

STATE OF NEW JERSEY
 BUREAU OF SECURITIES
 P.O. Box 47029
 Newark, New Jersey 07101
 (973) 504-3600

 IN THE MATTER OF:

Carlos Leston a/k/a Jose Carlos Leston
 a/k/a Jose C. Leston (CRD No. 3021614)

Respondent.

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**SUMMARY REVOCATION
 ORDER**

Pursuant to the authority granted to Elizabeth M. Harris, Chief of the New Jersey Bureau of Securities (“Bureau Chief”), under the Uniform Securities Law (1997), N.J.S.A. 49:3-47 to -89 (“Securities Law”), and certain regulations thereunder, and based upon documents and information obtained during the investigation by the New Jersey Bureau of Securities (“Bureau”), and after careful review and due consideration of the Letter of Acceptance, Waiver and Consent, No. 2022076103601 (“AWC”), accepted by the Financial Industry Regulatory Authority (“FINRA”) on October 19, 2022, the Bureau Chief hereby finds that there is good cause and it is in the public interest to enter this Summary Revocation Order (“Order”) against Carlos Leston a/k/a Jose Carlos Leston a/k/a Jose C. Leston (“Leston”).

Accordingly, the Bureau Chief makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

SUMMARY

1. From at least April 15, 2013 through at least September 30, 2022 (the “Relevant Period”), Leston offered and sold to his elderly clients a total of \$3.65 million in securities tied to a New York lending company run by a friend of his who was barred from the securities industry.

2. On Leston's recommendation, his clients, who were either retired or unemployed, liquidated insurance annuities they relied on for steady income to support themselves, and used the proceeds to purchase the investments, which were neither suitable nor in their best interest.

3. Acting outside the scope of, and in violation of the policies and procedures of the broker-dealer through which he was registered, Leston offered and sold the securities in unauthorized private transactions and received \$1.5 million from the lending company.

4. Leston's conduct violated the broker-dealer's policies and procedures, including those requiring their agents to comply with Regulation Best Interest by putting his clients' financial interests ahead of his own; making investment recommendations based on his clients' financial status, investment objectives and risk tolerances; and not letting compensation or incentive arrangements influence his recommendations.

5. Additionally, Leston exploited a close personal relationship with one of the elderly clients. In or around September 2019, Leston instructed the client to appoint Leston the durable power of attorney for that client. Leston, acting with the client's trust, conducted various activities such as setting up and funding, with the elderly client's funds, a joint bank account and arranging for the elderly client to move into an assisted living facility, with Leston signing the residency agreement with the facility.

6. Leston's conduct, as more fully described in this Summary Revocation Order, violated the policies and procedures of the broker-dealer, including by violating Regulation Best Interest, and serves as grounds for the revocation of his agent and investment adviser representative registrations.

Respondent

7. Leston (CRD No. 3021614), residing in Maywood, New Jersey, has been registered with the Bureau as an agent and/or investment adviser representative of several firms since 1998. Leston is also known by Jose Carlos Leston and Jose C. Leston on the Central Registration Depository (CRD).

8. Leston's registrations with the Bureau include:

- a. as an agent from August 2, 2006 through March 14, 2008, and as an investment adviser representative from January 4, 2008 through March 14, 2008 of PNC Investments ("PNC") (CRD No. 129052).
- b. as an agent and investment adviser representative of LPL Financial LLC ("LPL") (CRD No. 6413) from March 5, 2008 through September 30, 2022.

9. On September 30, 2022, LPL filed a Uniform Termination Notice for Securities Industry Registration (Form U5), reporting Leston's voluntary termination. The Form U5 also indicated that LPL had a pending internal review of Leston's participation involving investments not approved by LPL and other misconduct involving customers.

10. LPL completed the review on February 23, 2023, and noted that LPL did not find evidence that LPL accounts funded the securities transactions that Leston conducted outside of his employment with, and away from, LPL.

11. Leston also has held an insurance producer license with the New Jersey Department of Banking and Insurance since 2006, for which he is permitted to offer and sell variable life and annuity products.

12. Leston held personal savings and checking bank accounts at Capital One, N.A. Leston opened checking account xxx2494 on or about January 26, 2012 ("Leston Personal

Checking Account”) and savings account xxx2235 on or about January 13, 2020 (“Leston Personal Savings Account”).

13. Leston is the President of Leston Investments Corporation (“Leston Investments”), located in Union City, New Jersey. Leston opened checking account xxx1647 for Leston Investments at Capital One, N.A. about January 27, 2012 (“Leston Business Account”).

Relevant Non-Parties

14. Leston is friends with the CEO (“Leston Friend”) of a New York corporation that provides capital to unsecured borrowers (“Capital Funding Co.”).

15. Prior to founding Capital Funding Co., in 2017, Leston Friend was barred by FINRA from associating with any FINRA member in any capacity for failure to provide information in violation of FINRA rules.

16. LPL, headquartered in Boston, Massachusetts, has been registered with the Bureau as a broker-dealer since July 14, 1983. LPL is also an investment adviser registered with the SEC and “notice filed” in New Jersey with the Bureau.

