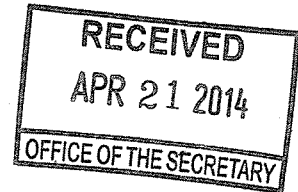


**UNITED STATES OF AMERICA  
BEFORE THE SECURITIES AND EXCHANGE COMMISSION**

IN THE MATTER OF:

MICHAEL A. HOROWITZ and  
MOSHE MARC COHEN

RESPONDENTS.



**ADMINISTRATIVE PROCEEDING  
FILE NO: 3-15790**

**RESPONDENT MOSHE MARC COHEN'S ANSWER AND DEFENSES TO THE  
ORDER INSTITUTING PUBLIC ADMINISTRATIVE AND CEASE-AND-DESIST  
PROCEEDINGS**

Pursuant to Rule 220 of the Securities and Exchange Commission's Rules of Practice, Respondent Moshe Marc Cohen answers the order Instituting Public Administrative and Cease-and-desist Proceedings ("OIP"), dated March 13th, 2014, as follows:

**GENERAL RESPONSE**

Certain paragraphs contained in the OIP lack sufficient specificity and information for Mr. Cohen to either admit or deny the allegations in the respective paragraphs, or otherwise adequately respond, and are subject of a motion for More Definite Statement that will be filed separately within a reasonable time after this Answer is filed. Any allegations not expressly admitted herein are denied.

Mr. Cohen responds to the specific allegations of the OIP as follows:

**FIRST DEFENSE**

**Paragraph I.** The first sentence of paragraph I of the OIP contains no factual allegations, and thus no response is required. To the extent the first sentence of the Paragraph I can be considered to contain other factual allegations, they are denied.

**Paragraph 1.** Mr. Cohen denies that there was a fraudulent scheme in regards to the sale and purchase of deferred Annuities. This paragraph calls for legal conclusions to which no

response is necessary. Because the paragraph lacks adequate specificity regarding the time period and identity of the referenced \$80 million in deferred annuities, Mr. Cohen cannot admit the allegations contained in Paragraph 1. Beyond the foregoing Mr. Cohen denies the allegations contained in Paragraph 1. To the extent the first sentence of the Paragraph 1 can be considered to contain other factual allegations, they are denied.

**Paragraph 2.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the first three sentences in paragraph 2. Mr. Cohen admits that Mr. Horowitz introduced an Annuity Strategy to him. Mr. Cohen admits that he obtained his Broker-Dealer's approval of the sale of the Annuities, but denies that any material misrepresentations on the customer account forms and/or point-of-sale forms which the broker-dealer principals used to conduct "investment suitability" and "related reviews" because the fourth sentence in paragraph 2 fails to define the terms and to whom they refer. Mr. Cohen further denies the fifth sentence as it states a legal conclusion as to which no response is required and denies the allegations in the fifth sentence of paragraph 2. Mr. Cohen admits that he received more than \$700,000 in commissions, but denies the sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 2 that were not admitted. To the extent Paragraph 2 can be considered to contain other factual allegations, they are denied.

**Paragraph 3.** States a legal conclusion as to which no response is required. To the extent a response is required, Mr. Cohen denies the allegations contained in paragraph 3.

**Paragraph 4.** Mr. Cohen could not aver to any of the information in Paragraph 4 and denies sufficient knowledge or information to form a belief as to the truth of Paragraph 4 besides the fact that Michael A. Horowitz lives in Los Angeles, CA.

**Paragraph 5.** Mr. Cohen admits to living in Brooklyn, NY and being age 38. He admits to not being currently associated with any SEC-registered entity. Mr. Cohen admits that he held series 6,7,24 and 63 licenses in the past. All other allegations in Paragraph 5 are denied for lack of specificity as "broker dealer" 3 is not defined. To the extent Paragraph 5 can be considered to contain other factual allegations, they are denied.

