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OFFICE OF ADMINISTRATIVE LAW
Docket No. BOS 09433-2013 N

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: IN THE MATTER OF : ADMINISTRATIVE CONSENT ORDER
: :
: DARNELL DEANS :
: (CRD # 2200059) :
: :
: :
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This matter was commenced on June 18, 2013 through the entry of a Summary Revocation and Penalty Order ("Summary Order") by the former Chief of the New Jersey Bureau of Securities, Abbe R. Tiger,¹ against Respondent Darnell Deans ("Deans" or "Respondent Deans"), setting forth violations of the New Jersey Uniform Securities Law (1997), N.J.S.A. 49:3-47 et seq. ("Securities Law"), revoking the agent registration of Deans and assessing a \$20,000 civil monetary penalty. Deans, through counsel, submitted a written response to the Revocation Order, dated July 2, 2013.

The New Jersey Bureau of Securities ("Bureau") transmitted this contested case to the Office of Administrative Law ("OAL"). The Bureau and Deans now desire to settle this matter under the full terms of settlement in this Administrative Consent Order ("Consent Order") pursuant to N.J.A.C. 17:27-19.1. Deans consents to the entry of this Consent Order, voluntarily waives an opportunity for a hearing after reasonable notice within the meaning of N.J.S.A. 49:3-58(c)(2) and waives any rights to seek judicial review, or otherwise challenge or contend, the validity of this Consent Order.

FINDINGS OF FACT

The Bureau Chief makes the following findings of fact, which Deans neither admits nor denies:

1. Deans, currently residing in Jersey City, New Jersey, was registered with the Bureau as an agent of Garden State Securities, Inc. (CRD #10083) ("GSS") from January 4, 2005 to June 18, 2013. Deans was previously registered with the Bureau as an agent of Oppenheimer & Co. Inc. (CRD # 249), and its predecessor, from October 2, 1998 through January 7, 2005. At the time of the Summary Order, Deans was the sole shareholder of Unity Financial, Inc., the business that paid the expenses of the GSS Wall Street branch of which Deans was the Branch Manager.

Deans Borrowed Money from Clients

2. Between April and August 2011, Deans borrowed at least \$210,000 through one or more loans from Customer A, a GSS customer on whose account Deans served as the agent.

3. Additionally, in May 2011, Deans took a \$25,000 loan from Customer B, a GSS customer on whose account Deans served as the agent.

4. GSS discovered that Deans had borrowed money from Customer A during a 2011

¹ The current Chief of the New Jersey Bureau of Securities is Laura H. Posner ("Bureau Chief").

internal branch inspection.

5. At the time of the inspection report, Deans told GSS that the loans from Customer A were personal loans, and that Customer A understood that they were personal loans.

6. However, Deans later asserted that the loan(s) from Customer A were not personal loans, but were business loans to assist Deans in expanding the GSS Wall Street Branch that he owned and managed.

7. Since at least April 2010, GSS's written supervisory procedures required agents to annually attest to making certain disclosures to the firm, including specific information regarding loans from customers.

8. On November 22, 2011, Deans signed his 2011 annual attestation in which he falsely responded "no" to the question asking "[h]ave you engaged in any activity that is or may be interpreted as borrowing from a customer?"

9. On January 23, 2012, GSS's Chief Compliance Officer issued a Compliance Memo ("Compliance Memo"), erroneously dated "January 23, 2011," to Deans in which he advised Deans that FINRA Rule 3240 prohibits registered persons from borrowing money from . . . a customer, unless the firm approves the loan. The Compliance Memo went on to state that Deans did not seek approval for his loan from Customer A and that Deans had violated GSS policy by borrowing money from a customer.

Deans's Undisclosed Tax Liens

10. Pursuant to N.J.A.C. 13:47A-3.1, "[a]ny person desiring to act in the State of

New Jersey as an agent of a broker-dealer registered in New Jersey via the CRD shall file an application for registration as an agent with the CRD on the Form U4.”

11. Item 14(M) of the Form U4, which is to be filed through the Central Registration Depository, asks “[d]o you have any unsatisfied judgments or liens against you?” In addition, the Form U4 disclosure pages request information about the liens or judgments, including the authority that entered the lien, the amount of the lien, the date of entry of the lien, and whether the lien was later satisfied. Should any changes occur relating to answers previously reported, individuals are required “to update [Form U4] by causing an amendment to be filed on a timely basis.”

