



consistent with the language and terms of the Offer, hereby settling the above-captioned proceeding (E-2020-0018) with prejudice.

## **II. JURISDICTION**

1. The Division has jurisdiction over matters relating to securities pursuant to the Act, codified at Chapter 110A of the Massachusetts General Laws.
2. The Offer was made and this Order is entered in accordance with the Act and with Section 10.10 of the Regulations.
3. The acts and practices that were the subject of the Complaint occurred in Massachusetts within the meaning of Section 414 of the Act.

## **III. RELEVANT TIME PERIOD**

4. Except as otherwise expressly stated, the conduct described herein occurred during the approximate time period of January 1, 2010, to December 31, 2019 (the "Relevant Time Period").

## **IV. RESPONDENTS**

5. Charles J. Evan ("Evan") is 74 years old and resides in Newton, Massachusetts. Evan has a FINRA CRD number of 836083. Evan was registered with multiple firms as a broker-dealer agent in Massachusetts from 1999 to 2019. Most recently, Evan was registered as a broker-dealer agent with MML Investors Services, LLC in Massachusetts from March 25, 2017, until his discharge on or around October 28, 2019. Evan was an agent with Baystate Financial ("Baystate") from at least 2002 until his termination on or around October 28, 2019, an investment adviser representative of Baystate Wealth Management LLC from 2011 to 2018, and an investment adviser representative of Capital

Planning Group of Massachusetts, Inc. from at least April 30, 2002, until December 31, 2019.

6. Capital Planning Group of Massachusetts, Inc. (“Capital Planning”) was a corporation organized under the laws of Massachusetts with a principal place of business at 100 William Street, Suite 300, Wellesley, Massachusetts 02481. Evan was the sole owner and operator of Capital Planning from at least April 29, 2002, until its failure to renew its registration on December 31, 2019.

## V. STATEMENT OF FACTS

### A. **Background**

7. Evan was a registered investment adviser representative, as well as President and direct owner of Capital Planning throughout the Relevant Time Period.

8. Evan was also a broker-dealer agent of MML Investors Services, LLC (CRD No. 10409) (“MMLIS”) from March 25, 2017, and agent of Baystate, a financial services agency, throughout the Relevant Time Period until his termination for cause on or around October 28, 2019.

9. Prior to his registration with MMLIS, Evan was registered with New England Securities Corporation (CRD No. 615) (“NES”) from April 30, 2002, until its acquisition by MetLife Securities, Inc. (CRD No. 14251) (“MetLife Securities”) on January 2, 2015.

10. Prior to January 2015, Baystate was an independent general agency of New England Financial (“NEF”), whose broker-dealer was NES, a subsidiary of MetLife. Baystate ceased to be a separate legal entity and became a branch office of MetLife and its broker-dealer.

11. On or about July 1, 2016, MassMutual acquired MetLife Securities and MetLife's retail distribution business and rebranded MetLife Securities as MSI Financial Services, Inc. ("MSI"). At that time, Baystate became an independent agency again and its registered representatives were affiliated with MSI.

12. Evan remained registered with MetLife Securities until MassMutual dissolved MSI and merged MSI's operations into MMLIS. Following the merger, Evan and other registered representatives in the Baystate agency became affiliated with MMLIS.

13. In his capacity as a broker-dealer agent in Massachusetts, Evan maintained outside business activities servicing Massachusetts investors through his registered investment adviser firm, Capital Planning, by providing fee-based investment advice, financial planning, and business consulting services to clients.

14. Evan did not provide written advisory contracts to clients disclosing the services to be provided, the duration or terms of the contract, or the advisory fee.

15. On or around October 28, 2019, MMLIS terminated its relationship with Evan for cause.

**B. Evan's Sales Practice Violations Involving Recommendations to Advisory Clients to Purchase Variable Annuities and Life Insurance Policies As Investment Advice**

*i. Investor One and Investor Two*

16. Investors One and Two are a married couple who were residents of Massachusetts were clients of Evan and Capital Planning throughout the Relevant Time Period. Investors One and Two have always been dependent on their investment adviser for financial advice.

