



STATE OF MISSOURI
OFFICE OF SECRETARY OF STATE

IN THE MATTER OF:)
)
MICHAEL REITHER, CRD #853363,) Case No. AP-20-05
)
) *Respondent.*)
)
Serve: Michael Reither)
 22959 East Smoky Hill Road, #L104)
 Aurora, Colorado 80015-6738)

**ORDER TO CEASE AND DESIST AND ORDER TO SHOW CAUSE WHY
RESTITUTION, CIVIL PENALTIES, COSTS, AND OTHER ADMINISTRATIVE
RELIEF SHOULD NOT BE IMPOSED**

On March 18, 2020, the Enforcement Section of the Missouri Securities Division of the Office of Secretary of State (“the Enforcement Section”), through Enforcement Counsel Steven M. Kretzer, submitted a Petition for Order to Cease and Desist and an Order to Show Cause Why Restitution, Civil Penalties, Costs and Other Administrative Relief Should Not Be Imposed (“the Petition”). After reviewing the Petition, the Missouri Commissioner of Securities (“the Commissioner”) issues the following order.

I. ALLEGATIONS OF FACT

The Petition alleges the following facts:

A. Introduction

Between October 31, 2014, and May 16, 2018 (“Relevant Period”), while employed as an investment adviser representative and broker-dealer agent with First Allied Securities, Inc. (“FASI”), Respondent engaged in dishonest or unethical conduct, as defined under Section 409.4-412(d)(13),¹ 15 CSR 30-51.170(1)(V) and (BB) and 15 CSR 30-51.172(1)(G) by (i) failing to provide prior written notice to and obtain prior written approval from FASI before entering into an arrangement to borrow money from a client, and (ii) failing to provide prior written notice to FASI of Outside Business Activity (“OBA”) with which Respondent engaged with a client.

¹ Unless otherwise noted, all statutory references are to the 2016 Revised Statutes of Missouri.

B. Respondent and Related Parties

1. First Allied Securities, Inc. (“FASI”) is a registered broker-dealer and investment adviser headquartered at 655 West Broadway, San Diego, California 92101 with Central Registration Depository (“CRD”) number 32444.
2. Respondent is a 65 year-old Colorado resident with a last known address at 22959 East Smoky Hill Road, Aurora, Colorado 80015-6702.
3. Within the Relevant Period, from October 31, 2014, through November 13, 2017, Respondent was a Missouri resident and registered investment adviser representative and broker-dealer agent, CRD #853363, with FASI.
4. FASI terminated Respondent’s employment on November 13, 2017. According to the Uniform Termination Notice for Securities Industry Registration Form (“Form U5”) FASI filed in response to Respondent’s termination, the reason for Respondent’s termination was “not comply[ing] with the firm’s signature guarantee stamp requirements.”
5. Respondent relocated from Missouri to Colorado sometime between November 13, 2017, and January 31, 2018.

C. Enforcement Section’s Investigation

6. On July 23, 2019, the Enforcement Section opened an investigation concerning Respondent after receiving a complaint from a then 70 year-old Union, Missouri resident (“MR”), alleging that Respondent, in the course of performing an OBA for MR, had stolen funds from MR.
7. According to the complaint, MR’s mother passed away in the early 2000s leaving MR with an inheritance of approximately \$1 million.
8. Shortly after MR came into his inheritance, MR’s barber referred MR to Respondent, who at the time was a registered broker agent and investment adviser representative at FFP Securities, Inc., CRD #16337 (“FFP Securities”).²
9. In August 2003, after contacting Respondent, MR opened an account at FFP Securities. The account listed Respondent as MR’s account executive.
10. On May 30, 2007, Respondent filed for personal bankruptcy in the United States Bankruptcy Court for the Eastern District of Missouri. In addition:
 - a. Respondent did not disclose the bankruptcy on his Form U4 until June 25, 2012, in violation of Article 5, Section 2 of the FINRA by-laws; and

² FFP Securities, Inc. would later merge into FASI in 2008.

