

MICHAEL A. KAKUK
 Office of the Montana State Auditor,
 Commissioner of Securities and Insurance (CSI)
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Attorney for the CSI

**BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
 OFFICE OF THE MONTANA STATE AUDITOR**

IN THE MATTER OF:)	
)	
)	CASE NO. SEC-2013-260
CETERA INVESTMENT SERVICES LLC, a)	
Montana licensed broker-dealer; and DUANE)	
R. BJELLAND, individually and in his capacity)	CONSENT AGREEMENT AND
as a salesperson for Cetera Investment Services)	FINAL ORDER
LLC,)	
)	
Respondents.)	

This Consent Agreement and Final Order (Agreement) is entered into by the Office of the Montana State Auditor, Commissioner of Securities and Insurance (CSI), acting pursuant to the authority of the Securities Act of Montana, Mont. Code Ann. § 30-10-101 et seq. (Act), and Cetera Investment Services LLC (Cetera), and Duane R. Bjelland (Bjelland) (collectively Respondents).

RECITALS

WHEREAS, Cetera is a broker-dealer registered to sell securities in the State of Montana;

WHEREAS, between 2010 and 2014, Bjelland was a securities salesperson affiliated with Cetera, registered in the State of Montana, and sold or supervised the sale of annuities;

In re: Cetera Investment Services, LLC, et al.

CONSENT AGREEMENT AND FINAL ORDER

WHEREAS, this Agreement reflects the CSI's undertaking on behalf of the Montana residents, identified in Exhibit A, all current or former Cetera customers and to whom Bjelland sold or supervised the sale of annuities;

WHEREAS, the CSI alleges that Bjelland recommended or approved the sale of annuities to Montanans that were not suitable, in violation of MCA § 30-10-201(13) and Admin. Rule Mont. 6.10.401(c);

WHEREAS, the CSI alleges that Cetera failed to reasonably supervise Bjelland and the selected annuity transactions, as required by § 30-10-201(13)(k); and

WHEREAS, the CSI and Respondents agree that the best interests of the public would be best served by entering into this Agreement.

NOW, THEREFORE, in consideration of the following mutual undertakings, the CSI and Respondents enter into the following:

STIPULATIONS AND CONSENTS

- I. Respondents stipulate and agree to the following provisions.
 - A. Respondents neither admit nor deny the allegations in the Recitals, above.
 - B. Cetera shall provide an offer of rescission on the annuities sold to the Montanans listed in Exhibit A, the contents of which are redacted for the public record. Those investors who accept the offer must surrender their variable annuity and sign a release, and afterwards shall receive from Cetera the difference between the surrender value and the sum of their initial investment, plus 6.5% interest compounded annually, less any withdrawals. The rescission offer shall be sent by mail by the CSI, in a form mutually agreeable to the CSI and Cetera. Each investor shall have 45 calendar days from the postage date to accept the rescission offer and return the release and the annuity surrender form. For each investor who accepts the offer and is

owed additional funds from Cetera per the calculation above, Cetera shall have 30 calendar days from receipt of complete acceptance paperwork and notification of surrender of the annuity to tender payment or make a credit, as follows:

1. If an investor accepts the rescission offer for an annuity not held in a qualified plan, Cetera shall ensure the issuance of a check directly to the investor.
2. If an investor accepts a rescission offer for an annuity held in a qualified plan, Cetera shall work with the investor to ensure that the amount of the rescission gets deposited into a qualified plan.
3. Proof of all rescission payments shall also be provided to the CSI, care of Mark Murray, mmurray@mt.gov.

C. Cetera agrees to pay the CSI's investigative costs. These costs shall be paid within 14 calendar days of the completion of the investigation and shall not exceed \$45,000. These costs shall be paid in the form of a check made payable to the Office of the Montana State Auditor, and mailed to:

Darla Sautter
State Auditor's Office
840 Helena Ave.
Helena, MT 59601

D. Cetera agrees to make a voluntary contribution to the Montana Securities Restitution Assistance Fund in the amount of \$50,000.00. This contribution shall be paid within 14 calendar days of effective date of this Agreement, in the form of a check made payable to the Office of the Montana State Auditor, and mailed to:

Darla Sautter
State Auditor's Office
840 Helena Ave.

Helena, MT 59601

E. Bjelland agrees to provide a copy of this Agreement to the securities regulator as part of any future application to obtain a license in the securities industry.