**Paragraph 6.** Mr. Cohen denies allegations in paragraph 6 as to lack of specificity as to Broker Dealer 1.

**Paragraph 7.** Mr. Cohen denies allegations in paragraph 7 as to lack of specificity as to Broker Dealer 2.

**Paragraph 8.** Mr. Cohen denies allegations in paragraph 8 as to lack of specificity as to Broker Dealer 3.

**Paragraph 9.** Mr. Cohen denies allegations in paragraph 9 as to the lack of specificity to “Charity 2”. Mr. Cohen denies the sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 9. To the extent Paragraph 9 can be considered to contain other factual allegations, they are denied.

**Paragraph 10.** Mr. Cohen admits to the first two sentences in paragraph 10 (not including footnote 1 in paragraph 10) with the exception that although a product might be designed for a specific purpose, a consumer could choose to utilize their property rights in any lawful manner as long as there are no restrictions within their contract of sale. Although a product might be designed for one purpose, it does not restrict the purchase or use for another lawful purpose if a consumer has full disclosure and is aware of the facts of a specific product. Mr. Cohen admits to the third sentence in paragraph 10. Mr. Cohen admits to the first two sentences in footnote 1 to paragraph 10, but denies the 3<sup>rd</sup> Sentence to Footnote 1 in paragraph 10 as the word “typical” fails to define the term. Mr. Cohen denies the fourth sentence to footnote 1 in paragraph 10 as it calls for legal conclusions for which no response is necessary. Mr. Cohen admits to the first sentence in footnote 2 of paragraph 10, but denies the statement of the second sentence in footnote 2 of paragraph 10 due to a lack of specificity and lack of sufficient knowledge or information to form a belief as to the truth of the allegations. To the extent Paragraph 10 and its footnotes can be considered to contain other factual allegations, they are denied. Beyond the foregoing Mr. Cohen denies the allegations contained in Paragraph 10 and its footnotes.

**Paragraph 11.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations concerning paragraph 11.

**Paragraph 12.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations of what Mr. Horowitz learned concerning paragraph 12. Mr. Cohen does admit that Variable Annuities are NOT Life Insurance and therefore No “insurable interest” laws applied or were required by most State’s regulations and/or Insurance Companies’ rules and guidelines at the time in question.

**Paragraph 13.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations concerning Mr. Horowitz. To the extent a response is required, Mr. Cohen denies the allegations contained in paragraph 13.

**Paragraph 14.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 14 because the paragraph lacks adequate specificity regarding the identities of annuitants, contracts allegedly sold, and other “registered representatives” referenced in paragraph 14. To the extent Paragraph 14 can be considered to contain other factual allegations, they are denied. Beyond the foregoing Mr. Cohen denies the allegations contained in Paragraph 14.

**Paragraph 15.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 15 because the paragraph lacks adequate specificity regarding the identities of annuitants, hospice patients, terminal illness, contracts, investors, and what funds. To the extent paragraph 15 can be considered to contain other factual allegations, they are denied. Beyond the foregoing Mr. Cohen denies the allegations contained in Paragraph 15.

**Paragraph 16.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 16 because the paragraph lacks adequate specificity to "stranger annuitants", variable annuities sold, contracts, investor's family members or relatives, or family trusts created by investors. Unless Annuitants are designated as owners within an annuity designation or application, they never have any contractual rights to annuity values or death benefit regardless of their relationship to the owner(s) of or beneficiaries of an annuity contract.

**Paragraph 17.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 17.

**Paragraph 18.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 18 because the paragraph lacks adequate specificity regarding the identities of the referenced annuitants. Secondly, paragraph 18 state legal conclusions as to which no response is required. To the extent Paragraph 18 can be considered to contain other factual allegations, they are denied.

