

STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
SECURITIES DIVISION

IN THE MATTER OF DETERMINING) Order Number S-06-137-08-SC01
Whether there has been a violation of the)
Securities Act of Washington by:) STATEMENT OF CHARGES AND
) NOTICE OF INTENT TO ENTER ORDER
) TO CEASE AND DESIST, TO IMPOSE
Thomas Doncaster,) FINES, AND TO CHARGE COSTS
)
Respondent)
)

THE STATE OF WASHINGTON TO: Thomas Doncaster

STATEMENT OF CHARGES

Please take notice that the Securities Administrator of the State of Washington has reason to believe that Respondent, Thomas Doncaster, has violated the Securities Act of Washington and that his violations justify the entry of an order of the Securities Administrator under RCW 21.20.390 to cease and desist from such violations, under RCW 21.20.110(1) to impose fines, and under RCW 21.20.110(7) to charge costs. The Securities Administrator finds as follows:

TENTATIVE FINDINGS OF FACT

Respondent

1. Thomas Doncaster (“Doncaster”) is a registered securities salesperson in the State of Washington. His Financial Industry Regulatory Authority securities salesperson identification number is 1926394. Doncaster is the owner of Doncaster Insurance and Financial Services, Inc. (“Doncaster Financial”) of Kennewick, Washington. From February 1989 to

STATEMENT OF CHARGES AND NOTICE OF INTENT TO ENTER ORDER TO CEASE AND DESIST, TO IMPOSE FINES, AND TO CHARGE COSTS

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Securities Division
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360-902-8760

1 October 2002 Doncaster was licensed to sell securities through NYLife Securities, Inc; from
2 October 2002 to May 2008 through Centaurus Financial, Inc.; and since May 2008 through
3 Independent Financial Group, LLC.

4 *Nature of the Conduct*

5 Unsuitable Sales, False Account Applications and Forged Signatures

6 2. Doncaster made unsuitable investment recommendations for the purchase of
7 variable annuities to at least three clients and filed false account applications for at least three
8 clients so that the company underwriting the variable annuity would issue the contracts to these
9 clients. Additionally, at least one client's signature has been forged on an account application
10 and replacement notice form.

11 *Investor A*

12 3. Investor A, an elderly woman from Kennewick, Washington, has been a client of
13 Doncaster since 2004. In September 2006 Doncaster sold Investor A a \$100,000 variable
14 annuity with a Minimum Guaranteed Income Benefit. The variable annuity application form
15 submitted to ING by Doncaster showed Investor A's date of birth as February 21, 1930 when in
16 fact her true date of birth was February 21, 1920, making her 86 at the time of purchase.

17 4. Had Doncaster provided ING with the accurate date of birth for Investor A, the
18 application was a candidate for rejection by ING because of Investor A's age. According to
19 ING's prospectus, the variable annuity contract purchased by Investor A was generally not
20 offered to applicants over the age of 80.

21 5. The application also stated that the annuitant had to be under the age of 80 at the
22 time of purchase to get the Minimum Guaranteed Income Benefit rider. A Minimum
23 Guaranteed Income Benefit rider offers, for a fee, the annuitant the benefit of a guaranteed
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1 income after the variable annuity is annuitized. In this case, Investor A would have to be 96
2 years old before she would get the benefit of this rider because there is a ten year waiting period
3 before she can annuitize the contract.

4
5 **Investors B and C**

6 6. Investors B and C, an elderly couple from Richland, Washington, have been
7 clients Doncaster since 1999. In December 2007 and January 2008 Doncaster sold Investors B
8 and C, two variable annuities with a combined value of over \$800,000. The annuities were
9 from Hartford and Genworth Financial.

10 *Hartford Variable Annuity*

11 7. Investors B and C told Doncaster in the December 2007 meeting that they had a
12 certificate of deposit (“CD”) maturing and were looking to invest in a one year CD. Doncaster
13 offered what Investor B thought was a one year CD earning 6.93% minus .5% in expenses. In
14 reality, Doncaster put the Investors B and C in a Hartford variable annuity which had a one year
15 surrender period and annual fees of at least 1.70%. This variable annuity did not offer a return
16 of 6.93% as represented to Investor B. Doncaster placed the investor’s funds in four separate
17 mutual funds within the variable annuity.

