

STATE OF MINNESOTA  
COUNTY OF HENNEPIN

DISTRICT COURT  
FOURTH JUDICIAL DISTRICT  
Case Type: Other Civil

State of Minnesota by its Attorney General,  
Lori Swanson,

Court File No. 27-CV-07-4102  
Judge Stephen C. Aldrich

Plaintiff,

vs.

**THE STATE OF MINNESOTA'S  
SUPPLEMENTAL MEMORANDUM  
REGARDING AWARD OF  
CIVIL PENALTIES**

American Family Prepaid Legal Corporation  
d/b/a American Family Legal Plan, Heritage  
Marketing and Insurance Services, Inc.,  
Stanley Norman, and Jeffrey Norman,

Defendants.

This Supplemental Memorandum and related documents are submitted pursuant to the Court's April 8, 2010 Findings of Fact, Conclusions of Law ("COL"), and Order ("Order").<sup>1</sup> *See* Order, ¶ 12 at 54.

**INTRODUCTION**

The State of Minnesota ("State") renews its previous request for an award of civil penalties of at least \$6,872,271, to be paid jointly and severally by Defendants. As explained below, the State's request is fully warranted, given the circumstances of this case and legal factors the Court must consider when awarding civil penalties. Because Defendants chose not to submit any information to the Court demonstrating an inability to pay the requested civil penalties, the State submits that its request of at least \$6,872,271 is deemed reasonable and should be ordered forthwith.

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<sup>1</sup> Defendants did not submit any financial information regarding their ability to pay civil penalties by the Court's May 3, 2010 deadline. *See* Order, ¶ 10 at 54. The State requests an opportunity to respond to any financial information submitted in the future by Defendants.



## **EXPLANATION OF THE SUPPORTING DOCUMENTATION**

Included in support of the State's request for civil penalties is the Affidavit of Giulia Palumbo ("Palumbo Aff."), with exhibits. Exhibits 1 through 7 are employment listings which have appeared in the last two weeks for Mr. Norman's current business, Quest Financial & Insurance Services, Inc. ("Quest Financial"), seeking licensed insurance agents in Pennsylvania, Ohio, Michigan, and Florida. Exhibit 8 is a real estate listing for Jeffrey and Michelle Norman's home in Ladera Ranch, California. Exhibit 9 is a newspaper article from 2006 that appeared in the *Orange County Register* regarding Jeffrey and Michelle Norman's home. Exhibit 10 is information regarding Quest Financial, stating that it has annual revenue of approximately \$5,500,000 and employs approximately 48 individuals. *See* Palumbo Aff. ¶¶ 1-13 & Ex. 1-10.

## **LEGAL BASIS FOR AMOUNT REQUESTED**

As the Court has already found, COL, ¶¶ 95-100 at 50-51, the State is entitled to a substantial award of civil penalties. Pursuant to Minn. Stat. § 8.31, subd. 3, the State is entitled to a civil penalty of up to \$25,000 for each violation of Minnesota's consumer protection laws, and a supplemental civil penalty of an additional \$10,000 per violation pursuant to Minn. Stat. § 325F.71 because Defendants targeted senior citizens in carrying out their fraud. COL, ¶¶ 95-96 at 50-51. "When a penalty or forfeiture is provided for the violation of a law, such penalty or forfeiture shall be construed to be for *each* such violation." Minn. Stat. § 645.24 (2008) (emphasis added); COL, ¶ 97 at 51. As the Court has noted, even if each of Defendants' sales in Minnesota is treated as a single violation (instead of the multiple violations likely committed with each sale, and not accounting for violations for solicitations) the maximum civil penalties would still exceed \$50,000,000. COL, ¶ 98 at 51.



The civil penalties requested by the State of at least \$6,872,271 were calculated by doubling the amount of restitution requested by the State.<sup>2</sup> See COL, ¶¶ 85-94 at 49-50; Order, ¶ 4 at 53. Although the Court is not required to calculate civil penalties by direct mathematical relationship to the amount of restitution, the State submits that, in this case, such a calculation would result in a reasonable and appropriate award of civil penalties.