- b. it is unclear whether Respondent disclosed his 2007 bankruptcy to MR.
11. In 2009, while Respondent continued to act as account executive for MR's account at FASI, Respondent began performing, for compensation, certain personal services for MR — among other things, paying MR's bills, working on MR's taxes and writing (but not signing) checks from MR's bank and investment accounts on behalf of MR (altogether, "Services"). The impetus for such Services apparently arose from MR's increasing difficulty writing in longhand due to Parkinson's disease. It is unclear whether MR solicited the Services from Respondent or Respondent solicited to provide the Services to MR.
12. A review of CRD shows that Respondent did not provide any written notice to FASI of his OBA with MR, in violation of FINRA Rule 3270.
13. Shortly after commencing the provision of Services to MR, Respondent, in 2009, redirected certain of MR's mail to Respondent's business address — the FASI office address at 8932 Watson Rd, St. Louis, MO 63119 — in contravention of FASI's internal policy prohibiting the holding of client mail at or redirecting client mail to a FASI office.
14. The Enforcement Section reviewed the activity in MR's PNC Bank account ending in #9164 for which Respondent had custody of the checkbook and found, during the Relevant Period, the following:
 - a. numerous checks written out to Respondent totaling \$46,839;
 - b. most checks written out to Respondent did not indicate the purpose while some indicated the purpose to be for bookkeeping, taxes, or bill paying; and
 - c. one check written out to Respondent purported to be a loan from MR to Respondent for \$1,500 on June 12, 2017 in that written on the memo line of the check was the word "LOAN".
15. According to FASI, there is no record of Respondent ever notifying FASI of the loan arrangement or prior written approval from FASI for Respondent to enter into the arrangement.
16. A review of the activity in Respondent's Montgomery Bank account ending in #8743 confirmed, during the Relevant Period, \$46,114 in deposited checks from MR's PNC Bank accounts. No payments from Respondent back to MR appeared in the records. It is unknown where the additional \$725 not accounted for in deposits into Respondent's bank account originated from.
17. On November 13, 2017, FASI terminated Respondent's employment in addition to as follows:

- a. a review of Respondent's Uniform Termination Notice for Securities Industry Registration (Form U5) cites the reason for Respondent's termination as "[Respondent] did not comply with the firm's signature guarantee stamp requirements.";
 - b. despite Respondent's termination from FASI, Respondent continued providing Services to MR until May 16, 2018; and
 - c. it is unclear whether Respondent disclosed the termination of his employment to MR.
18. At some point between November 13, 2017, and January 31, 2018, Respondent's residence changed from Missouri to Colorado.
 19. The last check written from MR to Respondent was for \$400 and dated May 16, 2018.
 20. There is no evidence of Respondent providing any further Services to MR after May 16, 2018.
 21. It is unclear whether Respondent returned MR's checkbook to MR.

D. Enforcement Section's Attempts to Contact Respondent

22. On September 24, 2019, and November 13, 2019, the Enforcement Section sent letters to Respondent's last known addresses via certified and regular mail. Respondent has not responded.
23. On October 31, 2019, and November 8, 2019, the Enforcement Section left messages at Respondent's last known telephone number. Respondent has not responded.
24. On November 8, 2019, the Enforcement Section sent email to Respondent's last known email addresses requesting Respondent contact the Enforcement Section. Respondent has not responded.

II. COMMISSIONER'S DETERMINATIONS AND FINDINGS

Multiple Violations of Dishonest and Unethical Practices

25. **THE COMMISSIONER DETERMINES** that pursuant to Section 409.4-412(d)(13), registered investment adviser representatives and broker-dealer agents are prohibited from engaging in dishonest or unethical practices.
26. The failure to report a loan from MR constitutes a violation of FINRA Rule 3240.

