



# EXHIBIT 14

**GREGG HENDERSON MATTER NO 12-0067 / 1029495**

9-8-09 VIC OVERHOLT MEMORANDUM OF INTERVIEW WITH GREGG HENDERSON (2 PAGES)

State of Washington  
Office of Insurance Commissioner  
Legal Affairs Division



### Memorandum of Interview

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**Date:** September 8, 2009

**OIC Case #:** 1029495

**Name /Address of Person Interviewed:** Gregg A. Henderson  
20900 NE 42<sup>nd</sup> St.  
Sammamish, WA 98074  
(206) 354-1321

**Investigator Conducting Interview:** Victor E. Overholt

**Others Present During Interview:** None

**Location of Interview:** Phone

**Interview Audio Recorded:** No

**Declaration Prepared:** No

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Gregg A. Henderson ("Agent Henderson") called Investigator Victor E. Overholt ("Investigator Overholt") with questions about Investigator Overholt's August 8, 2009 letter he had received.

Agent Henderson wanted to know just what the Office of the Insurance Commissioner ("OIC") wanted in his response. Investigator Overholt advised Agent Henderson that the OIC's letter, along with Ms. Kruessels letter, should provide Agent Henderson with a track to follow. Agent Henderson again claimed he did not understand what the problem was. Investigator Overholt again advised Agent Henderson to refer to Ms. Kruessels allegations. Agent Henderson claimed he did not understand the allegations.

When Investigator Overholt tried to get specific, Agent Henderson became evasive and tried to re-phrase most of Investigator Overholt's comments or statements. Each time Agent Henderson was confronted with a fact from the complaint, he changed his story. The

conversation ended by Agent Henderson advising that he had shredded all of Mr. Falcone's documents, but would respond.

# EXHIBIT 15

**GREGG HENDERSON MATTER NO 12-0067 / 1029495**

GREGG HENDERSON UNDATED STATEMENT TO OIC, APPARENTLY RECEIVED BY VIC OVERHOLT ON 9-9-09 (4 PAGES)

## Retirement Protection Services, LLC

(206) 354-1321  
20900 NE 42nd St. Sammamish, WA 98074  
Email: safeinvestment@comcast.net

Gregg Henderson responding to referenced case;

Retirement Protection Services  
*Conservative Investments...for proper portfolio balance*



Gregg Henderson  
Principal

10655 NE 4th St., #300  
Bellevue, WA. 98004

206-354-1321  
safeinvestment@comcast.net

Annuities • Bonds • CD's • Preferred Stocks • RRIT's



I'm going to address a few things up front; as a victim of identity theft and fraud myself, and the hassles that come along with it, like reporting to credit agencies, contacting and reporting to the Federal Trade Commission, filing a police report with local law enforcement, and calling the Social Security Administration to notify them of the theft, I'm not going to start offering up information over the phone to some stranger I've never met or have never done business with.

I find that naive, disrespectful and unprofessional for the folks at GAA to call me out of the blue, twice, (February 24, 2009, April 17<sup>th</sup>, 2009) with no warning, explanation, or announcement of their credentials, and ask me to offer details about a client meeting I've had. Only after they mentioned a reference to the Department of Insurance, the client name, and introduce themselves from GAA did I feel comfortable, and that they had the credentials, to releasing some information about our meetings.

Secondly, you must forgive me. I will do my best to recall as much information as possible about this case, but bear in mind that was 9 months ago, hundreds of client meetings ago and thousands of phone calls ago.

I did a mail piece to zip codes 98033 & 98034 back in November '08. Richard Falcone (RF) responded to the mailer requesting more information about elder law updates which include such items as IRA's, SSI, investments volatility, safe money investments, estate taxes, etc. I called him shortly thereafter to set an appointment with him. I notice immediately he was long winded and rambled at length on the phone, but seemed a nice guy. He didn't set an appointment right away but wanted me to call back. When I did call him back to set an appointment, I would have to go through an exceedingly long re-introduction to spark RF memory of our phone conversation of just one week before. After several call backs, at his request, we set up a meeting at his home.

It was a morning appointment. I specifically remember him offering black coffee. I hate black coffee, and won't drink it that way. He didn't offer cream or sugar. It was black or nothing at all. He also mentioned he drinks too much coffee because he was a raging alcoholic for 40 yrs until just 6 weeks ago. He got violent when he drank alcohol, his wife left him over it, he has a terrible memory and won't remember a lot of what we will talk about. He was agitated and sometimes combative during our visit.

## **Retirement Protection Services, LLC**

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20900 NE 42nd St. Sammamish, WA 98074  
Email: safeinvestment@comcast.net

I started interviewing him about his concerns with his retirement, what areas he was interested in learning about, what he needed help with. He mentioned his portfolio in the stock market. He mentioned he met a guy, years ago, through the longshoreman's union which he was reacquainted with a few yrs. back that help him move his investments to GAA. It had done terribly over the last few years.

He showed me his investment statement which indicated he had lost approximately \$100,000 over the last several months. That's an approximate drop of 40%. He went from \$260,000 down to \$155,000, and he was concerned about safety and the volatility. I can't blame him, that's a terrible financial blow to absorb.

I continued to question him. I asked about his comfort level with his investments, his relationship with his current advisor, and if he was satisfied with the performance of the funds. This took longer than usual because RF was a little slow in reacting and sometimes asked me to repeat myself, which I gladly did. He was not satisfied with any of them, so I introduced a fixed indexed annuity to him through Aviva/American Investors Life. He liked the idea and after I explained the features and benefits to him several times, he was all on board.

We filled out the necessary paperwork and he willingly signed and dated everything. He also gave me a copy of his driver's license and copy of his brokerage statement. I explained to him, as I do with every client, what the transfer process looks like and the time frame involved. I explained how the papers will go to Aviva and they will set up an account. The transfer papers will go from Aviva to GAA and the funds will be sent between the companies. This process can take between 2-4 weeks depending on how quickly the liquidation is done. RF was on board and excited about the transaction.

It was a long, frustrating appointment, from my point of view, because RF wanted to contest specific facts that were true. He wanted to contest the value of his account: where it was and what its current value was. He wanted to contest the levels of the stock market indexes currently and where they were 12 & 18 months earlier. He wanted to contest what investments he had within his own portfolio. All of these facts were on his brokerage statement or we attained through the local newspaper. Yet through all that, we patiently work through the information so he understood and was happy with the result of our meeting.

I sent in the paperwork to Aviva and follow up a few days later to see if they received it. Aviva sent out the transfer papers on January 21, 2009 to GAA. I was happy to see it moving forward in a timely fashion. On January 26, 2009, I called GAA and identified myself as calling

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on behalf of RF and gave all the pertinent information (social security #, birth date, etc.) in order to see how the transfer was moving forward. I call on all my pending business and always identify myself as calling on behalf of the client. I hadn't spoken with RF since the day of our meeting and signing of the documents so when the gentleman from GAA told me it had been cancelled, I got frustrated and upset and hung up the phone. I immediately called RF to see what was going on! He didn't answer. I'm sure I left a message, but RF never returned my calls. I called Aviva the next day to inform them of the client cancelling his transfer, but I might be able to conserve the business if I can reach RF. RF never took another one of my calls so I never really found out why he cancelled the transfer.

Being that I never heard from RF again, I closed the file and disposed of all the paper documentation. I'm sure Aviva/American Investors has copies of all the signed documents RF executed.

So as far as the complaint goes, I met with RF at his request. We discussed his investments. He didn't like them and we made a change which he liked. He signed all the documentation to move forward. I did call GAA to follow up on the business and was frustrated when he cancelled. I called him immediately to see why he cancelled and never received a response. Never did I impersonate or attempt to impersonate RF. As I mentioned at the beginning, I didn't give information to GAA at first because I had no idea who I was talking too.

I do things by the book because I don't want trouble. I have never had any problems with any of the carriers I'm contracted with. I've never had any issues with previous clients. Please let me know if I can help in any other way.

Sincerely,

Gregg Henderson

WA license # 193414

Yew was mailed Nov. 6, 08. We received this (copy) from Mr. Falcone shortly thereafter.

