

1 **STATE OF WASHINGTON**
2 **DEPARTMENT OF FINANCIAL INSTITUTIONS**
3 **SECURITIES DIVISION**

4 IN THE MATTER OF DETERMINING) Order Number S-06-085-07-SC01
5 whether there has been a violation of the)
6 Securities Act of Washington by:) STATEMENT OF CHARGES AND NOTICE
7) OF INTENT TO ENTER ORDER TO
8) SUSPEND SECURITIES SALESPERSON
9) LICENSE, TO IMPOSE FINES, AND TO
10) CHARGE COSTS
11)
12 _____)
13 Respondent)

14 THE STATE OF WASHINGTON TO: William Doman

15 **STATEMENT OF CHARGES**

16 Please take notice that the Securities Administrator of the State of Washington has reason
17 to believe that Respondent, William Doman, has violated the Securities Act of Washington and
18 that his violations justify the entry of an order of the Securities Administrator under RCW
19 21.20.110 to suspend his securities salesperson license, to impose fines, and to charge costs. The
20 Securities Administrator finds as follows:

21 **TENTATIVE FINDINGS OF FACT**

22 *Respondent*

23 1. William Larry Doman (“Doman”) is a registered a securities salesperson in the State of
24 Washington. His Financial Industry Regulatory Authority (“FINRA”) securities salesperson
identification number is 831804. Doman has been employed at the Yakima office of
Metropolitan Life Securities and Metropolitan Life Insurance Company since 1974. In
December 2004, Doman retired from MetLife; however he has special agent status with
MetLife which allows him to continue to sell life insurance and securities.

STATEMENT OF CHARGES AND NOTICE OF INTENT TO ENTER ORDER TO SUSPEND SECURITIES SALESPERSON LICENSE, TO IMPOSE FINES, AND TO CHARGE COSTS.

1

DEPARTMENT OF FINANCIAL INSTITUTIONS
Securities Division
PO Box 9033
Olympia, WA 98507-9033
360-902-8760

1 *Background*

2 2. The Securities Division investigated Doman's sales of securities during a two year
3 period from January 2004 to December 2006. During the period, he did not sell any securities
4 other than variable annuities. Generally, variable annuities pay a higher commission than other
5 types of securities. Doman received a commission of 3.5% to 4.9% of the value of the variable
6 annuity on each of his sales.

7 3. Most of Doman's customers are retired and have invested with Doman for many years.
8 Doman considers his customers to be friends and spends time with them socially. Because of
9 this, Doman has more knowledge about most of his customers' financial, health, and living
10 situation than a typical sales agent might have.

11 4. During the period, Doman sold 65 variable annuity contracts. Over 50% of the variable
12 annuities Doman sold were to customers 65 years old or older. Further, 35% of the variable
13 annuities Doman sold were to customers 75 years old or older.

14 5. Doman sold one type of variable annuity contact. It was deferred, which means that it
15 had two phases- an investment phase and an annuitization phase. It also had a seven year
16 surrender period meaning that during the first seven years of ownership the customer was
17 charged a fee to make withdrawals from the variable annuity in certain circumstances. For
18 instance, the customer may not withdraw more than 10% of the principal value in one year
19 without paying a surrender fee. In view of the surrender charge, before the variable annuity
20 was purchased it should be determined that the investor had adequate liquidity and resources
21 outside of the variable annuity so as to avoid surrendering the variable annuity based on the
22 need for immediate funds.

Doman's Misrepresentations and Omissions

6. During his sales presentations, Doman provided inaccurate or incomplete information to his customers.

7. Doman recommended the purchase of a variable annuity for reasons that were inconsistent with the investors' financial objectives. For instance, when speaking with investors that needed an investment that would provide immediate income to pay living or medical expenses, Doman recommended the variable annuity so that the investors could avoid probate even though a variable annuity is illiquid and might not provide the income the customer needed.