In *Alpine*, the Court of Appeals established four factors to consider in making an award of civil penalties: “(1) the good or bad faith of the defendant; (2) the injury to the public; (3) the defendant's ability to pay; and (4) the desire to eliminate the benefits derived by the violation.” *State by Humphrey v. Alpine Air Prods.*, 490 N.W.2d 888, 896-97 (citing *United States v. Reader's Digest Ass'n.*, 662 F.2d 955, 967 (3d Cir.1981), *cert. denied*, 102 S. Ct. 1253 (1982)); COL, ¶ 99 at 51. The Court has already concluded that the first, second, and fourth elements of *Alpine* are met:

The State has requested a civil penalty in the amount of \$6,872,271. The bad faith of Defendants, the substantial injury to the public as a result of Defendants' conduct, and the need to eliminate the benefits derived by Defendants' violations, weigh in favor of a significant civil penalty.

COL, ¶ 100 at 51.

The Court invited Defendants to submit additional information by May 3 as to their ability to pay civil penalties, the third element in *Alpine*. COL, ¶ 100 at 51 & Order, ¶¶ 9-10, 12 at 54. Defendants chose not to provide any information to the Court. The State submits that Defendants' failure to provide information is sufficient for the Court to infer that Defendants are able to pay the State's proposed civil penalties and satisfy this element.

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<sup>2</sup> The amount of restitution requested by the State included \$27,610 not awarded by the Court, representing money collected by Defendants for deed work. If the Court wishes to also exclude this amount from the civil penalties calculation, the amount awarded should be reduced to \$6,817,051.72, which is twice the amount of restitution actually awarded by the Court. See Order, ¶ 4 at 53.



In fact, information obtained by the State, should the Court wish to consider it, evidences a clear ability by Defendants to pay civil penalties. As explained more fully in the Palumbo Affidavit, the State has located multiple advertisements published in recent weeks for jobs at Jeffrey Norman's current operation, Quest Financial. *See* Palumbo Aff. ¶¶ 3-10, 13. Although prohibited permanently from operating in Minnesota, Order, ¶¶ 2-3 at 52-53, the advertisements demonstrate that Quest Financial is actively hiring in multiple locations in Pennsylvania, Ohio, Michigan and Florida. *Id.* at Ex. 1-7. Further, Quest Financial writes \$100 million of annuity and other insurance premiums per year, has "offices throughout the country," has annual revenue of \$5.5 million, and employs approximately 48 people. *Id.* at Ex. 1-7, 10. These advisements are relevant both in showing that the Jeffrey Norman's current business operations, including both Quest Financial and National Association of Family Benefits, Inc., are growing enterprises, providing Mr. Norman with a stream of income, but also in showing that Mr. Norman still continues substantially (if not identically) the same fraudulent activity in other states that Defendants engaged in here in Minnesota. This Court, which at this point is intimately familiar with the AFLP/Heritage business model, will find the advertisements for Quest Financial, reproduced here in part, to sound strikingly familiar:

**"Licensed" Annuity & Life Insurance Agent**

**TIRED OF PROSPECTING?**

**"Sales Territories Throughout Western & Eastern Pennsylvania"**

**National Insurance Sales Organization  
Seeks Motivated Agents to Service  
New & Existing Clients With Their  
Insurance Needs**

**(70,000 Plus Clients Nationwide)**

- 10-12 Preset In-Home Senior Market Appointments Per Week - Sent To Your Home Via E-Mail Daily





- Daytime Appointment / No Weekends
- No Cold Calling!
- Proven Sales Presentations - Including Wealth Transfer & Final Expense Flip-Chart Presentations
- Training Provided - Two-day Initial Office Session With Subsequent Field Training
- \$100,000 to \$200,000+ Average Commission Earnings/Year
- Sales Bonuses & Vacation Awards
- *Commission Advances on Submitted Business* - First 60 Days in Field
- *Field Training Compensation*

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### **COMPANY BACKGROUND & DETAILED DESCRIPTION OF SALES POSITION**

Quest Financial is an established national corporation with offices throughout the country and our corporate headquarters is in Irvine, California. We have just decided to expand our existing field sales force in Pennsylvania and are looking for additional agents in your area.

We have a 20-person Call Center that has been operating for over 14 years, successfully producing 10-12 preset and confirmed appointments per week for our agents (Virtually 100% Sit Rate). The appointments are not from cold calling. All appointments have been carefully grouped into territories and would be scheduled for you daily in close proximity to your area, with no evening or weekend appointments.

The appointments are generated from our existing client base along with new clients that have just recently purchased our “Financial Services Plan” through an affiliated association. In other words, our clients have actually paid money to have our agents visit and help them with their financial issues and concerns. Utilizing our “Financial Services Plan” for lead generation gives our agents the best quality appointments and a competitive edge over any other insurance agent position offered anywhere throughout the country.