# REQUEST FOR INFORMATION

For FREE information regarding the important elder law updates, return this postage-paid card within 5 days.

Signature Richard Falcone Phone 425 820 4609

Age 69 Spouse's Age N/A County KING

EP18G11F

026882 1542 TS P1 INFO

\*\*\*\*\*AUTO\*\*5-DIGIT 9803\*

Richard Falcone

14209 119th Pl NE

Kirkland, WA 98034-1104

Richard Falcone



# EXHIBIT 16

**GREGG HENDERSON MATTER NO 12-0067 / 1029495**

GREGG HENDERSON UNDATED STATEMENT TO AVIVA, APPARENTLY RECEIVED BY AVIVA ON 9-9-09 (3 PAGES)

CONFIDENTIAL

AIL\_AGENT HENDERSON\_000003

Aviva

SEP 09 2009

Compliance

Gregg Henderson responding to referenced case; OIC Case File # 1029495

I'm going to address a few things up front; as a victim of Identity theft and fraud myself, and the hassles that come along with it, like reporting to credit agencies, contacting and reporting to the Federal Trade Commission, filing a police report with local law enforcement, and calling the Social Security Administration to notify them of the theft, I'm not going to start offering up information over the phone to some stranger I've never met or have never done business with.

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CONFIDENTIAL

AIL AGENT HENDERSON\_000004



SEP 09 2009

Compliance

I started interviewing him about his concerns with his retirement, what areas he was interested in learning about, what he needed help with. He mentioned his portfolio in the stock market. He mentioned he met a guy, years ago, through the longshoreman's union which he was reacquainted with a few yrs. back that help him move his investments to GAA. It had done terribly over the last few years.

He showed me his investment statement which indicated he had lost approximately \$100,000 over the last several months. That's an approximate drop of 40%. He went from \$260,000 down to \$155,000, and he was concerned about safety and the volatility. I can't blame him, that's a terrible financial blow to absorb.

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I sent in the paperwork to Aviva and follow up a few days later to see if they received it. Aviva sent out the transfer papers on January 21, 2009 to GAA. I was happy to see it moving forward in a timely fashion. On January 26, 2009, I called GAA and identified myself as calling

CONFIDENTIAL

AIL\_AGENT HENDERSON\_000005

Aviva

SEP 09 2009

Compliance

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I do things by the book because I don't want trouble. I have never had any problems with any of the carriers I'm contracted with. I've never had any issues with previous clients. Please let me know if I can help in any other way.

Sincerely,

Gregg Henderson

WA license # 193414



# EXHIBIT 17

**GREGG HENDERSON MATTER NO 12-0067 / 1029495**

9-14-09 VIC OVERHOLT MEMORANDUM OF INTERVIEW WITH DICK FALCONE (2 PAGES)



**Memorandum of Interview**

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**Date:** September 14, 2009

**OIC Case #:** 1029495

**Name /Address of Person Interviewed:** Richard P. Falcone  
14209 119<sup>th</sup> PL NE  
Kirkland WA 98034

**Investigator Conducting Interview:** Victor E. Overholt

**Others Present During Interview:** None

**Location of Interview:** Phone

**Interview Audio Recorded:** No

**Declaration Prepared:** No

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Investigator Victor E. Overholt ("Investigator Overholt") contacted Richard P. Falcone ("Mr. Falcone") to review purported events between Mr. Falcone, Gregg A. Henderson ("Agent Henderson"), Robert Santonocito ("Mr. Santonocito") and Shawn Mihal (Mr. Mihal).

Mr. Falcone advised Investigator Overholt that on January 15, 2009, he met with Agent Henderson. Mr. Falcone did not remember signing the paperwork to liquidate his investments. He admits that he might have signed some papers, but did not give anyone his permission to impersonate him or make any trades on his Great American Advisors ("GAA") account. Mr. Falcone advised that the annuity presented by Agent Henderson sounded interesting, but he had not decided to buy it. Agent Henderson had advised him that he was suffering huge losses on his account with GAA. Agent Henderson took some GAA paperwork and was going to do more research. Mr. Falcone was going to check with his investment advisor, Mr. Santonocito to verify any losses. Mr. Falcone advised that Agent Henderson was very unhappy that he was going to contact Mr. Santonocito, and in fact they argued about it.

Mr. Falcone confirmed that on January 16, 2009, "he did not" call the GAA Trade Desk requesting liquidation of his account with GAA.

Mr. Falcone confirmed that on or around January 20, 2009 he received trade confirmations by mail and was contacted by his investment advisor, Mr. Santonocito. He advised Mr. Santonocito that he had not called GAA and had not requested the liquidation.

Mr. Falcone confirmed that he was provided a copy of a telephone recording and a statement to sign from GAA. He listened to the telephone recording. Mr. Falcone advised that he thought the caller was Agent Henderson, but could not swear to it. He did sign the "Acknowledgment of False Information and returned it to GAA, and the liquidation was stopped.

Mr. Falcone pointed out that only Agent Henderson had both his personal information, and the GAA account information, on January 16, 2009.

Mr. Falcone confirmed that on or about January 26, 2009, Agent Henderson called him on both his home phone and his cell phone. He was not interested in talking to Agent Henderson and let both messages go to voice mail. Mr. Falcone replayed the voice message sent to him by GAA and compared it to the messages he had just received. He now felt quite sure that the January 16, 2009 caller was Agent Henderson.

Shortly thereafter GAA called him and advised that Agent Henderson had called them still trying to liquid Mr. Falcone's account. Mr. Falcone advised GAA that "he did not" call the GAA Trade Desk and did not want to liquidate his account with GAA. Also, he was now sure that Agent Henderson was the caller on January 16, 2009.

Mr. Falcone was advised that the OIC had statements to the effect that he was an alcoholic and suffered from mild Alzheimer's and/or intermittent memory loss. He advised that he was not an alcoholic and he did not have Alzheimer's. He did admit to some memory loss.

# EXHIBIT 18

**GREGG HENDERSON MATTER NO 12-0067 / 1029495**

9-14-09 VIC OVERHOLT LETTER TO GREGG HENDERSON (4 PAGES)



OFFICE OF  
INSURANCE COMMISSIONER

September 14, 2009

GREGG A HENDERSON  
20900 NE 42<sup>ND</sup> ST  
SAMMAMISH WA 98074

Re: OIC Case File #: 1029495  
Consumer: **WA State Insurance Commissioner**  
Companies: AVIVA Life and Annuity (American Investors Life)  
Great American Advisors (Great American Life)  
Insured: Richard P. Falcone

Dear Mr. Henderson

I received your (non-dated) response on September 9, 2009. Thank You. (Copy Enclosed)

We have some questions that will help us get a clearer and more accurate picture of your activities, pursuant to the allegations against you.

Please use a "yes" and "no" format, but feel free to explain your yes or no answers.

Question:

1. Did Richard Falcone, give you permission to represent him to GAA and effect trades on his GAA account?
2. Did you call the GAA Trade Desk on January 16, 2009 requesting the Liquidation of all positions held in Mr. Falcone's GAA account?
3. Did you call the GAA Trade Desk on January 26, 2009?
4. On January 26, 2009, did you identify yourself as Richard Falcone and provide the appropriate account number to GAA's Mr. Mihal, while attempting to check on the liquidation of a bond position in Mr. Falcone's GAA account?

