COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE SECRETARY OF THE COMMONWEALTH
SECURITIES DIVISION
ONE ASHBURTON PLACE, ROOM 1701
BOSTON, MASSACHUSETTS 02108

IN THE MATTER OF:

LPL Financial LLC

RESPONDENT.

Docket No. 2015-0033

CONSENT ORDER

I. INTRODUCTION

This Consent Order ("Order") is entered into by the Massachusetts Securities Division ("Division") and Respondent, LPL Financial LLC, ("Respondent" or "LPL") with respect to the Division's investigation into LPL's use of "senior designations" by its broker-dealer agents and investment adviser representatives in violation of MASS. GEN. LAWS ch. 110A, the Massachusetts Uniform Securities Act (the "Act"), and the corresponding regulations promulgated thereunder at 950 MASS. CODE REGS. 10.00 et seq. (the "Regulations").

On July 10, 2015, LPL submitted an Offer of Settlement ("Offer") to the Division. Respondent admits the Statement of Facts set forth in Section VI and neither admits nor denies the Violations of Law set forth in Section VII below, and consent solely for the purpose of these proceedings to the entry of this Order by the Division consistent with the language and terms of the Offer, settling the claims brought thereby with prejudice.

II. JURISDICTION AND AUTHORITY

1. As provided for by the Act, the Division has jurisdiction over matters relating to securities pursuant to chapter 110A of Massachusetts General Laws.
2. The RICE Section brings this action pursuant to the authority conferred upon the Division by Section 407A, 204 and 414 of the Act, wherein the Division has the authority to conduct an adjudicatory proceeding to enforce the provisions of the Act and the Regulations.

3. The Offer is made in accordance with Mass. Gen. Laws ch. 110A. Specifically, the acts and practices investigated took place in Massachusetts and were directed toward Massachusetts residents.

III. RELEVANT TIME PERIOD

4. Except as otherwise expressly stated, the conduct described herein occurred during the approximate time period of June 1, 2007 to present (the “Relevant Time Period”).

IV. RESPONDENT

5. LPL Financial LLC (“LPL”) is a broker-dealer and investment adviser with its main address at 75 State Street, 24th Floor, Boston, Massachusetts 02109. LPL has a Financial Industry Regulatory Authority (“FINRA”) Central Registration Depository (“CRD”) number of 6413. LPL has been registered with Massachusetts as a broker-dealer since July 31, 1981 and has been notice filed as an investment adviser in Massachusetts since April 14, 1994.

V. OTHER RELEVANT ENTITY AND INDIVIDUAL

6. State Registered Investment Adviser (“IA Firm”) is an investment adviser with its principal office and place of business located in Massachusetts. IA Firm has been registered as an investment adviser with Massachusetts.

7. Investment Adviser Representative (“IAR”) is a resident in the state of Massachusetts. IAR has been registered as an investment adviser representative of IA Firm in Massachusetts since August 19, 2013. IAR has been a registered representative with LPL.
VI. STATEMENT OF FACTS

A. Overview

8. On June 1, 2007, regulations at 950 MASS. CODE REGS. 12.204(2)(i) and 12.205(9)(c)(15) became effective, prohibiting broker-dealer agents and investment adviser representatives respectively, from “[u]sing purported credential or professional designation that indicates or implies that an [agent or adviser] has special certification or training in advising or servicing senior citizens unless such credential or professional designation has been accredited by an accredited organization recognized by the Secretary by rule or order.” (“Senior Designations Regulations”).

9. Pursuant to the Senior Designations Regulations, use of senior-specific credentials and designations which improperly suggest or imply certification or training beyond that which the titleholder possesses is prohibited.

10. Since June 1, 2007, LPL did not establish, maintain, nor enforce a procedure to review senior-specific titles for compliance with the Senior Designations Regulations in the Commonwealth. This gap in the Firm’s procedures with respect to the use of senior-specific titles in the Commonwealth was discovered through the RICE Section’s books and records examination program.

1. Books and Records Examination of IA Firm

11. On December 9, 2014, attorneys from the Division on behalf of the RICE Section conducted a books and records examination of IA Firm at its principal place of business in Massachusetts.