8. Doman told at least 4 customers that MetLife's variable annuity had a fixed interest account and that the interest rate in the fixed interest account was guaranteed by the State of Washington or that it was guaranteed by the Federal Deposit Insurance Corporation ("FDIC") similar to a certificate of deposit ("CD"). Neither the State of Washington nor the FDIC guarantees the investment return of variable annuities.

9. Doman represented to his customers that the fixed account had an annual interest rate guaranteed at 3%. However, Doman failed to disclose that the interest rate was only guaranteed for the first year.

10. Doman told at least 9 customers that, at death, funds in the variable annuity would pass to heirs outside the probate process. Doman told customers that if they did not purchase a variable annuity, at death, their funds would be subject to probate and lawyers take most the funds in probate. This was not an accurate representation of the probate process.

11. Doman failed to disclose that the funds received by heirs from a variable annuity would be subject to regular income tax and that the heirs would not receive a stepped-up basis for tax purposes as they might in other investments. As a result, more of their funds might be subject

1 to tax and the heirs might receive less benefit from a variable annuity than if the funds were in
2 another type of investment.

3 12. Doman told at least 4 customers that if they already owned a MetLife insurance policy,
4 then a MetLife variable annuity would not have any fees and that he would not receive a
5 commission for the sale of the variable annuity. This statement was false or misleading. The
6 MetLife variable annuity had a surrender charge and a charge to invest in some of its
7 subaccounts. Further, the fact that a customer already owned a MetLife insurance policy did not
8 change the commission Doman received on the sale of a new variable annuity.

9 13. Doman recommended that customers with an individual retirement account (“IRA”) at
10 another company transfer the IRA to MetLife and purchase a variable annuity with the funds to
11 avoid taxes. However, Doman failed to disclose that the funds in an IRA were already tax
12 deferred, may not be subject to probate, and the cost of the annuity may outweigh its
13 performance.

14 14. Doman also recommended to customers with an annuity at another company or with a
15 life insurance policy that they exchange it for a MetLife variable annuity. However, Doman
16 failed to advise customers of the benefits of the existing policies or the disadvantages of
17 transferring the funds including the available death benefits, fees for riders, conditions for
18 withdrawals in the event of hospitalization, ability to withdraw funds for nursing home care,
19 surrender period, fees, bonuses, the available subaccounts, and the value of the annuity
20 payments.

21 *Suitability*

22 15. After conducting its investigation, the Securities Division found that sales to at least 14
23 customers were unsuitable recommendations.

1 16. Doman was required to have reasonable grounds to believe that the recommendation to
2 purchase a variable annuity was suitable. Therefore, before Doman sold a variable annuity, he
3 should have considered several factors including the customer's financial situation and needs.
4 Doman should have also considered the customer's income and net worth to determine if the
5 customer had adequate financial resources outside of the variable annuity so that the variable
6 annuity would not need to be surrendered, in part or in full, based on the need for immediate
7 funds.

8 17. Doman offered and sold variable annuities to at least 14 customers who had insufficient
9 income and net worth.

10 18. Doman offered and sold variable annuities to at least 10 customers where the financial
11 objective of the customer did not match the variable annuity.

12 19. In connection with these offer and sales, Doman completed the product application for
13 each customer prior to the sale of the variable annuity.

14 20. In completing the product application, Doman frequently misrepresented the
15 information regarding the customers.

16 21. Doman's practice of misrepresenting the customers' net worth, age, income, and
17 purpose of the annuity contract on the product applications increased the likelihood that the
18 variable annuity would pass a suitability review at MetLife.

19 22. In connection with the offer and sale of the variable annuities, Doman was involved in
20 exchanging existing variable annuities for the variable annuity he was selling.

21 23. Doman offered and sold a replacement variable annuity to at least 2 customers for
22 whom the replacement variable annuity was unsuitable.

1 24. In connection with the annuity replacement and transfer, Doman submitted incomplete
2 and misleading information to MetLife.

3 25. Doman's conduct with regard to the following three customers is illustrative of the effect
4 of his sales practices on individual customers.