12. N.J.A.C. 13:47A-3.2 requires that:

[a] registered agent shall file an amendment with the CRD, by filing or updating a Form U4....whenever a change in the answers on his or her original application for registration occurs, as to...judgments, or to any other information contained in answer to Item 14 and the Disclosure Reporting Page of the Form U4...The amendment(s) must be filed within 30 days of the occurrence identified therein....

13. On June 3, 2004, the New York State Tax Commission entered a state tax lien/judgment (the “New York Tax Lien”) against Deans in the amount of \$6,473.

14. On January 4, 2005, Deans signed a Form U4 that was filed the same day to register him as an agent with the Bureau. Although the New York Tax Lien was in effect, he falsely answered “no” to Item 14(M).

15. The New York Tax Lien was later satisfied on May 8, 2006.

16. On June 10, 2007, the Internal Revenue Service entered a federal tax lien against Deans in the amount of \$122,638.00, which has not been released.

17. Despite the requirement to amend his Form U4, Deans failed to disclose the federal tax lien until August 2012.

18. From June 2004 until August 2012, GSS or the broker-dealer Deans was registered as an agent with filed approximately 17 Form U4s on Deans's behalf based on Deans's written disclosures and affirmations to GSS or the broker-dealer that he did not have any required disclosures. Each of these 17 Form U4s failed to disclose, or in one instance failed accurately to disclose, the federal and state tax liens against him.

19. In addition, since at least April 2010, GSS's written supervisory procedures required agents to annually attest to making certain disclosures to the firm, including all mandatory disclosures to GSS pertaining to any judgments and liens.

20. On January 4, 2011, Deans signed his 2010 annual attestation falsely responding "yes" to the question asking "[h]ave you promptly and completely disclosed to the BD any changes or potential changes to your Form U4?"

21. On November 22, 2011, Deans signed his 2011 annual attestation falsely responding "yes" to the question asking "[h]ave you promptly and completely disclosed to the BD any changes or potential changes to your Form U4?"

22. On January 2, 2013, Deans signed his 2012 annual attestation falsely responding "yes" to the question asking "[h]ave you promptly and completely disclosed to the BD any changes or potential changes to your Form U4?"

23. Therefore, for three consecutive years Deans falsely attested to making all required disclosures.

CONCLUSIONS OF LAW

The Bureau Chief makes the following conclusions of law, which Deans neither admits nor denies:

24. Pursuant to N.J.S.A. 49:3-58(a)(2)(vii), “[t]he bureau chief may by order deny, suspend, or revoke any registration if [s]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, commodities, banking, insurance or investment advisory business”

25. Pursuant to N.J.A.C. 13:47A-6.3(a), “[d]ishonest or unethical practices’ as used in N.J.S.A. 49:3-47 et seq., specifically in . . . N.J.S.A. 49:3-58(a)(2)(vii), shall include (42.) Borrowing money or securities from a client unless the client is a broker-dealer, an affiliate of an investment adviser, or a financial institution engaged in the business of loaning funds” By borrowing money from clients, Deans engaged in dishonest and unethical practices in the securities business. This is cause pursuant to N.J.S.A. 49:3-58(a)(2)(vii), to suspend Deans’s registration. Based upon the foregoing, and pursuant to N.J.S.A. 49:3-58(a)(1) the suspension of Deans’s registration as an agent is in the public interest.

26. Pursuant to N.J.A.C. 13:47A-6.3(a), “[d]ishonest or unethical practices’ as used in N.J.S.A. 49:3-47 et seq., specifically in . . . N.J.S.A. 49:3-58(a)(2)(vii), shall include (28.) failing to comply with any applicable provision of the Conduct Rules of FINRA or any applicable fair practice or ethical standard promulgated by the SEC or by a self-regulatory organization which relate to honesty and fair dealings and just and equitable principles of trade.” FINRA Rule 3240 prohibits registered persons of broker-dealers from borrowing money from or lending money to a customer unless the broker-dealer permits it, the registered person fits within one of five types of conditions and the registered person both provides written notice to, and receives written authorization from, his

broker-dealer before entering into the loan agreement. By accepting loans from clients when his broker-dealer had no written policies or procedures permitting it and by doing so without first providing written notice to and receiving written authorization from his broker-dealer Deans violated FINRA Rule 3240, and engaged in dishonest and unethical practices in the securities business. This is additional cause, pursuant to N.J.S.A. 49:3-58(a)(2)(vii), to suspend Deans's registration. Based upon the foregoing, and pursuant to N.J.S.A. 49:3-58(a)(1), the suspension of Deans's registration as an agent is in the public interest.

