

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

COMMISSIONERS: Robert Pitofsky, Chairman
Mary L. Azcuenaga
Janet D. Steiger
Roscoe B. Starek, III
Christine A. Varney

In the Matter of)
) **DOCKET NO. C-3731**
)
THE ADMINISTRATIVE COMPANY,)
 a corporation, and) **DECISION AND ORDER**
MICHAEL P. MCINTYRE, individually and)
 as an officer and director of)
 The Administrative Company.)
_____)

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Denver Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

The respondents, the attorney for the individual respondent, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, or that the facts as alleged in such complaint, other than jurisdictional facts, are true, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days,

now in further conformity with the procedure prescribed in § 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following Order:

1. Respondent The Administrative Company is a corporation organized under and by virtue of the laws of the State of Texas, with its current address at 4328 Hollow Oak, in the City of Dallas, State of Texas. The Administrative Company has ceased doing business.

Respondent Michael P. McIntyre's current address is 4328 Hollow Oak, in the City of Dallas, State of Texas.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

DEFINITIONS

For purposes of this Order:

- a. "Living trust" means a trust into which an individual can place all of his or her assets during his or her lifetime and, by transferring ownership of the assets to the name of the trust, thereby remove the assets from the individual's estate.
- b. "Probate" is the legal process that validates a will, which is a legal document that contains instructions to the court on how an individual's assets and liabilities are to be divided and distributed at death.

ORDER

I.

IT IS ORDERED that respondents The Administrative Company, a corporation, its successors and assigns, and its officers; Michael P. McIntyre, individually and as an officer and director of The Administrative Company; and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, promoting, offering for sale, or sale of living trusts, do forthwith cease and desist from misrepresenting, in any manner, directly or by implication, orally or in writing, that:

- A. The use of a living trust avoids all probate and administrative costs.
- B. At death, a living trust allows assets to be distributed immediately or almost immediately.
- C. A living trust cannot be challenged.
- D. Living trusts are prepared by local attorneys.
- E. A living trust protects against catastrophic medical costs.
- F. A living trust is the appropriate estate planning device for every consumer.
- G. There are no disadvantages to a living trust.

II.

IT IS FURTHER ORDERED that respondents The Administrative Company, a corporation, its successors and assigns, and its officers; Michael P. McIntyre, individually and as an officer and director of The Administrative Company; and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the promoting, offering for sale, or sale of living trusts, do forthwith cease and desist from failing to disclose, clearly and conspicuously, in writing, and prior to the consummation of the sale, the following information:

- A. Living trusts may be challenged on similar grounds as wills.
- B. Living trusts may not be appropriate in all instances, and all estate planning options should be examined before determining which estate plan best suits a particular individual's needs and wishes.

III.

IT IS FURTHER ORDERED that respondents The Administrative Company, a corporation, its successors and assigns, and its officers; Michael P. McIntyre, individually and as an officer and director of The Administrative Company; and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the promoting, offering for sale, or sale of living trusts, do forthwith cease and desist from failing to disclose, clearly

and conspicuously, in writing, and prior to the consummation of the sale, the following information, if true:

- A. The availability of informal probate under this state's statutes allows minimal or no contact with the courts and reduces the time required to probate a will.
- B. The transfer of an individual's assets into the living trust is not included in the price of creating the living trust.
- C. It is the sole responsibility of the purchaser of the living trust to transfer assets into the trust.
- D. Creditors have a longer period of time to file a claim against a living trust than against a probated estate.

IV.

IT IS FURTHER ORDERED that respondents The Administrative Company, a corporation, its successors and assigns, and its officers; Michael P. McIntyre, individually and as an officer and director of The Administrative Company; and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, promoting, offering for sale, or sale of any legal instrument, service or program, do forthwith cease and desist from making, directly or by implication, orally or in writing:

- A. any statement or representation of material fact that is false or misleading; and
- B. any statement or representation about the advantages, risks or consequences of such legal instrument, service or program unless, at the time of making the statement or representation, they possess and rely upon a reasonable basis.

V.

IT IS FURTHER ORDERED that, for a period of five (5) years from the date of issuance of this Order, respondents, and their successors and assigns, shall maintain and upon request make available to representatives of the Federal Trade Commission for inspection and copying all documents relating to living trusts or the preparation of living trusts that are developed, written, reviewed, authorized, or used by respondents, their successors and assigns, their officers, and their agents, representatives

and employees, directly or through any corporation, subsidiary, division, or other device.

VI.

IT IS FURTHER ORDERED that, in connection with the advertising, promoting, offering for sale, or sale of living trusts, respondents shall maintain, for a period of five (5) years from the date of issuance of this Order, books, records, and accounts which, in reasonable detail, will demonstrate compliance with this Order and accurately, fairly, and completely reflect the incomes, disbursements, transactions, and use of monies by respondents and, upon reasonable notice, make such books, records, and accounts available to representatives of the Federal Trade Commission for inspection and copying.

VII.

IT IS FURTHER ORDERED that the corporate respondent shall notify the Federal Trade Commission, through its Denver Regional Office unless otherwise directed, at least thirty (30) days prior to any proposed change in the corporate respondent, such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of new corporations, subsidiaries or affiliates of the respondent, the planned filing of a bankruptcy petition, or any other corporate change that may affect compliance obligations arising out of this Order.

VIII.

IT IS FURTHER ORDERED that respondent Michael P. McIntyre shall, for a period of five (5) years from the date of issuance of this Order, notify the Federal Trade Commission, through its Denver Regional Office unless otherwise directed, within forty-five (45) days of the discontinuance of his present business or employment, including self-employment and of his affiliation with a new business or employment, including self-employment. Each notice of affiliation with any new business or employment shall include the respondent's new business address and telephone number, current home address and a statement describing the nature of the business or employment and his duties and responsibilities.

IX.

IT IS FURTHER ORDERED that respondents shall:

- A. Within thirty (30) days of service of this Order upon them, provide a copy of this Order to each of respondents' current principals, officers, directors and managers and to all personnel, agents and representatives who are or have been participating or engaging in any manner in respondents' living trust sales activities.

- B. For a period of five (5) years from the date of issuance of this Order, provide a copy of this Order to each of respondents' principals, officers, directors and managers, and to all personnel, agents and representatives who are participating or engaging in any manner in respondents' living trust sales activities, within three (3) days after the person assumes his or her position.

X.

IT IS FURTHER ORDERED that this Order will terminate on April 14, 2017, or twenty years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the Order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

- A. Any paragraph in this Order that terminates in less than twenty years;
- B. This Order's application to any respondent that is not named as a defendant in such complaint; and
- C. This Order if such complaint is filed after the Order has terminated pursuant to this paragraph.

Provided further, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the Order, and the dismissal or ruling is either not appealed or upheld on appeal, then the Order will terminate according to this paragraph as though the complaint was never filed, except that the Order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

XI.

IT IS FURTHER ORDERED that respondents shall, within sixty (60) days of service of this Order upon them, and at such other times as the Federal Trade Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this Order.

By the Commission.

Donald S. Clark
Secretary

ISSUED: April 14, 1997