

ADMINISTRATIVE PROCEEDING

BEFORE THE

SECURITIES COMMISSIONER OF SOUTH CAROLINA

IN THE MATTER OF:)
)
John Terrance Dast,) **ORDER TO CEASE AND DESIST**
) **File No. 15077**
)
Respondent.)

WHEREAS, the Securities Division of the Office of the Attorney General of the State of South Carolina (the “Division”) has been authorized and directed by the Securities Commissioner of South Carolina (the “Securities Commissioner”) to administer the provisions of S.C. Code Ann. § 35-1-101, *et seq.*, the South Carolina Uniform Securities Act of 2005 (the “Act”); and

WHEREAS, the Division received information regarding alleged activities of John Terrance Dast (the “Respondent”) that, if true, would constitute violations of the Act; and

WHEREAS, based on the information received, the Division decided it was necessary and appropriate to open an investigation pursuant to S.C. Code Ann. § 35-1-602 to determine whether the Respondent had violated, was violating, or was about to violate the Act; and

WHEREAS, in connection with its examination, the Division has determined that evidence exists to support the following findings of fact and conclusions of law:

I. JURISDICTION

1. The Securities Commissioner has jurisdiction over this matter pursuant to S.C. Code Ann. § 35-1-601.

II. RESPONDENT

2. The Respondent is a South Carolina resident with a last known address of 1556 Leesburg Road, Columbia, South Carolina 29209.

III. STATEMENT OF FACTS

3. The Respondent was registered as a broker-dealer agent with the State of South Carolina until on or around July 27, 2005, when the Respondent's registration was voluntarily terminated.
4. After the Respondent's registration was terminated, the Respondent offered investment advisory services to certain former clients in exchange for a fee based on the amount of customer assets under the Respondent's management.
5. A number of former clients accepted that offer (individually, a "Client"; collectively, the "Clients").
6. Prior to providing investment advisory services to a Client, the Respondent required that the Client provide the Respondent with a financial power of attorney, which gave the Respondent the authority to take possession of Client accounts and Client funds therein.
7. Pursuant to the terms of the financial power of attorney, the Respondent was, *inter alia*, empowered to effect transactions in securities on behalf of the Clients.
8. To effect those transactions, the Respondent would create, or direct the Client to create, an online brokerage account with an online retail brokerage service.
9. Further, the Respondent would create, or direct the Client to provide, the online brokerage account credentials such that the Respondent had full access to the Client's online brokerage account to effect trades.

10. At least twenty-eight (28) Client accounts were created or otherwise came under the Respondent's control in the manner described above.
11. The Clients paid the Respondent a management fee based on the assets under management in those accounts.
12. Contrary to the Respondent's representations in connection with offering investment advisory and account management services, the Respondent did not advise Clients as to the value of securities or the advisability of investing in securities.
13. Further, the Respondent allowed Client assets to remain substantially uninvested for significant periods of time.
14. Further, after obtaining financial powers of attorney from the Clients, the Respondent did not engage an independent public accountant to verify Client funds and securities in the accounts controlled by the Respondent.
15. In connection with offering investment advisory and account management services, the Respondent omitted to disclose that he was not properly registered as an investment advisor, as a broker-dealer, or as an agent.
16. Since July 27, 2005, the Respondent has not been registered as an investment adviser, as a broker-dealer, or as an agent with the Division, and no exemption from registration has been claimed.

IV. CONCLUSIONS OF LAW

17. The South Carolina Uniform Securities Act of 2005, S.C. Code Ann. § 35-1-101, *et seq.*, governs the offer and sale of securities in this State.
18. Pursuant to S.C. Code Ann. § 35-1-102(15), an "investment adviser" includes a person that, for compensation, engages in the business of advising others, either directly or

through publications or writings, as to the value of securities or the advisability of investing in, purchasing, or selling securities or that, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities.

