

Division of Securities  
Utah Department of Commerce  
160 East 300 South  
P.O. Box 146760  
Salt Lake City, Utah 84114-6760  
Telephone: 801 530-6600  
Facsimile: 801 530-6980

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**BEFORE THE DIVISION OF SECURITIES  
OF THE DEPARTMENT OF COMMERCE  
OF THE STATE OF UTAH**

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**IN THE MATTER OF:**

**DAVID C. YOUNG, CRD#4250635**

**Respondent.**

**STIPULATION AND CONSENT  
ORDER**

**Docket No. SD 07-0010**

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The Utah Division of Securities (“Division”), by and through its Director of Licensing, George Robison, and David C. Young, CRD #4250635 (“Young”), hereby stipulate and agree as follows:

1. Young was the subject of an examination conducted by the Division into allegations that Young violated the Utah Uniform Securities Act (“Act”), Utah Code Ann. § 61-1-1, *et seq.*
2. On February 9, 2007, the Division filed an Order to Show Cause against Young.
3. In lieu of proceeding with the formal action, Young and the Division have agreed to settle this matter by way of this Stipulation and Consent Order (“Order”). If entered, the Order will fully resolve all claims the Division has against Young pertaining to this matter.
4. Young admits the jurisdiction of the Division over him and over the subject matter of this action.

5. Young waives any right to a hearing to challenge the Division's evidence and present evidence on his behalf.
6. Young has read the Order, understands its contents and submits to this Order voluntarily. No promises or threats have been made by the Division, nor by any representative of the Division, to induce Young to enter into this Order, other than as described in this Order.
7. Young has been advised of his right to be represented by counsel and has chosen to represent himself.

### **I. FINDINGS OF FACT**

8. Young was licensed as a broker-dealer agent in the State of Utah with HarrisDirect LLC, CRD#42159, from January 26, 2004 through February 10, 2005, and with Waddell and Reed, Inc. ("Waddell & Reed"), CRD#866, from January 31, 2001 through September 22, 2003. Young was also licensed as an investment adviser representative with Waddell & Reed during that period. He currently holds no securities licenses.
9. Young has taken and passed the Series 7, General Securities Representative Licensing Examination, and the Series 66, Uniform Combined State Law Examination.

#### Annuity Account for L.A.

10. While employed at Waddell & Reed, Young solicited his mother-in-law, B.F., to purchase a variable annuity contract for B.F.'s mother, L.A. B.F. held a valid general power of attorney to act on L.A.'s behalf.
11. On September 21, 2001, a Waddell & Reed Advisers Select Annuity contract was issued by Nationwide Life and Annuity ("Nationwide"). The contract named B.F. as the account owner and L.A. as the annuitant. A total of \$128,380 was invested, from which Young was paid a commission of \$3,590.72. In addition, Young's sales supervisor, sales manager, and a regional vice president were paid overrides totaling \$1,400.39.

#### Unauthorized Withdrawals from the Annuity and Conversion

12. Beginning on January 24, 2002, Young began making unauthorized withdrawals from the annuity by forging B.F.'s signature on withdrawal documents submitted to Nationwide.
13. Young withdrew a total of \$61,156 from L.A.'s annuity on seven occasions between January 2002 and July 2003, as follows:

<u>Date of Withdrawal Request</u>	<u>Amount of Withdrawal</u>
01/24/2002	\$4,800.00
04/03/2002	\$7,200.00
06/09/2002	\$12,000.00
10/02/2002	\$10,000.00
12/03/2002	\$13,253.00
12/19/2002	\$1,403.11
07/08/2003	\$12,500.00
<b>Total</b>	<b>\$61,156.11</b>

14. Some of the monies were deposited into a Datek Online Financial Services LLC ("Datek") brokerage account held in Young's wife's name and used to purchase securities and pay margin interest in that account. The monies were also used to cover overdrafts in Young's checking account, make car payments, purchase an all-terrain vehicle, pay for other personal expenses, or were withdrawn as cash.
15. On two occasions, Young requested that Nationwide change payee information on the checks – to "Merrill Inv." and "U.A.E." – and checks were mailed to Young's mother's address in Riverton, Utah.
16. Young's unauthorized withdrawals incurred \$2,161.90 in surrender charges to L.A.'s account. In addition, Nationwide had to sell mutual fund holdings within the annuity to effect each of the withdrawals, reducing any investment gains. The withdrawals were also taxable transactions and therefore caused tax consequences for L.A. and B.F.

