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OFFICE OF THE SECRETARY

To: Security Exchange Commission

Subject: Rule 151A

Gentlemen,

My purpose with this communications is to comment on proposed Rule 151A and the broad reaching implications.

After having read materials on this subject and having conversations with people in the insurance industry and the securities industry, I have come to the conclusion that SERIOUS COMPETITION IS AT THE ROOT OF YOUR PROPOSAL FOR RULE 151A.

The complaint by licensed securities sales people concerning protection for the consumer is just so much Bull! We have in the U.S. a system of selling securities that is a monopoly that protects the SECURITIES MARKET from competition by you, the SEC. I AM 56 YEARS, college educated , AND HAVE ENOUGH LIFE EXPERIENCES TO DETECT DISHONEST, HIPOCRITICAL, HIDDEN MOTIVES. In the following paragraphs I will, step by step, prove my statements, based on your very own web site plus my twenty eight years of experience.

(1) Protection of the consumer- You do not have the ability to protect the consumer IN YOUR SECURITIES MARKET. There is nothing secure about the highly unstable securities that are sold to the public THAT ARE ADVERTISED ON NATIONAL TELEVISION STATIONS , WITH VERY NEBULIOUS PROMISES THAT DO NOT GIVE ANY SPECIFIC FACTS BUT AN IMPLIED PROMISE OF TREMENDOUS PERFORMANCE. NOW, TO THE HEART OF THE MATTER, AFTER THE ELUSIVE SPILL FOR THE INSECURE SECURITIES, THERE IS A VERY LOW SOUNDING/ LOW SOUND VOLUME DISCLAIMER STATING THAT THE CONSUMER MUST BE AWARE THT HE/SHE IS TAKING RISKS WITH THEIR MONEY. HMMMM! BE SURE TO READ ALL INFORMATION PRESENTED TO YOU MR. CONSUMER! BEWARE! HMMMM!.

(2) Now that we know you cannot protect the public from the INSECURE SECURITIES PRODUCTS, LET'S TAKE A LOOK AT A VERY POPULAR SECURITIES PRODUCT, A VARIABLE ANNUITY. The State of Tennessee has issued a warning to the citizens of Tennessee. This warning is called "Thirteen Unlucky Investments" State of Tennessee. OH, MY! Imagine the irony of it all. Here we have a product that is not being mentioned at all by the SEC, who is overseeing the protection of the consumer, and yet the problem is so horrendous with variable annuities, that not only Tennessee but other states are sending out consumer protection alerts, such as California. California calls the

SEC controlled variable annuities a scam and rates the variable annuities at the very top of investment scams to avoid. I am tempted to go on and on with what the states think about their citizens buying insecure variable.annuities(decreasing values in the annuity). The states are saying that a variable annuity is only appropriate for a EXTREMELY SMALL SEGMENT OF THE MARKET PLACE. Yet the states of the union say absolutely too many are sold.

One can encounter numerous people who have trusted their stock broker and now have lost a tremendous amount of the original sum of money put into the variable annuity. This was years ago and these people have yet to received back their original amounts of money.0 However, the consumer is not loosing money in fixed equity indexed annuities. Question, how can the SEC , at the national level, justify the so called protection of the public concerning fixed equity indexed annuities, when the states of our great union are doing every thing possible to protect their citizens from SEC regulated products(variable annuities). The Fixed Equity Indexed Annuity Products do not cause the consumer to loose any values in their accounts. This is the purpose of these annuities, to give the consumer much needed stability and not suffer the down turns in the market.

(3) The real question is, just what in the heck is the SEC trying to protect the public from? Could it be from dishonest agents? Well, let's go to the US govt. web site that deals with securities matters. OOOH, MY! Here we go again! We rapidly notice that this web site is full of situations where dishonest SEC controlled agents are being disciplined for actions not to the liking of the SEC. Well, boys and girls, no society has ever been able to pass laws that get rid of people's dishonesty. The SEC cannot get rid of dishonest people in it's own ranks. How in the heck can they Do any better if they take over the fixed equity index annuity market when their hands are full of chasing down SEC controlled agents who have not been honest. Tennessee French describes this situation as HIPPOCRICAL BULL. This Organization can't police it's own back yard much less trying to get into someone else's back yard. This reminds me of two families I once knew. One family had two sons, ages 16 and 17, that were smoking, doping, drinking, skirt chasing, and lazy. The other family had a daughter, age 16, that was pregnant by her sixteen year old boy friend. The families lived next door to each other. One day, the father of the two boys was giving harsh, unsolicited advice to the father of the young girl on how he should deal with the situation. The girl's dad listened and then replied. "Scotty, you and grew up together. My family and your family is not perfect. Seems to me you forget about the stink in your own back yard. Both of us know That each of us have a job to do. I guess we need to deal with our own problems Let each family handle it's problems. It all works out much better this way." Years Later, both families have responsible children. It worked out because one hippocrit Was kindly, but firmly put in his place.