17. Evan was a close family friend of Investors One and Two for many years. Investors One and Two first became clients of Evan and Capital Planning group in 2012.
18. Evan provided investment advice, financial planning, and business consulting services to Investors One and Two until his termination from MMLIS and Capital Planning's failure to renew in 2019.
19. On one occasion, Evan invoiced Investors One and Two for annual fees of \$5,000 for investment advice, but never charged them.
20. Evan regularly recommended that Investors One and Two purchase variable annuities and other policies insuring their lives and their parents' lives. Evan often recommended that they liquidate shares of mutual funds or other securities to fund the initial and subsequent premium payments for these purchases.
21. In 2015, Evan approached Investors One and Two and offered them a MassMutual Term Life Insurance policy insuring Evan's own life (the "Evan Policy").
22. Investors One and Two took over the Evan Policy on November 23, 2015, and converted the Evan Term Policy to a Universal Life policy. The policy insured Evan's life at a face amount of \$1,000,000 and required annual premium payments of approximately \$29,000. Evan advised Investors One and Two that they would likely be able to sell the Evan Policy in the future for a profit.
23. The Evan Policy came with a Compensation Disclosure Statement concerning commissions that are payable as a percentage of paid premium or a fixed dollar amount for as long as the broker is recognized by the customer as the broker of record for the policy.

24. Investors One and Two paid the annual premium of \$29,176 for the Evan Policy for approximately two years. In total, Investors One and Two paid premiums in the total amount of \$58,352 the Evan Policy.

25. After approximately two years, Investors One and Two told Evan that they could not continue the payments. Despite their insistence, Evan attempted to convince them to keep the policy and continue paying the annual premiums.

26. On March 31, 2017, Evan personally purchased the Evan Policy from Investors One and Two for the then-current cash surrender value of the Evan Policy, which was \$8,504.

27. Evan received approximately \$15,463.00-\$24,021.35 in commissions in connection with the premiums that Investors One and Two paid into the Evan Policy.

28. Evan recommended that Investors One and Two purchase and invest additional premiums into seven Jackson National Life Insurance Company ("Jackson") variable annuities between 2012 and 2018. Each annuity carried a guaranteed withdrawal benefit (GWB), providing lifetime income at the highest anniversary value or at an accumulation of 7%, whichever was higher.

29. Investors One and Two believed that Evan was providing investment advice when recommending the products to them.

30. On July 26, 2012, Investor Two purchased a security described by Jackson as a Perspective II Variable and Fixed Annuity ("Jackson Perspective II Variable Annuity") upon Evan's recommendation. The initial premium was \$10,000, and Investor Two invested an additional \$50,000 in premiums on October 17, 2012. Evan earned

approximately \$3,000-\$7,208 in commissions in connection with the purchase and additional premium.

31. The Jackson Perspective II Variable Annuity prospectus provided, “[y]our registered representative or other investment professionals may receive compensation for selling this Contract to you in the form of commissions, revenue sharing, and other compensation programs. Accordingly, investment professionals may have a financial incentive to offer or recommend this Contract over another investment.”

32. Evan recommended that Investor One purchase a Jackson Perspective II Variable Annuity on July 1, 2013. Investor One paid an initial premium of \$100,000 and Evan earned approximately \$4,725-\$5,000 in commissions in connection with the purchase.

33. Evan recommended that Investor Two purchase another Jackson Perspective II Variable Annuity on July 31, 2012. The initial premium was approximately \$42,000 and the cash value of the product was \$44,819.11 as of April 20, 2020. Evan received approximately \$2,036-\$2,240 in connection with the purchase.

34. On April 27, 2014, Evan recommended that Investor One rollover a Roth IRA to fund the purchase of another Jackson Perspective II Variable Annuity. The initial premium was approximately \$12,297.69 and the cash value was \$10,645.56 as of April 20, 2020.

35. The account opening documents for the rollover indicate that shares of mutual funds were sold to finance the purchase and that the stated purpose of the annuity was “Wealth Accumulation – Primary purpose is long term accumulation of value without express desire for ‘retirement income’ or ‘estate planning.’” The investment objective was listed as “Growth – seeks capital appreciation over long term.” Evan earned commissions of at least \$600 in connection with this purchase.

36. Investor One purchased a Jackson Perspective II Variable Annuity upon Evan's recommendation on April 13, 2015. The initial premium was \$48,985 and the cash value of the product was \$69,991.80 as of April 20, 2020. Evan earned approximately \$2,449-\$2,708 in commissions in connection with Investor One's purchase.

37. Evan recommended that Investor Two purchase another Jackson Perspective II Variable Annuity on September 21, 2016. The initial premium was \$100,000 and the cash value was \$286,056.77 as of April 20, 2020. Evan received approximately \$5,000-\$5,600 in commissions in connection with Investor Two's purchase.