The Elderly Clients

Client RP

17. Leston first met RP (“Client RP”) while Leston was employed at PNC, and the two developed a personal relationship.

18. In 2013 Leston solicited Client RP to open an account at LPL. As a result, on or about May 22, 2013, Client RP opened a brokerage account at LPL with Leston as the agent of record upon the opening of the account.

19. At the time the account was opened, Leston signed Client RP’s LPL account opening

documentation that indicated Client RP was in his early sixties and either retired or unemployed.

20. In or around September 2019, when Client RP was age 69, Leston instructed Client RP to appoint Leston as the durable power of attorney for Client RP.

21. On September 26, 2019, Client RP executed a durable power of attorney authorizing Leston to act on Client RP's behalf.

22. In addition, on October 4, 2019, Client RP executed a Certification of Authorization by Principal granting Leston immediate authority to engage in financial transactions, including opening and controlling financial accounts, on Client RP's behalf.

23. From at least on or about October 4, 2019 through the present, Leston acted as Client RP's power of attorney.

24. On or about January 27, 2020, Leston arranged for Client RP to move to an assisted living facility and signed the residency agreement with the assisted living facility for Client RP's care.

25. On or about March 5, 2020, Leston opened joint checking account xxx1082 in both his name and the name of Client RP at Capital One, N.A. (the "Leston and RP Joint Account"). The Leston and RP Joint Account was funded by a \$25,000 check drawn from Client RP's individual checking account. Client RP was unaware that the Leston and RP Joint Account was created.

26. On or about January 31, 2022, Leston arranged for Client RP to move to a second assisted living facility. Leston was a signatory to the agreement for Client RP's care at the second facility.

Client AL

27. On or about February 26, 2013, Client AL opened brokerage account xxx3362 at

LPL (“AL Brokerage Account”) with Leston as the only agent of record upon the opening of the account. Prior to this account, Client AL had two other accounts at LPL in which Leston and another agent were joint representatives. Both accounts were closed prior to the opening of the AL Brokerage Account.

28. At the time the AL Brokerage Account was opened, Leston signed Client AL’s account opening documentation that indicated Client AL was in her early eighties and either retired or unemployed. Client AL indicated on the account opening form that her investment objective and risk tolerance was “income and moderate growth” described as: “emphasis is placed on generation of current income with a secondary focus on moderate capital growth, with an investment time horizon of 3-5 years.” The form also noted that Leston had recommended a “buy and hold” strategy for Client AL.

**LESTON ENGAGED IN DISHONEST OR UNETHICAL PRACTICES
IN THE INSURANCE INDUSTRY BY RECOMMENDING
ANNUITY SWITCHES TO THE ELDERLY CLIENTS FOR HIS OWN BENEFIT**

29. Leston engaged in dishonest or unethical practices in the insurance industry by recommending to Client RP and Client AL (together, the “Elderly Clients”) that they surrender existing annuity contracts and exchange them for new annuity contracts. He recommended to the Elderly Clients at least seven 1035 annuity exchanges for which Leston earned commissions of more than \$65,000.

30. Although Leston did not transact these annuity switches through LPL, LPL had specific policies and procedures on point, describing appropriate conduct with regard to annuity switches that includes:

“LPL Financial advisors are obligated to verify that any recommendation to switch between any investment product (i.e., variable or fixed annuities,...) is evaluated with regard to suitability and the net investment advantage to the customer.”

31. Moreover, LPL had a specific policy concerning annuity switches via 1035 exchanges that cautions advisors about the additional costs an annuitant may incur by exchanging funds. Specifically:

“Advisors are cautioned that switching among different types of investments may be difficult to justify if the financial gain or investment objective to be achieved by the switch is undermined by the transaction fees associated with the switch. It is normally in the client’s best interest to exchange funds within one fund family or sub-accounts within a variable annuity or variable life contract in order to avoid paying an additional commission/sales charge or incurring additional surrender or deferred sales charges.”

Leston Offered and Sold Investments to the Elderly Clients that were not Approved by LPL

32. From at least November 2018 through at least September 30, 2022, Leston offered and sold Capital Funding Co. investments to the Elderly Clients.

33. The investments in Capital Funding Co. are securities as defined by N.J.S.A. 49:3-49(m).

34. At least one of the investments was evidenced by a two-year promissory note that contained terms including interest at the rate of ten per cent (10%) per annum, payable in equal monthly installments.

35. Leston failed to request and/or receive approval, as was required, from LPL to offer and sell the Capital Funding Co. investments to the Elderly Clients or any LPL clients.

36. Leston failed to disclose to the Elderly Clients that Capital Funding Co. investments were not an LPL-approved product and that Leston received compensation from Capital Funding Co. Further, Leston did not disclose to the Elderly Clients that the CEO of Capital Funding Co. was his friend and that the friend had been barred by FINRA.

