

Sec. 2. Definitions. As used in this Act, unless the context otherwise requires, the terms defined in the Sections of this Act that precede Section 3 shall have the meanings therein ascribed.

815 ILCS 5/2.1

Sec. 2.1. Security. "Security" means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, viatical investment, investment fund share, face-amount certificate, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas or other mineral lease, right or royalty, any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into, relating to foreign currency, or, in general, any interest or instrument commonly known as a "security", or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. "Security" does not mean a mineral investment contract or a mineral deferred delivery contract; provided, however, the Department shall have the authority to regulate these contracts as hereinafter provided.

815 ILCS 5/2.11

Sec. 2.11. Investment adviser. "Investment adviser" means any person who, for compensation, engages in this State in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities or who, in this State for direct or indirect compensation and as part of a regular advisory business, issues or promulgates analyses or reports concerning securities or any financial planner or other person who, as an integral component of other financially related services, provides the foregoing investment advisory services to others for compensation and as part of a business or who holds himself or herself out as providing the foregoing investment advisory services to others for compensation . . .

815 ILCS 5/2.11b

Sec. 2.12b. Investment adviser representative. "Investment adviser representative" means, with respect to an investment adviser who is required to register under this Act, any partner, officer, director of (or a person occupying a similar status or performing similar functions), or other natural person employed by or associated with an investment adviser, except clerical or ministerial personnel, who in this State:

(1) makes any recommendations or otherwise renders advice regarding securities;

(2) manages accounts or portfolios of clients;

(3) determines what recommendation or advice regarding securities should be given;

(4) supervises any employee who performs any of the foregoing; or

(5) solicits, refers, offers, or negotiates for the sale of, or sells, investment advisory services.

With respect to a federal covered investment adviser, "investment adviser representative" means any person who is an investment adviser representative with a place of business in this State as such terms are defined by the Securities and Exchange Commission under Section 203A of the Federal 1940 Investment Advisers Act.

815 ILCS 5/2.14

Sec. 2.14. "Face amount certificate contract" means any form of "face amount certificate" or "periodic payment plan certificate" (as so designated and defined under the Federal Investment Company Act of 1940) and shall also mean any form of annuity contract (other than an annuity contract issued by a life insurance company authorized to transact business in this State), or installment face amount certificate contract, or installment face amount certificate, or installment participation certificate, or installment face amount certificate bond, or similar security evidencing an obligation on the part of the issuer to pay a stated or determinable sum or sums at a fixed or determinable date or dates more than twenty-four months after the date of issuance, or to pay the proceeds of liquidation of an interest in certain specified securities or in a unit or fund, upon the payment of a single lump sum at the date of issuance, or in consideration of the payment of periodic installments of a stated or determinable amount.

815 ILCS 5/2.5

Sec. 2.5. "Sale" or "sell" shall have the full meaning of that term as applied by or accepted in the courts of this State, and shall include every contract of sale or disposition of a security or interest in a security for value. Any security given with or as a bonus on account of any purchase of securities or property shall be conclusively presumed to constitute a part of the subject of such purchase and shall be deemed to have been sold within the meaning of this Section. A privilege to convert a security into another security shall not be deemed a sale of such other security, provided no consideration from the holder in addition to the surrender or cancellation of the convertible security is required to effect the conversion.

815 ILCS 5/2.5a

Sec. 2.5a. Offer. "Offer" shall include every offer to sell or otherwise dispose of, or solicitation of an offer to purchase, whether orally or by means of publication, including but not limited to printed and electronic media, a security or interest in a security for value; provided that the term "offer" shall not include preliminary negotiations or agreements between an issuer and any underwriter or among underwriters who are or are to be in privity of contract with an issuer, or the circulation or publication of an identifying statement or circular or preliminary prospectus, as defined by rules or regulations of the Secretary of State.

815 ILCS 5/3

Sec. 3. The provisions of Sections 2a, 5, 6 and 7 of this Act shall not apply to any of the following securities:

. . .

M. Any security issued by and representing an interest in or a debt of, or guaranteed by, any insurance company organized under the laws of any state. . . .

815 ILCS 5/8

Sec. 8. Registration of dealers, limited Canadian dealers, salespersons, investment advisers, and investment adviser representatives. . . .

E. (1) Subject to the provisions of subsection F of Section 11 of this Act, the registration of a dealer, limited Canadian dealer, salesperson, investment adviser, or investment adviser representative may be denied, suspended or revoked if the Secretary of State finds that the dealer, limited Canadian dealer, salesperson, investment adviser, or investment adviser representative or any principal officer, director, partner, member, trustee, manager or any person who performs a similar function of the dealer, limited Canadian dealer, or investment adviser: . . .

(b) has engaged in any unethical practice in connection with any security, or in any fraudulent business practice;

(f) in the case of an investment adviser, has failed reasonably to supervise the advisory activities of any of its investment adviser representatives or employees and the failure has permitted or facilitated a violation of Section 12 of this Act;

(g) has violated any of the provisions of this Act; . . .

(m) has conducted a continuing course of dealing of such nature as to demonstrate an inability to properly conduct the business of the dealer, limited Canadian dealer, salesperson, investment adviser, or investment adviser representative; . . .

815 ILCS 5/11

Sec. 11. Duties and powers of the Secretary of State. . . .

E. Anything in this Act to the contrary notwithstanding:

(1) If the Secretary of State shall find that the offer or sale or proposed offer or sale or method of offer or sale of any securities by any person, whether exempt or not, in this State, is fraudulent, or would work or tend to work a fraud or deceit, or is being offered or sold in violation of Section 12, or there has been a failure or refusal to submit any notification filing or fee required under this Act, the Secretary of State may by written order prohibit or suspend the offer or sale of securities by that person or deny or revoke the registration of the securities or the exemption from registration for the securities.

(2) If the Secretary of State shall find that any person has violated subsection C, D, E, F, G, H, I, J, or K of Section 12 of this Act, the Secretary of State may by written order temporarily or permanently prohibit or suspend the person from offering or selling any securities, any mineral investment contract, or any mineral deferred delivery contract in this State, provided that any person who is the subject of an order of permanent prohibition may petition the Secretary of State for a hearing to present evidence of rehabilitation or change in circumstances justifying the amendment or termination of the order of permanent prohibition.

(3) If the Secretary of State shall find that any person is engaging or has engaged in the business of selling or offering for sale securities as a dealer or salesperson or is acting or has acted as an investment adviser, investment adviser representative, or federal covered investment adviser, without prior thereto and at the time thereof having complied with the registration or notice filing requirements of this Act, the Secretary of State may by written order prohibit or suspend the person from engaging in the business of selling or offering for sale securities, or acting as an investment adviser, investment adviser representative, or federal covered investment adviser, in this State.

(4) In addition to any other sanction or remedy contained in this subsection E, the Secretary of State, after finding that any provision of this Act has been violated, may impose a fine as provided by rule, regulation or order not to exceed $10,000 for each violation of this Act, may issue an order of public censure against the violator, and may charge as costs of investigation all reasonable expenses, including attorney's fees and witness fees.

815 ILCS 5/12

Sec. 12. Violation. It shall be a violation of the provisions of this Act for any person:

A. To offer or sell any security except in accordance with the provisions of **this Act.**
. . .

F. To engage in any transaction, practice or course of business in connection with the sale or purchase of securities which works or tends to work a fraud or deceit upon the purchaser or seller thereof.

G. To obtain money or property through the sale of securities by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading. . . .

I. To employ any device, scheme or artifice to defraud in connection with the sale or purchase of any security, directly or indirectly.

J. When acting as an investment adviser, investment adviser representative, or federally covered investment adviser, by any means or instrumentality, directly or indirectly:

(1) To employ any device, scheme or artifice to defraud any client or prospective client;

(2) To engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client; or

(3) To engage in any act, practice, or course of business which is fraudulent, deceptive or manipulative. The Secretary of State shall for the purposes of this paragraph (3), by rules and regulations, define and prescribe means reasonably designed to prevent such acts, practices, and courses of business as are fraudulent, deceptive, or manipulative. . . .

ILLINOIS INSURANCE CODE (215 ILCS 5/et. seq.)

215 ILCS 5/4. Sec. 4. Classes of insurance. Insurance and insurance business shall be classified as follows:

Class 1. Life, Accident and Health.

(a) Life. Insurance on the lives of persons and every insurance appertaining thereto or connected therewith and granting, purchasing or disposing of annuities. Policies of life or endowment insurance or annuity contracts or contracts supplemental thereto which contain provisions for additional benefits in case of death by accidental means and provisions operating to safeguard such policies or contracts against lapse, to give a special surrender value, or special benefit, or an annuity, in the event, that the insured or annuitant shall become totally and permanently disabled as defined by the policy or contract, or which contain benefits providing acceleration of life or endowment or annuity benefits in advance of the time they would otherwise be payable, as an indemnity for long term care which is certified or ordered by a physician, including but not limited to, professional nursing care, medical care expenses, custodial nursing care, non-nursing custodial care provided in a nursing home or at a residence of the insured, or which contain benefits providing acceleration of life or endowment or annuity benefits in advance of the time they would otherwise be payable, at any time during the insured's lifetime, as an indemnity for a terminal illness shall be deemed to be policies of life or endowment insurance or annuity contracts within the intent of this clause. . . .

215 ILCS 245.21. Establishment of separate accounts by domestic companies organized to do a life, annuity, or accident and health insurance business. A domestic company, including for the purposes of this Article all domestic fraternal benefit societies, may, for authorized classes of insurance, establish one or more separate accounts, and may allocate thereto amounts (including without limitation proceeds applied under optional modes of settlement or under dividend options) to provide for life, annuity, or accident and health insurance (and benefits incidental thereto), payable in fixed or variable amounts or both, subject to the following:

. . .

(5) Amounts allocated to a separate account under this Article are owned by the company, and the company may not be, nor hold itself out to be, a trustee with respect to those amounts. The assets of any separate account equal to the reserves and other contract liabilities with respect to the account may not be charged with liabilities arising out of any other business the company may conduct, unless the separate account is subject to guarantees, in which case the assets shall be charged with liabilities arising out of other business of the company, unless the contract specifies that the assets are insulated.

(6) No sale, exchange or other transfer of assets may be made by a company between any of its separate accounts or between any other investment account and one or more of its separate accounts unless, in case of a transfer into a separate account, the transfer is made solely to establish the account or to support the operation of the contracts with respect to the separate account to which the transfer is made, and unless the transfer, whether into or from a separate account, is made (i) by a transfer of cash, or (ii) by a transfer of securities having a readily determinable market value, if the transfer of securities is approved by the Director. The Director

may approve other transfers among those accounts if, in his or her opinion, the transfers would not be inequitable. . . .

215 ILCS 5/245.22

Any contract providing benefits payable in variable amounts delivered or issued for delivery in this State must contain a statement of the essential features of the procedures to be followed by the insurance company in determining the dollar amount of the variable benefits. Any such contract under which the benefits vary to reflect investment experience, including a group contract and any certificate in evidence of variable benefits issued thereunder, must state that such dollar amount will so vary and must contain on its first page a statement to the effect that the benefits thereunder are on a variable basis. (Source: P.A. 77-1572.)

215 ILCS 5/245.23 (from Ch. 73, par. 857.23)

Sec. 245.23. No company may deliver or issue for delivery within this State variable contracts unless it is authorized or organized to do a life, annuity, or accident and health insurance business in this State, and the Director is satisfied that its condition or method of operation in connection with the issuance of such contracts will not render its operation hazardous to the public or its policyholders in this State. In this connection, the Director may consider among other things:

(a) The history and financial condition of the company;

(b) The character, responsibility and fitness of the officers and directors of the company; and

(c) The law and regulation under which the company is authorized in its state of domicile to issue variable contracts. If the company is a subsidiary of an authorized insurance company, or affiliated with such a company through common management or ownership, it may be deemed by the Director to have met the requirements of this Section if either it or the parent or the affiliated company meets the requirements of this Section. (Source: P.A. 90-381, eff. 8-14-97.)

215 ILCS 5/245.24

Notwithstanding any other provision of law, the Director has sole authority to regulate the issuance and sale of variable contracts, and to promulgate such reasonable rules and regulations as may be appropriate to carry out the purposes and provisions of this Article. (Source: P.A. 77-1572.)

215 ILCS 5/245.25

Sec. 245.25. Except for subparagraphs (1)(a), (1)(f), (1)(g) and (3) of Section 226 of the Illinois Insurance Code, in the case of a variable annuity contract and subparagraphs (1)(b), (1)(f), (1)(g), (1)(h), (1)(i), and (1)(k) of Section 224, subparagraph (1)(c) of Section 225, and subparagraph (h) of Section 231 in the case of a variable life insurance policy, except for Sections 357.4, 357.5, 367e, and 367e.1 in the case of a variable health insurance policy, and except as otherwise provided in this Article, all pertinent provisions of the Illinois Insurance Code which are appropriate to those contracts apply to separate accounts and contracts relating thereto. Any individual variable life insurance contract, delivered or issued for delivery in this

State, must contain grace, reinstatement and non-forfeiture provisions appropriate to such a contract. Any individual variable annuity contract, delivered or issued for delivery in this State, must contain grace and reinstatement provisions appropriate to such a contract. Any group variable life insurance contract, delivered or issued for delivery in this State, must contain a grace provision appropriate to such a contract. A group variable health insurance contract delivered or issued for delivery in this State must contain a continuation of group coverage provision appropriate to the contract. The reserve liability for variable contracts must be established in accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees. (Source: P.A. 93-477, eff. 1-1-04.)

215 ILCS 5/245.60

Sec. 245.60. Whenever the Director finds that there has been a violation of this Article or of any rules or regulations issued pertaining thereto, and after written notice thereof and hearing given to the company or other person authorized or licensed by the Director, he shall set forth his findings, together with an order for compliance by a specific date. Such order shall be binding on the company and other persons authorized or licensed by the Director on the date specified unless sooner withdrawn by the Director or a stay thereof has been ordered by a court of competent jurisdiction. (Source: Laws 1963, p. 1137.)

215 ILCS 5/500-15

Sec. 500-15. License required.

(a) A person may not sell, solicit, or negotiate insurance in this State for any class or classes of insurance unless the person is licensed for that line of authority in accordance with this Article.

(b) A person may not, for a fee, engage in the business of offering any advice, counsel, opinion, or service with respect to the benefits, advantages, or disadvantages under any policy of insurance that could be issued in Illinois, unless that person is:

(1) engaged or employed as an attorney licensed to practice law and performing duties incidental to that position;

(2) a licensed insurance producer, limited insurance representative, or temporary insurance producer offering advice concerning a class of insurance as to which he or she is licensed to transact business;

(3) a trust officer of a bank performing duties incidental to his or her position;

(4) an actuary or a certified public accountant engaged or employed in a consulting capacity, performing duties incidental to that position; or

(5) a licensed public adjuster acting within the scope of his or her license.

(c) In addition to any other penalty set forth in this Article, an individual who knowingly violates subsection (a) is guilty of a Class A misdemeanor.

(d) In addition to any other penalty set forth in this Article, any individual violating subsection (a) or (b) and misappropriating or converting any moneys collected in conjunction with the violation is guilty of a Class 4 felony.

(Source: P.A. 92-386, eff. 1-1-02.)

215 ILCS 5/500-70

Sec. 500-70. License denial, nonrenewal, or revocation.

(a) The Director may place on probation, suspend, revoke, or refuse to issue or renew an insurance producer's license or may levy a civil penalty in accordance with this Section or take any combination of actions, for any one or more of the following causes:

(1) providing incorrect, misleading, incomplete, or materially untrue information in the license application;

(2) violating any insurance laws, or violating any rule, subpoena, or order of the Director or of another state's insurance commissioner;

(3) obtaining or attempting to obtain a license through misrepresentation or fraud;

(4) improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business;

(5) intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;

(6) having been convicted of a felony;

(7) having admitted or been found to have committed any insurance unfair trade practice or fraud;

(8) using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this State or elsewhere;

(9) having an insurance producer license, or its equivalent, denied, suspended, or revoked in any other state, province, district or territory;

(10) forging a name to an application for insurance or to a document related to an insurance transaction;

(11) improperly using notes or any other reference material to complete an examination for an insurance license;

(12) knowingly accepting insurance business from an individual who is not licensed;

(13) failing to comply with an administrative or court order imposing a child support obligation;

(14) failing to pay state income tax or penalty or interest or comply with any administrative or court order directing payment of state income tax or failed to file a return or to pay any final assessment of any tax due to the Department of Revenue;

(15) failing to make satisfactory repayment to the Illinois Student Assistance Commission for a delinquent or defaulted student loan; or

(16) failing to comply with any provision of the Viatical Settlements Act of 2009.

(b) If the action by the Director is to nonrenew, suspend, or revoke a license or to deny an application for a license, the Director shall notify the applicant or licensee and advise, in writing, the applicant or licensee of the reason for the suspension, revocation, denial or nonrenewal of the applicant's or licensee's license. The applicant or licensee may make written demand upon the Director within 30 days after the date of mailing for a hearing before the Director to determine the reasonableness of the Director's action. The hearing must be held within not fewer than 20 days nor more than 30 days after the mailing of the notice of hearing and shall be held pursuant to 50 Ill. Adm. Code 2402.

(c) The license of a business entity may be suspended, revoked, or refused if the Director finds, after hearing, that an individual licensee's violation was known or should have been known by one or more of the partners, officers, or managers acting on behalf of the partnership, corporation, limited liability company, or limited liability partnership and the violation was neither reported to the Director nor corrective action taken.

(d) In addition to or instead of any applicable denial, suspension, or revocation of a license, a person may, after hearing, be subject to a civil penalty of up to $10,000 for each cause for denial, suspension, or revocation, however, the civil penalty may total no more than $100,000.

(e) The Director has the authority to enforce the provisions of and impose any penalty or remedy authorized by this Article against any person who is under investigation for or charged with a violation of this Code or rules even if the person's license or registration has been surrendered or has lapsed by operation of law.

(f) Upon the suspension, denial, or revocation of a license, the licensee or other person having possession or custody of the license shall promptly deliver it to the Director in person or by mail. The Director shall publish all suspensions, denials, or revocations after the suspensions, denials, or revocations become final in a manner designed to notify interested insurance companies and other persons.

(g) A person whose license is revoked or whose application is denied pursuant to this Section is ineligible to apply for any license for 3 years after the revocation or denial. A person whose license as an insurance producer has been revoked, suspended, or denied may not be employed, contracted, or engaged in any insurance related capacity during the time the revocation, suspension, or denial is in effect.

1984 WL 44885 (Ill.Sec.Dept.)
Secretary of State, Securities Department
State of Illinois
*1 RE: VARIABLE ANNUITY CONTRACTS
(No-Action or Interpretive Letter)

August 7, 1984

Doreen Bonner
Phoenix Equity Planning Corporation
One American Row
Hartford, Connecticut 06115

Dear Ms. Bonner:

This will acknowledge your letter of July 6, 1984, and a prior phone call wherein you have requested information concerning Illinois policy regarding variable annuities. Variable annuity contracts do fall within the terms of The Illinois Securities Law of 1953 (the "Act"), as amended. (See §2.1, § 2.14 and §6 of the same.) But, when the annuities are issued by an insurance company authorized to do business in this state, those annuities are specifically excluded from and exempted from Illinois Securities Department jurisdiction. They are then the sole jurisdiction of the Illinois Department of Insurance. (See §2.14 and §3.M of the Act.)

Please have your attorney review these provisions for their construction and application.

Very truly yours,
Dan O'Neill, Esq.

Attachment 1

July 6, 1984
Mr. Dan O'Neill
Department of Securities
151 Bruns Lane, Suite 103
Springfield, Illinois 62702

Dear Mr. O'Neill:

In reference to our telephone conversation of July 3, 1984, the question arose as to whether variable annuity contracts fall under the jurisdiction of "securities" in the State of Illinois, and if so, what type of security.

Any information you can give me regarding variable annuities will be appreciated. Your reply should be directed to:

Doreen Bonner
Phoenix Equity Planning Corporation
One American Row
Hartford, CT 06115

Thank you for your cooperation in this matter.

Sincerely,
Doreen A. Bonner
Compliance Administrator

1984 WL 44885 (Ill.Sec.Dept.)

END OF DOCUMENT

Contract Number	Status	Owner Name	Annuitant Name	Owner Address
90215446	Terminated/Surr	Joleen Kay Welch	Joleen Kay Welch	3091 Green Haven Dr, Springfield,IL 62707
90216013	Terminated/Surr	C Welch	C Welch	3091 Green Haven Dr, Springfield,IL 62707
90216014	Terminated/Surr	Joleen Kay Welch	Joleen Kay Welch	3091 Green Haven Dr, Springfield,IL 62707
90217755	Terminated/Surr	Marjorie Reed	Marjorie Reed	2820 Haverford Rd, Springfield,IL 62704
90223344	Terminated/Surr	Rex Berry	Rex Berry	33 Abbot Rd, Springfield,IL 62704
90223345	Terminated/Surr	Norma Kay Berry	Norma Kay Berry	33 Abbot Rd, Springfield,IL 62704
90225591	Terminated/Surr	George Lyons	George Lyons	322 W Elm St, Buffalo,IL 62515
90226572	Terminated/Surr	Lonnie Caulk	Lonnie Caulk	1920 S Camp Butler Rd, Springfield,IL 62707
90226573	Terminated/Surr	Lonnie Caulk	Lonnie Caulk	1920 S Camp Butler Rd, Springfield,IL 62707
90229465	Terminated/Surr	Barbara Caulk	Barbara Caulk	1920 S Camp Butler Rd, Springfield,IL 62707
90231318	Terminated/Surr	Shirley Connery	Shirley Connery	750 Longmire Rd Apt 612, Conroe,TX 77304
90231319	Terminated/Surr	Patrick Connery	Patrick Connery	750 Longmire Rd Apt 612, Conroe,TX 77304
90231320	Terminated/Surr	Patrick Connery	Patrick Connery	750 Longmire Rd Apt 612, Conroe,TX 77304
90234121	Terminated/Surr	Marilyn Hemenway	Marilyn Hemenway	3 Briarwyck Dr, Jacksonville,IL 62650
90239209	Terminated/Surr	Velma Miller	Velma Miller	15197 A Kent St, Athens,IL 62613
90240126	Terminated/Surr	Shirley Ward	Shirley Ward	2436 Normal Dr, Springfield,IL 62707
90240127	Terminated/Surr	Roger Ward	Roger Ward	2436 Normal Dr, Springfield,IL 62707
90242463	Terminated/Surr	Betty Creasey	Betty Creasey	35 Crestveiw Dr, Chatham,IL 62629
90243148	Terminated/Surr	Betty Creasey	Betty Creasey	35 Crestveiw Dr, Chatham,IL 62629
90243466	Terminated/Surr	Ernest Dannenberger	Ernest Dannenberger	3544 Pet Cemetery Rd, Springfield,IL 62707
90253912	Terminated/Surr	Alice Elchlepp	Alice Elchlepp	1331 Crestview Dr, Springfield,IL 62702
90253913	Terminated/Surr	Donald Elchlepp	Donald Elchlepp	1331 Crestview Dr, Springfield,IL 62702
90253914	Terminated/Surr	Alice Elchlepp	Alice Elchlepp	1331 Crestview Dr, Springfield,IL 62702
90254418	Terminated/Surr	George Perry	George Perry	3401 Bluff Rd, Springfield,IL 62711
90254423	Terminated/Surr	George Perry	George Perry	3401 Bluff Rd, Springfield,IL 62711
90275162	Terminated/Surr	Barbara Sawyer	Barbara Sawyer	336 S Plum St, Havana,IL 62644
90275170	Terminated/Surr	Gerald Sawyer	Gerald Sawyer	336 S Plum St, Havana,IL 62644
90275171	Terminated/Surr	Gerald Sawyer	Gerald Sawyer	336 S Plum St, Havana,IL 62644
90340139	Terminated/Surr	Jimmy Klee	Jimmy Klee	2345 E 200 North Rd, Pana,IL 62557
90340140	Terminated/Surr	Jimmy Klee	Jimmy Klee	2345 E 200 North Rd, Pana,IL 62557
90345996	Terminated/Surr	Ronald Ferricks	Ronald Ferricks	28052 Shanghi Ave, Athens,IL 62613

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SECRETARY OF STATE
EXHIBIT NUMBER 6

SA98

0001034

Contract Number	Surrender Date	Surrender Amount	Surrender Charges	MVA	Fed Taxes	State Taxes	Express Charges	Bonus Recapture	Net Check
90215446	02/03/2009	$189,451.66	-$21,291.66	$23,464.98	$0.00	$0.00	$0.00	$0.00	$191,624.98
90216013	02/03/2009	$23,224.05	-$2,610.05	$2,876.47	$0.00	$0.00	$0.00	$0.00	$23,490.47
90216014	02/03/2009	$40,431.28	-$4,543.90	$5,007.71	$0.00	$0.00	$0.00	$0.00	$40,895.09
90217755	08/24/2010	$6,289.05	-$606.71	$452.16	-$100.00	$0.00	$0.00	$0.00	$6,034.50
90223344	02/18/2009	$46,489.93	-$5,239.18	$5,901.90	$0.00	$0.00	-$20.00	$0.00	$47,132.65
90223345	03/18/2009	$52,382.99	-$5,863.52	$6,252.25	$0.00	$0.00	$0.00	$0.00	$52,771.72
90225591	02/13/2009	$49,823.49	-$6,185.24	$6,406.00	$0.00	$0.00	-$20.00	$0.00	$50,024.25
90226572	03/20/2009	$68,347.66	-$8,452.19	$8,490.68	$0.00	$0.00	$0.00	$0.00	$68,386.15
90226573	03/20/2009	$26,641.43	-$2,998.36	$3,342.18	$0.00	$0.00	-$20.00	$0.00	$26,965.25
90229465	03/19/2009	$18,540.62	-$2,078.39	$2,243.20	$0.00	$0.00	-$20.00	$0.00	$18,685.43
90231318	03/19/2009	$26,929.95	-$3,539.75	$3,920.38	$0.00	$0.00	-$20.00	$0.00	$27,290.58
90231319	03/19/2009	$29,164.60	-$3,875.06	$4,237.48	$0.00	$0.00	-$20.00	$0.00	$29,507.02
90231320	03/19/2009	$15,664.72	-$1,964.50	$2,194.35	$0.00	$0.00	-$20.00	$0.00	$15,874.57
90234121	02/09/2009	$165,451.27	-$21,031.08	$25,740.33	$0.00	$0.00	-$20.00	$0.00	$170,140.52
90239209	03/18/2009	$101,704.53	-$13,123.90	$17,603.63	$0.00	$0.00	-$20.00	$0.00	$106,164.26
90240126	03/19/2009	$55,266.20	-$7,221.46	$10,383.45	$0.00	$0.00	-$20.00	$0.00	$58,408.19
90240127	03/19/2009	$11,594.29	-$1,576.10	$2,279.19	$0.00	$0.00	-$20.00	$0.00	$12,277.38
90242463	03/19/2009	$71,928.84	-$9,762.35	$12,756.01	$0.00	$0.00	-$20.00	$0.00	$74,902.50
90243148	03/19/2009	$45,337.04	-$5,834.86	$7,707.13	$0.00	$0.00	-$20.00	$0.00	$47,189.31
90243466	02/12/2009	$124,441.76	-$16,419.45	$24,825.98	$0.00	$0.00	-$20.00	$0.00	$132,828.29
90253912	04/16/2009	$58,353.07	-$6,001.16	$1,658.55	$0.00	$0.00	-$20.00	$0.00	$53,990.46
90253913	04/16/2009	$34,684.37	-$3,567.28	$988.39	$0.00	$0.00	-$20.00	$0.00	$32,085.48
90253914	04/16/2009	$45,794.33	-$4,709.93	$1,305.00	$0.00	$0.00	$0.00	$0.00	$42,389.40
90254418	03/19/2009	$63,466.69	-$6,854.02	$2,289.86	$0.00	$0.00	-$20.00	$0.00	$58,882.53
90254423	03/19/2009	$144,731.91	-$14,787.62	$3,144.30	$0.00	$0.00	$0.00	$0.00	$133,088.59
90275162	04/20/2010	$56,681.08	-$5,580.03	$1,909.21	$0.00	$0.00	-$20.00	-$2,232.01	$50,758.25
90275170	04/20/2010	$95,056.67	-$9,357.95	$3,201.83	$0.00	$0.00	-$20.00	-$3,743.18	$85,137.37
90275171	04/18/2010	$85,956.94	-$8,462.12	$2,895.32	$0.00	$0.00	-$20.00	-$3,384.85	$76,985.29
90340139	09/23/2010	$96,270.96	-$9,632.85	$4,873.99	$0.00	$0.00	-$20.00	-$4,816.43	$86,675.67
90340140	10/04/2010	$101,075.00	-$10,109.44	$5,074.12	$0.00	$0.00	-$20.00	-$5,054.72	$90,964.96
90345996	10/18/2010	$178,801.28	-$17,880.95	$8,948.70	$0.00	$0.00	-$20.00	-$8,940.48	$160,908.55

SA99

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SURRENDERED ANNUITY

NAME	DATE OF PURCHASE	AGE AT TIME OF PURCHASE	ORIGINAL ANNUITY	TIME LEFT ON SURRENDER	CONTRACT VALUE	MVA	EXPRESS CHARGE	BONUS RECAPTURE	AMOUNT OF SURRENDER	AMOUNT TRANSFERRED	TAXABLE AMOUNT	ARE WITHDRAWS BEING TAKEN	FEES	COMMISSIONS PAID
Jimmy Klee	9/3/2009	62	ING USA	8 years 11 months	$ 101,075.00	$ 5,074.12	$ 20.00	$ 5,054.72	$ 10,109.44	$ 90,964.96	$ 649.92	NO	0.40%	$ 6,323.45
Jimmy Klee	9/3/2009	62	ING USA	8 years 11 months	$ 96,270.96	$ 4,873.99	$ 20.00	$ 4,816.43	$ 9,632.85	$ 86,675.67	$ 654.21	NO	0.40%	$ 6,022.90
Ronald Ferricks	9/21/2009	63	ING USA	8 years 11 months	$ 178,801.28	$ 8,948.70	$ 20.00	$ 8,940.48	$ 17,880.95	$ 160,908.55	$ 160,928.55	NO	0.40%	$ 11,189.80
Gerald Sawyer	11/5/2007	64	ING USA	7 years 7 months	$ 95,056.67	$ 3,201.83	$ 20.00	$ 3,743.18	$ 9,357.95	$ 85,137.37	$ 85,157.37	NO	0.35%	$ 6,917.04
Gerald Sawyer	11/5/2007	64	ING USA	7 years 7 months	$ 85,956.94	$ 2,895.32	$ 20.00	$ 3,384.85	$ 8,462.12	$ 76,985.29	$ 77,005.29	NO	0.35%	$ 6,254.87
Barbara Sawyer	11/13/2007	62	ING USA	7 years 7 months	$ 56,681.08	$ 1,909.21	$ 20.00	$ 2,232.01	$ 5,580.03	$ 50,758.25	$ 50,778.25	NO	0.35%	$ 4,176.25
Barbara Sawyer	6/12/2007	61	Aviva	8 years 1 month	$ 111,924.20	$ 7,690.13			$ 16,788.63	$ 102,825.70	$ -	NO	0.40%	$ 8,925.00
Barbara Sawyer	6/12/2007	61	Aviva	8 years 1 month	$ 112,308.69	$ 7,716.54			$ 16,846.30	$ 103,178.93		NO	0.40%	$ 8,955.65
George Perry	11/9/2006	71	ING USA	7 years 7 months	$ 144,731.91	$ 3,144.30			$ 14,787.62	$ 133,088.59	$ -	YES		$ 12,108.12
George Perry	11/3/2006	71	ING USA	7 years 7 months	$ 63,466.69	$ 2,289.86	$ 20.00		$ 6,854.02	$ 58,882.53	$ -	YES		$ 5,153.44
Alice Elchlepp	10/23/2006	61	ING USA	7 years 6 months	$ 58,353.07	$ 1,658.55	$ 20.00		$ 6,001.16	$ 53,990.46	$ -	NO		$ 4,424.18
Alice Elchlepp	10/23/2006	61	ING USA	7 years 6 months	$ 45,794.33	$ 1,305.00			$ 4,709.93	$ 42,389.40	$ -	NO		$ 3,430.15
Donald Elchlepp	10/23/2006	66	ING USA	7 years 6 months	$ 34,684.37	$ 988.39	$ 20.00		$ 3,567.28	$ 32,085.48	$ -	NO		$ 2,597.98
Joleen Kay Welch	12/22/2005	60	ING USA	6 years 10 months	$ 189,451.66	$ 23,464.98			$ 21,291.66	$ 191,624.98	$ 2,173.32	YES		$ 17,998.10
Joleen Kay Welch	12/12/2005	60	ING USA	6 years 10 months	$ 40,431.28	$ 5,007.71			$ 4,543.90	$ 40,895.09	$ 463.81	YES		$ 3,853.19
C E Welch JR.	12/5/2005	65	ING USA	6 years 10 months	$ 23,224.05	$ 2,876.47			$ 2,610.05	$ 23,490.47	$ -	YES		$ 2,202.71
Rex Berry	2/10/2006	72	ING USA	7 years 0 months	$ 46,489.93	$ 5,901.90	$ 20.00		$ 5,239.18	$ 47,132.65	$ -	YES		$ 4,958.35
Norma Kay Berry	2/15/2006	69	ING USA	6 years 11 months	$ 52,382.99	$ 6,252.25			$ 5,863.52	$ 52,771.72	$ -	NO		$ 4,944.43
Lonnie Caulk	3/27/2006	62	ING USA	7 years 0 months	$ 68,347.66	$ 8,490.68			$ 8,452.19	$ 68,386.15	$ 4,481.34	NO		$ 5,889.26
Lonnie Caulk	3/20/2006	62	ING USA	7 years 0 months	$ 26,641.43	$ 3,342.18	$ 20.00		$ 2,998.36	$ 26,965.25	$ -	NO		$ 2,270.13
Barbara Caulk	3/14/2006	58	ING USA	7 years 0 months	$ 18,540.62	$ 2,243.20	$ 20.00		$ 2,078.39	$ 18,685.43	ROTH IRA	NO		$ 1,576.40
Shirley Connery	4/20/2006	73	ING USA	7 years 0 months	$ 26,929.95	$ 3,920.38	$ 20.00		$ 3,539.75	$ 27,290.58	$ -	YES		$ 2,545.27

SA100

SECRETARY OF STATE
EXHIBIT NUMBER 143

0004874

SURRENDERED ANNUITY

NAME	DATE OF PURCHASE	AGE AT TIME OF PURCHASE	ORIGINAL ANNUITY	TIME LEFT ON SURRENDER	CONTRACT VALUE	MVA	EXPRESS CHARGE	BONUS RECAPTURE	AMOUNT OF SURRENDER	AMOUNT TRANSFERRED	TAXABLE AMOUNT	ARE WITHDRAWS BEING TAKEN	COMMISSIONS PAID
Patrick Connery	4/17/2006	78	ING USA	7 years 0 months	$ 29,164.60	$ 4,237.48	$ 20.00		$ 3,875.06	$ 29,507.02	$ -	YES	$ 2,800.15
Marilyn Hemenway	4/24/2006	67	ING USA	7 years 2 months	$ 165,451.27	$ 25,740.33	$ 20.00		$ 21,031.08	$ 170,140.52	$ -	NO	$ 14,129.85
Velma Miller	5/18/2006	79	ING USA	7 years 2 months	$ 101,704.53	$ 17,603.63	$ 20.00		$ 13,123.90	$ 106,164.26	$ 14,221.22	NO	$ 8,276.67
Shirley Ward	7/17/2006	67	ING USA	7 years 4 months	$ 55,266.20	$ 10,383.45	$ 20.00		$ 7,221.46	$ 58,408.19	$ -	NO	$ 4,343.54
Betty Creasey	6/22/2006	77	ING USA	7 years 3 months	$ 71,928.84	$ 12,756.01	$ 20.00		$ 9,762.35	$ 74,902.50	$ -	YES	$ 6,475.13
Betty Creasey	6/22/2006	77	ING USA	7 years 3 months	$ 45,337.04	$ 7,707.13	$ 20.00		$ 5,834.86	$ 47,189.31	$ 6,560.11	NO	$ 3,658.42
Earnest Dannenberger	7/25/2006	69	ING USA	7 years 7 months	$ 124,441.76	$ 24,825.98	$ 20.00		$ 16,419.45	$ 132,828.29	$ -	YES	$ 10,761.15
Melvin Partridge	8/16/2006	69	North Ameri	2 years 4 months	$ 57,065.95				$ 4,421.95	$ 52,644.00	$ -	YES	$ -
TOTALS					$ 2,327,904.95	$216,449.70	$ 400.00	$ 28,171.67	$ 268,885.39	$ 2,246,897.59	$ 403,073.39		$ 183,161.58

Highlighted areas are 60 day rollovers and no tax is due

SA101

Exh 143

0004875

NEW ANNUITY

NAME	DATE OF PURCHASE	AGE AT TIME OF PURCHASE	SURRENDER PERIOD	ANNUITY	AMOUNT ADDED OR WITHDRAWN	AMOUNT OF PURCHASE	BONUS PERCENTAGE	BONUS AMOUNT	BONUS RECAPTURE	TOTAL CONTRACT VALUE	INCOME RIDER	COMMISSIONS	FEES
Jimmy Klee	10/19/2010	63	10 years	American Equity Retirement Gold	$ (320.31)	$ 88,500.00	10%	$ 8,850.00	15 years	$ 97,350.00	YES	$ 5,310.00	0.60%
Jimmy Klee	10/19/2010	63	10 years	American Equity Retirement Gold	$ (320.32)	$ 88,500.00	10%	$ 8,850.00	15 years	$ 97,350.00	YES	$ 5,310.00	0.60%
Ronald Ferricks	10/29/2010	65	10 years	American Equity Retirement Gold		$ 80,455.00	10%	$ 8,045.50	15 years	$ 88,500.50	YES	$ 4;827.26	0.60%
Ronald Ferricks	10/29/2010	65	10 years	American Equity Retirement Gold		$ 80,453.55	10%	$ 8,045.36	15 years	$ 88,498.91	YES	$ 4,827.26	0.60%
Gerald Sawyer	4/28/2010	66	10 years	Allianz Master Dex 5 Plus		$ 85,137.37	5%	$ 4,256.87		$ 89,394.24	YES	$ 6,810.99	0.40%
Gerald Sawyer	4/28/2010	66	10 years	Allianz Master Dex 5 Plus		$ 76,985.29	5%	$ 3,849.26		$ 80,834.55	YES	$ 6,158.82	0.40%
Barbara Sawyer	4/28/2010	64	10 years	Allianz Master Dex 5 Plus	$ 12,222.27	$ 62,980.52	5%	$ 3,149.02		$ 66,129.54	YES	$ 5,038.44	0.40%
Barbara Sawyer	5/12/2009	63	10 years	Allianz Master Dex X		$ 102,825.70	10%	$ 10,282.57	10 years	$ 113,108.27	YES	$ 8,226.06	0.60%
Barbara Sawyer	5/12/2009	63	10 years	Allianz Master Dex X		$ 103,178.93	10%	$ 10,317.89	10 years	$ 113,496.82	YES	$ 8,254.31	0.60%
George Perry	3/27/2009	74	12 years	Aviva Bonus Plus Select 12		$ 58,882.53	10%	$ 5,888.25	12 years	$ 64,770.78		$ 7,421.46	1.05%
George Perry	3/27/2009	74	12 years	Aviva Bonus Plus Select 12		$ 133,088.59	10%	$ 13,308.86	12 years	$ 146,397.45		$ 16,780.71	1.05%
Alice Eichlepp	4/27/2009	63	12 years	Aviva Bonus Plus Select 12		$ 42,389.40	10%	$ 4,238.94	12 years	$ 46,628.34	YES	$ 5.133.34	1.80%
Alice Eichlepp	4/27/2009	63	12 years	Aviva Bonus Plus Select 12		$ 53,990.46	10%	$ 5,399.05	12 years	$ 59,389.51	YES	$ 6,538:24	1.80%
Donald Eichlepp	4/27/2009	68	12 years	Aviva Bonus Plus Select 12		$ 32,085.48	10%	$ 3,208.55	12 years	$ 35,294.03	YES	$ 3,885:54	1.80%
Joleen Kay Welch	2/21/2009	63	10 years	Aviva Multi Choice Income Xtra		$ 95,800.00	10%	$ 9,580.00	10 years	$ 105,380.00	YES	$ 7,664.00	0.50%
Joleen Kay Welch	2/21/2009	63	10 years	Aviva Multi Choice Income Xtra		$ 40,895.09	10%	$ 4,089.51	10 years	$ 44,984:60	YES	$ 3,271:61	0.50%
Joleen Kay Welch	2/21/2009	63	10 years	Aviva Multi Choice Income Xtra		$ 95,824.98	10%	$ 9,582.50	10 years	$ 105,407.48	YES	$ 7,666.00	0.50%
C E Welch Jr	2/25/2009	68	10 years	Aviva Multi Choice Income Xtra		$ 23,490.47	10%	$ 2,349.05	10 years	$ 25,839.52	YES	$ 1,879.24	0,50%
Rex Berry	2/24/2009	75	10 years	Aviva Multi Choice Freedom Xtra	$ (7,000.00)	$ 40,132:65	10%	$ 4,013.27	10 years	$ 44,145.92	YES	$ 3,009.95	0.30%
Norma Kay Berry	3/21/2009	72	10 years	Aviva Multi Choice Freedom Xtra		$ 52,771.72	10%	$ 5,277.17	10 years	$ 58,048.89	YES	$ 3,957.86	0.30%
Lonnie Caulk	3/31/2009	65	12 years	Aviva Bonus Plus Select 12	$ 10,779.57	$ 79,165.72	10%	$ 7,916.57	12 years	$ 87,082.29	YES	$ 6,662.82	1.80%
Lonnie Caulk	4/1/2009	65	10 years	Aviva Multi Choice Income Xtra		$ 26,965.25	10%	$ 2,696:53	10 years	$ 29,661.78	YES	$ 2,022.39	0.80%
Barbara Caulk	4/1/2009	61	10 years	Aviva Mulit Choice Income Xtra		$ 18;685.43	10%	$ 1,868.54	10 years	$ 20,553.97	YES	$ 1,401.41	0.80%

SA102

SECRETARY OF STATE
EXHIBIT NUMBER 144

0004876

NAME	DATE OF PURCHASE	AGE AT TIME OF PURCHASE	SURRENDER PERIOD	ANNUITY	AMOUNT ADDED OR WITHDRAWN	NEW ANNUITY AMOUNT OF PURCHASE	BONUS PERCENTAGE	BONUS AMOUNT	BONUS RECAPTURE	TOTAL CONTRACT VALUE	INCOME RIDER	COMMISSIONS	FEES
Shirley Connery	4/20/2009	76	6 years	Aviva Bonus Plus Select 6		$ 27,290.58	5%	$ 1,364.53	6 years	$ 28,655.11	YES	$ 818.72	3.70%
Patrick Connery	4/17/2009	81	6 years	Aviva Bonus Plus Select 6	5	$ 29,507.02	5%	$ 1,475.35	6 years	$ 30,982.37	YES	$ 590.14	3.70%
Marilyn Hemenway	2/18/2009	70	10 years	Aviva Multi Choice Freedom Xtra		$ 85,140.52	10%	$ 8,514.05	10 years	$ 93,654.57	YES	$ 6,385.54	0.30%
Marilyn Hemenway	2/20/2009	70	10 years	Aviva Multi Choice Freedom Xtra		$ 85,000.00	10%	$ 8,500.00	10 years	$ 93,500.00	YES	$ 6,375.00	0.30%
Velma Miller	3/5/2009	82	10 years	Aviva Multi Choice Income Plus	6	$ 106,164.26	5%	$ 5,308.21		$ 111,472.47		$ 7,431.50	0.00%
Shirley Ward	3/27/2009	70	12 years	Aviva Bonus Plus Select 12		$ 58,408.19	10%	$ 5,840.82	12 years	$ 64,249.01	YES	$ 4,964.70	1.80%
Betty Creasey	3/30/2009	80	6 years	Aviva Bonus Plus Select 6		$ 74,902.50	5%	$ 3,745.13	6 years	$ 78,647.63		$ 2,996.10	2.00%
Betty Creasey	3/30/2009	80	6 years	Aviva Bonus Plus Select 6		$ 47,189.31	5%	$ 2,359.47	6 years	$ 49,548.78		$ 1,887.57	2.00%
Earnest Dannenberger	2/24/2009	72	10 years	Aviva Multi Choice Freedom Xtra		$ 132,828.29	10%	$ 13,282.83	10 years	$ 146,111.12	YES	$ 9,962.12	0.30%
Melvin Partridge	4/12/2010	72	12 years	Aviva Bonus Plus Select 12	$ -	$ 52,644.00	8%	$ 4,211.52	10 years	$ 56,855.52	YES	$ 3,948.30	1.80%
TOTALS					$ 15,361.21	$ 2,262,258.80		$ 199,665.17		$ 2,461,923.97		$ 177,417.42	

Shaded squares are contracts that pay a fee for the bonus.

