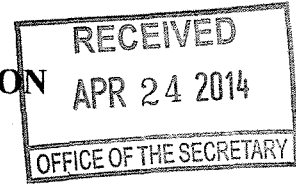


UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION



SECURITIES ACT OF 1933  
Release No. 9559 / March 13, 2014

SECURITIES EXCHANGE ACT OF 1934  
Release No. 71715 / March 13, 2014

INVESTMENT ADVISERS ACT OF 1940  
Release No. 3794 / March 13, 2014

INVESTMENT COMPANY ACT OF 1940  
Release No. 30981 / March 13, 2014

ADMINISTRATIVE PROCEEDING  
File No. 3-15790

In the Matter of  
**MICHAEL A. HOROWITZ**  
and  
**MOSHE MARC COHEN,**  
Respondents.

**RESPONDENT MICHAEL A.  
HOROWITZ'S ANSWER TO THE  
ORDER INSTITUTING  
ADMINISTRATIVE AND CEASE-  
AND-DESIST PROCEEDINGS**

Pursuant to Rule 220 of the Securities and Exchange Commission's Rules of Practice, Respondent Michael A. Horowitz ("Mr. Horowitz") answers the Order Instituting Administrative and Cease-and-Desist Proceedings ("Order"), as follows:

**GENERAL RESPONSE**

Certain paragraphs contained in the Order lack sufficient specificity and information for Mr. Horowitz. Any allegations not expressly admitted herein are denied.

Mr. Horowitz responds to the specific allegations of the Order as follows:

## ANSWERS TO ORDER'S ALLEGATIONS

Paragraph I. Mr. Horowitz admits that the Securities and Exchange Commission (“Commission”) instituted administrative and cease-and-desist proceedings against Mr. Horowitz and Moshe Marc Cohen (“Mr. Cohen”), but otherwise lacks sufficient information and knowledge regarding the remaining allegations of Paragraph I.

1. In response to paragraph 1, Mr. Horowitz lacks sufficient information and knowledge and on that basis denies the factual allegations and does not respond to the legal conclusions of paragraph 1.

2. Mr. Horowitz admits that he introduced an investment strategy to Mr. Cohen and that he obtained his firm’s approval of variable annuity sales. Mr. Horowitz further admits that he received more than \$300,000 in commissions for annuity sales he generated. As for the remaining allegations of paragraph 2, Mr. Horowitz lacks sufficient information and knowledge regarding the identity of “Broker-Dealer 1” and on that basis denies the factual allegations and does not respond to the legal conclusions of paragraph 2.

3. Mr. Horowitz does not respond to the legal conclusions of paragraph 3.

4. Mr. Horowitz admits that he is 39 years old and resides in Los Angeles, California. Mr. Horowitz further admits that he was a registered representative of an SEC-registered broker dealer between June 2000 and August 2008. Mr. Horowitz also admits that he holds Series 7 and 66 licenses. Mr. Horowitz denies that he is currently a registered representative for an SEC registered broker-dealer and

that he manages Monarch Capital, Inc. Mr. Horowitz further denies that he is a “scheme architect.” Mr. Horowitz lacks sufficient information and knowledge regarding the remaining allegations of paragraph 4 and on that basis denies them.

5. Mr. Horowitz lacks sufficient information and knowledge regarding the allegations of paragraph 5 and on that basis denies them.

6. Mr. Horowitz lacks sufficient information and knowledge regarding the identity of “Broker-Dealer 1” and on that basis denies the allegations of paragraph 6.

7. Mr. Horowitz lacks sufficient information and knowledge regarding the identity of “Broker-Dealer 2” and on that basis denies the allegations of paragraph 7.

8. Mr. Horowitz lacks sufficient information and knowledge regarding the identity of “Broker-Dealer 3” and on that basis denies the allegations of paragraph 8.

9. Mr. Horowitz lacks sufficient information and knowledge regarding the identity of “Charity 2” and on that basis denies the allegations of paragraph 9.

