

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 1169

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 6-20-85
DATE FOR REVIEW 6-29-85
DATE DUE 7-3-85

Adopted w/a hearing _____
Adopted w/o hearing ✓
Temporary rule _____

Approved 7-3-85 Disapproved _____ Returned to Agency _____

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State 7-5-85 Revisor approved 6/~~28~~/85
disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 5.20.85, Date

✓ Notice of Intent to Solicit Outside Opinion + comments

✓ Order for rulemaking
N/A date of Hearing

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking minor deviation – no "encouragement"
✓ Sufficiency
✓ Supplementary Notice with Small Biz statement

✓ Affidavit of Mailing Notice or rulemaking
2.7.85 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
1.21.85 At least 30/~~20~~ days prior to ~~hearing~~/adoption
2.11.85 Supplementary Notice

N/A Hearing Examiner's Report

Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

✓ Agency's Findings of Fact

N/A LCRAR Report or agency Affidavit

Certificate of Board's Resolution Adopting Rules

Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness contains small biz statement.

N/A Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

✓ Affidavit of Mailing Notice of Submission to Attorney General

N/A Notice of Submission to the Attorney General

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO: JUDITH V. WEHRWEIN
Legal Assistant
Attorney General's Office

DATE: 06/17/85

FROM: GREGORY P. HUWE
Special Assistant
Attorney General

PHONE: 6-9418

SUBJECT: FINANCIAL PLANNER RULES

Enclosed herewith and submitted for your review pursuant to Minn. Stat. § 14.26 (1984), are the rules of the Minnesota Department of Commerce governing financial planners and supporting documents as required by Minn. Rules pt. 2000.0400 (1983).

Please contact me if you have any questions.

GPH:ddj

Enc.

RECEIVED
JUN 20 1985
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT Commerce

Office Memorandum

TO: Greg Howe
Special Assistant Attorney General

DATE: 6/10/85

FROM: Richard G. Gomsrud
Department Counsel

PHONE: 6-5689

RECEIVED
JUN 20 1985
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

SUBJECT: Financial Planner Rule

Enclosed are copies of the following materials regarding the above captioned rules (only those items with a circled number are enclosed):

1. Order for Notice of Intent to Solicit Outside Opinion (2000.0400 subpart 1 C) ?
2. Notice of Intent to Solicit Outside Opinion (2000.0400 subpart 1 B)
3. Written material received as a result of Notice to Solicit Outside Opinion (2000.0400 subpart 1 B)
4. Mailing List Certificate (2000.0400 subpart 1 E)
5. Statement of Need & Reasonableness (2000.0400 subpart 1 G)
6. Order for Notice of Intent to Adopt Rule Without Public Hearing (2000.0400 subpart 1 C)
7. Notice of Intent to Adopt Rule Without Public Hearing (2000.0400 subpart 2)
8. Affidavit of Mailing Notice of Intent to Adopt Rule Without Public Hearing (2000.0400 subpart 3)
9. Copy of Rule as Proposed (2000.0400 subpart 4)
10. Written Comments on Rule (2000.0400 subpart 1 I)
11. Findings of Fact (if applicable) (2000.0400 subpart 1 F)
12. Affidavit of Mailing Notice of Submission to Attorney General (2000.0400 subpart 1 K); or
13. Affidavit that no request for Notice of Submission to Attorney General were received

14. Original and three copies of Rule as adopted (2000.0400 subpart 5)

15. Two copies of the Order Adopting Rule (2000.0400 subpart 6)

16. Certificate of Compliance With Rulemaking Procedure (2000.0400 subpart 1 J).

17. Notice Concerning Small Business Impact

AG copy.

Department of Commerce

Adopted Rules Relating to Financial Planners

Rules as Adopted

2800.0100 DEFINITIONS.

Subpart 1. to 13. [Unchanged.]

Subp. 14. **Business of financial planning.** "Business of financial planning" means providing, or offering to provide, financial planning services or financial counseling or advice, on a group or individual basis. A person who, on advertisements, cards, signs, circulars, letterheads, or in any other manner, indicates that he or she is a "financial planner," "financial counselor," financial advisor," "investment counselor," "estate planner," "investment advisor," "financial consultant," or any other similar designation or title or combination thereof, is considered to be representing himself or herself to be engaged in the business of financial planning.

2800.4600 FRAUDULENT, DECEPTIVE, AND DISHONEST PRACTICES.

Subpart 1. **Prohibitions.** For the purposes of Minnesota Statutes, section 82.27, subdivision 1, clause (b), the following acts and practices constitute fraudulent, deceptive, or dishonest practices:

A. to P. [Unchanged.]

Q. represent on advertisements, cards, signs, circulars, letterheads, or in any other manner, that he or she is engaged in the business of financial planning unless he or she provides a disclosure document to the client. The document must be signed by the client, and a copy must be left with the client. The disclosure document must contain the following:

(1) the basis of fees, commissions, or other compensation received by him or her in connection with rendering of financial planning services or financial counseling or advice in the following language:

FF.

"My compensation ~~will~~ may be based on the following:

APPROVED BY THE REVISOR OF STATUTES OFFICE BY:

(a) ... commissions generated from the products I sell you,

(b) ... fees, or

(c) ... a combination of (a) and (b). [Comments]";

(2) the name and address of any company or firm that supplies the financial services or products offered or sold by him or her in the following language:

"I am authorized to offer or sell products and/or services issued by or through the following firm(s):

[List]

The products will be traded, distributed, or placed through the clearing/trading firm(s) of:

[List]";

(3) the license(s) held by the person under Minnesota Statutes, chapter 60A, 80A, or 82 in the following language:

"I am licensed in Minnesota as a(n):

(a) ... insurance agent

(b) ... securities agent or broker/dealer

(c) ... real estate broker or salesperson

(d) ... investment adviser"; and

(4) the specific identity of any financial products or services (by category, for example mutual funds, stocks, or limited partnerships) the person is authorized to offer or sell in the following language:

"The license(s) entitles me to offer and sell the following products and/or services:

(a) ... securities, specifically the following: [List]

(b) ... real property

(c) ... insurance

(d) ... other: [List]."

Subp. 2. and 3. [Unchanged.]

2790.0550 REGULATION OF BUSINESS OF FINANCIAL PLANNING.

Subpart 1. **Definition.** "Business of financial planning" means providing, or offering to provide, financial planning services or financial counseling or advice, on a group or individual basis. An agent or insurer who, on advertisements,

cards, signs, circulars, letterheads, or in any other manner, indicates that he or she is a "financial planner," "financial counselor," "financial advisor," "investment counselor," "estate planner," "investment advisor," "financial consultant," or any other similar designation or title or combination thereof, is considered to be representing himself or herself to be engaged in the business of financial planning.