18 8. The Hartford variable annuity application showed an accurate date of birth of
19 January 2, 1921 for Investor B.

20 9. Hartford notified Doncaster’s office on December 18, 2007 that Investor B was
21 not eligible for the product because he was over the age of 85. Doncaster’s assistant informed
22 Hartford that the date of birth should be January 2, 1922, thus eligible for the annuity. Hartford
23 then issued the contract.

24 10. This investment was not what Investors B and C wanted nor was it what they
25 thought they purchased and the variable annuity was unsuitable for Investors B and C.

1 *Genworth Financial Variable Annuity*

2 11. During a December 2007 meeting with Investor B, Doncaster recommended that
3 Investors B and C roll an existing annuity over into a Genworth Financial variable annuity with
4 a four year surrender period.

5 12. The Genworth Financial variable annuity applications initially submitted by
6 Doncaster to Genworth showed an accurate date of birth of January 2, 1921 for Investor B.

7 13. On December 19, 2007, Doncaster notified Genworth Financial that the date of
8 birth on the application should be January 2, 1922 for Investor B. Much like the Hartford
9 variable annuity, Genworth Financial does not generally issue this type of variable annuity to
10 customers over 85 years of age. On December 27, 2007, Genworth Financial contacted
11 Doncaster's office to clarify the age discrepancy. Doncaster's assistant stated that the date of
12 birth for Investor B was January 22, 1922. Funds for this annuity were not received by
13 Genworth Financial until January 25, 2008, making Investor B still outside of the date range for
14 the issuance of the policy. Genworth Financial notified Doncaster that Investor B was over age
15 for the contract. Doncaster then sent Genworth Financial a letter stating that the annuity was
16 appropriate and suitable for Investor B. Genworth Financial subsequently issued the contract
17 without the annual step-up death benefit rider because of Investor B's age.

18 14. The Genworth Financial variable annuity was unsuitable for Investor B given the
19 age of the annuitant and the four year surrender period on the contract.

20 15. The Genworth Financial variable annuity application submitted by Doncaster
21 also contained a signature of Investor C that was inconsistent with her normal signature. The
22 signature of Investor C on the Genworth Financial Replacement Notice form submitted by
23 Doncaster was inconsistent with her normal signature. Investor C has signed a declaration
24 stating that the signatures on those forms are not hers.
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1 Client Communication

2 16. Doncaster provided written correspondence, including letters and emails, to
3 numerous clients that were not approved by the firm he was working for at the time. This
4 correspondence included letters that Doncaster knew or should have known would not be
5 approved by the firm.

6 Investor D

7 17. Investor D, a retired man from Richland, Washington, first became client of
8 Doncaster in 2000. At the time, Investor D, who was on disability and in poor health, had sold a
9 house and went to Doncaster to invest the proceeds of the sale. In July 2000 Doncaster sold
10 Investor D an \$80,000 variable annuity. On August 7, 2000, Investor D sent a letter to
11 Doncaster stating that a local credit union was offering a three year certificate of deposit earning
12 a 7% per year return and that any investment with Doncaster should earn more than that.
13 Doncaster provided Investor D with a letter dated August 10, 2000 regarding investing through
14 Doncaster stating that “It is my estimate that if we allow the account to grow and re-invest for
15 the next three years, your balance should be approximately \$112,000.”

16 18. Doncaster provided Investor D with a projection of what his account would be
17 worth in three years when Doncaster did not have the ability predict how the securities market,
18 and specifically, how Investor D’s investments would perform during that three year period.

19 19. Doncaster did not seek approval from the firm prior to delivery of the letter to the
20 investor. Doncaster knew that he needed prior approval to make such promises and guarantees,
21 and Doncaster knew that he would not receive approval to send the information to his clients
22 based upon prior experience. In 1998 Doncaster sought approval from his investment adviser at
23 the time, NY Life Insurance Company (“NY Life”), to provide a client account statements that
24 Doncaster created. NY Life declined to approve the request because it violated a company
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1 policy that requires all account statements provided to clients to be created by the firm, not the
2 representative.

