

FINRA  
LETTER OF ACCEPTANCE, WAIVER AND CONSENT  
NO. 2007010239501

TO: Department of Enforcement  
FINRA

RE: Daniel Allen Abbott, Respondent  
CRD No. 3003452

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Daniel Allen Abbott ("Abbott"), submits this Letter of Acceptance, Waiver and Consent ("AWC") for the purpose of proposing a settlement of the alleged rule violations described below. This AWC is submitted on the condition that, if accepted, FINRA will not bring any future actions against me alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. Abbott hereby accepts and consents, without admitting or denying the findings, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of FINRA, or to which FINRA is a party, prior to a hearing and without an adjudication of any issue of law or fact, to the entry of the following findings by FINRA:

BACKGROUND AND JURISDICTION

Abbott, a Series 6 and 63 registered representative, was employed with Jefferson Pilot Securities Corporation ("Jefferson Pilot" or the "Firm") from September 6, 2001 until August 14, 2007. Concurrent with his employment at the Firm, Abbott was also employed as president, secretary and treasurer of Benefit Centers of America, Inc., which used the name Benefit Centers of America, Inc. or Beneficial Insurance Agency, Inc. Prior to becoming associated with Jefferson Pilot, Abbott was associated with two other member firms since 1998.

Abbott has not been employed in the securities industry since August 17, 2007 but remains subject to FINRA's jurisdiction pursuant to FINRA By-law Article V, Section 4.

RELEVANT PRIOR DISCIPLINARY HISTORY

Abbott has no prior disciplinary history.

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## OVERVIEW

From May 24, 2007 to July 20, 2007, while registered as an investment company and variable contracts representative with Jefferson Pilot, Abbott presented seven seminars, with an aggregate total of approximately 144 attendees, to promote the sale of reverse mortgages and solicit clients for estate planning and various types of investments from senior homeowners in the Virginia Beach, VA area. Abbott created one and distributed a total of eighteen (18) pieces of violative sales literature and advertisements, including a seminar invitation targeted for distribution to 16,000 individuals who were at least 62 years of age ("seniors"). These materials contained unwarranted, misleading, unsubstantiated, and promissory statements, including false assurances of riskless investing, guarantees that the retirees would be debt-free almost immediately and false assertions that Abbott was a "Registered Investment Advisor." Abbott also failed to submit the communications to a registered principal for review and approval prior to use and failed to submit certain pieces of sales literature and advertisements concerning registered investment companies to FINRA's Advertising Regulation Department for review and approval prior to use.

## FACTS AND VIOLATIVE CONDUCT

1. During the period of May 24, 2007 through July 20, 2007, Abbott presented seven seminars to promote the sale of reverse mortgages and solicit various types of investments from seniors in the Virginia Beach, Virginia area. In total, an aggregate of approximately 144 seniors attended the seven seminars.
2. Abbott co-presented the seminars with an unregistered individual while he was employed with Jefferson Pilot. At the time Abbott participated in the seminars, Jefferson Pilot expressly prohibited its employees from engaging in any reverse mortgage business, including the promotion and sale of reverse mortgages.
3. In connection with these reverse mortgage seminars, Abbott distributed 18 public communications. These included seminar handouts, a PowerPoint presentation, investment fund accumulation illustrations, and a seminar invitation.

**MISLEADING, EXAGGERATED AND UNBALANCED DISCUSSIONS OF  
REVERSE MORTGAGES**

**Abbott Distributed Public Communications That Contained  
Misleading, Exaggerated and Unwarranted Discussions Of Reverse  
Mortgages, In Violation Of 2210(d)(1)(B).<sup>1</sup>**

4. Abbott solicited seniors to attend his reverse mortgage seminars by sending an invitation. The seminar invitation, which was sent to approximately 16,000 seniors in the Virginia Beach area, used exaggerated and unwarranted claims that the reverse mortgage program discussed in the seminar offered:
  - "Peace of Mind";
  - "The Opportunity to Enjoy Your life More Fully";
  - "An income every month to enjoy hobbies, travel and more";
  - "The best returns in your funds through safe investments"; and
  - "The ability to be debt free almost immediately."
5. Abbott used a seminar projection slide and used handouts containing investment fund accumulation illustrations, which projected future investment growth for a "Reverse Mortgage Client." These illustrations were misleading, as they were promissory of future positive returns. They also violated Rule 2210(d)(1)(D),<sup>2</sup> which prohibits projections of future performance.
6. Abbott used the PowerPoint presentation and certain sales literature that contained exaggerated and unwarranted claims that reverse mortgages are "miracle mortgages" and "kind of like a 401(k)."