19. The Respondent, on at least twenty-eight (28) occasions, transacted business in this State as an unregistered investment adviser.
20. Pursuant to S.C. Code Ann. § 35-1-403(a), it is unlawful for a person to transact business as an investment adviser in this State unless that person is registered or exempt from registration. The burden is on that person to claim an exemption.
21. The Respondent held himself out as and acted as an investment adviser without being registered as such in violation of the Act.
22. Pursuant to S.C. Code Regs. § 13-502, investment advisers and investment adviser representatives are required to observe high standards of commercial honor and just and equitable principals of trade in the conduct of their business and avoid engaging in dishonest and unethical conduct.
23. Pursuant to S.C. Code Regs. § 13-502(A)(8), an investment adviser's misrepresenting to any advisory client, *inter alia*, the nature of the advisory services being offered constitutes dishonest and unethical conduct in violation of S.C. Code Regs. § 13-502.
24. Pursuant to S.C. Code Regs. § 13-502(A)(10), an investment adviser's charging fees for services not performed constitutes dishonest and unethical conduct in violation of S.C. Code Regs. § 13-502.
25. The Respondent's holding himself out as a person who can give investment advice, the ostensible giving of investment advice without proper registration, misrepresenting to Clients the nature of the investment advisory services being offered, and failing to

perform or substantially perform the investment advisory services for which fees were charged constitute dishonest and unethical conduct in violation of S.C. Code Regs. § 13-502.

26. Pursuant to S.C. Code Regs. § 13-502(A)(15), it is contrary to the high standards of commercial honor and just and equitable principals of trade required of investment advisers and investment adviser representatives to take any action with respect to funds in which any client has a beneficial interest, where the adviser has custody or possession of such funds when the adviser's action is subject to and does not comply with the safekeeping requirements of Rule 206(4)-2 under the Investment Advisers Act of 1940.
27. Pursuant to Rule 206(4)-2(d)(2) of the Investment Advisers Act of 1940, 17 C.F.R. § 275.206(4)-2(d)(2) (2016), "custody" means holding, directly or indirectly, client funds or securities, or having any authority to obtain possession of them.
28. Pursuant to Rule 206(4)-2 of the Investment Advisers Act of 1940, 17 C.F.R. § 275.206(4)-2 (2016), it is a fraudulent, deceptive or manipulative act, practice, or course of business for an investment adviser to have custody of client funds unless, *inter alia*, the client funds and securities of which the investment adviser has custody are verified by actual examination at least once during each calendar year by an independent public accountant, pursuant to a written agreement between the investment adviser and the accountant.
29. The Respondent's failure to engage an independent public accountant to verify Client funds and securities in the twenty-eight (28) Client accounts under the Respondent's control constitutes a minimum of twenty-eight (28) occasions of taking custody of the Clients' funds in violation of S.C. Code Regs. § 13-502(A)(15).

30. It is in the public interest, for the protection of investors, and consistent with the purposes of the Act that the Respondent be ordered to cease and desist from engaging in the above-enumerated practices, which constitute violations of the Act and pay an appropriate civil penalty for his wrongdoing.

CEASE AND DESIST ORDER

NOW THEREFORE, pursuant to S.C. Code Ann. § 35-1-604(a)(1), it is hereby **ORDERED** that:

- a. Respondent John Terrance Dast **CEASE AND DESIST** from transacting business in this State in violation of the Act; and
- b. Respondent John Terrance Dast pay a civil penalty in the amount of two hundred eighty thousand dollars (\$280,000) if this Order becomes effective by operation of law, or, if Dast seeks a hearing and any legal authority resolves this matter, pay a civil penalty in an amount not to exceed \$10,000 for each violation of the Act by Dast, and the actual cost of investigation or proceeding.

IT IS FURTHER ORDERED that, pursuant to S.C. Code Ann. §§ 35-1-604(a)(2) and (3), any exemption from registration with the Division upon which the Respondents may claim to rely under S.C. Code Ann. §§ 35-1-201(3)(C), (7), or (8); 35-1-202; 35-1-401(b)(1)(D) or (F); or 35-1-403(b)(1)(C), has been and is **PERMANENTLY REVOKED**.