SA103

Exh 144

00048777

NAME	SURRENDERED CONTRACT TOTAL PLUS MVA	NEW CONTRACT WITH BONUS	LOSS	NEW CONTRACT W/O BONUS	LOSS
Jimmy Klee	$ 207,294.07	$ 195,340.63	$ (11,953.44)	$ 177,640.63	$ (29,653.44)
Ronald Ferricks	$ 187,749.98	$ 176,999.41	$ (10,750.57)	$ 160,908.55	$ (26,841.43)
Gerald Sawyer	$ 98,258.50	$ 89,394.24	$ (8,864.26)	$ 85,137.37	$ (13,121.13)
Gerald Sawyer	$ 88,852.26	$ 80,834.55	$ (8,017.71)	$ 76,985.29	$ (11,866.97)
Barbara Sawyer	$ 58,590.29	$ 53,296.16	$ (5,294.13)	$ 50,758.25	$ (7,832.04)
Barbara Sawyer	$ 119,614.33	$ 113,108.27	$ (6,506.06)	$ 102,825.70	$ (16,788.63)
Barbara Sawyer	$ 120,025.23	$ 113,496.82	$ (6,528.41)	$ 103,178.93	$ (16,846.30)
George Perry	$ 147,876.21	$ 146,397.45	$ (1,478.76)	$ 133,088.59	$ (14,787.62)
George Perry	$ 65,756.55	$ 64,770.78	$ (985.77)	$ 58,882.53	$ (6,874.02)
Alice Elchlepp	$ 60,011.62	$ 59,389.51	$ (622.11)	$ 53,990.46	$ (6,021.16)
Alice Elchlepp	$ 47,099.33	$ 46,628.34	$ (470.99)	$ 42,389.40	$ (4,709.93)
Donald Elchlepp	$ 35,672.76	$ 35,294.03	$ (378.73)	$ 32,085.48	$ (3,587.28)
Joleen Kay Welch	$ 212,916.64	$ 210,787.48	$ (2,129.16)	$ 191,624.98	$ (21,291.66)
Joleen Kay Welch	$ 45,438.99	$ 44,984.60	$ (454.39)	$ 40,895.09	$ (4,543.90)
C E Welch Jr	$ 26,100.52	$ 25,839.52	$ (261.00)	$ 23,490.47	$ (2,610.05)
Rex Berry	$ 52,391.83	$ 51,145.92	$ (1,245.91)	$ 47,132.65	$ (5,259.18)
Norma Kay Berry	$ 58,635.24	$ 58,048.89	$ (586.35)	$ 52,771.72	$ (5,863.52)
Lonnie Caulk	$ 76,838.34	$ 75,224.77	$ (1,613.57)	$ 68,386.15	$ (8,452.19)
Lonnie Caulk	$ 29,983.61	$ 29,661.78	$ (321.83)	$ 26,965.25	$ (3,018.36)

SA104

SECRETARY OF STATE
EXHIBIT NUMBER 14

NAME	SURRENDERED CONTRACT TOTAL PLUS MVA	NEW CONTRACT WITH BONUS	LOSS	NEW CONTRACT W/O BONUS	LOSS
Barbara Caulk	$ 20,783.82	$ 20,553.97	$ (229.85)	$ 18,685.43	$ (2,098.39)
Shirley Connery	$ 30,850.33	$ 28,655.11	$ (2,195.22)	$ 27,290.58	$ (3,559.75)
Patrick Connery	$ 33,402.08	$ 30,982.37	$ (2,419.71)	$ 29,507.02	$ (3,895.06)
Marilyn Hemenway	$ 191,191.60	$ 187,154.57	$ (4,037.03)	$ 170,140.52	$ (21,051.08)
Velma Miller	$ 119,308.16	$ 111,472.47	$ (7,835.69)	$ 106,164.26	$ (13,143.90)
Shirley Ward	$ 65,649.65	$ 64,249.01	$ (1,400.64)	$ 58,408.19	$ (7,241.46)
Betty Creasey	$ 84,684.85	$ 78,647.63	$ (6,037.22)	$ 74,902.50	$ (9,782.35)
Betty Creasey	$ 53,044.17	$ 49,548.78	$ (3,495.39)	$ 47,189.31	$ (5,854.86)
Earnest Dannenberger	$ 149,267.74	$ 146,111.12	$ (3,156.62)	$ 132,828.29	$ (16,439.45)
Melvin Partridge	$ 57,065.95	$ 56,855.52	$ (210.43)	$ 52,644.00	$ (4,421.95)
TOTAL	$ 2,544,354.65	$ 2,444,873.70	$ (99,480.95)	$ 2,246,897.59	$ (297,457.06)

000487?

SA105

Exh 145

CONTRACT VALUE	MVA*	CONTRACT VALUE PLUS MVA EQUALS TOTAL VALUE	EXPRESS** MAILING CHARGE	BONUS RECAPTURE	AMOUNT OF SURRENDER	BONUS RECAPTURE PLUS SURRENDER EQUALS TOTAL SURRENDER	AMOUNT TRANSFERRED	COMMISSIONS PAID
$ 2,327,904.95	$ 216,449.70	$ 2,544,354.65	$ (400.00)	$ (28,171.67)	$ (268,885.39)	$ (297,057.06)	$ 2,246,897.59	$ 173,222.16

000487 9

30 Accounts
Age range from 58 to 79

*MVA - Market Value Adjustment - Reflects the increase to the contract value at the time the contract is surrendered.

**Express Mailing Charge - Reflects the amount charged to the client for express mailing the check to the client when surrendered.

SA106

SECRETARY OF STATE

AMOUNT OF PURCHASE	BONUS AMOUNT	TOTAL CONTRACT VALUE	COMMISSIONS
$ 2,262,258.80	$ 199,665.17	$ 2,461,923.97	$ 177,417.42

33 Accounts
Age Range from 61 to 82
$15,361.21 in cash was added in the transfer.

Purchase price of new annuity	$ 2,262,258.80
minus cash added in transfer	$ 15,361.21
equals Total Contract Value	$ 2,246,897.59

Contract Value before surrender	$ 2,327,904.95
minus Total Contract Value	$ 2,246,897.59
equals Client Loss after switch	$ (81,007.36)

SA107

Commissions from 1st annuity	$ 183,161.58
Commissions from 2nd annuity	$ 177,417.42
Total Commissions	$ 360,579.00

SECRETARY OF STATE
EXHIBIT NUMBER 147

MINIMUM GUARANTEED CONTRACT VALUE

0004881

NAME	ING PERCENTAGE OF INITIAL PURCHASE GUARANTEED	ANNUAL INTEREST PERCENTAGE	NEW ANNUITY PERCENTAGE OF INITIAL PURCHASE GUARANTEED	ANNUAL INTEREST PERCENTAGE	MVA
Jimmy Klee	87.50%	3.00%	87.50%	2.25%	No
Jimmy Klee	87.50%	3.00%	87.50%	2.25%	No
Ronald Ferricks	87.50%	3.00%	87.50%	2.25%	No
Ronald Ferricks	87.50%	3.00%	87.50%	2.25%	No
Gerald Sawyer	87.50%	3.00%	87.50%	2.00%	No
Gerald Sawyer	87.50%	3.00%	87.50%	2.00%	No
Barbara Sawyer	87.50%	3.00%	87.50%	2.00%	No
Barbara Sawyer*	87.50%	2.45%	87.50%	2.50%	No
Barbara Sawyer*	100%	2.45%	87.50%	2.50%	No
George Perry	87.50%	3.00%	87.50%	2.25%	Yes
George Perry	87.50%	3.00%	87.50%	2.25%	Yes
Alice Elchlepp	87.50%	3.00%	87.50%	2.25%	Yes
Alice Elchlepp	87.50%	3.00%	87.50%	2.25%	Yes
Donald Elchlepp	88%	3.0%	87.50%	2.25%	Yes
Joleen Kay Welch	100%	1.50%	87.50%	1.05% Fixed 1.00% Crediting Interest	Yes
Joleen Kay Welch	100%	1.50%	87.50%	1.05 % Fixed 1.00% Crediting Interest	Yes
Joleen Kay Welch	100%	1.50%	87.50%	1.05% Fixed 1.00% Crediting Interest	Yes
C.E. Welch	100%	1.50%	87.50%	1.05% Fixed 1.00% Crediting Interest	Yes

SA108

SECRETARY OF —ATE
—XHIB— —IIM— /14

MINIMUM GUARANTEED CONTRACT VALUE

NAME	ING PERCENTAGE OF INITIAL PURCHASE GUARANTEED	ANNUAL INTEREST PERCENTAGE	NEW ANNUITY PERCENTAGE OF INITIAL PURCHASE GUARANTEED	ANNUAL INTEREST PERCENTAGE	MVA
Rex Berry	100%	1.50%	87.50%	1.05%	No
Norma Kay Berry	100%	1.50%	87.50%	1.05%	No
Lonnie Caulk	100%	1.50%	87.50%	2.25%	Yes
Lonnie Caulk	100%	1.50%	87.50%	1.05% Fixed 1.00% Crediting Interest	Yes
Barbara Caulk	100%	1.50%	87.50%	1.05% Fixed 1.00% Crediting Interest	Yes
Shirley Connery	100%	1.50%	87.50%	2.25%	Yes
Patrick Connery	100%	1.50%	87.50%	2.25%	Yes
Marilyn Hemenway	100%	1.50%	87.50%	1.05%	No
Marilyn Hemenway	100%	1.50%	87.50%	1.05%	No
Velma Miller	100%	1.50%	87.50%	1.05% Fixed 1.00% Crediting Interest	Yes
Shirley Ward	100%	1.50%	87.50%	2.25%	Yes
Betty Creasey	100%	1.50%	87.50%	1.05% Fixed 1.00% Crediting Interest	Yes
Betty Creasey	100%	1.50%	87.50%	1.05% Fixed 1.00% Crediting Interest	Yes
Earnest Dannenberger	100%	1.50%	87.50%	1.05%	No
Melvin Partridge	Deceased				

* Denotes Aviva Product as original annuity

0004802

SA109

SECRETARY OF STATE
EXHIBIT NO.

0004915

TOTAL FEES INCLUDING BONUS FEES

NAME	FEES %	CONTRACT VALUE YEAR 1	YEAR 1 FEES	YEAR 2 FEES	YEAR 3 FEES	YEAR 4 FEES	YEAR 5 FEES	YEAR 6 FEES	YEAR 7 FEES	YEAR 8 FEES	YEAR 9 FEES	YEAR 10 FEES	YEAR 11 FEES	TOTAL FEES
Jimmy Klee		DECEASED												
Jimmy Klee		DECEASED												
Ronald Ferricks	0.60%	$ 92,586.23	$ 555.52	$ 584.68	$ 584.68	$ 584.68	$ 584.68	$ 584.68	$ 584.68	$ 584.68	$ 584.68	$ 584.68	$ 584.68	$ 6,402.32
Ronald Ferricks	0.60%	$ 92,587.90	$ 555.53	$ 635.15	$ 635.15	$ 635.15	$ 635.15	$ 635.15	$ 635.15	$ 635.15	$ 635.15	$ 635.15	$ 635.15	$ 6,907.03
Gerald Sawyer	0.40%	$ 89,546.17	$ 357.24	$ 371.52	$ 371.52	$ 386.40	$ 386.40	$ 386.40	$ 386.40	$ 386.40	$ 386.40	$ 386.40	$ 386.40	$ 4,191.48
Gerald Sawyer	0.40%	$ 80,971.93	$ 323.04	$ 335.88	$ 335.88	$ 349.32	$ 349.32	$ 349.32	$ 349.32	$ 349.32	$ 349.32	$ 349.32	$ 349.32	$ 3,789.36
Barbara Sawyer	0.40%	$ 66,241.95	$ 264.24	$ 274.80	$ 274.80	$ 285.84	$ 285.84	$ 285.84	$ 285.84	$ 285.84	$ 285.84	$ 285.84	$ 285.84	$ 3,100.56
George Perry	1.05%	$ 144,649.97	$ 1,518.83	$ 1,518.83	$ 1,518.83	$ 1,985.97	$ 1,985.97	$ 1,985.97	$ 1,985.97	$ 1,985.97	$ 1,985.97	$ 1,985.97	$ 1,985.97	$ 20,444.25
George Perry	1.05%	$ 62,276.09	$ 653.90	$ 630.27	$ 606.35	$ 767.31	$ 767.31	$ 767.31	$ 767.31	$ 767.31	$ 767.31	$ 767.31	$ 767.31	$ 8,029.00
Alice Elchlepp	1.80%	$ 59,389.50	$ 623.59	$ 1,069.01	$ 1,069.01	$ 1,332.69	$ 1,332.69	$ 1,332.69	$ 1,332.69	$ 1,332.69	$ 1,332.69	$ 1,332.69	$ 1,332.69	$ 13,423.13
Alice Elchlepp	1.80%	$ 46,628.34	$ 489.60	$ 839.31	$ 839.31	$ 1,046.33	$ 1,046.33	$ 1,046.33	$ 1,046.33	$ 1,046.33	$ 1,046.33	$ 1,046.33	$ 1,046.33	$ 10,538.86
Donald Elchlepp	1.80%	$ 35,294.02	$ 370.59	$ 635.29	$ 635.29	$ 791.99	$ 791.99	$ 791.99	$ 791.99	$ 791.99	$ 791.99	$ 791.99	$ 791.99	$ 7,977.09
Joleen Kay Welch	0.50%	$ 46,105.52	$ 224.88	$ 241.08	$ 258.36	$ 277.08	$ 277.08	$ 277.08	$ 277.08	$ 277.08	$ 277.08	$ 277.08	$ 277.08	$ 2,940.96
Joleen Kay Welch	0.50%	$ 98,999.23	$ 526.80	$ 516.84	$ 554.04	$ 553.80	$ 553.80	$ 553.80	$ 553.80	$ 553.80	$ 553.80	$ 553.80	$ 553.80	$ 6,028.08
Joleen Kay Welch	0.50%	$ 99,027.44	$ 526.92	$ 516.96	$ 554.28	$ 552.84	$ 552.84	$ 552.84	$ 552.84	$ 552.84	$ 552.84	$ 552.84	$ 552.84	$ 6,020.88
C.E. Welch		DECEASED												
Rex Berry	0.30%	$ 45,347.07	$ 121.33	$ 135.96	$ 132.72	$ 121.92	$ 121.92	$ 121.92	$ 121.92	$ 121.92	$ 121.92	$ 121.92	$ 121.92	$ 1,365.37
Norma Kay Berry	0.30%	$ 57,200.51	$ 174.11	$ 171.57	$ 175.68	$ 172.56	$ 172.56	$ 172.56	$ 172.56	$ 172.56	$ 172.56	$ 172.56	$ 172.56	$ 1,901.84
Lonnie Caulk	1.80%	$ 87,082.29	$ 1,567.48	$ 1,567.48	$ 1,567.48	$ 2,256.94	$ 2,256.94	$ 2,256.94	$ 2,256.94	$ 2,256.94	$ 2,256.94	$ 2,256.94	$ 2,256.94	$ 22,757.96
Lonnie Caulk	0.80%	$ 31,771.86	$ 222.36	$ 250.44	$ 281.52	$ 343.20	$ 343.20	$ 343.20	$ 343.20	$ 343.20	$ 343.20	$ 343.20	$ 343.20	$ 3,499.92

SA110

SECRETARY OF STATE
EXHIBIT NUMBER 155

000491[6]

NAME	FEES %	BEGINNING CONTRACT VALUE	YEAR 1 FEES	YEAR 2 FEES	YEAR 3 FEES	YEAR 4 FEES	YEAR 5 FEES	YEAR 6 FEES	YEAR 7 FEES	YEAR 8 FEES	YEAR 9 FEES	YEAR 10 FEES	YEAR 11 FEES	TOTAL FEES
Barbara Caulk	0.80%	$ 22,157.34	$ 154.08	$ 174.60	$ 197.40	$ 221.04	$ 221.04	$ 221.04	$ 221.04	$ 221.04	$ 221.04	$ 221.04	$ 221.04	$ 2,294.40
Shirley Connery	3.70%	$ 28,655.10	$ 845.33	$ 1,015.51	$ 970.07	$ 970.07	$ 970.07	$ 970.07	$ 970.07	$ 970.07	$ 707.89	$ 707.89	$ 707.89	$ 9,804.93
Patrick Connery	3.70%	$ 30,982.37	$ 913.98	$ 1,084.77	$ 1,084.77	$ 1,084.77	$ 1,084.77	$ 1,084.77	$ 1,084.77	$ 1,084.77	$ 791.59	$ 791.59	$ 791.59	$ 10,882.14
Marilyn Hemenway	0.30%	$ 96,365.66	$ 280.92	$ 289.04	$ 287.76	$ 284.64	$ 284.64	$ 284.64	$ 284.64	$ 284.64	$ 284.64	$ 284.64	$ 284.64	$ 3,134.84
Marilyn Hemenway	0.30%	$ 96,299.98	$ 280.44	$ 288.80	$ 286.44	$ 283.80	$ 283.80	$ 283.80	$ 283.80	$ 283.80	$ 283.80	$ 283.80	$ 283.80	$ 3,126.08
Velma Miller		NO FEES												
Shirley Ward	1.80%	$ 62,324.46	$ 654.41	$ 1,086.95	$ 1,052.06	$ 1,407.17	$ 1,407.17	$ 1,407.17	$ 1,407.17	$ 1,407.17	$ 1,407.17	$ 1,407.17	$ 1,407.17	$ 14,050.78
Betty Creasey	2.00%	$ 49,548.77	$ 990.98	$ 990.98	$ 990.98	$ 990.98	$ 990.98	$ 990.98	$ 990.98	990.98	$ 495.49	$ 495.49	$ 495.49	$ 9,414.31
Betty Creasey	2.00%	$ 78,647.62	$ 1,572.95	$ 1,498.30	$ 1,422.95	$ 1,352.18	$ 1,352.18	$ 1,352.18	$ 1,352.18	1352.18	$ 676.09	$ 676.09	$ 676.09	$ 13,283.37
Earnest Dannenberger	0.30%	$ 135,160.35	$ 438.24	$ 405.44	$ 384.60	$ 352.44	$ 352.44	$ 352.44	$ 352.44	$ 352.44	$ 352.44	$ 352.44	$ 352.44	$ 4,047.80
Melvin Partridge		DECEASED	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
TOTALS		$ 1,835,847.67	$ 15,207.29	$ 17,129.46	$ 17,071.93	$ 19,391.11	$ 19,391.11	$ 19,391.11	$ 19,391.11	$ 19,391.11	$ 17,664.17	$ 17,664.17	$ 17,664.17	$ 199,356.74

Contract value years 1 through 4 are known. Years 5 through 11 assumes no withdrawal or increase after year 4. It also assumes that the interest credits only cover the cost of the fees.
On Ronald Ferricks, Years 1 through 3 are known.

SA111

Illinois Annuity Case

Edward S. O'Neal,
Ph.D.

0004952

SECRETARY OF STATE
EXHIBIT NUMBER 170

Market Value Adjustment (MVA)

- An MVA causes the cash surrender value of an annuity to fluctuate as interest rates change.
- Upon surrender, if interest rates have fallen since purchase, the MVA will be positive which increases the surrender value.
- Upon surrender, if interest rates have risen since purchase, the MVA will be negative which decreases the surrender value.

SA113

Market Value Adjustment (MVA)

- The magnitude of the MVA decreases as you get closer to the end of the surrender period.
- The MVA is zero after the surrender period.
- The effect of the MVA is to cause the surrender value of the annuity to be exposed to interest rate risk.

SA114

MVA formula

- For ING annuities, the MVA is given by:

  Market Value Adjustment = $[(1 + a)^n/(1 + b)^n - 1]$

- Where a = the index rate when the annuity was originally sold
- b = the index rate when the annuity is surrendered
- n = the number of years until the surrender period is over.

SA115

0004955

Example of a positive MVA

- Assume an accumulation value of $100,000
- Assume a = 5%, b = 3% and n = 5.5 years
- The MVA is calculated as:

  $[(1+.05)^{5.5}/(1+.03)^{5.5}-1] = .111$
- The accumulation value would be grossed up by .111 or 11.1% if the client decided to surrender at this point.
- Cash surrender value = $111,000.

SA116

0004956

Average Annuity Client Transaction

- Surrendered Annuity Accumulation Value: $77,600
- Cash Surrender Value after MVA and Surrender Charges: $74,900
- Time Left in Surrender period: 7 ½ years (annuity had been held 2 ½ years)
- Age of annuitant: 66 years

SA117

0004937

MVA

- The MVA is calculated according to the following formula:

  Market Value Adjustment = [(1 + a)^n/(1 + b)^n -1]

- At the time of surrender, the average MVA of the clients' transactions was .093 which is the average dollar MVA divided by the average dollar amount of the accumulation value → [$7,214/$77,600].
- An MVA of .093 after 2.5 years since purchase is generated if index interest rates have fallen by 1.22%: $[(1+.0422)^{7.5}/(1+.030)^{7.5}-1] = .093$

SA118

0004958

Assumptions

- MVA Index Interest rates have declined by 1.22% since the purchase of the Original annuity and remain the same after the purchase of the New annuity.
- The contract interest rate on the Original and New annuity is 3%.
- Fees are the same between the Original and New annuities.
- I do not consider the bonus of the new annuity as it is not a financial advantage for the client.

SA119

Example Calculation

Original Annuity				
Annuitant Age	66		67	
Year	**2009**		**2010**	
Years Since Original Annuity Purchase	2.5		3.5	
Years left in surrender period	7.5		6.5	
Surrender charge	11%		10%	
Accumulation value at surrender	$77,600	* 1.03 =	$79,928	
MVA	0.093		0.080	
MVA ($)	$7,214		$6,358	= $79,928 * .080
Accumulation plus MVA	$84,814		$86,286	= $79,928 + $6,538
Surrender charge ($)	$9,914		$8,628.57	= $86,286 * 10%
Cash Surrender value	$74,900		$77,657	= $86,286 - $8,628

Contract interest rate = 3%

MVA Index interest rate at time of purchase = 4.22%

MVA Index interest rate at time of surrender = 3.00%

$[(1+.0422)^{6.5}/(1+.030)^{6.5}-1] = .080$

SA120

00049 60

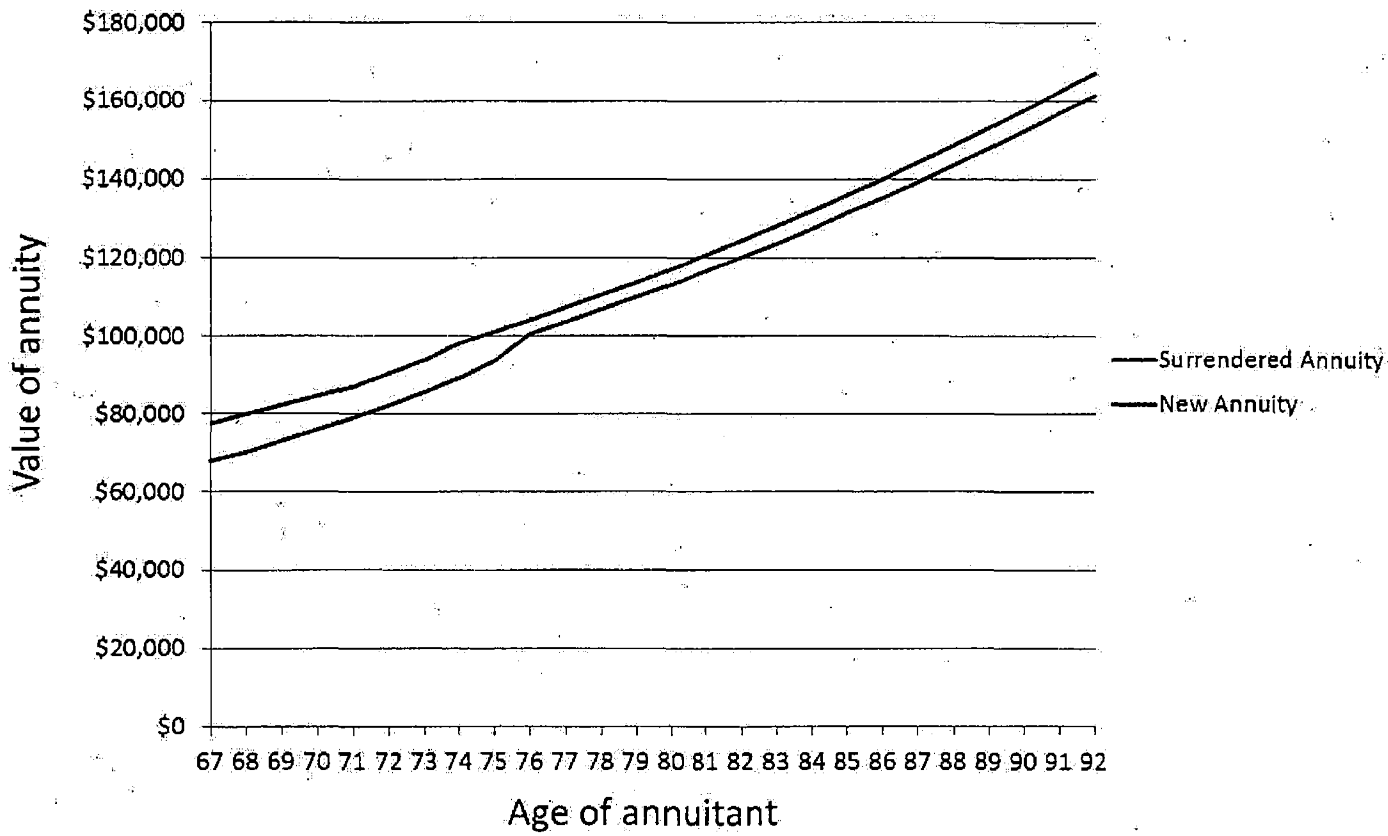
Analysis

Original Annuity					
Annuitant Age	66	67	68	69	70
Year	**2009**	**2010**	**2011**	**2012**	**2013**
Years Since Original Annuity Purchase	2.5	3.5	4.5	5.5	6.5
Years left in surrender period	7.5	6.5	5.5	4.5	3.5
Surrender charge	11%	10%	9%	8%	7%
Accumulation value at surrender	$77,600	$79,928	$82,326	$84,796	$87,339
MVA	0.093	0.080	0.067	0.054	0.042
MVA ($)	$7,214	$6,358	$5,508	$4,614	$3,675
Accumulation plus MVA	$84,814	$86,286	$87,834	$89,410	$91,014
Surrender charge ($)	$9,914	$8,628.57	$7,905	$7,153	$6,371
Cash Surrender value	$74,900	$77,657	$79,929	$82,257	$84,643
New Annuity					
Initial investment in new annuity		$74,900			
Years Since New Annuity Purchase		1	2	3	4
Years left in surrender period		9	8	7	6
Surrender charge		12%	12%	11%	10%
Accumulation value at surrender		$77,147	$79,461	$81,845	$84,301
MVA		0	0	0	0
MVA($)		0	0	0	0
Accumulation plus MVA		$77,147	$79,461	$81,845	$84,301
Surrender charge ($)		$9,258	$9,535	$9,003	$8,430
Cash Surrender value		$67,889	$69,926	$72,842	$75,871
Difference in Cash Surrender Value		$9,768	$10,003	$9,415	$8,773

SA121

00004961

Cash value of surrendered annuity and new annuity for average client transaction



SA122

00004962

George Perry

- Annuity surrendered March 2009
- Contract value = $144,732
- MVA = $3,144
- Surrender Charge = $14,788
- Amount transferred = $133,089

SA123

00004963

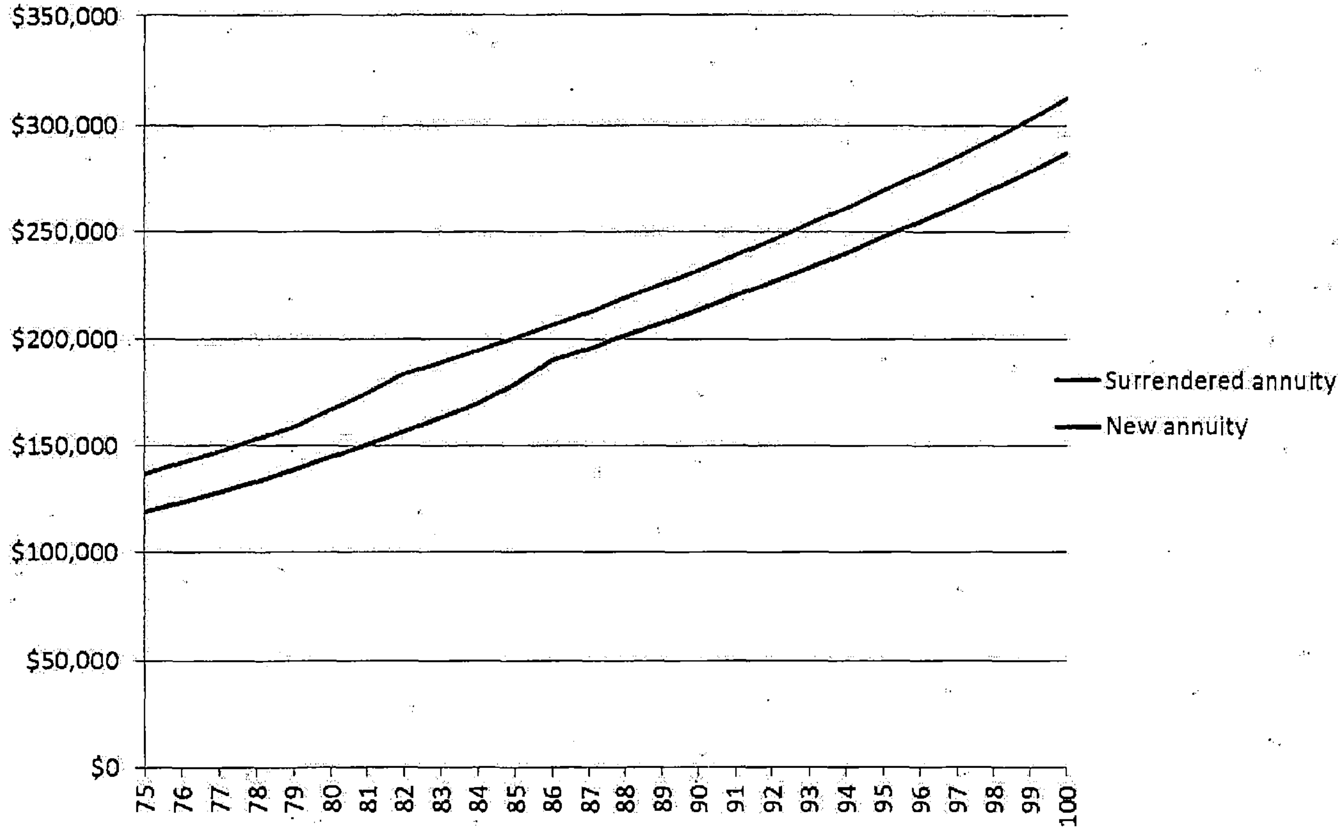
George Perry Analysis

Original Annuity					
Annuitant Age	74	75	76	77	78
Year	**2009**	**2010**	**2011**	**2012**	**2013**
Years Since Original Annuity Purchase	2.4	3.4	4.4	5.4	6.4
Years left in surrender period	7.6	6.6	5.6	4.6	3.6
Surrender charge	10%	10%	9%	8%	7%
Accumulation value at surrender	$144,732	$149,074	$153,546	$158,153	$162,897
MVA	0.022	0.019	0.016	0.013	0.011
MVA ($)	$3,144	$2,889	$2,521	$2,130	$1,715
Accumulation plus MVA	$147,876	$151,963	$156,067	$160,283	$164,612
Surrender charge ($)	$14,787	$15,196.31	$14,046	$12,823	$11,523
Cash Surrender value	$133,089	$136,767	$142,021	$147,460	$153,089
New Annuity					
Initial investment in new annuity		$133,089			
Years Since New Annuity Purchase		1	2	3	4
Years left in surrender period		9	8	7	6
Surrender charge		13%	12.5%	12%	11%
Accumulation value at surrender		$137,082	$141,194	$145,430	$149,793
MVA		0	0	0	0
MVA($)		0	0	0	0
Accumulation plus MVA		$137,082	$141,194	$145,430	$149,793
Surrender charge ($)		$17,821	$17,649	$17,452	$16,477
Cash Surrender value		$119,261	$123,545	$127,978	$133,316
Difference in Cash Surrender Value		$17,506	$18,477	$19,482	$19,773

SA124

00049664

Cash value of surrendered annuity and new annuity for George Perry



SA125

0004965

Alice Elchlepp

- Annuity surrendered April 2009
- Contract value = $58,353
- MVA = $1,659
- Surrender Charge = $6,001
- Amount transferred = $53,990

SA126

0004966

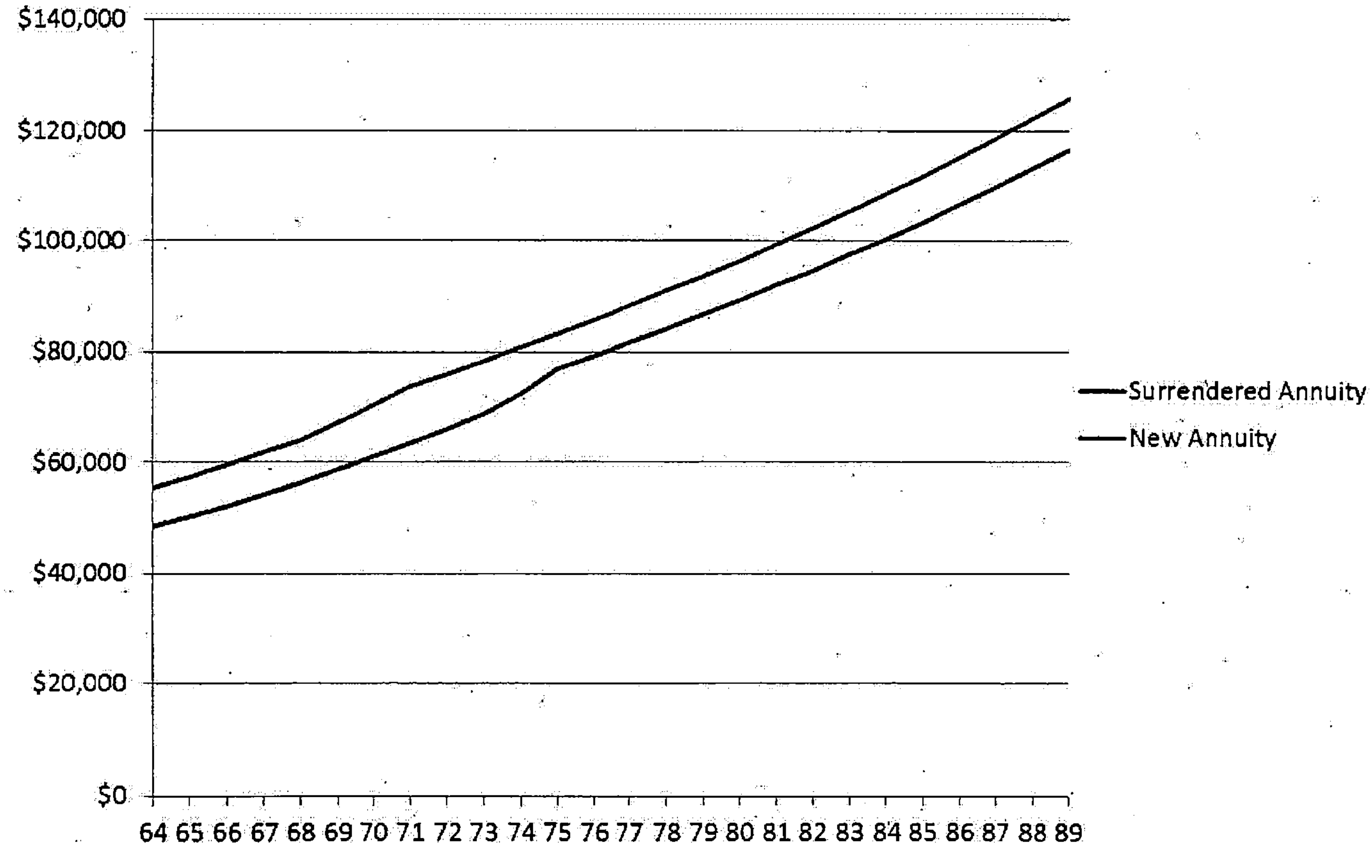
Alice Elchlepp Analysis

Original Annuity					
Annuitant Age	63	64	65	66	67
Year	**2009**	**2010**	**2011**	**2012**	**2013**
Years Since Original Annuity Purchase	2.5	3.5	4.5	5.5	6.5
Years left in surrender period	7.5	6.5	5.5	4.5	3.5
Surrender charge	10%	10%	9%	8%	7%
Accumulation value at surrender	$58,353	$60,104	$61,907	$63,764	$65,677
MVA	0.028	0.024	0.020	0.016	0.013
MVA ($)	$1,658	$1,417	$1,233	$1,037	$829
Accumulation plus MVA	$60,011	$61,521	$63,140	$64,801	$66,506
Surrender charge ($)	$6,021	$6,152	$5,683	$5,184	$4,655
Cash Surrender value	$53,990	$55,369	$57,457	$59,617	$61,851
New Annuity					
Initial investment in new annuity		$53,990			
Years Since New Annuity Purchase		1	2	3	4
Years left in surrender period		9	8	7	6
Surrender charge		13%	12.5%	12%	11%
Accumulation value at surrender		$55,610	$57,278	$58,996	$60,766
MVA		0	0	0	0
MVA($)		0	0	0	0
Accumulation plus MVA		$55,610	$57,278	$58,996	$60,766
Surrender charge ($)		$7,229	$7,160	$7,080	$6,684
Cash Surrender value		$48,380	$50,118	$51,917	$54,082
Difference in Cash Surrender Value		$6,988	$7,339	$7,700	$7,769

SA127

0004967

Cash value of surrendered annuity and new annuity for Alice Elchlepp



0004968

SA128

Earnest Dannenberger

- Annuity surrendered February 2009
- Contract value = $124,442
- MVA = $24,826
- Surrender Charge = $16,439
- Amount transferred = $132,828

SA129

0004969

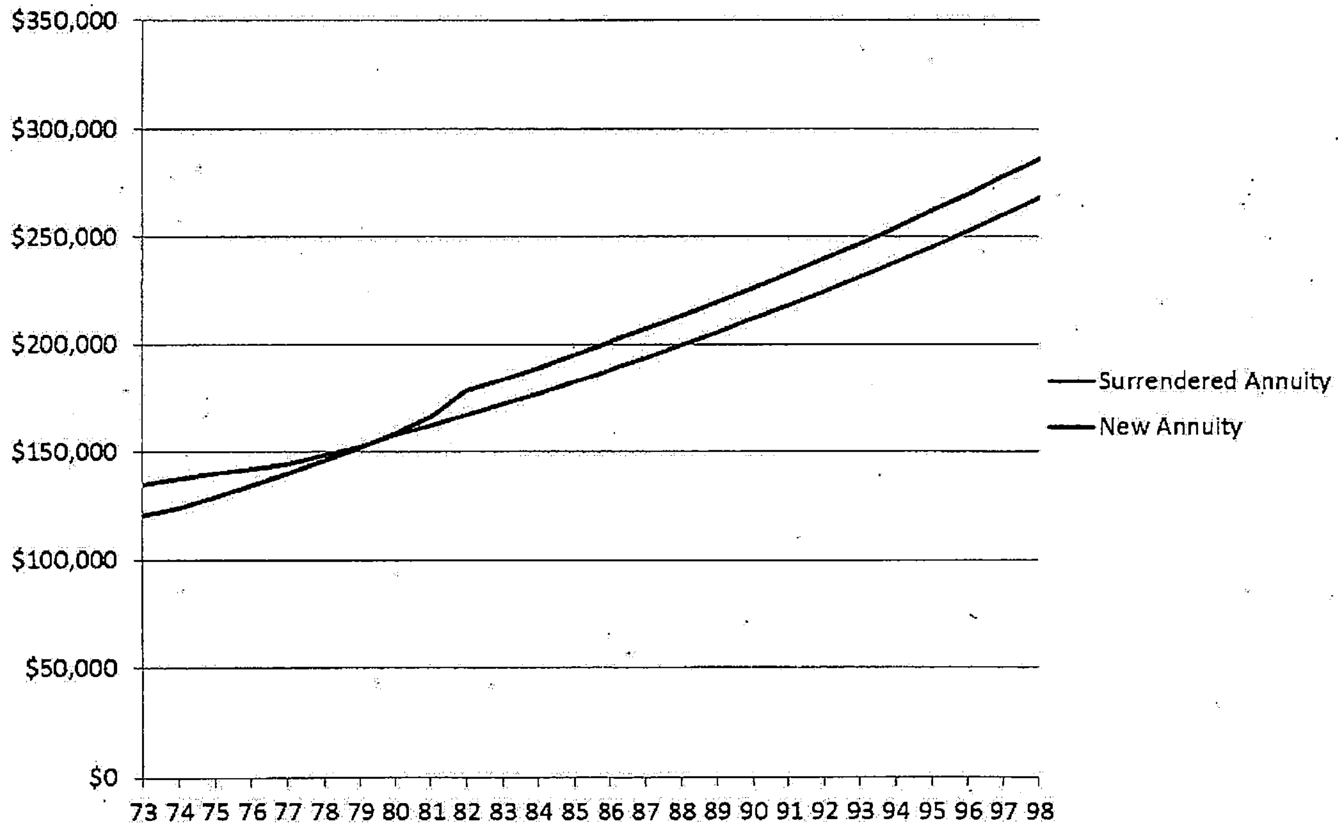
Dannenberger analysis

Original Annuity					
Annuitant Age	72	73	74	75	76
Year	**2009**	**2010**	**2011**	**2012**	**2013**
Years Since Original Annuity Purchase	2.4	3.4	4.4	5.4	6.4
Years left in surrender period	7.6	6.6	5.6	4.6	3.6
Surrender charge	11%	10%	9%	8%	7%
Accumulation value at surrender	$124,441	$128,174	$132,019	$135,980	$140,059
MVA	0.200	0.171	0.144	0.117	0.090
MVA ($)	$24,826	$21,981	$18,976	$15,860	$12,629
Accumulation plus MVA	$149,267	$150,156	$150,995	$151,840	$152,689
Surrender charge ($)	$16,439	$15,015.55	$13,590	$12,147	$10,688
Cash Surrender value	$132,828	$135,140	$137,406	$139,692	$142,001
New Annuity					
Initial investment in new annuity		$132,828			
Years Since New Annuity Purchase		1	2	3	4
Years left in surrender period		9	8	7	6
Surrender charge		12%	12%	11%	10%
Accumulation value at surrender		$136,813	$140,917	$145,145	$149,499
MVA		0	0	0	0
MVA($)		0	0	0	0
Accumulation plus MVA		$136,813	$140,917	$145,145	$149,499
Surrender charge ($)		$16,418	$16,910	$15,966	$14,950
Cash Surrender value		$120,395	$124,007	$129,179	$134,549
Difference in Cash Surrender Value		$14,745	$13,399	$10,514	$7,451

SA130

00004970

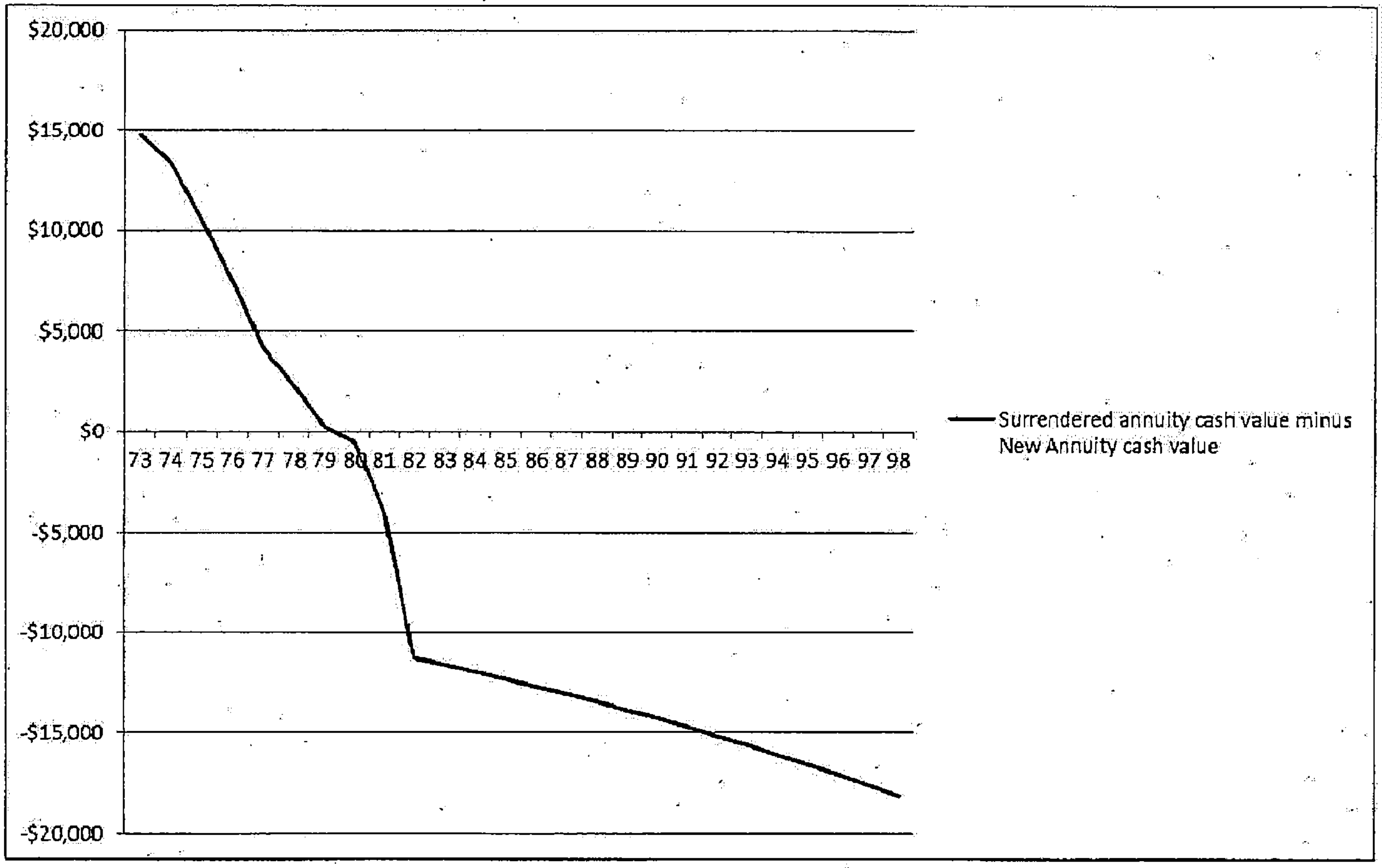
Cash value of surrendered annuity and new annuity for Earnest Dannenberger



SA131

00004971

Difference between cash values of annuities for Dannenberger



SA132

0004972

Adjustments

- In the case of Dannenberger, the surrendered annuity has a higher cash value in early years while the new annuity has higher cash value in later years.
- To determine which annuity is better for the client, we must adjust the differences in cash values between the annuities for
  1. Life expectancy of the annuitant, and
  2. Time value of money

SA133

00004973

Life expectancy

- As the annuitant ages, there is an increasing likelihood that the annuitant will pass away.
- Therefore, cash values in earlier years when the annuitant is more likely to be alive are more important than later years.
- Period life tables give us the probabilities that an individual will survive until the next year.

SA134

Period Life table for a male age 72

Year	Probability of being alive in that year	Likelihood annuitant will surrender annuity in that year			
73	97%	8.38%	86	39%	3.42%
74	93%	8.08%	87	35%	2.99%
75	90%	7.78%	88	30%	2.58%
76	86%	7.45%	89	25%	2.19%
77	82%	7.10%	90	21%	1.82%
78	78%	6.74%	91	17%	1.48%
79	74%	6.37%	92	14%	1.18%
80	69%	5.97%	93	11%	0.92%
81	64%	5.57%	94	8%	0.69%
82	59%	5.15%	95	6%	0.51%
83	55%	4.72%	96	4%	0.36%
84	50%	4.29%	97	3%	0.25%
85	44%	3.85%	98	2%	0.17%
					100.00%

SA135

0004975

Time value of money

- Cash flows in later years are worth less than cash flows in early years due to the time value of money.
- In finance, a discount rate is applied to all cash flows. Cash flows in later years are discounted more heavily than those in early years.
- Discount rates are determined by current interest rate levels and risk of cash flows.