Subp. 2. **Prohibition.** No agent or insurer may represent on advertisements, cards, signs, circulars, letterheads, or in any other manner, that he or she is engaged in the business of financial planning unless he or she provides a disclosure document to the client. The document must be signed by the client, and a copy must be left with the client. The disclosure document must contain the following:

A. the basis of any fees, commissions, or other compensation received by him or her in connection with the rendering of financial planning services or financial counseling or advice in the following language:

"My compensation may be based on the following:

(a) ... commissions generated from the products I sell you,

(b) ... fees, or

(c) ... a combination of (a) and (b). [Comments.]";

B. the name and address of any company or firm that supplies the financial services or products offered or sold by him or her in the following language:

"I am authorized to offer or sell products and/or services issued by or through the following firm(s):

[List]

The products will be traded, distributed, or placed through the clearing/trading firm(s) of:

[List]";

C. the license(s) held by the person under Minnesota Statutes, chapter 60A, 80A, or 82 in the following language:

"I am licensed in Minnesota as a(n):

(a) ... insurance agent,

(b) ... securities agent or broker/dealer,

APPROVED BY THE REVISOR OF STATUTES OFFICE BY:

(c) ... real estate broker or salesperson,

(d) ... investment adviser"; and

D. the specific identity of any financial products or services (by category, for example mutual funds, stocks, or limited partnerships) the person is authorized to offer or sell in the following language:

"The license(s) entitles me to offer and sell the following products and/or services:

(a) ... securities, specifically the following: [List],

(b) ... real property,

(c) ... insurance,

(d) ... other: [List]."

2875.1051 REGULATION OF BUSINESS OF FINANCIAL PLANNING.

Subpart 1. **Definition.** "Business of financial planning" means providing, or offering to provide, financial planning services or financial counseling or advice, on a group or individual basis. Any person who, on advertisements, cards, signs, circulars, letterheads, or in any other manner, indicates that he or she is a "financial planner," "financial counselor," "financial advisor," "investment counselor," "estate planner," "investment advisor," "financial consultant," or any other similar designation or title or combination thereof, is considered to be representing himself or herself to be engaged in the business of financial planning.

Subp. 2. **Prohibition.** It is a "manipulative, deceptive, or fraudulent device or contrivance" within the meaning of Minnesota Statutes, section 80A.03, for any person to represent on advertisements, cards, signs, circulars, letterheads, or in any other manner, that he or she is engaged in the business of financial planning unless he or she provides a disclosure document to the client. The document must be signed by the client, and a copy must be left with the client. The disclosure document must contain the following:

A. the basis of any fees, commissions, or other compensation received by him or her in connection with the rendering of financial planning services or financial counseling

or advice in the following language:

"My compensation may be based on the following:

(a) ... commissions generated from the products I sell you,

(b) ... fees, or

(c) ... a combination of (a) and (b). [Comments]";

B. the name and address of any company or firm that supplies the financial services or products offered or sold by him or her in the following language:

"I am authorized to offer or sell products and/or services issued by or through the following firms(s):
[List];

The products will be traded, distributed, or placed through the clearing/trading firm(s) of:
[List]";

C. the license(s) held by the person under Minnesota Statutes, chapter 60A, 80A, or 82 in the following language:

"I am licensed in Minnesota as a(n):

(a) ... insurance agent,

(b) ... securities agent or broker/dealer,

(c) ... real estate broker or salesperson,

(d) ... investment adviser"; and

D. the specific identity of any financial products or services <u>(by category, for example mutual funds, stocks, or limited partnerships)</u> the person is authorized to offer or sell in the following language:

"The license(s) entitles me to offer and sell the following products and/or services:

(a) ... securities, <u>specifically the following: [List],</u>

(b) ... real property,

(c) ... insurance,

(d) ... other: [List]."

<u>EFFECTIVE DATE. These rules are effective August 1, 1985.</u>

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

APPROVED AS TO FORM AND EXECUTION

7/3 19 85

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY _____
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JUL - 5 1985 10:49 A.M.

Joan Anderson Growe
Secretary of State

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO: MICHAEL A. HATCH, Commissioner
Department of Commerce

DATE: 7-5-85

ATTN: GREGORY P. HUWE
Special Assistant Attorney General

FROM: J. MICHAEL MILES JMM
Assistant Attorney General

PHONE: 296-6555

SUBJECT: In the Matter of the Proposed Adoption of Rules Relating to Financial Planners.

The above-referenced rule has been approved as to its legality by the Attorney General on July 3, 1985.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies of the approved rule with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth copy is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submission or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must publish a notice of adoption in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

If you have any questions in this regard, please contact me.

JMM:sz

Enclosures

cc: Maryanne Hruby
Executive Director
Legislative Commission to Review
Administrative Rules

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

Rules as Proposed

2800.0100 DEFINITIONS.

Subpart 1. to 13. [Unchanged.]

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Q. represent on advertisements, cards, signs, circulars, letterheads, or in any other manner, that he or she is engaged in the business of financial planning unless he or she provides a disclosure document to the client. The document must be signed by the client, and a copy must be left with the client. The disclosure document must contain the following:

(1) the basis of fees, commissions, or other compensation received by him or her in connection with rendering of financial planning services or financial counseling or advice in the following language:

"My compensation will be based on the following:

(a) ... commissions generated from the products I sell you,

(b) ... fees, or

(c) ... a combination of (a) and (b). [Comments]";

(2) the name and address of any company or firm

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that supplies the financial services or products offered or sold by him or her in the following language:

"I am authorized to offer or sell products and/or services issued by or through the following firm(s):

[List]

The products will be traded, distributed, or placed through the clearing/trading firm(s) of:

[List]";

(3) the license(s) held by the person under Minnesota Statutes, chapter 60A, 80A, or 82 in the following language:

"I am licensed in Minnesota as a(n):

(a) ... insurance agent

(b) ... securities agent or broker/dealer

(c) ... real estate broker or salesperson

(d) ... investment adviser"; and

(4) the specific identity of any financial products or services the person is authorized to offer or sell in the following language:

"The license(s) entitles me to offer and sell the following products and/or services:

(a) ... securities, specifically the following: [List]

(b) ... real property

(c) ... insurance

(d) ... other: [List]."

Subp. 2. and 3. [Unchanged.]

Rules as Proposed (all new material)

2790.0550 REGULATION OF BUSINESS OF FINANCIAL PLANNING.

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APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

planner," "investment advisor," "financial consultant," or any other similar designation or title or combination thereof, is considered to be representing himself or herself to be engaged in the business of financial planning.

Subp. 2. **Prohibition.** No agent or insurer may represent on advertisements, cards, signs, circulars, letterheads, or in any other manner, that he or she is engaged in the business of financial planning unless he or she provides a disclosure document to the client. The document must be signed by the client, and a copy must be left with the client. The disclosure document must contain the following:

A. the basis of any fees, commissions, or other compensation received by him or her in connection with the rendering of financial planning services or financial counseling or advice in the following language:

"My compensation may be based on the following:

(a) ... commissions generated from the products I sell you,

(b) ... fees, or

(c) ... a combination of (a) and (b). [Comments.]";

B. the name and address of any company or firm that supplies the financial services or products offered or sold by him or her in the following language:

"I am authorized to offer or sell products and/or services issued by or through the following firm(s):

[List]

The products will be traded, distributed, or placed through the clearing/trading firm(s) of:

[List]";

C. the license(s) held by the person under Minnesota Statutes, chapter 60A, 80A, or 82 in the following language:

"I am licensed in Minnesota as a(n):

(a) ... insurance agent,

(b) ... securities agent or broker/dealer,

(c) ... real estate broker or salesperson,

(d) ... investment adviser"; and

D. the specific identity of any financial products or

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

services the person is authorized to offer or sell in the following language:

"The license(s) entitles me to offer and sell the following products and/or services:

(a) ... securities, specifically the following: [List],

(b) ... real property,

(c) ... insurance,

(d) ... other: [List]."