10. In paragraph 10 and footnote 1, the Commission alleges legal conclusions about variable annuities for which no response is required. Mr. Horowitz denies the factual allegations. Although no response is required to footnote 2, Mr. Horowitz incorporates his previous responses.

11. Mr. Horowitz admits that he learned about certain variable annuity contracts, but otherwise denies the remaining allegations of paragraph 11.

12. Mr. Horowitz admits that he learned about certain variable annuity contracts and their terms, but denies the remaining allegations of paragraph 12.

13. Mr. Horowitz denies the allegations of paragraph 13.

14. Mr. Horowitz lacks sufficient information and knowledge regarding the allegations of paragraph 14 and on that basis denies them.

15. Mr. Horowitz lacks sufficient information and knowledge regarding paragraph 15 and on that basis denies them.

16. Mr. Horowitz admits that annuitants had no contractual right to any portion of the death benefits paid out under the terms of variable annuities. Mr. Horowitz denies that there was a "scheme." As for the remaining allegations of paragraph 16, Mr. Horowitz lacks sufficient information and knowledge and on that basis denies them.

17. Mr. Horowitz denies the allegations of paragraph 17.

18. Mr. Horowitz does not respond to the legal conclusions of paragraph 18, and lacks sufficient information and knowledge regarding the remaining allegations of paragraph 18 and on that basis denies them.

19. Mr. Horowitz lacks sufficient information and knowledge regarding the allegations of paragraph 19 and on that basis denies them.

20. Mr. Horowitz denies that there was a “scheme.” As for the remaining allegations of paragraph 20, Mr. Horowitz lacks sufficient information and knowledge regarding “Annuitant Finder 1” and on that basis denies them.

21. Mr. Horowitz lacks sufficient information and knowledge regarding the allegations of paragraph 21 and on that basis denies them.

22. Mr. Horowitz lacks sufficient information and knowledge regarding the allegations of paragraph 22 and on that basis denies them.

23. Mr. Horowitz lacks sufficient information and knowledge regarding the allegations of paragraph 23 and on that basis denies them.

24. Mr. Horowitz lacks sufficient information and knowledge regarding the allegations of paragraph 24 and on that basis denies them.

25. Mr. Horowitz lacks sufficient information and knowledge regarding the allegations of paragraph 25 and on that basis denies them.

26. Mr. Horowitz lacks sufficient information and knowledge regarding the allegations of paragraph 26 and on that basis denies them.

27. Mr. Horowitz lacks sufficient information and knowledge regarding the allegations of paragraph 27 and on that basis denies them.

28. Mr. Horowitz lacks sufficient information and knowledge regarding the allegations of paragraph 28 and on that basis denies them.

29. Mr. Horowitz lacks sufficient information and knowledge regarding the allegations of paragraph 29 and on that basis denies them.

30. Mr. Horowitz lacks sufficient information and knowledge regarding the allegations of paragraph 30 and on that basis denies them.

31. Mr. Horowitz lacks sufficient information and knowledge regarding the identity of “Annuitant Finder 1” and on that basis denies the allegations of paragraph 31.

32. Mr. Horowitz lacks sufficient information and knowledge regarding the identity of “Annuitant Finder 1” and on that basis denies the allegations of paragraph 32.

33. Mr. Horowitz denies that his purpose in visiting patients was to confirm that they were in fact dying and therefore were suitable annuitants. Mr. Horowitz further denies that he actively concealed his true purpose for visiting patients. Mr. Horowitz does not respond to the legal conclusions of paragraph 33

34. Mr. Horowitz lacks sufficient information and knowledge regarding the identity of “Annuitant Finder 1” and on that basis denies the allegations of paragraph 34.

35. Mr. Horowitz denies that there was a “scheme.” As for the remaining allegations of paragraph 35, Mr. Horowitz lacks sufficient information and knowledge regarding the identity of “Annuitant Finder 1” and on that basis denies them.