37. Leston was directly involved in a referral arrangement with Capital Funding Co.

38. Leston recommended, and the Elderly Clients invested, a total of \$3,650,000 in Capital Funding Co. Leston told Client AL that investments in Capital Funding Co. were advantageous because they would pay higher interest. Client RP invested \$2,650,000 and Client AL invested \$1 million.

39. Each of the Elderly Clients relied upon their annuities to provide steady income because the annuities represented the largest part of their respective savings. Yet, Leston recommended that each of the Elderly Clients surrender their annuities valued at a combined total of at least \$1.98 million, and use the proceeds to purchase Capital Funding Co. investments. Moreover, the surrendering of their respective annuities caused Client RP and Client AL to pay fees and taxes.

40. During the Relevant Period, Leston received at least \$1.5 million from Capital Funding Co. and failed to disclose his referral arrangement to the Elderly Clients and LPL.

Leston Recommends Client RP Surrender Annuities and Purchase Capital Funding Co. Investments

41. During the Relevant Period, Leston offered and sold the Capital Funding Co. investments to Client RP. Leston did not provide Client RP with any information about the investment in Capital Funding Co. and, unlike Client AL, Client RP did not even receive a promissory note evidencing the investment.

42. From about February 2019 through about May 2021, on at least nine separate occasions, Leston recommended to Client RP that he partially withdraw or surrender at least four annuity contracts with an accumulated value of more than \$1,000,000. As a result of the early liquidation of at least two of the annuities, Client RP lost at least \$69,000 in the value of his annuities contracts and incurred surrender penalties totaling at least \$45,400. In addition, Client

RP incurred taxes.

43. In total, Client RP invested at least \$2,650,000 in Capital Funding Co. Although Leston was Client RP's LPL agent, Leston failed to provide a promissory note or evidence of the Capital Funding Co. investment or provide adequate disclosures related to the investment.

Leston Transfers Client RP's Funds to Leston's Personal and Business Accounts

44. From about November 26, 2018 to at least September 9, 2021, more than \$450,000 of Client RP's funds were transferred to Leston's personal and business accounts.

45. From about November 26, 2018 to at least June 14, 2022, Leston caused approximately \$37,000 of funds payable to Client RP to be diverted and deposited into Leston's personal and business accounts.

Leston Recommends Client AL Surrender Annuities and Purchase Capital Funding Co. Investments

46. While in her late eighties, from about May 2019 through about April 2021, at Leston's recommendation, Client AL invested \$1 million in Capital Funding Co. for five promissory notes, which would earn her higher interest. However, Client AL received paperwork for only three promissory notes totaling \$600,000.

47. At Leston's recommendation, Client AL partially funded her Capital Funding Co. investments by surrendering three annuities from about April 30, 2019 through July 31, 2020, with an accumulated value totaling \$479,364.85. Client AL lost more than \$16,500 in the value of the annuity contracts.

48. In addition, at Leston's recommendation, Client AL wrote checks and/or withdrew more than \$520,000 from Client AL's personal checking and savings accounts to further fund her investment in Capital Funding Co.

49. On October 11, 2019, Client AL and Capital Funding Co. entered into a promissory

note for \$100,000 in which Capital Funding Co. agreed to pay Client AL 10% interest per annum for two years in equal monthly installment interest payments.

50. In addition, on about August 10, 2020 and April 19, 2021, Leston Friend, on behalf of Capital Funding Co., signed two separate promissory notes between Capital Funding Co. and Client AL (unsigned by Client AL), respectively, in the amounts of \$400,000 and \$100,000 in which Capital Funding Co. agreed to pay Client AL 10% interest per annum for two years in equal monthly installment payments.

Leston's Unsuitable Recommendation to Liquidate the Elderly Clients' Annuities to Purchase Capital Funding Co. Investments

51. Leston recommended unsuitable transactions to the Elderly Clients by recommending they surrender existing annuity contracts to purchase Capital Funding Co. investments, transactions in which they incurred costs and Leston benefitted.

52. As a result of the Elderly Clients' full or partial surrenders of their annuity contracts, the Elderly Clients incurred losses, taxes, and surrender charges.

53. The expenses incurred by Client RP in surrendering the annuities exceeded any potential benefit of investing in Capital Funding Co. Leston also recommended unsuitable transactions to the Elderly Clients by recommending that they surrender their annuity contracts and purchase Capital Funding Co. investments.

54. Funds used by the Elderly Clients to purchase Capital Funding Co. investments were originally in annuities that paid consistently and provided the Elderly Clients with a steady income.

55. Moreover, the Elderly Clients used a large portion of their respective savings to purchase Capital Funding Co. investments.

56. By recommending and placing the Elderly Clients' savings into the risky, unsecured

Capital Funding Co. investments, Leston recommended securities that were neither suitable nor in the best interest of the Elderly Clients.

LESTON VIOLATED LPL'S POLICIES AND PROCEDURES

Leston Violated the LPL Policies Against Selling Away

57. During the Relevant Period, the LPL Compliance Manual¹ (“LPL Policies”) contained a section entitled “Private Securities Transactions” or “Selling Away/Private Securities Transactions and Outside Business Activities” (“LPL OBA/Selling Away Policy”).