**Paragraph 19.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 19 because the paragraph lacks adequate specificity regarding the identities of the referenced "Annuitants" and so called "Annuitant Finders". Secondly, paragraph 19 state legal conclusions as to which no response is required. To the extent Paragraph 19 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 20.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 20. To the extent Paragraph 20 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 21.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 21. To the extent Paragraph 21 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 22.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 22. To the extent Paragraph 22 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 23.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 23. To the extent Paragraph 23 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 24.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 24. To the extent Paragraph 24 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 25.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 25. To the extent Paragraph 25 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 26.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 26. To the extent Paragraph 26 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 27.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 27. To the extent Paragraph 27 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 28.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 28. To the extent Paragraph 28 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 29.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 29. To the extent Paragraph 29 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 30.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 30. To the extent Paragraph 30 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 31.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 31. To the extent Paragraph 31 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 32.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 32. To the extent Paragraph 32 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 33.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 33. To the extent Paragraph 33 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 34.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 34. To the extent Paragraph 34 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 35.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 35. To the extent Paragraph 35 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 36.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 36. To the extent Paragraph 36 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 37.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 37. To the extent Paragraph 37 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 38.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 38. To the extent Paragraph 38 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 39.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 39. To the extent Paragraph 39 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 40.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 40. To the extent Paragraph 40 can be considered to contain other factual allegations against Mr. Cohen, they are denied. Beyond the foregoing, because the paragraph lacks adequate specificity regarding the identities of the referenced “Annuitant Finders” and “Horowitz Associates” referenced in paragraph 40, Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 40.

**Paragraph 41.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 41. To the extent Paragraph 41 can be considered to contain factual allegations against Mr. Cohen, they are denied.

**Paragraph 42.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 42. To the extent Paragraph 42 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 43.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 43. To the extent Paragraph 43 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 44.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 44. To the extent Paragraph 44 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 45.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 45. To the extent Paragraph 45 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 46.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 46. To the extent Paragraph 46 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 47.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 47. To the extent Paragraph 47 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 48.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 48. To the extent Paragraph 48 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 49.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 49. To the extent Paragraph 49 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 50.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 50. To the extent Paragraph 50 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 51.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 51. To the extent Paragraph 51 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 52.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 52. To the extent Paragraph 52 can be considered to contain other factual allegations against Mr. Cohen, they are denied.



**Paragraph 53.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 53. To the extent Paragraph 53 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 54.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 54. To the extent Paragraph 54 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 55.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 55. To the extent Paragraph 55 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 56.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 56. To the extent Paragraph 56 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 57.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 57. To the extent Paragraph 57 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 58.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 58. To the extent Paragraph 58 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 59.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 59. To the extent Paragraph 59 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 60.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 60. To the extent Paragraph 60 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 61.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 61. To the extent Paragraph 61 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 62.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 62. To the extent Paragraph 62 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 63.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 63. To the extent Paragraph 63 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 64.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 64. To the extent Paragraph 64 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 65.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 65. To the extent Paragraph 65 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 66.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 66. To the extent Paragraph 66 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 67.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 67. To the extent Paragraph 67 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 68.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 68. To the extent Paragraph 68 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 69.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 69. To the extent Paragraph 69 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 70.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 70. To the extent Paragraph 70 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 71.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 71. To the extent Paragraph 71 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 72.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 72. To the extent Paragraph 72 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 73.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 73. To the extent Paragraph 73 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 74.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 74. To the extent Paragraph 74 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 75.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 75. To the extent Paragraph 75 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 76.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 76. To the extent Paragraph 76 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 77.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 77. To the extent Paragraph 77 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 78.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 78. To the extent Paragraph 78 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 79.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 79. To the extent Paragraph 79 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 80.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 80. To the extent Paragraph 80 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 81.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 81. To the extent Paragraph 81 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 82.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 82. To the extent Paragraph 82 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 83.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 83. To the extent Paragraph 83 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 84.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 84. To the extent Paragraph 84 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 85.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 85. To the extent Paragraph 85 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 86.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 86. To the extent Paragraph 86 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 87.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 87. To the extent Paragraph 87 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 88.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 88. To the extent Paragraph 88 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 89.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 89. To the extent Paragraph 89 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 90.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 90. To the extent Paragraph 90 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 91.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 91. To the extent Paragraph 91 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 92.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 92. To the extent Paragraph 92 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 93.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations against Mr. Horowitz contained in paragraph 93. To the extent Paragraph 93 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 94.** Mr. Cohen admits meeting with Horowitz in Las Vegas in or around December of 2007. Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations in the second sentence of paragraph 94 as it lacks specificity to the Broker- Dealer.