SA136

Time value factors

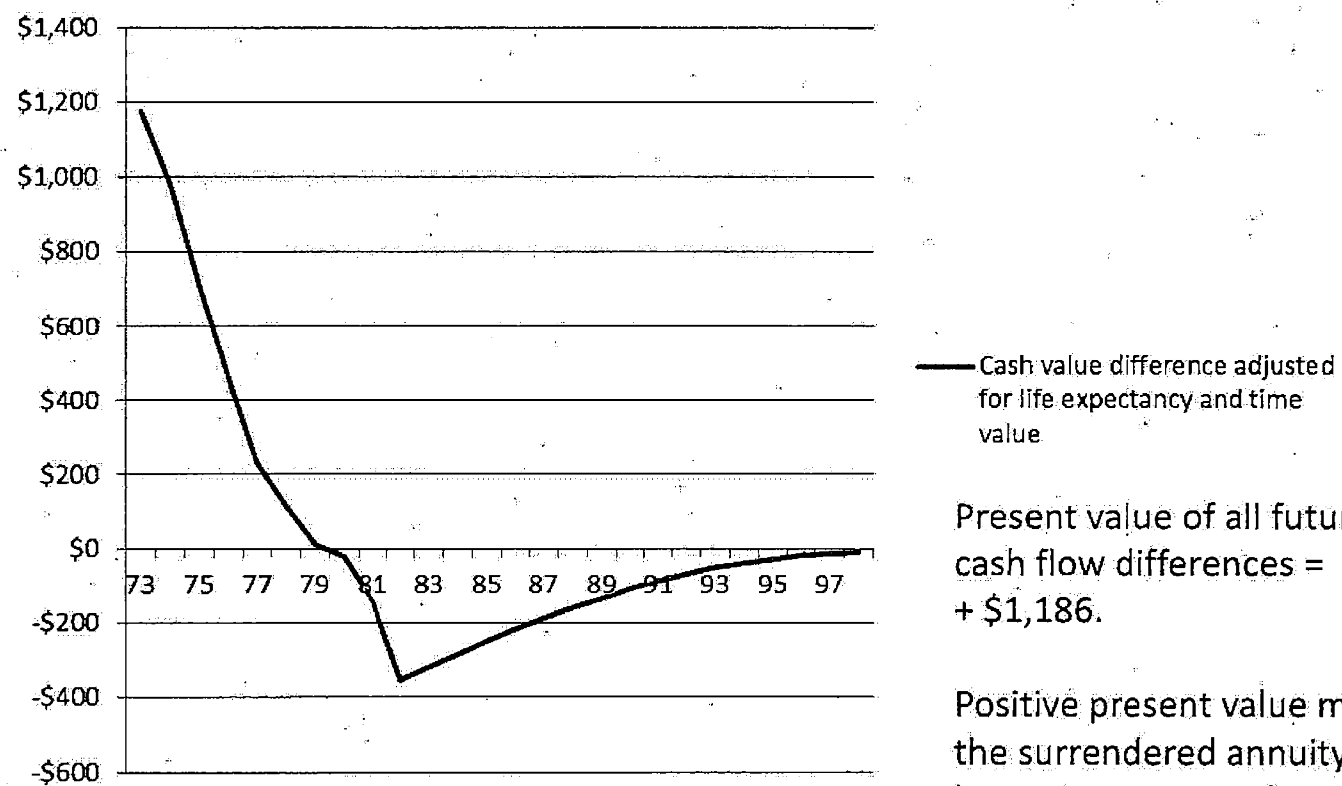
Time value factor = $[1/(1+\text{discount rate})^n]$

Year of cash flow	Time value factor		
1	0.95		
2	0.91	14	0.51
3	0.86	15	0.48
4	0.82	16	0.46
5	0.78	17	0.44
6	0.75	18	0.42
7	0.71	19	0.40
8	0.68	20	0.38
9	0.64	21	0.36
10	0.61	22	0.34
11	0.58	23	0.33
12	0.56	24	0.31
13	0.53	25	0.30

SA137

Discount rate is 5% per year.

Cash value difference adjusted for life expectancy and time value for Dannenberger



Present value of all future cash flow differences = + $1,186.

Positive present value means the surrendered annuity is a better investment than the new annuity.

0004978

SA138

Shirley Ward

- Annuity surrendered March 2009
- Contract value = $55,266
- MVA = $10,383
- Surrender Charge = $7,241
- Amount transferred = $58,408

SA139

0004979

Shirley Ward Analysis

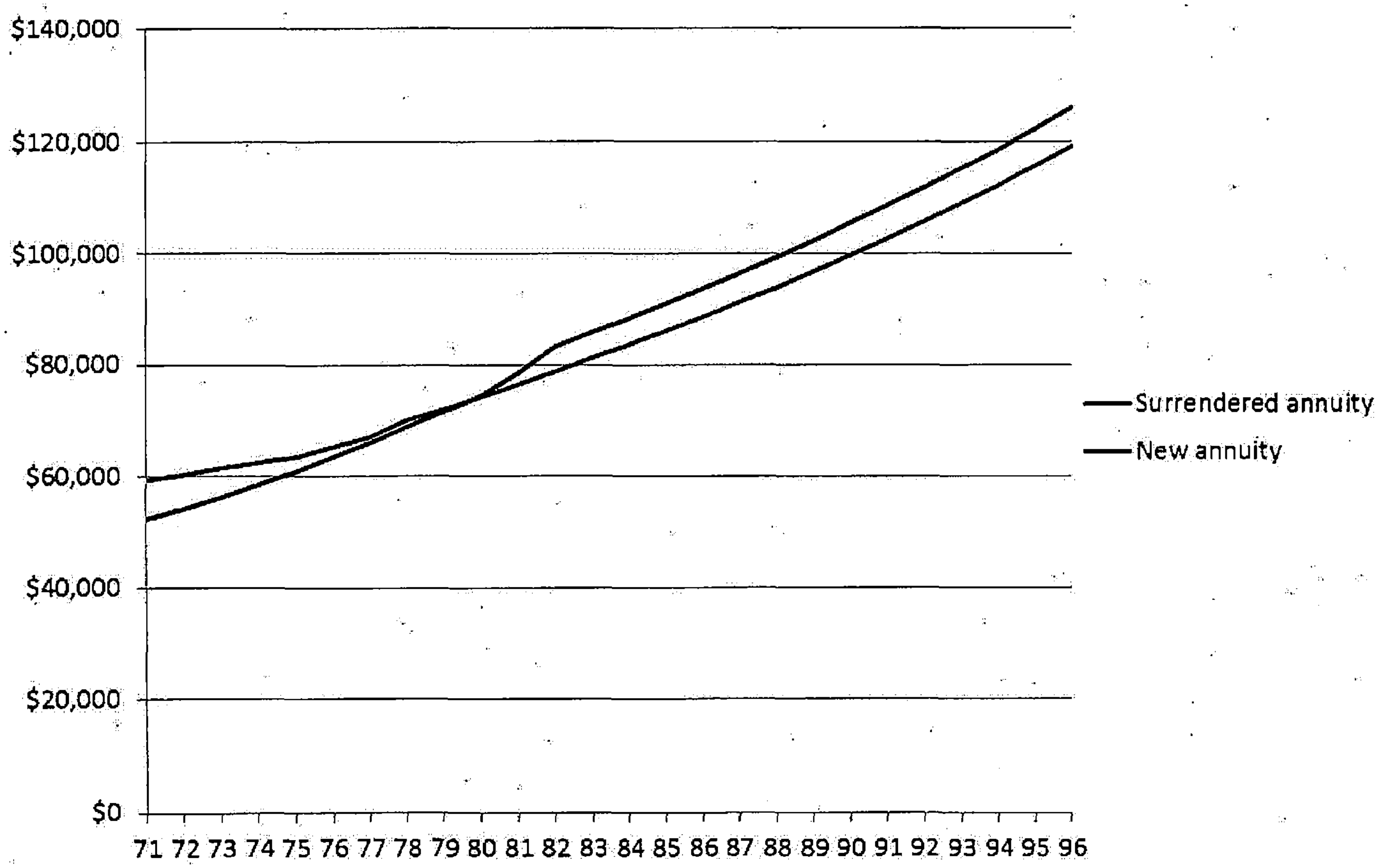
Original Annuity					
Annuitant Age	70	71	72	73	74
Year	**2009**	**2010**	**2011**	**2012**	**2013**
Years Since Original Annuity Purchase	2.7	3.7	4.7	5.7	6.7
Years left in surrender period	7.3	6.3	5.3	4.3	3.3
Surrender charge	11%	10%	9%	8%	7%
Accumulation value at surrender	$55,266	$56,924	$58,632	$60,391	$62,202
MVA	0.188	0.160	0.133	0.106	0.081
MVA ($)	$10,383	$9,087	$7,780	$6,424	$5,018
Accumulation plus MVA	$65,649	$66,011	$66,411	$66,814	$67,220
Surrender charge ($)	$7,241	$6,601.07	$5,977	$5,345	$4,705
Cash Surrender value	$58,408	$59,410	$60,434	$61,469	$62,515

New Annuity				
Initial investment in new annuity	$58,408			
Years Since New Annuity Purchase	1	2	3	4
Years left in surrender period	9	8	7	6
Surrender charge	13%	12.5%	12%	11%
Accumulation value at surrender	$60,160	$61,965	$63,824	$65,739
MVA	0	0	0	0
MVA($)	0	0	0	0
Accumulation plus MVA	$60,160	$61,965	$63,824	$65,739
Surrender charge ($)	$7,821	$7,746	$7,659	$7,231
Cash Surrender value	$52,339	$54,219	$56,165	$58,507
Difference in Cash Surrender Value	$7,070	$6,215	$5,304	$4,007

SA140

00049 30

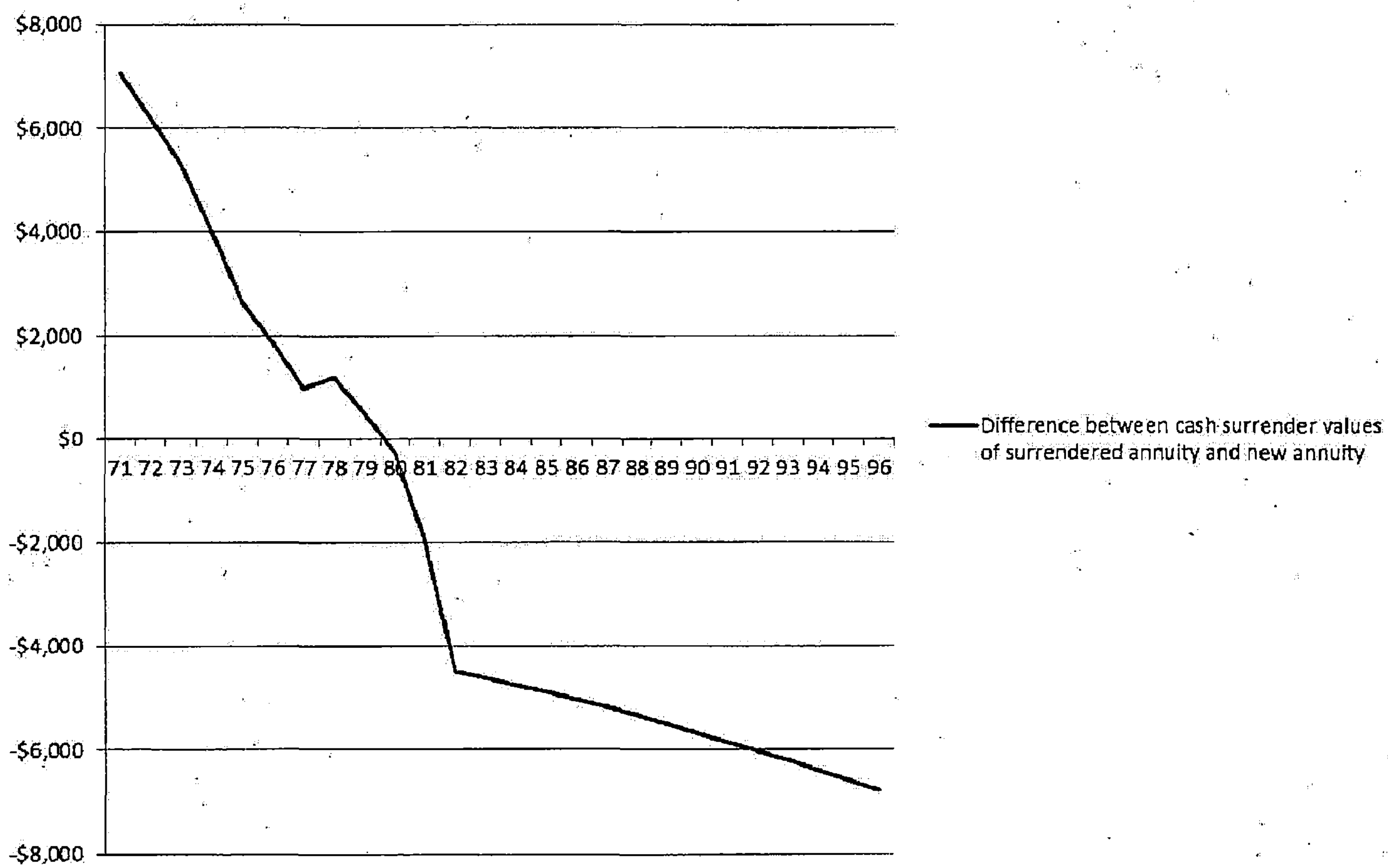
Cash value of surrendered annuity and new annuity for Shirley Ward



SA141

0004981

Difference between cash values of annuities for Shirley Ward



SA142

0004982

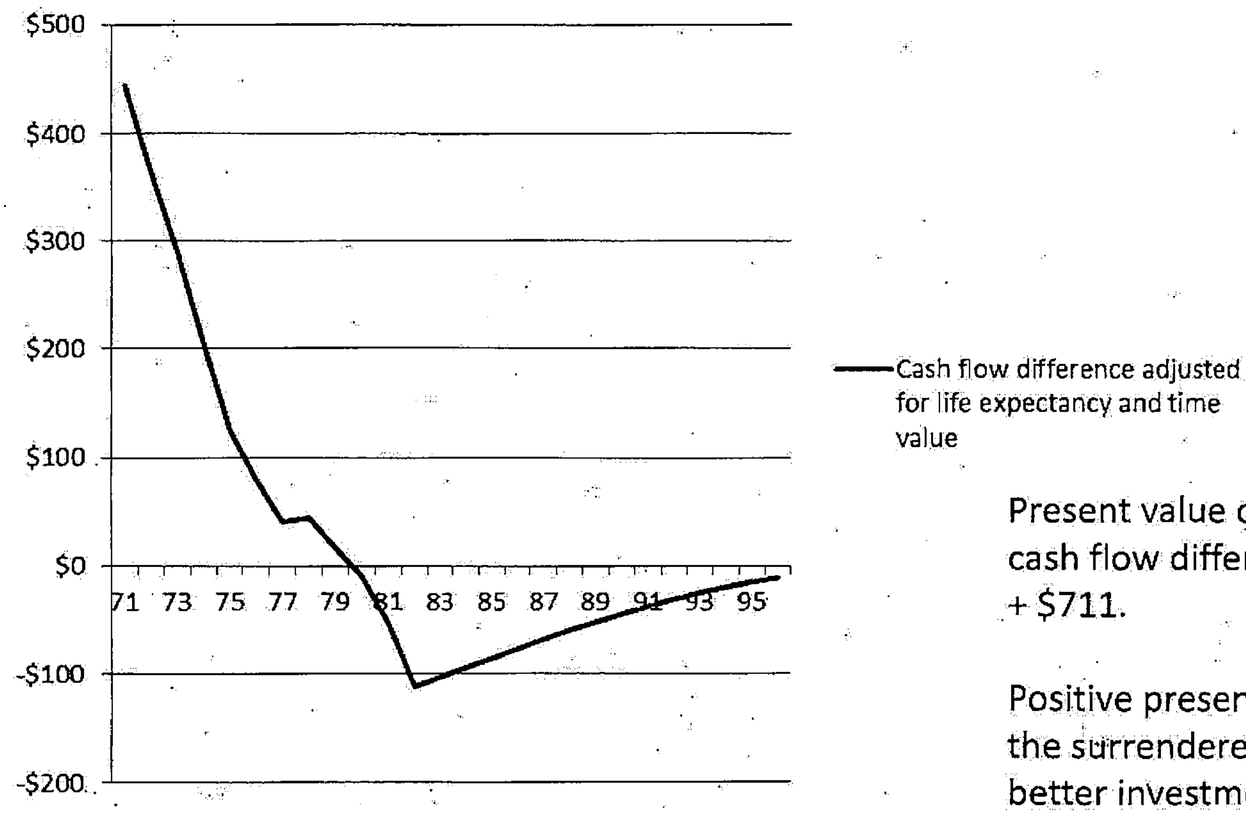
Period Life table for a female age 71

Year	Probability of being alive in that year	Likelihood annuitant will surrender annuity in that year
71	98%	6.60%
72	96%	6.47%
73	94%	6.33%
74	92%	6.17%
75	89%	6.01%
76	87%	5.83%
77	84%	5.64%
78	81%	5.44%
79	78%	5.22%
80	74%	4.99%
81	71%	4.75%
82	67%	4.49%
83	63%	4.22%
84	58%	3.93%
85	54%	3.63%
86	49%	3.33%
87	45%	3.01%
88	40%	2.69%
89	35%	2.38%
90	31%	2.06%
91	26%	1.76%
92	22%	1.48%
93	18%	1.22%
94	15%	0.98%
95	11%	0.77%
96	9%	0.59%
		100.00%

SA143

00004983

Cash value difference adjusted for life expectancy and time value for Shirley Ward



Present value of all future cash flow differences = + $711.

Positive present value means the surrendered annuity is a better investment than the new annuity.

SA144

000498[4]

Attention	GEORGE B PERRY 3401 BLUFF RD SPRINGFIELD IL 62711
Owner	GEORGE B PERRY
Annuitant	GEORGE B PERRY
Contract Number	55664
Contract Date	03/27/2009
Annuity Type	Non-Qualified
Initial Premium	$133,088.59
Statement Date	03/27/2013
Guaranteed End-of-Term Balanced Allocation Value	$189,140.28
Accumulation Value	$189,140.28
Death Benefit[1]	$189,140.28
Cash Surrender Value	$164,491.52

[1] Your Minimum Death Benefit is the greater of the Contract Death Benefit or the Enhanced Death Benefit.

Contact Your Agent	RICHARD L VANDYKE 1028 S WALNUT ST SPRINGFIELD IL 62704-2851
Mail Processing Center	AVIVA P.O. Box 10433 Des Moines, IA 50309 (888) 266-8489

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CONFIDENTIAL AVIVA 2ND SUPPLEMENTAL RESPONSE000004

0001643

Accumulation Value as of:

Statement Date	$189,140.28
Prior Contract Anniversary	$144,649.97

Cash Surrender Value as of:

Statement Date	$164,491.52
Prior Contract Anniversary	$152,839.46

Withdrawals Made During Contract Year

Beginning of Contract Year	Statement Date	Total Amount Paid To You[1]	Total Reduction in Accumulation Value[2]
03/27/2012	03/27/2013	$14,000.00	$8,273.42

	Current	Renewal
Term Start Date	03/27/2009	03/27/2013
Lock-In Date	09/14/2012	
Term End Date	03/27/2013	03/27/2017
Balanced Allocation Value	$189,140.28	$189,140.28
Guaranteed Rate Until End of Term	7.40%	
Equity Allocation	50.00%	50.00%
Declared Rate Allocation	50.00%	50.00%
Declared Rate	3.00%	2.00%

- Guaranteed End-of-Term Balanced Allocation Value: After a Lock-In Date has been elected, prior to the end of the Term, this value reflects the guaranteed Balanced Allocation Value at the end of the Term assuming no withdrawals are taken between the Lock-in Date and the Term End Date. This value will be reduced by withdrawals of any type taken prior to the end of the Term.
- Death Benefit: This value is the lump sum amount the beneficiaries would have received if the contract's death benefit had been paid on the statement date.
- Accumulation Value: This value is equal to the premium paid plus any interest credited, less withdrawals of any type (including Withdrawal Charges and Market Value Adjustments if applicable).
- Cash Surrender Value: This value is the amount that would have been paid if the contract had been surrendered on the statement date.

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[1] This value includes any Federal income tax and freight you elected to have withheld from your distributions.
[2] This value reflects any Strategy appreciation received on Free Withdrawals and the amount of any Withdrawal Charges and Market Value Adjustments if applicable.

BalancePlus Annuity™

SINGLE PREMIUM DEFERRED ANNUITY

Contract Information

Attention	GEORGE B PERRY 3401 BLUFF RD SPRINGFIELD IL 62711
Owner	GEORGE B PERRY
Annuitant	GEORGE B PERRY
Contract Number	55664
Contract Date	03/27/2009
Annuity Type	Non-Qualified
Initial Premium	$133,088.59

Annuity Values

Statement Date	03/27/2011
Balanced Allocation Value	$189,690.38
Accumulation Value	$144,649.97
Death Benefit[1]	$189,690.38
Cash Surrender Value	$129,499.94

[1] Your Minimum Death Benefit is the greater of the Contract Death Benefit or the Enhanced Death Benefit.

Questions?

Contact Your Agent	RICHARD L VAN DYKE 1028 S WALNUT SPRINGFIELD IL 62704
Mail Processing Center	AVIVA P.O. Box 10433 Des Moines, IA 50309 (888) 266-8489

Summary of Activity

Accumulation Value as of:

Statement Date	$144,649.97
Prior Contract Anniversary	$144,649.97

Cash Surrender Value as of:

Statement Date	$129,499.94
Prior Contract Anniversary	$117,055.17

Withdrawals Made During Contract Year

Beginning of Contract Year	Statement Date	Total Amount Paid To You[1]	Total Reduction in Accumulation Value[2]
03/27/2010	03/27/2011	$0.00	$0.00

Crediting Rate Information

	Current
Term Start Date	03/27/2009
Term End Date	03/27/2013
Balanced Allocation Value	$189,690.38
Balanced Allocation Strategy	Option C
Index Allocation	50.00%
Declared Rate Allocation	50.00%
Declared Rate	3.00%
Annual Fee	0.00%
Annual Enhanced Death Benefit Rider Charge	1.05%
Balanced Allocation Factor	31.13%

Definitions

- **Balanced Allocation Value:** This value measures the appreciation in the value of the Balanced Allocation Strategy as of the statement date. Prior to the Lock-In Date, the Balanced Allocation Value will fluctuate up and down and is not a guaranteed value.
- **Balanced Allocation Factor:** This is used to measure the net appreciation of the Balanced Allocation Strategy during the current term.
- **Death Benefit:** This value is the lump sum amount the beneficiaries would have received if the contract's death benefit had been paid on the statement date.
- **Accumulation Value:** This value is equal to the premium paid plus any interest credited, less withdrawals of any type (including Withdrawal Charges and Market Value Adjustments if applicable). Interest will not be credited to the Accumulation Value prior to the Lock-in Date.
- **Cash Surrender Value:** The amount that would have been paid if the contract had been surrendered on the statement date.

[1] This value includes any Federal income tax and freight you elected to have withheld from your distributions.
[2] This value reflects any Strategy appreciation received on Free Withdrawals and the amount of any Withdrawal Charges and Market Value Adjustments if applicable.

BalancePlus Annuity™

SINGLE PREMIUM DEFERRED ANNUITY

Contract Information

Attention	GEORGE B PERRY 3401 BLUFF RD SPRINGFIELD IL 62711
Owner	GEORGE B PERRY
Annuitant	GEORGE B PERRY
Contract Number	55664
Contract Date	03/27/2009
Annuity Type	Non-Qualified

Annuity Values

Statement Date	03/27/2010
Balanced Allocation Value	$176,382.53
Accumulation Value	$144,649.97
Death Benefit	$176,382.53
Cash Surrender Value	$117,055.17

Questions?

Contact Your Agent	RICHARD L VAN DYKE 1028 S WALNUT SPRINGFIELD IL 62704
Our Home Office	AVIVA P.O. Box 10433 Des Moines, IA, 50309 (888) 266-8489

Summary of Activity

Accumulation Value

Statement Date	$144,649.97
Prior Contract Anniversary	$146,397.44

Cash Surrender Value

Statement Date	$117,055.17
Prior Contract Anniversary	$116,452.51

Withdrawals Made During Contract Year

Beginning of Contract Year	Statement Date	Total Amount Paid To You[1]	Total Reduction in Accumulation Value[2]
03/27/2009	03/27/2010	$2,000.00	$1,747.47

Crediting Rate Information

	Current
Term Start Date	03/27/2009
Term End Date	03/27/2013
Balanced Allocation Value	$176,382.53
Balanced Allocation Strategy	Option C
Index Allocation	50.00%
Declared Rate Allocation	50.00%
Declared Rate	3.00%
Combined Index and Declared Rate Appreciation	22.99%
Annual Fee	0.00%
Enhanced Death Benefit Rider Charges	1.05%
Balanced Allocation Factor	21.93%

Definitions

- **Balanced Allocation Value:** This value measures the appreciation in the value of the Balanced Allocation Strategy as of the statement date. Prior to the Lock-in Date, the Balanced Allocation Value will fluctuate up and down and is not a guaranteed value.
- **Death Benefit:** This value is the lump sum amount the beneficiaries would have received if the contract's death benefit had been paid on the statement date.
- **Accumulation Value:** This value is equal to the premium paid plus any interest credited, less withdrawals of any type (including Withdrawal Charges and Market Value Adjustments if applicable). Interest will not be credited to the Accumulation Value prior to the Lock-in Date.
- **Cash Surrender Value:** The amount that would have been paid if the contract had been surrendered on the statement date.

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[1] This value includes any Federal income tax and freight you elected to have withheld from your distributions.
[2] This value reflects any Strategy appreciation received on Free Withdrawals and the amount of any Withdrawal Charges and Market Value Adjustments if applicable.

Attention	ALICE M ELCHLEPP 1331 CRESTVIEW DR SPRINGFIELD IL 62702
Owner	ALICE M ELCHLEPP
Annuitant	ALICE M ELCHLEPP
Contract Number	58985
Contract Date	04/27/2009
Annuity Type	IRA
Initial Premium	$53,990.46
Statement Date	04/27/2012
Balanced Allocation Value	$74,038.25
Accumulation Value	$59,389.50
Guaranteed Income Base at 8.00%	$74,813.66
Death Benefit[1]	$74,038.25
Cash Surrender Value	$59,119.97

[1] Your Minimum Death Benefit is the greater of the Contract Death Benefit or the Enhanced Death Benefit.

Contact Your Agent	RICHARD L VAN DYKE 1028 S WALNUT SPRINGFIELD IL 62704
Mail Processing Center	AVIVA P.O. Box 10433 Des Moines, IA 50309 (888) 266-8489

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AVIVA SUPPLEMENTAL RESPONSE000007
AVIVA 2ND SUPPLEMENTAL RESPONSE000008

0001977

Accumulation Value as of:

Statement Date	$59,389.50
Prior Contract Anniversary	$59,389.50

Cash Surrender Value as of:

Statement Date	$59,119.97
Prior Contract Anniversary	$51,597.48

Withdrawals Made During Contract Year

Beginning of Contract Year	Statement Date	Total Amount Paid To You[1]	Total Reduction in Accumulation Value[2]
04/27/2011	04/27/2012	$0.00	$0.00

	Current
Term Start Date	04/27/2009
Term End Date	04/27/2013
Balanced Allocation Value	$74,038.25
Balanced Allocation Strategy	Option D
Index Allocation	40.00%
Declared Rate Allocation	60.00%
Declared Rate	3.00%
Annual Fee	0.00%
Annual Income Rider Charge	0.75%
Premium Bonus/Death Benefit Rider Charge	1.05%
Balanced Allocation Factor	24.66%

- **Balanced Allocation Value:** This value measures the appreciation in the value of the Balanced Allocation Strategy as of the statement date. Prior to the Lock-in Date, the Balanced Allocation Value will fluctuate up and down and is not a guaranteed value.
- **Balanced Allocation Factor:** This is used to measure the net appreciation of the Balanced Allocation Strategy during the current term.
- **Death Benefit:** This value is the lump sum amount the beneficiaries would have received if the contract's death benefit had been paid on the statement date.
- **Accumulation Value:** This value is equal to the premium paid plus any interest credited, less withdrawals of any type (including Withdrawal Charges and Market Value Adjustments if applicable). Interest will not be credited to the Accumulation Value prior to the Lock-in Date.
- **Guaranteed Income Base:** Your Income Base is the value upon which Your Lifetime Income Withdrawals are based. The Income Base is only accessible through Lifetime Income Withdrawals that you can start and stop and restart. It is not payable as a Cash Surrender Value. The Income Base is not the same as the Accumulation Value.
- **Cash Surrender Value:** The amount that would have been paid if the contract had been surrendered on the statement date.

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[1] This value includes any Federal Income tax and freight you elected to have withheld from your distributions.

[2] This value reflects any Strategy appreciation received on Free Withdrawals and the amount of any Withdrawal Charges and Market Value Adjustments if applicable.

BalancePlus Annuity™

SINGLE PREMIUM DEFERRED ANNUITY

Contract Information

Attention	ALICE M ELCHLEPP 1331 CRESTVIEW DR SPRINGFIELD IL 62702
Owner	ALICE M ELCHLEPP
Annuitant	ALICE M ELCHLEPP
Contract Number	58985
Contract Date	04/27/2009
Annuity Type	IRA
Initial Premium	$53,990.46

Annuity Values

Statement Date	04/27/2011
Balanced Allocation Value	$72,970.80
Accumulation Value	$59,389.50
Guaranteed Income Base at 8.00%	$69,271.91
Death Benefit[1]	$72,970.80
Cash Surrender Value	$51,597.48

[1] Your Minimum Death Benefit is the greater of the Contract Death Benefit or the Enhanced Death Benefit.

Questions?

Contact Your Agent	RICHARD L VAN DYKE 1028 S WALNUT SPRINGFIELD IL 62704
Mail Processing Center	AVIVA P.O. Box 10433 Des Moines, IA 50309 (888) 266-8489

Summary of Activity

Accumulation Value as of:

Statement Date	$59,389.50
Prior Contract Anniversary	$59,389.50

Cash Surrender Value as of:

Statement Date	$51,597.48
Prior Contract Anniversary	$48,304.58

Withdrawals Made During Contract Year

Beginning of Contract Year	Statement Date	Total Amount Paid To You[1]	Total Reduction in Accumulation Value[2]
04/27/2010	04/27/2011	$0.00	$0.00

Crediting Rate Information

	Current
Term Start Date	04/27/2009
Term End Date	04/27/2013
Balanced Allocation Value	$72,970.80
Balanced Allocation Strategy	Option D
Index Allocation	40.00%
Declared Rate Allocation	60.00%
Declared Rate	3.00%
Annual Fee	0.00%
Annual Income Rider Charge	0.75%
Annual Enhanced Death Benefit Rider Charge	1.05%
Balanced Allocation Factor	22.86%

Definitions

- **Balanced Allocation Value:** This value measures the appreciation in the value of the Balanced Allocation Strategy as of the statement date. Prior to the Lock-In Date, the Balanced Allocation Value will fluctuate up and down and is not a guaranteed value.
- **Balanced Allocation Factor:** This is used to measure the net appreciation of the Balanced Allocation Strategy during the current term.
- **Death Benefit:** This value is the lump sum amount the beneficiaries would have received if the contract's death benefit had been paid on the statement date.
- **Accumulation Value:** This value is equal to the premium paid plus any interest credited, less withdrawals of any type (including Withdrawal Charges and Market Value Adjustments if applicable). Interest will not be credited to the Accumulation Value prior to the Lock-In Date.
- **Guaranteed Income Base:** Your Income Base is the value upon which Your Lifetime Income Withdrawals are based. The Income Base is only accessible through Lifetime Income Withdrawals that you can start and stop and restart. It is not payable as a Cash Surrender Value. The Income Base is not the same as the Accumulation Value.
- **Cash Surrender Value:** The amount that would have been paid if the contract had been surrendered on the statement date.

---

[1] This value includes any Federal income tax and freight you elected to have withheld from your distributions.

[2] This value reflects any Strategy appreciation received on Free Withdrawals and the amount of any Withdrawal Charges and Market Value Adjustments if applicable.

Attention	SHIRLEY K WARD 2436 NORMAL DR SPRINGFIELD IL 62707
Owner	SHIRLEY K WARD
Annuitant	SHIRLEY K WARD
Contract Number	55653
Contract Date	03/27/2009
Annuity Type	IRA
Initial Premium	$58,408.19
Statement Date	03/27/2013
Guaranteed End-of-Term Balanced Allocation Value	$78,176.05
Accumulation Value	$78,176.05
Guaranteed Income Base at 8.00%	$73,821.89
Death Benefit[1]	$78,220.75
Cash Surrender Value	$67,988.15

[1] Your Minimum Death Benefit is the greater of the Contract Death Benefit or the Enhanced Death Benefit.

Contact Your Agent	RICHARD L VANDYKE 1028 S WALNUT ST SPRINGFIELD IL 62704-2851
Mail Processing Center	AVIVA P.O. Box 10433 Des Moines, IA 50309 (888) 266-8489

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AVIVA SUPPLEMENTAL RESPONSE000041
AVIVA 2ND SUPPLEMENTAL RESPONSE000042

000243

Accumulation Value as of:

Statement Date	$78,176.05
Prior Contract Anniversary	$58,447.84

Cash Surrender Value as of:

Statement Date	$67,988.15
Prior Contract Anniversary	$60,501.91

Withdrawals Made During Contract Year

Beginning of Contract Year	Statement Date	Total Amount Paid To You[1]	Total Reduction in Accumulation Value[2]
03/27/2012	03/27/2013	$2,844.86	$2,033.00

	Current	Renewal
Term Start Date	03/27/2009	03/27/2013
Lock-In Date	02/26/2013	
Term End Date	03/27/2013	03/27/2017
Balanced Allocation Value	$78,176.05	$78,176.05
Guaranteed Rate Until End of Term	6.74%	
Equity Allocation	50.00%	50.00%
Declared Rate Allocation	50.00%	50.00%
Declared Rate	3.00%	2.00%

- Guaranteed End-of-Term Balanced Allocation Value: After a Lock-In Date has been elected, prior to the end of the Term, this value reflects the guaranteed Balanced Allocation Value at the end of the Term assuming no withdrawals are taken between the Lock-In Date and the Term End Date. This value will be reduced by withdrawals of any type taken prior to the end of the Term.
- Death Benefit: This value is the lump sum amount the beneficiaries would have received if the contract's death benefit had been paid on the statement date.
- Accumulation Value: This value is equal to the premium paid plus any interest credited, less withdrawals of any type (including Withdrawal Charges and Market Value Adjustments if applicable).
- Guaranteed Income Base: Your Income Base is the value upon which Your Lifetime Income Withdrawals are based. The Income Base is only accessible through Lifetime Income Withdrawals that you can start and stop and restart. It is not payable as a Cash Surrender Value. The Income Base is not the same as the Accumulation Value.
- Cash Surrender Value: This value is the amount that would have been paid if the contract had been surrendered on the statement date.

---

[1] This value includes any Federal income tax and freight you elected to have withheld from your distributions.

[2] This value reflects any Strategy appreciation received on Free Withdrawals and the amount of any Withdrawal Charges and Market Value Adjustments if applicable.

BalancePlus Annuity™

SINGLE PREMIUM DEFERRED ANNUITY

Contract Information

Attention	SHIRLEY K WARD 2436 NORMAL DR SPRINGFIELD IL 62707
Owner	SHIRLEY K WARD
Annuitant	SHIRLEY K WARD
Contract Number	55653
Contract Date	03/27/2009
Annuity Type	IRA
Initial Premium	$58,408.19

Annuity Values

Statement Date	03/27/2011
Balanced Allocation Value	$78,155.02
Accumulation Value	$60,386.15
Guaranteed Income Base at 8.00%	$69,440.39
Death Benefit[1]	$78,155.02
Cash Surrender Value	$53,343.43

[1] Your Minimum Death Benefit is the greater of the Contract Death Benefit or the Enhanced Death Benefit.

Questions?

Contact Your Agent	RICHARD L VAN DYKE 1028 S WALNUT SPRINGFIELD IL 62704
Mail Processing Center	AVIVA P.O. Box 10433 Des Moines, IA 50309 (888) 266-8489

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AVIVA002305

0004245

Summary of Activity

Accumulation Value as of:

Statement Date	$60,386.15
Prior Contract Anniversary	$62,324.46

Cash Surrender Value as of:

Statement Date	$53,343.43
Prior Contract Anniversary	$50,046.66

Withdrawals Made During Contract Year

Beginning of Contract Year	Statement Date	Total Amount Paid To You[1]	Total Reduction in Accumulation Value[2]
03/27/2010	03/27/2011	$2,523.26	$1,938.31

Crediting Rate Information

	Current
Term Start Date	03/27/2009
Term End Date	03/27/2013
Balanced Allocation Value	$78,155.02
Balanced Allocation Strategy	Option C
Index Allocation	50.00%
Declared Rate Allocation	50.00%
Declared Rate	3.00%
Annual Fee	0.00%
Annual Income Rider Charge	0.75%
Annual Enhanced Death Benefit Rider Charge	1.05%
Balanced Allocation Factor	29.42%

Definitions

- **Balanced Allocation Value:** This value measures the appreciation in the value of the Balanced Allocation Strategy as of the statement date. Prior to the Lock-in Date, the Balanced Allocation Value will fluctuate up and down and is not a guaranteed value.
- **Balanced Allocation Factor:** This is used to measure the net appreciation of the Balanced Allocation Strategy during the current term.
- **Death Benefit:** This value is the lump sum amount the beneficiaries would have received if the contract's death benefit had been paid on the statement date.
- **Accumulation Value:** This value is equal to the premium paid plus any interest credited, less withdrawals of any type (including Withdrawal Charges and Market Value Adjustments if applicable). Interest will not be credited to the Accumulation Value prior to the Lock-In Date.
- **Guaranteed Income Base:** Your Income Base is the value upon which Your Lifetime Income Withdrawals are based. The Income Base is only accessible through Lifetime Income Withdrawals that you can start and stop and restart. It is not payable as a Cash Surrender Value. The Income Base is not the same as the Accumulation Value.
- **Cash Surrender Value:** The amount that would have been paid if the contract had been surrendered on the statement date.

---

[1] This value includes any Federal Income tax and freight you elected to have withheld from your distributions.

[2] This value reflects any Strategy appreciation received on Free Withdrawals and the amount of any Withdrawal Charges and Market Value Adjustments if applicable.

BalancePlus Annuity™

SINGLE PREMIUM DEFERRED ANNUITY

Contract Information

Attention	SHIRLEY K WARD 2436 NORMAL DR SPRINGFIELD IL 62707
Owner	SHIRLEY K WARD
Annuitant	SHIRLEY K WARD
Contract Number	55653
Contract Date	03/27/2009
Annuity Type	IRA

Annuity Values

Statement Date	03/27/2010
Balanced Allocation Value	$75,529.44
Accumulation Value	$62,324.46
Death Benefit	$75,529.44
Cash Surrender Value	$50,046.66

Questions?

Contact Your Agent	RICHARD L VAN DYKE 1028 S WALNUT SPRINGFIELD IL 62704
Our Home Office	AVIVA P.O. Box.10433 Des Moines, IA, 50309 (888) 266-8489

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AVIVA002303

0004247

Summary of Activity

Accumulation Value

Statement Date	$62,324.46
Prior Contract Anniversary	$64,249.00

Cash Surrender Value

Statement Date	$50,046.66
Prior Contract Anniversary	$51,107.16

Withdrawals Made During Contract Year

Beginning of Contract Year	Statement Date	Total Amount Paid To You[1]	Total Reduction in Accumulation Value[2]
03/27/2009	03/27/2010	$2,204.08	$1,924.54

Crediting Rate Information

	Current
Term Start Date	03/27/2009
Term End Date	03/27/2013
Balanced Allocation Value	$75,529.44
Balanced Allocation Strategy	Option C
Index Allocation	50.00%
Declared Rate Allocation	50.00%
Declared Rate	3.00%
Combined Index and Declared Rate Appreciation	22.99%
Annual Fee	0.00%
Enhanced Death Benefit Rider Charges	1.05%
Balanced Allocation Factor	21.18%

Definitions

- **Balanced Allocation Value:** This value measures the appreciation in the value of the Balanced Allocation Strategy as of the statement date. Prior to the Lock-In Date, the Balanced Allocation Value will fluctuate up and down and is not a guaranteed value.
- **Death Benefit:** This value is the lump sum amount the beneficiaries would have received if the contract's death benefit had been paid on the statement date.
- **Accumulation Value:** This value is equal to the premium paid plus any interest credited, less withdrawals of any type (including Withdrawal Charges and Market Value Adjustments if applicable). Interest will not be credited to the Accumulation Value prior to the Lock-In Date.
- **Cash Surrender Value:** The amount that would have been paid if the contract had been surrendered on the statement date.

1 This value includes any Federal income tax and freight you elected to have withheld from your distributions.
2 This value reflects any Strategy appreciation received on Free Withdrawals and the amount of any Withdrawal Charges and Market Value Adjustments if applicable.

ERNEST DANNENBERGER
3544 PET CEMETERY RD
SPRINGFIELD IL 62707

Annuitant
ERNEST DANNENBERGER

Contract Number 174155
Contract Date 02/24/2009

Plan Type IRA
Plan Name Freedom Xtra

Date Prepared
02/27/2013

Agent Name
RICHARD L VANDYKE

Beginning Account Balance 02/24/2012	$117,494.95
Additional Premium Deposited	$0.00
Premium Bonus Credited	$0.00
Total Interest Credits	$3,453.84
1-Year Guaranteed Fixed Strategy (1YGF)	$0.00
5-Year Guaranteed Fixed Strategy (5YGF)	$3,453.84
5-Year Multi-Term Guaranteed Fixed Strategy (5YMGF)	$0.00
Total Withdrawals	$12,099.00
Contract Withdrawals (including any Income Rider Withdrawals)	$11,746.56
Excess Income Withdrawals	$0.00
Income Rider Premiums	$352.44
Ending Account Balance 02/24/2013	$108,849.79

Income Rider Benefits as of 02/24/2013

Income Account Value*	$128,370.65

Additional Values as of 02/24/2013

Cash Surrender Value	$88,102.14
Death Benefit (base contract)	$108,849.79

The Cash Surrender Value on 02/24/2012 was $93,914.34

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If you have questions, please contact our Administrative Office at (888) 252-9530.

