

**NH SECURITIES BUREAU FILES AGAINST ING
Failure to Produce Documents, Flawed Document Retention Standards
and Lack of Disclosure at Center of Case**

Concord, NH (June 9, 2006) - The New Hampshire Bureau of Securities Regulation has issued a cease and desist order against INO Life Insurance and Annuity Company (INO) and INO Financial Advisors, the Plan Administrator for the New Hampshire State Employee's Deferred Compensation plan. The Bureau charges INO has consistently failed to produce documents and that the company failed to maintain e-mails that would enable the Bureau to accurately assess the severity of the harm caused by alleged securities violations. In addition, the Bureau alleges the company has failed to disclose information relative to active trading in plan funds and has not disclosed to Commissioners of the New Hampshire Deferred Compensation Plan and plan participants the company's financial relationship with certain mutual fund companies within the plan. The Bureau has issued subpoenas to INO regarding the production of documents. The Bureau initiated an investigation in 2004 when INO admitted in a federal securities filing it had been subject to active trading or, so-called market timing and late trading practices. Market timing involves frequent trading activities that can increase costs and harm overall mutual fund performance. Late trading involves the purchase of mutual fund shares after the close of securities markets, which is not allowable under securities laws. In October of 2005, the NASD took action against INO for market timing activities unrelated to the focus of the Bureau's investigation, settling with the company for \$2.9 million.

The NH Bureau alleges in its Cease and Desist Order that ING employees knew about and facilitated market timing and late trading activities and did not adequately protect the interest of New Hampshire Plan participants. For example, in an e-mail dated May 14, 2003 included in the Bureau's filing, an ING employee states, "We have over \$50 million in what I would say is our high profile market timing accounts... we have our high profile traders, but we also have numerous smaller ones that market time." In another e-mail, dated August 2, 2002, an ING employee discusses how market timing activity is negatively impacting a fund held in the State's Deferred Compensation Plan at that time (Janus Aspen Worldwide Portfolio), stating that it severely impacting the performance of the overall fund. The e-mail later states that "everything will 'hit the fan' if we can't manage it"-meaning, market timing activity. The Janus Worldwide fund was later removed from the NH Plan by ING and replaced by an ING-sponsored fund. The Bureau's preliminary conclusion is that the State's Deferred Compensation Plan was likely negatively impacted by such activities.

Bureau Director Mark Connolly cautioned New Hampshire Deferred Compensation Plan members to let the regulatory process take its course and not feel that they need to take any immediate action. Connolly said, "We believe this is a problem of national scope for ING and does not involve just the New Hampshire Plan. We also believe this company engaged in improper practices and as a result are demanding its attorneys to produce certain critical information-such as e-mails and internal reports-that will allow us to accurately determine the full impact of the harm done. Unfortunately, to-date we have not been able to accomplish this and feel the company and its attorneys have engaged in an exercise of delay and legal maneuvering rather than supplying us with the pertinent information we have appropriately asked for. I think the company would be well-advised to stop its uncooperative tactics and admit the extent of its lack of adequate disclosure. Everyone, including the company and its plan investors, will be better off as a result." In addition, the Bureau alleges in its order that ING engaged in a practice commonly referred to as revenue sharing. Revenue Sharing consists of cash payments improperly paid to a company such as ING in exchange for being part of its sales network, a practice also known as "pay to play." The Bureau alleges that such extra payments received by the Company represented a conflict of interest that neither the plan participants nor the

NH Deferred Compensation Commission were informed by ING about and such payments and its failure to disclose is a violation of securities laws. The Bureau also alleges that such extra payments could cause certain fund expenses to be higher than necessary, thus serving as a drag to overall returns for plan members.

According to the Bureau, a relevant document in question is an internal report cited by . company CEO Thomas J. McNerney in a communication sent to all plan members. McNerney noted in his memo that market timing or late trading did not represent a systematic problem. The Bureau believes that the practice of market timing was pervasive at ING and the Bureau has requested this report on several occasions and ING has refused to produce it, citing attorney-client privilege. ING has also claimed privilege over some 4000 e-mail communications. The Bureau asserts the company waived any claim of privilege over the report when it repeatedly disclosed the results, and the Bureau does not believe that all of the so-called privilege e-mails meet the standard of attorney-client privilege. In its filing against ING, the Bureau is calling for an administrative hearing in the near future to determine what documents should be turned over to the State for review.

Jeff Spill, Deputy Director of the Bureau for Enforcement, said, "ING's attorneys have been unable or have outright refused to produce documents, citing a myriad of technical problems or attorney-client privilege. We have also issued subpoenas for depositions that in some instances have resulted in non-cooperative behavior. The Company can not have it both ways, claiming it did nothing wrong, then refusing to produce evidence that would validate or refute such a claim." Spill further added, "Our investigation has also revealed ING did not have adequate e-mail retention standards, resulting in some internal communications being deleted, which is a records violation under securities law." Connolly said the company's lack of cooperation in the production of requested e-mails and documents has made it difficult for the Bureau to conduct its investigation in a timely and effective manner and had no choice but to issue a Cease and Desist Order.