

**STATE OF NEW HAMPSHIRE
INSURANCE DEPARTMENT**

In Re: Frederick V. McMenimen, III

Amended Consent Order and Settlement Agreement

Docket No.: Ins. No. 09-046-EP

This Consent Order and Agreement ("Order") is made this 9th day of December 2009 between the New Hampshire Insurance Department ("Department") and Frederick V. McMenimen, III ("the Respondent").

1. The Respondent is a licensed insurance producer in New Hampshire and at relevant times was the producer of record for George and Francis Lewis, and their daughter and son-in-law, Leslie and James Tufts (collectively, "the Consumers").
2. The Respondent negotiated the sale of five Sun Life Assurance Company of Canada ("Sun Life") annuity contracts to the Consumers, three to Mr. and Mrs. Lewis and two to Mr. and Mrs. Tufts. During the sale of these annuity contracts, the Respondent represented, apparently in good faith, that each of the five annuities paid a guaranteed interest rate of 3% over the ten-year life of the annuity.
3. However, the Respondent subsequently discovered that, as per an endorsement attached to each contract, the actual guaranteed interest rate on each contract was 1.75%, not 3% as the Respondent had represented to the Consumers.
4. Consequently, the Respondent, as an inducement to maintain the insurance, knowingly offered, among other things, to "make up any difference" if the cumulative growth in the three contracts failed to achieve at least a 30% return over ten years.
5. As a result of a complaint filed with the NHID by Leslie Tufts, the Department's Enforcement Unit investigated the transaction and concluded that the Respondent's written offer to indemnify the Consumers for each annuity contract violated RSA 417:3, Unfair Trade Practices, as defined in RSA 417:4, IX (a);

WHEREFORE, for purpose of settling the above-referenced matter and in lieu of an administrative proceeding, the NHID and the Respondent reached an agreement whereby Respondent consents to the following terms of this Order:

- A. The Respondent waives the statutory right to an adjudicatory hearing on this matter.
- B. The Respondent agrees to pay an administrative penalty in the amount of Two-Thousand, Five-Hundred Dollars (\$2,500.00), said sum of which the Respondent previously tendered to the NHID.

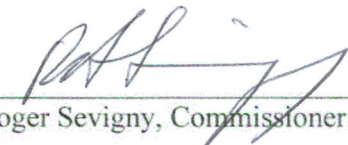
C. This Consent Order and Settlement Agreement is intended to supersede and replace the Consent Order and Settlement executed by the Respondent on August 17, 2009 and by Insurance Commissioner on August 19, 2009.

D. This Order shall be fully enforceable in any Superior Court in the State of New Hampshire.

IT IS SO ORDERED.

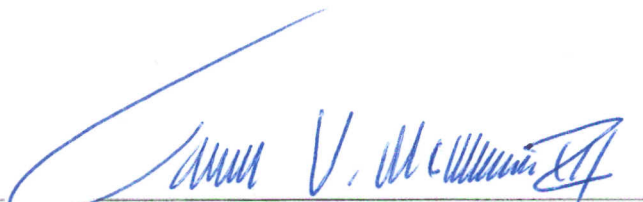
New Hampshire Insurance Department

Dated: 12-10-09



Roger Sevigny, Commissioner

Dated: 12-9-09



Frederick V. McMenimen, III