38. On or around October 20, 2018, Evan recommended that Investors One and Two invest \$265,000 into two of their pre-existing Jackson Perspective II Variable Annuities. Investors One and Two paid \$200,000 and \$65,000, respectively, in additional premiums into the variable annuities based on Evan's recommendation.

39. Evan received approximately \$13,250-\$15,270 in commissions in connection with the additional premiums.

40. Further, rather than set up joint accounts in connection with the variable annuity purchases, Evan set up accounts in the name of Investor One or Investor Two individually and listed the other as the sole beneficiary. Evan did not create joint accounts for the variable annuities, nor did he list them both as joint annuitants or joint beneficiaries on the accounts.

41. Throughout the Relevant Time Period, Evan often called Investors One and Two to recommend that they purchase additional products or pay additional premiums into their variable annuities, even telling them that the products were "special deals" that were only available for short periods of time.



42. Evan's repeated calls to Investors One and Two regarding special deals and limited duration products were intended to overcome their reluctance to purchase the products he recommended.

43. Evan's statements also served to advance his solicited recommendations to purchase high commission products as investment advice in the sole interests of Investors One and Two.

44. Similarly, Evan also recommended that Investors One and Two purchase two separate second-to-die policies insuring the lives of Investor One's parents, instructing Investors One and Two that these policies would be good investments and that they could sell one in order to fund the other, if necessary.

45. The applications for the two second-to-die policies disclosed the benefits and burdens of the policies, including the risk that premiums could increase:

Payment of Planned Premiums: The planned premium shown on this Notice is scheduled to be paid on or before the date shown. In some cases the planned premium may need to increase to keep your insurance coverage in-force. We will notify you if the premium is not paid as scheduled or is not sufficient to keep the policy in-force.

Unscheduled Payments: You can make an unscheduled payment as long as the policy is in-force, an insured is living, and the unscheduled payment is made before the policy's final date. An unscheduled payment increases the cash value of your policy.

46. Investors One and Two purchased the two life insurance policies for \$112,639 and \$120,539. Evan earned commissions in connection with the sale of these policies.

47. Additionally, in November 2018, Evan approached Investors One and Two to ask them to pay him a fee to reimburse him for his professional business insurance payment for the year, informing them that his company no longer covered the costs and forwarding

them an invoice. Investors One and Two paid Evan \$508 on November 23, 2018 in response to his request.

48. Evan received commissions in connection with all of the variable annuity and life insurance products he recommended to Investors One and Two.

49. Evan did not utilize only approved Jackson products while presenting the Jackson Perspective II Variable Annuities to Investors One and Two. Further, Evan did not leave copies of the information from his presentations with them, despite indicating that he had on the acknowledgements pages of the contracts.

*ii. Investors Three and Four*

50. Investors Three and Four are a married couple who reside in Massachusetts.

51. Investors One and Two introduced Evan to Investors Three and Four around early 2013. Evan held himself and Capital Planning out to Investors Three and Four as a fee-based adviser providing investment advice for a few select clients.

52. Evan told Investors Three and Four that he agreed to assist them with their investments because of their friendship with Investors One and Two.

53. Prior to working with Evan, Investors Three and Four were primarily invested in mutual funds and stocks.

54. Throughout the course of their relationship, Investors Three and Four paid Evan annual fees totaling \$14,200 in exchange for his investment advice, financial planning, and business consulting services.

55. Evan regularly recommended to Investors Three and Four to purchase multiple high commission products during the Relevant Time Period, including variable annuities and insurance products that were not in line with their investment goals.

56. Evan told Investors Three and Four that they should purchase as many of them as possible before Jackson stops offering the lifetime income benefit because they were great deals that would soon be discontinued.
57. On July 1, 2013, Investor Four purchased a Jackson Perspective II Variable Annuity for \$96,910.56 based on Evan's recommendation. Evan earned approximately \$4,204-\$4,845 in commissions in connection with this purchase.
58. On July 1, 2013, Investor Four purchased another Jackson Perspective II Variable Annuity for \$2,000 based on Evan's recommendation. Evan earned approximately \$100-\$800 in commissions in connection with the purchase.
59. On July 2, 2013, Investor Three purchased a Jackson Perspective II Variable Annuity for \$149,600.87 based on Evan's recommendation. Evan earned approximately \$7,480-\$12,260 in commissions in connection with this purchase.
60. On July 2, 2013, Investor Three also purchased another Jackson Perspective II Variable Annuity for \$5,000 based on Evan's recommendation. Evan received approximately \$250-\$1,530 in commission in connection with the initial premiums from this purchase.
61. On July 18, 2013, Investor Three purchased another Jackson National Life Perspective II Variable Annuity for \$181,660. Evan earned approximately \$9,083-\$12,260 in connection with this purchase and the additional premiums.
62. Evan told Investors Three and Four that they could rebalance their variable annuities throughout the Relevant Time Period, despite performing little to no active maintenance or rebalancing of the underlying assets within the variable annuities.