Mr. Gregg A. Henderson

September 14, 2009

Page 2

5. On January 26, 2009, did you advise Mr. Mihal that Mr. Falcone had memory loss due to alcoholism and asked Mr. Mihal to explain what was previously discussed?
6. If Mr. Mihal informed you that he did not believe you were the real Mr. Falcone and that he had reason to believe you were an insurance agent that had acquired Mr. Falcone's personal information and were using the information inappropriately to gain access to Mr. Falcone's GAA account, did you immediately terminate the call with Mr. Mihal?
7. During your conversation with Ms. Kruessel of GAA on February 24, 2009, did you deny knowing or ever hearing of Mr. Falcone?
8. Did you tell Ms. Kruessel that you did not have an appointment book and therefore could not confirm an appointment with Mr. Falcone on January 15, 2009?
9. Did you receive a voice mail from Security Specialist, Allison Kruessel on April 15, 2009, at home number (425-836-2262), requesting that you to call her back?
10. Did you receive a voice mail from Security Specialist, Allison Kruessel on April 16, 2009, at (206-354-1321), requesting that you call her back ASAP?
11. Did your wife Julie Henderson receive a phone message from Security Specialist, Allison Kruessel advising that GAA needed you to call them back ASAP?
12. Did Julie Henderson tell Ms. Kruessel that you were in the lower part of the state and might not have good reception there?
13. Did you call Ms. Kruessel on April 17, 2009?
14. During the April 17, 2009 call, were you argumentative?
15. During the April 17, 2009, call did you deny doing business with Richard Falcone?
16. After Ms. Kruessel gave you a brief review of the complaint made by Richard Falcone, did you continue to deny knowing Mr. Falcone?

Mr. Gregg A. Henderson  
September 14, 2009  
Page 3

17. Did you advise Ms. Kruessel that one of your "staff" might have submitted the application, and that he would check around the office and get back to her?
18. Did you refuse to tell Ms. Kruessel how many staff you had?
19. Did you ask Ms. Kruessel, if Mr. Falcone lost any money as a result of your actions?
20. Did you express displeasure with Ms. Kruessel about the fact that she was continually calling you about the matter, if Mr. Falcone was not out any money?
21. Upon hearing that Ms. Kruessel was going to refer this matter to the Department of Insurance, did you ask which state?
22. Upon hearing it would be the State of Washington, did you immediately become deceptively cooperative?
23. Did you then ask for the approximate date of the meeting you had with Mr. Falcone?
24. Did you then volunteer to check your "appointment book" to see if you could find anything?
25. Did you come back on the phone, with the "appointment book" and state that you had an entry for Dick Falcone, gave Mr. Falcone's address and then suddenly remembered exact specifics about Mr. Falcone?
26. Did you advise Ms. Kruessel that Mr. Falcone had been a "raging alcoholic" for many years and cannot remember things?
27. Did you advise Ms. Kruessel that Mr. Falcone suffered from blackouts?
28. Did you advise Ms. Kruessel that Mr. Falcone had stocks and money markets totaling \$140,000-\$150,000 and that he was a retired longshoreman in his late 60s or early 70s?
29. Did you advise Ms. Kruessel that if she called Mr. Falcone again, that he would not remember any previous conversations due to the alcoholism-induced memory loss?

Mr. Gregg A. Henderson  
September 14, 2009  
Page 4

Mr. Henderson, please feel free to call my office with any questions you may have.

**RCW 48.17.475** requires a licensee to respond promptly, in writing, to an inquiry of the Insurance Commissioner. I will expect your response by **October 2, 2009**.

Sincerely

Victor E. Overholt  
Investigator  
Investigations & Enforcement  
Consumer Protection Division  
(206) 464-5310  
(206) 587-4244 FAX  
E-mail: [VicO@OIC.WA.GOV](mailto:VicO@OIC.WA.GOV)

Enclosures

cc: Alli Kruessel, American Financial Group/Great American Insurance Company  
Mechile Adams, AVIVA (American Investors)

# EXHIBIT 19

**GREGG HENDERSON MATTER NO 12-0067 / 1029495**

GREGG HENDERSON RESPONSE TO 9-14-09 VIC OVERHOLT LETTER (4 PAGES)



OFFICE OF  
INSURANCE COMMISSIONER

September 14, 2009

GREGG A HENDERSON  
20900 NE 42<sup>ND</sup> ST  
SAMMAMISH WA 98074

Re: OIC Case File #: 1029495  
**Consumer:** WA State Insurance Commissioner  
Companies: AVIVA Life and Annuity (American Investors Life)  
Great American Advisors (Great American Life)  
Insured: Richard P. Falcone

Dear Mr. Henderson

I received your (non-dated) response on September 9, 2009. Thank You. (Copy Enclosed)

We have some questions that will help us get a clearer and more accurate picture of your activities, pursuant to the allegations against you.

Please use a "yes" and "no" format, but feel free to explain your yes or no answers.

Question:

1. Did Richard Falcone, give you permission to represent him to GAA and effect trades on his GAA account? *No, I never represented myself as Richard Falcone*
2. Did you call the GAA Trade Desk on January 16, 2009 requesting the Liquidation of all positions held in Mr. Falcone's GAA account? *No*
3. Did you call the GAA Trade Desk on January 26, 2009? *Yes*
4. On January 26, 2009, did you identify yourself as Richard Falcone and provide the appropriate account number to GAA's Mr. Mihal, while attempting to check on the liquidation of a bond position in Mr. Falcone's GAA account?  
*No, I did not represent myself as Richard Falcone. I said I'm calling on behalf of Richard Falcone.*

Mr. Gregg A. Henderson  
September 14, 2009  
Page 2

5. On January 26, 2009, did you advise Mr. Mihal that Mr. Falcone had memory loss due to alcoholism and asked Mr. Mihal to explain what was previously discussed? *I don't recall.*
6. If Mr. Mihal informed you that he did not believe you were the real Mr. Falcone and that he had reason to believe you were an insurance agent that had acquired Mr. Falcone's personal information and were using the information inappropriately to gain access to Mr. Falcone's GAA account, did you immediately terminate the call with Mr. Mihal? *yes I hung up immediately, but not due to what Mihal said, it was out of frustration of RF cancelling.*
7. During your conversation with Ms. Kruessel of GAA on February 24, 2009, did you deny knowing or ever hearing of Mr. Falcone? *I may have, I don't recall.*
8. Did you tell Ms. Kruessel that you did not have an appointment book and therefore could not confirm an appointment with Mr. Falcone on January 15, 2009? *I may have, I don't recall.*
9. Did you receive a voice mail from Security Specialist, Allison Kruessel on April 15, 2009, at home number (425-836-2262), requesting that you to call her back? *Not that I know of.*
10. Did you receive a voice mail from Security Specialist, Allison Kruessel on April 16, 2009, at (206-354-1321), requesting that you call her back ASAP? *I don't recall.*
11. Did your wife Julie Henderson receive a phone message from Security Specialist, Allison Kruessel advising that GAA needed you to call them back ASAP? *Not that I know of.*
12. Did Julie Henderson tell Ms. Kruessel that you were in the lower part of the state and might not have good reception there? *Not that I know of.*
13. Did you call Ms. Kruessel on April 17, 2009? *I don't recall.*
14. During the April 17, 2009 call, were you argumentative? *Not that I know of.*
15. During the April 17, 2009, call did you deny doing business with Richard Falcone? *I don't recall.*
16. After Ms. Kruessel gave you a brief review of the complaint made by Richard Falcone, did you continue to deny knowing Mr. Falcone? *I don't recall.*

17. Did you advise Ms. Kruessel that one of your "staff" might have submitted the application, and that he would check around the office and get back to her? *yes*
18. Did you refuse to tell Ms. Kruessel how many staff you had? *yes*
19. Did you ask Ms. Kruessel, if Mr. Falcone lost any money as a result of your actions? *I don't recall.*
20. Did you express displeasure with Ms. Kruessel about the fact that she was continually calling you about the matter, if Mr. Falcone was not out any money? *I don't recall.*
21. Upon hearing that Ms. Kruessel was going to refer this matter to the Department of Insurance, did you ask which state? *I don't recall.*
22. Upon hearing it would be the State of Washington, did you immediately become deceptively cooperative? *I don't know what deceptively cooperative is, but once she provided sufficient knowledge of the case, I cooperated.*
23. Did you then ask for the approximate date of the meeting you had with Mr. Falcone? *I don't recall.*
24. Did you then volunteer to check your "appointment book" to see if you could find anything? *If she provided a date, I'm sure I checked my book.*
25. Did you come back on the phone, with the "appointment book" and state that you had an entry for Dick Falcone, gave Mr. Falcone's address and then suddenly remembered exact specifics about Mr. Falcone? *Yes I provided his address, but "exact specifics" is stretching the truth.*
26. Did you advise Ms. Kruessel that Mr. Falcone had been a "raging alcoholic" for many years and cannot remember things? *Probably yes*
27. Did you advise Ms. Kruessel that Mr. Falcone suffered from blackouts? *I don't recall.*
28. Did you advise Ms. Kruessel that Mr. Falcone had stocks and money markets totaling \$140,000-\$150,000 and that he was a retired longshoreman in his late 60s or early 70s? *Probably yes.*
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Page 4

Mr. Henderson, please feel free to call my office with any questions you may have.