3 Investor E

4 20. Investor E, an elderly man from Kennewick, Washington, has been a life
5 insurance client of Doncaster beginning in 1995. Beginning in January 1999 and continuing
6 through at least December 1999, Investor E purchased over \$120,000 in variable annuities from
7 Doncaster. Some of those funds came from the proceeds of an insurance settlement when his
8 business was destroyed by a fire. On February 4, 2000, Doncaster provided a letter to Investor
9 E, when the current account balance was \$118,013.93, that stated, in part: "It is my projection
10 that your portfolio will be worth \$150,000.00, four years and three months from today. This is
11 also taking into account that we will be redeeming \$975.00 per month and having you spend
12 that as you desire. The deal is this ---- if I am correct, then I'll expect for you to send me a
13 check for the amount over \$150,000.00. If I am incorrect, I'll make up the difference for any
14 short fall to the \$150,000.00."

15 21. This letter is both a projection of future account value and offers a guarantee to
16 the client on the future performance of the investment recommended by Doncaster. Doncaster
17 did not have the ability predict how the securities market and specifically, how Investor E's
18 investments would perform during that time period. Providing a guarantee, prediction or
19 projection of investment performance to a client for type of investment is a prohibited practice
20 according the Field Supervision Manual and Registered Representatives Handbook of NY Life
21 in place at the time of the offer.

22 22. Doncaster did not seek or receive approval from the firm, NY Life, prior to
23 delivery to the investor. Doncaster knew that he needed prior approval to make such promises
24 and guarantees, and Doncaster knew that he would not receive approval to send the information
25 to clients based upon his firm's policies and prior experience.

Investor F

23. Investor F, an elderly woman formerly of Kennewick, Washington, has been a client of Doncaster since 1989. Investor F and her now deceased husband had purchased multiple investment products from Doncaster over the years. Between February 2000 and March 2001, Doncaster prepared and sent Investor F at least eight account statements reflecting current balances and rates of return on a number of these investments.

24. Doncaster did not seek or receive prior approval from NY Life prior to providing the account statements to Investor F.

25. In December 2005, Doncaster was sent a letter from John Marcheso, his supervisor while with Centaurus, stating that all email and written correspondence required prior approval from his office prior to sending to the client.

26. Doncaster sent multiple emails in 2006 to clients without prior approval from his firm at the time using his personal email account in violation of the policies and procedures of the firm. Doncaster knew that he needed prior approval before providing clients with written communication and he failed to obtain that approval.

Deceptive Advertising and Promotion

27. Doncaster provided misleading information to clients and potential clients regarding the securities licenses that he possessed on multiple occasions. Newspaper advertisements that ran in the Tri-City Herald from August 2006 through at least June 2007 by Doncaster stated in part:

Tom Doncaster is a Registered Representative
with Centaurus Financial, Inc.
an independent broker/dealer,
member NASD & SIPC.

REGISTERED INVESTMENT ADVISOR

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2 The advertisements gives the appearance that Doncaster is a registered investment adviser, when
3 in reality Centaurus Financial, Inc. is the investment adviser and Doncaster is an investment
4 adviser representative of Centaurus Financial, Inc.

5 28. The advertisement is deceptive because it gives the appearance that Doncaster is
6 an investment adviser. To be an investment adviser Doncaster would be required to take
7 additional testing and would be subject to additional compliance requirements that he is not
8 subject to as an investment adviser representative.
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10 29. Hanging on a wall of Doncaster's office, accessible and viewable by clients, is a
11 diploma from Ashwood University for a Doctorate in Business Administration. According to
12 the Ashwood University website, a doctorate degree costs \$599 and there are no classes to
13 attend or exams because the degree is based upon life experiences. Included in the cost is one
14 degree, one certificate of distinction, one award of excellence, one certificate of membership,
15 two transcripts, and four education verification letters. For additional fees, the degree applicant
16 can select a grade point range as well as select the date of their graduation.