**Paragraph 95.** Mr. Cohen denies the allegations contained in paragraph 95.

**Paragraph 96.** Mr. Cohen denies the allegations contained in paragraph 96.

**Paragraph 97.** Mr. Cohen denies the allegations contained in paragraph 97.

**Paragraph 98.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 98 regarding Broker-Dealer 1 and 2. Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 98 in regards to Broker-Dealer 3 - as it lacks specificity as to the Broker-Dealer name. Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations in regards to the statement "its intended purpose" (is that for the benefit of the Owner, the Insurance Company or the Broker- Dealer?) and therefore once again lacks adequate specificity. Mr. Cohen admits that each Variable Annuity sold through his Broker Dealer required a "Variable Annuity Point of Sale" form to be submitted to the Broker Dealer. Mr. Cohen admits that the "Variable Annuity Point of Sale" used by the Broker-Dealer asked at what point did the customer anticipate to "access their investment" through withdrawals and whether they intended to take withdrawals during the surrender charge period.

**Paragraph 99.** Mr. Cohen denies the allegations in paragraph 99 besides for the last sentence of paragraph 99 that each of the variable annuities sold had a surrender charge period for "withdrawals" of at least 7 years.

**Paragraph 100.** Mr. Cohen denies the allegations contained in paragraph 100.

**Paragraph 101.** Mr. Cohen denies the allegations contained in paragraph 101.

**Paragraph 102.** Mr. Cohen either denies the allegations contained in paragraph 102 or denies sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 102. To the extent Paragraph 102 can be considered to contain other factual allegations against Mr. Cohen, they are denied.

**Paragraph 103.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations in regards to Signing Rep or Horowitz. Mr. Cohen avers to the figures in relating to Cohen in the Graph, but denies the 1<sup>st</sup> sentence of paragraph 103.

**Paragraph 104.** Mr. Cohen denies sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 104.

**Paragraph 105.** States a legal conclusion as to which no response is required. To the extent a response is required, Mr. Cohen denies the allegations contained in Paragraph 105.

**Paragraph 106.** States a legal conclusion as to which no response is required. To the extent a response is required, Mr. Cohen denies the allegations contained in Paragraph 106.

**Paragraph 107.** States a legal conclusion as to which no response is required. To the extent a response is required, Mr. Cohen denies the allegations contained in Paragraph 107.

**Paragraph 108.** States a legal conclusion as to which no response is required. To the extent a response is required, Mr. Cohen denies the allegations contained in Paragraph 108.

**Paragraph 109.** States a legal conclusion as to which no response is required. To the extent a response is required, Mr. Cohen denies the allegations contained in Paragraph 109.

**Paragraph 110.** States a legal conclusion as to which no response is required. To the extent a response is required, Mr. Cohen denies the allegations contained in Paragraph 110.

### **III. and IV.**

Mr. Cohen believes that these Administrative Proceedings are unfounded in that Mr. Cohen did not violate any provisions of the securities laws alleged by the Commission. Mr. Cohen properly discharged his duties in accordance with the then existing standards and laws. Mr. Cohen reasonably relied on counsel, information from State Insurance Departments and existing laws on the books in regards to any of the Variable Annuities sold. Even with a death Benefit feature attached to its issuance, Annuities are NOT Insurance Products and they do not

require an insurable interest. The fact is; the markets for complex annuities have always existed. Complex annuities are where the Beneficiary, Owners, and Annuitants are different. The Owner(s) of an Annuity are the rightful decision makers and rightful property owners to purchase and dispose of their contracts to their liking. The Annuitants in an Annuity are just a life measuring tool to the contract and have no rights to an Annuity contract, and as such are not a party to the relationship between the Registered Representative and the Annuity Purchaser. The profitability of an Annuity carrier's products, or the profitability of an Annuity Carrier, in general, should not be the motivation for an SEC enforcement action, nor should the fact that the Insurance Company owned Broker-Dealer that effectively pushed the SEC into the enforcement action be the driving force to rewrite the rules. Mr. Cohen requests a hearing in this matter.