Aviva Life and Annuity Company

Annuitant	Contract Number	Contract Date
ERNEST DANNENBERGER	174155	02/24/2009

Current Strategy Values by Strategy for period 02/24/2012 to 02/24/2013

Strategy	Beginning Strategy Value	Bonus Credits	Premiums	(+/-) Transfers	Gross Withdrawals	Interest Credited	Ending Strategy Value
1YGF	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
5YGF	$117,494.95	$0.00	$0.00	$0.00	-$12,099.00	$3,453.84	$108,849.79
5YMGF	$0.00	$0.00	$0.00	$0.00	-$0.00	$0.00	$0.00
TOTAL	$117,494.95	$0.00	$0.00	$0.00	-$12,099.00	$3,453.84	$108,849.79

CONFIDENTIAL AVIVA 2ND SUPPLEMENTAL RESPONSE000049

545

TAX DEFERRED ANNUITY

ERNEST DANNENBERGER
3544 PET CEMETERY RD
SPRINGFIELD IL 62707

Annultant
ERNEST DANNENBERGER

Contract Number	Contract Date
174155	02/24/2009
Plan Type	**Plan Name**
IRA	Freedom Xtra

Date Prepared
03/14/2012

Agent Name
RICHARD L VAN DYKE

Beginning Account Balance 02/24/2011	$128,223.67
Additional Premium Deposited	$0.00
Premium Bonus Credited	$0.00
Total Interest Credits	$3,655.88
1-Year Guaranteed Fixed Strategy (1YGF)	$0.00
5-Year Guaranteed Fixed Strategy (5YGF)	$3,655.88
5-Year Multi-Term Guaranteed Fixed Strategy (5YMGF)	$0.00
Total Withdrawals	$14,384.60
Contract Withdrawals	$14,000.00
(including any Income Rider Withdrawals)	
Excess Income Withdrawals	$0.00
Income Rider Premiums	$384.60
Ending Account Balance 02/24/2012	$117,494.95
Income Rider Benefits as of 02/24/2012	
Income Account Value*	$132,967.68
Additional Values as of 02/24/2012	
Cash Surrender Value	$93,937.55
Death Benefit (base contract)	$117,494.95
The Cash Surrender Value on 02/24/2011 was	$102,441.97

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AVIVA

Aviva Life and Annuity Company

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Mail Processing Center:
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TEL 888 266 8489 • FAX 866 709 3922
www.avivausa.com

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0004548

Annuitant
ERNEST DANNENBERGER

Contract Number
174155

Contract Date
02/24/2009

Current Strategy Values by Strategy for period 02/24/2011 to 02/24/2012

Strategy	Beginning Strategy Value	Bonus Credits	Premiums	(+/-) Transfers	Gross Withdrawals	Interest Credited	Ending Strategy Value
1YGF	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
5YGF	$128,223.67	$0.00	$0.00	$0.00	-$14,384.60	$3,655.88	$117,494.95
5YMGF	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
TOTAL	$128,223.67	$0.00	$0.00	$0.00	-$14,384.60	$3,655.88	$117,494.95

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0004547

TAX DEFERRED ANNUITY

ERNEST DANNENBERGER
3544 PET CEMETERY RD
SPRINGFIELD IL 62707

Annultant
ERNEST DANNENBERGER

Contract Number 174155
Contract Date 02/24/2009

Plan Type IRA
Plan Name Freedom Xtra

Date Prepared
03/14/2012

Agent Name
RICHARD L VAN DYKE

Beginning Account Balance 02/24/2010	$135,160.35
Additional Premium Deposited	$0.00
Premium Bonus Credited	$0.00
Total Interest Credits	$4,024.32
1-Year Guaranteed Fixed Strategy (1YGF)	$0.00
5-Year Guaranteed Fixed Strategy (5YGF)	$4,024.32
5-Year Multi-Term Guaranteed Fixed Strategy (5YMGF)	$0.00
Total Withdrawals	$10,961.00
Contract Withdrawals (including any Income Rider Withdrawals)	$10,555.56
Excess Income Withdrawals	$0.00
Income Rider Premiums	$405.44
Ending Account Balance 02/24/2011	$128,223.67

Income Rider Benefits as of 02/24/2011

Income Account Value*	$139,233.49

Additional Values as of 02/24/2011

Cash Surrender Value	$102,467.29
Death Benefit (base contract)	$128,223.67
The Cash Surrender Value on 02/24/2010 was	$106,749.98

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www.avivausa.com

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Annuitant	Contract Number	Contract Date
ERNEST DANNENBERGER	174155	02/24/2009

Current Strategy Values by Strategy for period 02/24/2010 to 02/24/2011

Strategy	Beginning Strategy Value	Bonus Credits	Premiums	(+/-) Transfers	Gross Withdrawals	Interest Credited	Ending Strategy Value
1YGF	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
5YGF	$135,160.35	$0.00	$0.00	$0.00	-$10,961.00	$4,024.32	$128,223.67
5YMGF	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
TOTAL	$135,160.35	$0.00	$0.00	$0.00	-$10,961.00	$4,024.32	$128,223.67

TAX DEFERRED ANNUITY

ERNEST DANNENBERGER
3544 PET CEMETERY RD
SPRINGFIELD IL 62707

Annuitant
ERNEST DANNENBERGER

Contract Number	Contract Date
174155	02/24/2009
Plan Type	Plan Name
IRA	Freedom Xtra

Date Prepared
03/14/2012

Agent Name
RICHARD L VAN DYKE

Initial Premium 02/24/2009	$132,828.29
Additional Premium Deposited	$0.00
Premium Bonus Credited	$13,282.82
Total Interest Credits	$4,387.89
1-Year Guaranteed Fixed Strategy (1YGF)	$0.00
5-Year Guaranteed Fixed Strategy (5YGF)	$4,387.89
5-Year Multi-Term Guaranteed Fixed Strategy (5YMGF)	$0.00
Total Withdrawals	$15,338.65
Contract Withdrawals (including any Income Rider Withdrawals)	$14,900.41
Excess Income Withdrawals	$0.00
Income Rider Premiums	$438.24
Ending Account Balance 02/24/2010	$135,160.35

Income Rider Benefits as of 02/24/2010

Income Account Value*	$140,841.99

Additional Values as of 02/24/2010

Cash Surrender Value	$106,776.68
Death Benefit (base contract)	$135,160.35

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Annuitant
ERNEST DANNENBERGER

Contract Number
174155

Contract Date
02/24/2009

Current Strategy Values by Strategy for period 02/24/2009 to 02/24/2010

Strategy	Beginning Strategy Value	Bonus Credits	Premiums	(+/-) Transfers	Gross Withdrawals	Interest Credited	Ending Strategy Value
1YGF	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
5YGF	$132,828.29	$13,282.82	$0.00	$0.00	-$15,338.65	$4,387.89	$135,160.35
5YMGF	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
TOTAL	$132,828.29	$13,282.82	$0.00	$0.00	-$15,338.65	$4,387.89	$135,160.35

EXHIBIT 9

0004989

SURRENDERED ANNUITY

NAME	DATE OF PURCHASE	AGE AT PURCHASE	ORIGINAL ANNUITY	OLD CONTRACT NUMBER	TIME LEFT ON SURRENDER	SURRENDERED ANNUITY CONTRACT VALUE	MVA	EXPRESS CHARGE	BONUS RECAPTURE	AMOUNT OF SURRENDER	AMOUNT TRANSFERRED	BONUS RECEIVED	NEW CONTRACT NUMBER	*NEW ANNUITY CONTRACT VALUE	*NEW ANNUITY GAIN OR (COST)	Notes
Jimmy Klee	09/03/2009	62	ING USA	90340139	8 years 11 months	$ 101,075.00	$ 5,074.12	$ 20.00	$ 5,054.72	$ 10,109.44	$ 90,964.96	$ 8,850.00	834360	$ 97,350.00	$ (3,725.00)	Klee, retained approx. $640.00 of earnings
Jimmy Klee	09/03/2009	62	ING USA	90340140	8 years 11 months	$ 96,270.96	$ 4,873.99	$ 20.00	$ 4,816.43	$ 9,632.85	$ 86,675.67	$ 8,850.00	834364	$ 97,350.00	$ 1,079.04	
Klee Total						$ 197,345.96	$ 9,948.11	$ 40.00	$ 9,871.15	$ 19,742.29	$ 177,640.63	$ 17,700.00		$ 194,700.00	$ (2,005.96)	*- $640 = Total Cost Rounds Out
Ronald Ferricks	09/21/2009	63	ING USA	90345996	8 years 11 months	$ 178,801.28	$ 8,948.70	$ 20.00	$ 8,940.48	$ 17,880.95	$ 160,908.55	$ 16,091.00	836902 836903	$ 176,999.55	$ (1,801.73)	DOS New Annuity Spreadsheet does not tie out adding new contract totals
Ferricks Total						$ 178,801.28	$ 8,948.70	$ 20.00	$ 8,940.48	$ 17,880.95	$ 160,908.55	$ 16,091.00		$ 176,999.55	$ (1,801.73)	Rounds Out
Gerald Sawyer	11/05/2007	64	ING USA	90275170	7 years 7 months	$ 86,056.67	$ 3,201.83	$ 20.00	$ 3,743.18	$ 9,357.95	$ 85,137.37	$ 4,256.87	70814984	$ 89,394.24	$ (5,662.43)	
Gerald Sawyer	11/05/2007	64	ING USA	90275171	7 years 7 months	$ 85,956.94	$ 2,895.32	$ 20.00	$ 3,384.85	$ 8,462.12	$ 76,985.29	$ 3,849.26	70814954	$ 80,834.55	$ (5,122.39)	
Barbara Sawyer	11/13/2007	62	ING USA	90275162	7 years 7 months	$ 58,681.08	$ 1,909.21	$ 20.00	$ 2,232.01	$ 5,580.03	$ 50,758.25	$ 3,149.02	70814956	$ 53,907.27	$ (2,773.81)	
Sawyer Total						$ 237,694.69	$ 8,006.36	$ 60.00	$ 9,360.04	$ 23,400.10	$ 212,880.91	$ 11,255.15		$ 224,136.06	$ (13,558.63)	Rounds Out
Barbara Sawyer	06/12/2007	61	Aviva	115080	8 years 1 month	$ 111,924.20	$ 7,690.13			$ 16,788.63	$ 102,825.70	$ 10,317.89	70728695	$ 113,143.59	$ 1,219.39	DOS New Annuity Spreadsheet does not tie out adding new contract totals
Barbara Sawyer	06/12/2007	61	Aviva	115081	8 years 1 month	$ 112,308.89	$ 7,716.54			$ 16,846.30	$ 103,178.93	$ 10,282.57	70728656	$ 113,461.50	$ 1,152.81	
Sawyer Total						$ 224,232.89	$ 15,406.67			$ 33,634.93	$ 206,004.63	$ 20,600.46		$ 226,605.09	$ 2,372.20	Rounds Out
George Perry	11/09/2006	71	ING USA	90254423	7 years 7 months	$ 144,731.91	$ 3,144.30			$ 14,787.62	$ 133,088.59	$ 13,308.86	55664	$ 146,397.45	$ 1,665.54	
George Perry	11/03/2006	71	ING USA	90254418	7 years 7 months	$ 63,466.69	$ 2,289.88	$ 20.00		$ 6,854.02	$ 58,882.53	$ 5,888.25	55662	$ 64,770.78	$ 1,304.09	
Perry Total						$ 208,198.60	$ 5,434.16	$ 20.00		$ 21,641.64	$ 191,971.12	$ 19,197.11		$ 211,168.23	$ 2,969.63	Rounds Out
Alice Eichlepp	10/23/2006	61	ING USA	90253912	7 years 6 months	$ 58,353.07	$ 1,658.55	$ 20.00		$ 6,001.16	$ 53,990.46	$ 5,399.05	58985	$ 59,389.51	$ 1,036.44	
Alice Eichlepp	10/23/2006	61	ING USA	90253914	7 years 6 months	$ 45,794.33	$ 1,305.00			$ 4,709.93	$ 42,389.40	$ 4,238.94	58984	$ 46,628.34	$ 834.01	
Donald Eichlepp	10/23/2006	66	ING USA	90253913	7 years 6 months	$ 34,684.37	$ 988.39	$ 20.00		$ 3,567.28	$ 32,085.48	$ 3,208.55	58992	$ 35,294.03	$ 609.66	
Eichlepp Total						$ 138,831.77	$ 3,951.94	$ 40.00		$ 14,278.37	$ 128,465.34	$ 12,846.54		$ 141,311.88	$ 2,480.11	Rounds Out
Joleen Kay Welch	12/22/2005	60	ING USA	90215446	6 years 10 months	$ 189,451.66	$ 23,464.98			$ 21,291.66	$ 191,624.98	$ 19,162.50	172994 173000	$ 210,787.48	$ 21,335.82	
Joleen Kay Welch	12/12/2005	60	ING USA	90216014	6 years 10 months	$ 40,431.28	$ 5,007.71			$ 4,543.90	$ 40,895.09	$ 4,089.51	172992	$ 44,984.60	$ 4,553.32	
CE Welch JR	12/05/2005	65	ING USA	90216013	6 years 10 months	$ 23,224.05	$ 2,876.47			$ 2,610.05	$ 23,490.47	$ 2,349.05	173002	$ 25,839.52	$ 2,615.47	
Welch Total						$ 253,106.99	$ 31,349.16			$ 28,445.61	$ 256,010.54	$ 25,601.06		$ 281,611.60	$ 28,504.61	Rounds Out
Rex Berry	02/10/2006	72	ING USA	90223344	7 years 0 months	$ 46,489.93	$ 5,901.90	$ 20.00		$ 5,239.18	$ 47,132.65	$ 4,013.27	175236	$ 44,145.92	$ (2,344.01)	Client retained $7,000.00

SA169

000490

SA170

SURRENDERED ANNUITY

Norma Kay Berry	02/15/2006	69	ING USA	90223345	6 years 11 months	$ 52,382.99	$ 6,252.25			$ 5,863.52	$ 52,771.72	$ 5,277.17	175230	$ 58,048.89	$ 5,665.90	
Berry Total						$ 98,872.92	$ 12,154.15	$ 20.00		$ 11,102.70	$ 99,904.37	$ 9,290.44		$ 102,194.81	$ 10,321.89	$7000 Added Back to Gain Rounds Out
Lonnie Caulk	03/27/2006	62	ING USA	90226572	7 years 0 months	$ 68,347.66	$ 8,490.68			$ 8,452.19	$ 68,386.15	$ 7,916.57	55840	$ 87,082.29	$ 18,734.63	$11,857.52 in added funds plus bonus
Caulk Total						$ 68,347.66	$ 8,490.68			$ 8,452.19	$ 68,386.15	$ 7,916.57		$ 87,002.29	$ 6,877.11	"- $11,857.52 = Total Gain, Rounds Out"
Lonnie Caulk	03/20/2006	62	ING USA	90226573	7 years 0 months	$ 26,641.43	$ 3,342.18	$ 20.00		$ 2,998.36	$ 26,965.25	$ 2,696.53	181272	$ 29,661.78	$ 3,020.35	
Barbara Caulk	03/14/2006	58	ING USA	90229465	7 years 0 months	$ 18,540.62	$ 2,243.20	$ 20.00		$ 2,078.39	$ 18,685.43	$ 1,868.54	181273	$ 20,553.97	$ 2,013.35	
Caulk Total						$ 45,182.05	$ 5,585.38	$ 40.00		$ 5,076.75	$ 45,650.68	$ 4,565.07		$ 50,215.75	$ 5,033.70	Rounds Out
Shirley Connery	04/20/2006	73	ING USA	90231318	7 years 0 months	$ 26,929.95	$ 3,920.38	$ 20.00		$ 3,539.75	$ 27,290.58	$ 1,364.53	58587	$ 28,656.11	$ 1,725.16	
Patrick Connery	04/17/2006	78	ING USA	90231320	7 years 0 months	$ 29,164.60	$ 4,237.48	$ 20.00		$ 3,875.06	$ 29,507.02	$ 1,475.35	58352	$ 30,982.37	$ 1,817.77	
Connery Total						$ 56,094.55	$ 8,157.86	$ 40.00		$ 7,414.81	$ 56,797.60	$ 2,839.88		$ 59,637.48	$ 3,542.93	Rounds Out
Marilyn Hemenway	04/24/2006	67	ING USA	90234121	7 years 2 months	$ 165,451.27	$ 25,740.33	$ 20.00		$ 21,031.08	$ 170,140.52	$ 17,014.05	175118 175119	$ 187,154.57	$ 21,703.30	
Hemenway Total						$ 165,451.27	$ 25,740.33	$ 20.00		$ 21,031.08	$ 170,140.52	$ 17,014.05		$ 187,154.57	$ 21,703.30	Rounds Out
Velma Miller	05/18/2006	79	ING USA	90239209	7 years 2 months	$ 101,704.53	$ 17,603.63	$ 20.00		$ 13,123.90	$ 106,184.26	$ 5,308.21	173691	$ 111,472.47	$ 9,767.94	
Miller Total						$ 101,704.53	$ 17,603.63	$ 20.00		$ 13,123.90	$ 106,164.26	$ 5,308.21		$ 111,472.47	$ 9,767.94	Rounds Out
Shirley Ward	07/17/2006	67	ING USA	90240126	7 years 4 months	$ 55,266.20	$ 10,383.45	$ 20.00		$ 7,221.46	$ 58,408.19	$ 5,840.82	55653	$ 64,249.01	$ 8,982.81	
Ward Total						$ 55,266.20	$ 10,383.45	$ 20.00		$ 7,221.46	$ 58,408.19	$ 5,840.82		$ 64,249.01	$ 8,982.81	Rounds Out
Betty Creasey	06/22/2006	77	ING USA	90242463	7 years 3 months	$ 71,928.84	$ 12,756.01	$ 20.00		$ 9,762.35	$ 74,902.50	$ 3,745.13	55881	$ 78,647.63	$ 6,718.79	
Betty Creasey	06/22/2006	77	ING USA	90243148	7 years 3 months	$ 45,337.04	$ 7,707.13	$ 20.00		$ 5,834.86	$ 47,189.31	$ 2,359.47	55880	$ 49,548.78	$ 4,211.74	
Creasey Total						$ 117,265.88	$ 20,463.14	$ 40.00		$ 15,597.21	$ 122,091.81	$ 6,104.60		$ 128,196.41	$ 10,930.53	Rounds Out
Earnest Dannenberger	08/18/2006	69	ING USA	90243466	7 years 7 months	$ 124,441.76	$ 24,825.98	$ 20.00		$ 16,419.45	$ 132,828.29	$ 13,282.83	174155	$ 146,111.12	$ 21,669.36	
Dannenberger Total						$ 124,441.76	$ 24,825.98	$ 20.00		$ 16,419.45	$ 132,828.29	$ 13,282.83		$ 146,111.12	$ 21,669.36	Rounds Out
Melvin Partridge	08/16/2006	69	North American	8000054601	2 years 4 months	$ 57,065.95				$ 4,421.95	$ 52,644.00	$ 4,211.52	77675	$ 56,855.52	$ (210.43)	
Partridge Total						$ 57,065.95				$ 4,421.95	$ 52,644.00	$ 4,211.52		$ 56,855.52	$ (210.43)	Rounds Out
						$ 2,327,904.95	$ 218,449.70	$ 400.00	$ 28,171.67	$ 288,885.39	$ 2,248,897.69	$ 199,665.31		$ 2,449,701.84	$ 117,579.37	

*Amount Transfered + Bonus Received = New Annuity Contract Value
*New Annuity Contract Value - Surrendered Annuity Contract Value = New Annuity Gain or (Cost)

130598473.1

Policy Owner:

George B. Perry

Policy Number:

055664

SECRETARY OF STATE
EXHIBIT NUMBER 41

412 2001721

Application for Deferred or Indexed Deferred Annuity

AMERICAN INVESTORS LIFE
INSURANCE COMPANY INC
An AMERUS Company

1 Annuitant

George | B | Perry
First Name (as to appear on contract) | M I | Last Name

04/21/1934 | Redacted | [X] Male [ ] Female
Date of Birth | Social Security Number

3401 Bluff Rd
Address

Springfield | IL | 62711 | 217-698-5041
City | State | Zip Code | Phone Number

2 Joint Annuitant
If applicable

First Name (as to appear on contract) | M I | Last Name
Date of Birth | Social Security Number | [ ] Male [ ] Female
Address
City | State | Zip Code | Phone Number

3 Owner
If other than Annuitant

First Name of Individual or Entity (as to appear on contract) | M I | Last Name
Address
City | State | Zip Code | Phone Number
SSN or Tax I D Number | Date of Birth | [ ] Male [ ] Female | Relationship to Annuitant(s)

Note If the Owner is not a natural person, please provide supporting documentation

4 Joint Owner
Not applicable to qualified contracts

First Name (as to appear on contract) | M I | Last Name | [ ] Male [ ] Female
Date of Birth | SSN or Tax I D Number | Relationship to Annuitant(s)
Address
City | State | Zip Code | Phone Number

5 Contingent Owner
If Owner and Annuitant are different

First Name (as to appear on contract) | M I | Last Name | [ ] Male [ ] Female
Date of Birth | SSN or Tax I D Number | Relationship to Annuitant(s)
Address
City | State | Zip Code | Phone Number

6 Beneficiaries
Unless otherwise specified, multiple surviving beneficiaries will share equally. If a beneficiary is not a natural person, include name and date. All beneficiaries must be living at the time of application.

Sharon Willhoit	Friend	100%
Primary Beneficiary 1	Relationship to Annuitant(s)	Percent*
Primary Beneficiary 2	Relationship to Annuitant(s)	Percent*
Primary Beneficiary 3	Relationship to Annuitant(s)	Percent*

* Percentages for Primary Beneficiaries must total 100 percent

Contingent Beneficiary 1	Relationship to Annuitant(s)	Percent*
Contingent Beneficiary 2	Relationship to Annuitant(s)	Percent*

** Percentages for Contingent Beneficiaries must total 100 percent

7 Product

Contract Form BPA Select 12 | Rider(s) Family Endowment, Premium Bonus 10 BPA Select Income Advantage

8 Funding Source

Premium Submitted with Application. $ 133, 058.59

Anticipated Premium from Transfer: $ ______

9 Tax Qualification
Select ALL that apply

- ☒ Non-Qualified
  - ☐ 1035 Exchange
  - ☐ Internal Conversion
    - Contract Number. ______
- ☐ IRA
- ☐ ROTH IRA
- ☐ SEP IRA
- ☐ KEOGH/HR-10
- ☐ Other Qualified Plan*

*Owner must be the Plan

Select ALL that apply:

- ☐ Contribution for Tax Year: ______
- ☐ Rollover (Within 60 days)
- ☐ Direct Transfer from IRA/SEP
- ☐ Direct Transfer from ROTH IRA
- ☐ ROTH Conversion
- ☐ Direct Transfer from 401(k), HR10, 403(b), Pension Plan

10 Replacement

1. ☒ Yes ☐ No Do you have an existing life insurance policy or an existing annuity contract?
2. ☒ Yes ☐ No Will this annuity replace or change an existing life insurance policy or annuity contract?

11 Special Instructions

______

12 Agreements and Signatures

The Owner agrees to the following

1. The answers in this application are true to the best of my knowledge and belief
2. The effective date of the Contract will be the Contract Date set by the Company.
3. No agent or person other than the President or Secretary of the Company has the authority to change or modify the Contract or waive any of its provisions.

Payment must be made payable to American Investors Life Insurance Company.

Signed at Springfield (city) IL (state) on 4/23/09 (date)

George B. Perry
Signature of Annuitant

Signature of Joint Annuitant (if applicable)

Signature of Owner (if other than Annuitant)

Signature of Joint Owner (if applicable)

Agent Use Only:

1. ☒ Yes ☐ No Does the applicant have an existing life insurance policy or an existing annuity contract?
2. ☒ Yes ☐ No Will this annuity replace or change an existing life insurance policy or annuity contract?

(If yes to either question, and if required by state regulation, replacement forms must accompany this application.)

Signature of Agent

Richard L. Van Dyke
Agent's Name (print please)

B4254
Agent Number

See Social Security Number
Agent Insurance License Number

217-753-1515
Agent Phone Number

American Investors Life Insurance Company ■ Administrative Office P O Box 2039 • Topeka, KS 66601-2039 • (800) 255-2405
■ Home Office 611 5th Avenue • Des Moines, IA 50309 • (800) 800-9882

412-2001-7-30

☐ Aviva Life and Annuity Company ☒ American Investors Life Insurance Company, Inc.

☐ Aviva Life and Annuity Company of New York

AVIVA

Customer Identification and Suitability Confirmation Worksheet

Thank you for your interest in a fixed annuity product. Completion of this worksheet is an essential part of the application process It not only helps your agent assess your insurance needs and financial objectives, but also aids in ensuring compliance with the USA Patriot Act.

NOTE: If applying as a joint owner and your relationship to the other joint owner is not spousal, separate worksheets must be completed by each joint owner.

Non-Natural Owners: For a non-natural owner, the information on the front of this form should be relevant to the entity, on the backside (page two) the Identification Verification information should be provided by the person(s) authorized to act on behalf of the entity.

Owner Information

1 Name: George B Perry

2 Occupation: Retired

5. U.S. Citizen: ☒ Yes ☐ No

7. Place of Birth: Buffalo, New York
Specify City and State (Country if other than United States)

9. Approximate Annual Income: $ 44,000

10 Approximate Net Worth*: $ 340,000
*Net Worth = Total Assets (not including home and automobile) Less Total Debts

Joint Owner Information

3. Name

4. Occupation:

6. U.S. Citizen: ☐ Yes ☐ No

8 Place of Birth:
Specify City and State (Country if other than United States)

11 Source of Income. ☐ Current Wages ☒ Pension Plan ☐ Social Security ☒ Investment Income

☐ Required Minimum Distribution (RMD) or 72 (t)/(q) distributions ☐ Other

12. Federal Income Tax Bracket ☐ 0% ☐ 10% ☒ 15% ☐ 25% ☐ 28% ☐ 33% ☐ 35% ☐ Other

13. What is your financial objective in purchasing this product? Check all that apply

☐ Income Now ☐ Flexibility ☒ Tax Deferral ☒ Provides Guarantees ☐ Potential Growth Followed by Income

☒ Pass Assets on to Beneficiaries ☐ Lifetime Income Payout ☐ Other.

14. Do you have sufficient liquid assets available for monthly living expenses and emergencies <u>other than the money you plan to use to purchase this annuity</u>?

☒ Yes, please list amount of liquid assets $ 80,000 (Examples checking, savings or money market accounts, short term CD s, bonds, etc)

☐ No

15. What is the source of premium for this annuity? Check all that apply:

☒ Annuity ☐ Life Insurance ☐ Certificates of Deposit ☐ Other Investments ☐ Other

15a ☒ Yes ~~☒~~ No GBP Are there any settlement fees, surrender charges or penalties of any kind associated with any source(s) of the annuity's premium checked above?

If 15a is Yes: List the percentage of any settlement fees, surrender charges or penalties of any kind associated with any source(s) of the annuity's premium. List total percentage for each premium source, not less any applicable bonus percentage received on the new annuity. If multiple sources of premium list each percentage separately	Source of Premium (Type or Company Name)	Penalty Percentage
	ING Annuity	8%

16. Do you now own, or have you previously owned, any of the following financial products? (check all that apply)

☐ Certificates of Deposit ☒ Fixed Annuity ☐ Variable Annuity ☒ Stock/Bond/Mutual Funds ☐ Life Insurance ☐ None

16a. ☒ Yes ☐ No Were your current investments and insurance products discussed with your agent prior to your decision to purchase this annuity?

17. With the exception of any surrender charge free withdrawals, required minimum distribution, etc , do you expect to take any money out of this product before the end of the withdrawal charge period? ☐ Yes ☒ No

If Yes, please explain:

(Do not include any surrender charge free withdrawals provided by contract i e RMD or any surrender charge free withdrawal percentage)

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18. ☒ Yes ☐ No Did the agent explain that if you take money out of this product in excess of the surrender charge free withdrawal amount provided in the contract during the withdrawal charge period you will incur a penalty?

19. ☐ Yes ☒ No Is the purchase of this annuity in any way related to the establishment of a trust or based in any way on information provided during the establishment of a trust?

20. To the extent you are willing, please provide any other information you considered material in your decision to purchase this annuity.

Customer Identification Verification

Type of Government Issued Photo ID: Choose either A, B, C or D.

Owner Verification

A Drivers License (DL)	IL (State of Issue)	[redacted] (DL Number)	04/21/12 (Expiration Date)
B Passport	Country of Issuance	Number	Expiration Date
C. Other.	State/Country of Issuance	Number	Expiration Date

D. ☐ An unexpired Government issued photo ID is not available.

Joint Owner Verification

A Drivers License (DL)	State of Issue	DL Number	Expiration Date
B Passport	Country of Issuance	Number	Expiration Date
C. Other	State/Country of Issuance	Number	Expiration Date

D ☐ An unexpired Government issued photo ID is not available

Owner's Confirmation

☒ Yes ☐ No Was your decision to purchase this annuity based on your agent's recommendation?

By signing below, I acknowledge that I reviewed the Customer Identification Notice (form number 10200) and agree with the terms of the notice In addition, I acknowledge the information I provided above, regarding my financial status, tax status, investment objectives, identification information and any other information requested by my agent is complete and accurate to the best of my knowledge I further acknowledge that neither the Company nor its representatives offer legal or tax advice and that I have been advised to consult my own personal attorney or tax advisor on any tax matters I acknowledge that the fixed annuity I am applying for is a long term contract with substantial penalties for early withdrawal, additionally I am aware that any withdrawals taken from the annuity may result in a taxable event I believe the annuity I am applying for is suitable according to my insurance needs and/or financial objectives

George B. Perry
Owner's Signature

3/23/09
Date

Joint Owner's Signature

Date

Agent's Confirmation

☒ Yes ☐ No Was the owner's decision to purchase this annuity based on your recommendation?

☒ Yes ☐ No Did you consider the risk associated with the amount of the annuity premium and the coverage limits provided by the applicable state life and health guaranty association?

By signing below, I acknowledge that I have made a reasonable effort to obtain information from the Owner concerning the Owner(s)' financial status, tax status, investment objectives and other information considered reasonable It is my belief that based on the information the Owner provided and based on all the circumstances known to me at the time the recommendation was made, the annuity being applied for, based on my recommendation is suitable for the Owner(s)' insurance needs and/or financial objectives In addition, I have verified the identity of the owner(s) and believe the information the owner(s) provided to me regarding his or her identity is true and accurate

Agent's Signature

03/23/09
Date

57007 (Rev 07/08)

Contract Delivery Receipt

AVIVA

American Investors Life Insurance Company, Inc.

555 S Kansas Avenue • Topeka, KS 66601-2039

I acknowledge I received Annuity Contract #55664 issued by American Investors Life Insurance Company, Inc. on the life of: PERRY GEORGE B

As owner of the contract, I understand:

1. This is an Annuity Contract and there are withdrawal charges and tax penalties that may apply should I elect to surrender this Contract during the withdrawal charge period or prior to reaching age 59½.

2. I have a limited period of time to examine my Annuity Contract and return it for a refund of premium (see contract cover page for details).

3. The interest rate used to credit interest in this Annuity Contract may either increase or decrease in accordance with the Contract's provisions. However, in no event will the value of my Annuity ever fall below the minimum value guaranteed by the Contract.

George B. Perry 4/1/09
Signature of Owner Date

04/01/09
Signature of Agent Date

Signature of Joint Owner (if applicable) Date

We appreciate your business and encourage you to contact your agent or customer service representative at American Investors Life Insurance Company, Inc. should you have any questions concerning your Annuity Contract.

Thank you for selecting American Investors Life Insurance Company, Inc. as your annuity provider.

HOME OFFICE COPY

CDR (Rev 0306)

American Investors Life Insurance Company, Inc.

Topeka, KS

AMENDMENT TO APPLICATION

NAME PERRY GEORGE B

POLICY NUMBER 55664

The above annuity has been issued other than as applied for and the following information is an amendment to the application as fully as if stated on the application for annuity.

The Application was signed on 03/23/2009.

I hereby certify that this Annuity Contract was delivered to me on

04/01/09 and it is acceptable to me.

George B. Perry

Contract Owner

Agent

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BPASelect Annuity 12 Bonus Rider (10%) Election Form

Thank you for selecting the BPASelect Annuity Bonus Rider (referred to in the contract as the Premium Bonus with Enhanced Death Benefit) for the BPASelect Annuity 12 This Rider supplements your annuity in two important ways First, it enhances your premium on the first day of your contract Second, it guarantees that your beneficiaries will never receive less than the guaranteed minimum death benefit provided by this Rider upon the annuitant's death—an important consideration if your goal is to create a legacy for your beneficiaries

Before you purchase this Rider, however, there are some things that you need to understand The cost for this Rider is guaranteed not to exceed 1 05 percent of the contract's accumulation value per year The cost is automatically deducted from the interest in your contract Key limitations and restrictions are detailed below Additional limitations may apply For a complete description of the Rider's benefits and limitations, please refer to the actual Rider

Premium Bonus

This Rider enhances your premium with a ten percent premium bonus, giving your contract value an instant boost **The premium bonus will be credited to the value of your contract on the contract date and will vest throughout the Withdrawal Charge period on the following schedule:**

Contract Years	Year 1-4	Years 5-8	Years 9-12	12+
Bonus Amount Vested*	0%	+4%	+7%	+10%

*As a percentage of the Accumulation Value

During the withdrawal charge period, any withdrawals in excess of the contract's free withdrawal amount will incur a charge—referred to in the Rider as a recapture charge—equal to ten percent of the Accumulation Value, less the vested portion of the bonus This charge is in addition to any applicable withdrawal charges **The amount of the premium bonus which is not vested will be forfeited if the owner surrenders the base contract during the withdrawal charge period.**

Family Endowment Benefit

In addition to the ten percent premium bonus, **BPASelect Annuity Bonus Rider also provides a five percent guaranteed minimum death benefit called the Family Endowment Benefit,** which is referred to in the Rider as the Enhanced Death Benefit This benefit guarantees that the death benefit payable to the beneficiaries upon the death of the annuitant will never be less than the Family Endowment Benefit

Any potential value associated with the Enhanced Death Benefit will be forfeited if the owner surrenders the base contract prior to the payment of a death benefit or the election of a settlement option on the annuity date. It is important for you to note that withdrawals of any type from your contract will reduce the Enhanced Death Benefit The amount of the reduction will be based on the amount you withdraw The first five percent of the accumulation value withdrawn in any contract year will reduce the Enhanced Death Benefit on a dollar-for-dollar basis Withdrawals in excess of five percent in any contract year will reduce the Enhanced Death Benefit proportionally

Annuity Date

An election to purchase this Rider will extend your contract's annuity date to the later of the term end date nearest to the annuitant's ninety-fifth birthday or the contract's twenty-eighth contract anniversary

Acknowledgement

I have read, or have been read, this document and understand its contents By signing below, I acknowledge and understand the following

- I am electing to add to my contract the BPASelect Annuity Bonus Rider for the BPASelect Annuity 12 from American Investors Life Insurance Company of Topeka, Kansas In doing so, I have discussed my financial status, tax status, current insurance products and investment objectives with my agent and believe this rider will assist me in meeting my current financial needs and objectives

George B. Perry　　3/23/09

Signature of Owner(s) • Applicants　　Date

Signature of Joint Owner(s) • Applicants　　Date

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412·2001733

American Investors
Life Insurance Company, Inc.
P.O. Box 2039
Topeka, KS 66601-2039
(800) 255-2405

features, benefits and disclosure summary
bpaselect annuity™ 12

single premium indexed deferred annuity

AVIVA

BPASEL12 SUMMARY (12/08) 57256

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We at American Investors Life Insurance Company wish to thank you for your interest in the BPASelect Annuity™ 12 This summary statement provides a review of the benefits and features of the BPASelect Annuity™ 12 Should you need more detailed information about your annuity, please refer to the actual annuity contract, any applicable riders selected, and the brochures provided by your Licensed Insurance Professional

After you have read this summary in its entirety, you will have the opportunity to select the Balanced Allocation Strategy option that best meets your retirement planning needs at the top of page 5 Once your selection is made, your signature is required at the bottom of page 5 to let us know that you have read this summary and understand the annuity product you are purchasing

What is the BPASelect Annuity™ 12?

The BPASelect Annuity™ 12 is a single-premium fixed indexed deferred annuity designed for preservation as well as long-term accumulation of your retirement savings BPASelect Annuity™ 12 is not a security and does not require a prospectus

What if I decide I do not want my annuity contract after it is delivered?

It's important to us that you understand the benefits and limitations of your annuity contract but equally important that you are completely satisfied and comfortable with your purchase decision As such, you are given a period of time to review your contract (called the *Free-Look Period*) after you receive it You may return the contract at any time during the free-look period for an unconditional refund of the amount you paid for the contract

What happens if I need some or all of my money?

The BPASelect Annuity™ 12 offers you a number of ways you can access your money should the need arise Including

- **Regular Withdrawals** You may access funds at any time by sending us a written request,
- **Systematic Withdrawals** You can have funds automatically sent to you on a periodic basis,
- **Checkbook Withdrawals** You may access funds at any time by simply writing a draft

It's important to note however, that your withdrawal may be subject to taxes (including a penalty tax if you are under age 59½) and, if made during your contract's Withdrawal Charge Period, may be subject to Withdrawal Charges and any applicable Market Value Adjustments

Withdrawal Charges and Market Value Adjustments will not apply to

- **Free Withdrawals**
  You may withdraw up to 10 percent of your annuity's Accumulation Value each contract year
- **Required Minimum Distributions**
  If your contract is a qualified annuity (i e , IRA, TSA, etc), a free withdrawal is available each contract year equal to the greater of the free withdrawal amount described above or the Required Minimum Distribution attributable to your contract
- **Confinement and Terminal Illness Waivers**
  After your contract has been in force for one year, if the annuitant or one of the joint annuitants is diagnosed with a Terminal Illness, or in the event that illness or serious accident necessitates a stay in a qualified care facility for a minimum of 60 consecutive days, you can withdraw up to 100 percent of the greater of the cash surrender value or the Balanced Allocation Value™ as a Free Withdrawal

  The Confinement and Terminal Illness Waivers are not available in all states See your contract for additional information and conditions for the benefit
- **Single Premium Immediate Annuity (SPIA) Purchase Option**
  After your contract's first anniversary, at the company's discretion, you have the opportunity to exchange your annuity for a single premium immediate annuity (SPIA) without incurring a withdrawal charge or Market Value Adjustment This SPIA can guarantee a stream of income for the remainder of your life

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If you purchase a SPIA during your contract's Withdrawal Charge Period, you can avoid a Withdrawal Charge if you elect a lifetime payout or a period of at least eight years Once the SPIA has been purchased you may not surrender it or have access to any values other than the SPIA payments

What is the Withdrawal Charge?

A Withdrawal Charge is the cost you incur if the contract is surrendered or any amount withdrawn exceeds the Free Withdrawal amount during the Withdrawal Charge Period The amount withdrawn in excess of the Free Withdrawal amount will be subject to the following Withdrawal Charges

Contract Year	1	2	3	4	5	6	7	8	9	10	11	12	13+
% Accumulated Value	13 5%	13%	12 5%	12%	11%	10%	9%	8%	7%	6%	5%	3%	0%

What is a Market Value Adjustment (MVA)?

The Market Value Adjustment (MVA) can increase or decrease the amount you receive upon a withdrawal or surrender of your annuity based on a comparison of the interest rate conditions at the time of the withdrawal or surrender to the interest rate conditions at the time premium was credited to your annuity If you do not access more than the Free Withdrawal amounts during the Withdrawal Charge Period described above the MVA does not apply The MVA only applies to a withdrawal or surrender that is subject to a Withdrawal Charge (The MVA is not applicable in all states) The details of the formula used to calculate the MVA are described in your contract The MVA is explained further in the "Additional Information" insert that accompanied the BPA**Select** Annuity™ 12 brochure

How will interest be credited to my annuity contract?

The BPA**Select** Annuity™ 12 provides the safety of a traditional fixed annuity, but offers the potential for better long-term accumulation This potential is derived from the Balanced Allocation Strategy™ The Balanced Allocation Strategy™ determines your interest using a predetermined blend of two elements—an Index Allocation and a declared rate allocation The Index Allocation is linked to the performance of the S&P 500® (excluding dividends[1]) and the Declared Rate Allocation is linked to a rate declared by American Investors Life Insurance Company, Inc These two elements are added together less any applicable charges to determine the interest, if any, to be credited under the Balanced Allocation Strategy™

The BPA**Select** Annuity™ 12 uses a specific period or Term to measure the change in the value of the Balanced Allocation Strategy™ The Initial Term is four years After the Withdrawal Charge Period, the Renewal Terms will be between one and four years

The BPA**Select** Annuity™ 12 offers you four (4) different interest crediting options to select from The selected option will be used to determine the amount of interest credited to your contract during the Term A new option can be chosen at the beginning of each Renewal Term Each option varies the percentage of Index and Declared Rate Allocation that is used in the Balanced Allocation Strategy™ interest crediting formula In general, a blend with a greater proportion allocated to the Index Allocation will have an increased opportunity for growth but will also have an increased risk that less or no interest will be credited at the end of the Term, this increased risk is due to potential fluctuations in the S&P 500® Index

Option A

The Index Allocation for Option A is linked to the performance of the S&P 500® Index (excluding dividends[1]) and will never be less than 30 percent of the Balanced Allocation Strategy™ during the length of the Withdrawal Charge Schedule and 20 percent thereafter

1 "Standard & Poor's®," "S&P®", "S&P 500®", "Standard & Poor's 500®", and "500®" are trademarks of The McGraw-Hill Companies, Inc and have been licensed for use by American Investors Life Insurance Company The BPASelect Annuity™ 12 is not sponsored, endorsed, sold, or promoted by Standard & Poor's and Standard & Poor's makes no representation regarding the advisability of purchasing this product The S&P 500® Index does not include dividends paid on the underlying stocks, and therefore does not reflect the total return of the underlying stocks Past performance is no guarantee of future performance or values of the BPASelect Annuity™ 12

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Option B

The Index Allocation for Option B is linked to the performance of the S&P 500® Index (excluding dividends') and will never be less than 25 percent of the Balanced Allocation Strategy™ during the length of the Withdrawal Charge Schedule and 15 percent thereafter

Option C

The Index Allocation for Option C is linked to the performance of the S&P 500® Index (excluding dividends') and will never be less than 20 percent of the Balanced Allocation Strategy™ during the length of the Withdrawal Charge Schedule and 10 percent thereafter

Option D

The Index Allocation for Option D is linked to the performance of the S&P 500® Index (excluding dividends') and will never be less than 15 percent of the Balanced Allocation Strategy™ during the length of the Withdrawal Charge Schedule and 10 percent thereafter

For each option, the Company sets the rate to which the declared rate allocation is linked That rate will never be less than an effective annual interest rate of 1 5 percent The index allocation and the declared rate allocation will always equal 100 percent The allocation percentages and any fees associated with each option are established at the beginning of a Term and will not change until the Renewal Term

In addition, any annual fee associated with the Balanced Allocation Strategy™ varies depending on the Option selected, the greater the Index Allocation the higher the annual fee will be The initial fee for a given Balanced Allocation Strategy Option is guaranteed not to increase throughout the withdrawal charge period

The BPA**Select** Annuity™ 12 will automatically calculate and lock-in the interest, if any, at the end of each Term In no case will the interest during any Term be less than zero There are no caps placed on the interest that may be credited under the strategy Any annual fee and rider fee will be deducted in determining the amount of interest to credit to the contract Please note that past performance is no guarantee of the future performance or values of the BPA**Select** Annuity™ 12

Do I have to wait to the end of a Term to lock-in my interest?

No! What is truly innovative about the BPA**Select** Annuity™ 12 is the fact that it provides you with the safety and flexibility, at any time you choose during a Term, to calculate and lock-in the total interest you will receive during a Term This lock-in of interest can only be elected once during a Term Once interest is calculated and locked-in, it can never be lost as a result of a change in market conditions!

Should you decide to calculate and lock-in your interest before the end of a Term, the total interest for the Term will be calculated based on the value of the strategy at the time of lock-in and a proportional amount will be credited to your contract at that time The proportional amount of interest will be equal to the total calculated interest for the Term multiplied by the percentage of the Term that has expired For example, if a lock-in is elected on the third anniversary of a four-year Term, 3/4 or 75 percent of the total interest for the Term will be credited to the contract at that time The remaining interest will be credited as a guaranteed interest rate over the remainder of the Term (or the date you terminate your contract if earlier) If you lock-in, however, you will not receive the benefit of any additional interest that could have resulted from future upward movement in the S&P 500® index during the remaining portion of the Term

If I take a Free Withdrawal before interest is credited (before the Lock-in Date) will my withdrawal receive any Interest for the Term?

Yes, with the BPA**Select** Annuity™ 12, if you need to make a Free Withdrawal before interest is credited during any Term we will calculate the appreciation in the Balanced Allocation Strategy™ up to the day of the withdrawal and the deduction from your annuity will reflect the appreciation on the Free-Withdrawal This Appreciation is based on the change in value of the Balanced Allocation Strategy™ from the beginning of the Term until the day of the Free Withdrawal Take note, the amount of any withdrawals in excess of the Free-Withdrawal amount, prior to the Lock-in Date, will not receive any interest for the Term

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What if I take a Free Withdrawal after a lock-in date elected prior to the end of the Term?

If you elect a Lock-In Date prior to the end of the Term, your annuity's Accumulation Value will be immediately credited with the proportionate amount of interest as described above and interest at a guaranteed rate thereafter Any withdrawals taken after the lock-in date will not forfeit the interest that has been credited but the withdrawn amount will not receive any additional interest credited during the remainder of the Term

What happens to the Balanced Allocation Strategy™ if the S&P 500® Index goes down?

The BPA**Select** Annuity™ 12 guarantees that your premium and any interest that is credited to your contract can never be lost as a result of the **S&P 500®** declining in value

What happens on the contract's annuity date (when my annuity matures)?

On the contract's annuity date, you can receive the entire value of your contract either in a lump sum or in the form of annuity payments If you elect to receive annuity payments (i e , annuitize the contract), you have a number of payout options from which to select No withdrawal charges or market value adjustments are applicable on the annuity date The Company will lock-in any interest for a term on the annuity date

What if I decide to surrender (cancel) my contract?

If you decide to surrender your contract, American Investors will pay you the contract's cash surrender value The cash surrender value is equal to the greatest of the following values as defined in your contract

- The Accumulated Value (principal plus interest credited), less any applicable withdrawal charges and plus/minus any applicable market value adjustments, and,
- The minimum guaranteed contract value

If you surrender the contract before the end of your contract's Withdrawal Charge Period, you may receive less than your original premium

What happens if I (the annuitant) die while my annuity contract is still in force?

Should you pass away, a death benefit will be paid to the beneficiaries you indicated in your BPA**Select** Annuity™ 12 contract The death benefit paid will be equal to the greater of the Balanced Allocation Value™ (Accumulation Value plus any interest for the current Term) or the Cash Surrender Value

Are there any tax consequences if I take withdrawals from or surrender my annuity?

The BPA**Select** Annuity™ 12 offers the opportunity for your money to grow on a tax-deferred basis Thus, taxes payable on the interest credited to your contract are deferred until you make a withdrawal or surrender your policy When you take a withdrawal or ultimately surrender your annuity contract, you may be subject to federal and state income tax on some or the entire amount withdrawn In addition to income tax, you may be subject to a 10 percent federal penalty tax if you take withdrawals or surrender your annuity before age 59½

Please consult with your tax advisor or attorney regarding the applicability of this information to your specific situation

How is my insurance professional compensated?

The insurance professional earns a commission from the Company for each contract they sell The commission is not deducted from the premium you pay, but it is a cost to the company that is factored into the financial terms and conditions of the product

Other important information concerning your annuity

If this annuity is being purchased to replace an existing life insurance policy or annuity contract, you should compare the two products carefully You should consider any Withdrawal Charges and/or Market Value Adjustments that may be incurred on the surrender of the existing policy or contract You should also consider that you will begin a new Withdrawal Charge Period when you purchase BPA**Select** Annuity™ 12

The aspect of tax-deferred accumulation offers no additional value if the annuity is used to fund an IRA or employer sponsored qualified plan (such as a 401(k) plan), because they already enjoy tax deferral Also, you should realize that if the owner of the annuity contract is not a natural person (such as a corporation or certain types of trusts), the interest credited to the contract may be subject to current taxation

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RETURN THIS PAGE WITH APPLICANT'S ORIGINAL SIGNATURE TO HOME OFFICE AND LEAVE A COPY OF THE ENTIRE DISCLOSURE STATEMENT (PAGES 1-5) WITH THE APPLICANT.

Balanced Allocation Strategy™ Selection

As mentioned earlier, the BPASelect Annuity™ 12 gives you the flexibility to choose a predetermined blend of an Index Allocation and a Declared Rate Allocation to best match your retirement planning goals and objectives. For more information regarding the Balanced Allocation Strategy™ Options, please refer to the BPASelect Annuity™ 12 current *Available Strategies Update*. Please indicate your choice of Balanced Allocation Strategy™ by checking one of the boxes below

Balanced Allocation Strategy™. ☐ Option A ☐ Option B ☒ Option C ☐ Option D

Applicant Acknowledgement

I have received and read, or have been read, the disclosure form in its entirety, pages 1 through 4, and understand its contents I have also received and reviewed the information contained in the BPASelect Annuity™ 12 brochure and the accompanying "Additional Information" insert By signing below, I acknowledge and understand the following:

- I have applied for a fixed, indexed deferred annuity In doing so, I have discussed my financial status, tax status, current insurance products and investments (including my financial objectives) with my Insurance Professional and believe this annuity will assist me in meeting my current financial needs and objectives.
- It is within the Company's sole discretion to set the interest rates, allocation percentages and spreads for this annuity, subject to any minimum or maximum guarantees contained in the contract.
- Withdrawals in excess of the contract's Free Withdrawal amount may be subject to Withdrawal Charges and/or Market Value Adjustments
- Past movement of the S&P 500® Index is not intended to predict future activity
- My Insurance Professional has not made any statements that differ from what is stated in this disclosure form or the BPASelect Annuity™ 12 brochure and inserts, and no promises or assurances have been made about the future value of any non-guaranteed elements of the annuity
- My Insurance Professional has, to my satisfaction, answered all of my questions regarding the BPASelect Annuity™ 12
- I may return my contract within the free look period (stated on the first page of my contract) for an unconditional refund if I am dissatisfied with the contract for any reason

Owner(s)/Applicant(s) Name (Please print) George B Perry

Owner(s)/Applicant(s) Signature(s) George B. Perry

Social Security No. [redacted] Phone 217-698-5041 Date 3/23/09

Agent Confirmation

By signing below, I acknowledge that I have reviewed this summary, the BPASelect Annuity™ 12 brochure and the accompanying "Additional Information" insert with the applicant I certify that a copy of this summary, BPASelect Annuity™ 12 brochure and the "Additional Information" insert have been provided to the applicant I have not made any statements that differ from what is stated in this summary or the brochures and no promises or assurances have been made about the future value of any non-guaranteed elements of the annuity

Agent Name (Please print) Richard L Van Dyke Agent Number B4254

Agent Signature [signature] Date 03/23/09

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American Investors Life Insurance Company, Inc.

