

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 CARL J. KUNASEK

Chairman

3 JIM IRVIN

Commissioner

4 WILLIAM A. MUNDELL

Commissioner

5 In the matter of)

) DOCKET NO. S-03338A-99-0000

6 DAVID CARL TAYLOR)

9401 W. Thunderbird, Suite 145)

Peoria, AZ 85381)

8 CRD 1192197,)

) **ORDER FOR RELIEF AND
CONSENT TO SAME**

9 Respondent.)

10 **I.**

11 DAVID CARL TAYLOR (Taylor), an individual, elects to permanently waive his right to a
12 hearing and appeal under Articles 11 and 12 of the Securities Act of Arizona (the Act) with respect to this
13 Order for Relief and Consent to Same (Order); admits the jurisdiction of the Arizona Corporation
14 Commission (Commission); admits the Findings of Fact and Conclusions of Law contained in this Order;
15 and consents to entry of this Order by the Commission.

16 **II.**

17 **FINDINGS OF FACT**

18 1. Taylor, whose last known business address is 9401 W. Thunderbird, Suite 145, Peoria,
19 Arizona 85381, was at all relevant times registered as a securities salesman in the State of Arizona with
20 NYLife Securities Inc. (NYLife), a registered dealer in Arizona. Taylor is currently registered in
21 Arizona as a securities salesman with Franklin Financial Services Corporation.

22 2. From approximately early 1997 through 1998, Taylor, holding himself out as “The
23 Annuity Expert,” in connection with the offer and sale of securities in the form of variable annuity
24 products, used advertising and sales materials to publicize a series of seminars entitled “The Ultimate
25 Annuity Seminar,” without the approval of his dealer.
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1 3. On or about September 24, 1996, Taylor submitted certain materials related to a
2 proposed seminar to NYLife's Sales Material Review Unit (SMRU). The topic of the proposed
3 seminar was to be an overview of annuities, including their design and benefits.

4 4. On or about September 30, 1996, SMRU issued written evaluation reports (known as
5 "Document Determinations") to Taylor regarding these materials, which directed that certain revisions
6 be made before they could be approved for use. No revised materials were submitted thereafter to
7 SMRU. Consequently, on December 4, 1996, SMRU issued a further Document Determination to
8 Taylor, advising him that the submitted materials were rejected, and were not approved for use, and
9 specifically instructing him to remove the references to "ultimate" and "expert" in his advertising.

10 5. Beginning in or around early 1997 through at least December 1998, without approval
11 from NYLife, Taylor advertised in newspapers and conducted approximately 50 seminars relating to
12 an overview of annuities; and presented materials, including brochures with hand-outs, business cards
13 and note pads, to approximately 100 attendees, that were either not approved or rejected by NYLife.
14 In those seminars, Taylor gave sales presentations on NYLife Variable Annuities, and handed out the
15 NYLife prospectus for that product.

16 6. On October 29, 1998, NYLife issued Taylor a verbal warning for placing a listing in
17 the Yellow Pages without first obtaining proper approval. In this listing, he again referred to himself
18 as "The Annuity Expert."

19 7. From at least 1995 through 1998, Taylor certified to NYLife in annual compliance
20 audit questionnaires that he understood and complied with the Company Rule that stated:

21 All sales promotion/advertising material used by the agent/rep must be
22 approved in advance by the Sales Material Review Unit. This includes
23 personal brochures, . . . advertisements on radio, TV, newspaper, . . .
yellow page ads, white page listings, seminars, sales presentations, etc.
(*Citation to Compliance Manual omitted.*)

24 8. On February 2, 1999, Taylor received a severe reprimand from NYLife for conducting
25 a seminar that was not only not pre-approved by the Company as required, but which was rejected for
26

1 use when he submitted it to the Company a few years prior, and advertising the seminar using ads that
2 were not pre-approved by the Company.

3 9. On March 8, 1999, Taylor voluntarily terminated his affiliation with NYLife, after the
4 Company insisted that he was not to use any advertisements or conduct seminars unless and until they
5 were submitted to and approved by the Company and, in addition, that if he received approval to
6 conduct seminars at any time in the future, he was required to notify the Managing Partner of
7 NYLife's Phoenix Office so that a member of that office's management team could attend.

8 III.

9 CONCLUSIONS OF LAW

10 10. Each of the preceding paragraphs is incorporated by reference.