36. Mr. Horowitz denies that he wanted information regarding the health status of patients so he would know when each patient died. As for the remaining allegations of paragraph 36, Mr. Horowitz lacks sufficient information and knowledge regarding the identity of “Annuitant Finder 1” and on that basis denies them.

37. Mr. Horowitz lacks sufficient information and knowledge regarding the allegations of paragraph 37 and on that basis denies them.

38. Mr. Horowitz denies that he had a “scheme.” As for the remaining allegations of paragraph 38, Mr. Horowitz lacks sufficient information and knowledge and on that basis denies them.

39. Mr. Horowitz lacks sufficient information and knowledge regarding the allegations of paragraph 39 and on that basis denies them.

40. Mr. Horowitz lacks sufficient information and knowledge regarding the identities of “Annuitant Finder 2” and “Annuitant Finder 3” and on that basis denies the allegations of paragraph 40.

41. Mr. Horowitz denies that there was a “scheme.” As for the remaining allegations of paragraph 41, Mr. Horowitz lacks sufficient information and knowledge regarding the identities of “Broker-Dealer 2,” “Annuitant Finder 2” and “Annuitant Finder 3,” and on that basis denies them.

42. Mr. Horowitz admits that between July 2007 and October 2007, he sold 14 deferred bonus variable annuities to his clients. As for the remaining allegations

of paragraph 42, Mr. Horowitz lacks sufficient information and knowledge regarding the identity of “Broker-Dealer 1” and on that basis denies them.

43. Mr. Horowitz admits that he designated a hospice patient as a contract annuitant in 14 annuities. Mr. Horowitz denies that he received a commission for each of the 14 annuities that he sold. Mr. Horowitz received a commission for only 12 out of the 14 annuities that he sold. As for the remaining allegations of paragraph 43, Mr. Horowitz denies the factual allegations and does not respond to the legal conclusions.

44. Mr. Horowitz admits that he marketed annuities to clients. Mr. Horowitz further admits that he knew of the risks associated with the annuities, which he explained to all of his clients. Mr. Horowitz lacks sufficient information and knowledge regarding the clients’ intent and on that basis denies the allegation. Mr. Horowitz denies the remaining allegations of paragraph 44.

45. Mr. Horowitz lacks sufficient information and knowledge regarding the identity of “Broker-Dealer 1” and on that basis denies the allegations of paragraph 45.

46. Mr. Horowitz lacks sufficient information and knowledge regarding the identity of “Broker-Dealer 1” and on that basis denies the allegations of paragraph 46.

47. Mr. Horowitz admits that he submitted trade tickets for his annuity sales, but denies that he submitted trade tickets with false statements. As for the remaining allegations of paragraph 47, Mr. Horowitz lacks sufficient information and knowledge and on that basis denies them. Mr. Horowitz does not respond to the legal conclusions regarding whether statements are “material.”



48. Mr. Horowitz admits that trade tickets required a statement regarding the relationship between the owner of an annuity and the annuitant. Mr. Horowitz further admits that he submitted trade tickets for principal review which stated “partner,” as that was what he was directed to do. Mr. Horowitz denies the remaining allegations of paragraph 48.

49. Mr. Horowitz lacks sufficient information and knowledge regarding the allegations of paragraph 49 and on that basis denies them.

50. Mr. Horowitz denies the factual allegations and does not respond to the legal conclusions of paragraph 50.

51. Mr. Horowitz lacks sufficient information and knowledge regarding the identities of “John Doe 1” and “Jane Doe 1” and on that basis denies the allegations of paragraph 51.

52. Mr. Horowitz lacks sufficient information and knowledge regarding the identities of “John Doe 1,” “Jane Doe 1” and “Annuitant Finder 1” and on that basis denies the allegations of paragraph 52.