12. IA Firm’s owner and investment adviser representative, IAR, was also a registered representative of LPL.
13. As part of its books and records examination, the RICE Section reviewed IA Firm’s stationary and IAR’s business card.

14. IAR’s business card, approved three times for use by LPL, stated “A Registered Investment Advisor”, “Proactive Wealth Advisor”, and “Retirement Income Planning Specialist”.

15. Subsequent to the RICE Section’s examination of IA Firm, the RICE Section made inquiries to LPL to determine the process of how IAR was allowed to utilize “Retirement Income Planning Specialist” designation. In response to this inquiry, LPL acknowledged that the title did not comply with the Senior Designations Regulations because of the combination of words used. LPL also indicated that it would be “taking the necessary steps to remediate this matter and will update the Firm’s policies and procedures to comply with the Massachusetts General Laws regarding the use of credentials or professional designations.”

2. RICE Section Inquiry/Investigation

16. Based on the above violation of the Massachusetts Senior Designation Regulations, the RICE Section requested additional information on how LPL tracks the titles and designations used by its agents and representatives.

17. In response to the RICE Section’s inquiry, LPL stated that it approves of titles and/or designations as part of its review of marketing materials.

18. At the time IAR’s title was approved, LPL’s Marketing Regulatory Review group within the LPL Marketing Department was solely responsible for the review of and compliance with the Senior Designations Regulations.

19. Rice was informed during its investigation that:
LPL does not track titles used by its advisors. However, in an effort to respond to this request, LPL conducted a review of all stationary materials submitted by the identified IARs during the relevant time period.

3. **LPL's Review of Senior Credentials**

20. LPL's policies and procedures implemented in June of 2007 and in effect at the time of allowing the use of IAR’s “Retirement Income Planning Specialist” title stated:

   Effective June 1, 2007, purported credentials or professional designations indicating that an LPL Financial advisor has a special certification or training in advising or servicing senior investors may not be used unless the credential or designation has been recognized by the secretary. The use of words such as “senior,” “retirement,” “elder,” or like words combined with words such as “certified,” “chartered,” “advisor,” “specialist,” or like words cannot be used. See Advisor Alert 2007-09 for more information.

21. LPL issued an Advisor Alert 2007-09 titled “RE: Commonwealth of Massachusetts Issues New Regulations on Providing Advice to Seniors” to all LPL investment adviser representatives and broker-dealer agents on September 12, 2007. The Advisor Alert indicated that it was “a follow up to an email sent to advisors registered in Massachusetts on July 5, 2007 in regards to these changes.”

22. As a result of the RICE Section’s inquiries to LPL regarding its policies and procedures, LPL indicated that it:

   [I]dentified a gap in its current procedures with respect to [Senior Designation regulations]. Specifically, [LPL] determined that it is currently reviewing designations of representatives to determine compliance with [Senior Designation regulation], but not titles of representatives. The Firm is currently taking steps to address this issue. In particular, the Firm is in the process of updating its policies to ensure that titles are reviewed for compliance...

   ...

   In addition, the Firm is currently conducting a look-back review of approved titles of representatives currently registered in Massachusetts.
23. In the course of its look back review, LPL disclosed to the Division at least 10 designations which were either in violation of the regulation or “might raise concern for the Division.

24. As a result of its internal review, on April 17, 2015 LPL issued a compliance alert which stated in part:

   Effective immediately, when reviewing materials for advisors registered in Massachusetts, Marketing Regulatory Review will no longer approve titles that combine the use of words such as “senior,” “retirement,” “elder,” etc., with words such as “certified,” “chartered,” “advisor,” “specialist,” or similar words where the context is indicative of special certification or training in working with senior investors.

25. Based on the foregoing, LPL failed to properly implement and enforce a procedure designed to adhere to the Senior Designations Regulations regarding senior-specific titles since its adoption on June 1, 2007. Clearly, LPL did not have procedures in place to monitor the use of titles used by their agents and representatives to prevent the suggestion or implication that the titleholder possesses some special training in connection with seniors.