58. The LPL OBA/Selling Away Policy prohibits “associated persons from directing clients and non-clients to investments that are not approved by LPL Financial. Specifically, associated persons are instructed that the prohibition includes references to non-approved investment products in casual conversations with clients and non-clients who would otherwise not be aware of such products, and regardless of whether prohibited forbidden [sic] from investing in a private securities transaction with their clients or soliciting clients to purchase these types of investments, known as selling away.”

59. The LPL OBA/Selling Away Policy identifies examples of what may be considered selling away, including but not limited to:

- a. Acting as a finder or an agent for an issuer engaged in a distribution of securities, whether or not those securities are required to be registered and/or arranging loans through a pledge of stock or otherwise (for example, acting as a wholesaler).
- b. Unapproved products - Solicitation of clients and non-clients for involvement or investment in unapproved products such as equity indexed annuities/fixed indexed annuities outside of LPL, private placements and third-party money managers that aren't approved on the LPL platform regardless of whether you receive compensation or not.

¹ During the Relevant Period, the LPL Policies contained the language, or similar language to that cited in this Summary Order.

- c. Business venture/capital raising - Raising capital or soliciting clients and non-clients for participation in outside business ventures including outside business activities of a registered individual. This can include casual conversations in which clients and non-clients are informed of an investment opportunity for which they would otherwise not be aware of, even if you do not receive compensation or have any further involvement. Business ventures can include, but are not limited to, restaurants, manufacturing operations, private banks, etc.

60. The LPL OBA/Selling Away Policy provides that “[o]utside business activities include any business or commercial services other than securities services.... Securities services include any services that directly or indirectly involve investments in securities offered through LPL Financial.”

61. In addition, the LPL OBA/Selling Away Policy specified that agents may solicit the purchase or sale of investments only in securities that have been approved by LPL Financial. The terms “solicitation,” “purchase” and “sale” are defined to mean almost any inducement or offer to exchange anything of value between two or more persons.

62. Leston never disclosed nor sought the approval from LPL that was required to solicit his Elderly Clients to purchase Capital Funding Co. investments or to act as a finder by offering and selling investments on behalf of Capital Funding Co.

63. As described above, Leston violated the LPL’s OBA /Selling Away Policies by recommending, offering and selling the Capital Funding Co. investments and having a referral arrangement with Capital Funding Co.

64. Leston was also required to complete LPL’s Annual Attestations, which, among others, asked questions of their agents about outside business activities. Leston completed Annual Attestations on November 5, 2008, November 3, 2009, November 21, 2011, November 21, 2012, December 11, 2013, November 19, 2014, August 31, 2015, April 19, 2016, April 18, 2017, May 1, 2018, August 2, 2019, July 10, 2020, and November 23, 2021 (together, the “AA”).

65. Leston answered “No” on the AA forms when asked if he was engaging in any outside business activity that LPL had disapproved, prohibited, or that Leston had terminated.

66. Leston answered “No” on the 2017, 2018, 2019, and 2020 AA forms when asked if he was currently involved in any referral arrangements for which he was paid or received direct or indirect compensation or any economic benefit with a third party. Leston confirmed on the 2021 AA form that “[he is] not involved in any referral arrangements.”

67. Leston also confirmed on the AA forms that he understood that “all activities should be disclosed regardless of whether or not you are compensated or receive any economic benefit in any manner,” and that “if [he has] any additional outside business activities not listed here, or need to make any material changes... to previously approved activities” he must notify LPL.

68. During his employment with LPL, Leston sought approval from LPL to engage in at least nine outside business activities. LPL approved eight of the nine requests to engage in outside business activities involving non-variable insurance, real estate rental, mortgage and real estate services, and the formation of a business entity for tax investment.

69. Leston confirmed on the 2021 AA that he fully disclosed his involvement in all outside business activities (corresponding to the outside business activities described above) in which he is currently engaged or in which he was previously engaged while associated with LPL. As of November 23, 2021, Leston failed to disclose his outside business activity with Capital Funding Co., which began in or before February 2019, to LPL as he was required to do under LPL Policies.

Leston Violated LPL’s Outside Business Activities Policy

70. During the Relevant Period, LPL’s Code of Conduct contained a section entitled “Outside Business Activities” (“LPL OBA Policy”).

71. LPL OBA Policy specifies that outside business activities include any business or commercial service other than LPL-related securities business, including civic/charitable activities or using a “doing business as” (DBA) name. It states that an agent may participate in outside business activities that LPL deems permissible and provided such activities are disclosed and approved in advance of the agent participating in the activities. Moreover, the proposed activities cannot interfere with or otherwise compromise the employees’ or financial professionals’ responsibilities to LPL and/or LPL clients.

72. Leston violated LPL OBA Policy by having a referral arrangement with Capital Funding Co. without disclosing it to, or obtaining, LPL’s advanced approval.