### **SECOND DEFENSE**

The Division of Enforcement has failed to state a cause of action upon which relief can be granted under the Provisions of the Rules of 201.102(e)(1)(ii).

### **THIRD DEFENSE**

The Division of Enforcement has failed to comply with federal statutory deadlines.

### **FOURTH DEFENSE**

The Division of Enforcement's claim and requested relief are barred by the statute of limitations and the doctrine of laches because the Commission delayed unreasonably and inexcusably in commencing this action and Respondent Cohen suffered prejudice as a result. Respondent Cohen's ability to summon witnesses and produce testimony is significantly and adversely affected. Given the age of events in this matter, it is "inherently unfair" and in violation of due process to proceed against Respondent Cohen.

### **FIFTH DEFENSE**

The Division of Enforcement's claims and requested relief are barred by the doctrine of estoppel.

### **SIXTH DEFENSE**

Mr. Cohen relied in good faith on the services, advice, recommendation, opinions, and findings of experts, including insurance and compliance personal, legal advice and other professionals in the field.



### **SEVENTH DEFENSE**

The Division's allegations presume the existence of detailed and specific guidance regarding the annuity purchases during the Relevant Period.

### **EIGHTH DEFENSE**

The Division of Enforcement's claims and requested relief are barred by the doctrine of fair notice.

### **NINTH DEFENSE**

The Complaint is barred, in whole or in part, in that the SEC did not conduct its investigation in good faith but did so in bad faith, and so cannot prove all elements of each alleged cause of action without reliance on its bad faith investigation.

### **TENTH DEFENSE**

The institution of proceedings against Respondent is unlawful under the Dodd-Frank Wall Street Reform and Consumer Protection Act because the Commission made a determination to file this action before the expiration of the period prescribed in 15 U.S.C.A. §78d-5, but did not file the action more than six months later.

### **ELEVENTH DEFENSE**

The allegations and remedies sought in the Order are barred because the statutes and regulations the Commission seeks to enforce are unconstitutionally vague under the United States Constitution. Accordingly, on such constitutional grounds, the counts against Respondent Cohen is unenforceable and fails to state a cause of action in that there is no reasonable basis upon which Respondent Cohen would have known in advance that the conduct alleged by the Commission was allegedly unlawful and/or otherwise proscribed by law. The standard of conduct which Cohen is being charged with violating is so vague and unclear that these proceedings are contrary to fundamental concepts of notice, fairness and due process.

### **TWELTH DEFENSE**

The OIP fails to allege fraud with particularity.

### **THIRTEENTH DEFENSE**

Respondent Cohen did not violate, cause or aid and abet violations of the federal securities laws.

### **FOURTEENTH DEFENSE**

According to the OIP and the Rules of Practice, an Initial Decision shall be issued no later than 300 days from the date of service of the OIP, even though the Commission's investigation into this matter lasted several years and included interviews of over 50 witnesses and the review of hundreds of thousands of documents. To require a respondent to prepare for a hearing on such an expedited basis is contrary to the protected rights of fairness and due process.

### **FIFTEENTH DEFENSE**

The text of the Order fails to honor the mandate, set forth in Rule 200(b), 17 C.P.R. § 20 1.200(b), that where an answer is required by the Commission, the order "shall set forth the factual and legal basis alleged therefore in such detail as will permit a specific response thereto".

### **SIXTEENTH DEFENSE**

The Commission's claims are barred in whole or in part because Respondent Cohen did not at any time act with the intent to deceive, manipulate, or defraud investors or anyone else.

### **SEVENTEENTH DEFENSE**

The Commission's claims are barred, in whole or in part, to the extent that any alleged misrepresentations or omissions would not have been deemed "material" by a reasonable investor in light of the totality of the circumstances.

### **EIGHTEENTH DEFENSE**

The Order fails to allege sufficient grounds for a "Cease and Desist Order" where the conduct complained of ceased over Six years ago and there is no reasonable likelihood Respondent Cohen will commit any future violations.