**Abbot distributed public communications that contained  
unbalanced discussions of reverse mortgages, in violation of  
2210(d)(1)(A).<sup>3</sup>**

<sup>1</sup> Rule 2210(d)(1)(B) provides:

No member may make any false, exaggerated, unwarranted or misleading statement or claim in any communication with the public. No member may publish, circulate or distribute any public communication that the member knows or has reason to know contains any untrue statement of a material fact or is otherwise false or misleading.

<sup>2</sup> Rule 2210(d)(1)(D) provides:

Communications with the public may not predict or project performance, imply that past performance will recur or make any exaggerated or unwarranted claim, opinion or forecast. A hypothetical illustration of mathematical principles is permitted, provided that it does not predict or project the performance of an investment or investment strategy.

<sup>3</sup> Rule 2210(d)(1)(A) provides:

All member communications with the public shall be based on principles of fair dealing and good faith, must be fair and balanced, and must provide a sound basis for evaluating the facts in regard to any particular security or type of security, industry, or service. No member may omit any

7. The seminar invitation, projection slide and two handouts, which were distributed at his seminars, promoted the advantages of reverse mortgages, but failed to provide balancing disclosure of the risks and limitations of such strategies, an omission of material information.

#### EXAGGERATED, UNWARRANTED AND MISLEADING CLAIMS REGARDING EXPERTISE

8. Abbott used communications that made claims regarding his expertise and status in the financial industry that were misleading, false, unwarranted, or lacked a sound basis, in violation of Rule 2210(d)(1)(B).
9. Abbott's biographical handout stated that he was an "investment advisor." Similarly, he distributed four other handouts to seminar attendees, again identifying himself as a Registered Investment Advisor. These claims were false and Abbott knew they were false when he included them in these communications.
10. Abbott distributed a biographical handout, which included other unwarranted or exaggerated claims that he:
  - a. Had "...30 plus years experience in teaching investors how to preserve their assets..."
  - b. Had taught investors how to "...increase their income as much as 40%, and reduce income taxes up to 85%."
  - c. Worked "...with the most trusted and experience [sic] estate-planning firms in the community."
  - d. Was "... a nationally know [sic] financial educator..."

#### INCOMPLETE AND UNBALANCED DISCUSSIONS OF INVESTMENT PRODUCTS

11. Abbott distributed communications that provided incomplete and unbalanced discussions of investment products and omitted material information, in violation of Rule 2210(d)(1)(A).
12. The seminar projection slide that Abbott used referenced a "Direct Current Rate" of 4.5%, which he indicated was offered by a bank, but failed to provide a sound basis for evaluating the facts regarding this rate, omitting information regarding:
  - The specific type of investment offering this rate (e.g., savings account, CD or variable annuity product, etc.)
  - The type of rate cited (e.g., yield, internal rate, etc.)

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material fact or qualification if the omission, in the light of the context of the material presented, would cause the communications to be misleading.

- The time period when such rate was available, and
  - The potential for volatility of principal and return.
13. Abbott distributed a handout that presented an incomplete and oversimplified discussion of stock investing. This communication included statements such as "...at age 57 it's feasible that you'll be living off your retirement fund for as long as 30 years or more. You'll have plenty of time for your portfolio to recover from any unexpected downturns in the markets...". These statements failed to reflect the potential risks inherent in investments.
  14. The seminar projection slide that Abbott used promoted the benefits of an indexed annuity, focusing on its Lifetime Pay Rider, but failed to clearly disclose the risks of the investment.
  15. The PowerPoint presentation also purported to compare the "good" and "bad" features of stocks, mutual funds, annuities, as well as checking, savings, CDs, and money market accounts. However, this presentation failed to disclose the material differences of those products, as required by Rule 2210(d)(2)(B).<sup>4</sup>

#### FAILURE TO OBTAIN REQUIRED PRINCIPAL APPROVAL <sup>4</sup>

16. Prior to using eighteen (18) communications in the seminars, Abbott was first required to obtain approval to use the material, in writing and dated by a registered principal of Jefferson Pilot. Abbott's failure to obtain such approval violated Rule 2210(b)(1).<sup>5</sup>

#### FAILURE TO FILE REGISTERED INVESTMENT COMPANY SALES LITERATURE WITH FINRA

17. Abbott used a PowerPoint presentation containing slides that were required to be filed with FINRA's Advertising Regulation Department, as the slides discussed registered investment companies. Abbott's failure to file these slides with

<sup>4</sup> Rule 2210(d)(2)(B) provides:

Any comparison in advertisements or sales literature between investments or services must disclose all material differences between them, including (as applicable) investment objectives, costs and expenses, liquidity, safety, guarantees or insurance, fluctuation of principal or return, and tax features.

<sup>5</sup> Rule 2210(b)(1) provides:

Registered Principal Approval for Advertisements, Sales Literature and Independently Prepared Reprints: (A) A registered principal of the member must approve by signature or initial and date each advertisement, item of sales literature and independently prepared reprint before the earlier of its use or filing with FINRA's Advertising Regulation Department ("Department").