27. Deans also engaged in dishonest and unethical business practices by failing to disclose his federal and state tax liens and falsely attesting to having disclosed all tax liens and judgments on his firm's annual compliance attestation. This is additional cause pursuant to N.J.S.A. 49:3-58(a)(2)(vii), to suspend Deans's registration. Based upon the foregoing, and pursuant to N.J.S.A. 49:3-58(a)(1), the suspension of Deans's registration as an agent is in the public interest.

28. Pursuant to N.J.S.A. 49:3-58(a)(2)(i), "[t]he bureau chief may by order deny, suspend, or revoke any registration if [s]he finds: (1) that the order is in the public interest; and (2) that the applicant or registrant . . . (i) has filed an application for registration which as of its effective date...was incomplete in any material respect or contained any statement which was, in the light of the circumstances under which it was made, false or misleading with respect to any material fact" Deans submitted an application to the Bureau in 2005 while the New York Tax Lien was still actively pending against him, that included his false negative answer to Item 14(M) of the Form U4, asking whether or not there were any unsatisfied judgments or liens against him. This is additional cause pursuant to N.J.S.A. 49:3-58(a)(2)(i), to suspend Deans's registration. Based upon the foregoing, and pursuant to N.J.S.A. 49:3-58(a)(1) the suspension of Deans's registration

as an agent is in the public interest.

29. Pursuant to N.J.S.A. 49:3-54, “[i]t is unlawful for any person to make or cause to be made, in any document filed with the bureau...any statement which is, at the time and in the light of the circumstances under which it is made, false or misleading in any material respect.” Deans failed to disclose he had unsatisfied tax liens against him by failing to file a timely amendment and failing to report them at all. Such actions constitute false filings with the Bureau in violation of N.J.S.A. 49:3-54. This is cause pursuant to N.J.S.A. 49:3-70.1 to assess civil monetary penalties.

THEREFORE, IT IS on this 3rd day of September, 2014, **ORDERED AND AGREED** that:

30. The agent registration of Respondent Deans is suspended pursuant to N.J.S.A. 49:3-58(a)(1), N.J.S.A. 49:3-58(a)(2)(i), and N.J.S.A. 49:3-58(a)(2)(vii). In the event that Respondent Deans has satisfied all the terms and conditions of this Consent Order, he may apply for registration two-and-a-half (2.5) years from the entry of the Summary Order (the “Suspension Period”), which was entered on June 18, 2013. The actual date after which Respondent Deans may apply to the Bureau is December 18, 2015. Respondent Deans shall not apply to the Bureau in any capacity prior to December 18, 2015.

31. In the event that Respondent Deans applies for registration pursuant to paragraph 30 of this Consent Order, such application shall be subject to and contingent upon, among other things, the requirements and/or provisions set forth in this Consent Order.

32. Respondent Deans agrees and/or acknowledges that nothing in this Consent Order shall constitute or be interpreted as a:

- a. guarantee or assurance that his registration application will be accepted or approved by the Bureau. The Bureau reserves the right to deny Respondent Deans's application for agent registration (and any other registration application) on any basis afforded under the Securities Law, including, but not limited to, any action taken against him by any regulatory body and/or self-regulatory organization, including action taken regarding the conduct set forth in this Consent Order and/or the Summary Order; and
- b. release or covenant not to take action or otherwise limit the Bureau's powers under the Securities Law, including the Bureau's ability to investigate or take further action against Respondent Deans regarding any past, present or future matters. This Consent Order is limited to and concludes the Bureau's investigation of the facts set forth in paragraphs two (2) through twenty-two (22) of the Summary Order as it relates to Respondent Deans's borrowing funds from his clients and his failure to disclose tax liens. Nothing contained herein shall in any manner be construed to limit or affect any position that the Bureau or any other governmental agency may take in any future or pending action not specifically encompassed herein, except as otherwise provided herein.

