

**COMMONWEALTH OF KENTUCKY  
PUBLIC PROTECTION CABINET  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
AGENCY CASE NO. 2008-AH- 258**

OFFICE OF FINANCIAL INSTITUTIONS

PETITIONER

V.

KENNETH RAY PREVETT, JR.

RESPONDENT

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**SETTLEMENT AGREEMENT AND ORDER**

**BACKGROUND AND FACTUAL FINDINGS**

1. The Department of Financial Institutions (“DFI”), Division of Securities (the “Division”) is the agency of Kentucky state government charged with enforcement of the provisions of KRS Chapter 292 (the “Kentucky Securities Act”) and the rules and regulations enacted thereunder.

2. Kenneth Ray Prevett, Jr. (“Prevett”) at all times relevant hereto was a registered representative of NEXT Financial Group, Inc. (“NEXT”), a registered Broker/Dealer with the Division. NEXT maintains its principal offices at 2500 Wilcrest, Suite 620, Houston, Texas 77042.

3. On April 21 through 23, 2008, pursuant to the authority granted by KRS 292.330(12)(d), the Division, conducted a routine broker/dealer examination of a branch office of NEXT (Examination No. BD-961), located at 25 Eury Lane, Somersct, Kentucky 42501.

4. On May 12, 2008, the Division issued a written report of its examination, which contained a Statement of Findings (“Statement of Findings”) indicating areas

of concern regarding the aforementioned branch office of NEXT and the sales activities of Prevett.

5. In paragraph 1 of the Statement of Findings (“Equity Indexed Annuities”), the Division noted that during the examination, the Division was informed that Prevett had sold five (5) equity indexed annuities (EIAs) after July 1, 2007 while associated with NEXT, one of which included a liquidation of a separate variable annuity to partially fund the EIA purchase. According to Next’s equity indexed annuity policy, all equity indexed annuities sold after July 1, 2007, are to be recorded and processed through the firm. On the basis of information provided to the Division during and subsequent to the examination, it was determined that these transactions were not processed through or reviewed by NEXT, that they were made without the firm’s knowledge, and that Prevett was aware of the firm’s policy regarding equity indexed annuities at the time of the transaction. These transactions were in violation of the firm’s policy.

#### **LEGAL AUTHORITY**

6. KRS 292.330(12)(d) provides that the Executive Director of OFI (the “Executive Director”) may make periodic examinations of each broker-dealer registered in Kentucky at such times and in such scope as he determines, and the expense reasonably attributable to any such examination shall be paid by the broker-dealer whose business is examined but the expense so payable may not exceed an amount which the Executive Director by rule prescribes.

7. KRS 292.500(3) authorizes the Executive Director to promulgate administrative regulations necessary to carry out the provisions of the Kentucky Securities Act.

8. KRS 292.330(12)(f) authorizes the Executive Director to promulgate administrative regulations regulating the conduct of business by broker-dealers and agents which he finds appropriate in the public interest and for the protection of investors.

9. 808 KAR 10:040, Section 3(4) provides that it is a dishonest and unethical practice for a broker-dealer agent or issuer agent to effect a securities transaction not recorded on the books and records of the broker-dealer that the agent represents, unless the broker-dealer authorizes the transaction in writing prior to execution of the transaction.

10. Prevett disputes that he violated 808 KAR 10:040 or any other violations, as he had a written contract with NEXT Financial that only dealt with securities, not the five Equity Indexed Annuity products, which are insurance contracts and further that he believes that the Equity Indexed Annuities are not governed by or under the jurisdiction of the Department of Financial Institutions and the Kentucky Division of Securities. Prevett had another company, Future Assurance, Inc., that was an insurance agency that sold insurance contracts like the five aforementioned and this was fully disclosed to NEXT and agreed to same.

11. In order to resolve this matter without further litigation or adversary proceedings, Kenneth R. Prevett, Jr. has agreed to compromise and settle all claims

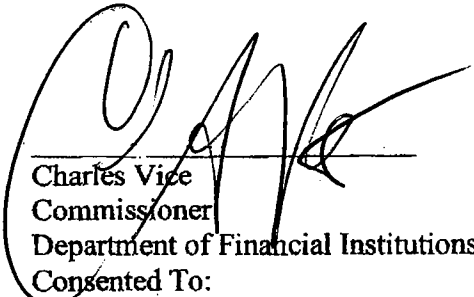
arising from the above referenced examination by the Division in accordance with the terms set forth herein.

### AGREEMENT AND ORDER

The Office of Financial Institutions and Kenneth R. Prevett, Jr. in the interest of economically and efficiently resolving the issues raised in the foregoing Background and Factual Findings, agree as follows:

1. Prevett agrees to pay a fine in the amount of One Thousand Two Hundred Fifty Dollars (\$1,250.00) for the violation stated above. This fine shall be made payable to the "Kentucky State Treasurer" and mailed to the Office of Financial Institutions, Attn: William B. Owsley, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, simultaneously with the execution of this Settlement Agreement and Order.
2. This Settlement Agreement shall constitute the Final Order in this matter.

IT IS SO ORDERED on this the 1 day of October, 2008.

  
Charles Vice  
Commissioner  
Department of Financial Institutions  
Consented To:

x Kenneth R. Prevett, Jr.  
09-30-2008

This 1 day of Oct, 2008