27. Respondent, by borrowing money from MR, who at the time of the arrangement was a client of Respondent, engaged in a dishonest or unethical practice, as defined under Section 409.4-412(d)(13). *See* 15 CSR 30-51.170(1)(V), and 15 CSR 30-51.172(1)(G).
29. The Services provided by Respondent to MR constitute OBA under FINRA Rule 3270.
30. Respondent, by failing to provide prior written notice to FASI regarding Respondent's OBA for MR, engaged in a dishonest or unethical practice, as defined under Section 409.4-412(d)(13) and 15 CSR 30-51.170(1) (BB).
31. At the time Respondent engaged in the conduct set forth above, MR was more than 60 years-old and was an elderly person as that term is defined under Section 409.6-604(d)(3)(B).
32. Respondent's multiple dishonest and unethical practices in violation of Section 409.4-412(d)(13) constituted an illegal act, practice, or course of business and such conduct is therefore subject to the Commissioner's authority under Section 409.6-604.

III. ORDER

NOW, THEREFORE, it is hereby ordered that Respondent be prohibited from violating or materially aiding in any violation of:

- A. Section 409.4-412(d)(13), by engaging in dishonest and unethical practices.

IV. STATEMENT

Pursuant to Section 409.6-604, the Commissioner hereby states that he will determine whether to grant the Enforcement Section's requests for:

- A. a \$10,000 civil penalty against Respondent for multiple violations of Section 409.4-412(d)(13), when the violations were committed against an elderly person, in a final order, unless Respondent requests a hearing and shows cause why the penalties should not be imposed;
- B. an order permanently barring Respondent from acting as an investment adviser representative and/or broker-dealer agent, unless Respondent requests a hearing and shows cause why a bar should not be imposed;
- C. an order to pay restitution for any loss, including the amount of any actual damages that may have been caused by the Respondents' conduct, and interest, from the date of the violation causing the loss or disgorge any profits arising from violation of the Missouri Securities Act or the rules attendant thereto, in a final order unless Respondent requests a hearing and shows cause why restitution or disgorgement should not be imposed;

- D. an order awarding the costs of the investigation against Respondent in this proceeding, awarding an amount to be determined after review of evidence submitted by the Enforcement Section, unless Respondent requests a hearing and shows cause why an award should not be made; and
- E. an order that the Commissioner provide such other relief as he deems just, unless Respondent requests a hearing and shows cause why an order should not be made.

SO ORDERED:

WITNESS MY HAND AND OFFICIAL SEAL OF MY OFFICE AT JEFFERSON CITY, MISSOURI THIS 20th DAY OF MARCH, 2020.

JOHN R. ASHCROFT
SECRETARY OF STATE





DAVID M. MINNICK
COMMISSIONER OF SECURITIES



STATE OF MISSOURI
OFFICE OF SECRETARY OF STATE

IN THE MATTER OF:)
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 Respondent.)
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Serve: Michael Reither)
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 Aurora, Colorado 80015-6738)

NOTICE

TO: Respondent and any unnamed representatives aggrieved by this Order:

You may request a hearing in this matter within thirty (30) days of the receipt of this Order pursuant to Section 409.6-604(b), RSMo, and 15 CSR 30-55.020. Any request for a hearing before the Commissioner must contain:

- a. a brief statement of the facts;
- b. a summary of the factual and legal issues involved;
- c. a request for relief;
- d. suggestions in support of the relief sought, including the relevant statutes;
- e. the name of the party requesting the hearing; and
- f. the name of the attorney representing the party, if any.

Within fifteen (15) days after receipt of a request in a record from a person or persons subject to this order, the Commissioner will schedule this matter for a hearing.

A request for a hearing must be mailed or delivered, in writing to:

David M. Minnick, Commissioner of Securities
Office of the Secretary of State, Missouri
600 West Main Street, Room 229
Jefferson City, Missouri 65102

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of March, 2020, a copy of the foregoing Order to Cease and Desist and Order to Show Cause Why Restitution, Civil Penalties, Costs and Other Administrative Relief in the above styled case was **mailed via certified U.S. mail to:**

Michael Reither
22959 East Smoky Hill Road, #L104
Aurora, Colorado 80015-6738

and via hand-delivery and email to:

Steven M. Kretzer
Enforcement Counsel
Missouri Securities Division
steven.kretzer@sos.mo.gov


Laurie Dawson
Securities Office Manager