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STATE OF CALIFORNIA
BUSINESS, TRANSPORTATION AND HOUSING AGENCY
DEPARTMENT OF CORPORATIONS

TO: ROBERT ALLEN FROST
FINANCIAL AND RETIREMENT
MANAGEMENT, INC., AKA FINANCIAL
AND RETIREMENT MANAGEMENT
SERVICES, INC.
27806 Moonridge Drive
Sun City, California 92592

DESIST AND REFRAIN ORDER

(For violations of sections 25110, 25230, and 25401 of the Corporations Code)

The California Corporations Commissioner finds that:

1. At all relevant times herein, National Foundation of America ("NFOA"), a Tennessee nonprofit corporation, incorporated under the laws of the State of Tennessee, conducted business at 1308 Buckingham Circle, Franklin, Tennessee 37064. NFOA was purportedly organized to provide charitable and humanitarian aid through a variety of philanthropic causes. NFOA maintains or maintained a website located at: www.nationalfoundationofamerica.org.

2. At all relevant times herein, Richard K. Olive is or was the president of NFOA, with his offices located at 1308 Buckingham Circle, Franklin, Tennessee 37064.

3. At all relevant times herein, Robert Allen Frost ("Frost") was an individual residing in the State of California, with his last known address located at 27806 Moonridge Drive, Sun City, California 92592. Frost is an insurance agent, licensed by the State of California.

4. At all relevant times herein, Financial and Retirement Management, Inc., aka, Financial and Retirement Management Services, Inc., ("Financial and Retirement Management, Inc.") a California corporation, incorporated under the laws of the State of California, conducted business at 27806 Moonridge Drive, Sun City, California 92592. Frost is or was Financial and Retirement Management, Inc.'s founder and principal officer.

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1 5. NFOA's website states that NFOA offers to individuals tax-deductible charitable
2 strategies by providing asset exchange plans to "families all across the United States [to] create their
3 financial legacy." The "plan," as described on the NFOA's website, is a "[NFOA] Tax Deductible
4 Installment Plan. . . [a] contract that pays out for a guaranteed number of years regardless of age,
5 [has] an unlimited number of beneficiaries on a single contract, and is defined in general in section
6 453 of the Internal Revenue Code of 1986" (hereinafter the "NFOA Installment Plan").

7 6. Section 453 of the Internal Revenue Code ("IRC") solely provides for the installment
8 method of accounting for income tax purposes.

9 7. NFOA maintains through its website and promotional materials that investors may
10 purchase a NFOA Installment Plan with either cash or by transferring title to their annuities, real
11 estate, or securities to NFOA. In exchange for the transfer of assets, investors receive "a substantial
12 income tax deduction [and] guaranteed, fixed income to supplement retirement, fund long-term care,
13 or establish [a] family legacy" pursuant to section 501(c)(3) of the IRC.

14 8. NFOA is not classified as an organization exempt from federal income tax under
15 section 501(a) of the IRC as an organization described in section 501(c)(3).

16 9. NFOA has not registered with the Office of the Attorney General, State of California,
17 Registry of Charitable Trusts as a charitable corporation doing business within the State of California
18 as is required by California Government Code section 12585, pursuant to the Supervision of Trustees
19 and Fundraisers for Charitable Purposes Act, Government Code section 12580, et seq.

20 10. In or about July of 2006, Frost and Financial and Retirement Management, Inc.
21 offered and sold securities in California in the form of investment contracts labeled NFOA
22 Installment Plans through face-to-face meetings with individual investors. Frost, by and through
23 Financial and Retirement Management, Inc., acted as NFOA's agent by advising investors to
24 purchase the NFOA Installment Plan. He represented to investors that the NFOA Installment Plan
25 would provide them with a 9% annual return and that they would not have to pay any taxes on their
26 investment for ten years. Frost told investors that he and/or Financial and Retirement Management,
27 Inc. would receive a 1% sales commission from NFOA for selling and/or promoting the NFOA
28 Installment Plan to investors.

1 11. Frost, Financial and Retirement Management, Inc., and NFOA specifically targeted
2 elderly, unsophisticated investors in promoting or offering the NFOA Installment Plan.

3 12. Two (2) California investors, through Frost and Financial and Retirement
4 Management Services, Inc., purchased NFOA Installment Plans, totaling \$865,000.00. Participating
5 investors were required to sign a NFOA "Installment Plan Agreement" form. The form bears the
6 signature of Richard K. Olive and the investors' "Financial Advisor," Robert Frost, who acts as a
7 witness to the parties' agreement.

8 13. Frost and/or Financial and Retirement Management, Inc. received a total of
9 \$77,850.00 in commissions from NFOA, representing approximately 9% of the value of the NFOA
10 Installment Plan agreement purchased by the investors.

11 14. In connection with the offer and sale of these securities, the above-described NFOA
12 Installment Plan, Frost and Financial and Retirement Management, Inc. misrepresented and/or failed
13 to disclose to investors the following material facts:

- 14 a. the risks related to the purchase of the NFOA Installment Plan;
- 15 b. information regarding the assets, liabilities, profits, losses, cash flow, and other
16 financial data concerning NFOA;
- 17 c. that NFOA has not been granted nonprofit status under IRC section 501(c)(3);
- 18 d. that IRC section 453 solely provides for the installment method of accounting for
19 income tax purposes and does not define the NFOA Installment Plan;
- 20 e. that NFOA has failed to register with the Office of the Attorney General, State of
21 California, Registry of Charitable Trusts as a charitable corporation doing business
22 within the State of California pursuant to Government Code section 12585, pursuant to
the Supervision of Trustees and Fundraisers for Charitable Purposes Act, Government
Code section 12580, et seq.;
- 23 f. that the investors would not have to pay any taxes on their NFOA Installment Plan for
24 ten years; and
- 25 g. that Frost and/or Financial and Retirement Management Services, Inc. received a 1%
26 sales commission from NFOA for selling and/or promoting the NFOA Installment
27 Plan to investors. In fact, Frost and/or Financial and Retirement Management, Inc.
received a 9% sales commission from NFOA, totaling \$77,850.00.