**RCW 48.17.475** requires a licensee to respond promptly, in writing, to an inquiry of the Insurance Commissioner. I will expect your response by **October 2, 2009**.

Sincerely



Victor E. Overholt  
Investigator  
Investigations & Enforcement  
Consumer Protection Division  
(206) 464-5310  
(206) 587-4244 FAX  
E-mail: [VicO@OIC.WA.GOV](mailto:VicO@OIC.WA.GOV)

Enclosures

cc: Alli Kruessel, American Financial Group/Great American Insurance Company  
Mechile Adams, AVIVA (American Investors)

# EXHIBIT 20

GREGG HENDERSON MATTER NO 12-0067 / 1029495

10-16-09 LETTER FROM SHAWN MIHAL TO VIC OVERHOLT (3 PAGES)



# GREAT AMERICAN.

ADVISORS, INC.

Member FINRA and SIPC  
An SEC Registered Investment Advisor

P.O. Box 357  
Cincinnati, Ohio 45201-0357  
www.gaadvisors.com

Shipping Address:  
626 Vine Street, 7th Floor  
Cincinnati, Ohio 45202

Phone: 513-333-6030  
800-216-3354  
Fax: 513-412-5109

October 16, 2009

Mr. Victor Overholt  
Investigator  
Washington Department of Insurance  
302 Sid Snyder Avenue SW, Suite 200  
Olympia, Washington 98504

Re: OIC Case File # 1029495

Dear Mr. Overholt:

Thank you for this opportunity to provide you with details of the facts and circumstances relevant to your ongoing investigation of the above referenced matter.

On January 16, 2009, Great American Advisors, Inc. ("GAA") Trader Christopher Van Horn received a telephone call from an individual purporting to be Richard Falcone. The individual provided Mr. Falcone's brokerage account number and inquired into the mailing address to send account transfer paperwork in order to transfer the assets held in such brokerage account. The individual went on to inform Mr. Van Horn that it was his intent to transfer the assets into an annuity. Subsequently, Mr. Van Horn informed the individual that the account would need to be liquidated and the proceeds of the liquidations must be held in the money market fund (i.e. cash) in order to be transferred from the brokerage account to an insurance company for the purchase of an annuity. The individual then requested a complete liquidation of the positions held in the account. As such, Mr. Van Horn requested individual to provide the last four digits his social security number for verification purposes. The individual successfully provided the last four digits of Mr. Falcone's social security number. At this point, Mr. Van Horn assisted the individual in the liquidation of positions held in Mr. Falcone's brokerage account.

After the liquidation of the brokerage account, Mr. Falcone received trade confirmations respective to each security sold. Mr. Falcone then contacted his GAA Registered Representative, Robert Santonocito, to inquire into why the positions had been sold out of his brokerage account. Mr. Santonocito was unfamiliar with the trades and contacted the GAA Trade Desk to discuss the matter. A recording of the telephone conversation between Mr. Van Horn and the individual reporting to be Mr. Falcone was reviewed by the Trade Desk personnel. The results of the review were provided to Mr. Santonocito. Upon discussing this information with Mr. Falcone, Mr. Santonocito requested GAA to

cancel the sell orders and restore the positions in the brokerage account. This was completed on January 21, 2009. The matter was then referred to me for further investigation.

After reviewing the facts and circumstances associated with the events that had transpired I contacted Mr. Santonocito to verify the series of events and to gather any additional information available. Mr. Santonocito confirmed his understanding of the events and reported that he did not know the identity of the individual that may have impersonated Mr. Falcone. Mr. Santonocito suggested that I should contact Mr. Falcone to discuss the matter directly with him.

Through a series of telephone conversation Mr. Falcone and I discussed the events leading to the liquidation of his brokerage account held through GAA. Mr. Falcone reported that he is nearly 70 years old and has had some occasional memory loss issues. He said that he did not recall all the particulars associated with buying an annuity but he did acknowledge signing paperwork with an insurance agent. He also acknowledged that he never called GAA to liquidate his account, he never authorized anyone to act on his behalf or to impersonate him in order to liquidate his account, and that the individual he met with and who had completed annuity purchase paperwork with him was Gregg Henderson.

In addition, I provided Mr. Falcone with a copy the recording of the January 16, 2009 telephone call GAA received where the individual impersonated Mr. Falcone and provided instructions to liquidate Mr. Falcone's brokerage account. Mr. Falcone provided an email acknowledgement to me confirming that the individual requesting the January 16, 2009 liquidation was not him. Mr. Falcone also signed an Acknowledgement of False Information attesting to these facts.

On January 26, 2009, shortly after I completed a telephone discussion with Mr. Falcone regarding our internal review of this matter, GAA's Trade Desk received another call from an individual reporting to be Mr. Falcone. Based on previously provided instructions, the Trade Desk personnel forwarded the call to me. I vividly recall this telephone discussion and have included a summary of the discussion below:

Upon my greeting the individual he immediately asked to speak to Mr. Van Horn, the Trader who took his first call and assisted in the liquidation of Mr. Falcone's brokerage account. I could immediately detect the difference in the voice of this caller in comparison to the multiple calls I had with Mr. Falcone including one call earlier in the day on January 26, 2009. As such, I informed the individual that Mr. Van Horn was unavailable and asked who was calling. The individual reported that he was Dick Falcone and that he was transferring his account out of GAA. He went on to say that he had a bond in his portfolio and he was inquiring to verify if the bond had been liquidated. The individual then went on to provide

Mr. Falcone's GAA account number. I then took the opportunity to inform the individual that he and I had a conversation just a few hours ago in the morning. The individual acted surprised and then reported that he was an alcoholic for many years and he has bouts of memory loss. He went on to apologize for not remembering the call and discussion with me. The individual then asked me to explain what we talked about earlier that day. At that point, I attempted to address the matter professionally and informed the individual that I did not believe he was Mr. Falcone. The individual did not respond. As such, I went on to inform the individual that I believed he is an insurance agent who acquired Mr. Falcone's personal information and is using it to gain access to Mr. Falcone's brokerage account held through GAA. The individual responded back by saying "wow" and disconnected the call.

Neither I nor any other GAA personnel have received any further telephone calls from this individual impersonating Mr. Falcone. Subsequently, this information was provided to our Investigative Services department and, based on their investigation, this and other supporting information has been provided to the Washington Department of Insurance for further examination of Mr. Henderson's conduct.

I trust that the information contained in this letter will assist in your investigation. Should you have any questions or need any additional information, please feel free to contact me directly at (513) 412-1531.

Sincerely,



Shawn M. Mihal  
Chief Compliance Officer

# EXHIBIT 21

**GREGG HENDERSON MATTER NO 12-0067 / 1029495**

10-23-09 LETTER FROM ALLISON KRUESSEL TO VIC OVERHOLT ENCLOSING 10-16-09 SHAWN  
MIHAL LETTER TO VIC OVERHOLT (4 PAGES)



Investigative Services  
625 Vine Street, 14<sup>th</sup> Floor  
Cincinnati, OH 45202

Alli Kruessel  
Security Specialist I  
Phone: (513) 383-5545  
Fax: (513) 369-7109  
akruessel@gaic.com

October 23, 2009

Mr. Victor Overholt  
Investigator  
Investigations & Enforcement  
Consumer Protection Division  
Washington Office of Insurance Commissioner  
Central Building  
Suite 650  
810 Third Avenue  
Seattle, WA 98104

Re: OIC Case File # 1029495

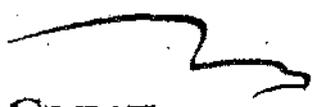
Dear Mr. Overholt,

Attached is a letter from Shawn Mihal, Great American Advisors Chief Compliance Officer, detailing his recollection of a phone call received January 26, 2009 regarding the account of Richard P. Falcone. Please let me know if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Allison M. Kruessel".