VII. VIOLATIONS OF LAW

A. Violations of MASS. GEN. LAWS ch. 110A, § 204(a)(2)(J)

26. Section 204(a)(2)(J) of the Act provides:

   The secretary may by order impose an administrative fine or censure or deny, suspend, or revoke any registration or take any other appropriate action if he finds (1) that the order is in the public interest and (2) that the applicant or registrant or, in the case of a broker-dealer or investment adviser, any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the broker-dealer or investment adviser:

   ... (J) has failed reasonably to supervise agents, investment adviser representatives or other employees to assure compliance with this chapter.

   MASS. GEN. LAWS ch. 110A, § 204(a)(2)(J).
27. The RICE Section realleges and incorporates the allegations of paragraphs 1 through 25 above.


VIII. ORDER

LPL consents to the entry of this Order,

IT IS HEREBY ORDERED:

Respondent LPL, in full settlement of these matters, admits the Statement of Facts set forth in Section VI above and neither admits nor denies the Violations of Law set forth in Section VII above, and makes the following representations, and agrees to the undertakings herein as part of the Order:

A. Respondent shall be censured by the Division;

B. Respondent shall permanently cease and desist from violations of Section 204 of the Act;

C. Respondent shall, within 15 days of the signed Order, review its written supervisory policies and procedures with respect to items 1-2 below. To the extent written supervisory policies and procedures do not exist with respect to items 1-2 below, Respondent must establish such procedures. All written policies and procedures with respect to items 1-2 below must include methods for enforcement and compliance oversight:

1. 950 MASS. CODE REGS. 12.204(2)(i)

2. 950 MASS. CODE REGS. 12.205(9)(c)(15)

Respondent shall, within 45 days of the signed Order, provide a report of its conclusions and recommendations with respect to items 1 and 2 above to the Massachusetts Securities
Division. Respondent shall, within 60 days of the signed Order, provide certification to the Massachusetts Securities Division that changes and/or enhancements to its policies and procedures have been implemented.

D. Within five (5) business days of the entry of this Order, Respondent LPL agrees to pay a fine in the amount of $250,000 to the Commonwealth of Massachusetts. Payment shall be: (1) made by United States postal money order, certified check, bank cashier’s check, bank money order, or wire transfer; (2) made payable to the Commonwealth of Massachusetts; and (3) either hand-delivered or mailed to One Ashburton Place, Room 1701, Boston, Massachusetts 02108, or wired per Division instructions; and (4) submitted under cover letter or other documentation that identifies Respondent making the payment and the docket number of the proceedings. Additionally, Respondent shall provide the Division with notice twenty-four (24) hours prior to the payment;

E. Respondent shall not claim, assert, or apply for a tax deduction or tax credit with regard to any state, federal or local tax for any amounts that Respondent shall pay pursuant to the Division’s Order;

F. Respondent shall not seek or accept, directly or indirectly, reimbursement or indemnification, including, but not limited to, any payments made pursuant to any insurance policy, with regard to any amount that Respondent shall pay pursuant to the Division’s Consent Order;

G. Respondent agrees that, upon the issuance of an Order by the Division that contains the terms as set forth above, if they fail to comply with any of the terms set forth in the Order, the Enforcement Section may institute an action to have this agreement declared null and void. Upon issuance of an appropriate order and after a fair hearing, the
Enforcement Section may re-institute an action against Respondent.

H. The Order entered waives any disqualification in the Massachusetts laws, or rules or regulations hereunder, including any disqualifications from relying upon the registration exemptions or safe harbor provisions to which LPL or any of its affiliates may be subject. This Order is not intended to form the basis of any disqualifications under Section 3(a)(39) of the Securities Exchange Act of 1934 or Rule 506 of the Regulation D under the Securities Act of 1933. This Order is not intended to form the basis of disqualification under the FINRA rules prohibiting continuance in membership absent the filing of a MC-400A application or disqualification under the SRO rules prohibiting continuance in membership. The Order entered pursuant to this Offer is not intended to form a basis of a disqualification under Section 204(a)(2) of the Uniform Securities Act of 1956 or Section 412(d) of the Uniform Securities Act of 2002.

WILLIAM FRANCIS GALVIN
SECRETARY OF THE COMMONWEALTH

By: Bryan J. Lantagne, Esq.
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Director-Massachusetts Securities Division
Massachusetts Securities Division
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Dated: July ____, 2015