)4)Commissions-There is a great suspicious attitude the SEC is corrupt on this one. I have personally heard some very disgruntled securities agents mouthing off about the loss of income from competition with insurance products that offer total protection from loss of hard earned money. Also, there is a tremendous loss of fees or commissions to the NASD or to the new named organization. There are reports coming in from the grape vine that this organization is hell bent on getting back it's commissions lost to the insurance industry. If true, this organization is attempting to monopolize a insurance product with the end result that the product. and it's commissions will be controlled by a SEC who cannot control the ethics in it's sphere of influence any better that the insurance industry combined with the fifty states and insurance departments. Protection is bull for the SEC. Commissions concerns for the securities industry and the successor to the NASD and it's fees is the concern here and needs to be investigated by congress.

(5) A- In summary, there are more protection features in the fixed equity indexed market Than the SEC with it's insecure securities can ever hope to offer the public. B-The securities industry needs competition-not protection. Only through competition with the Insurance industry has the consumer finally been offered a situation where good returns can be realized without the risk associated with the securities industry.

(C) The old criticism that the insurance agents are not trained well enough is bull. Most Of the agents that I know are college educated and maybe more educated than a great Number of the securities agents. LET'S NOT BE A HIPPOCRIT. LET'S JUST LOOK AT THE FACTS.

(D)Because of my knowledge of what is going on, the reduced availability of fixed equity index annuities to consumers, and corrupt attempts at a monopoly, I recommend that an extension be given for further comments and investigations into the NASD/successor and the irreversible harm to be done to the public by the SEC and the monopoly created that will destroy competition between the insurance industry and the securities industry. The securities industry needs the competition from the insurance industry so the public will have more security.

Sincerely,

Glenn R. Campbell

Glenn R. Campbell
grcamp9@hotmail.com
423-418-0475

MEDIA RELEASE

STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE

FOR IMMEDIATE RELEASE
FEBRUARY 16, 2006

CONTACT: KELLY M. BROCKMAN
615.741.6007 (OFFICE)

STATE OF TENNESSEE SECURITIES DIVISION RELEASES "UNLUCKY 13" LIST OF INVESTOR TRAPS FOR 2006

Nashville, TN—The Securities Division of the State of Tennessee Department of Commerce and Insurance today outlined a forecast of the 13 most common ways investors are likely to be trapped in 2006.

"This list is anything but lucky," said Daphne Smith, Assistant Commissioner for the Securities Division. "Investment scams can be devastating for the investor who falls victim, both financially and emotionally. Scams come in many disguises, but they all share a common goal of separating victims from their money. As regulators, we are especially concerned that as the first of the Baby Boomers turn 60 this year they not become trapped in bad investments as their retirement nears."

Before making any investment, investors are urged to ask the following questions: Are the seller and investment licensed and registered in your state? Has the seller given you written information that fully explains the investment? Are claims made for the investment realistic? Does the investment meet your personal investment goals? Investors are also urged to contact their state or provincial securities regulator with any questions about an investment product, broker or adviser, before making an investment. "One phone call can save a lot of money and misery," Smith said.

While the traps below are listed alphabetically, personal information scams, oil and gas investment fraud, and prime bank schemes as the greatest potential threats to investors this year.

- **Affinity Fraud.** Con artists frequently target members of closely knit religious, political, or ethnic groups. Their pitch is essentially, "since I am like you and believe like you, you can believe in me and in what I say." When an investment is presented in this context, the potential investor should be extremely wary. This pitch seeks to substitute an emotional appeal for careful analysis and critical thought.
- **Churning.** An abusive sales practice in which unethical securities professionals make unnecessary and/or excessive trades in order to generate commissions. Most churning occurs where a broker has discretion to trade the account. In such cases, it is not necessary that the broker receive prior approval from the client to complete a transaction.
- **Equity Indexed Certificates of Deposit.** Remember the days of FDIC-insured, bank-issued certificates of deposit with guaranteed principal and interest? Equity Indexed CDs are <u>not</u> the same product. These hybrid securities products offer an interest coupon payment or return that is based on a stock market index, usually the S&P 500. Returns are not FDIC insured. They are dependent on the performance of the stock market. These are complex securities that promise a rate of return calculated over a defined period of time based upon some form of securities market index. A declining stock market means the possibility of no return on your investment. As a result, these products pose liquidity problems and are therefore, not suitable for seniors who may need the money for retirement living.
- **Oil and Gas Investment Fraud.** High oil prices mean oil and gas scams will continue to attract victims. Oil and gas deals are complicated investments that generally require a significant investment, often requiring a minimum deposit of thousands of dollars. Increasingly, these deals are being promoted via the Internet with claims of attractive tax advantages. Sales materials with "official-looking" surveyor maps and "geologist" opinion letters touting the likelihood that the "managers" of the drilling enterprise will hit pay dirt are sent