5 Investor A

6 26. Investor A is an 85 year-old widow residing in Yakima County, Washington.

7 27. In January 2004, Doman visited Investor A at her apartment to discuss the MetLife
8 insurance policy that she purchased in 1941. Investor A had funds invested in a CD that she
9 used, as needed, for expenses. Investor A was satisfied with the CDs but was interested in an
10 investment that would earn a higher rate of return and provide her additional income.

11 28. Doman recommended that Investor A purchase a MetLife variable annuity with the funds
12 in the CDs. He did not recommend any investment other than the variable annuity.

13 29. Doman told Investor A that if she did not purchase the MetLife variable annuity, when
14 she died, "the lawyers would get all her money", but that a MetLife variable annuity would allow
15 her to avoid probate. This statement did not accurately represent the probate process.

16 30. Doman also told her that the MetLife variable annuity had a fixed account with a
17 guaranteed annual interest rate of 3% to 5%. At the time of the purchase the fixed account had a
18 guaranteed annual interest rate of only 3% and only for one year.

19 31. Doman told Investor A that because she already had a MetLife insurance policy the
20 variable annuity would have no fees or expenses. This statement was false or misleading. The
21 MetLife variable annuity had a surrender charge as well as a fee in certain subaccounts.

22 32. Based on Doman's representations, in January 2004, Investor A agreed to purchase a
23 MetLife variable annuity for approximately \$10,500. To facilitate the purchase, Doman

1 instructed Investor A to sign a form that allowed Doman to surrender her CD on her behalf. The
2 CD had not reached maturity and was subject to a surrender charge.

3 33. Doman prepared the product application and a client information form for Investor A.
4 Doman indicated on the product application that Investor A's net worth not including the funds
5 to be used to purchase the variable annuity was between \$200,000 and \$399,999. On the client
6 information form Doman indicated that her annual income was \$125,000 and net worth was
7 "\$400,000+". These statements were false or misleading. Investor A's income was
8 approximately \$24,000 and her net worth should have been represented to be approximately
9 \$65,000. However, about \$60,300 was in an annuitized annuity that was illiquid.

10 34. Doman indicated on the client information form that Investor A was purchasing the
11 variable annuity for "estate preservation" and that the sale was appropriate because it was for
12 "estate distribution". These statements were false or misleading. Investor A intended to use
13 the funds to cover expenses, as needed, and purchased the variable annuity because Doman had
14 advised her that it would earn a higher rate of return than her CD.

15 35. The sale of the variable annuity to Investor A was unsuitable; however, inflating
16 Investor A's income and net worth and misrepresenting her financial objective made it appear
17 more likely that the variable annuity was suitable for her.

18 36. In March 2004, Doman again visited Investor A and recommended that she cash out her
19 stock and invest the proceeds and the money in her savings account in a MetLife variable
20 annuity.

21 37. Based on Doman's representations, in March 2004 Investor A purchased another MetLife
22 variable annuity for approximately \$4,700. Investor A used the proceeds from the sale of her
23

1 stock and all her savings to purchase the variable annuity. After purchasing the second annuity,
2 Investor A did not have funds available to use in case of an emergency.

3 38. The sale of the second variable annuity to Investor A was unsuitable.

4 39. Shortly after the second investment, Investor A had an expense relating to her car
5 needing repairs. Investor A did not have sufficient funds outside of the variable annuity to pay
6 for the expense. Investor A withdrew funds from the variable annuity and was penalized for the
7 withdrawal.

8 Investor B

9 40. Investor B is an 88 year-old widow residing in Benton County, Washington. Doman has
10 known Investor B since Doman was a small child.

11 41. Investor B was seriously ill, was hospitalized, and required additional, on-going care.
12 Her medical expenses and the cost of the assisted living facility were increasing to \$4,700 per
13 month.

14 42. Investor B's only income was social security of about \$500 per month.