Allison M. Kruessel  
Security Specialist I



**GREAT AMERICAN.**

ADVISORS, INC.

Member FINRA and SIPC  
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P.O. Box 357  
Cincinnati, Ohio 45201-0357  
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625 Vine Street, 7th Floor  
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Phone: 513-333-6030  
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Fax: 513-412-5109

October 16, 2009

Mr. Victor Overholt  
Investigator  
Washington Department of Insurance  
302 Sid Snyder Avenue SW, Suite 200  
Olympia, Washington 98504

Re: OIC Case File # 1029495

Dear Mr. Overholt:

Thank you for this opportunity to provide you with details of the facts and circumstances relevant to your ongoing investigation of the above referenced matter.

On January 16, 2009, Great American Advisors, Inc. ("GAA") Trader Christopher Van Horn received a telephone call from an individual purporting to be Richard Falcone. The individual provided Mr. Falcone's brokerage account number and inquired into the mailing address to send account transfer paperwork in order to transfer the assets held in such brokerage account. The individual went on to inform Mr. Van Horn that it was his intent to transfer the assets into an annuity. Subsequently, Mr. Van Horn informed the individual that the account would need to be liquidated and the proceeds of the liquidations must be held in the money market fund (i.e. cash) in order to be transferred from the brokerage account to an insurance company for the purchase of an annuity. The individual then requested a complete liquidation of the positions held in the account. As such, Mr. Van Horn requested individual to provide the last four digits his social security number for verification purposes. The individual successfully provided the last four digits of Mr. Falcone's social security number. At this point, Mr. Van Horn assisted the individual in the liquidation of positions held in Mr. Falcone's brokerage account.

After the liquidation of the brokerage account, Mr. Falcone received trade confirmations respective to each security sold. Mr. Falcone then contacted his GAA Registered Representative, Robert Santonocito, to inquire into why the positions had been sold out of his brokerage account. Mr. Santonocito was unfamiliar with the trades and contacted the GAA Trade Desk to discuss the matter. A recording of the telephone conversation between Mr. Van Horn and the individual reporting to be Mr. Falcone was reviewed by the Trade Desk personnel. The results of the review were provided to Mr. Santonocito. Upon discussing this information with Mr. Falcone, Mr. Santonocito requested GAA to

cancel the sell orders and restore the positions in the brokerage account. This was completed on January 21, 2009. The matter was then referred to me for further investigation.

After reviewing the facts and circumstances associated with the events that had transpired I contacted Mr. Santonocito to verify the series of events and to gather any additional information available. Mr. Santonocito confirmed his understanding of the events and reported that he did not know the identity of the individual that may have impersonated Mr. Falcone. Mr. Santonocito suggested that I should contact Mr. Falcone to discuss the matter directly with him.

Through a series of telephone conversation Mr. Falcone and I discussed the events leading to the liquidation of his brokerage account held through GAA. Mr. Falcone reported that he is nearly 70 years old and has had some occasional memory loss issues. He said that he did not recall all the particulars associated with buying an annuity but he did acknowledge signing paperwork with an insurance agent. He also acknowledged that he never called GAA to liquidate his account, he never authorized anyone to act on his behalf or to impersonate him in order to liquidate his account, and that the individual he met with and who had completed annuity purchase paperwork with him was Gregg Henderson.

In addition, I provided Mr. Falcone with a copy the recording of the January 16, 2009 telephone call GAA received where the individual impersonated Mr. Falcone and provided instructions to liquidate Mr. Falcone's brokerage account. Mr. Falcone provided an email acknowledgement to me confirming that the individual requesting the January 16, 2009 liquidation was not him. Mr. Falcone also signed an Acknowledgement of False Information attesting to these facts.

On January 26, 2009, shortly after I completed a telephone discussion with Mr. Falcone regarding our internal review of this matter, GAA's Trade Desk received another call from an individual reporting to be Mr. Falcone. Based on previously provided instructions, the Trade Desk personnel forwarded the call to me. I vividly recall this telephone discussion and have included a summary of the discussion below:

Upon my greeting the individual he immediately asked to speak to Mr. Van Horn, the Trader who took his first call and assisted in the liquidation of Mr. Falcone's brokerage account. I could immediately detect the difference in the voice of this caller in comparison to the multiple calls I had with Mr. Falcone including one call earlier in the day on January 26, 2009. As such, I informed the individual that Mr. Van Horn was unavailable and asked who was calling. The individual reported that he was Dick Falcone and that he was transferring his account out of GAA. He went on to say that he had a bond in his portfolio and he was inquiring to verify if the bond had been liquidated. The individual then went on to provide

Mr. Falcone's GAA account number. I then took the opportunity to inform the individual that he and I had a conversation just a few hours ago in the morning. The individual acted surprised and then reported that he was an alcoholic for many years and he has bouts of memory loss. He went on to apologize for not remembering the call and discussion with me. The individual then asked me to explain what we talked about earlier that day. At that point, I attempted to address the matter professionally and informed the individual that I did not believe he was Mr. Falcone. The individual did not respond. As such, I went on to inform the individual that I believed he is an insurance agent who acquired Mr. Falcone's personal information and is using it to gain access to Mr. Falcone's brokerage account held through GAA. The individual responded back by saying "wow" and disconnected the call.

Neither I nor any other GAA personnel have received any further telephone calls from this individual impersonating Mr. Falcone. Subsequently, this information was provided to our Investigative Services department and, based on their investigation, this and other supporting information has been provided to the Washington Department of Insurance for further examination of Mr. Henderson's conduct.

I trust that the information contained in this letter will assist in your investigation. Should you have any questions or need any additional information, please feel free to contact me directly at (513) 412-1531.

Sincerely,



Shawn M. Mihal  
Chief Compliance Officer

# EXHIBIT 22

**GREGG HENDERSON MATTER NO 12-0067 / 1029495**

11-2-09 EMAIL FROM ALLISON KRUESSEL TO VIC OVERHOLT WITH A RECORDING (3 PAGES)

**Overholt, Vic (OIC)**

---

**From:** Kruessel, All [akruessel@GAIC.COM]  
**nt:** Monday, November 02, 2009 11:58 AM  
**to:** Overholt, Vic (OIC)  
**Subject:** RE: OIC file number 1029495 - Letter  
**Attachments:** 3-Falcoone-mihal 1-26-09.wav

Hi Vic,

We have located the recording discussed. It is attached – please let me know if you have any questions.

**Alli Kruessel**  
**Investigative Services**  
**American Financial Group**  
**Great American Insurance Company**  
**Phone: (513) 333-5545**  
**Fax: (513) 369-7109**  
**akruessel@gaic.com**

---

**From:** Overholt, Vic (OIC) [mailto:VicO@OIC.WA.GOV]  
**Sent:** Tuesday, October 27, 2009 9:52 AM  
**To:** Kruessel, All  
**Subject:** RE: OIC file number 1029495 - Letter

Good Morning Alli

Thanks again for the help.

Have a great day.

Vic

---

**From:** Kruessel, All [mailto:akruessel@GAIC.COM]  
**Sent:** Tuesday, October 27, 2009 6:38 AM  
**To:** Overholt, Vic (OIC)  
**Subject:** RE: OIC file number 1029495 - Letter

Hi Vic,

We are continuing to search for the recording. I will request a statement from Christopher Van Horn and send to you ASAP.

Thanks,  
Alli

---

**From:** Overholt, Vic (OIC) [mailto:VicO@OIC.WA.GOV]  
**Sent:** Monday, October 26, 2009 5:24 PM

To: Kruessel, Alli  
Subject: RE: OIC file number 1029495 - Letter

Alli

I called Shawn Mihal Friday and thanked him for the excellent, excellent letter. Thank you so very much.

Any word on getting a copy of the recording?

