

**STATE OF VERMONT
DEPARTMENT OF FINANCIAL REGULATION**

IN RE: Alan F. Dauphin)	
)	DOCKET NO. 16-11-I
)	DOCKET NO. 16-12-S
)	

STIPULATION AND CONSENT ORDER

This Stipulation and Consent Order is entered this 13 ^{September} day of August, 2016 by and among Alan F. Dauphin (“Respondent”), and the State of Vermont Department of Financial Regulation (“Department”).

WHEREAS, the Commissioner of the Department (“Commissioner”) is responsible for administering and enforcing the securities and insurance laws of the Vermont Statutes Annotated, pursuant to which the Department has conducted a review of Respondent; and

WHEREAS, as a result of the Department’s review, the Department has concluded that Respondent violated the securities and insurance laws of the State of Vermont for the reasons set forth below; and

WHEREAS, the Department has accordingly sought, and Respondent, without the necessity of further formal proceedings, has agreed to take corrective and remedial measures as more specifically described herein; and

WHEREAS, Respondent elects to permanently waive any right to a hearing and appeal under the Vermont Administrative Procedure Act, Title 3, Chapter 25 of the Vermont Statutes Annotated; the rules, regulations, and orders of the Commissioner; and any right he may have to judicial review by any court with respect to this Consent Order.

NOW THEREFORE, the parties so stipulate, and the Commissioner makes findings and conclusions as follows:

FINDINGS OF FACT

1. Respondent holds Vermont resident insurance producer license #837520. Respondent’s resident producer insurance license was issued pursuant to the licensing requirements set forth in Chapter 131 of Vermont Statutes Annotated Title 8. Respondent is the principal of the Newport, Vermont office of Financial Blueprints (“Financial Blueprints”).

2. In June 2015, the Department, pursuant to statutory authority, commenced an investigation regarding Respondent’s provision of investment advice and sale of life insurance products to determine compliance with Vermont laws and regulations. The Department initiated the investigation after it obtained a letter that a Vermont property casualty agent sent to clients

that referred the clients to Respondent and Alan J. Dauphin for life insurance and financial planning services.

3. The Department's investigation revealed that Respondent advised at least three clients in at least four transactions to liquidate securities in order to purchase insurance products while holding no active registration with the Department's Securities Division ("Vermont Securities Division").

4. Respondent is not currently registered in any capacity with the Vermont Securities Division, nor has he ever been.

5. The Department reviewed 73 applications for annuity transactions that Respondent submitted to Lafayette Life Insurance Company of Ohio on behalf of Vermont clients. In all 73 applications, the clients certified that they chose not to provide relevant information necessary for Respondent to make a suitability determination regarding the transaction.

6. The Department's investigation revealed that Respondent asks clients to provide referrals. On several occasions, Respondent provided restaurant gift cards to clients in return for providing referrals.

CONCLUSIONS OF LAW

1. The Commissioner is charged with administering the securities laws of the state of Vermont pursuant to 9 V.S.A. § 5601.

2. Under 9 V.S.A. § 5403(a), the Securities Act provides that it is unlawful for a person to transact business in this state as an investment adviser unless the person is registered with the Securities Division as an investment adviser or is exempt from registration.

3. Providing advice to purchase or sell a security constitutes investment advice and requires registration with the Securities Division.

4. Respondent, by providing investment advice while domiciled but unregistered in Vermont as set forth in the foregoing Findings of Fact, has violated 9 V.S.A. § 5403.

5. Under 9 V.S.A. § 5604, after determining that a person has engaged in an act that constitutes a violation of the Securities Act, the Commissioner may, among other things, issue a final order directing the person to cease and desist from engaging in the act, and pay a civil penalty. Pursuant to 9 V.S.A. §§ 5412(c) and 5604, the Commissioner has the authority to bar a person from registration.

6. Pursuant to the authority contained in 8 V.S.A. §§11, 12, 13, 15, and Chapters 101, 129, and 131, the Commissioner is charged with enforcing the insurance laws of the State of Vermont.

7. Under 8 V.S.A. § 4724(8), providing “anything of value whatsoever” in connection with an insurance contract or annuity that is not specified in the contract is an unfair method of competition or unfair or deceptive act in the business of insurance.

8. Respondent, by providing gift cards to insurance clients in return for referrals as set forth in the foregoing Findings of Fact, violated 8 V.S.A. § 4724(8).

9. 8 V.S.A. § 4804(a)(3) provides that the Commissioner may suspend, revoke, or refuse to renew any producer license if the licensee violated any insurance laws or violated any lawful rule of the Commissioner. 8 V.S.A. § 4804(d) provides that in addition to or in lieu of any applicable denial, suspension, or revocation of a license, the Commissioner may impose an administrative penalty.

