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Hon. Alexander Acosta  
Secretary of Labor

My name is Anil Vazirani. I have been in the financial services industry since 1994. I have had my series 65 Investment Advisor license since 2008. I am a 10 consecutive year qualifier of MDRT Top of the Table reflecting the top 1% of advisors in the industry based on revenue. In 2004, I was the advisor of the year and a Hall of Fame Inductee by the Society of Senior Market Professionals and on the cover of the Senior Market Advisor magazine. I have my LUTCF and LACP designation through NAIFA. I am in good standing with the NEB, SEC, and NAIFA.

Honorable Secretary Acosta let me shed light on this new episode of AMERICAN GREED that will emphasize the need for the Fiduciary Rule to eliminate the sales of complex proprietary FIA's that use sales and marketing techniques that resemble a security but fly under the radar without registering as a security. The whole scheme is built upon a limited distribution model that promises commissions, bonuses, and large protected profits to IMO's that are part of this limited distribution of complex proprietary FIA's, products that could be potentially deemed as unregistered securities. So not only are there hints of securities violation based on the sketchy sales and marketing but also encouraging non securities licensed individuals to break securities law by providing investment advice without an investment license and to commit source of funds violation.

I have sent letters to twenty members of the House and Senate. I have chosen to use several different avenues and outlets to try and make my voice heard including an article posted on Law360.com because of how passionately I feel about the following issues.

I ask the question, what is at the heart of the fiduciary rule? My understanding is that you are to put the interests of the client ahead of your own and to make no misleading statements or omissions of the facts. If my understanding is correct, then how can a limited distribution model for complex proprietary fixed index annuities exist? Limited distribution undermines the very spirit of the rule due to



the fact that if an agent who is properly licensed cannot get access to all the available products, how can the agent due the proper due diligence to make a recommendation that is in his or her client's best interest? The insurance industry for the most part has turned a blind eye to this problem, allowing certain IMO's and designers of complex proprietary fixed index annuities and certain insurance carriers that offer them to perpetrate these acts of bad faith.

Examples of designers of these complex proprietary FIA's are Annexus Group, Innovative Design Group, and Market Synergy. What is appalling is that Market Synergy had the nerve to sue the DOL to derail the Fiduciary Rule. The insurance carriers that aid and abet these sales of complex proprietary FIA's are Nationwide Insurance Company, Athene Insurance Company, and Security Benefit Insurance Company just to name a few.

Furthermore, if an agent is only insurance licensed, how can they offer complex proprietary fixed index annuities that rely on hypothetical performance of exotic indices without violating the spirit of the rule involving misleading statements and omissions of facts? In order for the average consumer to understand what they are purchasing, the fixed index annuity should be based on strong guarantees for lifetime income and death benefit provisions and should be explained in a clear and concise manner. There are excellent annuities offered by quality insurance carriers that I work with who provide these strong guarantees, clear and concise consumer disclosures, and act in good faith.

In contrast, for complex proprietary fixed index annuities many of the key items that are not in the consumer's best interest are buried in the legalese language of the FIA contract undermining the SEC's plain English initiatives. For example, a recent email promotion for The NYZE Zebra® Edge Index™ advertises a “**106% higher** annual compound return than the S&P 500 Price Index with 24% less volatility” and underneath the headline shows a chart of performance of the NYZE Zebra® Edge Index™ versus the S&P 500 Price Index since 2000. What's odd, however, is that the NYZE Zebra® Edge Index™ only recently began in October 2016 (inception). In short, this index inception was only seven months ago, yet the back-test and past performances go back anywhere from 10-20 years. Examples are the Nationwide Insurance Company marketing proprietary complex FIA designed by Annexus Group called the New Heights that offer the NYZE Zebra® Edge Index™ and the JP Morgan Mosaic Index. Athene Insurance Company offers Balance Choice Elevate, a proprietary complex FIA designed by Annexus Group



that offers Merrill Lynch RPM index. Even though these indexes have only been in existence for a short period of time the designers of these complex instruments and Insurance Carriers that market them nevertheless show projections of back test and past performance going back 10-20 years. When a consumer receives a hypothetical illustration from these outfits that reflect an upside potential of 9%+ annually and 100% protection from stock market risk in bad years, who is to blame for the misstatement or omission of the facts when the future performance does not line up with the hypothetical performance that was shown to the consumer?