If the recording is not available, any chance of getting a statement from Christopher Van Horn?

Please advise.

Vic

---

From: Kruessel, Alli [mailto:akruessel@GAIC.COM]  
Sent: Friday, October 23, 2009 11:03 AM  
To: Overholt, Vic (OIC)  
Subject: OIC file number 1029495 - Letter

Good Afternoon Vic,

Per our conversation of October 9, 2009, attached is a letter from Shawn Mihal, Great American Advisors Chief Compliance Officer. Shawn has provided a recollection of the phone call he received on January 26, 2009. A hard copy will be sent overnight to you and should be delivered Monday. Please let me know if you have any questions.

Thank you,

Alli Kruessel  
Investigative Services  
American Financial Group  
Great American Insurance Company  
Phone: (513) 333-5545  
Fax: (513) 369-7109  
[akruessel@gaic.com](mailto:akruessel@gaic.com)

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\*\*\*\*\*

# EXHIBIT 23

**GREGG HENDERSON MATTER NO 12-0067 / 1029495**

11-19-09 EMAIL FROM ALLISON KRUESSEL TO VIC OVERHOLT WITH A STATEMENT OF  
CHRISTOPHER NICHOLAS ("NICK") VAN HORN (5 PAGES)

**Overholt, Vic (OIC)**

---

**From:** Kruessel, Alli [akruessel@GAIC.COM]  
**Sent:** Thursday, November 19, 2009 6:07 AM  
**To:** Overholt, Vic (OIC)  
**Subject:** RE: OIC file number 1029495 - Letter  
**Attachments:** VanHorn Statement.pdf

Good Morning Vic,

Attached is the statement from Christopher Van Horn. I will be sending the hard copy overnight to you, for delivery on Friday, November 20. Please let me know if you have any questions.

Thanks,  
Alli

---

**From:** Overholt, Vic (OIC) [mailto:VicO@OIC.WA.GOV]  
**Sent:** Tuesday, November 03, 2009 9:39 AM  
**To:** Kruessel, Alli  
**Subject:** RE: OIC file number 1029495 - Letter

Good Morning Alli

Sorry to be such a bother, but yes, it would be very helpful.

Again, thank you all for the help.

Vic

---

**From:** Kruessel, Alli [mailto:akruessel@GAIC.COM]  
**Sent:** Tuesday, November 03, 2009 6:34 AM  
**To:** Overholt, Vic (OIC)  
**Subject:** RE: OIC file number 1029495 - Letter

Vic,

Since we were able to locate the recording, do you still need a statement from Christopher Van Horn?

Thanks,  
Alli

---

**From:** Kruessel, Alli  
**Sent:** Monday, November 02, 2009 2:58 PM  
**To:** 'Overholt, Vic (OIC)'  
**Subject:** RE: OIC file number 1029495 - Letter

Hi Vic,

We have located the recording discussed. It is attached – please let me know if you have any questions.

**Alli Kruessel**  
**Investigative Services**  
**American Financial Group**  
**Great American Insurance Company**  
**Phone: (513) 333-5545**  
**Fax: (513) 369-7109**  
**akruessel@gaic.com**

---

**From:** Overholt, Vic (OIC) [mailto:VicO@OIC.WA.GOV]  
**Sent:** Tuesday, October 27, 2009 9:52 AM  
**To:** Kruessel, Alli  
**Subject:** RE: OIC file number 1029495 - Letter

Good Morning Alli

Thanks again for the help.

Have a great day.

Vic

---

**From:** Kruessel, Alli [mailto:akruessel@GAIC.COM]  
**Sent:** Tuesday, October 27, 2009 6:38 AM  
**To:** Overholt, Vic (OIC)  
**Subject:** RE: OIC file number 1029495 - Letter

Hi Vic,

We are continuing to search for the recording. I will request a statement from Christopher Van Horn and send to you ASAP.

Thanks,  
Alli

---

**From:** Overholt, Vic (OIC) [mailto:VicO@OIC.WA.GOV]  
**Sent:** Monday, October 26, 2009 5:24 PM  
**To:** Kruessel, Alli  
**Subject:** RE: OIC file number 1029495 - Letter

Hi Alli

I called Shawn Mihal Friday and thanked him for the excellent, excellent letter. Thank you so very much.

Any word on getting a copy of the recording?

If the recording is not available, any chance of getting a statement from Christopher Van Horn?

Please advise.

Vic

**From:** Kruessel, Alli [mailto:akruessel@GAIC.COM]  
**Sent:** Friday, October 23, 2009 11:03 AM  
**To:** Overholt, Vic (OIC)  
**Subject:** OIC file number 1029495 - Letter

Good Afternoon Vic,

Per our conversation of October 9, 2009, attached is a letter from Shawn Mihal, Great American Advisors Chief Compliance Officer. Shawn has provided a recollection of the phone call he received on January 26, 2009. A hard copy will be sent overnight to you and should be delivered Monday. Please let me know if you have any questions.

Thank you,

**Alli Kruessel**  
**Investigative Services**  
**American Financial Group**  
**Great American Insurance Company**  
**Phone: (513) 333-5545**  
**Fax: (513) 369-7109**  
**akruessel@gaic.com**

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\*\*\*\*\*



Member FINRA and SIPC  
An SEC Registered Investment Advisor

Mr. Victor Overholt  
Investigator  
Investigations & Enforcement  
Consumer Protection Division  
Washington Office of Insurance Commissioner  
Central Building  
Suite 650  
810 Third Avenue  
Seattle, WA 98104

Re: OIC Case File # 1029495

Dear Mr. Overholt:

Thank you for the privilege of being able to assist you in your ongoing investigation by providing you with the details of my telephone conversation.

On January 16<sup>th</sup>, 2009 I received a phone call from a gentleman addressing himself as Richard Falcone. He briefly explained his intent was to liquidate his account in order to transfer it out of Great American Advisors. I then requested that he provide the account number which he was referring to and he did so successfully. I then provided him with mailing instructions, for both regular and overnight delivery, in order to receive the necessary transfer paperwork. He then inquired as to whether or not he needed to liquidate the account before transferring. After explaining the type of transfer he was looking to accomplish, I explained that account liquidation was necessary. He then instructed me to liquidate the account. Before placing any liquidation trades I requested that he provide the last four digits of his social security number for verification purposes, which he, again, did so successfully. I then placed the liquidating trades for the mutual fund positions in the account, confirming the details of each trade before submitting the trade. I then explained the process of liquidating a bond position and he informed that he would call back to check on the bond liquidation.

I hope this information will assist you. Please feel free to contact me with any questions you may have. My direct phone number is 513.412.2924.

Sincerely,

Christopher Nicholas Van Horn  
GAA Trade Desk – Registered Principal

P.O. Box 357

Cincinnati, OH 45201-0357  
www.gaadvisors.com

Shipping Address:  
525 Vine Street, 7th Floor  
Cincinnati, OH 45202

Phone: 513.333.6030  
800.216.3354  
Fax: 513.412.5109

# EXHIBIT 24

**GREGG HENDERSON MATTER NO 12-0067 / 1029495**

11-19-09 VIC OVERHOLT MEMORANDUM OF INTERVIEW WITH CHRISTOPHER NICHOLAS  
("NICK") VAN HORN (2 PAGES)

State of Washington  
Office of Insurance Commissioner  
Legal Affairs Division



### Memorandum of Interview

---

**Date:** November 19, 2009

**OIC Case #:** 1029495

**Name /Address of Person Interviewed:** Christopher Nicholas Van Horn  
GAA Trade Desk – Registered Principal  
Great American Advisors, Inc.  
525 Vine Street, 7<sup>th</sup> Floor  
Cincinnati, OH 45202

**Investigator Conducting Interview:** Victor E. Overholt

**Others Present During Interview:** None

**Location of Interview:** Phone

**Interview Audio Recorded:** No

**Declaration Prepared:** No

---

Investigator Victor E. Overholt ("Investigator Overholt") and Christopher Nicholas Van Horn ("Mr. Van Horn") reviewed Mr. Van Horn's letter sent to Investigator Overholt on November 19, 2009.