### **NINETEENTH DEFENSE**

The Order denies Respondent Cohen due process and fair notice as provided in the Fifth Amendment to the United States Constitution and the Administrative Procedures Act because the Order seeks to retroactively apply new interpretations of the plain language of applicable rules and professional standards existing at the time.

### **TWENTIETH DEFENSE**

The Order and these proceedings contravene Mr. Cohen's rights to due process as provided in the Fifth Amendment to the United States Constitution because the proceedings do not afford an adequate opportunity to defend the charges and deprive Mr. Cohen of access to information and evidence relevant to his defense.

### **TWENTY-FIRST DEFENSE**

The Commission's authorization of these proceedings was arbitrary and capricious in that the allegations in the Order lack support either in the record or in applicable rules and professional standards, and are contrary to allegations made by the Division in related proceedings.

### **TWENTY-SECOND DEFENSE**

At all times mentioned in the OIP and with respect to all matters contained therein, Respondent Cohen acted in good faith, and did not know, and in the exercise of reasonable care could not have known, of any misrepresentation, misleading statement or omission alleged in the OIP occurred.

### **TWENTY-THIRD DEFENSE**

The Commission lacks subject matter jurisdiction over the administrative proceeding herein.

### **TWENTY- FOURTH DEFENSE**

The Order is untimely under 15 U.S.C § 78d-5, and the Commission's approval of the institution of these proceeding was therefore arbitrary, capricious and contrary to law.

### **TWENTY-FIFTH DEFENSE**

The Division has failed to identify any facts that would support a finding of fraud.

### **TWENTY-SIXTH DEFENSE**

The Division fails to state a claim for a violation of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, and based on the following facts the Division's purported claim should be dismissed. In support of this defense, Mr. Cohen repeats and re-alleges the facts contained in paragraphs 1 through 110 above.

### **TWENTY-SEVENTH DEFENSE**

The Division fails to state a claim for a violation of Section 17(a) of the Exchange Act and Rule 17a-3(a)(6) thereunder, and based on the following facts the Division's purported claim should be dismissed. In support of this defense, Mr. Cohen repeats and re-alleges the facts contained in paragraphs 1 through 110 above.

### **TWENTY-EIGHTH DEFENSE**

To establish that Respondent Cohen violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, the Division must prove that in connection with the purchase or sale of a security, Respondent Cohen, was acting with scienter, made a material misrepresentation or used a fraudulent devise. Mere negligence is insufficient to establish a violation. At a minimum, the Division must establish a heightened showing of recklessness that amounts to an extreme departure from the standards of ordinary care to the extent that the danger was either known to Mr. Cohen or so obvious that he must have been aware of it. In addition, the untrue statements must be material, meaning that a reasonable investor would consider the statement important.

### **TWENTY-NINTH DEFENSE**

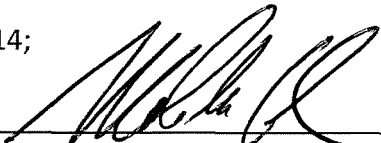
Respondent Cohen contends that the OIP was not validly issued because the governing rule requires that a minimum of two Commissioners participate in such a decision so that issuance of the OIP violated the Commission's regulations, citing *IMS, P.C. v. Alvarez*, 129 F.3d 618, 621 (D.C. Cir. 1997) ("[I]t is a well-settled rule that an agency's failure to follow its own regulations is fatal to the deviant action.").

**PRESERVATION OF RIGHT TO AMEND**

Respondent Cohen expressly and specifically reserves the right to amend this Answer, to add, delete, and/or modify defenses and to assert any additional defenses once discovery proceeds and more information becomes available.

Respondent Cohen adopts and incorporates by reference any and all other defenses asserted or to be asserted by any other Respondent to this action to the extent Respondent Cohen may share in such defense.

Respectfully submitted this 10<sup>th</sup> day of April, 2014;

  
By: Moshe Marc Cohen - Pro Se