Leston Violated the LPL Policies Regarding Positions of Trust, Beneficiary Designation and Custody

73. During the Relevant Period, the LPL Policies contained a section entitled “Fiduciary Capacities and Custody” and “Positions of Trust, Beneficiary Designation and Custody.” (“LPL Fiduciary and Custody Policy”)

74. The LPL Fiduciary and Custody Policy explicitly prohibits agents from acting as a “[c]ustodian,.....,power of attorney [emphasis added] without written approval.” The LPL Fiduciary and Custody Policy also specifies that agents are prohibited from being named, assuming or directing others to be named or assume fiduciary capacities. Exceptions may be made for an agent’s immediate family.

75. The LPL Fiduciary and Custody Policy also specifically prohibits agents “from having any control or possession or custody of any funds or property of...persons.” Moreover, “[n]o custody, control or possession of any client funds are allowed outside of the parameters of their LPL Financial practice. Acting as a custodian,.....,power of attorney....or taking custody of ... money or other property belonging to a customer is prohibited.” Furthermore, “[r]egistered

individuals are prohibited from having sole signatory authority over any funds or securities including, but not limited to, checking, savings, or investment accounts unless the registered individual is the sole owner of the entity. Signatory authority is permitted only for non-profit organizations in which dual signatures are required for all checks written.”

76. Leston violated the LPL Fiduciary Policy and Custody by:

- a. being named as and acting as a power of attorney for Client RP including by signing two assisted living agreements on behalf of Client RP; and
- b. establishing a joint checking account with Client RP.

77. Leston answered “No” on the AA forms when asked if he ever commingled or deposited checks from customers with any other monies, including any personal, business, or trust accounts, of his own.

Leston Engaged in Dishonest or Unethical Business as set forth by the LPL Policies Regarding Suitability and Regulation Best Interest

78. FINRA Rule 2111 governing suitability requires, in part, that a “broker or associated person must have a reasonable basis to believe that a recommended transaction or investment strategy...involving a security or securities is suitable for the customer.”

79. During the Relevant Period, the LPL Policies contained a section entitled “Sales Practices” (“LPL Suitability Policy”) referencing FINRA Rule 2111 that states:

“a member or an associated person must have a reasonable basis to believe that a recommended transaction or investment strategy involving a security or securities is suitable for the customer, based on the information obtained through the reasonable diligence of the member or associated person to ascertain the customer’s investment profile. A customer’s investment profile includes, but is not limited to, the customer’s age, other investments, financial situation and needs, tax status, investment objectives, investment experience, investment time horizon, liquidity needs, risk tolerance, and any other information the customer may disclose to the member or associated person in connection with such recommendation.”

80. The LPL Policies also incorporated Regulation Best Interest (“LPL Regulation Best Interest Policy”), which became effective on June 30, 2020.

81. The LPL Regulation Best Interest Policy states that:

“Regulation Best Interest (Reg BI) enhances the broker-dealer standard of conduct beyond existing suitability obligations, and aligns the standards of conduct with retail customers’ reasonable expectations by requiring broker-dealers, among other things, to (1) act in the best interest of the retail customer at the time the recommendation is made, without placing the financial or other interest of the broker-dealer ahead of the interests of the retail customer; and (2) address conflicts of interest by establishing, maintaining, and enforcing policies and procedures reasonably designed to identify and fully and fairly disclose material facts about conflicts of interest....

Regulation Best Interest applies to recommendations of any securities transactions or investment strategy involving securities (including account recommendations).”

82. Since in or about 2016, LPL Policies also include a section entitled “Considerations when Working with Senior Investors and/or Vulnerable Adults” (“LPL Senior Investor Policy”) that sets forth a heightened suitability review when conducting business, including the sale of annuities, with senior investors.

83. Leston violated the LPL Suitability Policy, LPL Regulation Best Interest Policy, LPL Annuity Policy, and LPL Senior Investor Policy by recommending to the Elderly Clients that they surrender annuity contracts that incurred costs that exceeded any potential benefit in order to purchase securities with Capital Funding Co.

84. On the 2008, 2009, 2011, 2012, 2013, 2014, 2015, 2016, 2017, and 2018 AA forms, Leston certified his understanding that, by signing new account forms, he had reviewed the suitability information contained on the forms in connection with the securities transactions selected for the client and that the transactions selected were suitable for the customer’s stated investment objectives. Leston also certified his understanding that he had a responsibility to

periodically review client information to determine ongoing suitability.

85. On the 2019, 2020, and 2021 AA forms, Leston certified that he read and understood the Firm's compliance policies and procedures, and agreed to review them regularly. Leston also certified that he reviewed and understood all Compliance, Legal & Risk (CLR) Advisor Alerts issued during the previous 12 months.

LESTON VIOLATED LPL'S CODE OF CONDUCT

Leston Violated LPL's Conflict of Interest Policies

86. During the Relevant Period, LPL's Code of Conduct contained a section entitled "Acting with Integrity" and a subsection entitled "Conflicts of Interest" ("LPL Conflicts of Interest Policy").