63. Evan also sold Investors Three and Four two second-to-die policies on Investor Three's parents as investments, assuring them that it would assist with their retirement income in view of their young age and that they were getting a great deal.

64. Evan generated tens of thousands of dollars in commissions for himself from his recommendations to Investors Three and Four.

65. Additionally, Evan did not utilize only approved Jackson products while presenting the Jackson Perspective II Variable Annuities to Investors Three and Four. Evan did not leave copies of the information from his presentations with Investors Three and Four despite indicating on the acknowledgements pages of the contracts that he had left copies with them.

*iii. Investor Five and Investor Six*

66. Investors Five and Six are a married couple and are residents of Massachusetts.

67. From 2015 to 2019, Investors Five and Six paid Evan and Capital Planning approximately \$2,000 to \$3,250 annually for financial planning services.

68. Investors Five and Six paid a total of approximately \$10,000 in annual fees to Evan and Capital Planning in connection with Evan's investment advice and consulting services.

69. On March 17, 2017, Evan approached Investors Five and Six and offered them the opportunity to purchase and take over premium payments for the Evan Policy that Investors One and Two had owned for two years.

70. Evan promoted the Evan Policy to Investors Five and Six as an investment and part of their plan for retirement. In particular, Evan explained that he was 68 years old, had already suffered two heart attacks, and would likely be dead within five to ten years.

71. The Evan Policy, however, only provided a guaranteed payout until Evan was 77 years old. At the time that Investors Five and Six purchased the Evan Policy, Evan was already 68 years old.

72. On March 24, 2017, Investors Five and Six paid \$29,176 to Evan directly via personal check in order for him to pay the premium on the policy. Evan later changed the beneficiary from himself to Investor Five.

73. Following their purchase of the Evan Policy, Investors Five and Six paid annual premium payments of approximately \$29,000.

74. By late 2017, Investors Five and Six fell behind on the premium payments for the Evan Policy. Evan called Investors Five and Six multiple times and strongly urged them to bring the payments up to date so that the policy would not lapse.

75. In 2018, Evan urged Investors Five and Six on multiple occasions to contribute an additional \$50,000 to keep the policy in place.

76. In total, Investors Five and Six contributed \$87,301.66 into the Evan Policy before they stopped paying the premiums.

77. In 2015, Investors Five and Six purchased four Jackson Perspective II Variable Annuities upon Evan's recommendation.

78. Investors Five and Six paid approximately \$78,000 in initial premiums for the purchases. MSI and Evan received approximately \$3,900-\$10,000 in commissions in connection with the purchases.

79. Evan promoted these variable annuity purchases as the best way for Investors Five and Six to save for retirement, though they were still relatively young, had young children, and had substantial projected life expenses before retirement.

80. Since 2015, Investors Five and Six have contributed approximately \$167,000 in premiums into four Jackson Perspective II Variable Annuities.

81. On June 18, 2018, Investors Five and Six invested an additional \$10,000 in premiums into one of their Jackson Perspective II Variable Annuities. Evan earned commissions of approximately \$500-\$577 in connection with the purchase.

82. Evan also recommended that Investor Five purchase a Jackson Perspective II Variable Annuity on May 5, 2015. Investor Five paid an initial premium of \$50,000 to purchase the variable annuity. Evan earned commissions of approximately \$2,485-\$2,500 in connection with the purchase.

83. On June 18, 2015, Evan advised Investor Five to rollover an IRA to fund the \$26,072.99 purchase of another Jackson Perspective II Variable Annuity. On the variable annuity application, Evan stated that Investor Five did not have preexisting life insurance or annuities despite the policy Investor Five purchased a month prior. Evan earned commissions of approximately \$1,296-\$1,303 in connection with this purchase.