2875.1051 REGULATION OF BUSINESS OF FINANCIAL PLANNING.

Subpart 1. **Definition.** "Business of financial planning" means providing, or offering to provide, financial planning services or financial counseling or advice, on a group or individual basis. Any person who, on advertisements, cards, signs, circulars, letterheads, or in any other manner, indicates that he or she is a "financial planner," "financial counselor," "financial advisor," "investment counselor," "estate planner," "investment advisor," "financial consultant," or any other similar designation or title or combination thereof, is considered to be representing himself or herself to be engaged in the business of financial planning.

Subp. 2. **Prohibition.** It is a "manipulative, deceptive, or fraudulent device or contrivance" within the meaning of Minnesota Statutes, section 80A.03, for any person to represent on advertisements, cards, signs, circulars, letterheads, or in any other manner, that he or she is engaged in the business of financial planning unless he or she provides a disclosure document to the client. The document must be signed by the client, and a copy must be left with the client. The disclosure document must contain the following:

A. the basis of any fees, commissions, or other compensation received by him or her in connection with the rendering of financial planning services or financial counseling or advice in the following language:

"My compensation may be based on the following:

(a) ... commissions generated from the products I sell you,

(b) ... fees, or

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

(c) ... a combination of (a) and (b). [Comments]";

B. the name and address of any company or firm that supplies the financial services or products offered or sold by him or her in the following language:

"I am authorized to offer or sell products and/or services issued by or through the following firms(s):
[List];

The products will be traded, distributed, or placed through the clearing/trading firm(s) of:
[List]";

C. the license(s) held by the person under Minnesota Statutes, chapter 60A, 80A, or 82 in the following language:

"I am licensed in Minnesota as a(n):

(a) ... insurance agent,

(b) ... securities agent or broker/dealer,

(c) ... real estate broker or salesperson,

(d) ... investment adviser"; and

D. the specific identity of any financial products or services the person is authorized to offer or sell in the following language:

"The license(s) entitles me to offer and sell the following products and/or services:

(a) ... securities,

(b) ... real property,

(c) ... insurance,

(d) ... other: [List]."

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD681

Agency: Department of Commerce

Division:

Agency Contact: Dick Gomsrud 296-5689

Minnesota Rules: Parts 2790.0550; 2800.0100; 2800.4600; 2875.1051

Title: Proposed Rules Relating to Financial Planners

Type of Rules: Permanent

Incorporations by Reference: None

Steven C. Cross
Revisor of Statutes

Paul M. Marinac
Assistant Deputy Revisor
Phone: 296-0948
Date: December 27, 1984

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

In the Matter of the Proposed Adoption of Rules Relating to Financial Planners

ORDER ADOPTING RULES

Notice of the Commisisoner's intent to adopt the above-entitled rules without a public hearing was published in the State Register on January 21, 1985 and was sent by the United States mail to all persons on the list maintained by the Department of Commerce pursuant to Minn. Stat. Section 14.14, subd. 1a, on Janaury 17, 1985.

After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving fewer than twenty-five (25) written requests for a public hearing within the 30-day comment period, reviewing and considering the comments, and determining the need for and reasonableness of the above-captioned rules,

NOW, THEREFORE, IT IS ORDERED that these rules identified as Rules Relating to Financial Planners, as modified by the Findings of Fact and Conclusions, are adopted this 20th day of May, 1985 pursuant to authority vested in me by Minn. Stats., Section 45.023, 60A.17, 80A.25 and 82.28.

Michael A. Hatch
Commissioner of Commerce

State of Minnesota
Department of Commerce

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Relating to Financial Planners including the Impact of the Rules on Small Businesses

Notice is hereby given that the Department of Commerce is seeking information or opinions from persons outside the agency in preparing to promulgate new rules governing Financial Planners Promulgation of these rules is authorized by Minnesota Statutes, sections 45.023, 60A.17, 80A.25, and 82.28.

Outside opinion is also being solicited as to how these rules will affect small businesses as defined by Minnesota Laws 1983, ch. 188, codified as Minnesota Statutes, sections 14.115, subd. 1.

The Department of Commerce requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing to: Kris Eiden, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101, (612) 296-6325.

All statements of information and comment shall be accepted until November 14, 1984. Any written material received by the Department of Commerce shall become part of the record in the event that the rules are promulgated.

MICHAEL A. HATCH
Commissioner of Commerce

STATE OF MINNEOSTA
DEPARTMENT OF COMMERCE

In the Matter of the Proposed Adoption
of Rules Relating to Financial Planners

ORDER FOR NOTICE
OF INTENT TO ADOPT
RULES WITHOUT
PUBLIC HEARING

IT IS ORDERED this 5th day of October, 1984, that Notice of Intent to Adopt Rules Without Public Hearing in the above-entitled matter be given to all persons who have registered their names with the Department of Commerce for that purpose and be published in the State Register.

Michael A. Hatch
Commissioner of Commerce

State of Minnesota
Department of Commerce

In the Matter of the Proposed Adoption of
Rules Relating to Financial Planners

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the Department of Commerce proposes to adopt the above-entitled rules without a public hearing. The Commissioner of Commerce has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, section 14.21.

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the rules. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change.

No public hearing will be held unless twenty-five (25) or more persons make a written request for a hearing within the 30-day comment period. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, section 14.14, subd. 1.

Persons who wish to submit comments or a written request for a public hearing should submit them to Kris Eiden, Deputy Commissioner for Registration Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101. Any person requesting a public hearing should state her/his name and address, identify the portion of the proposed rule addressed, the reason for the request and any change proposed and send this information to the above address.

Authority for the adoption of these rules is contained in Minnesota Statutes, sections 45.023, 60A.17, 80A.25, and 82.28. Additionally, a Statement of Need and Reasonableness describing the need for and reasonableness of each provision and identifying the data and information relied upon to support the proposed rules has been prepared and is available upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Richard G. Gomsrud, General Counsel Department of Commerce, 500 Metro Square Bldg., St. Paul, MN 55101.

A copy of the proposed rules is attached to this Notice.

Copies of this Notice and the proposed rules are available and may be obtained by contacting Rose Weiner at the above address.

Michael A. Hatch
Commissioner of Commerce

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

In the Matter of the Proposed Rules Relating to Financial Planners

ORDER FOR NOTICE CONCERNING THE IMPACT OF THE PROPOSED RULES ON SMALL BUSINESSES

IT IS ORDERED this 6th day of February 1985 that Notice concerning the impact of the above captioned proposed rules be given to all persons who have registered their names with the Department of Commerce for that purpose, pursuant to Minnesota Statutes, Section 14.14, subdivision 1(a), and be published in the State Register.

Michael A. Hatch
Commissioner of Commerce

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

In the Matter of the Proposed Adoption of Rules Relating to Financial Planners

NOTICE CONCERNING THE IMPACT ON BUSINESSES OF THE PREVIOUSLY PUBLISHED PROPOSED RULES RELATING TO FINANCIAL PLANNERS

The Department of Commerce recently published rules relating to Financial Planners in the State Register on January 21, 1985 (SR 1649). The rules in question have been determined to have an impact on small businesses. The impact of the rules is discussed in the Statement of Need and Reasonableness. As previously noted in the Notice of Intent to Adopt Rules with a hearing, said Statement of Need and Reasonableness is available upon request. The comment period pertaining to said rules would have expired on February 21, 1985. This Notification hereby extends that comment period an additonal 30 days from the date of this notification.