87. LPL Conflicts of Interest Policy contained the following examples of conflicts of interest:

- a. Engaging in activities outside of one's association with LPL that conflict with an employee's or financial professional's duties and responsibilities to LPL and its clients. An agent may participate in certain outside activities provided they are disclosed and approved by LPL in accordance with LPL's policies on outside business activities.
- b. Recommending an investment to a prospective or current client that is influenced by any factor, including monetary, that is not in the client's best interest.

88. Leston violated LPL's Conflicts of Interest Policy by advising the Elderly Clients to purchase Capital Funding Co. investments, while receiving more than \$1.5 million in compensation from Capital Funding Co.

89. Leston also violated LPL's Conflicts of Interest Policy by failing to disclose to the Elderly Clients and LPL that he received more than \$1.5 million in compensation from Capital Funding Co.

90. On the 2018, 2019, 2020, 2021 AA forms, Leston confirmed his understanding that all potential conflicts of interest (actual or perceived) must be reported and approved prior to engaging in the activity.

91. On the 2021 AA form, Leston confirmed his understanding of the prohibition to direct clients and non-clients to investments that are not approved by LPL.

FINRA AWC

92. On October 19, 2022, FINRA accepted the AWC in which Leston consented to findings, without admitting or denying, that included the following:

- a. On September 2, 2022, FINRA sent a request to Leston for the production of information and documents pursuant to FINRA Rule 8210.
- b. On September 20, 2022, as stated in his counsel's email to FINRA and by the AWC, Leston acknowledges that he received FINRA's Rule 8210 request and would not provide the information and documents requested.

93. In the AWC, Leston consented to the imposition of a sanction barring him from association with any FINRA member firm in all capacities.

94. FINRA's National Adjudicatory Council Review Subcommittee accepted the AWC on October 19, 2022.

CONCLUSIONS OF LAW

LESTON ENGAGED IN DISHONEST OR UNETHICAL BUSINESS PRACTICES IN THE SECURITIES BUSINESS

N.J.S.A. 49:3-58(a)(1) and N.J.S.A. 49:3-58(a)(2)(vii)

(Failure to Follow LPL Policies and Procedures Regarding Selling Away and the Reporting of Outside Business Activities)

95. The preceding paragraphs are incorporated by reference as though set forth verbatim herein.

96. Pursuant to N.J.S.A. 49:3-58(a): “The bureau chief may by order deny, suspend, or revoke any registration if he finds: (1) that the order is in the public interest; and (2) that the applicant or registrant. . . (vii) has engaged in dishonest or unethical practices in the securities business, as may be defined by rule of the bureau chief.”

97. Leston violated LPL’s Policies by engaging in outside business activities that were prohibited and not approved by LPL including that he never disclosed or sought approval from LPL to solicit clients to purchase Capital Funding Co. investments or to act as a finder by offering and selling securities as defined by N.J.S.A 49:3-49(m) on behalf of Capital Funding Co.

98. This is cause pursuant to N.J.S.A. 49:3-58(a)(2)(vii) to revoke Leston’s agent and investment adviser representative registrations and to deny him certain exemptions.

99. Pursuant to N.J.S.A. 49:3-58(a)(1), the revocation of Leston’s registrations as an agent and investment adviser representative and the denial of certain exemptions are in the public interest.

**LESTON ENGAGED IN DISHONEST OR UNETHICAL BUSINESS PRACTICES
IN THE SECURITIES BUSINESS**

N.J.S.A. 49:3-58(a)(1) and N.J.S.A. 49:3-58(a)(2)(vii)

(Failure to Follow LPL Policies and Procedures by Being Named as Power of Attorney)

100. The preceding paragraphs are incorporated by reference as though set forth verbatim herein.

101. Pursuant to N.J.S.A. 49:3-58(a): “The bureau chief may by order deny, suspend, or revoke any registration if he finds: (1) that the order is in the public interest; and (2) that the applicant or registrant. . . (vii) has engaged in dishonest or unethical practices in the securities business, as may be defined by rule of the bureau chief.”

102. Leston violated LPL's Policies, including the LPL Fiduciary and Custody Policy, by being named and acting as a power of attorney on behalf of Client RP that was prohibited and not approved by LPL.

103. Leston also violated LPL's Policies, including the LPL Fiduciary and Custody Policy, by establishing a joint checking account with Client RP.

104. This is cause pursuant to N.J.S.A. 49:3-58(a)(2)(vii) to revoke Leston's agent and investment adviser representative registrations and to deny him certain exemptions.

105. Pursuant to N.J.S.A. 49:3-58(a)(1), the revocation of Leston's registrations as an agent and investment adviser representative and the denial of certain exemptions are in the public interest.

**LESTON ENGAGED IN DISHONEST OR UNETHICAL BUSINESS PRACTICES
IN THE SECURITIES BUSINESS**

N.J.S.A. 49:3-58(a)(1) and N.J.S.A. 49:3-58(a)(2)(vii)

(Failure to Follow Policies and Procedures Regarding Conflicts of Interest)

106. The preceding paragraphs are incorporated by reference as though set forth verbatim herein.

107. Pursuant to N.J.S.A. 49:3-58(a): "The bureau chief may by order deny, suspend, or revoke any registration if he finds: (1) that the order is in the public interest; and (2) that the applicant or registrant. . . (vii) has engaged in dishonest or unethical practices in the securities business, as may be defined by rule of the bureau chief."