Quest Financial has developed a proven training system that includes all sales presentation materials, presentation scripts, and in depth education on how to overcome the most common objections. All we are looking for is the right people with good sales backgrounds that have an ability to “close the sale.” The training system we have is initially two days long, and then you’re out on appointments selling the very next day. The majority of our trainees make sales their first week out, and a number of



them have even sold their first scheduled appointment - that's how effective our training program has been.

Senior Citizens, who possess the majority of the country's wealth, are our target market. Equity Indexed Annuities and Single Premium Whole Life Insurance are the two primary products used by Quest Financial to protect the assets of our senior clientele, along with Final Expense, Medicare Supplements, Long Term Care, etc. Nationally, our company is writing approximately 100 million dollars in premium per year, with an average of \$135,000 in premium collected per application.

In Summary, Quest Financial has the most unique and successful appointment & marketing system in the insurance industry, an impressive product line to satisfy our client's needs, and we thoroughly teach you how to sell within our system in just a couple of days.

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#### **Job Requirements**

- Professional Appearance
- Annuity and/or Life Insurance Sales Experience
- **Valid Insurance License** - Life License
- Vehicle

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#### **Licensed Insurance Agents Only!**

*Id.* at Ex. 1. Virtually every “buzzword” from the Minnesota case appears in these ads: annuity, in-home appointments, senior citizens, flip-chart, call center, lead generation, training, scripts, overcoming objections, and “close the sale.” These advertisements, which appeared all over the country in the last few weeks, demonstrate that Jeffrey Norman’s current businesses are simply AFLP and Heritage reincarnated. The specific examples reflected in the advertisements showing the many ways in which these companies are identical to AFLP and Heritage are too numerous to detail in this submission, but the State is confident they are equally obvious—and shocking—to the Court.



In addition, in this Court's analysis of Defendants' ability to pay civil penalties, it is relevant to consider public information regarding Jeffrey Norman's lifestyle and living conditions. Jeffrey and Michelle Norman's home, pictured below, must stand in stark contrast to the homes of Mr. Norman's many Minnesota victims:





*Id.* at ¶ 11 & Ex. 8. (The Palumbo affidavit includes additional photographs. *See id.* at ¶ 11 & Ex. 8.) The Normans' home, currently on the market for over \$4 million, is described in a real estate listing as being almost 7,000 square feet in size, including a separate home theater that could function as a "detached guest casita with full bath." *Id.* at Ex. 8. The home includes a walk-in temperature-controlled wine room, 5 fireplaces, 3 firepits, 4 water features, and full indoor and outdoor gourmet kitchens. *Id.*

Mr. Norman and his family were featured in a lengthy *Orange County Register* story about their "dream home" while it was being built in 2006. *Id.* at Ex. 9. The article details the home's "separate adult and children's wings," 21 indoor plasma televisions (and four outdoor plasma televisions), the refrigerated drawers in their master bedroom's sitting area, and the home's "panoramic view of the Saddleback Valley into Newport Beach and, on a clear day, the ocean." *Id.* The article begins with the following words:

Jeff Norman is a self-made man. A self-made man that is grateful to all the people that helped him realize his family's dream home currently being built in Ladera Ranch.

*Id.* The trial in this matter allowed the Court to become familiar with many individuals who may fairly be described as Minnesota-based contributors to Mr. Norman's dream home, including nearly thirty senior citizens who testified at trial regarding their experiences with Mr. Norman's companies. Those Minnesota consumers were harmed by Mr. Norman's and his companies' actions. This Court must now decide what penalty is appropriate for the fraudulent nature of each of those transactions.

The State submits that the Court's award of civil penalties must be significant because of the egregious nature of Defendants' fraud, and because of the hardship that Defendants visited on many Minnesota consumers. All relevant factors, including Defendants' ability to pay the civil penalties, support this conclusion.





Dated: \_\_\_\_\_

Respectfully submitted,

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**MINN. STAT. § 549.211 ACKNOWLEDGMENT**

The party on whose behalf the attached document is served acknowledges through its undersigned counsel that sanctions, including reasonable attorney fees and other expenses, may be awarded to the opposite party or parties pursuant to Minn. Stat. § 549.211 (2008).

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JAMES W. CANADAY

AG: #2633002-v1