53. Mr. Horowitz lacks sufficient information and knowledge regarding the identities of “Annuitant Finder 1” and “Jane Doe 1” and on that basis denies the allegations of paragraph 53.

54. Mr. Horowitz lacks sufficient information and knowledge regarding the identities of “Annuitant Finder 1” and “Jane Doe 1” and on that basis denies the allegations of paragraph 54.

55. Mr. Horowitz lacks sufficient information and knowledge regarding the identities of “Annuitant Finder 1” and “Jane Doe 1” and on that basis denies the allegations of paragraph 55.

56. Mr. Horowitz lacks sufficient information and knowledge regarding the identities of “Annuitant Finder 1” and “Jane Doe 1” and on that basis denies the allegations of paragraph 56.

57. Mr. Horowitz lacks sufficient information and knowledge regarding the identity of “Jane Doe 1” and on that basis denies the allegations of paragraph 57.

58. Mr. Horowitz lacks sufficient information and knowledge regarding the identity of “Jane Doe 1” and on that basis denies the allegations of paragraph 58.

59. Mr. Horowitz lacks sufficient information and knowledge regarding the identity of “Jane Doe 1” and on that basis denies the allegations of paragraph 59.

60. Mr. Horowitz lacks sufficient information and knowledge regarding the identity of “Broker-Dealer 1” and on that basis denies the allegations of paragraph 60.

61. Mr. Horowitz lacks sufficient information and knowledge regarding the identity of “Broker-Dealer 1” and on that basis denies the allegations of paragraph 61.

62. Mr. Horowitz lacks sufficient information and knowledge regarding the identities of “Annuitant Finder 1,” “John Doe 1” and “Jane Doe 1” and on that basis denies the allegations of paragraph 62.

63. Mr. Horowitz lacks sufficient information and knowledge regarding the identities of “John Doe 1” and “Annuitant Finder 1” and on that basis denies the allegations of paragraph 63.

64. Mr. Horowitz lacks sufficient information and knowledge regarding the identities of “Jane Doe 1” and “Annuitant Finder 1” and on that basis denies the allegations of paragraph 64.

65. Mr. Horowitz lacks sufficient information and knowledge regarding the identity of “Jane Doe 1” and on that basis denies the allegations of paragraph 65.

66. Mr. Horowitz admits that he was instructed by his supervisors to stop selling stranger-owned annuities in which the annuitant was a hospice patient in mid-November 2007. Mr. Horowitz denies the remaining allegations of paragraph 66.

67. Mr. Horowitz lacks sufficient information and knowledge regarding the identity of “Broker-Dealer 1” and on that basis denies the allegations of paragraph 67.

68. Mr. Horowitz lacks sufficient information and knowledge regarding the identities of “Broker-Dealer 2” and “Senior Rep” and on that basis denies the allegations of paragraph 68.

69. Mr. Horowitz lacks sufficient information and knowledge regarding the identities of “Broker-Dealer 1” and “Broker-Dealer 2” and on that basis denies the allegations of paragraph 69.

70. Mr. Horowitz denies that he made an effort to structure the annuities as short-term investment vehicles. As for the remaining allegations of paragraph 70, Mr. Horowitz lacks sufficient information and knowledge and on that basis denies them.

71. Mr. Horowitz lacks sufficient information and knowledge regarding the identities of “Broker-Dealer 1” and “Broker-Dealer 2” and on that basis denies the allegations of paragraph 71.

72. Mr. Horowitz lacks sufficient information and knowledge regarding the identity of “Broker-Dealer 2” and on that basis denies the allegations of paragraph 72.

73. Mr. Horowitz lacks sufficient information and knowledge regarding the identity of “Broker-Dealer 2” and on that basis denies the allegations of paragraph 73.

74. Mr. Horowitz lacks sufficient information and knowledge regarding the identities of “Senior Rep” and “Broker-Dealer 2” on that basis denies the allegations of paragraph 74.