108. Leston violated LPL's Conflicts of Interest Policy by advising the Elderly Clients to purchase Capital Funding Co. investments, while receiving more than \$1.5 million in compensation from Capital Funding Co.

109. This is cause pursuant to N.J.S.A. 49:3-58(a)(2)(vii) to revoke Leston's agent and investment adviser representative registrations and to deny him certain exemptions.

110. Pursuant to N.J.S.A. 49:3-58(a)(1), the revocation of Leston's registrations as an agent and investment adviser representative and the denial of certain exemptions are in the public interest.

**LESTON ENGAGED IN DISHONEST OR UNETHICAL BUSINESS PRACTICES
IN THE SECURITIES BUSINESS**

N.J.S.A. 49:3-58(a)(1) and N.J.S.A. 49:3-58(a)(2)(vii)

(Failure to Follow Policies and Procedures Regarding Suitability and Regulation Best Interest)

111. The preceding paragraphs are incorporated by reference as though set forth verbatim herein.

112. Pursuant to N.J.S.A. 49:3-58(a): "The bureau chief may by order deny, suspend, or revoke any registration if he finds: (1) that the order is in the public interest; and (2) that the applicant or registrant. . . (vii) has engaged in dishonest or unethical practices in the securities business, as may be defined by rule of the bureau chief."

113. Leston violated LPL Suitability Policy and LPL Regulation Best Interest Policy by advising the Elderly Clients to surrender their annuities and purchase Capital Funding Co. investments.

114. This is cause pursuant to N.J.S.A. 49:3-58(a)(2)(vii) to revoke Leston's agent and investment adviser representative registrations and to deny him certain exemptions.

115. Pursuant to N.J.S.A. 49:3-58(a)(1), the revocation of Leston's registrations as an agent and investment adviser representative and the denial of certain exemptions are in the public interest.

**LESTON ENGAGED IN DISHONEST OR UNETHICAL BUSINESS PRACTICES
IN THE SECURITIES BUSINESS**

N.J.S.A. 49:3-58(a)(1) and N.J.S.A. 49:3-58(a)(2)(vii)

N.J.A.C. 13:47A-6.3(a)28

116. The preceding paragraphs are incorporated by reference as though set forth verbatim herein.

117. Pursuant to N.J.S.A. 49:3-58(a): “The bureau chief may by order deny, suspend, or revoke any registration if he finds: (1) that the order is in the public interest; and (2) that the applicant or registrant. . . (vii) has engaged in dishonest or unethical practices in the securities business, as may be defined by rule of the bureau chief.”

118. Leston engaged in dishonest and unethical business practices by violating Regulation Best Interest by recommending the Elderly Clients surrender annuity contracts and purchase Capital Funding Co.

119. This is cause pursuant to N.J.S.A. 49:3-58(a)(2)(vii) to revoke Leston’s agent and investment adviser representative registrations and to deny him certain exemptions.

120. Pursuant to N.J.S.A. 49:3-58(a)(1), the revocation of Leston’s registrations as an agent and investment adviser representative and the denial of certain exemptions are in the public interest.

**LESTON ENGAGED IN DISHONEST OR UNETHICAL BUSINESS PRACTICES
IN THE SECURITIES BUSINESS**

N.J.S.A. 49:3-58(a)(1) and N.J.S.A. 49:3-58(a)(2)(vii)

N.J.A.C. 13:47A-6.3(a)3

121. The preceding paragraphs are incorporated by reference as though set forth verbatim herein.

122. Pursuant to N.J.S.A. 49:3-58(a): “The bureau chief may by order deny, suspend, or revoke any registration if he finds: (1) that the order is in the public interest; and (2) that the

applicant or registrant. . . (vii) has engaged in dishonest or unethical practices in the securities business, as may be defined by rule of the bureau chief.”

123. Leston engaged in dishonest and unethical business practices by violating the Bureau’s suitability rule by recommending the Elderly Clients surrender annuity contracts and to purchase Capital Funding Co. investments.

124. This is cause pursuant to N.J.S.A. 49:3-58(a)(2)(vii) to revoke Leston’s agent and investment adviser representative registrations and to deny him certain exemptions.

125. Pursuant to N.J.S.A. 49:3-58(a)(1), the revocation of Leston’s registrations as an agent and investment adviser representative and the denial of certain exemptions are in the public interest.

LESTON ENGAGED IN DISHONEST OR UNETHICAL BUSINESS PRACTICES
IN THE INSURANCE BUSINESS

N.J.S.A. 49:3-58(a)(1) and N.J.S.A. 49:3-58(a)(2)(vii)

126. The preceding paragraphs are incorporated by reference as though set forth verbatim herein.

127. Pursuant to N.J.S.A. 49:3-58(a): “The bureau chief may by order deny, suspend, or revoke any registration if he finds: (1) that the order is in the public interest; and (2) that the applicant or registrant. . . (vii) has engaged in dishonest or unethical practices in the insurance business, as may be defined by rule of the bureau chief.”