11 11. Taylor engaged in conduct within the meaning of A.R.S. § 44-1962(10) in connection
12 with the offer or sale of securities, by certifying to his dealer that all sales promotion and advertising
13 material, including brochures, newspaper advertisements, yellow page ads, seminars, sales presentations,
14 and business cards, were approved in advance, when in fact Taylor used such material without approval,
15 and some of the material he used had previously been rejected for use by his dealer.

16 VI.

17 ORDER

18 THEREFORE, on the basis of the Findings and Conclusions of Law, the Commission issues the
19 following Order.

20 1. IT IS ORDERED, pursuant to A.R.S. § 44-2032, that Taylor CEASE AND DESIST from
21 violations of the Act, including but not limited to using advertising and/or sales material that is not
22 approved by his registered dealer, and specifically, using the title "The Annuity Expert" in any
23 advertisement, sales literature or presentation to the public.

24 2. IT IS ORDERED, pursuant to A.R.S. § 44-2036, that Taylor shall pay an administrative
25 penalty in the amount of \$5,000.00, by cash or certified funds payable to the Treasurer of the State of
26 Arizona for deposit into its general fund, due and payable upon entry of this Order.

1 3. IT IS ORDERED, pursuant to A.R.S. § 44-1962, that Taylor's securities salesman
2 registration is suspended for 30 days from the date set forth below.

3 4. IT IS ORDERED that Taylor's failure to comply with any term of this Order, shall
4 constitute grounds for the revocation or suspension of Taylor's registrations subject to Taylor's right
5 to a hearing pursuant to the Act.

6 5. IT IS FURTHER ORDERED that this Order shall become effective immediately upon
7 the date set forth below.

8 BY ORDER OF THE ARIZONA CORPORATION COMMISSION

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12 CHAIRMAN

COMMISSIONER

COMMISSIONER

13 IN WITNESS WHEREOF, I, Brian C. McNeil, Executive
14 Secretary of the Arizona Corporation Commission, have
15 hereunto set my hand and caused the official seal of the
16 Commission to be affixed at the Capitol, in the City of
17 Phoenix, this ____ day of _____, 1999.

18 _____
19 BRIAN C. McNEIL
20 Executive Secretary

21
22 _____
23 DISSENT

24 (PTJ)

25 This document is available in alternative formats by contacting Cynthia Mercurio-Sandoval, ADA
26 Coordinator, voice phone number 602/542-0838, E-mail csandoval@cc.state.az.us.

1 CONSENT BY DAVID CARL TAYLOR TO THE ENTRY, BY THE CORPORATION
2 COMMISSION, OF A CEASE AND DESIST ORDER, SUSPENSION, AND ORDER ASSESSING
3 ADMINISTRATIVE PENALTIES AND WAIVER OF HEARING

4 1. Respondent, David Carl Taylor admits the jurisdiction of the Arizona Corporation
5 Commission (Commission) over the subject matter of this proceeding, and acknowledges that he has
6 been fully advised of his right to a hearing to present evidence and call witnesses. Taylor knowingly
7 and voluntarily waives all rights to a hearing before the Commission and all other procedures
8 otherwise available under Article 11 of the Securities Act of Arizona (the Act) and Title 44, The
9 Arizona Administrative Code. Taylor acknowledges that the accompanying Order for Relief and
10 Consent to Same (Order) constitutes a valid final order duly rendered by the Commission.

11 2. Taylor knowingly and voluntarily waives any right he may have under Article 12 of the
12 Act to judicial review by any court by way of suit, appeal or extraordinary relief resulting from the
13 entry of this Order.

14 3. Taylor acknowledges and agrees that this Order is entered into freely and voluntarily
15 and that no promise was made nor any coercion used to induce Taylor to enter into it.

16 4. Taylor admits the Findings of Fact and Conclusions of Law contained in the Order.
17 Taylor further agrees that he shall not challenge their validity in any present or future administrative
18 proceedings before the Commission or any other branch of state government concerning the denial or
19 issuance of any licenses or registration required by the State in order to engage in the practice of any
20 business or profession.

21 5. Taylor consents to the entry of this Order and agrees to be fully bound by its terms and
22 conditions. Taylor further acknowledges that should he fail to comply with any and all provisions of
23 this Order, the Commission may enforce the Order and Consent in Superior Court pursuant to A.R.S. §
24 44-2036.C. or impose additional sanctions and costs and seek other appropriate relief subject to
25 Taylor's right to a hearing pursuant to the Act.
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