555 South Kansas Avenue, P O Box 2039, Topeka, Kansas 66601-2039 (800) 435-4884

EXHIBIT A

NOTICE REGARDING REPLACEMENT OF LIFE INSURANCE OR ANNUITY

REPLACING YOUR LIFE INSURANCE POLICY OR ANNUITY?

Are you thinking about buying a new life insurance policy or an annuity and discontinuing or changing an existing one? if you are, your decision could be a good one — or a mistake. You will not know for sure unless you make a careful comparison of your existing benefits and the proposed benefits.

Make sure you understand the facts. You should ask the company or agent that sold you your existing policy to give you information about it

Hear both sides before you decide This way you can be sure you are making a decision that is in your best interest.

You have the right, within (20) days after delivery of a replacement policy, to return it to the Company and get a full refund of all premiums paid

We are required by law to notify your existing company that you may be replacing their policy

List below the identification of policies which are involved in the replacement transaction

90254423	
Contract Number	Contract Number
Contract Number	Contract Number
George B. Perry	3/23/09
Applicant's Signature	Date
Applicant's Signature	Date
	03/23/09
Agent's Signature	Date

IL REP-A (Rev 9/08) — White — Home Office Yellow — Applicant Pink — Agent

50024

4112001728

American Investors Life Insurance Company, Inc.

555 South Kansas Avenue, P O Box 2039, Topeka, Kansas 66601-2039 (800) 435-4884

EXHIBIT B

NOTICE REGARDING PROPOSED REPLACEMENT OF LIFE INSURANCE OR ANNUITY

Name of Existing Insurer ING USA Annuity and Life Insurance Company

Address 909 Locust St Des Moines, IA 50309-2899

You are herewith given notice that we are in receipt of application(s) for life insurance or annuity(ies) for an individual presently insured with your company

Identification

Name of Insured George B Perry

Address 3401 Bluff Rd Springfield, IL 62711

Contract Number 90254423

Contract Number

Contract Number

Contract Number

This notice is given pursuant to 50 Ill. Adm Code 917 70(c)

George B. Perry — Applicant's Signature | 3/23/09 — Date

Applicant's Signature | Date

Agent's Signature | 03/23/09 — Date

IL-REP-B (Rev 9/08)
50025

White — Home Office Yellow — Applicant Pink — Agent

ianz Life Insurance Company
of North America
PO Box 59060
Minneapolis, MN 55459-0060
800.950.7372

Allianz

Annuity application

1. Contract owner information

Select one ☑ Individual ☐ Joint ☐ Trust ☐ Corporation ☐ Partnership

Social Security number or Tax/Employer ID
[redacted]

Name (first, middle, last or trust/corporation name): Gerald J. Sawyer | Suffix:

Date of birth (mm/dd/yyyy): 07/03/1943 | ☑ Male ☐ Female | Are you a U.S. Citizen? ☑ Yes ☐ No (If no, complete W8-BEN)

Street address (required): 336 S. Plum Street

City: Havana | State: IL | ZIP code: 62644

Mailing address, if different than street address: Same

City | State | ZIP code

Telephone number – primary: (309) 543-2944 | Telephone number – secondary:

If a trust is named, provide trustee's first/last or full legal name | Date of trust
(If trust is owner, please complete the Trustee Representation Form)

Joint owner information, if selected above (must be an individual)

Social Security number or Tax/Employer ID

Name (first, middle, last or trust/corporation name) | Suffix

Date of birth (mm/dd/yyyy) | ☐ Male ☐ Female | Are you a U.S. Citizen? ☐ Yes ☐ No (If no, complete W8-BEN)

Street address (required)

City | State | ZIP code

Mailing address, if different than street address

City | State | ZIP code

Relationship to owner

Annuitant information, if other than owner or owner is not an individual

Social Security number or Tax/Employer ID

Name (first, middle, last or trust/corporation name) | Suffix

Date of birth (mm/dd/yyyy) | ☐ Male ☐ Female | Are you a U.S. Citizen? ☐ Yes ☐ No (If no, complete W8-BEN)

Mailing address

City | State | ZIP code

Relationship to owner

0001260

SECRETARY OF STATE
EXHIBIT NUMBER 25

2. Beneficiary designation (Owner/joint owner cannot be a beneficiary)

☐ Primary ☐ Contingent	Percentage 100	Social Security number or Tax/Employer ID [redacted]

If the primary beneficiary is a trust or corporation, please check the appropriate box
☑ Individual ☐ Trust ☐ Corporation

If beneficiary is a trust, is the trust ☐ Revocable ☐ Irrevocable	Date of trust (required)
Name (first, middle, last or trust/corporate/custodian name) Barbara R. Sawyer	Suffix

Relationship to owner
Wife

☐ Primary ☑ Contingent	Percentage 33.40	Social Security number or Tax/Employer ID [redacted]

If the primary beneficiary is a trust or corporation, please check the appropriate box
☑ Individual ☐ Trust ☐ Corporation

If beneficiary is a trust, is the trust ☐ Revocable ☐ Irrevocable	Date of trust (required)
Name (first, middle, last or trust/corporate/custodian name) Kimberly L. Cox	Suffix

Relationship to owner
Daughter

☐ Primary ☑ Contingent	Percentage 34.30	Social Security number or Tax/Employer ID [redacted]

If the primary beneficiary is a trust or corporation, please check the appropriate box
☑ Individual ☐ Trust ☐ Corporation

If beneficiary is a trust, is the trust ☐ Revocable ☐ Irrevocable	Date of trust (required)
Name (first, middle, last or trust/corporate/custodian name) Scott J. Sawyer	Suffix

Relationship to owner
Son

(If more than three beneficiaries, attach a list signed by owner(s).) See Agent's Report for additional Contingent Beneficiary

3. Plan specifics *(This section must be completed to indicate how this contract should be issued.)*

☐ Nonqualified
☐ 1035 exchange
☐ Other ___________

☑ Qualified
☐ Transfer ☑ Rollover (within 60 days):
☑ IRA ☐ SEP IRA ☐ Simple IRA ☐ Roth IRA ☐ Roth conversion ☐ Custodial IRA
Contribution for tax year _______ (if applicable)
☐ 401(k) ☐ HR10/Keogh ☐ Other ___________
☐ Beneficial IRA (NOTE: A tax code must be selected above in addition to this option)
☐ Continue my **Required Minimum Distribution** monthly in the amount of $_________
(Complete withholding notice and election in section 5)

If 1035 exchange or tax-qualified transfer, include the Authorization to Transfer Funds Form (S2056).
An individual cannot own a 401(k).

4. Purchase payment *(This section must be completed; please make check payable to Allianz.)*

Cash submitted with application	Estimated transfer/rollover/1035 amount	Agent-ordered funds (estimated funds)
$ 5,177.77	$	$
Billed premium amount	Select mode: ☐ Single ☐ Annually ☐ Semiannually ☐ Quarterly ☐ Monthly (complete EFT authorization and provide void check)	

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5. Annuity products *(Products not available in all states)*

Flexible premium:

- ☐ Allianz Endurance 10® Annuity#•
- ☐ Allianz Endurance℠ Plus Annuity#•
- ☐ Allianz Endurance℠ Elite Annuity#•
- ☐ MasterDex 10® Annuity#•
- ☐ MasterDex X® Annuity#•▲
- ☐ Other______________
- ☐ MasterDex Plus℠ Annuity#•*
- ☑ MasterDex 5 Plus℠ Annuity#•*
- ☐ MasterDex 10 Plus℠ Annuity#•

Complete Supplemental Annuity Application.
• Complete Agent's Report.

Single premium:

- ☐ Allianz Pro V1℠ Annuity#•
- ☐ Dominator Plus® Annuity• (choose term) ☐ 5 ☐ 10
- ☐ Dominator® Select Annuity• (choose term) ☐ 1 ☐ 2 ☐ 3

Single Premium Immediate Annuity (SPIA):

☐ Immediate Elite® Annuity• *(Complete the Immediate Elite Annuity Supplemental Application; state version of A3 available at www.allianzlife.com)*

Withholding notice and election:

All, or part, of the payment you receive in connection with a distribution from the annuity contract, including the values used to cancel any outstanding loan indebtedness at the time of distribution, may be includable in your gross income for tax purposes.

The taxable portion of the distribution is subject to federal (and potentially state) withholding unless you elect not to have withholding apply. You may elect not to have withholding apply to your distribution by marking the appropriate box below. If an election is not made, federal income tax will be withheld from the taxable portion of your distribution at the rate of 10%.

If you elect not to have withholding apply or if you do not have enough federal income tax withheld, you may be responsible for payment of estimated tax. You may incur penalties under the estimated tax rules if your withholding and estimated tax payments are not sufficient.

☐ **Yes, I do** want to have federal income tax withheld from the taxable amount of my disbursement at a rate of ____% (10% is the minimum allowed).

☐ **No, I do not** want to have federal income tax withheld from the taxable amount of my disbursement.

Rider option available for all annuities except Immediate Elite Annuity *(not available in all states)*

☐ **Flexible Withdrawal Rider option:** Fees apply. If selected, the rider-specific Statement of Understanding must be submitted with the application.

Benefit option available for MasterDex Plus Annuity and MasterDex 5 Plus Annuity *(not available in all states)

☑ **Income Plus Benefit option**[1]: Fees apply. If selected, the rider-specific Statement of Understanding must be submitted with the application.

[1]If selecting immediate income, please complete and submit an Income Plus Benefit Election form available at www.allianzlife.com.

▲ MasterDex X Optional Riders *(not available in all states)*

☐ Simple Income II Rider: Fees apply. If selected, the rider-specific Statement of Understanding must be submitted with the application.

6. Replacement (this section must be completed)

Do you have existing life insurance or annuity contracts? ☑ Yes[2] ☐ No

Will the annuity contract applied for replace or change existing contract or policies? ☑ Yes[2] ☐ No

Amount of coverage inforce $ 85,000.00

[2]Complete the replacement section that follows and include the appropriate replacement forms for the state of sale (available at www.allianzlife.com).

7. Primary agent information

Name (first, middle, last)			Suffix
Richard Van Dyke			
Telephone number	**% commission split**	**% production split**	**Agent number**
(217) 753-1515	0		888000596
Florida license ID number			
Name (first, middle, last)			Suffix
Telephone number	% commission split	% production split	Agent number
Florida license ID number			

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greements and signatures

The following states require applicants to read and acknowledge the statement for your state below.

Arizona: Upon written request, we are required to provide you with factual information regarding the benefits and provisions of this annuity. If for any reason you are not satisfied with this contract, you may return the contract within 20 days of receiving it for a refund of any premium you paid. **If you're age 65 or older at the time of application, you may return the contract within 30 days after receiving it for a refund of any premium you paid.**

Arkansas, District of Columbia and Rhode Island: Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or knowingly presents false information in an application for insurance is guilty of a crime and may be subject to fines and confinement in prison.

Colorado, Maine, Ohio, Oklahoma, Tennessee, Virginia, and West Virginia: Any person who knowingly intends to defraud an insurance company, submits an application or files a statement of claim containing any false, incomplete, or misleading information, commits the crime of fraud, and may be subject to criminal prosecution and civil penalties. In ME, CO, and TN, additional penalties may include imprisonment, fines, or denial of insurance benefits. In CO, an insurer or insurance agent who knowingly provides false, incomplete, or misleading information to a policyholder or claimant to defraud or attempt to defraud the contract holder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado Division of Insurance within the department of regulatory agencies.

Connecticut: I have received a copy of the disclosure material and understand that the results shown, other than the guaranteed minimum values, are not guarantees, promises, or warranties.

Kentucky, New Mexico, and Pennsylvania: Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or a statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime. In PA and NM, this activity subjects such a person to criminal and civil penalties.

Louisiana and Maryland: Any person who knowingly and willfully presents a false or fraudulent claim for payment of a loss or benefit or who knowingly or willfully presents false information in an application for insurance is guilty of a crime and may be subject to fines and confinement in prison.

Florida: Any person who knowingly and with intent to injure, defraud, or deceive any insurance company files a statement of claim or an application containing any false, incomplete, or misleading information is guilty of a felony of the third degree.

New Jersey: Any person who includes any false or misleading information on an application for an insurance contract is subject to criminal and civil penalties.

By signing below, the contract owner acknowledges the statements mentioned above and understands that or agrees to the following:

- All statements and answers given in this or any supplemental applications that will be attached to this application are true and complete to the best of my knowledge;
- Proof of the annuitant's age is not given at the time of application, the annuitant will furnish Allianz such proof before annuity payments begin;
- I understand that I may return my contract within the right-to-examine period (shown on the first page of my contract) if I am dissatisfied for any reason;
- I believe this annuity is suitable for my financial goals.

If the contract applied for is a fixed index product, I understand that while the values of this contract may be affected by an external index, the contract does not participate in any stock or equity investments. Values shown, other than guaranteed minimum values, are not guaranteed promises or warranties.

If the contract applied for is subject to market value adjustment (MVA), I understand that the contract may have increased or decreased contract values due to the MVA.

☐ **Telephone authorization** - By checking "yes," I authorize and direct Allianz to act on telephone or electronic instructions from the agent and/or anyone authorized by him/her. If the box is not checked, this authorization will be permitted for the contract owner only. Allianz will use reasonable procedures to confirm that these instructions are authorized as genuine. As long as these procedures are followed, Allianz and its affiliates and their directors, trustees, officers, employees, representatives, and/or agents will be held harmless for any claim, liability, loss, or cost. The electronic transaction privilege may be modified or withdrawn at the discretion of Allianz.

Make all checks payable to Allianz. Do not make checks payable to an agency, broker, agent, or leave blank.

Contract owner's signature (or trustee[1], corporate officer[2], power of attorney[3], if applicable)

[signature]

Joint owner's signature (or trustee[1], corporate officer[2], power of attorney[3], if applicable)

Proposed annuitant's signature (if other than owner)

Signed at (city and state)	Date signed
Springfield, IL	4-26-10

[1] If trust owned, submit Trustee Representation form (available at www.allianzlife.com)

[2] If company or corporate owned, submit a copy of corporate resolution. Also, corporate-owned annuities do not qualify for tax deferral and the interest that accumulates in the contract each year must be reported as taxable income.

[3] If owner has power of attorney, submit a copy of power of attorney paperwork. The power of attorney must sign as follows: *Principal's name (usually the owner) by Attorney-in-Fact's name, Attorney In Fact.*

To be answered by licensed agent: I certify that the statements of the applicant have been correctly recorded. To the best of my knowledge, applicant ☑ DOES ☐ DOES NOT have existing life insurance or annuity contracts; and the insurance applied for ☐ will not or ☑ will replace existing insurance.

Connecticut: I certify that the disclosure material has been presented to the applicant and a copy was provided to the applicant. I have not made statements which differ from this material nor have I made any promises about the future equity values of this contract.

Agent's signature [signature]

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Allianz Life Insurance Company
of North America
PO Box 59060
Minneapolis, MN 55459-0060

Allianz

Supplemental Application

Complete the following if you have selected the Allianz Endurance 10℠, Allianz Endurance℠ Plus, Allianz Endurance℠ Elite, Allianz MasterDex X℠, Allianz MasterDex Plus℠, Allianz MasterDex 5 Plus℠, or Allianz MasterDex 10 Plus℠ Annuity.

Select up to a maximum of 10 allocations from the index and/or the interest choices below. Indicate the index crediting method where applicable and the allocation percentage for each allocation.

☑ S&P 500®
- ☐ Annual Point-to-Point Allocation Percentage: ______%
- ☑ Monthly Sum Allocation Percentage: 50.00%
- ☐ Monthly Average Allocation Percentage (Endurance 10 only): ______%

☑ Nasdaq-100®
- ☐ Annual Point-to-Point Allocation Percentage: ______%
- ☑ Monthly Sum Allocation Percentage: 25.00%
- ☐ Monthly Average Allocation Percentage (Endurance 10 only): ______%

☑ FTSE 100/EuroSTOXX 50[1]
- ☐ Annual Point-to-Point Allocation Percentage: ______%
- ☑ Monthly Sum Allocation Percentage: 25.00%
- ☐ Monthly Average Allocation Percentage (Endurance 10 only): ______%

☐ Blended
- ☐ Annual Point-to-Point Allocation Percentage: ______%
- ☐ Monthly Average Allocation Percentage: ______%

☐ Fixed Interest – Allocation Percentage: ______%

[1]FTSE 100 is not available on the Endurance Elite or MasterDex X, EuroSTOXX 50 will be used instead.

Complete the following if you have selected the Allianz Pro V1℠ Annuity.

☐ Barclays Index
- ☐ Annual Point-to-Point: ______%

☐ Fixed Interest – Allocation Percentage: ______%

The Allocation Percentages can be in increments of whole numbers only and must total 100%.

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Agent's Report (Parts 1 & 2 must always be completed; part 3 must be completed with the Allianz Endurance 10 Annuity, Allianz Endurance℠ Elite Annuity, Allianz Endurance℠ Plus Annuity, MasterDex X℠ Annuity, MasterDex℠, or MasterDex Plus℠ Annuity Series.) *(Product availability may vary by state)*

1. Anti-Money Laundering (AML) Requirement (The following customer verification is required for AML):

   Please select which document was used to verify identification and provide the number and expiration date from the document.
   I have verified the proposed annuitant/owner(s) identity by reviewing an unexpired government issued photo ID selected below:

   Proposed annuitant: ☑ Drivers license ☐ Passport ☐ State or military photo ID

   State of issue IL Expiration Date 070310 Number [redacted]

   Owner: ☑ Drivers license ☐ Passport ☐ State or military photo ID

   State of issue IL Expiration Date 07-03-10 Number [redacted]

   Joint owner: ☐ Drivers license ☐ Passport ☐ State or military photo ID

   State of issue ______ Expiration Date ________ Number ____________

2. The applicant(s) is a member of the armed services, on active duty or a dependent of such person ☐ Yes ☑ No

   If yes, I have provided the applicant(s) with a copy of the Military Sales Disclosure Statement ☐ Yes ☐ No

3. What commission choice are you selecting? (Please check only one option. Refer to the Product Information section of www.allianzlife.com, or call the FASTeam at 800.950.7372 should you have any questions on these options.)

   ☑ Option A

   ☐ Option B

   ☐ Option C

4. Who is the payor on this contract?

   ☑ Owner

   ☑ Annuitant

   ☐ Other If other, please provide details ____________

5. During the proposed sales presentation connected with the replacement transaction, I (agent) used only Allianz approved sales material and left a copy of each piece used with the applicant.

6. Special requests Please allow a third Contingent Beneficiary; Thomas J. Sawyer, social security number [redacted]
   relationship = son, date of birth = 5/25/1974 ...... 33.30%
   Please see attached letter of explanation regarding surrender charges.

7. Complete agent information

First name	MI	Last name	
Richard	L	Van Dyke	
Signature		Date	Agent number
R L VanDyke		04/26/10	888000596

First name	MI	Last name	
Signature		Date	Agent number

NB5029-EN-2 Return to Home Office 0001265 (R-10/27/2009)

Allianz Life Insurance Company
of North America
PO Box 59060
Minneapolis, MN 55459-0060

Allianz

Product Suitability Form

Thank you for your interest in an Allianz annuity. Before we can process your application and issue your policy, we need to confirm that the annuity purchase suits your current financial situation and long-term goals. Please complete this form in its entirety and submit with your application.

Owner's name[1]	Age	Product name
Gerald J. Sawyer	66	MasterDex 5 Plus.
Joint owner's name	Age	Premium amount $76,985.29
Annuity type ☑ Qualified ☐ Nonqualified		Are you actively employed? ☑ Yes ☐ No

Your privacy is a high priority to us. The information you provide is only used to confirm the suitability of your purchase. It will not be shared and is treated with the highest degree of confidentiality.

FINANCIAL STATUS

1. Approximate gross monthly household income[2] — $ 9,166.00 /Month
   - Examples: salary, Social Security, pension/retirement benefits, investment and rental income
   - Exclude income currently earned on the money that will be used to purchase this annuity
2. Approximate monthly household living expenses — $ 6,500.00 /Month
   - Examples: housing, transportation, insurance, food, healthcare and taxes (include property, income, and FICA taxes)
3. Disposable income (line 1 minus line 2) — $ 2,666.00 /Month
4. Does your monthly income exceed your monthly expenses? ☑ Yes ☐ No
5. Minimum number of years you must own this annuity to receive the maximum value — 10 Years
6. Do you anticipate a significant increase in living expenses or decrease in household monthly income during the time period indicated in question 5? ☐ Yes ☑ No
   - If yes, please explain (if possible, approximate when you expect changes in living expenses or income, and the amount)
   - Examples of increases in living expenses might be housing, medical, nursing home, assisted living, or travel expenses
   - Examples of decreases in household income might be retirement or a lower pension amount
7. Federal income tax bracket ☐ 0% ☐ 10% ☐ 15% ☐ 25% ☑ 28% ☐ 33% ☐ 35%
8. Approximate household net worth — $ 550,000.00
   - Net worth = total assets less total debt
   - Exclude primary residence, mortgage, and personal belongings
9. Approximate household liquid assets — $ 65,000.00
   - Examples: checking, savings or money market accounts, short-term CDs, bonds, annuities without surrender charges, etc.
   - Exclude assets used to fund this annuity, free withdrawals from this annuity, and personal belongings
10. Do you anticipate any significant reduction in your liquid assets during the time period indicated in question 5? ☐ Yes ☑ No
11. Total value of all annuities you own (include the purchase of this annuity) — $ 440,000.00
12. Do you currently reside in a nursing home or assisted living facility? ☐ Yes ☑ No

[1] For trust and corporate owned contracts, see agent guide for instructions on completion of form
[2] Household means the owner and spouse/partner, if a member of the owner's household

N83051 | Submit original to Home Office with application. Leave copy with owner. Keep copy in agent file. | (R-7/2008)

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Product Suitability Form

FINANCIAL OBJECTIVES

13. Financial objectives in purchasing this product (check all that apply)
☐ Income now ☑ Guarantees provided ☑ Growth potential ☑ Growth followed by income
☐ Tax-deferred growth ☑ Pass on to beneficiaries ☐ Other________________

14. Other financial products you own or have previously owned (check all that apply)
☐ None ☑ Certificates of deposit ☑ Fixed annuities ☐ Variable annuities ☑ Stocks/bonds/mutual funds

15. Source of this annuity's premium (check all that apply)
☑ Annuity ☐ Life insurance ☐ Certificates of deposit ☐ Other________________
☐ Reverse mortgage/home equity loan ☐ Savings/checking ☐ Stocks/bonds/mutual funds

16. Is this a replacement of an annuity or life contract? ☑ Yes ☐ No
If yes, what type? ☐ Fixed ☑ Fixed index ☐ Variable
If yes, is there a surrender charge? ☑ Yes ☐ No
If there is a charge, what is it on each contract being replaced? 10% ___% ___% ___%

ACCESSING YOUR MONEY

17. How do you anticipate taking distributions from this annuity? (check all that apply)
☑ Free/systematic withdrawals or income rider ☐ Annuitize ☑ Required minimum distribution ☐ Enhanced withdrawal benefit
☐ Lump sum ☐ Loans ☑ Leave to beneficiary ☐ Immediate income

18. When do you anticipate taking your first distribution from this annuity? (choose one)
☐ Less than one year ☐ Between one and five years ☐ Between six and nine years
☑ 10 or more years ☐ None anticipated

19. I understand how my beneficiaries can receive the maximum contract value ☑ Yes ☐ No

NOTE: Please verify that all 19 questions were answered.
This form must be completed, signed, and dated so we can consider your application.

Owner acknowledgment

To the best of my knowledge and belief, the information above is true and complete. I understand that I should consult my tax advisor regarding possible tax implications of the purchase of an annuity or the exchange of an existing annuity or life insurance contract.

Owner's signature	Date
Verdaly J Saez	4-26-10
Joint owner's signature	Date

Agent acknowledgment

I believe this annuity is suitable for the financial needs and objectives of the owner(s). I base this belief on the information the owner(s) provided and on everything I know at this time.

Agent's signature	Agent number	Date
[signature]	888000596	04/26/10

NB3051 Submit original to Home Office with application. Leave copy with owner. Keep copy in agent file. (R-7/2008)

000126?

Allianz Life Insurance Company
North America

PO Box 59060
Minneapolis, MN 55459-0060

Allianz

Notice Regarding Replacement
Replacing Your Life Insurance Policy or Annuity?

Are you thinking about buying a new policy and discontinuing or changing an existing policy? If you are, your decision could be a good one — or a mistake. You will not know for sure unless you make a careful comparison of your existing policy and the proposed policy.

Make sure you understand the facts. (State law gives you the right to obtain a cost disclosure from your existing insurer at any time.) You may ask the company or agent that sold you your existing policy to give you information about it.

Below is a checklist of some of the items you should consider in making your decision. TAKE TIME TO READ IT.

Do not let one agent or insurer prevent you from obtaining information from another agent or insurer which may be to your advantage.

Hear both sides before you decide. This way you can be sure you are making a decision that is in your best interest.

We are required to notify your existing company that you may be replacing their policy.

ITEMS TO CONSIDER

1. If the policy coverages are basically similar, premiums for a new policy may be higher because rates increase as your age increases.
   Cash values and dividends, if any, may grow slower under a new policy initially because of the initial costs of issuing a policy.
3. Your present insurance company may be able to make a change on terms which may be more favorable than if you replace existing insurance with new insurance.
4. If you borrow against an existing policy to pay premiums on a new policy, death benefits payable under your existing policy will be reduced by the amount of any unpaid loan, including unpaid interest.
5. Current interest rates are not guaranteed. Guaranteed interest rates are usually considerably lower than current rates. What rates are guaranteed?
6. Are premiums guaranteed or subject to change — up or down?
7. Participating policies pay dividends that may materially reduce the cost of insurance over the life of the contract. Dividends, however, are not guaranteed.
8. CAUTION, you are urged not to take action to terminate, assign or alter your existing life insurance coverage until after you have been issued the new policy, examined it and have found it to be acceptable to you.

REMEMBER, you have twenty (20) days following receipt to examine the contents of any individual life insurance policy or annuity. If you are not satisfied with it for any reason, you have the right to return it to the insurer at its home or branch office, or to the agent through whom it was purchased, for a full refund of premium.

_______________________ (Signature of agent)

Richard Van Dyke; 1028 S. Walnut; Springfield, IL 62704
(Printed name of agent and address)

The above "Notice to Applicant" was delivered to me on:

_______________________ (Signature of applicant)

04/26/10
(Date)

NB3000 White-Home Office Yellow-Owner Pink-Agent

NB3000-00 V2
(R-10/2005)

0001268

Policy Owner:

Alice M. Elchlepp

Policy Number:

058984

SECRETARY OF STATE
EXHIBIT NUMBER 50

CONFIDENTIAL

AVIVA000407
0001871

☐ Aviva Life and Annuity Company ☒ American Investors Life Insurance Company, Inc.

☐ Aviva Life and Annuity Company of New York

Customer Identification and Suitability Confirmation Worksheet

AVIVA

Thank you for your interest in a fixed annuity product. Completion of this worksheet is an essential part of the application process. It not only helps your agent assess your insurance needs and financial objectives, but also aids in ensuring compliance with the USA Patriot Act.

NOTE: If applying as a joint owner and your relationship to the other joint owner is not spousal, separate worksheets must be completed by each joint owner.

Non-Natural Owners: For a non-natural owner, the information on the front of this form should be relevant to the entity, on the backside (page two) the Identification Verification Information should be provided by the person(s) authorized to act on behalf of the entity.

Owner Information

1. Name: Alice M Eichlepp
2. Occupation: Retired
5. U.S. Citizen: ☒ Yes ☐ No
7. Place of Birth: Alton, IL
Specify City and State (Country if other than United States)
9. Approximate Annual Income: $ 60,000
10. Approximate Net Worth*: $ 500,000
*Net Worth = Total Assets (not including home and automobile) Less Total Debts

Joint Owner Information

3. Name:
4. Occupation:
6. U.S. Citizen: ☐ Yes ☐ No
8. Place of Birth:
Specify City and State (Country if other than United States)

11. Source of Income: ☐ Current Wages ☒ Pension Plan ☒ Social Security ☒ Investment Income
☐ Required Minimum Distribution (RMD) or 72 (t)/(q) distributions ☒ Other: Farm rental

12. Federal Income Tax Bracket: ☐ 0% ☐ 10% ☒ 15% ☐ 25% ☐ 28% ☐ 33% ☐ 35% ☐ Other:

13. What is your financial objective in purchasing this product? Check all that apply.
☐ Income Now ☒ Flexibility ☐ Tax Deferral ☒ Provides Guarantees ☒ Potential Growth Followed by Income
☒ Pass Assets on to Beneficiaries ☒ Lifetime Income Payout ☐ Other:

14. Do you have sufficient liquid assets available for monthly living expenses and emergencies **other than the money you plan to use to purchase this annuity?**
☒ Yes, please list amount of liquid assets $ 20,000 (Examples: checking, savings or money market accounts, short term CDs, bonds, etc.)
☐ No

15. What is the source of premium for this annuity? Check all that apply:
☒ Annuity ☐ Life Insurance ☐ Certificates of Deposit ☐ Other Investments ☐ Other
15a. ☒ Yes ☐ No Are there any settlement fees, surrender charges or penalties of any kind associated with any source(s) of the annuity's premium checked above?

If 15a is Yes: List the percentage of any settlement fees, surrender charges or penalties of any kind associated with any source(s) of the annuity's premium.
List total percentage for each premium source, not less any applicable bonus percentage received on the new annuity
If multiple sources of premium list each percentage separately

Source of Premium (Type or Company Name)	Penalty Percentage
ING	7.4

16. Do you now own, or have you previously owned, any of the following financial products? (check all that apply)
☒ Certificates of Deposit ☒ Fixed Annuity ☐ Variable Annuity ☐ Stock/Bond/Mutual Funds ☒ Life Insurance ☐ None
16a. ☒ Yes ☐ No Were your current investments and insurance products discussed with your agent prior to your decision to purchase this annuity?

17. With the exception of any surrender charge free withdrawals, required minimum distribution, etc., do you expect to take any money out of this product before the end of the withdrawal charge period? ☐ Yes ☒ No

If Yes, please explain:

(Do not include any surrender charge free withdrawals provided by contract i e RMD or any surrender charge free withdrawal percentage)

18 ☒ Yes ☐ No Did the agent explain that if you take money out of this product in excess of the surrender charge free withdrawal amount provided in the contract during the withdrawal charge period you will incur a penalty?

19. ☐ Yes ☒ No Is the purchase of this annuity in any way related to the establishment of a trust or based in any way on information provided during the establishment of a trust?

20. To the extent you are willing, please provide any other information you considered material in your decision to purchase this annuity:

Customer Identification Verification

Type of Government Issued Photo ID: Choose either A, B, C or D.

Owner Verification

	State of Issue	Number	Expiration Date
A. Drivers License (DL)	IL	[redacted]	09/20/09
B. Passport	Country of Issuance	Number	Expiration Date
C. Other:	State/Country of Issuance	Number	Expiration Date

D. ☐ An unexpired Government issued photo ID is not available.

Joint Owner Verification

	State of Issue	DL Number	Expiration Date
A Drivers License (DL)			
B. Passport	Country of Issuance	Number	Expiration Date
C. Other:	State/Country of Issuance	Number	Expiration Date

D ☐ An unexpired Government issued photo ID is not available.

Owner's Confirmation

☒ Yes ☐ No Was your decision to purchase this annuity based on your agent's recommendation?

By signing below, I acknowledge that I reviewed the Customer Identification Notice (form number 10200) and agree with the terms of the notice In addition, I acknowledge the information I provided above, regarding my financial status, tax status, investment objectives, identification information and any other information requested by my agent is complete and accurate to the best of my knowledge I further acknowledge that neither the Company nor its representatives offer legal or tax advice and that I have been advised to consult my own personal attorney or tax advisor on any tax matters I acknowledge that the fixed annuity I am applying for is a long term contract with substantial penalties for early withdrawal, additionally I am aware that any withdrawals taken from the annuity may result in a taxable event I believe the annuity I am applying for is suitable according to my insurance needs and/or financial objectives

Alice M. Elchlepp — Owner's Signature — Date 4/22/09

Joint Owner's Signature — Date

Agent's Confirmation

☒ Yes ☐ No Was the owner's decision to purchase this annuity based on your recommendation?

☒ Yes ☐ No Did you consider the risk associated with the amount of the annuity premium and the coverage limits provided by the applicable state life and health guaranty association?

By signing below, I acknowledge that I have made a reasonable effort to obtain information from the Owner concerning the Owner(s)' financial status, tax status, investment objectives and other information considered reasonable. It is my belief that based on the information the Owner provided and based on all the circumstances known to me at the time the recommendation was made, the annuity being applied for, based on my recommendation is suitable for the Owner(s)' insurance needs and/or financial objectives. In addition, I have verified the identity of the owner(s) and believe the information the owner(s) provided to me regarding his or her identity is true and accurate

Agent's Signature — Date 04/22/09

57007 (Rev 07/08) Page 2 of 2

☒ Aviva Life and Annuity Company · ☐ American Investors Life Insurance Company, Inc.

☐ Aviva Life and Annuity Company of New York

Customer Identification and Suitability Confirmation Worksheet

AVIVA

Thank you for your interest in a fixed annuity product. Completion of this worksheet is an essential part of the application process. It not only helps your agent assess your insurance needs and financial objectives, but also aids in ensuring compliance with the USA Patriot Act.

NOTE: If applying as a joint owner and your relationship to the other joint owner is not spousal, separate worksheets must be completed by each joint owner.

Non-Natural Owners: For a non-natural owner, the information on the front of this form should be relevant to the entity, on the backside (page two) the Identification Verification Information should be provided by the person(s) authorized to act on behalf of the entity.

Owner Information	Joint Owner Information
1. Name: Lonnie E Caulk	3. Name:
2. Occupation: Retired	4. Occupation:
5. U.S. Citizen: ☒ Yes ☐ No	6. U.S. Citizen: ☐ Yes ☐ No
7. Place of Birth: Hillsboro, IL (Specify City and State (Country if other than United States))	8. Place of Birth: (Specify City and State (Country if other than United States))
9. Approximate Annual Income: $ 50,000 00	

10. Approximate Net Worth*: $ $155,000 00

*Net Worth = Total Assets (not including home and automobile) Less Total Debts

11. Source of Income: ☒ Current Wages ☒ Pension Plan ☒ Social Security ☐ Investment Income ☐ Required Minimum Distribution (RMD) or 72 (t)/(q) distributions ☐ Other:

12. Federal Income Tax Bracket ☐ 0% ☐ 10% ☒ 15% ☐ 25% ☐ 28% ☐ 33% ☐ 35% ☐ Other

13. What is your financial objective in purchasing this product? Check all that apply

☐ Income Now ☐ Flexibility ☐ Tax Deferral ☒ Provides Guarantees ☒ Potential Growth Followed by Income

☒ Pass Assets on to Beneficiaries ☒ Lifetime Income Payout ☐ Other:

14. Do you have sufficient liquid assets available for monthly living expenses and emergencies <u>other than the money you plan to use to purchase this annuity</u>?

☒ Yes, please list amount of liquid assets $ 40,000 00 (Examples: checking, savings or money market accounts, short term CD's, bonds, etc.)

☐ No

15. What is the source of premium for this annuity? Check all that apply

☒ Annuity ☐ Life Insurance ☐ Certificates of Deposit ☐ Other Investments ☐ Other

15a. ☐ Yes ☒ No Are there any settlement fees, surrender charges or penalties of any kind associated with any source(s) of the annuity's premium checked above?

	Source of Premium (Type or Company Name)	Penalty Percentage
If 15a is Yes: List the percentage of any settlement fees, surrender charges or penalties of any kind associated with any source(s) of the annuity's premium. List total percentage for each premium source, not less any applicable bonus percentage received on the new annuity. **If multiple sources of premium list each percentage separately**		

16. Do you now own, or have you previously owned, any of the following financial products? (check all that apply)

☒ Certificates of Deposit ☒ Fixed Annuity ☒ Variable Annuity ☒ Stock/Bond/Mutual Funds ☒ Life Insurance ☐ None

16a ☒ Yes ☐ No Were your current investments and insurance products discussed with your agent prior to your decision to purchase this annuity?

17. With the exception of any surrender charge free withdrawals, required minimum distribution, etc, do you expect to take any money out of this product before the end of the withdrawal charge period? ☐ Yes ☒ No
If Yes, please explain: ______
(Do not include any surrender charge free withdrawals provided by contract i e RMD or any surrender charge free withdrawal percentage)

18. ☒ Yes ☐ No Did the agent explain that if you take money out of this product in excess of the surrender charge free withdrawal amount provided in the contract during the withdrawal charge period you will incur a penalty?

19. ☐ Yes ☒ No Is the purchase of this annuity in any way related to the establishment of a trust or based in any way on information provided during the establishment of a trust?

20. To the extent you are willing, please provide any other information you considered material in your decision to purchase this annuity.

Customer Identification Verification Type of Government Issued Photo ID: Choose either A, B, C or D.

Owner Verification

	State of Issue / Country of Issuance	Number	Expiration Date
A. Drivers License (DL)	IL	REDACTED	01/13/2012
B. Passport			
C. Other:			

D. ☐ An unexpired Government issued photo ID is not available

Joint Owner Verification

	State of Issue / Country of Issuance	Number	Expiration Date
A. Drivers License (DL)			
B. Passport			
C. Other:			

D. ☐ An unexpired Government issued photo ID is not available.

Owner's Confirmation

☒ Yes ☐ No Was your decision to purchase this annuity based on your agent's recommendation?

By signing below, I acknowledge that I reviewed the Customer Identification Notice (form number 10200) and agree with the terms of the notice In addition, I acknowledge the information I provided above, regarding my financial status, tax status, investment objectives, identification information and any other information requested by my agent is complete and accurate to the best of my knowledge I further acknowledge that neither the Company nor its representatives offer legal or tax advice and that I have been advised to consult my own personal attorney or tax advisor on any tax matters I acknowledge that the fixed annuity I am applying for is a long term contract with substantial penalties for early withdrawal, additionally I am aware that any withdrawals taken from the annuity may result in a taxable event I believe the annuity I am applying for is suitable according to my insurance needs and/or financial objectives

Lonnie E Cauld 3-26-09
Owner's Signature Date

Joint Owner's Signature Date

Agent's Confirmation

☒ Yes ☐ No Was the owner's decision to purchase this annuity based on your recommendation?

☒ Yes ☐ No Did you consider the risk associated with the amount of the annuity premium and the coverage limits provided by the applicable state life and health guaranty association?

By signing below, I acknowledge that I have made a reasonable effort to obtain information from the Owner concerning the Owner(s)' financial status, tax status, investment objectives and other information considered reasonable It is my belief that based on the information the Owner provided and based on all the circumstances known to me at the time the recommendation was made, the annuity being applied for, based on my recommendation is suitable for the Owner(s)' insurance needs and/or financial objectives In addition, I have verified the identity of the owner(s) and believe the information the owner(s) provided to me regarding his or her identity is true and accurate.

03/26/09
Agent's Signature Date

Allianz Life Insurance Company of North America
5701 Golden Hills Drive
Minneapolis, MN 55416-1297

Allianz

Policy Delivery Overview

Name of Owner: BARBARA R SAWYER
336 S PLUM STREET
HAVANA IL 62644

Contract Number: 70814956

Annuitant SSN: [redacted]

Annuitant Date of Birth: 06/20/1945

Issue State: IL

Policy Effective Date: 04/28/2010

Product Name: Allianz MasterDex 5 Plus SM Annuity

Initial Premium: $62,980.52

Tax Plan: IRA

Billed Amount: $62,980.52

Bill Mode: SINGLE PREMIUM

Writing Agent:
RICHARD L VANDYKE
1028 S WALNUT ST.
SPRINGFIELD IL 62704

Allocations:

Allocation	Percentage	Initial Index Value
S&P MSA*:	50.00%	1,183.71
NASDAQ® MSA**:	25.00%	2,006.25
FTSE MSA***:	25.00%	5,603.52

Annuitant:
BARBARA R SAWYER
336 S PLUM STREET
HAVANA IL 62644

Product Features:
BASIC COVERAGE
Income Withdrawal Rider
Flexible Annuity Option Rider

0001283

SECRETARY OF STATE
EXHIBIT NUMBER 27

Allianz Life Insurance Company of North America

Allianz

BARBARA R SAWYER
336 S PLUM STREET
HAVANA, IL 62644
70814956

May 13, 2010

Dear BARBARA R SAWYER,

Thank you for your recent purchase of an Allianz annuity. We appreciate the confidence you have placed in your financial professional and in their recommendation of Allianz.

We want to make sure your annuity meets your future financial needs as well as your current situation. In fact, we rely heavily upon the information you provide to your financial professional about your financial goals and objectives.

A summary of that information is included with this letter. Please take a moment to review it. If the information is correct, simply file it with your annuity contract.

If you notice any incorrect information, please contact our Client Services Department at 800.950.1962 within 30 days so we can update our records.

Once again, thank you for the opportunity to serve you and your long term financial needs.

Best Regards,

Gary Bhojwani
President and Chief Executive Officer
Allianz Life Insurance Company of North America

Allianz Life Insurance Company
of North America
PO Box 59060
Minneapolis, MN 55459-0060

Allianz

Personal Suitability Summary

Owner name: BARBARA R SAWYER **Policy number:** 70814956

Annuity type: Qualified

Financial status

- Approximate monthly household finances

Income		Expenses		Disposable income
$9166	*minus*	$6500	=	$2666

- After the purchase of this annuity, will your monthly income exceed your monthly expenses? Yes
- Approximate household net worth $550000
- Approximate household liquid assets $130000
- Total value of all annuities you own (including this annuity) $440000
- Federal Income tax bracket? 28%
- Minimum number of years you must own this annuity to receive the maximum value 10
- Do you anticipate any significant increase in living expenses or decrease in monthly income during this time? No
- Do you anticipate any significant reduction in liquid assets during this time? No
- Do you currently reside in a nursing home or assisted living facility? No

Financial objectives

- Financial objectives in purchasing this product Growth followed by income, Growth potential, Leave to beneficiary, Guarantees provided
- Source of the funds for this annuity Annuity
- Is this a replacement of an annuity or life contract? Yes
  If yes, what type of contract is being replaced? Fixed index
  Are you incurring a surrender change on the contract you are replacing? Yes
  If so, what is the surrender charge on each contract being replaced? 10

Accessing your money

- How do you anticipate taking distributions from this annuity? Required minimum distribution, Free/systematic withdrawals or income rider, Leave to beneficiary
- When do you anticipate taking your first distribution from this annuity? 10 or more years
- Do you understand how beneficiaries can receive the maximum contract value? Yes

If you notice anything that is not correct, please contact our Client Services Department at 800.950.1962 within 30 days of receiving your policy.

Allianz Life Insurance Company
of North America
PO Box 59060
Minneapolis, MN 55459-0060
800.950.7372

RECEIVED
APR 29 2010
By

Allianz

Annuity application

1. Contract owner information

Select one ☑ Individual ☐ Joint ☐ Trust ☐ Corporation ☐ Partnership

Social Security number or Tax/Employer ID
[redacted]

Name (first, middle, last or trust/corporation name)			Suffix
Barbara R. Sawyer			
Date of birth (mm/dd/yyyy) 6/20/1945	☐ Male ☑ Female	Are you a U.S. Citizen? ☑ Yes ☐ No (If no, complete W8-BEN)	
Street address (required) 336 S. Plum Street			
City Havana		State IL	ZIP code 62644
Mailing address, if different than street address Same			
City		State	ZIP code
Telephone number – primary (309) 543-2944		Telephone number – secondary	
If a trust is named, provide trustee's first/last or full legal name *(If trust is owner, please complete the Trustee Representation Form)*			Date of trust

Joint owner information, if selected above (must be an individual)

Social Security number or Tax/Employer ID			
Name (first, middle, last or trust/corporation name)			Suffix
Date of birth (mm/dd/yyyy)	☐ Male ☐ Female	Are you a U.S. Citizen? ☐ Yes ☐ No (If no, complete W8-BEN)	
Street address (required)			
City		State	ZIP code
Mailing address, if different than street address			
City		State	ZIP code
Relationship to owner			

Annuitant information, if other than owner or owner is not an individual

Social Security number or Tax/Employer ID			
Name (first, middle, last or trust/corporation name)			Suffix
Date of birth (mm/dd/yyyy)	☐ Male ☐ Female	Are you a U.S. Citizen? ☐ Yes ☐ No (If no, complete W8-BEN)	
Mailing address			
City		State	ZIP code
Relationship to owner			

0001332

2. Beneficiary designation (Owner/joint owner cannot be a beneficiary)

☑ Primary ☐ Contingent	Percentage 100	Social Security number or Tax/Employer ID [redacted]

If the primary beneficiary is a trust or corporation, please check the appropriate box
☑ Individual ☐ Trust ☐ Corporation

If beneficiary is a trust, is the trust ☐ Revocable ☐ Irrevocable	Date of trust (required)

Name (first, middle, last or trust/corporate/custodian name)	Suffix
Gerald J. Sawyer	

Relationship to owner
Husband

☐ Primary ☑ Contingent	Percentage 33.40	Social Security number or Tax/Employer ID [redacted]

If the primary beneficiary is a trust or corporation, please check the appropriate box
☑ Individual ☐ Trust ☐ Corporation

If beneficiary is a trust, is the trust ☐ Revocable ☐ Irrevocable	Date of trust (required)

Name (first, middle, last or trust/corporate/custodian name)	Suffix
Kimberly L. Cox	

Relationship to owner
Daughter

☐ Primary ☑ Contingent	Percentage 33.30	Social Security number or Tax/Employer ID [redacted]

If the primary beneficiary is a trust or corporation, please check the appropriate box
☑ Individual ☐ Trust ☐ Corporation

If beneficiary is a trust, is the trust ☐ Revocable ☐ Irrevocable	Date of trust (required)

Name (first, middle, last or trust/corporate/custodian name)	Suffix
Scott J. Sawyer	

Relationship to owner
Son

(If more than three beneficiaries, attach a list signed by owner(s).) See Agents Report for additional Contingent beneficiary

3. Plan specifics (This section must be completed to indicate how this contract should be issued.)

☐ Nonqualified
☐ 1035 exchange
☐ Other ________

☑ Qualified
☐ Transfer ☑ Rollover (within 60 days):
☑ IRA ☐ SEP IRA ☐ Simple IRA ☐ Roth IRA ☐ Roth conversion ☐ Custodial IRA
Contribution for tax year ______ (if applicable)
☐ 401(k) ☐ HR10/Keogh ☐ Other ________
☐ Beneficial IRA (NOTE: A tax code must be selected above in addition to this option)
☐ Continue my **Required Minimum Distribution** monthly in the amount of $________
(Complete withholding notice and election in section 5)

If 1035 exchange or tax-qualified transfer, include the Authorization to Transfer Funds Form (S2056).
An individual cannot own a 401(k).