Copies of this Notice and Statement of Need and Reasonableness are available and may be obtained by contacting Richard G. Gomsrud, Department of Commerce, 500 Metro Square Building, St. Paul, Minnesota 55101, (612) 296-5689.

Michael A. Hatch
Commissioner of Commerce

In the Matter of the Proposed Adoption of
Rules Relating to Financial Planners

AFFIDAVIT OF
MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Rose T. Weiner , being first duly sworn, deposes and says:

That on the 17th day of January, 1985, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Intent to Adopt Rules Without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, a copy properly prepared with first-class postage prepaid, on all persons and associations who have requested that their names be placed on file with the Department of Commerce for the purpose of receiving notice of the proposed adoption of rules.

A copy of the proposed rules is attached.

Rose T. Weiner
ROSE T. WEINER

Subscribed and sworn to before me this
23 day of January , 1985.

Samuel F. Johnson

SAMUEL F. JOHNSON
NOTARY PUBLIC—MINNESOTA
HENNEPIN COUNTY
My Commission Expires Sept. 29, 1985

State of Minnesota
Department of Commerce

In the Matter of the Proposed Adoption of
Rules Relating to Financial Planners

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the Department of Commerce proposes to adopt the above-entitled rules without a public hearing. The Commissioner of Commerce has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, section 14.21.

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the rules. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change.

No public hearing will be held unless twenty-five (25) or more persons make a written request for a hearing within the 30-day comment period. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, section 14.14, subd. 1.

Persons who wish to submit comments or a written request for a public hearing should submit them to Kris Eiden, Deputy Commissioner for Registration Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101. Any person requesting a public hearing should state her/his name and address, identify the portion of the proposed rule addressed, the reason for the request and any change proposed and send this information to the above address.

Authority for the adoption of these rules is contained in Minnesota Statutes, sections 45.023, 60A.17, 80A.25, and 82.28. Additionally, a Statement of Need and Reasonableness describing the need for and reasonableness of each provision and identifying the data and information relied upon to support the proposed rules has been prepared and is available upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Richard G. Gomsrud, General Counsel Department of Commerce, 500 Metro Square Bldg., St. Paul, MN 55101.

A copy of the proposed rules is attached to this Notice.

Copies of this Notice and the proposed rules are available and may be obtained by contacting Rose Weiner at the above address.

Michael A. Hatch
Commissioner of Commerce

Rules as Proposed

2800.0100 DEFINITIONS.

Subpart 1. to 13. [Unchanged.]

Subp. 14. **Business of financial planning.** "Business of financial planning" means providing, or offering to provide, financial planning services or financial counseling or advice, on a group or individual basis. A person who, on advertisements, cards, signs, circulars, letterheads, or in any other manner, indicates that he or she is a "financial planner," "financial counselor," financial advisor," "investment counselor," "estate planner," "investment advisor," "financial consultant," or any other similar designation or title or combination thereof, is considered to be representing himself or herself to be engaged in the business of financial planning.

2800.4600 FRAUDULENT, DECEPTIVE, AND DISHONEST PRACTICES.

Subpart 1. **Prohibitions.** For the purposes of Minnesota Statutes, section 82.27, subdivision 1, clause (b), the following acts and practices constitute fraudulent, deceptive, or dishonest practices:

A. to P. [Unchanged.]

Q. represent on advertisements, cards, signs, circulars, letterheads, or in any other manner, that he or she is engaged in the business of financial planning unless he or she provides a disclosure document to the client. The document must be signed by the client, and a copy must be left with the client. The disclosure document must contain the following:

(1) the basis of fees, commissions, or other compensation received by him or her in connection with rendering of financial planning services or financial counseling or advice in the following language:

"My compensation will be based on the following:

(a) ... commissions generated from the products I sell you,

(b) ... fees, or

(c) ... a combination of (a) and (b). [Comments]";

(2) the name and address of any company or firm

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that supplies the financial services or products offered or sold by him or her in the following language:

"I am authorized to offer or sell products and/or services issued by or through the following firm(s):

[List]

The products will be traded, distributed, or placed through the clearing/trading firm(s) of:

[List]";

(3) the license(s) held by the person under Minnesota Statutes, chapter 60A, 80A, or 82 in the following language:

"I am licensed in Minnesota as a(n):

(a) ... insurance agent

(b) ... securities agent or broker/dealer

(c) ... real estate broker or salesperson

(d) ... investment adviser"; and

(4) the specific identity of any financial products or services the person is authorized to offer or sell in the following language:

"The license(s) entitles me to offer and sell the following products and/or services:

(a) ... securities, specifically the following: [List]

(b) ... real property

(c) ... insurance

(d) ... other: [List]."

Subp. 2. and 3. [Unchanged.]

Rules as Proposed (all new material)

2790.0550 REGULATION OF BUSINESS OF FINANCIAL PLANNING.

Subpart 1. Definition. "Business of financial planning" means providing, or offering to provide, financial planning services or financial counseling or advice, on a group or individual basis. An agent or insurer who, on advertisements, cards, signs, circulars, letterheads, or in any other manner, indicates that he or she is a "financial planner," "financial counselor," "financial advisor," "investment counselor," "estate

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planner," "investment advisor," "financial consultant," or any other similar designation or title or combination thereof, is considered to be representing himself or herself to be engaged in the business of financial planning.

Subp. 2. **Prohibition.** No agent or insurer may represent on advertisements, cards, signs, circulars, letterheads, or in any other manner, that he or she is engaged in the business of financial planning unless he or she provides a disclosure document to the client. The document must be signed by the client, and a copy must be left with the client. The disclosure document must contain the following:

A. the basis of any fees, commissions, or other compensation received by him or her in connection with the rendering of financial planning services or financial counseling or advice in the following language:

"My compensation may be based on the following:

(a) ... commissions generated from the products I sell you,

(b) ... fees, or

(c) ... a combination of (a) and (b). [Comments.]";

B. the name and address of any company or firm that supplies the financial services or products offered or sold by him or her in the following language:

"I am authorized to offer or sell products and/or services issued by or through the following firm(s):

[List]

The products will be traded, distributed, or placed through the clearing/trading firm(s) of:

[List]";

C. the license(s) held by the person under Minnesota Statutes, chapter 60A, 80A, or 82 in the following language:

"I am licensed in Minnesota as a(n):

(a) ... insurance agent,

(b) ... securities agent or broker/dealer,

(c) ... real estate broker or salesperson,

(d) ... investment adviser"; and

D. the specific identity of any financial products or

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services the person is authorized to offer or sell in the following language:

"The license(s) entitles me to offer and sell the following products and/or services:

(a) ... securities, specifically the following: [List],

(b) ... real property,

(c) ... insurance,

(d) ... other: [List]."

2875.1051 REGULATION OF BUSINESS OF FINANCIAL PLANNING.

Subpart 1. **Definition.** "Business of financial planning" means providing, or offering to provide, financial planning services or financial counseling or advice, on a group or individual basis. Any person who, on advertisements, cards, signs, circulars, letterheads, or in any other manner, indicates that he or she is a "financial planner," "financial counselor," "financial advisor," "investment counselor," "estate planner," "investment advisor," "financial consultant," or any other similar designation or title or combination thereof, is considered to be representing himself or herself to be engaged in the business of financial planning.