84. Since 2015 and throughout the Relevant Time Period, Evan repeatedly urged Investors Five and Six to increase their contributions to their variable annuities in spite of their young ages and their interest in maintaining access to liquid funds.

85. Evan even advised Investors Five and Six to withdraw from a home equity line of credit in order to fund additional premiums for the products he recommended. Investors Five and Six did not make withdrawals from their home equity line to fund additional premiums.

86. In 2017, Investors Five and Six reached out to Evan with the goal of purchasing term life insurance policies. Evan also strongly urged Investors Five and Six to purchase

a whole life insurance policy with certain tax advantages. In 2017, Investors Five and Six purchased the whole life insurance policy based on Evan's recommendation.

87. Since 2017, Investors Five and Six have contributed approximately \$133,168.18 in premiums to the whole life policy. The cash value of the policy as of January 25, 2021, was approximately \$86,000.

88. Investors Five and Six stopped making payments in the whole life policy and the policy has been diminishing its cash value each quarter since then.

89. Investors Five and Six approached Evan with the goal of investing in a 529 plan for their child's future education. Evan refused to assist them with setting up a 529 plan, instead insisting that they invest in the variable annuities listed above despite his knowledge of their investment's goals.

90. For each product that Evan recommended Investors Five and Six purchase, Evan set artificial time restrictions and continuously pressured them to ensure that they made the decisions quickly.

91. Evan did not provide regular maintenance to the allocation of assets within the variable annuities that he sold to Investors Five and Six despite collecting annual fees from them.

92. Evan received commissions in connection with the variable annuity and life insurance products he recommended to Investors Five and Six.

93. Further, Evan did not utilize only approved Jackson products while presenting the Jackson Perspective II Variable Annuities to Investors Five and Six. Evan did not leave copies of the information from his presentations with them, despite his signature indicating so on the acknowledgements pages for each of the contracts.

*iv. Investor Seven*

94. Investor Seven is 73 years old, a lawyer, and was a close family friend of Evan's former wife for many years.

95. Investor Seven was a client of Evan and Capital Planning from 2013 until Evan's termination in 2019.

96. Investor Seven paid Evan \$22,000 in annual fees for his investment advice, financial planning, and consulting services between 2013 and 2019. Evan assured Investor Seven that the fee was a large discount compared to the fees that her prior advisor charged.

97. In August 2019, Evan invoiced Investor Seven a forward-looking annual fee for the next year. In October 2019, Investor Seven wrote a check to Evan for \$22,000. Later that year, Evan returned \$16,000 to Investor Seven as the remainder of her "unused fee."

98. Evan recommended that Investor Seven purchase a John Hancock Life Insurance policy (the "Hancock Policy"). The Hancock Policy contained a heightened annual premium of \$26,000 due to Investor Seven's health condition.

99. Evan recommended that Investor Seven purchase the Hancock Policy as an investment, telling Investor Seven that she could "easily sell the policy" for sufficient funds to pay for long term care if necessary.

100. Investor Seven cancelled the Hancock Policy within three years because of the high annual premium, but Evan repeatedly urged her to maintain the Hancock Policy throughout her ownership of the policy.

101. Evan also recommended that Investor Seven purchase multiple separate Jackson Perspective II Variable Annuities totaling approximately \$1,800,000, in spite of her age and health conditions. Investor Seven purchased these annuities through a charitable



remainder trust whose trustee was a certified public accountant (and who was Evan's accountant).

102. On August 12, 2013, Investor Seven purchased a Jackson Life Perspective L Series Variable Annuity upon Evan's recommendation, listing her trust as the owner. The policy was issued as a non-tax qualified product and Investor Seven was 65 years old at the time of the purchase. Investor Seven paid an initial premium of \$300,000 and the cash value was \$247,237.37 as of April 20, 2020. Evan earned approximately \$3,000-\$10,080 in commissions in connection with her purchase.

103. Evan also recommended that Investor Seven transfer funds from two pre-existing IRAs on August 12, 2013, to fund two \$500,000 purchases of a Jackson Perspective II Variable Annuity and a Jackson Perspective L Series Variable Annuity. Investor Seven was 65 years old at the time of the purchases. Evan earned commissions of approximately \$10,000-\$38,126 in connection with these purchases.

104. On July 30, 2014, Investor Seven purchased a Jackson Perspective II Variable Annuity upon Evan's recommendation, listing a trust in her name as the owner. Investor Seven was 66 years old at the time she purchased the policy. The initial premium was \$261,922.29. Evan earned commissions of approximately \$11,928-\$13,096 in commissions in connection with her purchase.