FINRA's Advertising Regulation Department violated Rule 2210(c)(2).<sup>6</sup>

#### FAILURE TO DISCLOSE FIRM NAME

18. The seminar invitation also failed to disclose the name of the broker-dealer, in violation of Rule 2210(d)(2)(C)(i).<sup>7</sup>

19. The foregoing acts, practices and conduct constitute Abbott's separate and distinct violations of FINRA Conduct Rules 2110,<sup>8</sup> 2210(b)(1), 2210(c)(2), 2210(d)(1)(A), 2210(d)(1)(B), 2210(d)(2)(B), 2210(d)(2)(C)(i).

B. Abbott also consents to the imposition of the following sanctions:

- A sixty (60) calendar day suspension from acting in any and all capacities with any FINRA member firm; and
- A \$20,000 fine.

Abbott agrees to pay the monetary sanction(s) upon notice that this AWC has been accepted and that such payment(s) are due and payable. Abbott has submitted an Election of Payment form showing the method by which he proposes to pay the fine imposed.

The fine shall be due and payable either immediately upon reassociation with a member firm following the sixty (60) calendar day suspension noted above, or prior to any application or request for relief from any statutory disqualification resulting from this or any other event or proceeding, whichever is earlier.

<sup>6</sup> Rule 2210(c)(2) provides:

Within 10 business days of first use or publication, a member must file the following communications with the Department: (A) Advertisements and sales literature concerning registered investment companies (including mutual funds, variable contracts, continuously offered closed-end funds, and unit investment trusts) not included within the requirements of paragraph (c)(3). The filing of any advertisement or sales literature that includes or incorporates a performance ranking or performance comparison of the investment company with other investment companies must include a copy of the ranking or comparison used in the advertisement or sales literature.

<sup>7</sup> Rule 2210(d)(2)(C)(i) provides:

All advertisements and sales literature must prominently disclose the name of the member and may also include a fictional name by which the member is commonly recognized or which is required by any state or jurisdiction.

<sup>8</sup> Rule 2110 provides:

A member, in the conduct of his business, shall observe high standards of commercial honor and just and equitable principles of trade.

Abbott specifically and voluntarily waives any right to claim that he is unable to pay, now or at any time hereafter, the monetary sanction(s) imposed in this matter.

Abbott understands that if he is barred or suspended from associating with any FINRA member, he becomes subject to a statutory disqualification as that term is defined in Section 3(a)(39) of the Securities Exchange Act of 1934, as amended. Accordingly, he may not be associated with any FINRA member in any capacity, including clerical or ministerial functions, during the period of the bar or suspension. (See, FINRA Rule 8310 and 8311).

The sanctions imposed herein shall be effective on a date set by FINRA staff.

## II.

### WAIVER OF PROCEDURAL RIGHTS

Abbott specifically and voluntarily waives the following rights granted under FINRA's Code of Procedure:

- A. To have a Complaint issued specifying the allegations against him;
- B. To be notified of the Complaint and have the opportunity to answer the allegations in writing;
- C. To defend against the allegations in a disciplinary hearing before a hearing panel, to have a written record of the hearing made and to have a written decision issued; and
- D. To appeal any such decision to the National Adjudicatory Council ("NAC") and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, Abbott specifically and voluntarily waives any right to claim bias or prejudgment of the General Counsel, the NAC, or any member of the NAC, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including acceptance or rejection of this AWC.

Abbott further specifically and voluntarily waives any right to claim that a person violated the ex parte prohibitions of FINRA Rule 9143 or the separation of functions prohibitions of FINRA Rule 9144, in connection with such person's or body's participation in discussions regarding the terms and conditions of this

AWC, or other consideration of this AWC, including its acceptance or rejection.

### III.

#### OTHER MATTERS

Abbott understands that:

- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA"), pursuant to FINRA Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against me; and
- C. If accepted:
  - 1. this AWC will become part of my permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against me;
  - 2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about my disciplinary record;
  - 3. FINRA may make a public announcement concerning this agreement and the subject matter thereof in accordance with FINRA Rule 8313; and
  - 4. Abbott may not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise, denying, directly or indirectly, any finding in this AWC or create the impression that the AWC is without factual basis. Abbott may not take any position in any proceeding brought by or on behalf of FINRA, or to which FINRA is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects my right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.
- D. Abbott may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Abbott understands that he may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does not constitute factual or legal findings by FINRA, nor

does it reflect the views of FINRA or its staff.

Abbott certifies that he has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that Abbott has agreed to its provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce Abbott to submit it.

Date

July 15, 2009

Daniel Abbott  
Respondent



Reviewed by:

  
Frederick T. Stant, III  
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Accepted by FINRA:

7/21/2009  
Date

Signed on behalf of the  
Director of ODA, by delegated authority

  
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