17. In e-mail correspondence dated August 8, 2005, Young admitted to B.F. that he had made unauthorized withdrawals from L.A.'s annuity and converted the monies for his own use.

## **II. CONCLUSIONS OF LAW**

18. Young willfully violated Section 61-1-1(3) of the Act by making unauthorized withdrawals from L.A.'s account and using the money for his own purposes, which conduct constitutes an act, practice, or course of business which operated as a fraud or deceit upon L.A., B.F., and Nationwide, and exposed Waddell & Reed and Nationwide to civil liability.

## **III. ADMISSIONS BY RESPONDENT**

19. Young admits the Division's findings and foregoing violations of the Act.

## **IV. REMEDIAL ACTIONS/SANCTIONS**

20. Young is barred from associating with any broker-dealer or investment adviser licensed in the State of Utah.
21. Young shall pay a fine to the Division in the amount of \$ 75,000.00, with dollar-for-dollar credit for any restitution Young can prove has been made to B.F.

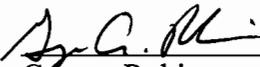
## **V. FINAL RESOLUTION**

22. Young acknowledges that this Order, upon approval by the Division Director, shall be the final compromise and settlement of this matter. Young further acknowledges that if the Division Director does not accept the terms of the Order, it shall be deemed null and void and without any force or effect whatsoever.
23. Young acknowledges that the Order does not affect any civil or arbitration causes of action that third-parties may have against Young arising in whole or in part from Young's actions, and that the Order does not affect any criminal cause of action that a prosecutor might bring.

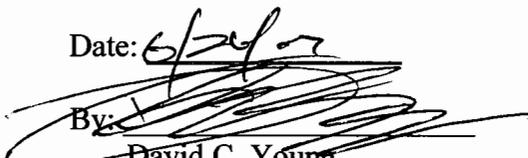
24. This Order constitutes the entire agreement between the parties herein and supersedes and cancels any and all prior negotiations, representations, understandings, or agreements between the parties. There are no verbal agreements which modify, interpret, construe, or otherwise affect this Order in any way.

Utah Division of Securities

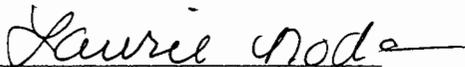
Date: 7/5/2007

By:   
George Robison  
Director of Licensing

Date: 6/24/07

By:   
David C. Young

Approved:

  
Laurie L. Noda  
Assistant Attorney General

### **ORDER**

Based on the foregoing, the Director hereby:

1. Finds that Young has admitted the factual conduct and the violations described in this Order.
2. Enters as his own findings, the Findings of Fact described in Section I, above.
3. Enters, as his own conclusions, the Conclusions of Law described in Section II, above.
4. Orders that:
  - a. Young be barred from associating with any broker-dealer or investment adviser licensed in the State of Utah.

- b. Young pay a fine to the Division in the amount of \$ 75,000.00, with dollar-for-dollar credit for any restitution Young can prove has been made to B.F.

DATED this 9<sup>th</sup> day of July, 2007.

  
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WAYNE KLEIN  
Director, Utah Division of Securities



Certificate of Mailing

I certify that on the 10th day of JUNE 2007, I mailed a true and correct copy of the

Stipulation and Consent Order to:

David C. Young  
3527 Caribou Cir.  
South Jordan, UT 84095

PAMALA ROZINSKI