



**STATE OF RHODE ISLAND
DEPARTMENT OF BUSINESS REGULATION
1511 PONTIAC AVENUE, BUILDING 69-2
CRANSTON, RHODE ISLAND 02920**

IN THE MATTER OF:

RYAN PINTO

and

ABRAHAM ROSENBERG

RESPONDENTS.

DBR No.: 2022-IN-009 & 010

&

NPN No.: 17088148 & 18312113

CONSENT AGREEMENT

The Insurance Division of the Department of Business Regulation (the “Department”) enters into this Consent Agreement to resolve its concerns with Respondents stemming from a consumer complaint and the Department’s subsequent investigation into the solicitation and sale of particular annuities. The Department has determined to resolve this matter, after investigation and instituting administrative proceedings, but before a full hearing on the matter could be conducted by entering into this Consent Agreement. And it is hereby agreed by and between the Department and the above-named Respondents as follows:

FACTS AND ALLEGATIONS

1. Respondent Pinto currently holds a Rhode Island resident insurance producer license (License# 2272564, NPN# 17088148) with a current expiration date of March 31, 2026.



2. Respondent Rosenberg currently holds a Rhode Island resident insurance producer license (License# 3000065689, NPN# 1812113) with a current expiration date of May 31, 2025.

3. In 2018, Rhode Island had an Annuity Suitability regulation (now known as [230-RICR-20-25-1](#)) that required that a producer “shall have reasonable grounds for believing that the recommendation is suitable for the consumer...” 230-RICR-20-25-1.6A. (Note that the Regulation was amended substantially in April 2021.)

Consumer A

4. Consumer A purchased a single-premium deferred annuity (“Annuity A”) with a five-year guaranteed interest rate and a five-year surrender schedule with a single premium of \$800,000 on August 20, 2018. The annuity came with a surrender charge, and if Consumer A ended the Annuity before the end of five years, she would lose a certain amount of the policy to access the funds. The surrender charge on the Annuity declined from 9% to 5% over the 5-year period, and after five-years, it would be fully available for withdrawal without any charge.

5. Consumer A filed a complaint with the Department in 2021 related to the sale of the Annuity. When the Department received the complaint, it undertook an investigation.

6. The investigation concluded that this sale to Consumer A was inappropriate, and the Department determined that an administrative action was warranted.

7. Respondent Pinto was the primary insurance producer responsible for the solicitation of and sale to Consumer A.



8. Respondent Rosenberg was also a commissioned producer responsible for the transaction with Consumer A.

9. Respondents did complete all required documentation with respect to the Annuity both to comply with state laws and regulations and to comply with their employers' written supervisory procedures.

10. The Department believes that Respondents' ultimate recommendation of this annuity to Consumer A was inappropriate in three principal ways:

- a. The purchased annuity (\$800,000) was well in excess of the guaranty association limits (of \$250,000), leaving Consumer A unprotected if the insurer were to become insolvent, or unable to pay its claims;
- b. This was a very high concentration of her assets in a single investment type, and moreover in a single investment from a single company; and
- c. This insurer was not a highly-rated insurer by a financial rating agency.

11. The Insurance Division believes that each of these three factors caused this purchase to be an unsuitable annuity for Consumer A at the time of the sale.

Consumer B

12. Consumer B purchased a single-premium deferred annuity ("Annuity B") with a five-year guaranteed interest rate and a five-year surrender schedule with a single premium of \$400,000 on December 18, 2017.

13. Annuity B came with a surrender charge, and if Consumer B ended the annuity before the end of five years, she would lose a certain amount of the policy to access the funds. The surrender charge on Annuity C declined from 9% to 5% over the 5-year period, and after five-years, it would be fully available for withdrawal without any charge.



14. Consumer B has not filed a complaint with the Department.

15. The Department reviewed the initial purchase and the current value of Annuity B, and has concluded that the Guaranty Association limits were not taken into consideration by Respondent's Pinto with respect to his recommendation of Annuity B.