F. Respondents fully and forever release and discharge the Commissioner of Securities and Insurance, Montana State Auditor (Commissioner), the CSI, and all of the CSI's employees and agents from any and all actions, claims, causes of action, demands, or expenses for damages or injuries, whether asserted or unasserted, known or unknown, foreseen or unforeseen, arising out of this Agreement.

G. Respondents specifically and affirmatively waive their right to a contested case hearing and all rights to appeal under the Montana Administrative Procedure Act, Mont. Code Ann. § 2-4-101 et seq., and elect to resolve this matter with this Agreement.

H. Respondents acknowledge that they were advised of the right to be represented by legal counsel and if represented by legal counsel, that such legal representation was satisfactory.

I. Respondents acknowledge that they enter into this Agreement voluntarily and without reservation.

II. All parties to this Agreement stipulate and consent to the following provisions.

A. The Commissioner and the CSI have jurisdiction over the subject matter of this case and this Agreement.

B. This Agreement is entered without adjudication of any issue, law, or fact. This Agreement covers the factual allegations addressed above. It is entered into solely for the purpose of resolving the CSI's allegations and is not intended to be used for any other purpose. For any person or entity not a party to this Agreement, this Agreement does not limit or create

any private rights or remedies against Respondents, limit or create liability of Respondents, or limit or create defenses of Respondents to any claims.

C. The applicable statute of limitations is tolled for two years from the date of execution of this Agreement with regard to the allegations in the Recitals. In the event either Respondent violates the terms of this Agreement at any time before the applicable statute of limitations has run, the CSI reserves the right to seek any additional administrative penalties or further regulatory action, as the law allows.

D. The CSI warrants and represents that, so long as Respondents comply with the terms of this Agreement, the CSI will not bring any further action against Respondents arising from the facts known to the CSI as of the date of this Agreement relating to the Recitals.

E. This Agreement constitutes the entire agreement between the parties and no other promises or agreements, either express or implied, have been made by the CSI or by any member, officer, agent, or representative of the CSI to induce Respondents to enter into this Agreement.

F. This Agreement may not be modified orally, and any subsequent modifications to this Agreement must be mutually agreed upon in writing, with the same formality as this Agreement, to be effective.

G. This Agreement shall be incorporated into and made a part of the attached Final Order issued by the Commissioner.

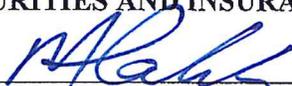
H. This Agreement may be executed in counterpart originals, each of which shall be deemed to be an original by all parties signatory to the counterpart.

I. This Agreement shall be effective upon signing of the Final Order.

J. The Agreement is a public record under Montana law and, as such, may not be sealed or otherwise withheld from the public.

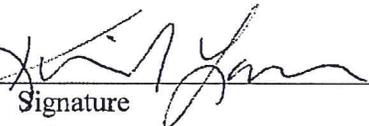
DATED this 31st day of October, 2016

**OFFICE OF THE MONTANA STATE
AUDITOR, COMMISSIONER OF
SECURITIES AND INSURANCE**

By: 
MICHAEL A. KAKUK
Attorney for the CSI

DATED this 28 day of October, 2016

**CETERA INVESTMENT SERVICES
LLC**

By: 
Signature
Kevin J. Larson
Printed Name
CCO/VP
Title

DATED this _____ day of October, 2016

DUANE R. BJELLAND

J. The Agreement is a public record under Montana law and, as such, may not be sealed or otherwise withheld from the public.

DATED this _____ day of October, 2016

**OFFICE OF THE MONTANA STATE
AUDITOR, COMMISSIONER OF
SECURITIES AND INSURANCE**

By: _____
MICHAEL A. KAKUK
Attorney for the CSI

DATED this _____ day of October, 2016

**CETERA INVESTMENT SERVICES
LLC**

By: _____
Signature

Printed Name

Title

DATED this 28TH day of October, 2016



DUANE R. BJELLAND

FINAL ORDER

Pursuant to the authority vested by Mont. Code Ann. § 2-4-603 and §§ 30-10-101 et seq., and upon review of the foregoing Consent Agreement and good cause appearing,

IT IS HEREBY ORDERED that the foregoing Consent Agreement between the CSI and Respondents Cetera Investment Services, LLC, and Duane R. Bjelland is adopted as if set forth fully herein.

DATED this 31st day of October, 2016.

MONICA J. LINDEEN
Commissioner of Securities and Insurance
Office of the Montana State Auditor



LYNNE EGAN
Deputy Securities Commissioner