17 30. By displaying the diploma, Doncaster gave clients and prospective clients the
18 appearance that he earned a doctorate degree, when in reality, Doncaster just paid for the degree
19 and it required no specialized education or training to receive the degree.

20 31. Hanging on the walls of Doncaster's office, accessible and viewable by clients,
21 are plaques of recognition that are generic in nature. These plaques state that the recipient was a
22 leader or won an award, but they do not specify the entity that is giving the award or the entity
23 or individual that received the award.
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1 by WAC 460-22B-090(14) and is a ground for the suspension of a securities salesperson license
2 and a fine pursuant to RCW 21.20.110(1)(b).

3 5. In displaying a diploma from Ashwood University and generic awards,
4 Respondent, Thomas Doncaster, committed a dishonest or unethical business practice as defined
5 by WAC 460-22B-090(16) and is grounds for the suspension of a securities salesperson license
6 and a fine pursuant to RCW 21.20.110(1)(b).

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8 6. In submitting false or misleading client information forms, Respondent, Thomas
9 Doncaster, caused Centaurus Financial, Inc.'s books and records to be inaccurate in violation of
10 NASD Conduct Rule 3110. Such conduct is a dishonest or unethical business practice as
11 defined by WAC 460-22B-090(19) and is grounds for the suspension of a securities salesperson
12 license and a fine pursuant to RCW 21.20.110(1)(b).

13 7. In placing newspaper advertising with misleading information regarding his
14 licensing status as an investment adviser representative Thomas Doncaster violated
15 21.20.040(3). Such conduct is a dishonest or unethical business practice as defined by WAC
16 460-22B-090(16) and is grounds for the suspension of a securities salesperson license and a fine
17 pursuant to RCW 21.20.110(1)(b).

18 **NOTICE OF INTENT TO ORDER THE RESPONDENT TO CEASE AND DESIST**

19 Pursuant to RCW 21.20.390, and based on the above Tentative Findings of Fact and
20 Conclusions of Law, the Securities Administrator intends to order that Thomas Doncaster cease
21 and desist from violations of RCW 21.20.010, RCW 21.20.702, RCW 21.20.040, and WAC
22 460-22B-090.
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24 **NOTICE OF INTENT TO IMPOSE FINES**

25 STATEMENT OF CHARGES AND NOTICE OF INTENT TO ENTER ORDER TO CEASE AND DESIST,
TO IMPOSE FINES, AND TO CHARGE COSTS

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1 Pursuant to RCW 21.20.110(1), and based upon the Tentative Findings of Fact and
2 Conclusions of Law, the Securities Administrator intends to order that Respondent, Thomas
3 Doncaster, shall be liable for and pay a fine of \$65,000.

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5 **NOTICE OF INTENT TO CHARGE COSTS**

6 Pursuant to RCW 21.20.110(7), and based upon the Tentative Findings of Fact and
7 Conclusions of Law, the Securities Administrator intends to order that Respondent, Thomas
8 Doncaster, shall be liable for and pay the costs, fees, and other expenses incurred in the conduct
9 of the investigation of this matter in an amount not less than \$5,000.

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11 **AUTHORITY AND PROCEDURE**

12 This Statement of Charges is entered pursuant to the provisions of Securities Act and is
13 subject to the provisions of Chapter 21.20 RCW and RCW 34.05. The Respondent, Thomas
14 Doncaster, may make a written request for a hearing as set forth in the NOTICE OF
15 OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this
16 order.

17 If the Respondent does not request a hearing, the Securities Administrator intends to
18 adopt the above Tentative Findings of Fact and Conclusions of Law as final, and enter a
19 final order to cease and desist, to impose fines, and to charge costs to the Respondent.

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SIGNED and ENTERED this 26th day of January 2010.

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Michael E. Stevenson

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MICHAEL E. STEVENSON
Securities Administrator

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10 Approved by:

Presented by:

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12 *Suzanne Sarason*

12 *Tyler Letey*

13 _____
Suzanne Sarason
Chief of Compliance and Examination

13 _____
Tyler Letey
Financial Legal Examiner

15 Reviewed By:

16 *Martin Cordell*

17 _____
Martin Cordell
Financial Legal Examiner Supervisor

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