75. Mr. Horowitz denies the factual allegations of paragraph 75 and does not respond to the legal conclusions of paragraph 75.

76. Mr. Horowitz lacks sufficient information and knowledge regarding the identity of “Broker-Dealer 2” and on that basis denies the allegations of paragraph 76.

77. Mr. Horowitz admits that he was instructed in November 2007 to stop selling stranger-owned annuities in which the annuitant was a hospice patient. As for the remaining allegations of paragraph 77, Mr. Horowitz lacks sufficient information and knowledge regarding the identities of “Broker-Dealer 1,” “Annuitant Finder 1,” “Charity 2” and “Jane Doe 2” and on that basis denies them.

78. Mr. Horowitz lacks sufficient information and knowledge regarding the identities of “HCP social worker,” “Jane Doe 2” and “Charity 2” and on that basis denies the allegations of paragraph 78.

79. Mr. Horowitz lacks sufficient information and knowledge regarding the identities of “Charity 2,” “Jane Doe 2” and “Annuitant Finder 1” and on that basis denies them.

80. Mr. Horowitz lacks sufficient information and knowledge regarding the identities of “Jane Doe 2” and “Annuitant Finder 1” and on that basis denies them.

81. Mr. Horowitz lacks sufficient information and knowledge regarding the identities of “Annuitant Finder 1,” “Broker-Dealer 2” and “Jane Doe 2” and on that basis denies the allegations of paragraph 81.

82. Mr. Horowitz lacks sufficient information and knowledge regarding the identities of “Broker-Dealer 2” and “Annuitant Finder 1” and on that basis denies the allegations of paragraph 82 and does not respond to the legal conclusions of paragraph 82.

83. Mr. Horowitz denies that he made false statements. As for the remaining allegations of paragraph 83, Mr. Horowitz lacks sufficient information and knowledge regarding the identity of “Annuitant Finder 1” and on that basis denies them.

84. Mr. Horowitz denies that he falsely inflated financials. As for the remaining allegations of paragraph 84, Mr. Horowitz lacks sufficient information and knowledge regarding the identities of “Broker-Dealer 2” and “Annuitant Finder 1” and on that basis denies them.

85. Mr. Horowitz lacks sufficient information and knowledge regarding the identities of “Signing Rep” and “Annuitant Finder 1” and on that basis denies the allegations of paragraph 85.

86. Mr. Horowitz denies that he made false representations. As for the remaining allegations of paragraph 86, Mr. Horowitz lacks sufficient information and knowledge regarding the identities of “Annuitant Finder 1,” “Signing Rep” and “Broker-Dealer 2” and on that basis denies them.

87. Mr. Horowitz lacks sufficient information and knowledge regarding the identities of “Annuitant Finder 1” and “Jane Doe 2” and on that basis denies the allegations of paragraph 87.

88. Mr. Horowitz lacks sufficient information and knowledge regarding the identities of “Annuitant Finder 1” and “Jane Doe 2” and on that basis denies the allegations of paragraph 88.

89. Mr. Horowitz lacks sufficient information and knowledge regarding the identity of “Annuitant Finder 1” and on that basis denies the allegations of paragraph 89.

90. Mr. Horowitz denies the allegations of paragraph 90.

91. Mr. Horowitz admits that he met with the principals of two affiliated hedge funds in New York City on or about October 25, 2007. As for the remaining allegations of paragraph 91, Mr. Horowitz lacks sufficient information and knowledge and on that basis denies them.

92. Mr. Horowitz lacks sufficient information and knowledge regarding the allegations of paragraph 92 and on that basis denies them.

93. Mr. Horowitz denies that he had a “scheme.” As for the remaining allegations of paragraph 93, Mr. Horowitz lacks sufficient information and knowledge regarding the identities of “Broker-Dealer 1” and “Signing Rep” and on that basis denies them.

94. Mr. Horowitz admits that he met with Cohen in Las Vegas in December 2007. As for the remaining allegations of paragraph 94, Mr. Horowitz lacks sufficient information and knowledge and on that basis denies them.

