

**BEFORE ALLAN L. MCVEY, INSURANCE COMMISSIONER
OF THE STATE OF WEST VIRGINIA**

PAULETTE GRAHAM
Complainant,

v.

Administrative Proceeding No. 21-IC-02031

RANDY YOUNG,
Agent for Western & Southern Life Assurance Company AND
WESTERN & SOUTHERN LIFE ASSURANCE COMPANY
Respondents.

ORDER VACATING NOVEMBER 1, 2022, FINAL ORDER

On May 15, 2023, came the Complainant, Paulette Graham, by counsel Dennis V. Garrison, III, Esq., Director of the Office of the Consumer Advocate, and James S. Nelson, Esq. Chief Counsel of the Office of the Consumer Advocate; Respondent, Randy Young, by counsel Charles R. Bailey, Esq., and Josef A. Horter, Esq., of Bailey and Wyant, PLLC; and Respondent, Western-Southern Life Assurance Company a/k/a Western & Southern Life Assurance Company, by counsel Joseph M. Ward, Esq., and Mary Claire Davis, Esq, of Frost, Brown, Todd, LLP, and notified the Insurance Commissioner of the State of West Virginia that the claims and defenses between the parties had been settled. The parties jointly moved the Insurance Commissioner to vacate his Final Order entered on November 1, 2022.

In January of 2020, the Complainant filed a complaint with the Insurance Commissioner against the Respondents. The Insurance Commissioner scheduled and held a hearing on the complaint on April 6, 2022, before his Hearing Examiner Mark W. Carbone. The Hearing Examiner issued a recommended decision, finding that the Respondent Western & Southern Life Assurance Company violated W.Va. Code R. §§ 114-8-4.2.a, 114-8-4.2.b, and 114-14-5.3. The Hearing Examiner also found that Respondent Randy Young violated W.Va. Code R. §§ 114-8-4.2.a, and 114-8-4.2.b. The Insurance Commissioner approved the Hearing Examiner's decision and adopted the findings by his Final Order, entered on November 1, 2022. The Insurance Commissioner fined Western & Southern Life Assurance Company Five-Thousand Dollars

(\$5,000.00) and ordered a market conduct examination of the company. Respondent Randy Young was fined One-Thousand Dollars (\$1,000.00) for the violations.

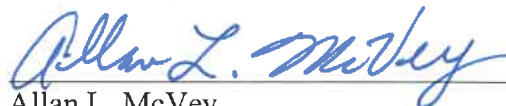
In December of 2022, the Respondents appealed the Insurance Commissioner's Final Order to the West Virginia Intermediate Court of Appeals. Respondents timely filed their petitions for appeal in compliance with the Intermediate Court's scheduling order. Further, the Complainant and the Insurance Commissioner filed responses to the appeal.

Prior to Respondents' deadline to file a reply in the appeal, the parties filed this joint motion to vacate the Insurance Commissioner's November 1, 2022, order. The parties assert that they entered into a settlement agreement on May 10, 2023. The Complainant asserts in the motion that she will be made whole by the agreement. In exchange, the Complainant agreed to the withdrawal of her consumer complaint.

In light of the parties' settlement agreement and the fact that the Complainant has been made whole and desires to withdraw her complaint; and upon the consideration of the issues on appeal, the Insurance Commissioner finds the parties' agreed joint motion to be well taken and grants the same.

Upon the motion of the parties, the Insurance Commissioner hereby VACATES his Final Order entered in this case on November 1, 2022.

Entered this 19th day of May, 2023.



Allan L. McVey
CPCU, ARM, AAI, AAM, AIS
Insurance Commissioner