16. Respondent Pinto was the primary insurance producer responsible for the solicitation of and sale to Consumer B.

17. The Department believes that Respondent Pinto's ultimate recommendation of this annuity to Consumer B was inappropriate in two principal ways:

- a. The purchased annuity (\$400,000) was in excess of the guaranty association limits (of \$250,000), leaving Consumer B unprotected if the insurer were to become insolvent, or unable to pay its claims; and
- b. This insurer was not a highly rated insurer by a financial rating agency.

Guaranty Association Coverage

18. Rhode Island General Law R.I. Gen. Laws § 27-34.3-3(c)(2)(i)(C) provides for protections for covered policies for annuities up to \$250,000 in value.

19. In the event that an insurer was to become unable to pay its obligations in full, federal bankruptcy is not available. Instead, there is a process governed by state law called insolvency. In the event of an insurer becoming declared insolvent, a consumer would then submit a claim to the Rhode Island Life and Health Guaranty Association. Amounts in excess of those guaranty association protections are not covered by the guaranty association.

20. When a life insurance company becomes insolvent in Rhode Island, consumers with annuities exceeding the statutory thresholds become general creditors of the insurer and are subject to the outcome of the insolvency for recoupment of their



investment beyond the guaranty association limits. For amounts equal to or below the guaranty association limits, Rhode Island (and virtually every other state) has adopted a statutory system where an entity exists to collect monies from every other licensed insurer to ensure that the consumers are made whole up to the guaranty association limits.

21. General creditors of insurers are treated very differently than consumers who are covered by guaranty association limits.

22. The Rhode Island Life and Health Insurance Guaranty Association has the following example on their website, available at <https://www.rilifega.org/FAQ/Print>.

“For example, if I own three annuities worth \$100,000 each and my insurance company fails, how much is protected?
The total protection per owner per member company is \$250,000 for all annuity contracts. As a result, if an individual owned three \$100,000 annuities with the same insolvent insurance company, the individual would have total guaranty association coverage of only \$250,000. The value in excess of this statutory coverage limit would be eligible for submission as a policyholder claim in the receivership, and the annuity holder may receive distributions as the company's assets are liquidated by the receiver.”

23. Rhode Island law prohibits an insurance producer from advertising the existence of the guaranty association. But insurance producers are required to understand the insurance laws of this state and the Department expects that they make recommendations aligning with those laws.

24. The Department believes that Respondents failed here to take the guaranty association limits into consideration with respect to their recommendation of an annuity to Consumer A, which led to an unsuitable recommendation.

25. The Department believes that failing to take the guaranty association limits into consideration when recommending an annuity for sale shows a lack of skill, care, and diligence in effecting the insurance.

26. In the cases of Consumers A and B, the insurer from whom Respondents had recommended annuities be purchased in 2018 went into [court ordered rehabilitation](#)



[on July 27, 2019](#), and the North Carolina Wake County Superior Court ordered that the insurer be liquidated on November 21, 2022. That order was appealed. The North Carolina Court of Appeals affirmed the Order of Liquidation on March 5, 2024.

27. An insurance insolvency typically occurs when a state insurance regulator has reason to believe that the insurer is in hazardous financial condition. State statutes authorize insolvency for a number of reasons, including embezzlement or where fraud has been occurring at the insurer. To enter insolvency, a state court typically must issue an order allowing the rehabilitation or liquidation. *See generally* R.I. Gen. Laws Chapter 27-14.3.

Concentration Risk

28. Diversification is a key component to investment strategies.

29. FINRA, the Financial Regulatory Authority, a self-regulatory authority charged with regulating brokers and the investing marketplace, explains that one should diversify across and within the major asset classes. See <https://www.finra.org/investors/insights/concentration-risk>.

30. Elderly investors particularly should concentrate their assets less on one particular type of investment because of their shorter time-horizon to recoup potential losses.