4. Purchase payment (This section must be completed; please make check payable to Allianz.)

Cash submitted with application	Estimated transfer/rollover/1035 amount	Agent-ordered funds (estimated funds)
$ 50,758.25	$	$

Billed premium amount	Select mode: ☐ Single ☐ Annually ☐ Semiannually ☐ Quarterly ☐ Monthly (complete EFT authorization and provide void check)

Cash Received
$ 50,758.25

5. Annuity products *(Products not available in all states)*

Flexible premium:

- ☐ Allianz Endurance 10® Annuity#•
- ☐ Allianz Endurance℠ Plus Annuity#•
- ☐ Allianz Endurance℠ Elite Annuity#•
- ☐ MasterDex 10® Annuity#•
- ☐ MasterDex X® Annuity#•▲
- ☐ Other__________
- ☐ MasterDex Plus℠ Annuity#•*
- ☑ MasterDex 5 Plus℠ Annuity#•*
- ☐ MasterDex 10 Plus℠ Annuity#•

Complete Supplemental Annuity Application.
• Complete Agent's Report.

Single premium:

- ☐ Allianz Pro V1℠ Annuity#•
- ☐ Dominator Plus® Annuity• (choose term) ☐ 5 ☐ 10
- ☐ Dominator® Select Annuity• (choose term) ☐ 1 ☐ 2 ☐ 3

Single Premium Immediate Annuity (SPIA):

☐ Immediate Elite® Annuity• *(Complete the Immediate Elite Annuity Supplemental Application; state version of A3 available at www.allianzlife.com)*

Withholding notice and election:
All, or part, of the payment you receive in connection with a distribution from the annuity contract, including the values used to cancel any outstanding loan indebtedness at the time of distribution, may be includable in your gross income for tax purposes.

The taxable portion of the distribution is subject to federal (and potentially state) withholding unless you elect not to have withholding apply. You may elect not to have withholding apply to your distribution by marking the appropriate box below. If an election is not made, federal income tax will be withheld from the taxable portion of your distribution at the rate of 10%.

If you elect not to have withholding apply or if you do not have enough federal income tax withheld, you may be responsible for payment of estimated tax. You may incur penalties under the estimated tax rules if your withholding and estimated tax payments are not sufficient.

☐ **Yes, I do** want to have federal income tax withheld from the taxable amount of my disbursement at a rate of ____% (10% is the minimum allowed).

☐ **No, I do not** want to have federal income tax withheld from the taxable amount of my disbursement.

Rider option available for all annuities except Immediate Elite Annuity *(not available in all states)*

☐ **Flexible Withdrawal Rider option:** Fees apply. If selected, the rider-specific Statement of Understanding must be submitted with the application.

Benefit option available for MasterDex Plus Annuity and MasterDex 5 Plus Annuity *(not available in all states)

☑ **Income Plus Benefit option¹:** Fees apply. If selected, the rider-specific Statement of Understanding must be submitted with the application.

¹If selecting immediate income, please complete and submit an Income Plus Benefit Election form available at www.allianzlife.com.

▲ MasterDex X Optional Riders *(not available in all states)*

☐ Simple Income II Rider: Fees apply. If selected, the rider-specific Statement of Understanding must be submitted with the application.

6. Replacement (this section must be completed)

Do you have existing life insurance or annuity contracts? ☑ Yes² ☐ No
Will the annuity contract applied for replace or change existing contract or policies? ☑ Yes² ☐ No
Amount of coverage inforce $ 51,000.00

²**Complete the replacement section that follows and include the appropriate replacement forms for the state of sale (available at www.allianzlife.com).**

7. Primary agent information

Name (first, middle, last)			Suffix
Richard Van Dyke			
Telephone number (217) 753-1515	% commission split 0	% production split	Agent number 888000596
Florida license ID number			
Name (first, middle, last)			Suffix
Telephone number	% commission split	% production split	Agent number
Florida license ID number			

8. Agreements and signatures

The following states require applicants to read and acknowledge the statement for your state below.

Arizona: Upon written request, we are required to provide you with factual information regarding the benefits and provisions of this annuity. If for any reason you are not satisfied with this contract, you may return the contract within 20 days of receiving it for a refund of any premium you paid. **If you're age 65 or older at the time of application, you may return the contract within 30 days after receiving it for a refund of any premium you paid.**

Arkansas, District of Columbia and Rhode Island: Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or knowingly presents false information in an application for insurance is guilty of a crime and may be subject to fines and confinement in prison.

Colorado, Maine, Ohio, Oklahoma, Tennessee, Virginia, and West Virginia: Any person who knowingly intends to defraud an insurance company, submits an application or files a statement of claim containing any false, incomplete, or misleading information, commits the crime of fraud, and may be subject to criminal prosecution and civil penalties. In ME, CO, and TN, additional penalties may include imprisonment, fines, or denial of insurance benefits. In CO, an insurer or insurance agent who knowingly provides false, incomplete, or misleading information to a policyholder or claimant to defraud or attempt to defraud the contract holder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado Division of Insurance within the department of regulatory agencies.

Connecticut: I have received a copy of the disclosure material and understand that the results shown, other than the guaranteed minimum values, are not guarantees, promises, or warranties.

Kentucky, New Mexico, and Pennsylvania: Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or a statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime. In PA and NM, this activity subjects such a person to criminal and civil penalties.

Louisiana and Maryland: Any person who knowingly and willfully presents a false or fraudulent claim for payment of a loss or benefit or who knowingly or willfully presents false information in an application for insurance is guilty of a crime and may be subject to fines and confinement in prison.

Florida: Any person who knowingly and with intent to injure, defraud, or deceive any insurance company files a statement of claim or an application containing any false, incomplete, or misleading information is guilty of a felony of the third degree.

New Jersey: Any person who includes any false or misleading information on an application for an insurance contract is subject to criminal and civil penalties.

By signing below, the contract owner acknowledges the statements mentioned above and understands that or agrees to the following:

- All statements and answers given in this or any supplemental applications that will be attached to this application are true and complete to the best of my knowledge;
- If proof of the annuitant's age is not given at the time of application, the annuitant will furnish Allianz such proof before annuity payments begin;
- I understand that I may return my contract within the right-to-examine period (shown on the first page of my contract) if I am dissatisfied for any reason;
- I believe this annuity is suitable for my financial goals.

If the contract applied for is a fixed index product, I understand that while the values of this contract may be affected by an external index, the contract does not participate in any stock or equity investments. Values shown, other than guaranteed minimum values, are not guaranteed promises or warranties.

If the contract applied for is subject to market value adjustment (MVA), I understand that the contract may have increased or decreased contract values due to the MVA.

☐ **Telephone authorization** - By checking "yes," I authorize and direct Allianz to act on telephone or electronic instructions from the agent and/or anyone authorized by him/her. If the box is not checked, this authorization will be permitted for the contract owner only. Allianz will use reasonable procedures to confirm that these instructions are authorized as genuine. As long as these procedures are followed, Allianz and its affiliates and their directors, trustees, officers, employees, representatives, and/or agents will be held harmless for any claim, liability, loss, or cost. The electronic transaction privilege may be modified or withdrawn at the discretion of Allianz.

Make all checks payable to Allianz. Do not make checks payable to an agency, broker, agent, or leave blank.

Contract owner's signature (or trustee[1], corporate officer[2], power of attorney[3], if applicable)

Barbara R Stanger

Joint owner's signature (or trustee[1], corporate officer[2], power of attorney[3], if applicable)

Proposed annuitant's signature (if other than owner)

Signed at (city and state)	Date signed
Springfield, IL	4-26-2010

[1]If trust owned, submit Trustee Representation form (available at www.allianzlife.com)

[2]If company or corporate owned, submit a copy of corporate resolution. Also, corporate-owned annuities do not qualify for tax deferral and the interest that accumulates in the contract each year must be reported as taxable income.

[3]If owner has power of attorney, submit a copy of power of attorney paperwork. The power of attorney must sign as follows: *Principal's name (usually the owner) by Attorney-in-Fact's name, Attorney in Fact.*

To be answered by licensed agent: I certify that the statements of the applicant have been correctly recorded. To the best of my knowledge, the applicant: ☑ DOES ☐ DOES NOT have existing life insurance or annuity contracts; and the insurance applied for ☐ will not or ☑ will replace existing insurance.

Connecticut: I certify that the disclosure material has been presented to the applicant and a copy was provided to the applicant. I have not made statements which differ from this material nor have I made any promises about the future equity values of this contract.

Agent's signature

Allianz Life Insurance Company
of North America
PO Box 59060
Minneapolis, MN 55459-0060

Allianz

Supplemental Application

Complete the following if you have selected the Allianz Endurance 10℠, Allianz Endurance℠ Plus, Allianz Endurance℠ Elite, Allianz MasterDex X℠, Allianz MasterDex Plus℠, Allianz MasterDex 5 Plus℠, or Allianz MasterDex 10 Plus℠ Annuity.

Select up to a maximum of 10 allocations from the index and/or the interest choices below. Indicate the index crediting method where applicable and the allocation percentage for each allocation.

☑ S&P 500®
- ☐ Annual Point-to-Point Allocation Percentage: ______%
- ☑ Monthly Sum Allocation Percentage: 50.00 %
- ☐ Monthly Average Allocation Percentage (Endurance 10 only): ______%

☑ Nasdaq-100®
- ☐ Annual Point-to-Point Allocation Percentage: ______%
- ☑ Monthly Sum Allocation Percentage: 25.00 %
- ☐ Monthly Average Allocation Percentage (Endurance 10 only): ______%

☑ FTSE 100/EuroSTOXX 50[1]
- ☐ Annual Point-to-Point Allocation Percentage: ______%
- ☑ Monthly Sum Allocation Percentage: 25.00 %
- ☐ Monthly Average Allocation Percentage (Endurance 10 only): ______%

☐ Blended
- ☐ Annual Point-to-Point Allocation Percentage: ______%
- ☐ Monthly Average Allocation Percentage: ______%

☐ Fixed Interest – Allocation Percentage: ______%

[1]FTSE 100 is not available on the Endurance Elite or MasterDex X, EuroSTOXX 50 will be used instead.

Complete the following if you have selected the Allianz Pro V1℠ Annuity.

☐ Barclays Index
- ☐ Annual Point-to-Point: ______%

☐ Fixed Interest – Allocation Percentage: ______%

The Allocation Percentages can be in increments of whole numbers only and must total 100%.

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A10 **Return to Home Office** (R-2/2010)

Income Withdrawal Rider

This rider allows an additional withdrawal option and a Death Benefit equal to the remaining Income Withdrawal Value if taken as an Annuity Payment over at least five years.

The Company has issued this rider as a part of the base contract. If there are any conflicts between this rider and the base contract, the provisions of this rider will prevail.

Any outstanding loan must be resolved before Income Withdrawal payments begin.

We will not accept Additional Premium after Income Withdrawal payments begin.

Income Withdrawals

You may request that Income Withdrawal payments begin as of the Contract Date, or as of any subsequent Contract Anniversary, by sending us Notice. The person upon whose life Income Withdrawal payments are based must be within the Eligible Ages for Income Withdrawals shown on the Contract Schedule at the time Income Withdrawal payments begin. We may require proof of this person's Age. If there is a misstatement of this person's Age, we will adjust the maximum annual Income Withdrawal and future Income Withdrawal payments based on the amount which would have been available based upon the correct Age.

To begin Income Withdrawal payments as of the Contract Date, you must give us Notice at the time of application. To begin Income Withdrawal payments as of a subsequent Contract Anniversary, we must receive Notice within 21 calendar days after that Contract Anniversary. Otherwise, the request will not be effective until the following Contract Anniversary. You may request Income Withdrawal payments in any amount up to the initial maximum annual Income Withdrawal.

The initial allocated maximum annual Income Withdrawal is the current allocated Income Withdrawal Value multiplied by the applicable Annual Withdrawal Percentage shown on the Contract Schedule. If you reallocate your contract values, we will reallocate the annual Income Withdrawal in the same percentage as the Income Withdrawal Value.

The maximum annual Income Withdrawal may increase on each Contract Anniversary after Income Withdrawal payments begin. The increase amount for each allocated maximum annual Income Withdrawal, if any, is the current allocated maximum annual Income Withdrawal multiplied by the Interest Rate or Current Credited Rate, as applicable, determined for the corresponding allocated Income Withdrawal Value. If you are receiving Income Withdrawal payments in an amount equal to the maximum annual Income Withdrawal, your payments will increase automatically if the maximum annual Income Withdrawal increases. If you are receiving Income Withdrawal payments in any amount less than the maximum annual Income Withdrawal, your payments will not increase in subsequent Contract Years, even if the maximum annual Income Withdrawal increases, unless you request a higher amount by sending us Notice.

Each Contract Year you have the option to request that we change your Income Withdrawal payments to any amount, from $0.00 up to the maximum annual Income Withdrawal, by giving us Notice. All changes are effective on a Contract Anniversary, and we must receive Notice at least 21 calendar days prior to that Contract Anniversary. Otherwise, the change will not be effective until the following Contract Anniversary.

We will pay your requested annual Income Withdrawal based on the frequency you request. You may choose a monthly, quarterly, semi-annual, or annual basis. If you do not specify a payment frequency, the Income Withdrawal payments will be paid monthly at the end of each Contract Month. Each Contract Year you have the option to change the frequency of the Income Withdrawal payments by sending us Notice. All changes are effective on a Contract Anniversary, and we must receive Notice at least 21 calendar days prior to that Contract Anniversary. Otherwise, the change will not be effective until the following Contract Anniversary.

If you request a payment frequency that results in an Income Withdrawal payment in an amount less than the Minimum Income Withdrawal payment amount shown on the Contract Schedule, your requested annual Income Withdrawal will be paid annually at the beginning of each Contract Year.

Income Withdrawals *continued from the previous page*

If you are the sole individual Owner of this contract, we will make Income Withdrawal payments as long as you are living. If the Owner is a non-individual, we will make Income Withdrawal payments as long as the Annuitant is living. If this contract is jointly owned, you may designate either Joint Owner as the person upon whose life Income Withdrawal payments will be based under the single life withdrawal option. We will make Income Withdrawal payments under that option as long as the Joint Owner you designated is living.

If you and your spouse are Joint Owners, you may choose either the single life withdrawal option or the joint life withdrawal option. Under the single life withdrawal option, we will make Income Withdrawal payments as long as the Joint Owner you designate is living. Under the joint life withdrawal option, we will make Income Withdrawal payments as long as either Joint Owner is living. Spouses must qualify as such under federal law. If you are receiving Income Withdrawal payments and you are no longer spouses you must send us Notice and we will remove the Joint Owner from this contract. If you are receiving Income Withdrawal payments and we receive Notice that a Joint Owner dies before we receive Notice that a Joint Owner is no longer a spouse, then Income Withdrawal payments will terminate.

> Under contracts that are not qualified under the tax code, spouses must be Joint Owners, or one spouse must be the Annuitant and the other spouse must be the sole primary Beneficiary if the sole Owner is a non-individual, or one spouse that is the sole Owner of a contract must also be the Annuitant and the other spouse must be the sole primary Beneficiary.
>
> Under contracts that are qualified under the tax code, one spouse must be the Owner and Annuitant and the other spouse must be the sole primary Beneficiary, or one spouse must be the Annuitant and the other spouse must be the sole primary Beneficiary if the sole Owner is a non-individual, or if we require a non-individual owner to be the beneficiary, then one spouse must be the Annuitant and the other spouse must be the sole contingent Beneficiary for the purpose of determining the Income Withdrawal payment.

After Income Withdrawal payments begin, we may periodically require proof that any person upon whose life Income Withdrawal payments are based is still living.

We will continue to pay Income Withdrawal payments until Termination of this Rider, even if the Accumulation Value, Cash Surrender Value, or Income Withdrawal Value is zero.

Income Withdrawal payments are considered penalty-free Partial Surrenders.

Income Withdrawal Value

On the Contract Date, the Income Withdrawal Value is the Initial Premium plus any applicable Premium Bonus. We allocate the Income Withdrawal Value to your allocations in accordance with your Premium Allocation Percentages. The amount of Income Withdrawal Value in each of your Allocations is the allocated Income Withdrawal Value.

After the Contract Date, the Income Withdrawal Value will increase as a result of any interest earned and any Additional Premium Paid plus any applicable Premium Bonus. The Income Withdrawal Value will decrease as a result of any Income Withdrawal payments, other Partial Surrenders and any applicable Rider Charges.

How the Income Withdrawal Value earns Interest

<u>For an Index Allocation:</u>
You can earn interest at the end of the Contract Year on the allocated Income Withdrawal Value in each Index Allocation. The interest is the allocated Income Withdrawal Value that remained in that Allocation for the entire Contract Year multiplied by the Interest Rate for that Allocation. The Interest Rate will never be less than zero.

Income Withdrawal Value *continued from the previous page*

You can also earn interest at the end of the Contract Year for any penalty-free Partial Surrenders taken that Contract Year. The amount of interest reflects the proportionate period of the Contract Year that the penalty-free Partial Surrender remained within the contract. The Interest for each Allocation is calculated by multiplying two parts. The first part is its Interest Rate multiplied by the allocated penalty-free Partial Surrender amount. The second part is the number of days between the beginning of the Contract Year and the date of the penalty-free Partial Surrender, divided by 365 days.

Determining the Interest Rate
The Interest Rate for the Income Withdrawal Value depends on the occurrence of either event:
(a) the date Income Withdrawal payments begin; or
(b) the 10th Contract Anniversary.

Until either of the above events occurs, the Interest Rate for each allocated Income Withdrawal Value is the greater of the Treasury Benchmark Rate shown on the Contract Schedule, or the Interest Rate for that Allocation.

After either of the above events occurs, the Interest Rate for each allocated Income Withdrawal Value is the Interest Rate for that Allocation.

<u>For an Interest Allocation:</u>
You can earn interest daily on the allocated Income Withdrawal Value in each Interest Allocation. The interest on any day is the allocated Income Withdrawal Value multiplied by the daily interest rate. The daily interest rate is a rate that, when compounded on a daily basis, would result in an annualized rate equal to the Current Credited Rate for that Allocation. The daily interest rate is:

$$(1 + \text{Current Credited Rate for that Allocation})^{(1/365)} - 1$$

Determining the Current Credited Rate
The Current Credited Rate for the Income Withdrawal Value depends on the occurrence of either event:
(a) the date Income Withdrawal payments begin; or
(b) the 10th Contract Anniversary.

Until either of the above events occurs, the Current Credited Rate for each allocated Income Withdrawal Value is the greater of the Treasury Benchmark Rate shown on the Contract Schedule, or the Current Credited Rate for that Allocation.

After either of the above events occurs, the Current Credited Rate for each allocated Income Withdrawal Value is the Current Credited Rate for that Allocation.

Each Income Withdrawal Value Allocation is increased by any interest earned on that Allocation. If Income Withdrawal payments have not been selected by the Contract Anniversary after the youngest person whom payments could be based on reaches the maximum Eligible Age shown the Contract Schedule, the rider charge terminates and the Income Withdrawal Value will no longer earn any interest increases.

How the Income Withdrawal Value is increased by Additional Premium
Before Income Withdrawal payments begin, the Income Withdrawal Value is increased by Additional Premium and any applicable Premium Bonus. If Additional Premium is paid during a Contract Year, we will allocate the Additional Premium and any applicable Premium Bonus to the Interim Interest Allocation on the day it is received and it will earn fixed interest until the end of the Contract Year. On the last day of the Contract Year, after all interest has been credited, we will transfer the allocated Income Withdrawal Value amount in the Interim Interest Allocation to your Allocations according to your Premium Allocation Percentages. No value will remain in the Interim Interest Allocation.

How the Income Withdrawal Value is reduced by Partial Surrenders
Any Partial Surrender you take will reduce the Income Withdrawal Value. If the Partial Surrender is penalty-free, the Income Withdrawal Value will be reduced by the Partial Surrender amount. If the Partial Surrender is not penalty-free, the Income Withdrawal Value will be reduced by the same percentage that the Accumulation Value was reduced. The amount of the reduction will be taken pro rata from each Allocation.

Income Withdrawal Value *continued from the previous page*

How the Income Withdrawal Value is reduced by Income Withdrawal payments
Income Withdrawal payments are considered penalty-free Partial Surrenders. As a result, any Income Withdrawal payments will reduce the Income Withdrawal Value by the Income Withdrawal payment. The amount of the reduction will be taken pro rata from each Allocation. Income Withdrawal payments do not reduce the maximum annual Income Withdrawal.

Annual Withdrawal Percentage

The Annual Withdrawal Percentage is the rate used to calculate the initial maximum annual Income Withdrawal using the Age of the person upon whose life Income Withdrawal payments are based. If the sole Owner of this contract is an individual, the Annual Withdrawal Percentage is based on the Age of the Owner. If this contract is jointly owned, the Annual Withdrawal Percentage for the single life withdrawal option is based on the Age of the Joint Owner you designate as the person upon whose life the Income Withdrawal payments are based. If this contract is jointly owned by spouses and the joint life withdrawal option is selected, the Annual Withdrawal Percentage is based on the Age of the younger Joint Owner. If the Owner is a non-individual, the Annual Withdrawal Percentage is based on the Age of the Annuitant. The Annual Withdrawal Percentage Table is shown on the Contract Schedule.

Surrenders

Once Income Withdrawal payments begin:
Income Withdrawal payments are the only penalty-free Partial Surrenders available to you. You may request a lump sum payment of all or part of the remaining maximum annual Income Withdrawal for a Contract Year by sending us Notice. Such payment is considered a penalty-free Partial Surrender. If the additional amount you request, combined with any previous Income Withdrawal payments within a Contract Year, is less than your requested annual Income Withdrawal, Income Withdrawal payments will continue. Once your requested annual Income Withdrawal for that Contract Year has been reached, however, the Income Withdrawal payments will automatically stop. Income Withdrawal payments will begin again the next Contract Year, based on your last requested annual Income Withdrawal amount, at the same frequency as you previously selected, unless you request a change in frequency or a change in payment amount by sending us Notice.

You may request an additional Partial Surrender after we have paid the maximum annual Income Withdrawal for a Contract Year by sending us Notice. Such Partial Surrender will not be penalty-free. As a result, the Income Withdrawal Value and the maximum annual Income Withdrawal will be reduced by the same percentage that the Accumulation Value was reduced.

Death Benefit

Your contract provides a Death Benefit payable to your Beneficiary. The Death Benefit will not be less than the Guaranteed Minimum Value. (replaced)

How the Death Benefit is received (replaced)
The Death Benefit taken as a single payment is equal to the Accumulation Value.

The Death Benefit taken as an annuity Option over at least a five year period will be based on the Income Withdrawal Value.

If the Death Benefit is taken as a single payment, the Beneficiary must take distribution of the entire Death Benefit within five years of your death.

If the Death Benefit is taken as an annuity Option, the Beneficiary becomes the Annuitant, and payments under the annuity Option must begin within one year of the date of death and may not extend beyond a period certain equal to the life expectancy of the Annuitant.

Death Benefit *continued from the previous page*

You may choose an annuity Option for the Beneficiary. The Beneficiary may choose an annuity Option if:
- you have not selected an annuity Option prior to your death; and
- Annuity Payments have not begun.

We must receive proof of the Owner's death (or, if any Owner is a non-individual, proof of the Annuitant's death) and a fully completed claim form before we will pay the Death Benefit.

Rider Charge

The Annual Rider Charge for this rider is equal to the Annual Rider Charge percentage shown on the Contract Schedule multiplied by the Income Withdrawal Value and is calculated on each Contract Anniversary. On each Monthly Anniversary Day during that Contract Year, after credits, if any, are applied, we will reduce the Accumulation Value by 1/12th of the Annual Rider Charge. We will not reduce the Income Withdrawal Value by this rider charge. We will reduce the Income Withdrawal Value by the amount of the applicable charge for any other riders unless such rider provides otherwise. The Annual Rider Charge may be different each Contract Year due to any interest credits, Additional Premium and any applicable Premium Bonus, Income Withdrawal payments, or additional Partial Surrenders that affect the Income Withdrawal Value.

The Annual Rider Charge will terminate on the earliest of:
(a) the date the Accumulation Value equals zero;
(b) the date the rider terminates as set forth in the Termination of this Rider section; or
(c) the Contract Anniversary after the youngest person whom payments could be based on reaches the maximum Eligible Age shown the Contract Schedule and Income Withdrawal payments have not yet begun.

Ownership

Assignment of this contract (replaced)
You may assign or transfer all or specific Ownership rights of this contract. No assignment will be effective until we receive Notice. We will record your assignment. We will not be responsible for its tax consequences, validity or effect, nor will we be liable for actions taken or payments made before we receive and record the assignment.

We will not allow any assignment unless it is the result of a creation or termination of a trust and the Annuitant remains the same.

General Provisions

Termination (replaced)
The base contract will terminate at the earliest of:
(a) our receipt of your written request for Full Surrender; or
(b) the date that our last payment obligation is met.

Termination of this Rider

This rider terminates on the earliest of:
(a) the date the base contract terminates;
(b) the Monthly Anniversary Day following the date we receive Notice to terminate this rider;
(c) the date of death of the person upon whose life Income Withdrawal payments are based or, if the joint life withdrawal option was selected, the date of death of the second Joint Owner to die; or
(d) the Annuity Date.

Reinstatement of this Rider

Once this rider terminates, it may not be reinstated.

In all other respects the provisions, conditions, exceptions and limitations contained in the base contract remain unchanged and apply to this rider.

Signed for the Company at its home office:

Allianz Life Insurance Company of North America

Maureen A. Phillips
Secretary

Gary C. Bhojwani
President and CEO

Partial Surrender Flexibility Rider

This rider offers additional flexibility for Partial Surrenders, as described in the following revised provisions.

The Company has issued this rider as a part of the base contract. If there are any conflicts between this rider and the base contract, the provisions of this rider will prevail.

Surrenders

Partial Surrenders (replaced)
If a Partial Surrender is not penalty-free, your Guaranteed Minimum Value will be reduced by the Partial Surrender amount and your Accumulation Value will be reduced by the Partial Surrender amount and any associated Surrender Charge.

A penalty-free Partial Surrender will not be subject to a Surrender Charge, although taxes and tax penalties may apply. A penalty-free Partial Surrender will reduce each of your Guaranteed Minimum Value and Accumulation Value by the Partial Surrender amount.

To be penalty-free, a Partial Surrender must meet all of the following conditions:

- the Partial Surrender must be taken after the Contract Anniversary following your most recent Premium payment; and
- the cumulative Partial Surrender amounts within a Contract Year must not exceed 10% of your total Premium paid. If you request more than 10%, the amount above 10% will not be penalty-free.

We will recalculate any penalty-free Partial Surrender as if it were not penalty-free under certain conditions. We will make this recalculation if, within a Contract Year, you take a penalty-free Partial Surrender and:

- you request a Full Surrender; or
- you send us Additional Premium.

The recalculation will occur before we process the new request.

In all other respects the provisions, conditions, exceptions and limitations contained in the base contract remain unchanged and apply to this rider.

Signed for the Company at its home office.

**Allianz Life Insurance Company
of North America**

Maureen A. Phillips
Secretary

Gary C. Bhojwani
President and CEO

R91009

Flexible Annuity Option Rider

This rider provides two additional annuitization options.

The Company has issued this rider as a part of the base contract. If there are any conflicts between this rider and the base contract, the provisions of this rider will prevail.

If the term "policy" is used in your base policy, base contract, or any other attached riders or endorsements; the term "policy" shall have the same meaning as the term "contract."

Any outstanding loan must be resolved prior to any benefit being paid.

Annuity Options Available after the First Contract Year (added)

Any time after the first contract year but before the sixth contract year, you may request Option J, equal installments for a period certain of 10 to 30 years. Or, any time after the first contract year, at the higher ages shown in the table that follows, you may request Option K, equal installments for a period certain of less than 10 years.

Each installment will consist of part benefit and part interest. Installments will be based on purchase rates we declare, but will never be less than those shown in the base contract. These are irrevocable settlement, period certain annuity Options. Payments will end after the selected period certain even if the Annuitant is still living.

If you choose either annuity Option J or Option K prior to the sixth contract year, annuity payments will be based on your Accumulation Value less any applicable bonuses and any interest earned on the bonuses. We calculate this amount by dividing (a) by (1 + b), where:
(a) is the Accumulation Value; and
(b) is any bonus percentage.

If you choose annuity Option K after the fifth contract year, annuity payments will be based on your full Accumulation Value. Annuity Option J is not available after the fifth contract year.

We will require proof of the Annuitant's age and gender. The age used for the annuity Option will be the Annuitant's age on the Annuity Date.

Option J – Installments for a Guaranteed Period When Annuitized after the First Contract Year and before the Sixth Contract Year
We will pay equal installments for an available guaranteed period from 10 to 30 years. Each installment will consist of part benefit and part interest. Installments will be based on purchase rates we declare, but will never be less than the purchase rates in the base contract.

Option K – Installments for a Guaranteed Period When Annuitized after the First Contract Year at higher ages
We will pay equal installments for a guaranteed period of less than 10 years for higher ages. The guaranteed period must be at least the minimum guaranteed period shown in the table that follows, based on the applicable age and gender, and may not exceed nine years. Each installment will consist of part benefit and part interest. Installments will be based on purchase rates we declare, but will never be less than the purchase rates in the base contract.

Male			
Age	Minimum Guaranteed Period Available	Age	Minimum Guaranteed Period Available
80	9 years	91	5 years
81	9 years	92	5 years
82	8 years	93	4 years
83	8 years	94	4 years
84	7 years	95	4 years
85	7 years	96	4 years
86	6 years	97	3 years
87	6 years	98	3 years
88	6 years	99	3 years
89	5 years	100	3 years
90	5 years		

Female			
Age	Minimum Guaranteed Period Available	Age	Minimum Guaranteed Period Available
82	8 years	92	5 years
83	8 years	93	4 years
84	7 years	94	4 years
85	7 years	95	4 years
86	6 years	96	4 years
87	6 years	97	3 years
88	6 years	98	3 years
89	5 years	99	3 years
90	5 years	100	3 years
91	5 years		

In all other respects the provisions, conditions, exceptions and limitations contained in the base contract remain unchanged and apply to this rider.

Signed for the Company at its home office.

Allianz Life Insurance Company of North America

Maureen A. Phillips
Maureen A. Phillips
Secretary

Gary C. Bhojwani
President and CEO

Premium

The Premium is the money you pay to us for this contract and the benefits it provides. You may pay Premium to us or to any of our authorized representatives. A receipt will be provided to you upon request.

Your Initial Premium

The Initial Premium is the Premium received by the Contract Date and is shown on the Contract Schedule.

Your Additional Premium

You may send Additional Premium after the Contract Date during the first five Contract Years. Each Additional Premium must be at least $25. The total amount of Additional Premium cannot be more than $25,000, unless a larger amount is approved by us.

Your Premium Bonus

You will receive a Premium Bonus for any Premium we receive in the first five Contract Years. Each Premium Bonus is equal to the Premium amount multiplied by the Premium Bonus Percentage shown on the Contract Schedule. We will credit the Premium Bonus for your Initial Premium on the Contract Date. For any Additional Premium we will credit the Premium Bonus on the day the Additional Premium is received.

Allocation Options

Description of the Allocations in your contract

You may allocate your contract values among one or more Index Allocations and/or Interest Allocations in 1% increments that must total 100%. Your initial selections are shown on the Contract Schedule.

Index Allocations may earn interest based on changes in an external Index. While we do not guarantee that an Index Allocation will earn positive interest, we do guarantee that your contract will not lose value as a result of changes in an external Index. If the publication of an Index is discontinued or if the calculation of an Index is changed substantially, we will seek regulatory approval to substitute a comparable Index. When we receive approval, we will send you notice of the substitution at your last known address. We will also send notice to any assignee of record at the assignee's last known address. This is an insurance contract. It is not a security. If you select an Index Allocation, you do not own shares of an Index. You do not own any equity or bond investments.

Interest Allocations earn interest at a fixed rate that is declared at the beginning of each Contract Year.

The Interim Interest Allocation is an Allocation we designate for all Additional Premium received during the Contract Year. You cannot select this Allocation. The allocated contract values in the Interim Interest Allocation earn interest at fixed rates until the end of the Contract Year. On the last day of the Contract Year, after all interest has been credited, we will transfer the allocated amounts in the Interim Interest Allocation to the corresponding contact values according to your Premium Allocation Percentages.

How your Premium is allocated

On the Contract Date, we will allocate your Initial Premium to your Allocations in accordance with your Premium Allocation Percentages. If you pay Additional Premium during a Contract Year, we will allocate the Additional Premium to the Interim Interest Allocation on the day it is received and it will earn fixed interest until the end of the Contract Year. On the last day of the Contract Year, after all interest has been credited, we will transfer the allocated amounts in the Interim Interest Allocation to the corresponding contract values according to your Premium Allocation Percentages. You can change your Premium Allocation Percentages by sending us Notice. If we receive Notice within 21 days after a Contract Anniversary, the changes will be effective for any amount that was allocated at that Contract Anniversary. Otherwise, the changes will be effective only for future Premium Allocations. Your Premium Allocation Percentages determine the allocations of new Premium; they do not reallocate your existing contract values.

How you can reallocate your contract values

We do not automatically reallocate your contract values. However, you can reallocate your contract values according to your Reallocation Percentages by sending us Notice; we will reallocate your contract values on the last day of the Contract Year after we transfer any allocated amounts in the Interim Interest Allocation. Your Reallocation Percentages equal your Premium Allocation Percentages unless you change them. You can change your Reallocation Percentages by sending us Notice. If we receive any Reallocation Notice within 21 days after a Contract Anniversary, the changes will be effective for that Contract Anniversary. Otherwise, the changes will not be effective until the next Contract Year.

Accumulation Value

Your contract provides an Accumulation Value. After at least five Contract Years, your Accumulation Value will be the amount used to calculate Annuity Payments if an annuity Option which extends over a period of at least 10 years (five years for annuity Option D), or over the life of the Annuitant is selected.

If you take a Full Surrender, you will receive your Accumulation Value minus any applicable Surrender Charge. This is referred to as your Cash Surrender Value.

On the Contract Date, your Accumulation Value is your Initial Premium plus applicable Premium Bonus. We allocate your Accumulation Value to your Allocations in accordance with your Premium Allocation Percentages. The amount of Accumulation Value in each of your Allocations is the allocated Accumulation Value.

After the Contract Date, your Accumulation Value will increase as a result of any interest earned and any Additional Premium paid plus applicable Premium Bonus. Your Accumulation Value will decrease as a result of any Surrenders you take. Your Accumulation Value on the Annuity Date will never be less than the Guaranteed Minimum Value.

How your Accumulation Value earns interest

<u>For an Index Allocation:</u>
You can earn interest at the end of the Contract Year on the allocated Accumulation Value in each Index Allocation. The interest is the Interest Rate multiplied by the allocated Accumulation Value that remained in that Allocation for the entire Contract Year. The Interest Rate will never be less than zero.

You can also earn interest at the end of the Contract Year for any penalty-free Partial Surrenders you took during that Contract Year. The amount of interest reflects the proportionate period of the Contract Year that the penalty-free Partial Surrender remained within the contract. The interest for each Index Allocation is calculated by multiplying two parts. The first part is its Interest Rate multiplied by the allocated Partial Surrender amount. The second part is the number of days between the beginning of the Contract Year and the date of the penalty-free Partial Surrender, divided by 365 days. You will not earn interest after a Full Surrender or on any amount of reduction from a Partial Surrender that is not penalty-free.

Each Index Allocation is increased by any interest earned on that Allocation.

<u>Determining your Interest Rates</u>
The Crediting Method for each Index Allocation is used to determine the Interest Rate for that Allocation.

We offer three Crediting Methods: Annual Point-to-Point, Monthly Sum, or Monthly Average.

Annual Point-to-Point Crediting Method
The Interest Rate for each Index Allocation is the lesser of its Participation Rate multiplied by its Annual Index Return (or Weighted Annual Index Return for a Blended Index Allocation), or its annual Cap. The Interest Rate will never be less than zero.

The Annual Index Return is the percentage change of the Index value for the Contract Year. It is the Annual Index Change divided by the Initial Annual Index Value. The Annual Index Change is the Index value at the end of the Last Business Day of the Contract Year minus the Initial Annual Index Value. The Initial Annual Index Value is the value of the Index at the end of the Last Business Day before the start of the Contract Year.

The Weighted Annual Index Return is determined by adding, for all Indexes within a Blended Index Allocation, the results obtained by multiplying each Annual Index Return (calculated as described above) by its Index Weight. The Index Weight for each Index within a Blended Index Allocation is shown on the Contract Schedule and is guaranteed for all Contract Years.

Guaranteed Minimum Value

Your contract provides a Guaranteed Minimum Value. The Guaranteed Minimum Value is the minimum value your contract will provide as the Cash Surrender Value, the Death Benefit, and, on the Annuity Date, the Accumulation Value.

On the Contract Date, your Guaranteed Minimum Value is your Initial Premium multiplied by the Guaranteed Minimum Value Premium Factor. The Guaranteed Minimum Value Premium Factor is shown on the Contract Schedule. We allocate your Guaranteed Minimum Value in accordance with your Premium Allocation Percentages. The amount of Guaranteed Minimum Value in each of your Allocations is the allocated Guaranteed Minimum Value.

After the Contract Date, your Guaranteed Minimum Value will increase as a result of any interest earned and any Additional Premium paid. Your Guaranteed Minimum Value will decrease as a result of any Surrenders you take.

How your Guaranteed Minimum Value earns interest
You earn interest daily on the allocated Guaranteed Minimum Values. The interest on any day is the daily interest rate multiplied by the allocated Guaranteed Minimum Value. The daily interest rate for each allocated Guaranteed Minimum Value is equal to the rate that, when compounded on a daily basis, would result in an annualized rate equal to the applicable Guaranteed Minimum Value Interest Rate shown on the Contract Schedule.

The formula for determining the daily interest rate for an allocated Guaranteed Minimum Value is:

$$(1 + \text{the applicable Guaranteed Minimum Value Interest Rate})^{(1/365)} - 1$$

How your Guaranteed Minimum Value is increased by Additional Premium
The Guaranteed Minimum Value is increased by the Additional Premium multiplied by the Guaranteed Minimum Value Premium Factor. We will allocate this amount to the Interim Interest Allocation on the day the Additional Premium is received and it will earn fixed interest until the end of the Contract Year. On the last day of the Contract Year, after all interest has been credited, we will transfer the allocated Guaranteed Minimum Value amount in the Interim Interest Allocation to your Guaranteed Minimum Value according to your Premium Allocation Percentages. No value will remain in the Interim Interest Allocation.

How your Guaranteed Minimum Value is reduced by Partial Surrenders
Any Partial Surrender you take will reduce your Guaranteed Minimum Value. Your Guaranteed Minimum Value will be reduced by the Partial Surrender amount. The amount of the reduction will be taken pro rata from each of your Allocations.

If the amount of a Partial Surrender from an Allocation exceeds the applicable allocated Guaranteed Minimum Value, then the amount of the withdrawal that exceeds that allocated Guaranteed Minimum Value will be subtracted from the remaining allocated Guaranteed Minimum Values, in order from lowest to highest Guaranteed Minimum Value Interest Rates. If the lowest Guaranteed Minimum Value Interest Rate is common to more than one Allocation, then an equal part of this excess amount will be subtracted from each of these allocated Guaranteed Minimum Values.

How your Guaranteed Minimum Value is reallocated
If you reallocate contract values:
(a) out of an Allocation, that allocated Guaranteed Minimum Value will be reduced. The amount of the reduction is the allocated Guaranteed Minimum Value before the reallocation multiplied by the proportion of the value in the allocated Accumulation Value that is reallocated.
(b) into an Allocation, that allocated Guaranteed Minimum Value is increased by the sum of all reductions in allocated Guaranteed Minimum Values determined under (a) multiplied by the proportion of total reallocated amount that is reallocated to that allocated Accumulation Value.

Basis of Values

Before the Annuity Date, all minimum contract values are based on the Guaranteed Minimum Value. For annuity Options, the guaranteed interest rate for Annuity Payments is the rate shown on the Contract Schedule, compounded annually. Applicable annuity values are based on the Annuity 2000 Mortality Table.

Contract values will never be less than the legal minimums of the state in which this contract is issued.

Surrenders

You may request a Surrender at any time before the Annuity Date by sending us Notice. Each Surrender must be at least $25.

A Full Surrender is a withdrawal of the entire Cash Surrender Value. Your contract will terminate upon a Full Surrender. A Partial Surrender is a withdrawal for an amount less than the entire Cash Surrender Value. Partial Surrenders will reduce all contract values.

Under the laws of most states, we may delay paying you the requested Surrender amount for up to six months after we receive Notice of your Surrender request. Some states require that we make a written request and receive written approval from the commissioner of the state before we can delay payment for up to six months. If we delay making payment, the delay will be made in accordance with the law of the state where your contract is issued.

Surrender Charges

If you request a Surrender during the Surrender Charge Period, it may be subject to a Surrender Charge. The Table of Surrender Charge Percentages is shown on the Contract Schedule. There are no Surrender Charges after the Surrender Charge Period.

If you request a Full Surrender, the Cash Surrender Value will equal the Accumulation Value less the Surrender Charge. The Surrender Charge is the Accumulation Value multiplied by the Surrender Charge Percentage that applies at that time.

If you request a Partial Surrender that is not penalty-free, as described below, a Surrender Charge will apply. The Partial Surrender Charge is the proportionate amount of the Full Surrender Charge that would apply upon Full Surrender, where the proportion is the Partial Surrender amount divided by the Cash Surrender Value. Surrender Charges will be calculated using the contract values at the time a Partial Surrender is processed.

Partial Surrenders

If a Partial Surrender is not penalty-free, your Guaranteed Minimum Value will be reduced by the Partial Surrender amount and your Accumulation Value will be reduced by the Partial Surrender amount and any associated Surrender Charge.

A penalty-free Partial Surrender will not be subject to a Surrender Charge, although taxes and tax penalties may apply. A penalty-free Partial Surrender will reduce each of your Guaranteed Minimum Value and Accumulation Value by the Partial Surrender amount.

To be penalty-free, a Partial Surrender must meet all of the following conditions:

- the Partial Surrender must be taken after the Contract Anniversary following your most recent Premium payment; a nd
- the cumulative Partial Surrender amounts within a Contract Year must not exceed 10% of your total Premium paid.

We will recalculate any penalty-free Partial Surrender as if it were not penalty-free under certain conditions. We will make this recalculation if, within a Contract Year, you take a penalty-free Partial Surrender and:

- you request a Full Surrender;
- you request another Partial Surrender that causes your cumulative Partial Surrender amounts within that Contract Year to exceed 10%; or
- you send us Additional Premium.

The recalculation will occur before we process the new request.

Annuity Payments

Your contract provides for Annuity Payments. You can receive Annuity Payments based on your choice of the annuity Options described below. Other options may be arranged with our written agreement.

The Annuity Date is the date on which Annuity Payments begin. The scheduled Annuity Date is shown on the Contract Schedule. If you did not select an Annuity Date at contract issue, a default date is shown on the Contract Schedule. You may select a different date, subject to our approval. The latest Annuity Date you can select is the later of the Contract Anniversary following the Annuitant's 90th birthday or 10 years from the Contract Date, unless we approve a later date. In no event will the Annuity Date be later than that permitted by applicable state or federal law.

On the Annuity Date, we will begin making Annuity Payments according to the annuity Option you select. We will make the Annuity Payments monthly, quarterly, semi-annually, or annually, as you request. We reserve the right to request that Annuity Payments be in an amount no less than $100. We will send the Annuity Payments to you, or to the person or entity you designate.

Once Annuity Payments begin, you cannot change the annuity Option or the payment frequency you selected. You must request that Annuity Payments begin by sending us Notice. Before we begin making Annuity Payments, we may require proof of the Annuitant's gender and Age as of the Annuity Date. After the Annuity Date, for life payout Options, we may periodically require proof that the Annuitant is still living.

If you have owned your contract for at least five Contract Years, you may apply the full Accumulation Value to an annuity Option if payments are to be made over a period of at least 10 years (five years for annuity Option D) or over the life of the Annuitant.

If you select to take Annuity Payments before the end of the fifth Contract Year, your payments will be based upon the Cash Surrender Value. In addition, if you select to take Annuity Payments after the end of the fifth Contract Year but over a period less than 10 years (five years for annuity Option D) or over less than the life of the Annuitant, if shorter, your payments will be based upon the Cash Surrender Value.

Purchase Rate Tables are shown on the Contract Schedule.

Option A – Installments for a Guaranteed Period
You will receive equal installments for any available guaranteed period from 10 to 30 years. Each installment will consist of part benefit and part interest. Installments will be based on the purchase rate we declare. This purchase rate will never be less than the purchase rate shown in Table 1.

Option B – Installments for Life
You will receive equal installments as long as the Annuitant is living. Installments will be based on the purchase rate we declare. This purchase rate will never be less than the purchase rate shown in Table 2.

Option C – Installments for Life with a Guaranteed Period
You will receive equal installments as long as the Annuitant is living. If the Annuitant dies before the guaranteed period has expired, Annuity Payments will continue until the end of the selected guaranteed period. The guaranteed period may be 5, 10, 15 or 20 years. Installments will be based on the purchase rate we declare. This purchase rate will never be less than the purchase rate shown in Table 2.

Option D – Benefit Deposited with Interest
We will hold the benefit on deposit for at least five years. You will receive the earned interest in the frequency requested. At the end of the designated period, you will receive the remaining value in a lump sum, or you may select another annuity Option. You may also select another annuity Option extending over at least 10 years or over the life of the Annuitant at any time before the end of the designated period.

Option E – Installments of a Selected Amount
You will receive equal installments of a selected amount until we have paid the entire benefit and accumulated interest. The installments must be for at least 10 years and no more than 30 years.

Annuity Payments *continued from the previous page*

Option F – Joint and Survivor Annuity
You will receive equal installments while both the Annuitant and Contingent Annuitant are still living. The full original installment amount will continue for the life of the surviving Annuitant after the death of an Annuitant. Installments will be based on the purchase rate we declare. This purchase rate will never be less than the purchase rate shown in Table 3.