Subp. 2. **Prohibition.** It is a "manipulative, deceptive, or fraudulent device or contrivance" within the meaning of Minnesota Statutes, section 80A.03, for any person to represent on advertisements, cards, signs, circulars, letterheads, or in any other manner, that he or she is engaged in the business of financial planning unless he or she provides a disclosure document to the client. The document must be signed by the client, and a copy must be left with the client. The disclosure document must contain the following:

A. the basis of any fees, commissions, or other compensation received by him or her in connection with the rendering of financial planning services or financial counseling or advice in the following language:

"My compensation may be based on the following:

(a) ... commissions generated from the products I sell you,

(b) ... fees, or

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(c) ... a combination of (a) and (b). [Comments]";

B. the name and address of any company or firm that supplies the financial services or products offered or sold by him or her in the following language:

"I am authorized to offer or sell products and/or services issued by or through the following firms(s):
[List];

The products will be traded, distributed, or placed through the clearing/trading firm(s) of:
[List]";

C. the license(s) held by the person under Minnesota Statutes, chapter 60A, 80A, or 82 in the following language:

"I am licensed in Minnesota as a(n):

(a) ... insurance agent,

(b) ... securities agent or broker/dealer,

(c) ... real estate broker or salesperson,

(d) ... investment adviser"; and

D. the specific identity of any financial products or services the person is authorized to offer or sell in the following language:

"The license(s) entitles me to offer and sell the following products and/or services:

(a) ... securities,

(b) ... real property,

(c) ... insurance,

(d) ... other: [List]."

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

AFFIDAVIT OF
MAILING

In the Matter of the Proposed Adoption of
Rules Relating to Financial Planners

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Rose T. Weiner , being first duly sworn, deposes and says:

That on the 7th day of February, 1985, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice concerning the impact on small business of the previously published proposed rules without a public hearing by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, a copy properly prepared with first-class postage prepaid, on all persons and associations who have requested that their names be placed on file with the Department of Commerce for the purpose of receiving notice of the proposed adoption of rules.

Rose T. Weiner
ROSE T. WEINER

Subscribed and sworn to before me this
17th day of June, 1985.

Nancy I. Link
Notary Public

NANCY I. LINK
NOTARY PUBLIC-MINNESOTA
HENNEPIN COUNTY
MY COMMISSION EXPIRES DECEMBER 3, 1990

STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Proposed Adoption of
Rules Relating to Financial Planners

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minnesota Statutes, section 14.14, subd. 1a, that their names be placed on file with and maintained by the Department of Commerce for the purpose of receiving notice of the proposed adoption of rules is accurate and complete as of 12:00 P.M., this 17th day of January, 1985.

Rose T. Weiner

ROSE T. WEINER

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STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Proposed Adoption of
Rules Relating to Financial Planners

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minnesota Statutes, Sec. 14.14, subd. 1a, that their names be placed on file with and maintained by the Department of Commerce for the purpose of receiving notice of the proposed adoption of rules is accurate and complete as of 12:00 P.M., this 7th day of February 1985.

Rose T. Weiner

ROSE T. WEINER

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Nelson, Nelson, Kufus & Assoc.
665 N. Snelling Ave.
St. Paul, MN 55104

Ohio State Life Insurance Company
Attn: Harold I. Phillian
471 E. Broad Street
Columbus, OH 43215

Oppenheimer, Wolff, Foster,
Shepard & Donnelly
1700 1st National Bank Building
St. Paul, MN

Orion Group, Inc.
Law Division
9 Farm Springs Dr.
Farmington, CT 06032

Howard McDowell, I-5
Pennsylvania Life Insurance Company
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Santa Monica, CA 90406

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Minneapolis, MN 55401

Union Fidelity Life Insurance Co.
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Trevose, PA 19049
Attn: Edward G. Farmer, Jr., V.P.

Jerome Scheiol, Vice President
Wausau Insurance Group
2000 Westwood Dr.
Wausau, WI 54401

Larry J. Smith
Assistant Secretary Public Affairs
Western Insurance Companies
14 East First
Fort Scott, Kansas 66701

Workers Comp. Reinsurance Assoc.
900 Minnesota Mutual Life Center
400 North Robert Street
St. Paul, MN 55101

Security Life Insurance
Roopins & Rashke, P.A.
5200 Willson Rd., Suite 407
Minneapolis, MN 55424

(1) and (2) [Unchanged.]

(3) Each item shall be immersed for at least ten minutes in a disinfectant solution comprised of the following: sodium hypochlorite (200 ppm of available chlorine); or iodophor germicidal detergent (200 ppm of available iodine); or quaternary ammonium germicidal detergent solution (200 ppm); or ~~70 percent ethyl alcohol or 95 percent~~ 70 to 95 percent ethyl or isopropyl alcohol.

(4) Metal implements and tools shall be disinfected by immersion in a solution of ~~70 percent ethyl alcohol or 95 percent~~ 70 to 95 percent ethyl or isopropyl alcohol.

(5) to (7) [Unchanged.]

L. to X. [Unchanged.]

Y. Current licenses of salon personnel shall be conspicuously posted ~~at approximately eye level~~ in the reception area or in each licensee's assigned work station. The licensee's street address may be obliterated with tape, but name and town must remain unobstructed. ~~A two inch by two inch photograph of the licensee, alone, taken within the last three years, shall be attached to each license.~~ If the license is at the reception area, the licensee's name ~~and type of license held~~ shall be posted at the work station. The salon manager is responsible for assuring that all licenses are current and renewed.

Z. The current shop license ~~and the salon rules~~ shall be conspicuously posted ~~together~~ in the reception area ~~at approximately eye level~~.

AA. and BB. [Unchanged.]

2640.4100 SPECIFIC TYPES OF SALON LICENSES.

Subpart 1. to 3. [Unchanged.]

Subp. 4. [See repealer.]

Subp. 5. [Unchanged.]

Subp. 6. Salons in private residences. Salons may be established in private residences, if the following conditions are met:

A. to D. [Unchanged.

E. If the primary residential toilet facilities ~~shall not be~~ are used for salon clients, they must comply with the standards in part 2640.3700, subpart 6.

Subp. 7. [Unchanged.]

REPEALER. Minnesota Rules, parts 2640.1900, subpart 4, 2640.3400, subpart 6, and 2640.4100, subpart 4 are repealed.

Department of Commerce

Proposed Rules Relating to Financial Planners

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Department of Commerce proposes to adopt the above-entitled rules without a public hearing. The Commissioner of Commerce has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, section 14.21.

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the rules. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change.

No public hearing will be held unless twenty-five (25) or more persons make a written request for a hearing within the 30-day comment period. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, section 14.14, subd. 1.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Persons who wish to submit comments or a written request for a public hearing should submit them to Kris Eiden, Deputy Commissioner for Registration, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101. Any person requesting a public hearing should state her/his name and address, identify the portion of the proposed rule addressed, the reason for the request and any change proposed and send this information to the above address.

Authority for the adoption of these rules is contained in Minnesota Statutes, sections 45.023, 60A.17, 80A.25, and 82.28. Additionally, a Statement of Need and Reasonableness describing the need for and reasonableness of each provision and identifying the data and information relied upon to support the proposed rules has been prepared and is available upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Richard G. Gomsrud, General Counsel Department of Commerce, 500 Metro Square Bldg., St. Paul, MN 55101.

