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

TO: ROBERT TORREZ
4909 Stockdale Highway
Suite 299
Bakersfield, California 93309

DESIST AND REFRAIN ORDER

(For violations of sections 25110 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 Torrez ("Torrez") was an individual residing in the State of California, with his last known address located at 4909 Stockdale Highway, Suite 299, Bakersfield, California 93309.
4. NFOA's website states that NFOA offers to individuals tax-deductible charitable strategies by providing asset exchange plans to "families all across the United States [to] create their financial legacy." The "plan," as described on the NFOA's website, is a "[NFOA] Tax Deductible Installment Plan. . . [a] contract that pays out for a guaranteed number of years regardless of age, [has] an unlimited number of beneficiaries on a single contract, and is defined in general in section 453 of the Internal Revenue Code of 1986" (hereinafter the "NFOA Installment Plan").
5. Section 453 of the Internal Revenue Code ("IRC") solely provides for the installment method of accounting for income tax purposes.

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

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

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

12 9. In or about February of 2007, Torrez offered and sold securities in California in the
13 form of investment contracts labeled NFOA Installment Plans through face-to-face meetings with
14 individual investors. Torrez, acting as NFOA's agent, advised investors to exchange their existing
15 annuity contracts for NFOA Installment Plans. He told investors that the NFOA Installment Plan
16 would provide them with a tax shelter and a good tax write-off.

17 10. Torrez and NFOA specifically targeted unsophisticated investors in promoting or
18 offering the NFOA Installment Plan.

19 11. One (1) California investor, through Torrez, transferred ownership of her existing
20 annuity in exchange for an NFOA Installment Plan, totaling \$69,686.61. The participating investor
21 was required to transfer ownership of her annuity through a change of ownership form. The change
22 of ownership form is signed by the current owner with a box checked that the change of ownership is
23 a gift. The new owner's signature is that of "Richard Olive, President." The change of ownership
24 form also bears the signature of the investor's "Financial Advisor," Robert Torrez, who acts as a
25 witness to the transfer.

26 12. Torrez received a total of \$4,137.27 in commissions from NFOA, representing
27 approximately 9% of the value of the annuity transferred by the investor.

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1 13. In connection with the offer and sale of these securities, the above-described NFOA
2 Installment Plan, Torrez misrepresented and/or failed to disclose to investors the following material
3 facts:

- 4 a. the risks related to the purchase of the NFOA Installment Plan;
- 5 b. information regarding the assets, liabilities, profits, losses, cash flow, and other
6 financial data concerning NFOA;
- 7 c. that NFOA and Richard K. Olive are the subjects of an Order to Cease and Desist
8 Issued by the Insurance Commissioner of the State of Washington on September 18,
9 2006, captioned, "In the Matter of National Foundation of America, Richard K. Olive
10 and Susan L. Olive," Order No. D06-245;
- 11 d. that NFOA has not been granted nonprofit status under IRC section 501(c)(3);
- 12 e. that IRC section 453 solely provides for the installment method of accounting for
13 income tax purposes and does not define the NFOA Installment Plan;
- 14 f. that NFOA has failed to register with the Office of the Attorney General, State of
15 California, Registry of Charitable Trusts as a charitable corporation doing business
16 within the State of California pursuant to Government Code section 12585, pursuant to
17 the Supervision of Trustees and Fundraisers for Charitable Purposes Act, Government
18 Code section 12580, et seq.;
- 19 g. that the NFOA Installment Plan would provide a tax shelter and a good tax write-off;
20 and
- 21 h. that Torrez received a 9% sales commission from NFOA for selling and/or promoting
22 the NFOA Installment Plan to investors.

23 14. These securities, the above-described NFOA Installment Plans, were offered or sold in
24 this state in issuer transactions. The Department of Corporations has not issued a permit or other
25 form of qualification authorizing any person to offer or sell these NFOA Installment Plans in this
26 state.

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

 16. On or about June 21, 2007, by Consent Order, the Chancery Court of Davidson

1 County, Tennessee placed NFOA into receivership. Leslie A. Newman, Commissioner of Commerce
2 and Insurance for the State of Tennessee, in her capacity as Rehabilitator of NFOA, has custody of all
3 assets and operations of NFOA and is to wind-down the company's operations.

4 17. At the present time, the following states have issued Cease and Desist Orders to
5 NFOA and Richard K. Olive: Alabama, Florida, Illinois, Iowa, Texas, and Washington.

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

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

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