Mr. Van Horn confirmed that on January 16<sup>th</sup>, 2009, he received a phone call from a gentleman addressing himself as Richard Falcone. The caller explained that his intent was to liquidate his account in order to transfer it out of Great American Advisors. Mr. Van Horn then requested that the caller provide the account number which he was referring to and he did so successfully. Mr. Van Horn then provided the caller with mailing instructions, for both regular and overnight delivery, in order to receive the necessary transfer paperwork. The caller then inquired as to whether or not he needed to liquidate the account before transferring. After explaining the type of transfer the caller was looking to accomplish, Mr. Van Horn explained that account liquidation was necessary. The caller then instructed Mr. Van Horn to liquidate the account. Before placing any liquidation trades Mr. Van Horn requested that the caller

provide the last four digits of his social security number for verification purposes, which he, again, did so successfully. Mr. Van Horn then placed the liquidating trades for the mutual fund positions in the account, confirming the details of each trade before submitting the trade. Mr. Van Horn then explained the process of liquidating a bond position and the caller informed Mr. Van Horn that he would call back to check on the bond liquidation.



# EXHIBIT 25

**GREGG HENDERSON MATTER NO 12-0067 / 1029495**

**"INVESTIGATIVE FINDINGS" AUTHORED BY VIC OVERHOLT (5 PAGES)**

## INVESTIGATIVE FINDINGS

This investigation was predicated upon the receipt of Great American Advisors ("GAA"), Investigative Services, Security Specialist, Allison M. Kruessel's ("Ms. Kruessel") letter to the Washington State Office of the Insurance Commissioner ("OIC"), received July 7, 2009. Ms. Kruessel alleges that an individual believed to be Washington insurance agent Gregg A. Henderson ("Agent Henderson") impersonated Richard P. Falcone ("Mr. Falcone"), an elderly GAA client, in an attempt to liquidate Mr. Falcone's GAA brokerage account to transfer the funds to another carrier. (Exhibit 1A)

A review of the OIC licensing database (SIMBA) indicated that Agent Henderson obtained his Agent's Life and Disability license on April 29, 2002. He became an appointed agent for Great American Life on June 27, 2006 and AVIVA Life on June 11, 2009. Agent Henderson's Agent's license was moved to Producers status on July 1, 2009. Agent Henderson has had no prior investigations. (Exhibits 2A & 2B)

Between August 8, 2009 and December 14, 2009, Investigator Overholt sent out seven (7) requests for information to Agent Henderson, GAA and AVIVA, and received nine (9) responses and documentation from Agent Henderson, GAA and AVIVA. Five (5) interviews were conducted, which were accompanied by written statements from Agent Henderson, Mr. Falcone, and three (3) GAA employees. (See Exhibits list for detail)

A review of the documentation and interviews showed that Mr. Falcone met with Agent Henderson and was advised that he was losing money in his accounts at GAA. Agent Henderson recommended that Mr. Falcone move his money from GAA and purchase an Equity Index Annuity with AVIVA. (Exhibits 9 & 11)

Mr. Falcone did not believe that he had suffered the losses stated by Agent Henderson and was going to check with his investment advisor. He states that no sale was made, but admits that he may have signed some documents, but he certainly did not give anyone consent to impersonate him and/or effect a trade on his GAA account. (Exhibits 9 & 11)

Mr. Falcone did in fact sign an AVIVA application for an indexed deferred annuity, including disclosure forms and a request for funds. Agent Henderson left with both the application paperwork and a GAA statement of Mr. Falcone's account standings. (Exhibit 10)

GAA Trade Desk, Registered Principal, Mr. Christopher Nicholas (Nick) Van Horn ("Mr. Van Horn"), received a call from a person who identified himself as being Mr. Falcone. The caller explained that his intent was to liquidate his account in order to transfer the funds out of GAA. Mr. Van Horn requested that the caller provide the account number which he was referring to and the caller did so successfully. The caller then inquired as to whether or not he needed to

liquidate the account before transferring. After explaining the type of transfer the caller was looking to accomplish, Mr. Van Horn explained that account liquidation was necessary. The caller then instructed Mr. Van Horn to liquidate the account. Before placing any liquidation trades Mr. Van Horn requested that the caller provide the last four digits of his social security number for verification purposes, which the caller did successfully. Mr. Van Horn then placed the liquidating trades for the mutual fund positions in the account, confirming the details of each trade with the caller before submitting the trade. Mr. Van Horn then explained the process of liquidating a bond position and the caller informed Mr. Van Horn that he would call back to check on the bond liquidation. (Exhibits 17 & 18)

Mr. Falcone received trade confirmation that his account was being liquidated. Mr. Falcone contacted GAA and reported that he had not requested the trade orders. GAA, Chief Compliance Officer, Mr. Shawn M. Mihal ("Mr. Mihal") sent an email to Mr. Falcone confirming Mr. Falcone's statement that he had not made the request in question. Mr. Mihal attached a copy of the telephone recording associated with the trades and an Acknowledgement of False Information form. Mr. Falcone was asked to review the phone recording and if appropriate, complete the acknowledgement form and return it to GAA. (Exhibit 8B)

Mr. Falcone sent an email to Mr. Mihal advising him that the voice on the recording was not his and that he had completed the Acknowledgement form. Mr. Falcone signed and dated the Acknowledgement of False Information form and mailed and faxed copies to GAA. (Exhibits 8C & 8G)

GAA received transfer paperwork from American Investors Life Insurance Company ("AVIVA") and Mr. Mihal suspected that the information reported on the forms may have been used by the person who contacted GAA to affect the liquidation of Mr. Falcone's GAA account. (Exhibit 5)

Mr. Mihal contacted Mr. Falcone to discuss information received from AVIVA. Mr. Falcone recalled meeting with an insurance sales person on January 15, 2009, but did not remember signing transfer paperwork. Mr. Falcone re-stated that he did not want to transfer his account from GAA. Mr. Falcone stated that he may have signed some forms during the meeting, but he did not give anyone his consent to impersonate him and effect trades in his account. (Exhibits 6, 11 & 15)

GAA received another call from someone purporting to be Mr. Falcone. The caller was transferred to Mr. Mihal. The caller identified himself as Mr. Falcone and provided appropriate account number and said that he wanted to check on the liquidation of the bond position in the account. Mr. Mihal noted that the caller's voice was different from that of Mr. Falcone's from the conversation he had with Mr. Falcone an hour earlier. Mr. Mihal reminded the caller that

they had an earlier conversation that day. The caller seemed surprised and reported that he had memory loss due to alcoholism and asked Mr. Mihal to explain what was previously discussed. Mr. Mihal informed the caller that he did not believe he was the real Mr. Falcone and that he (Mr. Mihal) had reason to believe the caller was an insurance agent that acquired Mr. Falcone's personal information and was using the information inappropriately to gain access to Mr. Falcone's account. The caller immediately terminated the call. (Exhibits 6 & 15)

Mr. Mihal called Mr. Falcone to report the call he had received. Mr. Falcone stated that in the past 5 minutes the insurance agent he met with on January 15, 2009 had tried to call him on his home and cell phones. Mr. Falcone let both calls go to voicemail. Mr. Falcone advised Mr. Mihal that the agent he met with on January 15, 2009, was Agent Henderson. (Exhibits 6, 11 & 15)

Ms. Kruessel phoned Agent Henderson. Henderson denied knowing or ever hearing of a Mr. Falcone. Ms. Kruessel asked Agent Henderson if he had an appointment book that would reflect an appointment with Mr. Falcone. Agent Henderson said he did not have one. (Exhibits 1A & 3)

Ms. Kruessel spoke with Chris Maske, AVIVA fraud investigator. Mr. Maske confirmed that Mr. Falcone had an application pending. Mr. Maske confirmed that the agent who sent in the application to AVIVA was Agent Henderson. (Exhibits 1A & 3)