95. Mr. Horowitz denies the allegations in paragraph 95.

96. Mr. Horowitz lacks sufficient information and knowledge regarding the allegations of paragraph 96 and on that basis denies them.

97. Mr. Horowitz lacks sufficient information and knowledge regarding the allegations of paragraph 97 and on that basis denies them.

98. Mr. Horowitz lacks sufficient information and knowledge regarding the allegations of paragraph 98 and on that basis denies them.

99. Mr. Horowitz lacks sufficient information and knowledge regarding the allegations of paragraph 99 and on that basis denies them.

100. Mr. Horowitz lacks sufficient information and knowledge regarding the allegations of paragraph 100 and on that basis denies them.

101. Mr. Horowitz lacks sufficient information and knowledge regarding the allegations of paragraph 101 and on that basis denies them.

102. Mr. Horowitz denies that he received a commission for each of the 14 annuities that he sold. Mr. Horowitz received a commission for only 12 out of the 14 annuities that he sold. Mr. Horowitz further admits that the commissions were paid by the insurance companies that issued the annuities to the representatives' clients. As for the remaining allegations of paragraph 102, Mr. Horowitz lacks sufficient information and knowledge and on that basis denies them.

103. Mr. Horowitz lacks sufficient information and knowledge regarding the allegations of paragraph 103 and on that basis denies them.

104. Mr. Horowitz lacks sufficient information and knowledge regarding the allegations of paragraph 104 and on that basis denies them.



105. Mr. Horowitz denies the factual allegations and does not respond to the legal conclusions of paragraph 105.

106. Mr. Horowitz denies the factual allegations and does not respond to the legal conclusions of paragraph 106.

107. Mr. Horowitz denies the factual allegations and does not respond to the legal conclusions of paragraph 107.

108. Mr. Horowitz denies the factual allegations and does not respond to the legal conclusions of paragraph 108.

109. Mr. Horowitz denies the factual allegations and does not respond to the legal conclusions of paragraph 109.

110. Mr. Horowitz denies the factual allegations and does not respond to the legal conclusions of paragraph 110.

111. Mr. Horowitz denies the factual allegations and does not respond to the legal conclusions of paragraph 111.

112. Mr. Horowitz denies the factual allegations and does not respond to the legal conclusions of paragraph 112.

**PARAGRAPHS III and IV**

Mr. Horowitz did not violate any provision of the securities laws cited by the Commission. Mr. Horowitz acted in good faith and without intent to engage

in any known wrongful act or violation of law. If any violation occurred, it was in error, notwithstanding the maintenance of procedures reasonably adopted to avoid wrongful acts or violations of law. Mr. Horowitz requests a hearing in this matter.

## AFFIRMATIVE DEFENSES

### FIRST AFFIRMATIVE DEFENSE

(Failure to State A Claim)

1. The Commission's Order fails to state a claim for relief for each purported cause of action in the Order.

### SECOND AFFIRMATIVE DEFENSE

(Violation of Section 929U of the Dodd Frank Act)

2. The Commission failed to meet the statutory deadline of section 929U of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank").

### THIRD AFFIRMATIVE DEFENSE

(Statutes of Limitations)

3. The Commission has failed to bring its claim within the statutory time limit required by the applicable statutes of limitations.

### FOURTH AFFIRMATIVE DEFENSE

(Estoppel)

4. The Commission's claims are barred, in whole or in part, by the doctrine of estoppel.

FIFTH AFFIRMATIVE DEFENSE

(Consent)

5. Any alleged conduct that occurred was privileged, justified or excused because it was consented to.

SIXTH AFFIRMATIVE DEFENSE

(Compliance With Law)

6. Mr. Horowitz's conduct was prescribed by law and Mr. Horowitz complied with that law. Mr. Horowitz is therefore shielded from liability.