28 15. These securities, the above-described NFOA Installment Plans, were offered or sold in

1 this state in issuer transactions. The Department of Corporations has not issued a permit or other
2 form of qualification authorizing any person to offer or sell these NFOA Installment Plans in this
3 state.

4 16. Frost and Financial and Retirement Management, Inc. are conducting business as
5 investment advisers by advising California residents to purchase securities in the form of NFOA
6 Installment Plans, and their activities thus come within the meaning of California Corporations Code
7 section 25009. Pursuant to Corporations Code section 25230, Frost and Financial and Retirement
8 Management, Inc. were required to obtain a certificate from the Commissioner to conduct business as
9 investment advisers in California.

10 17. The Commissioner has no record of having received an application from, or having
11 granted an investment adviser certificate to Robert Allen Frost or Financial and Retirement
12 Management, Inc., aka Financial and Retirement Management Services, Inc.

13 18. Frost was previously employed as a registered representative of a licensed broker-
14 dealer, Cuso Financial Services, L.P., and terminated his registration with the State of California
15 Department of Corporations and the National Association of Securities Dealers ("NASD") on July
16 13, 2005. Frost's NASD disclosure occurrence composite report reflects a history of customer
17 complaints concerning his activities as a registered representative of a licensed broker-dealer.

18 19. On January 9, 2007, the NASD barred Robert Allen Frost from association with any
19 NASD member in any capacity for a two-year period.

20 20. On July 9, 2007, the Commissioner issued a Desist and Refrain Order to NFOA and
21 Richard K. Olive for violations of sections 25110 and 25401 of the Corporate Securities Law of
22 1968.

23 21. On or about June 21, 2007, by Consent Order, the Chancery Court of Davidson
24 County, Tennessee placed NFOA into receivership. Leslie A. Newman, Commissioner of Commerce
25 and Insurance for the State of Tennessee, in her capacity as Rehabilitator of NFOA, has custody of all
26 assets and operations of NFOA and is to wind-down the company's operations.

27 22. At present the following states have issued Cease and Desist Orders to NFOA and
28 Richard K. Olive: Alabama, Florida, Illinois, Iowa, Texas, and Washington.

1 Based upon the foregoing findings, the California Corporations Commissioner is of the
2 opinion that the above-described NFOA Installment Plan is a security subject to qualification under
3 the California Corporate Securities Law of 1968 and is being or has been offered or sold without first
4 being qualified in violation of section 25110 of the Corporate Securities Law of 1968. Pursuant to
5 Section 25532 of the Corporate Securities Law of 1968, Robert Allen Frost and Financial and
6 Retirement Management, Inc., aka Financial and Retirement Management Services, Inc., are hereby
7 ordered to desist and refrain from the further offer or sale of securities, in the State of California,
8 including but not limited to investment contracts in the form of NFOA Installment Plans, unless and
9 until qualification has been made under said law or unless exempt.

10 Furthermore, the California Corporations Commissioner is of the opinion that the securities
11 Robert Allen Frost and Financial and Retirement Management, Inc., aka Financial and Retirement
12 Management Services, Inc., offered or sold in this state were by means of written or oral
13 communications which included an untrue statement of a material fact or omitted to state a material
14 fact necessary in order to make the statements made, in the light of the circumstances under which
15 they were made, not misleading, in violation of 25401 of the Corporate Securities Law of 1968.
16 Pursuant to section 25532 of the Corporate Securities Law of 1968, Robert Allen Frost and Financial
17 and Retirement Management, Inc., aka Financial and Retirement Management Services, Inc., made,
18 or caused to be made, misrepresentations or omissions of material facts in connection with the offer
19 or sale of securities and are hereby ordered to desist and refrain from offering or selling or buying or
20 offering to buy any security in the State of California by means of any written or oral communication
21 which includes an untrue statement of a material fact or omits to state a material fact necessary in
22 order to make the statements made, in the light of the circumstances under which they were made, not
23 misleading.

24 Finally, the Commissioner is of the opinion that Robert Allen Frost and Financial and
25 Retirement Management, Inc., aka Financial and Retirement Management Services, Inc., have
26 conducted business as investment advisers in this state for compensation by advising investors to
27 purchase NFOA Installment Plans without first having applied for and secured from the
28 Commissioner a certificate, authorizing them to act in that capacity, in violation of section 25230 of

1 the Corporate Securities Law of 1968. Pursuant to section 25532, Robert Allen Frost and Financial
2 and Retirement Management, Inc., aka Financial and Retirement Management Services, Inc., are
3 further ordered to desist and refrain from conducting business as an investment adviser in this state
4 unless and until they have applied for and secured from the Commissioner a certificate, then in effect,
5 authorizing them to act in that capacity.

6 These Orders are necessary, in the public interest, for the protection of investors and
7 consistent with the purposes, policies, and provisions of the Corporate Securities Law of 1968.

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9 Dated: August 16, 2007
10 Los Angeles, California

11 PRESTON DuFAUCHARD
12 California Corporations Commissioner

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15 By _____
16 ALAN S. WEINGER
17 Lead Corporations Counsel
18 Enforcement Division
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