15 43. Investor B did not have any significant assets other than the \$350,000 she had invested in
16 laddered CDs. Investor B had been using funds invested in the CDs to pay her medical expenses
17 and the cost of the assisted living facility where she lived. The laddering of the CDs allowed
18 Investor B to access to the money when necessary without penalty. The CDs were purchased
19 from a bank with the proceeds from the sale of her house. The CDs were earning an average of
20 about 3% annual interest.

21 44. Investor B contacted Doman to discuss investments that would provide a higher monthly
22 draw than the CDs. Doman recommended that Investor B purchase a MetLife variable annuity.
23 He did not recommend any investment other than the variable annuity.

1 45. Doman told Investor B that a variable annuity was a tax-free product that would provide
2 a higher monthly draw than the CDs. Doman's statement that a variable annuity was a tax-free
3 product was false or misleading because a variable annuity is not a tax-free product.

4 46. Doman told Investor B that the variable annuity would not have any fees because she
5 already owned a MetLife insurance policy. This statement was false or misleading. The variable
6 annuity had a surrender charge and a fee in some of the subaccounts.

7 47. Based on Doman's representations, in March 2005 Investor B cashed in the CDs and
8 used the proceeds to purchase a variable annuity for \$350,000 naming her four children as
9 beneficiaries.

10 48. Doman prepared the variable annuity product application to submit to MetLife. Doman
11 indicated on the variable annuity product application that Investor B's annual income was
12 \$85,000 and her net worth not including the funds used to purchase the variable annuity was
13 \$550,000. This statement was false or misleading because it overstated Investor B's annual
14 income and net worth.

15 49. Doman represented on the product application that Investor B's purpose for purchasing
16 the annuity contract was "estate planning". This statement was false or misleading because
17 Investor B's financial objective was to earn a higher rate of return than the CDs were earning
18 and in order to pay her living and medical expenses.

19 50. The sale of the variable annuity to Investor B was unsuitable; however, inflating
20 Investor B's income and net worth and misrepresenting her financial objective made it appear
21 more likely that the variable annuity was suitable for her.

22 51. Doman also indicated on the variable annuity product application that Investor B's son
23 was the owner of the annuity as well as one of the beneficiaries. This statement was false or

1 misleading because Investor B did not intend for her son to be an owner of the annuity.
2 Including Investor B's son as an owner of the variable annuity made it appear more likely that
3 the variable annuity was suitable for Investor B.

4 52. Doman also wrote to MetLife, "Client has no need for the current income from this
5 contract. She wishes to avail herself of the tax advantages and the ease of transfer of the funds
6 to her heirs @ death." He also wrote, "Client has a pension income as well as income from
7 social security... These funds are not anticipated to be needed thus the surrender charges are
8 not an issue." On at least one additional occasion Doman represented to MetLife that the
9 customer had no need for the funds. These statements were false or misleading because
10 Investor B needed the funds in the variable annuity to pay for the cost of living in an assisted
11 living facility and her medical expenses. This statement made it appear more likely that the
12 variable annuity was suitable for her.

13 53. After purchasing the variable annuity, Investor B was required to withdraw \$4,700 a
14 month to cover her living and medical expenses. Investor B made the withdrawals because she
15 did not have funds outside of the variable annuity to cover her medical expenses and the cost of
16 the assisted living facility. Investor B incurred a surrender penalty for the withdrawals.

17 54. Also, Investor B did not benefit from the tax deferral feature because the tax on the
18 income in a variable annuity is only deferred until the income is withdrawn. Investor B needed
19 to withdraw the income (and a part of the principal) each year to cover her expenses.

20 55. Investor B would have been better off with the funds invested in the CDs because the
21 CDs had approximately the same interest rate as the variable annuity and the CD investment
22 was structured to avoid surrender charges.