33. If Respondent Deans applies for registration with the Bureau and his application is accepted and/or approved, his registration will be subject to a Heightened Supervision Agreement ("HSA") between the broker-dealer and/or investment adviser and Respondent Deans, the terms of which shall be determined by the Bureau at that time, as a condition of registration.

34. Any HSA shall remain in place for at least two (2) years, and shall thereafter continue to remain in place until it is lifted. After two (2) years from the entry of the HSA, but not earlier, Respondent Deans and/or the broker-dealer and/or the investment adviser with which he is registered at the time may send a written request to have the HSA lifted. In the event that lifting of the HSA is sought, Respondent Deans agrees and acknowledges that determination as to whether the HSA will be lifted shall be solely at the discretion of the Bureau, and that nothing in this Consent Order shall constitute or be interpreted as a guarantee or assurance that the HSA will be lifted.

35. Respondent Deans agrees and/or acknowledges that he shall not act in a supervisory capacity with respect to any securities activities in any jurisdiction of any registered representatives who are registered with the Bureau or have New Jersey clients, or anyone who acts as an agent to, from or in New Jersey, regardless of the location to, from or in which they may act or in which their customers may reside, unless Respondent Deans is registered with the Bureau.

36. Respondent Deans further agrees and/or acknowledges that he shall not act in a supervisory capacity with respect to any securities activities in any jurisdiction of any registered representatives who are registered with the Bureau or have New Jersey clients, or anyone who acts as an agent to, from or in New Jersey, regardless of the location to, from or in which they may act or in which their customers may reside: (a) during the Suspension Period; and/or (b) while Respondent Deans's registration is subject to an HSA.

37. Respondent Deans may supervise registered representatives who are registered with the Bureau or have New Jersey clients, or anyone who acts as an agent to, from or in New Jersey, only if and after:

- a. the HSA is terminated by the Bureau;

b. Respondent Deans is registered with the Bureau; and

c. Respondent Deans has re-taken and received a passing grade on the Series 24 Exam.

38. Respondent Deans shall cease and desist from violating the Securities Law or any regulation or order under the Securities Law.

39. Respondent Deans shall cease and desist from engaging in the conduct described in the Summary Order.

40. Respondent Deans is denied all exemptions contained in N.J.S.A. 49:3-50 subsection (a) paragraphs 9, 10 and 11 and subsection (b).

41. The exemptions to the registration requirements provided by N.J.S.A. 49:3-56(c) and N.J.S.A. 49:3-56(g) are revoked as to Respondent Deans.

42. Any person with actual or constructive notice of this Consent Order who knowingly aids, abets, counsels, commands or instructs any person or entity to perform any act prohibited by this Consent Order or otherwise to violate any provision of this Consent Order are hereby, and shall be, subject to punishment for the violation of this Consent Order.

43. Respondent Deans is assessed a civil monetary penalty, pursuant to N.J.S.A. 49:3-70.1, in the amount of Thirty Seven Thousand Five Hundred (\$37,500) Dollars.

44. Respondent shall pay the civil monetary penalty as follows (“Penalty Installment Plan”):

a. Respondent shall pay at least Two Thousand Five Hundred (\$2,500) Dollars within ten (10) days of entry of this Consent Order;

- b. Respondent shall make an additional payment of at least Two Thousand Five Hundred (\$2,500) Dollars within sixty (60) of entry of this Consent Order. This payment shall be in addition to the payment under paragraph 44(a);
- c. Respondent shall make an additional payment of Thirty Two Thousand Five Hundred (\$32,500) Dollars or the entire remaining balance of the civil monetary penalty by no later than December 31, 2014 ("Final Payment"). This Final Payment shall be in addition to the payments under paragraph 44(a) and (b); and
- d. All payments must be made by attorney trust fund account check, certified check or other guaranteed finds, made payable to the "New Jersey Bureau of Securities" and delivered to the attention of the Bureau Chief, at the following address: State of New Jersey, Department of Law and Public Safety, Division of Consumer Affairs, Bureau of Securities, P.O. Box 47029, Newark, New Jersey 07101. It is Respondent's responsibility to ensure that all payments are received by the Bureau on or before the payment due dates.