A copy of the proposed rules is attached to this notice.

Copies of this notice and the proposed rules are available and may be obtained by contacting Rose Weiner at the above address.

Michael A. Hatch
Commissioner of Commerce

Rules as Proposed

2800.0100 DEFINITIONS.

Subpart 1. to 13. [Unchanged.]

Subp. 14. Business of financial planning. "Business of financial planning" means providing, or offering to provide, financial planning services or financial counseling or advice, on a group or individual basis. A person who, on advertisements, cards, signs, circulars, letterheads, or in any other manner, indicates that he or she is a "financial planner," "financial counselor," "financial advisor," "investment counselor," "estate planner," "investment advisor," "financial consultant," or any other similar designation or title or combination thereof, is considered to be representing himself or herself to be engaged in the business of financial planning.

2800.4600 FRAUDULENT, DECEPTIVE, AND DISHONEST PRACTICES.

Subpart 1. Prohibitions. For the purposes of Minnesota Statutes, section 82.27, subdivision 1, clause (b), the following acts and practices constitute fraudulent, deceptive, or dishonest practices:

A. to P. [Unchanged.]

Q. represent on advertisements, cards, signs, circulars, letterheads, or in any other manner, that he or she is engaged in the business of financial planning unless he or she provides a disclosure document to the client. The document must be signed by the client, and a copy must be left with the client. The disclosure document must contain the following:

(1) the basis of fees, commissions, or other compensation received by him or her in connection with rendering of financial planning services or financial counseling or advice in the following language:

"My compensation will be based on the following:

(a) . . . commissions generated from the products I sell you,

(b) . . . fees, or

(c) . . . a combination of (a) and (b). [Comments]";

(2) the name and address of any company or firm that supplies the financial services or products offered or sold by him or her in the following language:

"I am authorized to offer or sell products and/or services issued by or through the following firm(s):

[List]

The products will be traded, distributed, or placed through the clearing/trading firm(s) of:

[List]";

(3) the license(s) held by the person under Minnesota Statutes, chapter 60A, 80A, or 82 in the following language:

"I am licensed in Minnesota as a(n):

(a) . . . insurance agent

(b) . . . securities agent or broker/dealer

(c) . . . real estate broker or salesperson

(d) . . . investment adviser"; and

(4) the specific identity of any financial products or services the person is authorized to offer or sell in the following language:

"The license(s) entitles me to offer and sell the following products and/or services:

(a) . . . securities, specifically the following: [List]

(b) . . . real property

(c) . . . insurance

(d) . . . other: [List]."

Subp. 2. and 3. [Unchanged.]

Rules as Proposed (all new material)

2790.0550 REGULATION OF BUSINESS OF FINANCIAL PLANNING.

Subpart 1. Definition. "Business of financial planning" means providing, or offering to provide, financial planning services or financial counseling or advice, on a group or individual basis. An agent or insurer who, on advertisements, cards, signs, circulars, letterheads, or in any other manner, indicates that he or she is a "financial planner," "financial counselor," "financial advisor," "investment counselor," "estate planner," "investment advisor," "financial consultant," or any other similar designation or title or combination thereof, is considered to be representing himself or herself to be engaged in the business of financial planning.

Subp. 2. Prohibition. No agent or insurer may represent on advertisements, cards, signs, circulars, letterheads, or in any other manner, that he or she is engaged in the business of financial planning unless he or she provides a disclosure document to the client. The document must be signed by the client, and a copy must be left with the client. The disclosure document must contain the following:

A. the basis of any fees, commissions, or other compensation received by him or her in connection with the rendering of financial planning services or financial counseling or advice in the following language:

"My compensation may be based on the following:

(a) . . . commissions generated from the products I sell you,

(b) . . . fees, or

(c) . . . a combination of (a) and (b). [Comments.]";

B. the name and address of any company or firm that supplies the financial services or products offered or sold by him or her in the following language:

"I am authorized to offer or sell products and/or services issued by or through the following firm(s):

[List]

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

The products will be traded, distributed, or placed through the clearing/trading firm(s) of:

[List]";

C. the license(s) held by the person under Minnesota Statutes, chapter 60A, 80A, or 82 in the following language:

"I am licensed in Minnesota as a(n):

(a) . . . insurance agent,

(b) . . . securities agent or broker/dealer,

(c) . . . real estate broker or salesperson,

(d) . . . investment adviser"; and

D. the specific identity of any financial products or services the person is authorized to offer or sell in the following language:

"The license(s) entitles me to offer and sell the following products and/or services:

(a) . . . securities, specifically the following: [List],

(b) . . . real property,

(c) . . . insurance,

(d) . . . other: [List]."

2875.1051 REGULATION OF BUSINESS OF FINANCIAL PLANNING.

Subpart 1. Definition. "Business of financial planning" means providing, or offering to provide, financial planning services or financial counseling or advice, on a group or individual basis. Any person who, on advertisements, cards, signs, circulars, letterheads, or in any other manner, indicates that he or she is a "financial planner," "financial counselor," "financial advisor," "investment counselor," "estate planner," "investment advisor," "financial consultant," or any other similar designation or title or combination thereof, is considered to be representing himself or herself to be engaged in the business of financial planning.

Subp. 2. Prohibition. It is a "manipulative, deceptive, or fraudulent device or contrivance" within the meaning of Minnesota Statutes, section 80A.03, for any person to represent on advertisements, cards, signs, circulars, letterheads, or in any other manner, that he or she is engaged in the business of financial planning unless he or she provides a disclosure document to the client. The document must be signed by the client, and a copy must be left with the client. The disclosure document must contain the following:

A. the basis of any fees, commissions, or other compensation received by him or her in connection with the rendering of financial planning services or financial counseling or advice in the following language:

"My compensation may be based on the following:

(a) . . . commissions generated from the products I sell you,

(b) . . . fees, or

(c) . . . a combination of (a) and (b). [Comments]";

B. the name and address of any company or firm that supplies the financial services or products offered or sold by him or her in the following language:

"I am authorized to offer or sell products and/or services issued by or through the following firms(s):

[List];

The products will be traded, distributed, or placed through the clearing/trading firm(s) of:

[List]";

C. the license(s) held by the person under Minnesota Statutes, chapter 60A, 80A, or 82 in the following language:

"I am licensed in Minnesota as a(n):

(a) . . . insurance agent,

(b) . . . securities agent or broker/dealer,

(c) . . . real estate broker or salesperson,

(d) . . . investment adviser"; and

D. the specific identity of any financial products or services the person is authorized to offer or sell in the following language:

"The license(s) entitles me to offer and sell the following products and/or services:

(a) . . . securities,

(b) . . . real property,

(c) . . . insurance,

(d) . . . other: [List]."

Department of Public Safety

Proposed Rules Governing Motor Vehicle Accident Prevention Courses

Notice of Intent to Adopt Rules without a Hearing

Notice is hereby given that the State Department of Public Safety is proposing to adopt the above entitled rules without a public hearing. The Commissioner of Public Safety has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow procedures set forth in Minn. Stat. Sections 14.21 through 14.28.

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the proposed rules. Public comments are encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for comment, and any change proposed. The proposed rules may be modified prior to final adoption if modifications are supported by the data and views submitted to the Department of Public Safety and do not result in a substantial change in the proposed language.