Option G – Joint and 2/3 Survivor Annuity
You will receive equal installments while both the Annuitant and Contingent Annuitant are still living. Two-thirds of the original Installment amount will continue for the life of the surviving Annuitant after the death of an Annuitant. Installments will be based on the purchase rate we declare. This purchase rate will never be less than the purchase rate shown in Table 4.

If on the latest permissible Annuity Date you have not selected an annuity Option, Option C (Installments for Life with a Guaranteed Period of 10 years) will be automatic.

Death Benefit

Your contract provides a Death Benefit payable to your Beneficiary. The Death Benefit is the Accumulation Value. Surrender Charges will not be applied to the Death Benefit. The Death Benefit will not be less than the Guaranteed Minimum Value.

How the Death Benefit is received

The Death Benefit may be taken as a single payment or as an annuity Option over at least a five year period.

If the Death Benefit is taken as a single payment, the Beneficiary must take distribution of the entire Death Benefit within five years of your death.

If the Death Benefit is taken as an annuity Option, the Beneficiary becomes the Annuitant, and payments under the annuity Option must begin within one year of the date of death and may not extend beyond a period certain equal to the life expectancy of the Annuitant.

You may choose an annuity Option for the Beneficiary. The Beneficiary may choose an annuity Option if:

- you have not selected an annuity Option prior to your death; and
- Annuity Payments have not begun.

We must receive proof of the Owner's death (or, if any Owner is a non-individual, proof of the Annuitant's death) and a fully completed claim form before we will pay the Death Benefit.

Who Receives the Death Benefit

We will pay the Death Benefit to the Beneficiary if you die before the Annuity Date. We will credit interest on the Death Benefit until it is paid, at a rate no less than that required by law.

If the Beneficiary Dies

If any Beneficiary predeceases the Owner, the Beneficiary's interest in this contract will end. If any Beneficiary dies at the same time as the Owner, or within 120 hours after the Owner, that Beneficiary's interest in this contract will end as if the Beneficiary predeceased the Owner. If the interests of all Beneficiary(ies) have ended, we will pay the Death Benefit to your estate.

Protection of the Death Benefit

To the extent permitted by law, the Death Benefit will not be subject to claims of the Beneficiary's creditors.

Death of the Annuitant

If the Annuitant is also the Owner and the Annuitant dies during the Accumulation Period, the Death Benefit will be payable as described in this section.

If the Annuitant is not the Owner and the Annuitant dies during the Accumulation Period, the Owner becomes the Annuitant. Prior to the Annuity Date, you may change the Annuitant by sending us Notice, subject to our approval guidelines at the time we receive the Notice.

If an Annuitant or Contingent Annuitant dies after the Annuity Date, Annuity Payments will continue, as provided under the applicable annuity Option.

We must receive proof of the Annuitant's death.

Non-Individual Owner

If the Owner is a non-individual and the Annuitant dies during the Accumulation Period, the Death Benefit will be payable to the Beneficiary.

If the Beneficiary is the Annuitant's spouse, the Beneficiary may select to continue the contract as the Annuitant instead of receiving payment of the Death Benefit.

Death of a sole Owner prior to the Annuity Date

If you are the sole Owner of this contract, we will pay the Death Benefit to your Beneficiary if you die before Annuity Payments begin. If your Beneficiary is your spouse, he or she may select instead to continue this contract, as described later.

~~Death Benefit~~ ~~continued from the previous page~~

Death of a Joint Owner prior to the Annuity Date
If any Joint Owner dies before Annuity Payments begin, the surviving Joint Owner automatically becomes the primary Beneficiary.

If the surviving Joint Owner dies before receiving the Death Benefit, it will be paid to his or her estate.

If the surviving Joint Owner is the spouse of the deceased Owner, he or she may select instead to continue this contract as described below.

Continuation of contract by surviving spouse
A surviving spouse who is either a surviving Joint Owner or the Beneficiary of a sole Owner may select to continue this contract as a sole Owner instead of receiving payment of the Death Benefit. The surviving spouse may do this by sending us Notice of this selection before we pay the Death Benefit. The selection will be effective when we receive Notice.

If the surviving spouse selects to continue this contract as the Owner, he or she may exercise all the Ownership rights under this contract. This includes the right to name a new Beneficiary or Beneficiaries. If the surviving spouse dies without naming any new beneficiaries, the Death Benefit will be paid to his or her estate.

Death of an Owner after the Annuity Date
If a sole Owner dies after Annuity Payments begin, the Beneficiary will become the Owner of this contract. If a Joint Owner dies after Annuity Payments begin, the surviving Joint Owner becomes the sole Owner of this contract. Any remaining Annuity Payments will continue under the annuity Option that is in effect. Distribution of the remaining Annuity Payments must continue under the method of distribution in effect at the Owner's death.

Ownership

You are solely entitled to all benefits, Ownership rights and privileges under this contract while it is in the Accumulation Period.

Assignment of this contract
You may assign or transfer all or specific Ownership rights of this contract. No assignment will be effective until we receive Notice. We will record your assignment. We will not be responsible for its tax consequences, validity or effect, nor will we be liable for actions taken or payments made before we receive and record the assignment.

Change of Ownership
You may transfer Ownership of this contract to a new Owner while it is in the Accumulation Period. The change will be effective when we receive Notice, subject to our approval guidelines at that time. We will not be responsible for any tax consequences of such change. We will not be liable for any actions taken before we receive Notice. A change of Ownership does not affect the Beneficiary unless the new Owner requests a change of Beneficiary by providing Notice.

Change of Beneficiary
You may change the named Beneficiary by providing Notice. An irrevocable Beneficiary must give written consent before we will change that Beneficiary. A Beneficiary change will not be effective until we record it. Even if you are not living when we record the change, the change will take effect retroactively as of the date you signed the Notice. We will not be liable for any benefits we pay before we record the change.

General Provisions

Entire Contract
We have issued this contract in consideration of the Initial Premium payment. This contract, any endorsements, amendments, and attached riders together are the entire contract.

If the term "policy" is used in any attached endorsement or rider, the term "policy" shall have the same meaning as the term "contract."

Incontestability of this Contract
We will not contest this contract.

Misstatement of Age or Gender
If there is a misstatement of the Annuitant's Age and/or gender, we will adjust the Annuity Payments to that which the Accumulation Value or Cash Surrender Value, as applicable, would have purchased based upon the correct Age or gender. Any underpayment resulting from a misstatement of Age and/or gender must be paid immediately in one sum. Any overpayment will be deducted from the current or succeeding payment or payments due under this contract. If this contract was issued after the maximum issue age due to a misstatement of Age, we will be liable only for premium paid minus any prior distributions.

Annual Report
We will send you a report at the end of each Contract Year that shows contract activity, including annuity benefits and Cash Surrender Value.

No Dividends are Payable
This is a nonparticipating contract. This contract does not participate in our profits or surplus.

Who Can Make Changes in this Contract
Only our President together with our Secretary have the authority to make any changes to this contract. Any change must be in writing.

Duplicate Contract
If you misplace this contract, you may request a contract certificate. If you request a Duplicate Contract, we may assess a fee of up to $25.

Termination
This contract will terminate at the earliest of:
- our receipt of your written request for Full Surrender; or
- the date that the Cash Surrender Value equals zero or less; or
- the day that the Accumulation Value equals zero or less; or
- the date that our last payment obligation is met.

The contract provisions that do not apply to our payment obligations terminate on the Annuity Date.

Amendments
We reserve the right to amend this contract in order to include any future changes which would retain this contract's qualification for treatment as an annuity, whether under state or federal law, including the following:
- the Internal Revenue Code as amended;
- Internal Revenue Service Rulings and Regulations; and
- any requirements imposed by the Internal Revenue Service.

Allianz Life Insurance Company
of North America
PO Box 59060
Minneapolis, MN 55459-0060

Allianz

Product Suitability Form

Thank you for your interest in an Allianz annuity. Before we can process your application and issue your policy, we need to confirm that the annuity purchase suits your current financial situation and long-term goals. **Please complete this form in its entirety and submit with your application.**

Owner's name[1]	Age	Product name
Barbara R. Sawyer	64	MasterDex 5 Plus
Joint owner's name	Age	Premium amount
Annuity type ☑ Qualified ☐ Nonqualified	Are you actively employed? ☑ Yes ☐ No	

Your privacy is a high priority to us. The information you provide is only used to confirm the suitability of your purchase. It will not be shared and is treated with the highest degree of confidentiality.

FINANCIAL STATUS

1. **Approximate gross monthly household income[2]** $ 9,166.00 /Month
   - Examples: salary, Social Security, pension/retirement benefits, investment and rental income
   - Exclude income currently earned on the money that will be used to purchase this annuity
2. **Approximate monthly household living expenses** $ 6,500.00 /Month
   - Examples: housing, transportation, insurance, food, healthcare and taxes (include property, income, and FICA taxes)
3. **Disposable income (line 1 minus line 2)** $ 2,666.00 /Month
4. **Does your monthly income exceed your monthly expenses?** ☑ Yes ☐ No
5. **Minimum number of years you must own this annuity to receive the maximum value** 10 Years
6. **Do you anticipate a significant increase in living expenses or decrease in household monthly income during the time period indicated in question 5?** ☐ Yes ☑ No
   - If yes, please explain (if possible, approximate when you expect changes in living expenses or income, and the amount)
   - Examples of increases in living expenses might be housing, medical, nursing home, assisted living, or travel expenses
   - Examples of decreases in household income might be retirement or a lower pension amount
7. **Federal income tax bracket** ☐ 0% ☐ 10% ☐ 15% ☐ 25% ☑ 28% ☐ 33% ☐ 35%
8. **Approximate household net worth** $ 550,000.00
   - Net worth = total assets less total debt
   - Exclude primary residence, mortgage, and personal belongings
9. **Approximate household liquid assets** $ 65,000.00
   - Examples: checking, savings or money market accounts, short-term CDs, bonds, annuities without surrender charges, etc.
   - Exclude assets used to fund this annuity, free withdrawals from this annuity, and personal belongings
10. **Do you anticipate any significant reduction in your liquid assets during the time period indicated in question 5?** ☐ Yes ☑ No
11. **Total value of all annuities you own** (include the purchase of this annuity) $ 440,000.00
12. **Do you currently reside in a nursing home or assisted living facility?** ☐ Yes ☑ No

[1] For trust and corporate owned contracts, see agent guide for instructions on completion of form
[2] Household means the owner and spouse/partner, if a member of the owner's household

NB3051 | Submit original to Home Office with application. Leave copy with owner. Keep copy in agent file. | (R-7/2008)

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AZL-VAN DYKE-0342

Product Suitability Form

FINANCIAL OBJECTIVES

13. Financial objectives in purchasing this product (check all that apply)
☐ Income now ☑ Guarantees provided ☑ Growth potential ☑ Growth followed by income
☐ Tax-deferred growth ☑ Pass on to beneficiaries ☐ Other________________

14. Other financial products you own or have previously owned (check all that apply)
☐ None ☑ Certificates of deposit ☑ Fixed annuities ☐ Variable annuities ☑ Stocks/bonds/mutual funds

15. Source of this annuity's premium (check all that apply)
☑ Annuity ☐ Life insurance ☐ Certificates of deposit ☐ Other________________
☐ Reverse mortgage/home equity loan ☐ Savings/checking ☐ Stocks/bonds/mutual funds

16. Is this a replacement of an annuity or life contract? ☑ Yes ☐ No
If yes, what type? ☐ Fixed ☑ Fixed index ☐ Variable
If yes, is there a surrender charge? ☑ Yes ☐ No
If there is a charge, what is it on each contract being replaced? 10% __% __% __%

ACCESSING YOUR MONEY

17. How do you anticipate taking distributions from this annuity? (check all that apply)
☑ Free/systematic withdrawals or income rider ☐ Annuitize ☑ Required minimum distribution ☐ Enhanced withdrawal benefit
☐ Lump sum ☐ Loans ☑ Leave to beneficiary ☐ Immediate income

18. When do you anticipate taking your first distribution from this annuity? (choose one)
☐ Less than one year ☐ Between one and five years ☐ Between six and nine years
☑ 10 or more years ☐ None anticipated

19. I understand how my beneficiaries can receive the maximum contract value ☑ Yes ☐ No

NOTE: Please verify that all 19 questions were answered.
This form must be completed, signed, and dated so we can consider your application.

Owner acknowledgment
To the best of my knowledge and belief, the information above is true and complete. I understand that I should consult my tax advisor regarding possible tax implications of the purchase of an annuity or the exchange of an existing annuity or life insurance contract.

Owner's signature	Date
Barbara R Sawyer	4-26-2010
Joint owner's signature	Date

Agent acknowledgment
I believe this annuity is suitable for the financial needs and objectives of the owner(s). I base this belief on the information the owner(s) provided and on everything I know at this time.

Agent's signature	Agent number	Date
[signature]	888000596	04/26/2010

NB3051 Submit original to Home Office with application. Leave copy with owner. Keep copy in agent file. (R-7/2008)

0001384

AZL-VAN DYKE-0343

Allianz Life Insurance Company
of North America
PO Box 59060
Minneapolis, MN 55459-0060
800.950.7372

Allianz

Allianz MasterDex 5 Plus℠ Annuity
Statement of Understanding

Thank you for considering the Allianz MasterDex 5 Plus Annuity. We want to be sure that you are aware of the features, benefits, costs, and risks associated with the purchase of your contract.

Please read the following summary, and fully discuss each of the aspects of the contract described below with your agent. If you need additional clarification of any of the items listed below, please refer to the annuity contract.

Once you have read this summary, and discussed it completely with your agent, please sign the last page to confirm you understand the contract you are considering.

How does the Allianz MasterDex 5 Plus Annuity work?
The Allianz MasterDex 5 Plus Annuity is a fixed index insurance product. This means interest may be credited to your annuity's value based on the performance of one or more nationally recognized market indexes.

You can choose to earn interest credits based on the S&P 500, the Nasdaq-100®, the FTSE 100, or a blended index option that contains a predefined mix of domestic and international equity indexes along with a bond index.

Does the Allianz MasterDex 5 Plus Annuity have a bonus?
Yes, the Allianz MasterDex 5 Plus Annuity offers a premium bonus. This means that each time you make a premium payment during the first five contract years, we will add a bonus to your accumulation value. This bonus will equal 5% of each premium payment. Keep in mind that bonus annuities may have a higher surrender charge and a longer surrender charge schedule than you would get from similar annuities without the bonus feature.

How do I choose – and change – the way my annuity's value is allocated?
You can allocate all of your money to any of the index options mentioned above. If you prefer you can designate all of your premium to earn fixed interest. In addition, when you purchase your annuity you can also divide its value and allocate it (in 1% increments) to any of these options.

Shortly after each contract anniversary you will receive an annual report. It will include a form that allows you to change your current allocations. If that is your intention, you must complete the allocation change form and return it to the Home Office within 21 days after your contract anniversary. This will lock in your request and determine how your contract values are allocated over that contract year. If the form is not received within 21 days after your contract anniversary, your changes will not take effect until the next contract anniversary.

Assuming I choose the fixed interest option, how is fixed interest calculated and credited to my contract?
If you don't want your potential interest credits to be based solely on index changes, the Allianz MasterDex 5 Plus Annuity allows you to allocate, or designate, some or all of your annuity's value to a fixed interest option. This fixed interest option credits your contract with predicable interest based on rates we establish that are not based on a market index. Your initial interest rate is guaranteed for the first contract year. We can change the interest rate each contract year thereafter, but we guarantee it will be no less than 0.5% in all contract years. Your fixed interest is calculated and credited daily.

Assuming I allocate my money to an index option, how is interest calculated and credited to my contract?
If you choose the S&P 500, Nasdaq-100, or FTSE 100 option(s), you can choose annual point-to-point and/or monthly sum as your crediting method. If you choose the blended index option, you can choose annual point-to-point and/or monthly average as your crediting method.

Can you describe how annual point-to-point crediting works?
With annual point-to-point crediting, we capture the value of each index on the last business day before your contract is issued. We then capture it exactly one year later (and then on the last business day before each subsequent contract anniversary). We take the current year's index value and subtract the prior year's index value to determine how much the index has changed over that contract year. We then divide that difference by the prior year's index value, to determine the percentage of change that took place during the contract year.

As long as the percentage of change for an index does not exceed its stated annual cap (which we will define later), the indexed interest rate we will credit to your contract will be equal to the year's full percentage of change. If the percentage of change is greater than the annual cap, the annual cap percentage will be the indexed interest rate we will credit to your contract. If the percentage of change for an index is negative, the portion of your contract value allocated to that index option will not lose any value, but it will receive no indexed interest for that year.

Now can you describe monthly sum crediting?
We again start by capturing the value of each index on the last business day before your contract is issued. With monthly sum crediting, however, we capture the index value 12 more times each year, on the last business day before each of your contract's "monthiversaries." If your contract is dated the 14th of the month, for example, your monthiversary will be the 14th of every month throughout the life of your contract.

Each month, we take the current month's index value and subtract the previous monthiversary's index value. We then divide the difference (either positive or negative) by the previous month's index value. This determines the monthly return. For any month in which the monthly return exceeds the monthly cap for that index, the monthly cap percentage will be used to calculate the indexed interest rate you will receive. At the end of each contract year, we total these 12 monthly percentages (whether positive or negative) to determine the indexed interest rate we will credit to your contract for the year.

If the 12 monthly percentages for an index add up to a negative percentage, the portion of your contract value allocated to that index option will not lose any value, but it will receive no indexed interest for that year.

Can you describe how monthly average crediting works?
As is the case with monthly sum crediting, we start by capturing the value of each index on the last business day before your contract is issued. We then capture the index value 12 more times each year, on the last business day before each of your contract's monthiversaries. These 12 values are then added together, and divided by 12 to find the average. We take this average and subtract the starting index value, and then divide that difference by the starting index value to determine the percentage of change that took place during the contract year. Finally we subtract a spread (which we'll define later) from the percentage of change. If still positive, this is the indexed interest rate we will credit to your contract value for that contract year. If the result is negative, the portion of your contract value allocated to that index option will not lose any value, but it will receive no indexed interest for that year.

What are caps and spreads, and how do they affect my contract's potential growth?
A cap is a preset limit on the percentage of indexed growth that we use in calculating any indexed interest we credit to your contract each year. With annual point-to-point crediting, we apply an annual cap. If the percentage of change for an index during a contract year exceeds its annual cap, the annual cap percentage is the indexed interest rate you will receive. With monthly sum crediting, we apply a monthly cap. If the monthly return for an index during a contract month exceeds its monthly cap, the monthly cap percentage is used to calculate the indexed interest rate you will receive.

For monthly average crediting, there is no cap, but there is a spread. A spread is a preset deduction from the percentage of indexed growth that we use to calculate the indexed interest rate we credit to your contract each year. We subtract a spread from the percentage of change to determine the indexed interest rate you will receive.

Annual caps, monthly caps, and spreads for the first contract year are established when you purchase your contract. We may change these caps and spreads on each contract anniversary for the coming contract year. Annual caps will never be less than 1%. Monthly caps will never be less than 0.5%. Spreads will never be more than 12%.

Can I see how these three crediting methods could work?

Shown below are historical S&P 500 index values taken from three recent years. Each year was selected because it showcases the difference in hypothetical indexed interest rates calculated using the three crediting methods. **These examples are for illustration purposes only, to show the varying results obtained when each crediting method is applied to the same index performance.**

Please note: The monthly average crediting method is currently available only for the blended index option.

In each year we sample, one of the crediting methods outperforms the other two. So it is apparent that **no single crediting method offers superior performance under all market index conditions.**

For the three years shown, we show how each crediting method works, using hypothetical (non-guaranteed) caps and spreads. We also state what the indexed interest rates would have been if the caps and spreads were at their "worst case" levels.

Monthly average crediting would have produced the greatest growth in 1998:

End of month	S&P 500 index value	Monthly change	Capped at 0.50%	Capped at 2.60%
Dec	970.43	–	–	–
Jan	980.28	1.02%	0.50%	1.02%
Feb	1049.34	7.04%	0.50%	2.60%
Mar	1101.75	4.99%	0.50%	2.60%
Apr	1111.75	0.91%	0.50%	0.91%
May	1090.82	-1.88%	-1.88%	-1.88%
Jun	1133.84	3.94%	0.50%	2.60%
Jul	1120.67	-1.16%	-1.16%	-1.16%
Aug	957.28	-14.58%	-14.58%	-14.58%
Sep	1017.01	6.24%	0.50%	2.60%
Oct	1098.67	8.03%	0.50%	2.60%
Nov	1163.63	5.91%	0.50%	2.60%
Dec	1229.23	5.64%	0.50%	2.60%
Average	1087.86	Sum	-13.12%	2.50%

If you had selected annual point-to-point crediting:	At 1% cap	At 6.5% cap
Beginning year index value:	970.43	970.43
Ending index value:	1229.23	1229.23
Percentage of change:	26.67%	26.67%
Indexed interest rate:	1.00%	6.50%
If you had selected monthly sum crediting:	At 0.5% cap	At 2.6% cap
Sum of capped monthly returns:	-13.12%	2.50%
Indexed interest rate:	0.00%	2.50%
If you had selected monthly average crediting:	At 12% spread	At 2% spread
Beginning year index value:	970.43	970.43
Average index value:	1087.86	1087.86
Percentage of change:	12.10%	12.10%
Indexed interest rate:	0.10%	10.10%

Monthly sum crediting would have produced the greatest growth in 2004:

End of month	S&P index value	Monthly change	Capped at 0.50%	Capped at 2.60%
Dec	1111.92	–	–	–
Jan	1131.13	1.73%	0.50%	1.73%
Feb	1144.94	1.22%	0.50%	1.22%
Mar	1126.21	-1.64%	-1.64%	-1.64%
Apr	1107.30	-1.68%	-1.68%	-1.68%
May	1120.68	1.21%	0.50%	1.21%
Jun	1140.84	1.80%	0.50%	1.80%
Jul	1101.72	-3.43%	-3.43%	-3.43%
Aug	1104.24	0.23%	0.23%	0.23%
Sep	1114.58	0.94%	0.50%	0.94%
Oct	1130.20	1.40%	0.50%	1.40%
Nov	1173.82	3.86%	0.50%	2.60%
Dec	1211.92	3.25%	0.50%	2.60%
Average	1133.97	Sum	-2.52%	6.98%

If you had selected annual point-to-point crediting:	**At 1% cap**	**At 6.5% cap**
Beginning year index value:	1111.92	1111.92
Ending index value:	1211.92	1211.92
Percentage of change:	8.99%	8.99%
Indexed interest rate:	**1.00%**	**6.50%**
If you had selected monthly sum crediting:	**At 0.5% cap**	**At 2.6% cap**
Sum of capped monthly returns:	-2.52%	6.98%
Indexed interest rate:	**0.00%**	**6.98%**
If you had selected monthly average crediting:	**At 12% spread**	**At 2% spread**
Beginning index value:	1111.92	1111.92
Average index value:	1133.97	1133.97
Percentage of change:	1.98%	1.98%
Indexed interest rate:	**0.00%**	**0.00%**

Annual point-to-point crediting would have produced the greatest growth in 2005:

End of month	S&P 500 index value	Monthly change	Capped at 0.50%	Capped at 2.60%
Dec	1211.92	–	–	–
Jan	1181.27	-2.53%	-2.53%	-2.53%
Feb	1203.60	1.89%	0.50%	1.89%
Mar	1180.59	-1.91%	-1.91%	-1.91%
Apr	1156.85	-2.01%	-2.01%	-2.01%
May	1191.50	3.00%	0.50%	2.60%
Jun	1191.33	-0.01%	-0.01%	-0.01%
Jul	1234.18	3.60%	0.50%	2.60%
Aug	1220.33	-1.12%	-1.12%	-1.12%
Sep	1228.81	0.69%	0.50%	0.69%
Oct	1207.01	-1.77%	-1.77%	-1.77%
Nov	1249.48	3.52%	0.50%	2.60%
Dec	1248.29	-0.09%	-0.09%	-0.09%
Average	1207.77	Sum	-6.96%	0.93%

If you had selected annual point-to-point crediting:	**At 1% cap**	**At 6.5% cap**
Beginning year index value:	1211.92	1211.92
Ending index value:	1248.29	1248.29
Percentage of change:	3.00%	3.00%
Indexed interest rate:	**1.00%**	**3.00%**
If you had selected monthly sum crediting:	**At 0.5% cap**	**At 2.6% cap**
Sum of capped monthly returns:	-6.96%	0.93%
Indexed interest rate:	**0.00%**	**0.93%**
If you had selected monthly average crediting:	**At 12% spread**	**At 2% spread**
Beginning year index value:	1211.92	1211.92
Average index value:	1207.77	1207.77
Percentage of change:	-0.34%	-0.34%
Indexed interest rate:	**0.00%**	**0.00%**

How is interest calculated for the blended index option?
The blended index option is made up of multiple market indexes in fixed percentages, or weights, that will not change during the life of your contract. The indexes (and their weights) are as follows: Dow Jones Industrial Average (35%), Barclays Capital U.S. Aggregate Bond Index (35%), FTSE 100 Index (20%), and Russell 2000 (10%). To calculate the indexed interest rate for the blended index, the percentage of change for each index in the blend is calculated using either the annual point-to-point or the monthly average methods we described previously, and then the percentages are combined according to the weight of each index.

The hypothetical example below shows how the indexed interest rate for the blended index option would be calculated.

	Beginning index value	Ending or average index value	Percentage of change	Weight	Weighted percentage of change
Index 1	2422.70	2589.00	6.864%	X35%	**= 2.402%**
Index 2	53.65	62.00	15.564%	X35%	**= 5.447%**
Index 3	2753.20	2633.66	-4.342%	X20%	**= -0.868%**
Index 4	168.31	189.00	12.293%	X10%	**= 1.229%**

In this example, the sum of the four bold weighted percentages of change = 8.21%.

Note that, for the annual point-to-point method, an annual cap is applied to the sum of the weighted percentages of change, not to each individual weighted percentage of change. As long as the sum of the weighted percentages of change for the blended index option does not exceed its stated annual cap, the indexed interest rate we will credit to your contract under the annual point-to-point crediting method will be equal to the year's full weighted percentage of change. If the sum of the weighted percentages of change for the blended index option exceeds the annual cap, the annual cap percentage is the indexed interest rate you will receive under that method. If the sum of the weighted percentages of change is a negative percentage, the portion of your contract value allocated to that index option will not lose any value, but it will receive no indexed interest for that year. For the monthly average crediting method, we will credit the year's full weighted percentage of change minus the spread. If the result after subtracting the spread is negative, the portion of your contract value allocated to that index option will not lose any value, but it will receive no indexed interest for that year.

Can my annuity's value go down due to losses in the index(es) I choose?
No. If the index(es) suffer a loss in any given year, your principal (the money you put into the annuity) is protected. Any interest – fixed or indexed – that has been previously credited is also safe from index losses. However, your annuity's value will be affected by when – and how – you decide to take money out of the contract.

Although an external index may affect your contract values, the contract does not directly participate in any stock or investments. You are not buying any bonds, shares of stock, or shares of an index. The market index value does not include the dividends paid on the stocks underlying a stock index. These dividends are also not reflected in the interest credited to your contract.

Does this annuity have a participation rate?
Yes. The participation rate determines how much of the percentage of indexed growth for an index option will be used to calculate the interest that is credited to your contract. The participation rate is 100% and is guaranteed for the life of the contract. Keep in mind, the amount of any gains allowed by your participation rate will still be subject to the cap(s) or the spread(s) for your selected index(es) and crediting methods.

How will I know the value of my annuity contract?
The first thing you should know is that, throughout the life of your annuity contract, the Allianz MasterDex 5 Plus℠ Annuity will actually have three separate values. Access to each of these values depends on when – and how – you take money out of the annuity. Those values are the:

- Accumulation value
- Cash surrender value
- Guaranteed minimum value

Accumulation value. The accumulation value equals the premium you pay into the contract, plus a 5% premium bonus and any interest credits earned. Withdrawals and any applicable surrender charges will decrease your contract's accumulation value.

Cash surrender value. The cash surrender value is your accumulation value minus any applicable surrender charge. The surrender charge applies during the first 10 contract years and may result in the loss of some or all of your premium bonus, previously credited interest, and a partial loss of principal. We discuss surrender charges later.

Guaranteed minimum value. In addition to the two values just discussed, we provide a guaranteed minimum value with all fixed annuities. You would receive your contract's guaranteed minimum value only if it were higher than your contract's cash surrender value. The guaranteed minimum value equals 87.5% of your total premium, minus any withdrawals, growing at an annual interest rate no less than 2% nor greater than 3%, depending on your selection of indexed and/or fixed interest allocation options.

Can I see an illustration of the various values associated with my annuity?
The following examples show hypothetical values for an Allianz MasterDex 5 Plus Annuity that was purchased with an initial premium of $100,000. Example 1 shows 100% of the premium payment allocated to an index option with annual point-to-point crediting, a guaranteed minimum value interest rate of 2%, and no additional premium payments. Table 1 shows an assumed annual cap of 6.5% (nonguaranteed), Table 2 shows guaranteed contract values, which are based on a market index scenario where the indexed interest rate is zero for all contract years. You can track the changes in the $100,000 initial premium and 5% bonus as they are impacted by the hypothetical changes in the index.

Notice the relationship between the accumulation value and the cash surrender value. You can see that once the contract has completed its 10-year surrender charge period, its accumulation value and cash surrender value are identical. That means that anytime after your 10th contract anniversary, you would be free to cancel your contract and receive your entire accumulation value. The guaranteed minimum value is also listed for your reference.

Example 1

Table 1 (Assumes 6.5% annual cap)

End of contract year	Percentage of change	Indexed interest rate	Accumulation value	Surrender charge	Cash surrender value	Guaranteed minimum value
Issue			$105,000	15.00%	$ 89,250	$ 87,500
1	19.5%	6.50%	$111,825	15.00%	$ 95,051	$ 89,250
2	-10.1%	0.00%	$111,825	15.00%	$ 95,051	$ 91,035
3	-13.0%	0.00%	$111,825	15.00%	$ 95,051	$ 92,856
4	-23.4%	0.00%	$111,825	12.86%	$ 97,448	$ 94,713
5	26.4%	6.50%	$119,094	10.71%	$106,334	$ 96,607
6	9.0%	6.50%	$126,835	8.57%	$115,963	$ 98,539
7	3.0%	3.00%	$130,640	6.43%	$122,241	$100,510
8	13.6%	6.50%	$139,131	4.29%	$133,169	$102,520
9	3.5%	3.50%	$144,001	2.14%	$140,915	$104,571
10	-38.5%	0.00%	$144,001	0.00%	$144,001	$106,662

In years 1, 5, 6 and 8, the percentage of change exceeds the assumed annual cap. Therefore, the indexed interest rate in each of those years is equal to the cap of 6.5%.

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Table 2 (Guaranteed contract values with an assumed indexed interest rate of 0%)

End of contract year	Percentage of change	Indexed interest rate	Accumulation value	Surrender charge	Cash surrender value	Guaranteed minimum value
Issue			$105,000	15.00%	$ 89,250	$ 87,500
1	–	0.00%	$105,000	15.00%	$ 89,250	$ 89,250
2	–	0.00%	$105,000	15.00%	$ 89,250	$ 91,035
3	–	0.00%	$105,000	15.00%	$ 89,250	$ 92,856
4	–	0.00%	$105,000	12.86%	$ 91,500	$ 94,713
5	–	0.00%	$105,000	10.71%	$ 93,750	$ 96,607
6	–	0.00%	$105,000	8.57%	$ 96,000	$ 98,539
7	–	0.00%	$105,000	6.43%	$ 98,250	$100,510
8	–	0.00%	$105,000	4.29%	$100,500	$102,520
9	–	0.00%	$105,000	2.14%	$102,750	$104,571
10	–	0.00%	$105,000	0.00%	$105,000	$106,662

I see there is a surrender charge. What is it?
The surrender charge is the penalty you pay to surrender (cancel) or withdraw all or part of your contract during the first 10 contract years. The surrender charge starts at 15% of the contract's accumulation value and it decreases by 0.1786% on each monthiversary beginning in contract year four. On the first day of contract year 11, it will decrease to zero.

This chart details the surrender charges during the first 10 contract years for any withdrawals that are subject to a penalty. If you take a full or partial withdrawal that is subject to a penalty during this time, we will apply the surrender charge shown to your withdrawal.

Beginning of contract year	1	2	3	4	5	6	7	8	9	10	11
Surrender charge	15.00%	15.00%	15.00%	15.00%	12.86%	10.71%	8.57%	6.43%	4.29%	2.14%	0.00%

Note: The above chart shows annual decreases in the surrender charge. Actually, it decreases monthly (at a rate of 0.1786% per month), from year four until day one of contract year 11.

How do I avoid surrender charges?
After 10 contract years you will avoid surrender charges, and you can take your full accumulation value as a lump sum. During the surrender charge period, you can also take penalty-free partial withdrawals (which are described later) from your contract, and no surrender charges or other contract penalties will apply. Regardless of whether a withdrawal is penalty-free or subject to a surrender charge and/or other contract penalty, however, any time you take a withdrawal from your annuity it may be subject to taxes (which are discussed later).

Can I take money out of my annuity without incurring a surrender charge while the contract is in deferral?
Yes. It's quite possible you will want money from your annuity contract somewhere down the road. But you may not need it all. We offer a variety of ways you can get some of your money out of your annuity without incurring surrender charges, including:

- Penalty-free partial withdrawals
- Contract loans
- Required minimum distributions
- Our Nursing Home Benefit

How can I take a penalty-free partial withdrawal from my contract?[1]
A penalty-free partial withdrawal will not be subject to a surrender charge, although taxes and tax penalties may apply. A penalty-free partial withdrawal will reduce each of your guaranteed minimum value and accumulation value by the partial withdrawal amount. If the partial withdrawal is not penalty-free, your guaranteed minimum value will be reduced by the partial withdrawal amount and your accumulation value will be reduced by the partial withdrawal amount and any associated surrender change.

To be penalty-free, a partial withdrawal must meet all of the following conditions:

- The partial withdrawal must be taken after the contract anniversary following your most recent premium; and
- The cumulative partial withdrawal amount within a contract year must not exceed 10% of your total premium paid.

We will recalculate any penalty-free partial withdrawal as if it were not penalty-free under certain conditions. We will make this recalculation if, within a contract year after you take a penalty-free partial withdrawal:

- You request a full surrender; or
- You send us additional premium.

Penalty-free partial withdrawals from index allocations are eligible to receive interest at the end of the contract year the withdrawals were taken. This interest is based on the indexed interest rate and

[1] In certain states we will recalculate any penalty-free partial withdrawal as if it were not penalty-free if you request another partial withdrawal that causes your cumulative partial withdrawal amount within a contract year to exceed 10% of your total premium paid.

the amount of time during that year before each free withdrawal was taken.

What if I need to take a contract loan?
Loans are available on nonqualified annuities and some tax-qualified annuities (TSAs). You can borrow up to 50% of your contract's cash surrender value (up to a $50,000 maximum). Like any loan, contract loans are subject to an annual interest charge, but they are contract-penalty-free as long as they are repaid with interest. Please note: Loans on nonqualified annuities may be subject to ordinary income tax and tax penalties at distribution.

I understand I may have to take required minimum distributions someday. Does my annuity allow these?
Based on your age (usually 70½ or older) and the tax designation of your contract (IRA, SEP, etc.) you may have to take minimum distribution payments. If they are taken annually in December or monthly throughout the year, required minimum distributions (RMDs) are penalty-free, although they will reduce or eliminate the amount available for other penalty-free partial withdrawals. You may not exceed the annual RMD amount specified by the IRS, which will be based on your age and the value of your contract, without incurring surrender charges. Allianz will only send a required minimum distribution for the contracts you have with us, and only if you request that we do so.

How can your Nursing Home Benefit help me access my money without surrender charges or other contract penalty?
After the first contract anniversary, if you are the contract owner and you become confined to a nursing home for 30 out of 35 consecutive days, your full accumulation value can be paid to you as annuity payments over as little as five years.

How do I avoid surrender charges and get my contract's full accumulation value?
To avoid surrender charges and receive 100% of your annuity's full accumulation value, you must keep the contract in force at least until your 10th contract anniversary – at this point the surrender charge expires. After you have held your contract for at least 10 contract years, then you can take your contract's full accumulation value as a lump-sum payment.

After the fifth contract year you also have the option to take interest-only annuity payments over the next five years, or payments of both principal and interest over a period of at least 10 years. This is what is meant by "annuitization." Once you begin taking your accumulation value as annuity payments, it will no longer receive additional fixed and/or indexed interest.

If you decide not to keep your contract in force for 10 full years, or if you choose an annuity payment option different from those listed below, you will receive your contract's cash surrender value rather than its accumulation value.

Please note: Even when surrender charges are no longer a factor, there may still be tax consequences when you withdraw money from your annuity. See "Are there tax consequences if I withdraw money?" later in this document.

What are my options for receiving annuity payments?
After you keep your contract in deferral for at least five contract years, you can choose to receive annuity payments in any of the following ways.

- Interest only – You have the option to receive interest-only annuity payments for five years. Interest will be paid as earned based on your then-current accumulation value. After five years of taking interest-only payments, you may then take your accumulation value as a lump-sum payment.
- Installments for a guaranteed period – You can choose to receive annuity payments in equal installments for a period from 10 to 30 years. Each installment would consist of part principal and part interest.
- Installments for life – You have the option to receive annuity payments in equal installments for the rest of your life. Payments end upon your death, even if we have paid only one annuity payment at the time you die.
- Installments for life with a guaranteed period – You can choose to receive annuity payments in equal installments for the rest of your life. Upon your death, payments for the balance of the guaranteed period, if any, will be paid to your beneficiary in the same way as they were previously being made.
- Installments for a selected amount – You may select to receive annuity payments in equal installments of an amount that you choose, as long as the payments last for at least 10 years. Payments continue until your accumulation value and interest are gone.
- Joint and survivor – You can select to have equal installments paid until your death with additional payments to your named survivor. In this case, payments to your named survivor would continue until his or her death at 100%, 2/3, or 1/2 of your original installments, based on your selection.

Are there any options for receiving annuity payments before the end of five contract years?[1]
Yes, our Flexible Annuity Option Rider allows you to receive payments based on your accumulation value **(less any applicable bonus and/or interest earned on that bonus)** anytime after the first contract year but before the sixth contract year over a period certain of 10 to 30 years. Or, at higher attained ages as shown in the Flexible Annuity Option Rider you may request this value in equal installments for a period certain of less than 10 years. Each installment will consist of part principal and part interest. There is no charge for this rider.

What happens if I cancel my contract?
That depends on when you cancel it. This contract is designed for people who are willing to hold their contracts for 10 years (or longer), after which they can cancel their annuity contract without penalty and receive its full accumulation value. If you fully (or partially) surrender your annuity contract before its 10th contract anniversary, the amount you receive will be subject to a surrender charge. This could result in the loss of some or all of your premium bonus, previously credited interest, and a partial loss of principal.

Are there any tax consequences if I withdraw money (or surrender my contract)?
Regardless of whether a withdrawal is penalty-free or subject to a surrender charge and/or other contract penalty, anytime you take a withdrawal from your annuity it may be taxed as ordinary income. This includes partial withdrawals and loans. In addition, any amount you withdraw from your annuity prior to age 59½ may be subject to a 10% federal tax penalty. These taxes and tax

[1] Not available in all states.

penalties may result in a partial loss of principal, as well as a partial loss of any indexed or fixed interest earned previously. Allianz does not provide legal counsel or tax advice, so please consult a tax or legal advisor for further information about tax issues.

Can I add money to my Allianz MasterDex 5 Plus℠ Annuity down the road?
Yes. Additional money (or premium) may be added to your annuity at any time within the first five contract years. The additional premium you pay during a contract year will automatically be credited with a 5% bonus and then placed into an interim interest allocation where it will earn fixed interest – guaranteed to be at least 0.5% – until your next contract anniversary. It will then be allocated to your selected index options and/or the fixed interest option according to your premium allocation percentages.

How will I know how my contract is doing?
You will receive an annual report following each contract anniversary. This report will show your contract's current accumulation value, along with its cash surrender value. The annual report will also reflect any premium payments and any surrenders or withdrawals, and will show fixed interest rates, the annual and monthly caps, and spreads for the current contract year.

What happens if I die before annuity payments have begun under my Allianz MasterDex 5 Plus Annuity?
Your beneficiary(ies) will receive the greater of the contract's accumulation value or its guaranteed minimum value. In either case, they can elect to receive a lump-sum payment or payments over the course of five years (or longer).

Are there any other important points I should know about annuities like the Allianz MasterDex 5 Plus℠ Annuity?
If you are purchasing the Allianz MasterDex 5 Plus to replace an annuity you currently own, compare the two products carefully. The benefits and guarantees offered by the two products may be different. Keep in mind that you may incur a surrender charge if you cancel an existing annuity to purchase the Allianz MasterDex 5 Plus. You will also begin a new surrender charge period with your purchase of the Allianz MasterDex 5 Plus. Purchasing the Allianz MasterDex 5 Plus within an IRA or other qualified retirement plan that already provides tax deferral under the Internal Revenue Code results in no additional tax benefit to you. If you are considering the purchase of the Allianz MasterDex 5 Plus in a qualified retirement plan, you should therefore base your decision on its other benefits and features as well as its risks and costs.

I have read the information above. It has been explained to me by the agent. I understand that, during the first 10 contract years, amounts payable under this contract are subject to a surrender charge which may result in a partial loss of premium and the loss of some or all of the bonus and any interest credits earned previously.

I have also received and read the Allianz MasterDex 5 Plus Annuity consumer brochure. I understand that any values shown, other than guaranteed minimum values, are not guarantees, promises, or warranties. I understand that I may return my contract for a full refund within the free look period (shown on the first page of my contract) if I am dissatisfied for any reason.

Owner Barbara R Sawyer Date 4-26-2010

I have presented and provided a signed copy of this disclosure to the owner. I have not made statements that differ from the disclosure form and no promises or assurances have been made about the future values of the contract.

Agent [signature] Date 04/26/2010

SOU51261-1 White-Home Office Yellow-Owner Pink-Agent (R-6/2009)

SUBMIT WITH APPLICATION

0001391

AZL-VAN DYKE-0350

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Not FDIC Insured • May lose value • No bank or credit union guarantee • Not a deposit • Not insured by any federal government agency or NCUA/NCUSIF

Allianz Life Insurance Company
of North America
PO Box 59060
Minneapolis, MN 55459-0060
800.950.7372

Allianz

Allianz Income Plus Benefit℠
Statement of Understanding

Thank you for considering the Allianz Income Plus Benefit℠. We want to be sure that you are aware of the features, benefits, costs, and risks associated with this optional benefit rider.

Please read the following summary. If you need additional clarification of any of the items listed below, please discuss them thoroughly with your agent.

Once you have read this summary, please sign the last page to confirm you understand the rider you are considering.

What is the Allianz Income Plus Benefit℠?
The Allianz Income Plus Benefit℠ is an optional benefit rider. With this rider, you can receive income payments based on your Income Withdrawal Value for the rest of your life, even if your Accumulation Value is completely exhausted. If you want to add the Allianz Income Plus Benefit℠ to your contract, you must choose it when you apply for your contract. There is a monthly charge for this benefit rider, which we discuss later.

What is the Income Withdrawal Value?
We establish the Income Withdrawal Value at contract issue, and set it equal to your initial premium plus any applicable premium bonus. If you pay additional premium, the Income Withdrawal Value will increase by the additional premium plus any applicable bonus. We will allocate this amount to the interim interest allocation until your next contract anniversary, when we will allocate the amount (with interest) to your selected allocations according to your premium allocation percentages. We guarantee that the Income Withdrawal Value will grow by at least the Treasury Benchmark Rate until you begin taking income payments, for up to 10 contract years. During that time period, if the interest rate credited to your annuity's Accumulation Value is greater than the Treasury Benchmark Rate in any year, your Income Withdrawal Value will grow by the higher rate. After you begin taking income payments, or after the 10th contract year (whichever comes first), your Income Withdrawal Value can continue to grow at the rate credited to your Accumulation Value.

Please refer to your annuity's Statement of Understanding for more information about how we calculate the interest rate for your Accumulation Value.

What is the Treasury Benchmark Rate?
The Treasury Benchmark Rate is a rate that we created for this rider. We calculate your Treasury Benchmark Rate at contract issue and guarantee it for the life of your contract. The Treasury Benchmark Rate is modeled after the ten-year Constant Maturity Rate published by the Federal Reserve Board. If you choose to defer income payments, we guarantee that your Income Withdrawal Value will grow by at least this rate each contract year before you begin income payments, for up to 10 contract years from the issue date. Your Treasury Benchmark Rate will be shown on your contract's schedule page.

How can I begin income payments?
You must be at least age 60 but no older than age 90 in order to begin taking income payments. This means that if you are younger than age 60 when your contract is issued you will have to defer income payments. So long as you meet these age requirements, you may begin taking income payments at issue or on any contract anniversary. If you want to take payments immediately, you must indicate that intent when you apply for your contract. If you choose to defer income payments, you may begin payments on any contract anniversary by sending our Home Office written notice within 21 days after that contract anniversary. If we receive notice more than 21 days after a contract anniversary, your payments will not begin until the next contract anniversary.

Note: You cannot begin income payments if you have an unpaid loan on your contract.

How do you calculate my first income payment?
If you are eligible to take income payments, you may take them in any amount you choose up to 100% of the Annual Income Withdrawal each contract year. When you begin taking income payments, the Annual Income Withdrawal for the first contract year will be a percentage of the Income Withdrawal Value. The percentage will be based on your age* on the contract anniversary when you begin taking income payments.

In some cases, income payments can continue for the lifetimes of both spouses, so long as the younger spouse is at least age 60 and no older than age 90 at the time payments begin. In this case, the percentage used to calculate the initial Annual Income Withdrawal will be based on the age of the younger spouse on the contract anniversary when you begin taking income payments.

***Note: The percentage used to calculate the initial Annual Income Withdrawal depends on the type of ownership and the tax status of your contract, and whether you want your payments based upon a single life or upon the joint lives of spouses. For the majority of contracts, this percentage will be based upon the age of the sole owner (or the age of the younger joint owner if the joint owners are spouses and elect the joint life payment option), but there are other possibilities. For ease of reference throughout this document, we refer to the person whose age is used to determine the percentage as "you" and the person's age as "your age", but it is important that you know the exact details of your contract. Please refer to "Which payment options are available to me?" for more information.**

The table below shows the percentages used to calculate the initial Annual Income Withdrawal for single life and joint life payments.

Percentage of Income Withdrawal Value available as initial Annual Income Withdrawal

Age	Single life payment option	Joint life payment option
60-69	5.0%	4.5%
70-79	5.5%	5.0%
80-90	6.0%	5.5%

How do you calculate subsequent Annual Income Withdrawals?

Your Annual Income Withdrawals will never decrease (unless you take an additional withdrawal). On each contract anniversary, the Annual Income Withdrawal for the following year can grow at the rate credited to your Accumulation Value.