Investor C

56. Investor C is a 69 year-old single woman residing in Yakima County, Washington.

57. Investor C's source of income was social security and totaled about \$13,000 per year.

58. Doman met with Investor C at her home to discuss her life insurance policy. During the meeting Investor C told Doman that she had a brokerage account, an IRA invested in an ING variable annuity, and an investment in a small company. Investor C told Doman that the brokerage account had a quarterly fee that she did not want to pay. Investor C also told Doman that she could not afford to lose money in her investments and was concerned about the risk of a decline in the stock market.

59. Investor C's financial objective was to earn income. Doman recommended that she sell all her investments and purchase a MetLife variable annuity. Doman did not recommend any other investments.

60. Doman told Investor C that if she invested in a MetLife variable annuity she would not have to worry about losing money in the stock market and that the variable annuity was guaranteed to earn at least 3% annually. Doman failed to advise her that the interest rate was only guaranteed for the first year. Doman also failed to advise Investor C that the ING variable annuity she already owned had a fixed interest option similar to the one offered in the MetLife variable annuity.

61. Investor C told Doman that she depended on withdrawals from her investments to pay her living expenses and that she needed to be able to continue to make monthly withdrawals.

In the past, Investor C withdrew funds from her investments other than the ING variable annuity to cover her expenses. However, because Doman recommended that she purchase an annuity with the proceeds from all her investments, not just her existing variable annuity, going

1 forward she would have to make withdrawals from the MetLife variable annuity and potentially
2 be subject to a surrender charge. Doman told Investor C that she could continue to take
3 monthly withdrawals from the MetLife variable annuity to cover her living expenses. Doman
4 failed to advise her that she may incur a surrender charge for the withdrawals.

5 62. Doman also failed to advise Investor C that the ING variable annuity had a guaranteed
6 death benefit value that was greater than the cash surrender value and that she would lose the
7 death benefit if she surrendered the ING variable annuity. Doman failed to advise Investor C
8 that the loss of the guaranteed death benefit and the surrender charge would decrease the value
9 of the ING variable annuity by 30%.

10 63. Doman prepared the variable annuity product application, an insurance replacement
11 form, and an annuity replacement and transfer disclosure form for Investor C.

12 64. On the annuity replacement and transfer disclosure form, Doman indicated that there
13 was no surrender charge for the ING variable annuity. This statement was false because there
14 was a surrender charge on the ING variable annuity.

15 65. In addition, Doman wrote that Investor C “feels the charges on her existing account are
16 higher than her earnings- wants to get all her assets in a fixed interest account.” This statement
17 was false or misleading because Investor C told Respondent that she wanted to avoid the
18 charges on her brokerage account, not the ING variable annuity, and because the statements
19 were made on the annuity replacement and transfer disclosure form it implied that the charges
20 Investor C wanted to avoid were in the ING variable annuity being replaced.

21 66. Doman failed to disclose on either form that the ING variable annuity had a guaranteed
22 death benefit that was higher than the cash surrender value and that by surrendering the ING
23

1 variable annuity Investor C lost the guaranteed death benefit. This should have been disclosed
2 to Investor C and on the annuity replacement and transfer disclosure form.

3 67. It is not suitable to recommend the exchange of one variable annuity for another
4 without fully disclosing the consequences of the exchange.

5 68. Based on Doman's representations, Investor C decided to surrender her existing
6 investments including the ING variable annuity and purchase the MetLife variable annuity for
7 approximately \$258,000 in August 2004.

8 69. Doman prepared an annuity product application for Investor C. Doman indicated on the
9 variable annuity product application that Investor C's income was \$20,000 and her net worth
10 not including the funds to be used to purchase the variable annuity was \$400,000. This
11 representation was false or misleading because it overstated her income and net worth. Her net
12 worth not including the funds to be used to purchase the variable annuity should have been
13 represented to be approximately \$40,000.

14 70. Doman also indicated on the product application form that the Investor C needed the
15 variable annuity for "future retirement needs". This statement was false or misleading.
16 Investor C was retired at the time of purchase and needed to the funds to pay her current
17 expenses.