31. The Annuity Suitability regulation requires that producers capture suitability information in order to understand a consumer's full financial profile, such as age, annual income, financial experience and objectives, existing assets, and other relevant information. This information is defined in the Annuity Suitability regulation as the 'suitability information.' 230-RICR-20-25-1.5(I). Producers are tasked to capture



this suitability information so that they can recommend an appropriate annuity for their consumer based on the information provided.

32. Consumer A was 85-years old when the annuity was issued on September 7, 2018.

33. Consumer A's total net worth on documents signed associated with this transaction was \$1,209,125. The \$800,000 investment represented approximately two-thirds of her entire wealth.

34. Respondents' employer had a guideline for consumers who are over 80-years old that they should not invest more than 40% of their investable assets into annuities without further supervisory-level investigation. Respondents followed their employer's guidelines with respect to concentration of assets for consumers who are over 80-years old.

35. The Department's position is that having approximately 66% of one's assets invested in a single asset class, which was restricted as it required the payment of a surrender charge to access the funds, is not diversifying one's assets.

36. The Department believes that Respondents failed to diversify Consumer A's assets appropriately when recommending the annuity for sale here, leading to the unsuitable recommendation.

37. The Department believes that Respondents failure to diversify Consumer A's assets appropriately when recommending the annuity for sale here shows a lack of skill, care, and diligence in effecting the insurance.

Financial Rating of the Issuing Insurer

38. Annuities come typically in two general categories: Fixed or Variable. Within each of those categories exist numerous options and features, so as to present



nearly unlimited choices to producers and consumers. Within the fixed annuity category exist several general sub-categories, including fixed-indexed annuities, fixed annuities, and multi-year guaranteed annuities, among others.

39. Respondents were authorized by their employer to sell annuities from numerous insurance companies. Respondents' employer vetted insurance companies before allowing its insurance producers to sell their annuities. Respondents' employer represents to its insurance producers that all of the products offered by their approved insurance companies are of investment-grade quality.

40. As of May 1, 2018, Respondents' employer allowed Respondents to offer more than thirty multi-year guaranteed and fixed annuities, with various characteristics. Respondents' employer summarized those options in a 3-page spreadsheet that changed over time as options were added or removed or information was updated. The spreadsheet listed numerous features of each annuity, including the insurer's name, the name of the insurer's product, the AM Best credit rating of the insurer, the type of product, the maximum issue age, the surrender charges, the minimum investment, the guaranteed minimum interest rate, term of the investment.

41. Of those insurers available to Respondents on May 1, 2018, every insurer listed by Respondents' employer had an AM Best credit rating of A-, A, A+ or A++ rating except for one, the insurer who issued the Annuity. That insurer had a B+ rating listed in the spreadsheet.

42. As of August 27, 2018, Respondents' employer allowed more than thirty multi-year guaranteed annuities to be offered by its insurance producers, with various characteristics summarized in a 2-page sheet. Of those insurers, only one had a B+



rating, the insurer who issued the Annuity. Every other insurer listed had an A-, A, A+ or A++ rating.

43. The B+ rated insurer had the highest available interest rate; the Department's position is that that rate came with additional risks.

44. AM Best is a frequently used rating agency in the insurance company space.

45. AM Best had provided the insurer in question a financial strength rating of B++.

46. B++ falls into the Good category.

47. AM Best also has Superior and Excellent categories, denoted with A+ or A ratings, and including specific ratings ranging from A++ to A-.

48. Life insurance companies issue annuity products, such as the annuity product sold to Consumers A & B. Annuities are written to protect a consumer from outliving their assets. As such, financial strength ratings are particularly important when purchasing annuities because of the long-term nature of the investment.

49. Annuities are intended to be a long-term investment for consumers as it is designed to provide a periodic stream of payments that the annuitant will not outlive. As such, longevity in the counterparty is of particular importance. Life insurers in particular typically publish their financial strength ratings on the front page of their websites to distinguish themselves and to tout how they are financially sound custodians for a long-term investment.

