
'No Comment' from NAFA about its Form 990s

By Kerry Pechter Wed, Jul 8, 2015

The leading not-for-profit champion of fixed indexed annuities should explain the "diversion" of assets that was described in its IRS filing.



The folks at the National Association for Fixed Annuities offered no comment yesterday when I called to ask about a cryptic paragraph that appeared on the next-to-last page of the organization's draft [2014 Form 990](#), the tax return for organizations exempt from income tax.

The paragraph said, "in 2012, \$125,000 was transferred from a NAFA bank account and into the personal bank account of an officer of the organization. The funds were subsequently returned to NAFA in 2014. It was also found that in 2012 said officer diverted \$32,000 of unauthorized income into her household."

The note didn't name the evidently female officer. But the only person listed as a NAFA officer, employee or contract worker on the 2014 tax return, dated May 7, 2015, was Kim O'Brien. She was NAFA's chief executive from 2003 until her sudden departure in January of this year.

The paragraph on page 20 continued: "Additionally, \$24,000 of non-business, personal expenses of an officer were paid out of NAFA funds. The \$24,000 was paid back in a settlement agreement with said officer and will be 1099'd to the officer as income in 2015."

I left a voice message at NAFA's headquarters—NAFA has a mailing address in Washington, DC, but a Wisconsin phone number—and soon received a call from (Charles R.) Chip Anderson, who replaced O'Brien as executive director, effective May 1 of this year. Anderson was a NAFA board member of NAFA for six years, serving as secretary, treasurer, vice-chairman and chairman.

Anderson declined to confirm that O'Brien was the officer mentioned in the Form 990. He wouldn't answer any other questions about information on the form. He said that O'Brien's departure was "old news" and "on the public record." [RIJ reached O'Brien today by email and sent written questions to her, but we did not receive a response by today's noon

deadline.]

O'Brien may be out, but she's not down. The CEO of a new annuity pop-up site, she is cheerleading for fixed indexed annuities as loudly as ever. And she has not run out of professional capital. Within the industry, she's given at least partial credit for preventing the SEC from usurping regulation of fixed indexed annuities during the battle over Rule 151A just a few years ago.

Now she's engaged in the latest annuity regulatory battle, the fight over the DOL fiduciary rule, which threatens to "devastate" the \$44 billion FIA business by pulling tax-deferred rollover IRA money under the ERISA tent.

Just today, O'Brien posted an opinion piece on Producersweb.com, called, "Beyond the rhetoric: Three real life impacts of the DOL rule." Yesterday, she published a 26-page whitepaper, co-written with FIA authority Jack Marrion, called "The Flawed Arguments of the Department of Labor's Fiduciary-Only Rule."

According to her LinkedIn page, she's vice chairman and CEO of [Americans for Annuity Protection](#), "a nonprofit 501c4 organization formed in 2015 by insurance and annuity veterans to preserve a diverse and competitive marketplace for annuities, which serve Americans across the economic spectrum." The chairman is Paul Feldman, founder of Insurancenewsnet.

If the board members of these organizations were to look at NAFA's Form 990s from the O'Brien years, they wouldn't learn much about who worked there. For instance, Kim's sister, Pam Heinrich, still works as legal counsel to NAFA, and Kim's nephew, Scott Hinds, remains communications director at NAFA, but neither of them are listed as contract workers or employees on the forms.

In 2014, O'Brien was the only employee identified. Her salary was listed at \$163,958, up from \$119,167 in 2013. Other salaries and wages paid were a combined \$73,709. Legal fees amounted to \$63,357. In 2012, no employees or salaries were reported at all; there was an expense of \$171,735 for management. I asked NAFA's accountant, from Anick & Associates, to explain the numbers, but she said that she was just a document preparer, not an auditor.

In a financial industry that trembles only at trillions, the diversions described in NAFA's 2014 Form 990 might seem trivial. Unlike larger retirement industry non-profits like the Insured Retirement Institute or the Employee Benefits Research Institute, NAFA may not be able to afford the legal and financial controls of a big shop. (I have nothing against FIAs; the

concept is interesting, although the value is difficult to gauge. I do mistrust the contrast between the industry's pious public positions and the hucksterism of its sales culture.)

But O'Brien's tenure at NAFA shouldn't go unexamined. Fixed indexed annuities are the hottest-selling product in the annuity space right now, and anything unusual that shows up on the public record about one of its leading opinion-makers—even if it's just a matter of sloppy recordkeeping—is bound to attract, and merit, attention.

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