10. Respondent, by providing unregistered investment advice and by providing rebates, violated 8 V.S.A. § 4804(a)(3).

CONSENT ORDER

NOW, THEREFORE, based on Respondent's stipulation, and on the basis of the Findings of Fact and Conclusions of Law, the Commissioner issues the following Order:

1. Respondent shall pay an administrative penalty in the amount of \$10,000.00 to the Department within 30 days of the execution of this Stipulation and Consent Order.
2. Respondent shall not apply for any registration with the Vermont Securities Division for a period extending from the day of the execution of this Stipulation and Consent Order through May 1, 2017. The Department agrees that this Consent Order shall not be used against Respondent in an application for registration with the Securities Division after May 1, 2017, or subsequent renewals of his existing life, accident, and health license, provided he abides by this Consent Order.
3. The Cease and Desist Order issued on March 28, 2016, is hereby dismissed. Respondent shall comply with 9 V.S.A. § 5403(a).
4. Respondent shall provide the Insurance Division with a quarterly report for a period of two years, beginning on the day of the execution of this Stipulation and Consent Order. The quarterly report shall include, for the preceding quarter, a listing of: all applications, sales, renewals, and cancellations of annuity products. Respondent shall make available at his office to an authorized agent of the Insurance Division access to client names, and addresses for each annuity application, sale, renewal, or cancellation, and detailed information regarding the source of funds for each annuity application or sale.
5. Respondent shall not submit any application to an insurer wherein the applicant declines to provide relevant information necessary to make a suitability determination regarding an annuity transaction ("suitability information"), regardless of whether or not the application permits the applicant to decline to provide suitability information, for a period of two years from the day of the execution of this Stipulation and Consent Order.
6. Respondent shall document all suitability information gathered from clients, and shall retain such records for at least five years, to the extent required by State law or regulation, or to the extent required by the insurer, whichever is longest.
7. If Respondent fails or neglects to comply with any of the terms, conditions or undertakings set forth in this Stipulation and Consent Order, the Department may, upon written notice to Respondent, institute any legal or administrative proceedings it deems appropriate to enforce same and to seek such other appropriate sanctions, and Respondent shall consent to the entry of judgment for any unpaid balance of the penalty due as set forth in the paragraph below.
8. Upon receipt by the Department of the full \$10,000.00 amount paid by Respondent in accordance with the terms of this Consent Order, this Stipulation and Consent Order will be deemed to have documented the resolution of this matter and will not be a basis for action against Respondent by the Department arising out of these same events in regards to the

business of insurance or securities except in responding to and addressing any consumer complaint or determining any action or penalty that may be imposed by the Department for any future violations of law by Respondent.

This ORDER shall become effective immediately upon the date set forth below.

BY ORDER OF THE COMMISSIONER

Entered at Montpelier, Vermont, this 13 day of ^{September}~~August~~, 2016.



MICHAEL PIECIAK, Commissioner
Vermont Department of Financial Regulation

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**CONSENT BY ALAN F. DAUPHIN TO THE ENTRY OF AN ORDER BY THE
COMMISSIONER IMPOSING TERMS, CONDITIONS AND UNDERTAKINGS UNDER
THE VERMONT INSURANCE LAWS**

1. Alan F. Dauphin ("Respondent"), hereby admits the jurisdiction of the Commissioner over the subject matter of this proceeding, and solely with respect to this matter, knowingly and voluntarily waives any and all rights to a hearing before the Commissioner or his designee, and all other procedures otherwise available under Vermont law, the rules of the Department, the provisions of Chapter 25 of Title 3 regarding contested cases, or any right he may have to judicial review by any court by way of suit, appeal, or extraordinary remedy with respect to the terms of the Stipulation and Consent Order set forth herein.

2. Respondent acknowledges that this Consent Order constitutes a valid order duly rendered by the Commissioner, and agrees to be fully bound by it.

3. Respondent acknowledges and agrees that the Consent Order is entered into freely and voluntarily and that no promise was made, nor was any coercion used, to induce the Respondent to enter into the Consent Order.

4. Respondent acknowledges his understanding of all terms, conditions, and obligations contained in the Consent Order and further acknowledges that should he fail to comply with any and all provisions of the Consent Order, the Commissioner may impose additional sanctions and seek other appropriate relief subject to the Respondent's right to a hearing pursuant to Vermont's insurance and securities laws.

Dated this ___ day of August, 2016.

By: Alan F. Dauphin
Alan F. Dauphin

BEFORE ME this 31st day of August, 2016, personally appeared Alan F. Dauphin who acknowledged that he executed the foregoing for the purposes therein contained, and that such act of execution is his free act and deed.

[Signature]
Notary Public

My Commission Expires: 2/10/2019

Agreed and accepted: [Signature]
Kaj Samsom, Deputy Commissioner of Insurance

Agreed and accepted: [Signature]
Deputy Commissioner of Securities

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