SEVENTH AFFIRMATIVE DEFENSE

(No Knowing or Willful Conduct)

7. Any conduct of Mr. Horowitz was not a knowing or willful violation of the Securities Act, the Exchange Act, the Investment Company Act, or any other law.

EIGHTH AFFIRMATIVE DEFENSE

(Good Faith)

8. Mr. Horowitz acted in good faith and without intent to engage in any known wrongful act or violation of law. If any violation occurred, it was in error, notwithstanding the maintenance of procedures reasonably adopted to avoid wrongful acts or violations of law.

NINTH AFFIRMATIVE DEFENSE

(Exclusive or Partial Fault of Third Parties)

9. If any violations alleged in the Order occurred, they were caused solely, directly, and proximately by the negligent and/or intentional acts or omissions of persons or entities other than Mr. Horowitz.

TENTH AFFIRMATIVE DEFENSE

(Privilege)

10. Mr. Horowitz's actions were privileged, and thus shielded from liability.

ELEVENTH AFFIRMATIVE DEFENSE

(Justification)

11. Mr. Horowitz's actions were justified, and thus shielded from liability.

TWELFTH AFFIRMATIVE DEFENSE

(Acts of Others)

12. Any violations that occurred, if any, were caused by persons over whom Mr. Horowitz had no control or responsibility.

THIRTEENTH AFFIRMATIVE DEFENSE

(No Material Misstatement)

13. Mr. Horowitz did not make any untrue statement of material fact nor did he omit to state a material fact required to be stated or necessary to make the statements not misleading.

FOURTEENTH AFFIRMATIVE DEFENSE

(Actual Disclosure)

14. Any material information alleged to have been misrepresented or omitted by Mr. Horowitz was in fact disclosed.

FIFTEENTH AFFIRMATIVE DEFENSE

(Failure to Join An Indispensable Party)

15. The Commission has failed to join an indispensable party.

SIXTEENTH AFFIRMATIVE DEFENSE

(Laches)

16. The Commissions claims are barred, in whole or in part, by the doctrine of laches.

SEVENTEENTH AFFIRMATIVE DEFENSE

(No Fair Notice)

17. The Commission's claims are barred by the doctrine of fair notice.

EIGHTEENTH AFFIRMATIVE DEFENSE

(Waiver)

18. The Commission's claims are barred, in whole or in part, by the doctrine of waiver.

NINETEENTH AFFIRMATIVE DEFENSE

(Standing)

19. The Commission lacks standing to bring these claims.

TWENTIETH AFFIRMATIVE DEFENSE

(Good Faith Reliance)

20. Mr. Horowitz relied in good faith on the available guidance, advice, recommendations, opinions, and findings of experts, including insurance and compliance personnel, attorneys and other professionals in the field. The Commission's allegations

presume the existence of detailed and specific guidance regarding annuity purchases during the relevant period.

TWENTY-FIRST AFFIRMATIVE DEFENSE

(Bad Faith/Improper Purpose)

21. The allegations and claims asserted in the Order, and each claim alleged against Mr. Horowitz therein, have always been and continue to be frivolous, unreasonable and groundless. The Commission has brought this action in bad faith and for an improper purpose against Mr. Horowitz. Further, the Commission has not conducted its investigation in good faith, and therefore cannot rely on its investigation.

TWENTY-SECOND AFFIRMATIVE DEFENSE

(Due Process)

22. The allegations and claims asserted in the Order, and each claim alleged against Mr. Horowitz therein, and the proceedings violate Mr. Horowitz's due process rights.

TWENTY-THIRD AFFIRMATIVE DEFENSE

(No Quorum of the Commission)

23. There was no quorum of the Commission pursuant to 17 C.F.R. § 200.41.

**RESERVATION OF RIGHT TO AMEND**

Mr. Horowitz reserves the right to amend its answer to incorporate additional affirmative defenses at a later time.

Dated: April 21, 2014

Respectfully submitted,

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