**Section 130.855 Use of Senior Certifications and Professional Designations**

a) It shall be a fraudulent business practice under Section 8 of the Act for any person to use, in such a way as to mislead any person, a senior specific certification or designation that, in a manner prohibited by subsection (b), indicates or implies that the user has special certification or training in advising or servicing senior citizens or retirees in connection with the offer, sale or purchase of securities, or the provision of advice as to the value of or the advisability of investing in, purchasing or selling securities, directly or indirectly, through publications or writings, or by issuing or promulgating analyses or reports relating to securities.

b) The prohibited use of such certifications or professional designations includes, but is not limited to, the following:

1) use of a certification or professional designation by a person who has not actually earned, or is otherwise ineligible to use, such certification or designation;

2) use of a nonexistent or self-conferred certification or professional designation;

3) use of a certification or professional designation that indicates or implies a level of occupational qualifications obtained through education, training or experience that the person using the certification or professional designation does not have; and

4) use of a certification or professional designation that was obtained from a designating or certifying organization that:

A) is primarily engaged in the business of instruction in sales and/or marketing;

B) does not have reasonable standards or procedures for assuring the competency of its designees or certificants;

C) does not have reasonable standards or procedures for monitoring and disciplining its designees or certificants for improper or unethical conduct; or

D) does not have reasonable continuing education requirements for its designees or certificants in order to maintain the designation or certificate.

c) There is a rebuttable presumption that a designating or certifying organization is not disqualified solely for purposes of subsection (b)(4) when the organization has been accredited by:

1) The American National Standards Institute; or

2) The National Commission for Certifying Agencies; or

3) An organization that is on the United States Department of Education's list titled "Accrediting Agencies Recognized for Title IV Purposes" and the designation or credential issued by that organization does not primarily apply to sales and/or marketing.

d) In determining whether a combination of words, or an acronym standing for a combination of words, constitutes a certification or professional designation indicating or implying that a person has special certification or training in advising or servicing senior citizens or retirees, factors to be considered shall include:

1) use of one or more words such as "senior", "retirement", "elder" or like words, combined with one or more words such as "certified", "registered", "chartered", "adviser", "specialist", "consultant", "planner" or like words, in the name of the certification or professional designation; and

2) the manner in which those words are combined.

e) For purposes of this Section, a certification or professional designation does not include a job title within an organization that is licensed or registered by a state or federal financial services regulatory agency, when that job title indicates seniority or standing within the organization, or specifies an individual's area of specialization within the organization. For purposes of this subsection (e), the term "financial services regulatory agency" includes, but is not limited to, an agency that regulates broker-dealers, investment advisers or investment companies, as defined by the Investment Company Act of 1940 (15 USC 80a-51 through 80a-58).

f) Nothing in this Section shall limit the Secretary's authority to enforce existing provisions of the Act.

(Source: Added at 33 Ill. Reg. 12817, effective September 8, 2009)