105. On July 30, 2014, Investor Seven purchased another Jackson Perspective II Variable Annuity upon Evan's recommendation, listing a trust in her name as the owner. The initial premium was \$238,077.71 and Evan earned commissions of approximately \$10,833 in connection with her purchase. Evan personally earned approximately \$57,999-\$71,000 in commissions from Investor Seven's purchases.

*v. Investor Eight*

106. Investor Eight is a 73 year old resident of Massachusetts. She was a client of Evan and Capital Planning as far back as 2008.

107. Between 2012 and 2019, Investor Eight caused approximately \$70,000 to be paid to Evan for his investment advice, financial planning, and consulting services.

108. On July 16, 2019, Evan recommended that Investor Eight purchase a life insurance policy. Evan told Investor Eight that he would waive his commission on the policy in order to get her a better rate on the purchase. At the same time, Evan asked that Investor Eight personally pay CPG an annual fee of \$37,500 for 2019.

109. Investor Eight paid Evan \$33,500 in the form of a personal check in connection with the purchase of her life insurance policy. Evan later approached Investor Eight to request that she pay the remaining \$4,000 in "fees."

110. In reality, Investor Eight's purchase of the life insurance policy resulted in commissions of \$38,446, including approximately \$15,885 for Evan.

111. Investor Eight investigated and learned that Evan actually collected the full amount of commissions from her purchase of the policy and complained to Baystate. Evan refunded Investor Eight the full \$33,500 via check from the account of Capital Planning.

112. Evan was registered with MMLIS at the time of this sale. Upon receipt of a customer complaint from Investor Eight, MMLIS initiated an investigation and substantiated the allegations in Investor Eight's complaint. MMLIS terminated Evan on or around October 28, 2019.

113. Evan did not fairly or completely disclose the relevant facts surrounding variable annuities and insurance products that he recommended to clients. He did not ensure that

clients fully understood the long-term nature of the products, the surrender fees, the annual expenses, or the tax consequences of early withdrawals.

114. Similarly, Evan did not carefully consider the merits of placing variable annuity contracts in tax-qualified retirement plans and did not explain to clients that no additional tax-deferred treatment of earnings would occur in such accounts.

115. Additionally, policies require the prompt delivery of a policy or contract to the client because it begins the “free look” time period for all policies and contracts. Representatives were required to deliver the insurance policy and obtain policy receipts promptly upon the policy’s arrival. Evan, however, did not timely provide policies or contracts to a number of his clients.

116. Evan’s broker-dealer also required that he “provide a *Compensation Disclosure Notice* to all clients in all states and other jurisdiction where they conduct business as a ‘leave behind’ document when the new insurance business application is written and submitted.”

117. Evan did not provide the Compensation Disclosure Notice to his clients despite indicating that he had delivered the required disclosure notices at the times that the clients signed their applications. On many occasions, Evan failed to follow procedures with regard to recommendations to purchase and contribute additional premiums to variable annuities.

118. Evan repeatedly violated broker-dealer disclosure requirements related to customer variable annuity purchases.

119. Evan routinely failed to ensure that clients understood: the general features of variable annuities; that the products would generate large commissions for him; and

whether clients could withdraw funds from the variable annuities without additional fees or tax consequences.

120. Rather than act in compliance his broker-dealer's policies, Evan instead recommended a large number of high commission products to customers, who were also his clients at Capital Planning.

121. Evan consistently recommended the same high commission variable annuities to his customers in order to generate high commissions for himself.

122. Evan failed to ensure that his customers understood the surrender charges and the tax implications of withdrawals of funds from the variable annuities in certain accounts prior to age 59 ½.

123. Evan also failed to ensure that his customers understood, or even knew about, the additional riders and the annual fees for the variable annuities they purchased.

124. Additionally, Evan did not use only Jackson-approved sales materials during his presentations of Jackson Perspective II Variable Annuities to customers. Further, he did not leave copies of any materials he used during his presentations with the customers despite indicating that he had in the acknowledgements on the customer's purchase applications.

### **C. Other Regulatory Actions**

125. FINRA began investigating Evan on November 13, 2019.

126. On December 4, 2019, FINRA sent a request to Evan for production of documents and information pursuant to FINRA Rule 8210. Evan acknowledged receipt of the request and refused to produce the information and documents requested by FINRA.