50. A financial strength rating of A++, A+, A and A- is materially different from a financial strength rating of B+ and presents materially different risks for a



consumer. The B+ rating is not an exclusive indication of financial instability, nor does it indicate that an insurer will become insolvent. However, as stated above in paragraph 26, this insurer has been subject to insolvency hearings since 2019 in North Carolina courts.

51. There are many considerations to consider when recommend an annuity, including financial ratings.

52. Financial rating of the insurer issuing an annuity is something an insurance producer should be aware of and should take into consideration when exercising their reasonable skill, care, and diligence in preparing and making a recommendation of an annuity.

53. The Department believes that failing to take the financial rating of the insurer into consideration when recommending an annuity for sale here led to an unsuitable recommendation.

54. The Department believes that failing to take the financial rating of the insurer into consideration when recommending an annuity for sale shows a lack of skill, care, and diligence in effecting the insurance.

AUTHORITY

55. 230-RICR-20-25-1.6 in 2018 stated that “the insurance producer... shall have reasonable grounds for believing that the recommendation is suitable for the consumer on the basis of the facts disclosed by the consumer as to his or her investments and other insurance products and as to his or her financial situation and needs, including the consumer’s suitability information...”



56. Suitability information was defined in the regulation as meaning “information that is reasonably appropriate to determine the suitability of a recommendation, including the following:

1. Age;
2. Annual income;
3. Financial situation and needs, including the financial resources used for the funding of the annuity;
4. Financial experience;
5. Financial objectives;
6. Intended use of the annuity;
7. Financial time horizon;
8. Existing assets, including investment and life insurance holdings;
9. Liquidity needs;
10. Liquid net worth;
11. Risk tolerance; and
12. Tax status.”

57. R.I. Gen. Laws §42-14-16(a)(1) provides that after a hearing, the Department can suspend a license or issue penalties for violations of Title 27 or regulations promulgated thereunder.

58. Subsequent to the transactions at issue, Rhode Island adopted language in its Annuity Suitability regulation. 230-RICR-20-25-1.6(A)(1)(a). (“The producer, in making a recommendation, shall exercise reasonable diligence, care and skill...”)

THEREFORE, based on the foregoing, Respondents and the Department have decided to resolve this matter without further administrative proceedings and hereby agree to the following:

- I. Respondents’ recommendation of Annuity A at this purchase price for Consumer A was not suitable.
- II. Respondent Pinto’s recommendation of Annuity B at this purchase price for Consumer B was not suitable.



- III. Respondents Pinto and Rosenberg agree to the facts, not allegations, identified above.
- IV. Respondents agree to cooperate with the Department in any other administrative matters that might arise out of the above referenced facts.
- V. *Waiver of Hearing and Appeal.* By agreeing to resolve this matter through the execution of this Consent Agreement, Respondents knowingly and voluntarily waives any right to an administrative hearing and waive any right to pursue an appeal to the Superior Court under the Rhode Island Administrative Procedures Act, R.I. Gen. Laws § 42-35-1 et seq.
- VI. *Compliance; Other Laws.* Compliance with the terms of this Consent Agreement does not relieve the Respondents of any obligation to comply with other applicable laws or regulations administered by or through the Department or any other governmental agency.
- VII. *Enforcement.* If the Respondents fails to comply with any term or condition of this Consent Agreement within any applicable time period set forth herein, the Respondents will be in violation hereunder and the Department shall be entitled to immediately take enforcement or other action in accordance with applicable law.

The Department and Respondents hereby consent and agree to the foregoing this 30th day of May 2024.

Department of Business Regulation
By its Legal Counsel,

Ryan Pinto & Abraham Rosenberg
By their attorneys

Matthew Gendron, Esq.
Mariel R. Garcia, Esq.

Michael E. Pastore, Esq.