Can I see a calculation of the Annual Income Withdrawal?

In this example, assume:

- The Income Withdrawal Value equals $105,000; and
- The sole contract owner is 65 years old and begins single life income payments immediately.

Then the Income Withdrawal Value is $105,000 and the initial Annual Income Withdrawal is 5% of the Income Withdrawal Value, or $5,250.

Let's assume the interest rate credited to the contract's Accumulation Value at the end of the first contract year is 7.50%. As a result, we increase the Annual Income Withdrawal for the second year by 7.50% as well, from $5,250 to $5,644. Now assume that the market had a negative year, so that the interest rate credited to the contract's Accumulation Value is 0.00% at the end of the second year. That means the Annual Income Withdrawal for the third year doesn't increase — but just like the Accumulation Value, it doesn't go down, either. Finally, assume that the interest rate credited to the contract's Accumulation Value at the end of the third contract year is 3.00%. This means we increase the Annual Income Withdrawal again, this time by 3.00%, to $5,813.

End of year	Interest rate	Annual Income Withdrawal
Issue		$5,250
1	7.50%	$5,644
2	0.00%	$5,644
3	3.00%	$5,813

Which payment options are available to me?
Your eligibility to select the single life or joint life payment option depends upon the type of ownership and the tax status of your contract. The chart below shows the available options for each type of ownership and tax status, and indicates the person upon whose age the initial Annual Income Withdrawal is based.

Contract ownership	Contract tax status/ status of other persons named in contract	Available income payment option(s)	Length of time payments continue
Sole individual owner	Non-qualified contract; spouse is not primary beneficiary	Single life payment option only, based on age of owner	As long as the owner is living
Sole individual owner	Non-qualified or qualified contract; spouse is primary beneficiary	Single life payment option based on age of owner; joint life payment option based on age of younger spouse	Single life payment option, as long as the owner is living; joint life payment option, as long as either spouse is living
Joint owners	Non-qualified contract; joint owners are not spouses	Single life payment option only, based on age of either owner, as designated when income payments begin	As long as the designated owner is living
Joint owners	Non-qualified contract; joint owners are spouses	Single life payment option based on age of either spouse, as designated when income payments begin; joint life payment option based on age of younger spouse	Single life payment option, as long as the designated spouse is living; joint life payment option, as long as either spouse is living
Non-individual owner	Non-qualified contract; annuitant and primary beneficiary are not spouses	Single life payment option only, based on age of annuitant	As long as the annuitant is living
Non-individual owner	Non-qualified or qualified contract; annuitant and primary beneficiary are spouses	Single life payment option based on age of annuitant; joint life payment option based on age of younger spouse	Single life payment option, as long as the annuitant is living; joint life payment option, as long as either spouse is living
Non-individual owner	Qualified contract/owned inside a qualified plan or custodial account; annuitant and contingent beneficiary are spouses	Single life payment option based on age of annuitant; joint life payment option based on age of younger spouse	Single life payment option, as long as the annuitant is living; joint life payment option, as long as either spouse is living

***Note: Spouses must qualify as such under federal law. If you are receiving income payments based on a joint life payment option and you become divorced, you must send us written notice to remove your former spouse from the contract. If we receive written notice that either spouse has died before we receive notice to remove the former spouse following a divorce, income payments will terminate and the death benefit will be paid to the surviving former spouse.**

How often can I take income payments?
You can choose to receive income payments on a monthly, quarterly, semiannual, or annual basis, as long as each income payment is at least $100. You can change the payment frequency on any contract anniversary by sending our Home Office written notice at least 21 days prior to that contract anniversary. If we receive notice less than 21 days prior to a contract anniversary, your request will not be effective until the next contract anniversary.

At any point during a contract year, you may request a lump-sum payment of all or part of any remaining Annual Income Withdrawal for that contract year, without surrender charge or other contract penalty. If you still have any remaining Annual Income Withdrawal for that contract year, your scheduled income payments will continue. Once you take the entire Annual Income Withdrawal for that contract year, your income payments will stop. Income payments will automatically resume the next contract year in the same amount and at the same frequency, unless you send us written notice requesting a change.

How do my income payments reduce my contract values?
Income payments are considered penalty-free partial withdrawals, and are not subject to any surrender charge or other contract penalty. Penalty-free partial withdrawals reduce your Accumulation Value and your Income Withdrawal Value dollar-for-dollar.

Note: Withdrawals in excess of the Annual Income Withdrawal for a contract year are not penalty-free and are subject to applicable surrender charges. Partial withdrawals that are not penalty-free reduce your Accumulation Value by the withdrawal amount plus any applicable surrender charges. They also reduce your Income Withdrawal Value and your Annual Income Withdrawal by the same percentage that the Accumulation Value is reduced.

Can I take less than the Annual Income Withdrawal each year?
Yes. If you wish to take less than the Annual Income Withdrawal each year, you may send our Home Office written notice requesting a lesser amount for that year. If you wish to temporarily stop income payments entirely, simply send our Home Office written notice. If we receive notice more than 21 days prior to a contract anniversary, your request will be effective on that contract anniversary. If we receive notice less than 21 days prior to a contract anniversary, your request will not be effective until the next contract anniversary. The amount you request will be the total amount you receive each contract year thereafter until you send us written notice requesting a different amount.

Note: If you take an amount less than the Annual Income Withdrawal in any year, you will reduce the total amount you receive from your contract over your lifetime. The only benefit from taking less than the Annual Income Withdrawal in any year is that the remaining Income Withdrawal Value that may be available to your beneficiaries as a death benefit will be higher.

Can I take a penalty-free withdrawal from my contract?
Yes. Before you begin taking income payments, you may take penalty-free partial withdrawals, as allowed by your annuity. Please refer to your annuity's Statement of Understanding for more information about penalty-free partial withdrawals.

After you begin taking income payments, your Annual Income Withdrawal is the maximum amount available as a penalty-free partial withdrawal. Please refer to "How often can I take income payments?" earlier in this document for more information.

Are there tax consequences if I take income payments or other withdrawals?
Regardless of whether a withdrawal is penalty-free or subject to a surrender charge and/or other contract penalty, anytime you take a withdrawal from your annuity it may be taxed as ordinary income. This includes income payments, other partial withdrawals and loans. In addition, any amount you withdraw from your annuity prior to age 59 ½ may be subject to a 10% federal tax penalty. These taxes and tax penalties may result in a partial loss of principal, as well as a full or partial loss of any bonus, fixed interest and/or indexed interest earned previously. Allianz does not provide legal counsel or tax advice, so please consult a tax or legal advisor for further information about tax issues.

Can I add money to my annuity down the road?
You may add money to your annuity according to the terms of the base contract if you have not begun taking income payments. Once you have started taking income payments you may not add premium.

How will I know how my contract is doing?
You will receive an annual report following each contract anniversary. This report will show your contract's current Annual Income Withdrawal, along with its Income Withdrawal Value, Accumulation Value, and Cash Surrender Value. The annual report will also reflect any premium payments and surrenders or withdrawals (including income payments), and will show fixed interest rates, the annual and monthly caps, and spreads for the current contract year.

What are my options for receiving annuity payments?
Income payments are considered penalty-free partial withdrawals and are not traditional annuity payments. You can choose to receive annuity payments as described in your annuity's contract, even after you take income payments. Keep in mind that your annuity payments will be based on your Accumulation Value, not your Income Withdrawal Value, and you will no longer be able to take income payments once you begin your annuity payments. Please refer to your annuity's Statement of Understanding for more information about your options for receiving annuity payments.

What happens if I die?
If you die before traditional annuity payments have begun, we will pay the remaining Accumulation Value to your beneficiaries as a death benefit if they choose to receive a single lump-sum payment. If your beneficiaries choose to receive the death benefit as annuity payments over at least a five year period, we will base the payments on any remaining Income Withdrawal Value instead. If you die after annuity payments have begun, any remaining annuity payments will continue under the annuity option that is in effect.

What is the charge for the rider?
The annual charge for the Allianz Income Plus Benefit℠ is 0.40%, or 40 basis points, of the Income Withdrawal Value. The annual charge for this rider is calculated on each contract anniversary, and 1/12th of the annual charge is deducted from the Accumulation Value on each contract "monthiversary." The rider charge will reduce the contract's Accumulation Value dollar-for-dollar, but will not reduce the guaranteed minimum value or the Income Withdrawal Value.

The annual charge for this rider will continue for the life of the contract unless:

- There is no remaining Accumulation Value.
- The rider is terminated at your request.
- You have not started taking income payments by your 90th birthday. (In this case, the annual charge will stop automatically on the contract anniversary following your 90th birthday, and the Income Withdrawal Value will no longer increase.)

Can I cancel my rider?
You may cancel this rider at any time by sending our Home Office written notice. You may not reinstate the riders after you cancel it. The charge for a cancelled rider will terminate on the "monthiversary" following the date we receive your written notice to cancel the rider.

~~Can I cancel my contract after I begin taking income~~ payments?
Yes. Your income payments are not traditional annuity payments, so you still have the ability to surrender your contract. If you do so, you will receive your Cash Surrender Value. In most cases, however, you will receive a lesser value if you surrender your contract than if you continue the income payments.

I have read the information above. It has been explained to me by the agent. I have also received and read the Allianz Income Plus Benefit℠ consumer brochure. I understand that I may cancel this rider at any time if I am dissatisfied for any reason. I also understand that once cancelled, this benefit rider cannot be reinstated.

Owner Barbara R. Sawyer Date 4-26-2010

I have presented and provided a signed copy of this disclosure to the owner. I have not made statements that differ from the disclosure form and no promises or assurances have been that differ from the contents of this document.

Agent/Registered Representative [signature] Date 04/26/2010

Replacement – (Complete if life insurance or annuities will be replaced.)

The following policy(ies) may be replaced as a result of this transaction:

Insurer as it appears on the policy	Insured as it appears on the policy	Policy number
ING USA Annuity and Life Insurance Company	Barbara R. Sawyer	90275162

Barbara R. Sawyer	Richard Van Dyke
Applicant's name (printed)	Agent's name (print)
336 S. Plum St.	1028 South Walnut
Address	Address
Havana, IL 62644	Springfield, IL 62704
City, State, Zip Code	City, State, Zip Code
309-543-2944	217-753-1515
Telephone number	Telephone number

NB5040-IL-Ann (5/2004)

Return to Home Office

0001398

AZL-VAN DYKE-0357

Allianz Life Insurance Company
of North America

PO Box 59060
Minneapolis, MN 55459-0060

Allianz

Notice Regarding Replacement of Life Insurance or Annuity

(Name of Existing Insurer)
(Address)

You are herewith given notice that we are in receipt of application(s) for life insurance or annuity(ies) for an individual presently insured with your company.

Identification

Name of Insured Barbara R. Sawyer

Address 336 S. Plum St

Havana, IL 62644

Contract number 90275162

This notice is given pursuant to 50 ILL. ADM. CODE 917.70(c)

(Agent's signature)

NB5005-IL

Return to Home Office

NB5005-IL V2
(R-10/2005)

0001399

AZL-VAN DYKE-0358

Allianz Life Insurance Company
of North America

PO Box 59060
Minneapolis, MN 55459-0060

Allianz

Notice Regarding Replacement
Replacing Your Life Insurance Policy or Annuity?

Are you thinking about buying a new policy and discontinuing or changing an existing policy? If you are, your decision could be a good one — or a mistake. You will not know for sure unless you make a careful comparison of your existing policy and the proposed policy.

Make sure you understand the facts. (State law gives you the right to obtain a cost disclosure from your existing insurer at any time.) You may ask the company or agent that sold you your existing policy to give you information about it.

Below is a checklist of some of the items you should consider in making your decision. TAKE TIME TO READ IT.

Do not let one agent or insurer prevent you from obtaining information from another agent or Insurer which may be to your advantage.

Hear both sides before you decide. This way you can be sure you are making a decision that is in your best interest.

We are required to notify your existing company that you may be replacing their policy.

ITEMS TO CONSIDER

1. If the policy coverages are basically similar, premiums for a new policy may be higher because rates increase as your age increases.
2. Cash values and dividends, if any, may grow slower under a new policy initially because of the initial costs of issuing a policy.
3. Your present insurance company may be able to make a change on terms which may be more favorable than if you replace existing insurance with new insurance.
4. If you borrow against an existing policy to pay premiums on a new policy, death benefits payable under your existing policy will be reduced by the amount of any unpaid loan, including unpaid interest.
5. Current interest rates are not guaranteed. Guaranteed interest rates are usually considerably lower than current rates. What rates are guaranteed?
6. Are premiums guaranteed or subject to change — up or down?
7. Participating policies pay dividends that may materially reduce the cost of insurance over the life of the contract. Dividends, however, are not guaranteed.
8. CAUTION, you are urged not to take action to terminate, assign or alter your existing life insurance coverage until after you have been issued the new policy, examined it and have found it to be acceptable to you.

REMEMBER, you have twenty (20) days following receipt to examine the contents of any individual life insurance policy or annuity. If you are not satisfied with it for any reason, you have the right to return it to the Insurer at its home or branch office, or to the agent through whom it was purchased, for a full refund of premium.

(Signature of agent)

Richard Van Dyke; 1028 S. Walnut; Springfield, IL 62704
(Printed name of agent and address)

The above "Notice to Applicant" was delivered to me on:

Barbara R Sawyer
(Signature of applicant)

4-26-2010
(Date)

NB3000 White-Home Office Yellow-Owner Pink-Agent NB3000-00 V2 (R-10/2005)

0001400

AZL-VAN DYKE-0359

01-836902 12/06/2010

AMERICAN EQUITY INVESTMENT LIFE INSURANCE COMPANY

DELIVERY RECEIPT

HOME OFFICE COPY
Contract Number: 836902

INSTRUCTIONS

Please review the statements in the table below with your agent. Initial each statement demonstrating your acknowledgement and understanding. By signing this Delivery Receipt you acknowledge that you have taken receipt of the actual annuity contract on the date you indicate below. Keep a copy of the delivery receipt for yourself, and place the Home Office copy in the enclosed, postage paid envelope and return to the company.

I acknowledge that I received the above annuity contract from my agent on the date indicated below. I further acknowledge that the terms, benefits and restrictions of this contract have been explained to my satisfaction.

Additional information about this policy/contract may be obtained from the writing agent, or directly from American Equity Investment Life Insurance Company at P.O. Box 71216, Des Moines, IA, 50325, or by calling Policy Owner Service at 1-888-221-1234.

	Owners Initials
I am aware that there is a Free-look Period that starts on the day I sign below. I may return this contract to either my agent or to the company for a full refund during this Free-look Period.	RJ
The agent has shown me the Surrender Charges and Period stated on the Specifications Page of this Contract. I understand that I will be assessed the appropriate Surrender Charge for early withdrawals in excess of the penalty free amount or surrender of this Contract.	RJ
I understand that I have purchased an indexed annuity which may credit interest based in part on the movement of a financial market index. I understand that this indexed annuity is not a security and that I have not invested directly in the stock market or any market index.	RJ
I understand that the Income Account Value associated with any Lifetime Income Benefit rider is strictly an accounting value used to determine my Lifetime Income Benefit amount should I elect a Lifetime Income. I further understand that the only way to access the Income Account Value is by electing a Lifetime Income and that I cannot receive this amount in a lump sum and that this amount is not part of my contract value or death benefit.	RJ
I have received a copy of the NAIC's Buyer's Guide to Indexed Annuities.	RJ

Owner's Signature Ronald Jerricks

City, State Signed Springfield, IL Date 12-03-10

Joint Owner's Signature ____________________

City, State Signed ____________________ Date ________

Agent's Signature [signature] Date 12/03/10

Form 4005

0001180

IMSA INSURANCE MARKETPLACE STANDARDS ASSOCIATION

P.O. Box 71216 • Des Moines, IA 50325 • 1-888-221-1234 • 515-221-0002 • 515-221-9947(Fax) • www.american-equity.com

01-836903 12/06/2010

DELIVERY RECEIPT

AMERICAN EQUITY INVESTMENT LIFE INSURANCE COMPANY

HOME OFFICE COPY

Contract Number: 836903

INSTRUCTIONS

Please review the statements in the table below with your agent. Initial each statement demonstrating your acknowledgement and understanding. By signing this Delivery Receipt you acknowledge that you have taken receipt of the actual annuity contract on the date you indicate below. Keep a copy of the delivery receipt for yourself, and place the Home Office copy in the enclosed, postage paid envelope and return to the company.

I acknowledge that I received the above annuity contract from my agent on the date indicated below. I further acknowledge that the terms, benefits and restrictions of this contract have been explained to my satisfaction.

Additional information about this policy/contract may be obtained from the writing agent, or directly from American Equity Investment Life Insurance Company at P.O. Box 71216, Des Moines, IA, 50325, or by calling Policy Owner Service at 1-888-221-1234.

	Owners Initials
I am aware that there is a Free-look Period that starts on the day I sign below. I may return this contract to either my agent or to the company for a full refund during this Free-look Period.	RF
The agent has shown me the Surrender Charges and Period stated on the Specifications Page of this Contract. I understand that I will be assessed the appropriate Surrender Charge for early withdrawals in excess of the penalty free amount or surrender of this Contract.	RF
I understand that I have purchased an indexed annuity which may credit interest based in part on the movement of a financial market index. I understand that this indexed annuity is not a security and that I have not invested directly in the stock market or any market index.	RF
I understand that the Income Account Value associated with any Lifetime Income Benefit rider is strictly an accounting value used to determine my Lifetime Income Benefit amount should I elect a Lifetime Income. I further understand that the only way to access the Income Account Value is by electing a Lifetime Income and that I cannot receive this amount in a lump sum and that this amount is not part of my contract value or death benefit.	RF
I have received a copy of the NAIC's Buyer's Guide to Indexed Annuities.	RF

Owner's Signature *Ronald Ferricks*

City, State Signed *Springfield, IL* Date *12-03-10*

Joint Owner's Signature ____________

City, State Signed ____________ Date ____________

Agent's Signature [signature] Date *12/03/10*

Form 4005

IMSA Insurance Marketplace Standards Association

P.O. Box 71216 • Des Moines, IA 50325 • 1-888-221-1234 • 515-221-0002 • 515-221-9947(Fax) • www.american-equity.com

AMERICAN EQUITY INVESTMENT LIFE INSURANCE COMPANY
P.O. Box 71216, Des Moines, Iowa 50325
CONTRACT SUMMARY
FLEXIBLE PREMIUM DEFERRED INDEXED ANNUITY
CONTRACT FORM INDEX-2-09
October 19, 2010

Name: JIMMY M KLEE
Age: 63
Contract Number: 834360
Tax Status: NON QUALIFIED

Total Initial Premium: $88,500.00
Bonus 10% of 1st Year Premiums: $8,850.00
Planned Premium Amount: $0.00
Planned Premium Mode: None
Minimum Guaranteed Interest Rate: 2.25%

Writing Agent: RICHARD VAN DYKE
DICK VAN DYKE FINANCIAL, LTD
1028 S WALNUT ST
SPRINGFIELD, IL 62704

END OF CONTRACT YEAR	PREMIUM(S)	BONUS	CASH SURRENDER VALUE	DEATH BENEFIT
1	$88,500	$8,850	$79,179	$97,350
2	$0	$0	$80,961	$97,350
3	$0	$0	$82,783	$97,350
4	$0	$0	$84,645	$97,350
5	$0	$0	$86,550	$97,350
6	$0	$0	$88,497	$97,350
7	$0	$0	$90,488	$97,350
8	$0	$0	$92,524	$97,350
9	$0	$0	$94,606	$97,350
10	$0	$0	$96,735	$97,350
11	$0	$0	$98,911	$98,911
12	$0	$0	$101,137	$101,137
13	$0	$0	$103,412	$103,412
14	$0	$0	$105,739	$105,739
15	$0	$0	$108,118	$108,118
16	$0	$0	$110,551	$110,551
17	$0	$0	$113,038	$113,038
18	$0	$0	$115,582	$115,582
19	$0	$0	$118,182	$118,182
20	$0	$0	$120,841	$120,841
30	$0	$0	$150,956	$150,956
40	$0	$0	$188,575	$188,575
50	$0	$0	$235,568	$235,568
Maturity	$88,500	$8,850	$240,868	$240,868

YIELD ON PREMIUM	GUARANTEED
10TH CONTRACT YEAR	0.89%
AT MATURITY	1.98%

MONTHLY PAYMENTS AT MATURITY
10 YEAR SPECIFIED PERIOD $2,211.17

0001069

AMERICAN EQUITY INVESTMENT LIFE INSURANCE COMPANY
P.O. Box 71216, Des Moines, Iowa 50325
CONTRACT SUMMARY
FLEXIBLE PREMIUM DEFERRED INDEXED ANNUITY
CONTRACT FORM INDEX-2-09
October 19, 2010

Name: JIMMY M KLEE
Age: 63
Contract Number: 834364
Tax Status: NON QUALIFIED

Total Initial Premium: $88,500.00
Bonus 10% of 1st Year Premiums: $8,850.00
Planned Premium Amount: $0.00
Planned Premium Mode: None
Minimum Guaranteed Interest Rate: 2.25%

Writing Agent: RICHARD VAN DYKE
DICK VAN DYKE FINANCIAL, LTD.
1028 S WALNUT ST
SPRINGFIELD, IL 62704

END OF CONTRACT YEAR	PREMIUM(S)	BONUS	CASH SURRENDER VALUE	DEATH BENEFIT
1	$88,500	$8,850	$79,179	$97,350
2	$0	$0	$80,961	$97,350
3	$0	$0	$82,783	$97,350
4	$0	$0	$84,645	$97,350
5	$0	$0	$86,550	$97,350
6	$0	$0	$88,497	$97,350
7	$0	$0	$90,488	$97,350
8	$0	$0	$92,524	$97,350
9	$0	$0	$94,606	$97,350
10	$0	$0	$96,735	$97,350
11	$0	$0	$98,911	$98,911
12	$0	$0	$101,137	$101,137
13	$0	$0	$103,412	$103,412
14	$0	$0	$105,739	$105,739
15	$0	$0	$108,118	$108,118
16	$0	$0	$110,551	$110,551
17	$0	$0	$113,038	$113,038
18	$0	$0	$115,582	$115,582
19	$0	$0	$118,182	$118,182
20	$0	$0	$120,841	$120,841
30	$0	$0	$150,956	$150,956
40	$0	$0	$188,575	$188,575
50	$0	$0	$235,568	$235,568
Maturity	$88,500	$8,850	$240,868	$240,868

YIELD ON PREMIUM	GUARANTEED
10TH CONTRACT YEAR	0.89%
AT MATURITY	1.98%

MONTHLY PAYMENTS AT MATURITY
10 YEAR SPECIFIED PERIOD $2,211.17

0001071

02755119
5333
GALSG LCD PLF

20

ING USA Annuity and Life Insurance Company

Description	90240126 Amount
90240126 THE ATTACHED CHECK IS PAYMENT FOR THE FOLLOWING:	
Cash Surrender	$*****58,408.19

Gross Amount	$55,266.20
Surrender Charge	-7,221.46
Market Value Adjustment(MVA)	+10,383.45
Total Return Adjustment(TRA)	.00
Bonus Recapture	.00
Federal Taxes	.00
State Taxes	.00
Express Charges	-20.00
Loan Payoff	.00
Net Amount	$58,408.19

For any questions, please call 1-800-369-5303.

Δ π EXHIBIT 3
Deponent
Date Rptr
WWW.DEPOBOOK.COM

Check Received : 3-23-09

Check sent to American Inv. : 3-23-09

COPY

CHECK NUMBER: 0011728889 DATE: 03/19/2009 LOC CODE:

This paper contains a watermark and fibers - hold to light to verify watermark and fibers - This account clears through positive pay

ING

0004987

⑈0011728889⑈

02710870
5333
GALSG LCO PLF

ING USA Annuity and Life Insurance Company

90243466

Description	Amount
90243466 THE ATTACHED CHECK IS PAYMENT FOR THE FOLLOWING: Cash Surrender	$****132,828.29

Gross Amount	$124,441.76
Surrender Charge	-16,419.45
Market Value Adjustment(MVA)	+24,825.98
Total Return Adjustment(TRA)	.00
Bonus Recapture	.00
Federal Taxes	.00
State Taxes	.00
Express Charges	-20.00
Loan Payoff	.00
Net Amount	$132,828.29

For any questions, please call 1-800-369-9303

Δ π EXHIBIT
Deponent
Date Rptr.
WWW.DEPOBOOK.COM

CHECK NUMBER: 0011597165 DATE: 02/12/2009 LOC CODE:

This paper contains a watermark and fibers - hold to light to verify watermark and fibers - This account clears through positive pay

⑈0011597165⑈ ⑆031100225⑆ 20799500711192⑈ 0004988

Contract Number: 90340139
Page 1 of 2

ING

ING USA Annuity and Life Insurance Company
909 Locust St
Des Moines, IA, 50309-2803
'800) 369-5303

Confirmation Notice

ING Secure Index Opportunities Plus
September 23, 2010

RICHARD L VANDYKE
815 FLAGGLAND DR
SHERMAN, IL 62684-9619

Jimmy M Klee
2345 E 200 North Rd
Pana, IL 62557-6008

Contract Number:	**90340139**
Contract Date:	**September 3, 2009**
Annuitant Name:	**Jimmy M Klee**
Qualified Type:	**Non-Qualified**

Transaction Effective September 23, 2010

Transaction	Amount
Cash Surrender	96,270.96
Surrender Charge	(9,632.85)
MVA	4,873.99
:deral Taxes	0.00
State Taxes	0.00
Express Charges	(20.00)
Bonus Recapture	(4,816.43)
Total Cash Surrender:	86,675.67

[redacted]

EXHIBIT
7

00057 001 002

0004992

03273339
5333
GALSG LCO PLF

12

ING USA Annuity and Life Insurance Company

90275170

Description		Amount
90275170		
THE ATTACHED CHECK IS PAYMENT FOR THE FOLLOWING:		
Cash Surrender		$*****85,137.37
Gross Amount	$95,056.67	
Surrender Charge	-9,357.95	
Market Value Adjustment(MVA)	+3,201.83	
Total Return Adjustment(TRA)	.00	
Bonus Recapture	-3,743.18	
Federal Taxes	.00	
State Taxes	.00	
Express Charges	-20.00	
Loan Payoff	.00	
Net Amount	$85,137.37	

For any questions, please call 1-800-369-5303.

COPY

EXHIBIT 1

CHECK NUMBER: 0013133807 DATE: 04/20/2010 LOC CODE:

This paper contains a watermark and fibers - hold to light to verify watermark and fibers - This account clears through positive.

ING

ING USA Annuity and Life Insurance Company
909 Locust Street
Des Moines IA 50309

Date 04/20/2010
Void 90 days from date of issue

No. 0013133807
62-22/311
GALSG LCO PLF

Pay Exactly ***85,137.37 US Dollars

Amount
$*****85,137.37

Pay to the order of
GERALD J SAWYER
335 S PLUM ST
HAVANA, IL 62644-1320

J R A Kalloway

Wachovia Bank NA

Authorized Signature

⑈0013133807⑈ ⑆031100225⑆ 2079950091192⑈

0005030

[redacted]

03273338
5333
GALSG LCD PLF

ING USA Annuity and Life Insurance Company

Description	90275162 Amount
90275162 THE ATTACHED CHECK IS PAYMENT FOR THE FOLLOWING: Cash Surrender	$*****50,758.25

Gross Amount	$56,681.08
Surrender Charge	-5,580.03
Market Value Adjustment(MVA)	+1,909.21
Total Return Adjustment(TRA)	.00
Bonus Recapture	-2,232.01
Federal Taxes	.00
State Taxes	.00
Express Charges	-20.00
Loan Payoff	.00
Net Amount	$50,758.25

For any questions, please call 1-800-369-5303.

EXHIBIT
22

COPY

CHECK NUMBER: 0013133806 **DATE: 04/20/2010** **LOC CODE:**

paper contains a watermark and fibers - hold to light to verify watermark and fibers - This account clears through positive pay

ING USA Annuity and Life Insurance Company
909 Locust Street
Des Moines IA 50309

Date 04/20/2010 No. 0013133806
Void 90 days from date of issue
62-22/311
GALSG LCD PLF

Pay Exactly [illegible] US Dollars

Amount
$*****50,758.25

to the
order
of

BARBARA R SAWYER
336 S PLUM ST
HAVANA, IL 62644-1320

IRA Rollover

Wachovia Bank NA

Authorized Signature

0005048

ING

33

02790092
5333
GALSG LCD PLF

ING USA Annuity and Life Insurance Company

Description	90253914 Amount
90253914 THE ATTACHED CHECK IS PAYMENT FOR THE FOLLOWING: Cash Surrender	$******42,389.40

Gross Amount	$45,794.33
Surrender Charge	-4,709.93
Market Value Adjustment(MVA)	+1,305.00
Total Return Adjustment(TRA)	.00
Bonus Recapture	.00
Federal Taxes	.00
State Taxes	.00
Express Charges	.00
Loan Payoff	.00
Net Amount	$42,389.40

For any questions, please call 1-800-369-5303.

EXHIBIT
29

COPY

CHECK NUMBER: 0011833424 DATE: 04/16/2009 LOC CODE:

This paper contains a watermark and fibers - hold to light to verify watermark and fibers - This account clears through positive pay

ING

ING USA Annuity and Life Insurance Company
909 Locust Street
Des Moines IA

Date: 04/16/2009
Void 90 days from date of issue
No: 0011833424
62-22/311
GALSG LCD PLF

Pay Exactly [illegible] US Dollars

Amount
$*****42,389.40

Pay to the order of
ALICE M ELCHLEPP
1331 CRESTVIEW DR
SPRINGFIELD IL 62702-2232

Authorized Signature

Wachovia Bank NA

⑈0011833424⑈ ⑆031100225⑆ 2079900711920⑈

Respondent's Exhibit

0005073

ING

02790090
5333
GALSG LCD PLF

32

ING USA Annuity and Life Insurance Company

Description	90253912 Amount
90253912 THE ATTACHED CHECK IS PAYMENT FOR THE FOLLOWING:	$*****53,990.46

Cash Surrender

Gross Amount	$58,353.07
Surrender Charge	-6,001.16
Market Value Adjustment(MVA)	+1,658.55
Total Return Adjustment(TRA)	.00
Bonus Recapture	.00
Federal Taxes	.00
State Taxes	.00
Express Charges	-20.00
Loan Payoff	.00
Net Amount	$53,990.46

For any questions, please call 1-800-369-5303.

EXHIBIT
3

COPY

CHECK NUMBER: 0011833422 DATE: 04/16/2009 LOC CODE:

This paper contains a watermark and fibers - hold to light to verify watermark and fibers - This account clears through positive pay.

ING

ING USA Annuity and Life Insurance Company
[illegible]

Date: [illegible]

No. 0011833422

GALSG LCD PCF

Pay Exactly [illegible] Dollars

Amount
$*****53,990.46

Pay to the order of: ALICE M ELCHLEPP
1331 CRESTVIEW DR
SPRINGFIELD IL 62702-2232

VOID VOID VOID

IRA Rollover

Wachovia Bank NA

Authorized Signature

⑈0011833422⑈ ⑆031100225⑆ 2079950071192⑈

Respondent's Exhibit

0005079

ING

02790091
5333
DALSG LCD PLF

ING USA Annuity and Life Insurance Company

Description	90253913 Amount
90253913 THE ATTACHED CHECK IS PAYMENT FOR THE FOLLOWING: Cash Surrender	$*****32,085.48

Gross Amount	$34,684.37
Surrender Charge	-3,567.28
Market Value Adjustment(MVA)	+988.39
Total Return Adjustment(TRA)	.00
Bonus Recapture	.00
Federal Taxes	.00
State Taxes	.00
Express Charges	-20.00
Loan Payoff	.00
Net Amount	$32,085.48

For any questions, please call 1-800-369-5303.

COPY

CHECK NUMBER: 0011833423 DATE: 04/16/2008 LOC CODE:

This paper contains a watermark and fibers - hold to light to verify watermark and fibers - This account clears through positive pay.

ING

VOID

No. 0011833423

Pay Exactly

Dollars

Amount
$*****32,085.48

Pay to the order of

DONALD R ELCHLEPP
1331 CRESTVIEW DR
SPRINGFIELD IL 62702-2224

Wachovia Bank NA

Authorized Signature

⑈0011833423⑈ ⑆031100225⑆ 20799500711192⑈

Respondent's Exhibit

EXHIBIT
34

0005036

ING
02705116
000232 286901

ING USA Annuity and Life Insurance Company

5303
GALSGI LCO PLF

90234121

Description		Amount
90234121		
THE ATTACHED CHECK IS PAYMENT FOR THE FOLLOWING:		
Cash Surrender		
Gross Amount	$165,451.27	
Surrender Charge	-21,031.08	
Market Value Adjustment(MVA)	+25,740.33	
Total Return Adjustment(TRA)	.00	$****170,140.52
Bonus Recapture	.00	
Federal Taxes	.00	
State Taxes	.00	
Express Charges	-20.00	
Loan Payoff	.00	
Net Amount	$170,140.52	

For any questions, please call 1-800-369-5303.

COPY

CHECK NUMBER: 0011581289 DATE: 02/09/2009 LOC CODE:

This paper contains a watermark and fibers - hold to light to verify watermark and fibers - This account clears through positive pay.

ING USA Annuity and Life Insurance Company

No. 0011581289
GALSGI LCO PLF

VOID VOID VOID

Pay Exactly $******************170,140.52 US Dollars

Amount
$****170,140.52

Pay to the order of
JACKSONVILLE, IL 62650-1732

Wachovia Bank NA

⑈0011581289⑈ ⑆031100225⑆ 2079950071192⑈

Respondent's Exhibit

0005175

EXHIBIT
77

NG

02754109
5333
GALSG LCD PLF

ING USA Annuity and Life Insurance Company

Description	Amount
90239209	90239209
90239209 THE ATTACHED CHECK IS PAYMENT FOR THE FOLLOWING: Cash Surrender	$*****106,164.26

Gross Amount	$101,704.53
Surrender Charge	-13,123.90
Market Value Adjustment(MVA)	+17,603.63
Total Return Adjustment(TRA)	.00
Bonus Recapture	.00
Federal Taxes	.00
State Taxes	.00
Express Charges	-20.00
Loan Payoff	.00
Net Amount	$106,164.26

For any questions, please call 1-800-369-5303.

COPY

CHECK NUMBER: 0011724629 DATE: 03/18/2009 LOC CODE:

This paper contains a watermark and fibers - hold to light to verify watermark and fibers. This account clears through positive pay.

Pay Exactly

Amount

EXHIBIT

Wachovia Bank NA

0005199

ING

ING USA Annuity and Life Insurance Company
[illegible] Locust St
[illegible] Moines, IA, 50309-2803
(800) 369-5303

Contract Number: 90340140
Page 1 of 2

Confirmation Notice

ING Secure Index Opportunities Plus
October 4, 2010

RICHARD L VANDYKE
815 FLAGGLAND DR
SHERMAN, IL 62684-9619

Jimmy M Klee
2345 E 200 North Rd
Pana, IL 62557-6008

Contract Number: 90340140
Contract Date: September 3, 2009
Annuitant Name: Jimmy M Klee
Qualified Type: Non-Qualified

Transaction Effective October 4, 2010

Transaction	Amount
Cash Surrender	101,075.00
S[illegible]nder Charge	(10,109.44)
M[illegible]	5,074.12
Federal Taxes	0.00
State Taxes	0.00
Express Charges	(20.00)
Bonus Recapture	(5,054.72)
Total Cash Surrender:	90,964.96

The Customer Contact Center is available Monday through Thursday 8:30 AM to 6:30 PM Eastern Time and [illegible] Friday 8:30 AM to 5:30 PM Eastern Time at (800) 369-5303.

0001062

SECRETARY OF STATE
EXHIBIT NUMBER 9

[illegible]

ING

ING USA Annuity and Life Insurance Company
Locust St
Moines, IA 50309-2803
(800) 369-5303

Confirmation Notice

ING Secure Index Opportunities Plus
October 18, 2010

RICHARD L VANDYKE
815 FLAGGLAND DR
SHERMAN, IL 62684-9619

Ronald G Ferricks
28052 Shanghi Ave
Athens, IL 62613-7509

Contract Number:	**90345996**
Contract Date:	**September 21, 2009**
Annuitant Name:	**Ronald G Ferricks**
Qualified Type:	**IRA - Rollover**

Transaction Effective October 18, 2010

Transaction	Amount
Cash Surrender	178,801.28
Surrender Charge	(17,880.95)
MVA	8,948.70
Federal Taxes	0.00
State Taxes	0.00
Express Charges	(20.00)
Bonus Recapture	(8,940.48)
Total Cash Surrender:	160,908.55

The Customer Contact Center is available Monday through Thursday 8:30 AM to 5:30 PM Eastern Time and Friday 8:30 AM to 5:30 PM Eastern Time at (800) 369-5303.

0001094

SECRETARY OF STATE
EXHIBIT NUMBER 16

[redacted]

ING

12

03272569
5333
GALSG LCD PLF

ING USA Annuity and Life Insurance Company

Description	90275171 Amount
90275171 THE ATTACHED CHECK IS PAYMENT FOR THE FOLLOWING: Cash Surrender	$*****76,985.29

Gross Amount	$85,956.94
Surrender Charge	-8,462.12
Market Value Adjustment(MVA)	+2,895.32
Total Return Adjustment(TRA)	.00
Bonus Recapture	-3,384.85
Federal Taxes	.00
State Taxes	.00
Express Charges	-20.00
Loan Payoff	.00
Net Amount	$76,985.29

For any questions, please call 1-800-369-5303.

CHECK NUMBER: 0013129148 DATE: 04/19/2010 LOC CODE:

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s paper contains a watermark and fibers - hold to light to verify watermark and fibers - This account clears through positive pay

ING

ING USA Annuity and Life Insurance Company
909 Locust Street
Des Moines IA 50309

Date 04/19/2010
Void 90 days from date of issue

No. 0013129148
62-22/311
GALSG LCO PLF

Pay Exactly ******76,985.29 US Dollars

Amount
$*****76,985.29

Pay to the order of

GERALD J SAWYER
336 S PLUM ST
HAVANA, IL 62644-1320

IRA Rollover

SECRETARY OF STATE
EXHIBIT NUMBER 24

Authorized Signature

Wachovia Bank NA

0001259

ING

March 18, 2009

Norma Kay Berry
33 Abbot Rd
Springfield IL 62704-5201

SCAN COPY

RE: Policy 90223345 ING USA Annuity and Life Insurance Company

Dear Ms. Berry:

We have received a request to surrender this policy. The Surrender has been processed and the check has been sent to Aviva Life, as you requested.

The following is a breakdown of the surrender accounting:

Gross Surrender	$52,382.99
Surrender Charges	-5,863.52
Market Value Adjustment(MVA)	+6,252.25
Federal Taxes	0.00
State Taxes	0.00
Net Surrender	$52,771.72

If you have any questions, please contact your agent or our Customer Service Center at 800-369-5303.

Sincerely,

Annuity Service

cc: RICHARD L VANDYKE

0000332

SECRETARY OF STATE
EXHIBIT NUMBER 70

Aviva Life and Annuity Company

P.O. Box 10433, Des Moines, IA 50306-0433
Phone (888) 266-8489

04/12/2010

MELVIN R PARTRIDGE
17401 N TIMBRLINE LN
MT VERNON IL

RE: Contract Number: #77675

Dear Valued Contract Holder:

This letter is in regard to contract number #77675 issued to MELVIN R PARTRIDGE. Your premium of $52,644.00 is the premium Aviva Life and Annuity is allocating to the contract. After the premium is allocated to the contract, Aviva Life and Annuity will immediately add an additional 8% of premium. As a result of this premium enhancement, your contract will have an initial accumulation value of $56,855.52 or the premium enhanced by 8%.

If you have any questions, please call your agent, or call our office at (888) 266-8489.

Sincerely,

Ginger Dougan

Ginger Dougan, FLMI, CLU, FALU, AAPA, ACS
Senior Vice President
Customer Services

SECRETARY OF STATE
EXHIBIT NUMBER 133

 AVIVA000293

0004605

American Investors Life Insurance Company, Inc.

P.O. Box 2039, Topeka, KS 66601-2039
Phone (888) 266-8489

03/31/2009

LONNIE E CAULK
1920 S CAMP BUTLER RD
SRINGFIELD IL

RE: Contract Number: #55840

Dear Valued Contract Holder:

This letter is in regard to contract number #55840 issued to LONNIE E CAULK. Your premium of $78,386.15 is the premium American Investors Life is allocating to the contract. After the premium is allocated to the contract, American Investors Life will immediately add an additional 10% of premium. As a result of this premium enhancement, your contract will have an initial accumulation value of $86,224.76 or the premium enhanced by 10%.

If you have any questions, please call your agent, or call our office at (888) 266-8489.

Sincerely,

Ginger Dougan

Ginger Dougan, FLMI, CLU, FALU, AAPA, ACS
Senior Vice President
Customer Services

0000562

Ellis Cases

1	American Investment Services, Inc. – 2003 WL 21685866	No Fine
2	John Allen Anderson – 2006 WL 3068547	5K Fine
3	Bonnie Arnel, et al. – 2003 WL 21685887	10K Fine
4	Austin Medical Imaging, LLP; Body Scan Imaging Centers, LLC; et al. – 2005 WL 3802616+	10K Fine
5	James A. Bayer – 2004 WL 735115	15K Fine
6	Bikini Vending, Inc, A/K/A 360 Wireless, Inc., et al. – 2005 WL 3802613	40K Fine
7	Business Brokers of America, et al. – 2009 WL 3645721	No Fine
8	Gerard Robert Celmer – 2004 WL 3095048	No Fine
9	Christian Dream Builders Financial Planning, Inc., et al. – 2005 WL 2911470	18K Fine & 30K Fine
10	Corneal Science Corporation, et al. – 2011 WL 7272420	No Fine
11	Thomas Anthony DeMarco – 2007 WL 1727858	No Fine
12	Epic Commerce, LLC, Bankcard Empire, et al. – 2009 WL 1209181	No Fine
13	E.P.S. Inc., A/K/A Electronic Post Systems, Inc., et al – 2008 WL 5703288	No Fine
14	Erudite Systems, Inc., Bill Pruim, Jr. Platinum Investment Group, et al. – 2006 WL 2359884	20K Fine
15	Estate Management Services, Inc., A/K/A EMS, et al. – 2005 WL 2911469	10K Fine
16	Geneva Securities, Inc., et al. – 2003 WL 21685865	No Fine
17	Global Touch Systems, Inc. et al. – 2008 WL 2815661	No Fine
18	Golden Years Planning, et al. – 2005 WL 1749211	10K Fine

19	Gary Wayne Hardy and Hardy Asset Management – 2006 WL 2359886	25K Fine
20	Gary Wayne Hardy and Hardy Asset Management – 2007 WL 1113630	25K Fine
21	Neil Rolla Harrison – 2009 WL 2366397	10K Fine
22	William James Hogan – 2006 WL 3956016	$1,500 Fine
23	Hughes Energy, Inc., et al. – 2007 WL 1727851	No Fine
24	George Warren Ingram – 2008 WL 4691723	30K Fine
25	Integrity Financial Group, Inc., et al. – 2004 WL 735167	No Fine
26	J & R Financial Group, Inc., et al. – 2004 WL 3095050	No Fine
27	K & G Marketing, Inc., et al. – 2007 WL 4697810	50K Fine
28	Christopher Jacob Kinsley – 2004 WL 3095049	10K Fine
29	Brian Knight and Knight Asset Management, LLC., et al. – 2014 WL 4145451	No Fine
30	Junhau (Michael) Liao – 2013 WL 5967482	No Fine
31	Mark McEwen – 2010 WL 3119121	20K Fine
32	Anthony Mediate III – 2013 WL 7085664	No Fine
33	Metro Suburban Realty, et al. – 2007 WL 4697813	50K Fine
34	Rodney P. Michel – 2013 WL 5967497	No Fine
35	Millenium Associates, Wall Street Direct, Inc., et al. – 2005 WL 3784914	30K Fine
36	Millenium Associates, Wall Street Direct, Inc., et al. – 2006 WL 1139911	No Fine
37	Mobile Billboards of America and National Payphone Corporation, et al. – 2006 WL 1139888	No Fine
38	Paul Andrew Niess – 2008 WL 2909817	25K Fine
39	Our Stock Profits, et al. – 2004 WL 3095047	No Fine

40	Anthony G. Peterson – 2005 WL 3802619	No Fine
41	Phymed Partners, Inc., et al. – 2004 WL 1592158	30K Fine
42	Polite and Company, Inc., et al. – 2006 WL 3068543	No Fine
43	Public Communication Services, Inc., et al. – 2004 WL 735160	20K Fine
44	Ram Energy, Inc., et al. – 2004 WL 735112	No Fine
45	Rapid Technologies Group, Inc., A/K/A Event Horizon Technologies Software, Inc., et al. – 2004 WL 1592159	20K Fine
46	Rate Search, Inc., et al. – 2009 WL 1209183	No Fine
47	Real Life Save-R, et al. – 2008 WL 5703286	No Fine
48	Residual Income, et al. – 2007 WL 892727	No Fine
49	Roderick James Rieman, Michael J. Crook, Z Touch Systems, Inc., et al. – 2006 WL 3956002	5K Fine
50	Shawn Elliot Russell – 2004 WL 1592141	30K Fine
51	Leslie Schaller, et al. – 2006 WL 3956000	20K Fine
52	Semper Libera, et al. – 2007 WL 1727857	No Fine
53	Senior Financial Strategies, Inc., D/B/A Pinnacle Investment Advisers, et al. – 2011 WL 3295987	10K – 2 Advisors
54	Edward L. Sensor - 2005 WL 3784899	20K Fine
55	Sentry Technologies, Inc., Futurecom Global, Inc., et al – 2010 WL 4563342	20K Fine
56	Silvershore Investment Group, et al. – 2009 WL 3645722	5K Fine
57	SKB Consulting, LLC, et al. – 2007 WL 3048944	50K Fine
58	Some Music, Inc., et al. – 2003 WL 21685881	No Fine
59	Shawn William Sorrells – 2005 WL 3784901	No Fine
60	Terra Energy Investment Fund 1, LLC., Vestreon Funding, LLC., et al. – 2006 WL 1139910	10K Fine

61	Thomas H. Thorp – 2004 WL 735135	No Fine
62	Touch Scientific, Inc., et al. – 2003 WL 21685873	No Fine
63	Touch Scientific, Inc., et al. – 2003 WL 21685885	No Fine
64	Unlimited Cash, Inc. and Douglas Network Enterprises, LLC., et al. – 2007 WL 1113622	75K Fine
65	USA Properties of Illinois, Inc., et al. – 2008 WL 1822494	No Fine
66	Hassan Washington – 2010 WL 4564395	10K Fine