VI. REQUIREMENT OF ANSWER AND NOTICE OF OPPORTUNITY FOR HEARING

The Respondent is hereby notified that he has the right to a hearing on the matters contained herein. To schedule such a hearing, the Respondent must file a written Answer specifically requesting a hearing with the Securities Division, Post Office Box 11549, Rembert C. Dennis Building, Columbia, South Carolina, 29211-1549, attention: Thresechia Navarro,

within thirty (30) days after the date of this Administrative Order. If the Respondent requests a hearing, the Division, within fifteen (15) days after receipt of a request in a record from the Respondent, will schedule the hearing for the Respondent.

In the written Answer, the Respondent, in addition to requesting a hearing, shall admit or deny each factual allegation in this Order, shall set forth specific facts on which the Respondent relies, and shall set forth concisely the matters of law and affirmative defenses upon which the Respondent relies. If the Respondent is without knowledge or information sufficient to form a belief as to the truth of an allegation, he shall so state.

Failure by the Respondent to file a written request for a hearing in this matter within the thirty-day (30) period stated above shall be deemed a waiver by the Respondent of the right to such a hearing. Failure by the Respondent to file an Answer, including a request for a hearing, shall result in this Order, including the stated civil penalty and any assessed costs, becoming final as to the Respondent by operation of law.

This Order does not prevent the Division or any other law enforcement agency from seeking additional civil or criminal remedies that are available under the Act, including remedies related to the offers and sales of investment advisory services by the Respondent set forth above.

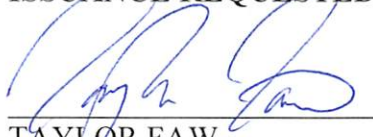
[SIGNATURE PAGE FOLLOWS]

ENTERED, this the 17th day of March, 2017.

ALAN WILSON
SECURITIES COMMISSIONER

By: Tracy Meyers
TRACY A. MEYERS
Deputy Securities Commissioner

ISSUANCE REQUESTED BY:



TAYLOR FAW
Assistant Attorney General
Securities Division
Office of the Attorney General
Columbia, South Carolina

STATE OF SOUTH CAROLINA
OFFICE OF THE ATTORNEY GENERAL
SECURITIES DIVISION

CERTIFICATE OF SERVICE AND
AFFIDAVIT OF COMPLIANCE
File Number 15077

I hereby certify that I served upon the individual/entity listed below a copy of the document indicated below and dated March 17, 2017, by serving a copy of said document upon the Securities Commissioner of the State of South Carolina and by placing a copy of said document in the United States mail, certified mail, return receipt requested, first class postage prepaid and addressed to:

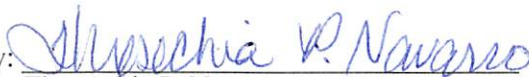
Mr. John T. Dast
1556 Leesburg Road
Columbia, SC 29209

Document(s): Order to Cease and Desist

Mailed March 17, 2017 from Columbia, South Carolina.


I further hereby certify, swear and affirm that, service of the above-listed entity is in compliance with Section 35-1-611, Code of Laws of South Carolina.

By:



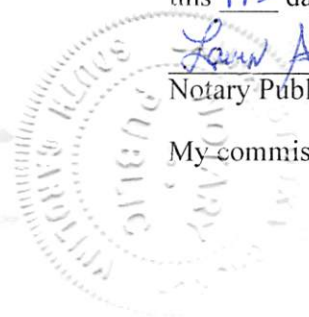
Thresechia P. Navarro
South Carolina Attorney General's Office
Securities Division
Post Office Box 11549
Columbia, SC 29211-1549
(803) 734-4731

Subscribed and sworn to before me on
this 17th day of March, 2017.



Notary Public for South Carolina

My commission expires: 3-10-18



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