Ms. Kruessel called Agent Henderson a second time. Agent Henderson continued to deny doing business with Mr. Falcone. Ms. Kruessel told Agent Henderson that she had information showing that he submitted a policy on Mr. Falcone to AVIVA, but Agent Henderson continued to deny knowing Mr. Falcone. Ms. Kruessel gave Agent Henderson a brief review of Mr. Falcone's statements to GAA, but Agent Henderson continued to deny everything. Agent Henderson expressed displeasure with the fact that Ms. Kruessel was continuing to call him about the matter. Ms. Kruessel told him she had a duty and obligation to follow up on the complaint, and that she was going to have to refer it to the OIC. Agent Henderson asked for which state, and when she told him it would be Washington, Ms. Kruessel advised that Agent Henderson immediately became "deceptively cooperative". Agent Henderson volunteered to check his appointment book to see if he could find anything. After checking his appointment book he said that he had an entry for Mr. Falcone. Ms. Kruessel advised that Agent Henderson gave her Mr. Falcone's address and then "suddenly" remembered exact specifics about Mr. Falcone. Agent Henderson alleged that Mr. Falcone was a "raging alcoholic" for many years and cannot remember things. Agent Henderson also alleged that Mr. Falcone suffered from blackouts. (Exhibits 1, 3 & 8A)

Agent Henderson advised the OIC by letter, that he finds it disrespectful and unprofessional for the folks at GAA to call him out of the blue, twice, (February 24, 2009, April 17<sup>th</sup>, 2009) with no warning, explanation, or announcement of their credentials, and ask him to offer details about a client meeting he had had. Only after they mentioned a reference to the Department of Insurance, the client name, and introduce themselves from GAA did he feel comfortable that they had the credentials, to allow him to release information about his meeting with Mr. Falcone.

Agent Henderson advised that he showed Mr. Falcone a fixed indexed annuity through AVIVA. He liked the idea and after Agent Henderson explained the features and benefits to him several times, he was all on board.

They filled out the necessary paperwork and Mr. Falcone signed and dated everything. He also gave Agent Henderson a copy of his driver's license and a copy of his brokerage statement. It was a long, frustrating appointment, from Agent Henderson's point of view, because Mr. Falcone wanted to contest specific facts that were true. He wanted to contest the value of his account: where it was and what its current value was. He wanted to contest the levels of the stock market indexes currently and where they were 12 & 18 months earlier. He wanted to contest what investment he had within his own portfolio. All of these facts were on his brokerage statement or attained through the local newspaper.

Agent Henderson advised that on January 26, 2009, he called GAA and identified himself as calling on behalf of Mr. Falcone and gave all the pertinent information (social security #, birth date, etc.) in order to see how the transfer was moving forward. He had not spoken with Mr. Falcone since the day of their meeting and signing of the documents, so when the gentleman from GAA told him that the transfer had been cancelled, he got frustrated and upset and hung up the phone. Agent Henderson advises that he immediately called Mr. Falcone to see what was going on, but he did not answer.

Agent Henderson advised that because he never heard from Mr. Falcone again, he closed the file and disposed of all the paper documentation. (Exhibit 9)

Investigator Overholt sent a letter to Agent Henderson explaining the OIC's wish to get a clearer and more accurate picture of his activities, pursuant to the allegations filed against him and asked Agent Henderson to answer "yes" or "no" to twenty nine (29) specific questions. (Exhibit 12)

Agent Henderson returned the letter that investigation Overholt had sent him with answers to the 29 questions. Agent Henderson states: (1) I never represented myself as Richard Falcone, (2) I did not call the GAA Trade Desk on January 16, 2009, (3) I did call the GAA Trade Desk on

January 26, 2009, (4) I did not represent myself as Richard Falcone, I said I was calling "on behalf" of Richard Falcone, and (5) I did hang up on Mr. Mihal, but only out of frustration because Mr. Falcone had cancelled the transactions. (Exhibit 13)

Agent Henderson also responded by answering "I don't recall" or "not that I know" to 17 of the questions. (Exhibit 13)

AVIVA advised the OIC that Agent Henderson's appointment with AVIVA, and its subsidiaries, was terminated on October 1, 2009. AVIVA enclosed a copy of their termination letter to Agent Henderson, dated October 1, 2009. In addition, they reported Agent Henderson to the NAIC Fraud Department. (Exhibits 14, 14A & 14B)

On November 2, 2009, Alli Kruesel sent a recording of Agent Henderson's January 26, 2009 conversation with Mr. Mihal. The recording indicates Mr. Mihal identified himself as Great American Advisor, Shawn Mihal. Agent Henderson asked for Nick. Mr. Mihal advised that Nick was not available and asked who was calling. Agent Henderson states; "yeah, this is "Dick Falcone". And I was transferring my account ah out of Great American Advisors, and I have a bond in my portfolio and I just wanted to know if it had been liquidated at this point and time? My account number is 4GG008940." Mr. Mihal advised, "Okay. Um Dick we had a conversation this morning." Agent Henderson responded "Who did?" Mr. Mihal responded; "You and I". Agent Henderson continues, "Wow. Okay. I, I'm sorry I, I was an alcoholic for many years and I have these bouts of not remembering, so I apologize. What did we talk about?" Mr. Mihal responded, "Um, well first off I, I want to address this in a professional manner with you, but I don't believe you are Dick Falcone. I believe that ah I'm probably speaking to an insurance agent that may have obtained Dick's information and is using that to gain access to his account here." At which point, Agent Henderson stated "Wow" and hung up the phone. (Exhibit 17, 17A & 17B)

# EXHIBIT 26

**GREGG HENDERSON MATTER NO 12-0067 / 1029495**

DEMAND FOR HEARING BY GREGG HENDERSON

FILED

27 MAR  
2012 MAR 28 P 12:57

STATE OF WASHINGTON  
OFFICE OF INSURANCE COMMISSIONER

Hearings and DIC  
Patricia D. Peterson  
Chief Hearing Officer

In the Matter of

Gregg A. Henderson,

Licensee.

NO. 12-0067  
WAOIC 193414

DEMAND FOR HEARING

With respect to the March 12, 2012, order revoking license with stated effective date of March 30, 2012, Gregg Henderson does hereby demand a hearing. This order should be changed for the reasons briefly stated below:

In approximately late 2008 and/or early 2009 I met with Mr. Falcone of Kirkland Washington about the possibility of selling his securities positions with Great American securities and using the funds to purchase a Great American fixed indexed annuity product. Thus, the funds would stay within the Great American organization but would be transferred from the securities division of Great American to its life insurance division. My contact software notes state: Responded to ARM mailer, recovering alcoholic, has memory lapses, He worked on the waterfront for yrs. Was at Ed Jones, moved \$\$ to Great American Advisors, lost 100k in MF. Put paperwork in motion to transfer, he called G.A. & cancelled. Couldn't give reason except he didn't remember doing it!

Mr. Falcone signed paperwork to effectuate the above. I called Great American advisors, the securities division of the Great American companies, and spoke with a representative there. I do not recall the name of the representative. The call took place shortly after Mr. Falcone signed all appropriate paperwork to make the transfer, which was within a few days of our meeting. I do recall that Mr. Falcone ultimately changed his mind and did not go forward with the transaction he instructed me to carry out.

At no time did I impersonate the client to any representative of Great American Advisors. I did not do that and I do not do that ever. I respectfully suggest that if any Great American advisor believes I impersonated my client, their recollection/interpretation of the conversation is simply not correct. I fully understand the importance of not impersonating anyone.

Some months later a Great American person called me about these events which had not resulted in any transaction taking place. I was surprised, and caught off guard by the call and did not initially recall the events. While the call was ongoing I checked my calendar and found the name of the client and did later state to the caller that I did recall these contacts. It is my recollection that I denied ever impersonating anyone. I was however somewhat surprised and taken aback at this call, long after the fact, accusing me of something I did not do.

Many months later an OIC investigator called me. This call also was surprising to me as I had no expectation of receiving such a call. I do not believe I said anything which was false or misleading to either the OIC investigator or the GAA person who called (as is mentioned in the above paragraph) several months after the initial events regarding the potential client, Mr. Falcone.

Dated this 27 day of March, 2012.

  
\_\_\_\_\_  
Gregg Henderson