127. On January 22, 2020, FINRA permanently barred Evan from registration in all capacities in accordance with his voluntary submission of a Letter of Acceptance, Waiver and Consent (“AWC”).

128. By voluntarily accepting the AWC, Evan acknowledged that the AWC would become part of his permanent disciplinary record and that it may be considered in any future action brought by FINRA or any other regulator.

129. Evan’s list of disclosures on the CRD contains ten separate customer complaints related to his annuity and insurance sales practices.

## **VI. VIOLATIONS OF LAW**

### **Count I – Violations of M.G.L. c. 110A, §101(2)**

130. Section 101 of the Act provides:

It is unlawful for any person, in connection with the offer, sale, or purchase of any security, directly or indirectly

[...]

(2) to make any untrue statement of material fact or to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading [.]

M.G.L. c. 110A, § 101(2).

131. The conduct of Respondents, as described above, constitutes violations of M.G.L. c. 110A, § 101(2).

### **Count II – Violations of M.G.L. c. 110A, § 204(a)(2)(G)**

132. Section 204 of the Act provides:

The secretary may by order impose an administrative fine or censure or deny, suspend, or revoke any registration or take any other appropriate action if he finds (1) that the order is in the public interest and (2) that the applicant or registrant or, in the case of a broker-dealer or investment adviser, any partner, officer, or director, any person occupying a similar

status or performing similar functions, or any person directly or indirectly controlling the broker-dealer or investment adviser:

[...]

(G) has engaged in any unethical or dishonest conduct or practices in the securities, commodities or insurance business[.]

M.G.L. c. 110A, § 204(a)(2)(G).

133. The conduct of Respondents, as described above, constitutes violations of M.G.L. c. 110A, § 204(a)(2)(G).

## **VII. ORDER**

### **IT IS HEREBY ORDERED:**

- A. Respondents shall permanently cease and desist from further conduct in violation of the Act and Regulations;
- B. Respondents are hereby censured by the Division;
- C. Evan is permanently barred from registering in Massachusetts as, associating with, or acting as a(n) broker-dealer, broker-dealer agent, investment adviser, investment adviser representative, Securities and Exchange Commission-registered investment adviser, an investment adviser exempted from registration, a person relying on an exclusion from the definition of investment adviser in any capacity, issuer, issuer agent, or as a partner, officer, director, or control person of any of the foregoing;
- D. Evan is permanently barred from offering or selling securities from or within Massachusetts;
- E. Within five (5) days of the entry of this Order, Respondents shall pay an administrative fine in the amount of \$225,000 (USD) to the Commonwealth of Massachusetts. Payment shall be: (1) made by United States postal money order, certified

check, bank cashier's check, bank money order, or wire transfer; (2) made payable to the Commonwealth of Massachusetts; (3) either hand-delivered or mailed to One Ashburton Place, Room 1701, Boston, Massachusetts 02108, or wired per Division instructions; and (4) submitted under cover letter or other documentation that identifies the payor and the docket number of the proceedings (E-2020-0018). Additionally, Respondents shall provide the Division with notice twenty-four (24) hours prior to the payment;

F. Respondents shall not claim, assert, or apply for a tax deduction or tax credit with regard to any state, federal or local tax for any amounts that Respondents shall pay pursuant to this Order;

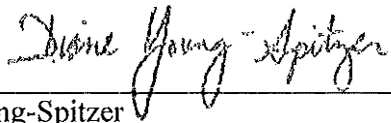
G. Respondents shall not seek or accept, directly or indirectly, reimbursement or indemnification, including, but not limited to, any payments made pursuant to any insurance policy, with regard to any amount that Respondents shall pay pursuant to this Order;

H. If either or both Respondents fail to comply with any of the terms set forth in this Order, the Enforcement Section may institute an action to have this Order declared null and void. Upon issuance of an appropriate order and after a fair hearing, the Enforcement Section may re-institute an action against Respondents; and

*[remainder of page left intentionally blank]*

I. For good cause shown, the Enforcement Section may extend any of the procedural dates set forth above. Respondents shall make any requests for extensions of procedural dates set forth above in writing to the Division.

**WILLIAM FRANCIS GALVIN  
SECRETARY OF THE COMMONWEALTH**

By:   
Diane Young-Spitzer  
Director and General Counsel  
Massachusetts Securities Division  
One Ashburton Place, Room 1701  
Boston, Massachusetts 02108

Dated: December 29, 2022