In a recent article, Senator Warren warned about the true motivations of an IMO in regards to annuity sales. I can tell you for a fact based on information in my possession how certain IMO's like Advisors Excel and Creative One (CMIC) fit Senator Warren's description. In the recent years these IMO's have tried to blackball agents, undermine securities law, and have had advisors' contracts terminated for no cause and in bad faith. The sad part is that the majority of these above named actors in the AMERICAN GREED saga belong to an industry trade group NAFA that also tried to sue the DOL to derail the Fiduciary Rule. This culture of corruption needs to end.

Based on the above information you can see that their true motivation is to potentially mislead the American consumer and regulators through dubious sales and marketing efforts for self-enrichment in this American Greed saga of humongous bonuses and protected profits for a chosen few that I call the "Good ole boys" network.

Just like the tobacco executives who for years misled the American public and health regulators that "nicotine is not addictive", we have a situation where these complex proprietary FIA's are being touted as "Fixed Index Annuities" BUT they walk, talk, and behave as SECURITIES. Upon further review and research, I believe and hope that the DOL and the SEC will realize that fact, just like we realized the truth about Big Tobacco's deceptive advertising and marketing practices and the fact that nicotine was and is addictive.

I am urging the DOL to look into the dubious sales and marketing practices of these complex proprietary FIA's and determine for itself if these truly are securities that are being sold without proper securities registration under the cover of a Fixed Annuity just to circumvent and avoid registration with the SEC and FINRA.



Furthermore I want to share with you that Athene and Nationwide are in my opinion engaging in a behavior of retaliation, intimidation, and chilling freedom of speech. Back in April 2017 this year I submitted my initial DOL comment letter #1297 where I exposed the above issues as a whistleblower and also fulfilling my fiduciary duty by providing comments that were solicited by the DOL. Both Nationwide and Athene have denied me a contract without providing a reason or cause and hence have tried to obstruct and hinder my ability to fulfill my duty of a fiduciary to my clients and prevent me from complying with this federal law. I believe all of this is being done to retaliate against me due to my April DOL comment letter #1297 and to intimidate others to discourage them in this DOL comments process to further the American Greed Agenda.

It is very disappointing, discouraging, and frankly scary when you see these financial institutions perpetrate these acts of bad faith and chilling of freedom of speech simply because they have the money and power that we don't. I have fought and remain willing to fight this intimidation. I stand ready to provide all the documents in my possession to help drain the swamp clean from the above actors of this American Greed saga and I certainly hope you will review these documents to better understand the true of motives of the select few in the index annuity industry.

Furthermore I also believe that we can solve the budget issues for the DOL and SEC to make sure that the Fiduciary Rule is being complied with to the letter of the law. Once the DOL and SEC deems these complex proprietary FIA's to be unregistered securities then at that point you simply take the volume of sales and multiply it by the number of years that it has been sold and improperly marketed and that will solve any budget restraints or constraints to avoid an event like this ever happening in the future and send a message to the insurance industry that complex proprietary FIA's with limited / restricted distribution have no place in a post-DOL Fiduciary Rule world.

In closing, you can see why the fiduciary rule with the appropriate checks and balances is a Win Win Win proposition that can benefit the consumer, advisor, and financial institutions. The need for one consistent fiduciary standard whether it be from the DOL or SEC or both is crucial to avoid a Bernie Madoff type outcome for hardworking American consumers and retirees. Please review the documents in my possession and I can assure you that we won't have to watch the potential derailed retirements for American consumers on the CNBC show American Greed.



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I also ask of you to protect me from the intimidation and retaliatory actions of a select few individuals, groups, and institutions in the fixed index annuity industry.

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