If 25 or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will be held. The written request must be specific on which rule(s) a hearing is desired. Identification of the portion of the proposed rule addressed, the particular objection, the suggested modifications, and the reasons or data relied upon the support the suggested modifications are requested. Any person requesting a public hearing should state his or her name and address. In the event a public hearing is required, the department will proceed according to the provisions of Minn. Stat. Sections 14.13 through 14.20.

Persons who wish to submit comments or a written request for a public hearing, or persons who wish to receive a free copy of this notice and/or a free copy of the proposed rules, should address their correspondence to the address below and include the name of the rulemaking:

Department of Public Safety
211 Transportation Building
St. Paul, MN 55155

The Department's authority to adopt the proposed rules is contained in Minnesota Statute 65B.28. A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available free from the Department of Public Safety upon request to the above address.

You are hereby advised, pursuant to Minn. Stat. Section 14.115, "Small business consideration in rulemaking," that the proposed rules may have an impact on some small businesses in Minnesota. These rules establish and regulate accident prevention courses for persons 65 years of age and older, to enable them to obtain a discount on their automobile insurance premiums. Insofar as the persons or organizations offering such accident prevention courses are small businesses, these rules specify application, approval, course content and business responsibility requirements for such businesses. The cost impact is negligible; these rules will enable such persons to market their product (accident prevention course) to a large segment of the driving public. These rules will benefit such small businesses and that segment of the public.

Insofar as insurance companies giving the premium discount are small businesses, these rules, per se, will not have an

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PROPOSED RULES

Pursuant to Minn. Stat. of 1982, §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. **that they have 30 days in which to submit comment on the proposed rules;**
2. **that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;**
3. **of the manner in which persons shall request a hearing on the proposed rules; and**
4. **that the rule may be modified if the modifications are supported by the data and views submitted.**

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Commerce

Proposed Rules Relating to Cosmetology (Notice Extension)

Notice Concerning the Impact on Small Businesses of the Previously Published Proposed Rules Relating to Cosmetology

The Department of Commerce recently published rules relating to Cosmetology in the *State Register* on January 21, 1985 (9 SR 1643). The rules in question have been determined to have an impact on small businesses. The impact of the rules is discussed in the Statement of Need and Reasonableness. As previously noted in the Notice of Intent to Adopt Rules without a hearing, said Statement of Need and Reasonableness is available upon request. The comment period pertaining to said rules would have expired on Feburary 21, 1985. This notification hereby extends that comment period an additional 30 days from the date of this notification.

Copies of this notice and Statement of Need and Reasonableness are available and may be obtained by contacting Richard G. Gomsrud, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101 Telephone (612) 296-6589.

Michael A. Hatch
Commissioner of Commerce

Department of Commerce

Proposed Rules Relating to Financial Planners (Notice Extension)

Notice Concerning the Impact on Small Businesses of the Previously Published Proposed Rules Relating to Financial Planners

The Department of Commerce recently published rules relating to Financial Planners in the *State Register* on January 21, 1985 (9 SR 1649). The rules in question have been determined to have an impact on small businesses. The impact of the rules is discussed in the Statement of Need and Reasonableness. As previously noted in the Notice of Intent to Adopt Rules without a hearing, said Statement of Need and Reasonableness is available upon request. The comment period pertaining to said rules would have expired on February 21, 1985. This notification hereby extends that comment period an additional 30 days from the date of this notification.

Copies of this notice and Statement of Need and Reasonableness are available and may be obtained by contacting Richard G. Gomsrud, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101 Telephone (612) 296-6589.

Michael A. Hatch
Commissioner of Commerce

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

In the Matter of the Proposed Adoption of Rules Relating to Financial Planners

FINDINGS OF FACT AND CONCLUSIONS

Notice of the Intent to Adopt the Proposed Rules Relating to Financial Planners and the Proposed Rules were published in the State Register on January 21, 1985 at page 1649. Proper notice required by Minnesota Statutes, section 14.05 to 14.36 was served upon all persons, associations, and other interested groups registered with the State of Minnesota, Department of Commerce for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having considered all of the evidence adduced upon the records, files and proceedings herein, I find the following:

That the requirements of Part 2800.4600, Part 2790.0550 and 2875.1051 are intended to be identical. That certain drafting errors in the published rules have created inconsistencies in the three cited parts. So that the parts are identical, the sentence in part 2800.4600, subpart 1 item Q (1) which now reads "My compensation will be based upon the following:" will be changed to read "My compensation may be based upon the following:"

In Part 2875.1051, Subpart 2, item D the phrase "specifically the following: (List)," does not follow "(a)...securities" as in the other two cited parts and shold be added to that Part to make it identical to the other two.

Questions were raised as to how that section of three parts requiring the disclosure of the specific products or services the person is authorized to offer or sell would be complied with. The phrase "(by category, e.g. mutual funds, stocks, limited partnerships, etc.)" should be inserted in each Part. The relevant sentences would then read as follows:

"The specific identity of any financial products or services (by category, e.g. mutual funds, stocks, limited partnerships, etc.) the person is authorized to offer or sell in the following language:"

Because of comments received regarding the difficulty in complying with these rules without some prior notice to allow for printing and change of forms it was determined that a delayed effective date of the rules would be appropriate. Accordingly these rules are effective August 1, 1985.

Michael A. Hatch
Commissioner of Commerce

STATE OF MINNESOTA

DEPARTMENT OF COMMERCE

In the Matter of the Proposed Rule Amendments for the Purpose of Requiring that Certain Disclosures be Made by Persons Who Engage in the Business of Financial Planning.

STATEMENT OF NEED AND REASONABLENESS

Statement of Authority

Minn. Stat. § 80A.25, subd. 1, gives the Commissioner of Commerce ("Commissioner") authority to "from time to time make, amend, and rescind such rules, forms and orders as are necessary to carry out the provisions of §§ 80A.01 to 80A.31...." Minn. Stat. § 82.28 gives the Commissioner the authority to "promulgate such rules and regulations as are reasonably necessary to carry out and make effective the provisions and purposes" of Chapter 82. Minn. Stat. § 60A.17, subd. 15, provides that the Commissioner "may adopt rules pursuant to Chapter 14 to further implement and administer the provisions of this section."

Additional rulemaking authority provided in Minn. Stat. § 45.023 authorizes the Commissioner to "adopt, amend, suspend, or repeal rules....whenever necessary or proper in discharging the Commissioner's official responsibilities."

The Commissioner finds the proposed amendments necessary and appropriate in the public interest and consistent with the purposes fairly intended by the policies and provisions of Chapters 45, 60A, 80A and 82.

History

On October 15, 1984, the Commissioner published notice of his intent to solicit outside information at 9 S.R. 766 for the consideration in the promulgation of rules and amendments under Minnesota Statutes Chapters 60A, 80A and 82. After a review of comments solicited, the Commissioner published the proposed rules in the State Register on January 21, 1985.

Facts Establishing Reasonableness

The proposed rules and amendments pertaining to financial planners relate to the Department of Commerce's regulation of securities broker-dealers and agents, investment advisers and investment adviser representatives, real estate brokers and salespersons and insurance companies and agents. As the areas of

securities, real estate and insurance are primarily financially-oriented industries, many persons working in these areas have marketed themselves as being "financial planners."