DAVY CROCKETT TOWER, 5TH FLOOR
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TN 37243
615.741.2241

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- regularly to prospective investors more than 1,000 miles from the region being "prospected." Overall, these deals are highly risky, but the lure of high profits often proves irresistible to investors.
- **Personal Information Scams.** The first step in separating a victim from his or her money is convincing the victim to divulge personal financial information. When the sales agent is a local tax preparer or unaffiliated insurance agent, he or she enjoys a position of trust in the community. Con artists not enjoying such a position of trust frequently style themselves as "senior specialists" or adopt a pretext of preparing "living will" or a "living trust." A pretext that is of current concern to insurance and securities regulators is the offer to help senior citizens qualify for prescription benefits by preparing forms. In the guise of filling out forms, the scamster may ask unnecessary questions about personal financial assets. To the con artist, this information provides a comprehensive laundry list of what is available for the taking.
- **Prime Bank Schemes.** These schemes often promise high-yield, tax-free returns that are said to result from "off-shore trades of bank debentures." Investors are told that only very wealthy people can get the benefit of these programs but the promoter is able to make it available to the victim. Sometimes the victim is required to execute a "confidentiality agreement" in order to invest and is told not to consult an attorney, accountant or financial planner because they keep these programs for the "big boys" and will deny that they exist. There are no such programs, no such debentures and no such high-yield trades. These prime bank schemes are the securities equivalent of a purse snatch. Once the seller has your money, it's gone "off shore" forever.
- **Pump and Dump Schemes.** Unethical broker-dealers frequently "pump" up the value of low-priced securities traded on the NASDAQ "pink sheets" and then "dump" the stock after naïve investors have purchased the stock at inflated prices. The balloon breaks when the promoters no longer maintain the myth that there is value in the shares and investors are left holding worthless shares. These schemes frequently appear through unsolicited e-mail messages.
- **Recovery Rooms.** Scam artists buy and sell the names and financial information of victims who have lost money to "recovery room" operators who promise, in return for a fee that the victim must pay in advance, to recover the money lost in a worthless investment. These "sucker lists" are bought by crooks who know that people who have been deceived once are vulnerable to additional scams; especially scams that give hope of recovering lost money. If you have been the victim of a fraud, never give out your credit card or other personal information to someone who contacts you with a promise to recover your money. Remember, in the scam world this caller is known as a "reloader" and he is setting you up for a second bite at the apple.
- **Registered High-Interest Promissory Notes Publicly Advertised.** Generally, the higher the return promised, the greater the risk to your money. A track record of paying high interest and repaying principal is not an assurance that you will get your money back if the company fails. These notes are not suitable for retirement funds.
- **Sale and Leaseback Contracts.** In an attempt to avoid the investor protections of securities laws, some investments are structured to resemble the sale of a piece of equipment such as a payphone, ATM machine or Internet booth located at a remote venue where the investor cannot service and maintain the equipment and must enter into a servicing agreement. In order to make the deal more attractive, investors are told that after a given period the equipment can be sold back to the seller at the investor's original purchase price. The investor is also promised a specific rate of return. In a variant of this scheme, a real estate interest such as a long-term lease in a resort community is sold instead of physical equipment. Frequently the equipment or property does not exist and the seller lacks the financial capacity to keep the promise of repurchase.
- **Self-Directed Pension Plans.** Many types of securities fraud require the victim to remove funds from legitimate investments such as stock brokerage accounts, mutual funds, insurance policies, deferred compensation plans and mutual funds so that they can be invested in a worthless scam. This scam may begin with advice to convert an employer-sponsored pension into a self-directed pension plan. While these plans may serve legitimate investment purposes, all too often they only serve to benefit the scam artist.
- **Unsuitable Recommendations.** Just as every investor is different, so too are investments. What may be a suitable investment for one investor may not be right for another. Securities professionals must know their

- customers' financial situation and refrain from making recommendations of securities that they have reason to believe are unsuitable. When securities professionals fail to live up to applicable ethical standards, great harm can be done to individual investors.
- **Variable Annuities.** Variable annuities are tax-deferred investments that typically place mutual funds inside of an insurance wrapper for tax deferred potential investment growth. While these products are legitimate investments, regulators are concerned about their popularity in the sales community. Commissions to those who sell variable annuities are very high, which provides incentive for sellers to engage in inappropriate sales. Variable annuities are only suitable for a very small percentage of the investing public and generally are not appropriate for most seniors. The steep penalties for early withdrawals also make variable annuities unsuitable for short-term investors. Be especially wary of any broker who wants to sell you a variable annuity to hold inside a 401(k) or IRA. You are already getting tax-deferred growth in an IRA or a 401(k), and the variable annuity simply adds a layer of cost with no additional tax benefit.

Recognizing that financial education is a powerful weapon in the fight against investment fraud, the Securities Division has also provided tips on how to detect con artists and avoid becoming a victim on its website at www.state.tn.us/commerce/securities.

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