18 71. The sale of the variable annuity to Investor C was unsuitable. However, inflating
19 Investor C's income and net worth and misstating her financial needs made it appear that the
20 variable annuity was suitable for her.

1 Based on the foregoing Tentative Findings of Facts, the following Conclusions of Law are made:

2 **CONCLUSIONS OF LAW**

3 1. The offers and/or sales of the variable annuities described above constitute the offer or
4 sale of a security as defined in RCW 21.20.005(10) and (12).

5 2. The offer and/or sale of said securities was made in violation of RCW 21.20.010 and was
6 a dishonest or unethical business practice under RCW 21.20.110(1)(g) and WAC 460-22B-090
7 because, as set forth above, in connection with the offer of the security, Respondent made untrue
8 statements of material fact, engaged in manipulative or deceptive practices, and/or omitted to
9 state material facts necessary in order to make the statements made, in light of the circumstances
10 in which they were made, not misleading. Such conduct is grounds for the suspension of a
11 securities salesperson license and a fine pursuant to RCW 21.20.110(1)(b).

12 3. The offer and/or sale of said securities were made in violation of RCW 21.20.702 and
13 was a dishonest or unethical business practice under RCW 21.20.110(1)(g) and WAC 460-22B-
14 090(7) because, as set forth above, Respondent recommended the purchase, sale, or exchange of
15 a security without reasonable grounds to believe that the recommendation was suitable. Such
16 conduct is grounds for the suspension of a securities salesperson license and a fine pursuant to
17 RCW 21.20.110(1)(b).

18 4. In submitting false or misleading client information forms, Respondent, William Doman,
19 caused MetLife's books and records to be inaccurate in violation of NASD Conduct Rule 3110.
20 Such conduct is a dishonest or unethical business practice as defined by WAC 460-22B-090(19)
21 and is grounds for the suspension of a securities salesperson license and a fine pursuant to RCW
22 21.20.110(1)(b).

1 **NOTICE OF INTENT TO SUSPEND SECURITIES SALESPERSON LICENSE**

2 Pursuant to RCW 21.20.110(1), and based upon the above Tentative Findings of Fact and
3 Conclusions of Law, the Securities Administrator intends to order that the securities salesperson
4 license of Respondent, William Doman, be suspended for a period of one (1) year from the entry
5 of the final order in this matter.

6 **NOTICE OF INTENT TO IMPOSE FINES**

7 Pursuant to RCW 21.20.110(1), and based upon the Tentative Findings of Fact and
8 Conclusions of Law, the Securities Administrator intends to order that Respondent, William
9 Doman, shall be liable for and pay a fine of \$70,000.

10 **NOTICE OF INTENT TO CHARGE COSTS**

11 Pursuant to RCW 21.20.110(7), and based upon the Tentative Findings of Fact and
12 Conclusions of Law, the Securities Administrator intends to order that Respondent, William
13 Doman, shall be liable for and pay the costs, fees, and other expenses incurred in the conduct of
14 the investigation of this matter in an amount not less than \$5,000.

15 **AUTHORITY AND PROCEDURE**

16 This Statement of Charges is entered pursuant to the provisions of the Securities Act and
17 is subject to the provisions of Chapter 21.20 RCW and RCW 34.05. The Respondent, William
18 Doman, may make a written request for a hearing as set forth in the NOTICE OF
19 OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this
20 order.

21 If the Respondent does not request a hearing, the Securities Administrator intends to
22 adopt the above Tentative Findings of Fact and Conclusions of Law as final and enter a

1 permanent order to suspend the respondent's securities salesperson license, impose fines, and
2 charge costs set forth in this Statement of Charges.

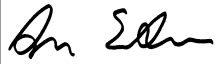
3 Dated and Entered this 13th day of March, 2008.

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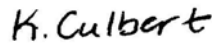
6 MICHAEL E. STEVENSON
7 Securities Administrator

8 Approved by:

Presented by:

9 

10 Suzanne Sarason
11 Chief of Compliance

12 

13 Kristen Culbert
14 Financial Legal Examiner