The proposed rules and amendments are intended to provide consumers with information concerning the background of persons representing themselves to be "financial planners," insofar as these persons are regulated by the Department in the insurance, real estate or securities areas. Because potential bias exists when a person who sells a specific product also offers counsel to others as to the advisability of purchasing that product and because a client's knowledge of that potential bias may affect his or her financial decisions, the Commissioner finds it necessary to require that a disclosure document containing specified information be provided.

Because three separate areas are being addressed by the proposals, i.e. securities, insurance and real estate, three separate but related sets of rule amendments are being recommended. Proposed Minnesota Rules, Part 2875.1051 addresses securities broker-dealers, agents, and investment advisers and investment adviser representatives who are engaged in the business of "financial planning;" proposed Part 2790.0550 addresses insurance companies and agents who represent themselves to be "financial planners;" and proposed amendments to Parts 2800.0100 and 2800.4600 affect real estate brokers and salespersons who engage in the business of "financial planning."

The first part of each set of rules (Part 2800.0100, Subpart 14; Part 2790.0550, Subpart 1; Part 2875.1051, Subpart 1) defines "business of financial planning" to mean "providing or offering to provide, financial planning services or financial counselling or

advice, on a group or individual basis." The definition further provides that persons who use specified designations shall be deemed to be representing themselves as being engaged in the business of financial planning. In addition to persons using the designations specified, persons using similar designations or titles shall be deemed to be representing themselves as being engaged in the business of financial planning. The latter broadly-defined inclusion is recommended because the term "financial planning" is used as a marketing term and marketing titles can vary depending upon what regulations are adopted.

The second part of each set of amendments (Part 2800.4600, Subpart 1; Part 2790.0550, Subpart 2; Part 2875.1051, Subpart 2) prohibits a person regulated by the Department from representing that he or she is engaged in the business of financial planning unless he or she provides a disclosure document to the client. As previously indicated, the disclosure document is intended to provide the prospective client with information pertaining to any potential conflict of interest or bias held by the person offering the financial planning services.

An example of the problem addressed by the disclosure document is the case where a senior citizen was solicited by a "financial planner." The "financial planner" charged a fee of $1500 for the services. The senior paid it. After a review of the senior's finances, the "financial planner" recommended that the senior invest in life/annuity policies issued by an insurance company. The senior was never advised that the "financial planner" was licensed as an insurance agent, that the "financial planner" would receive substan-

tial commission on the sale, or that the "financial planner" had never advised people to buy stocks, bonds, real estate or other investments.

The first item required to be disclosed is how the person providing the financial planning services will be compensated. The Commissioner believes that it is important for the prospective client to be informed as to whether the person is compensated by a set fee or by commissions resulting from the sale of products he or she sells to the client. Accomodation has been made for cases in which a person is compensated by a variation or combination of fees and commissions. This disclosure is needed to inform the client of the potential influence that the manner of compensation may have on the financial advice given. The example above would be affected by this requirement, in that the senior would see the relationship between the planner's compensation and the sale of products.

Also required to be disclosed are the names of the firms which issue, trade, or distribute the services or products offered or sold by the financial planner. The Commissioner finds this disclosure necessary to inform the client of any affiliations the financial planner has which could affect the advice given to the client. The example of the senior citizen would be addressed by this disclosure, in that the senior would see the obvious interest of the planner in promoting products of the insurance companies he represented.

The third item to be disclosed are the licenses held by the person under Minnesota Statutes, Chapters 60A, 80A, or 82. These chapters govern the areas of insurance, securities, and real estate, respectively. This disclosure is intended to inform the client of

activities, other than financial planning, in which the person is engaged that may have an effect upon the financial advice given. Again, the example previously given would be affected by this requirement as the senior would be informed of the insurance agent license held by the "financial planner."

The final disclosure is that of the identity of products or services which the licenses previously specified authorize the person to offer or sell. The Commissioner finds this disclosure necessary to tell the client of the potential relationship between the advice being given and the sale of financial products. The example of the case involving the senior citizen would be affected by this disclosure, in that the senior would see the clear interest of the planner in selling insurance products.

The purpose of the rules in their entirety is to give the client sufficient information to enable him or her to make an informed decision. The rules merely require a truthful disclosure of facts relevant to the formation of a thoughtful financial decision.

SMALL BUSINESS CONSIDERATIONS

Minnesota Statutes § 14.115 requires that the impact of proposed rules on small business be considered in the development of those rules. Specifically, the statute, at subdivision 2, requires that less stringent compliance standards and reporting requirements for small businesses be considered. The statute also requires that

methods designed to reduce the impact of the rules on small businesses be incorporated into the rules if they are feasible and consistent with the statutory objectives associated with the rules.

The proposed rule amendments were unanimously endorsed by the members of a task force organized by the Department to discuss the area of "financial planning." The task force was composed of representatives from the securities, insurance, real estate and financial planning areas, many of whom are owners of small businesses. Members affiliated with small businesses included Don Bartho, Total Financial Planning, Inc.; David Pagel, First National Preferred Investment Corp.; Roger A. Hubley, Chartered Financial Services of Minnesota, Inc.; Robert Labat, R. D. LaBat & Associates, Inc.; and several attorneys whose clients include small businesses. Other task force members included Ann Drea Benson, Piper, Jaffray and Hopwood; Kevin Howe, IDS/American Express; and Richard Heise, Engler & Budd, Co.

Comments regarding the proposed rule amendments were solicited from small businesses not only through the State Register, but also through the Minnesota Association of Life Underwriters, Inc.'s newsletter and the Commerce Contact, a quarterly newsletter published by the department and sent to all brokerage firms, real estate agents, and insurance agents licensed in Minnesota. Additionally, articles about the task force and its purpose published in the metropolitan newspapers drew further comments and greater attendance at task force meetings from representatives of small businesses.

Many states, including Hawaii, Michigan and California, are introducing proposals which include a prohibition on the use of the term "financial planner" and/or an outright statement that conflicts of interest are held by the person offering the services.

In light of small business concerns, the rule amendments proposed by the Department are not as restrictive as those proposed in other states. In the event that these rules do not curtail existing problems, however, further rule amendments will be proposed.

Each of the methods described at Minnesota Statutes § 14.115, subdivision 2 (a) - (e) was considered in proposing the rule amendments. Provisions contained in the amendments are believed to be necessary to achieve legislative purposes.

STATE OF MINNEOSTA
DEPARTMENT OF COMMERCE

In the Matter of the Proposed Adoption
of Rules Relating to Financial Planners

CERTIFICATE OF
COMPLIANCE WITH
RULEMAKING PROCEDURES

I, Gregory P. Huwe, do hereby declare that I have examined the rules and all related documents and that, based on may examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

Gregory P. Huwe
Special Assistant Attorney General

Dated: 6/17/85

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

In the Matter of the Proposed
Adoption of Rules Relating to
Financial Planners

AFFIDAVIT OF
RICHARD G. GOMSRUD
REGARDING SUBMISSION
TO ATTORNEY GENERAL

Richard G. Gomsrud, being first duly sworn does hereby state and avow that no requests for Notice of Submission to the Attorney General were received by the Department of Commerce regarding the above captioned rules.

Richard G. Gomsrud

Subscribed and sworn to before
me this 30th day of May, 1985.

Marilyn J. Robinson

MARILYN J. ROBINSON
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My Commission Expires June 18, 1987