128. Leston engaged in dishonest and unethical business practices in the insurance industry by recommending to the Elderly Clients the surrender and replacement of annuity contracts which incurred costs that exceeded any benefit.

129. This is cause pursuant to N.J.S.A. 49:3-58(a)(2)(vii) to revoke Leston’s agent and investment adviser representative registrations and to deny him certain exemptions.

130. Pursuant to N.J.S.A. 49:3-58(a)(1), the revocation of Leston's registrations as an agent and investment adviser representative and the denial of certain exemptions are in the public interest.

LESTON IS THE SUBJECT OF AN ORDER OF A SELF-REGULATORY ORGANIZATION EXPELLING HIM FROM A SELF-REGULATORY ORGANIZATION
N.J.S.A. 49:3-58(a)(1) and N.J.S.A. 49:3-58(a)(2)(vi)

131. The preceding paragraphs are incorporated by reference as though set forth verbatim herein.

132. Pursuant to N.J.S.A. 49:3-58(a): “[t]he bureau chief may by order deny, suspend, or revoke any registration if he finds: (1) that the order is in the public interest; and (2) that the applicant or registrant ...(vi)... is the subject of an order of ... a self-regulatory organization ... suspending or expelling him from a national securities or commodities association...”

133. Having been barred from association with any FINRA member, Leston has effectively been expelled from a self-regulatory organization.

134. This is cause, pursuant to N.J.S.A. 49:3-58(a)(2)(vi) to revoke Leston's agent and investment adviser registrations and to deny him certain exemptions.

135. Based upon the foregoing, and pursuant to N.J.S.A. 49:3-58(a)(1), the revocation of Leston's registrations as an agent and investment adviser representative and the denial of certain exemptions is in the public interest.

CONCLUSION

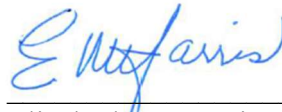
THEREFORE, it is on this 30th day of September, 2024 hereby **ORDERED** that:

136. The agent registration of Carlos Leston a/k/a Jose Carlos Leston a/k/a Jose C. Leston is **REVOKED**;

137. The investment adviser representative registration of Carlos Leston a/k/a Jose Carlos Leston a/k/a Jose C. Leston is **REVOKED**;

138. All exemptions contained in N.J.S.A. 49:3-50 subsection (a) paragraph 9, 10, and 11 and subsection (b) are hereby **DENIED** as to Carlos Leston a/k/a Jose Carlos Leston a/k/a Jose C. Leston; and

139. All exemptions to the registration requirements provided by N.J.S.A. 49:3-56(b), N.J.S.A. 49:3-56(c), and N.J.S.A. 49:3-56(g) are hereby **DENIED** as to Carlos Leston a/k/a Jose Carlos Leston a/k/a Jose C. Leston.



Elizabeth M. Harris
Chief, Bureau of Securities

NOTICE OF RIGHT TO HEARING

Pursuant to the Uniform Securities Law (1997), N.J.S.A. 49:3-47 to -89, specifically, N.J.S.A. 49:3-58(c), the Bureau Chief shall entertain on no less than three days' notice, a written application to lift the summary revocation on written application of the applicant or registrant and in connection therewith may, but need not, hold a hearing or hear testimony, but shall provide to the applicant or registrant a written statement of the reasons for the summary revocation.

This matter will be set down for a hearing if a written request for such a hearing is filed with the Bureau within 15 days after the respondent receives this Order. A request for a hearing must be accompanied by a written response, which addresses specifically each of the allegations set forth in the Order. A general denial is unacceptable. At any hearing involving this matter, an individual respondent may appear on his/her own behalf or be represented by an attorney.

Orders issued pursuant to N.J.S.A. 49:3-50(c) and/or N.J.S.A. 49:3-58(c) to suspend or revoke any registration shall be subject to an application to vacate upon 10 days' notice, and a preliminary hearing on the Order to suspend or revoke any registration shall be held in any event within 20 days after it is requested, and the filing of a motion to vacate the Order shall toll the time for filing an answer and written request for a hearing.

If no hearing is requested, the Order shall be entered as a Final Order and will remain in effect until modified or vacated. If a hearing is held, the Bureau Chief shall affirm, vacate, or modify the order in accord with the findings made at the hearing.

NOTICE OF OTHER ENFORCEMENT REMEDIES

You are advised that the Uniform Securities Law provides several enforcement remedies, which are available to be exercised by the Bureau Chief, either alone or in combination. These remedies include, in addition to this action revoking your registration, the right to seek and obtain injunctive and ancillary relief in a civil enforcement action, N.J.S.A. 49:3-69, and the right to seek and obtain civil penalties in an administrative or civil action, N.J.S.A. 49:3-70.1.

You are further advised that the entry of relief requested does not preclude the Bureau Chief from seeking and obtaining other enforcement remedies against you in connection with the claims made against you in this action.