45. A default of the Penalty Installment Plan ("Penalty Installment Plan Default") is defined to include any of the following circumstances: (a) Respondent's violation or breach of the Penalty Installment Plan; (b) Respondent's failure to make any of the payments by the dates and in the manner required under the Penalty Installment Plan; and/or (c) if the Bureau does not receive any of the payments by the dates and in the manner required under the Penalty Installment Plan.

46. In the event of a Penalty Installment Plan Default: (a) this Consent Order shall be deemed vacated and/or rescinded thereby terminating this settlement and compromise; (b) the Summary Order revoking Respondent's agent registration and assessing civil monetary penalties

shall be reinstated as a final order and be deemed uncontested thereby revoking Respondent's agent registration; (c) any and all answers, responses, defenses and/or requests for hearing made by Respondent in response to the Summary Order, including Respondent's Response to Summary Revocation Order and Request for Hearing, dated July 2, 2013, shall be deemed withdrawn; (d) Respondent's right(s) to answer, oppose, move to vacate, assert defenses, seek judicial review, appeal, request a hearing or otherwise challenge or contest the Summary Order shall be deemed waived; (e) Respondent shall forfeit all monies paid under the Penalty Installment Plan; and (f) the Bureau Chief shall retain her rights to take any action permitted by law regarding a Penalty Installment Plan Default, including entering an order revoking Respondent's registration under N.J.S.A. 49:3-58(a)(2)(ii), all of which Respondent agrees not to oppose or otherwise contest or challenge.

FINAL JUDGMENT

47. Final judgment in the amount of Thirty Seven Thousand Five Hundred (\$37,500) Dollars ("Final Judgment") is entered against Deans, representing a civil monetary penalty pursuant to N.J.S.A. 49:3-70.1.

ADDITIONAL PROVISIONS

48. This Consent Order shall supersede the Summary Order, except as provided herein (e.g., in the event of a Penalty Installment Plan Default").

49. This Consent Order shall not bind any person not a party hereto, except as provided herein.

50. Each of the undersigned has read this Consent Order, understands it, and agrees to be bound by its terms.

51. No employee, official or person representing the Bureau or the State of New Jersey has made any additional promise or representation to Respondent Deans or his counsel regarding this Consent Order.

52. Counsel for Respondent Deans represents he is authorized to sign this Consent Order on Respondent Deans's behalf.

53. Pursuant to N.J.A.C. 1:1-19.1(d), this Consent Order shall be deemed the final decision as to Respondent Deans as it relates to the Summary Order, except as provided herein (e.g., in the event of a Penalty Installment Plan Default”).

54. Respondent Deans consents to the entry of this Consent Order and voluntarily waives an opportunity for a hearing after reasonable notice within the meaning of N.J.S.A. 49:3-58(c)(2).

55. This Consent Order may be signed in counterparts, each of which shall be deemed an original.

56. This Administrative Consent Order is to be filed with the Clerk of the Office of Administrative Law, as required by N.J.A.C. 1:1-19.1(c)(2), as soon as practicable after it is executed.

NEW JERSEY BUREAU OF SECURITIES

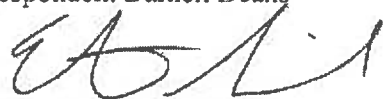


LAURA H. POSNER
BUREAU CHIEF

Consent to the Form, Content and Entry
of this Administrative Consent Order

Respondent Darnell Deans

By: _____

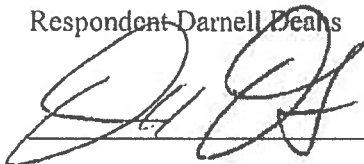


Dated: _____

9/2/14

Ethan Silver, Esq.
Carter, Ledyard & Milburn LLP
2 Wall Street
New York, New York 10005

Respondent Darnell Deans



Dated: _____

9/2/14

JOHN JAY HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY

By: _____



Dated: _____

9/3/14

Emanuel S. Asmar
Deputy Attorney General