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ARKANSAS SECURITIES DEPT.

BEFORE THE ARKANSAS SECURITIES COMMISSIONER
CASE NO. S-16-0017
ORDER NO. S-16-0017-18-OR01

IN THE MATTER OF:

EDWARD D. JONES & CO., L.P.

RESPONDENT

CONSENT ORDER

This Consent Order is entered pursuant to the Arkansas Securities Act, codified at Ark. Code Ann. §§ 23-42-101 through 23-42-509 ("Act"), the Rules of the Arkansas Securities Commissioner ("Rules") promulgated under the Act and the Arkansas Administrative Procedures Act, codified at Ark. Code Ann. §§ 25-15-201 through 25-15-219, in accordance with an agreement by and between the Staff of the Arkansas Securities Department ("Staff") and the Respondent, Edward D. Jones & Co., L.P. ("Edward Jones" or the "Firm"), and in full and final settlement of all claims that could be brought against the Respondent by the Staff on the basis of the facts set forth herein.

The Respondent admits the jurisdiction of the Act and the Arkansas Securities Commissioner ("Commissioner"), waives its right to a formal hearing, and without admitting or denying the findings of fact or conclusions of law made herein, consents to the entry of this Order and agrees to abide by the terms of the settlement of any alleged violations committed by it in relation to the matters detailed in this Order.

FINDINGS OF FACT

1. Edward Jones (CRD number 250), is a dually registered investment advisor and broker-dealer with its principal place of business located at 12555 Manchester Rd, St. Louis, Missouri. Edward Jones has been registered with the Arkansas Securities Department ("Department") since 1966.

2. William McKinney "Kinney" Black ("Black"), CRD number 4085607, was registered with the Department as a broker-dealer agent of Edward Jones from February 23, 2000

to August 4, 2015. Black was also registered with the Department as an investment adviser representative with the Firm from January 25, 2007 through August 4, 2015.

WILLIAM McKINNEY BLACK

3. On August 14, 2013 the Firm placed Black on heightened supervision after noting in reviews that activity in certain of his client accounts (including a high frequency of transactions which were, at times, contrary to the Firm's recommendations and which resulted in high commissions) violated Firm policies. On November 5, 2013, the Firm issued a *Letter of Warning for Excessive Trading* (the "Warning Letter") to Black and elevated the level of supervision imposed on him after he failed to sufficiently alter his trading activity. The additional supervision requirements included a review of all incoming imaged correspondence; quarterly reviews in addition to regular branch audits with one of those quarterly reviews required to be conducted on a face-to-face basis; and prior written approval for client margin trading and prior written approval for Black to conduct any training of other Financial Advisors.

4. During the special supervision review conducted in February 2014, it was noted that 77% of Black's business was generated from transactions involving individual equity securities ("equities"). Those transactions resulted in approximately \$740,549.00 in commissions. According to the Warning Letter, Black employed a short term trading strategy that was not in line with Firm philosophy and which resulted in commissions that might be considered excessive. When Black received the Warning Letter and was placed on special supervision, he was specifically instructed by the Firm to review Firm policies with respect to Equitable, Balanced and Fair Recommendations; Excessive Trading; and Suitability. Black was ultimately discharged by the Firm on August 4, 2015.

5. Prior to his discharge, Black continued to violate the Firm's policies and certain trade restrictions imposed on him by the Firm. During the May 19, 2014 supervisory review, it was

noted that while Black had increased the dollar amount of his trades to reduce the overall number of trades, it did not appear that a sufficient change had occurred with Black's trading of equities in client accounts. During the review the compliance officer noted that the number of trades and commissions being generated could be considered excessive relative to FINRA Rule 2111 regarding suitability and was not consistent with the Firm's values and philosophy. The Firm imposed additional trading limitations on Black at that time.

6. To mitigate the costs to clients associated with Black's trading strategy, on June 20, 2014 the Firm required that all future purchase and sale transactions in equity securities by Black's clients be executed at one-half the normal commission rate. Additionally, the Firm required that Black, and all other agents at his branch, limit solicited equity transactions in client accounts to "companies with Edward Jones or S&P opinions."

7. On September 9, 2014 the commission discounting requirement was changed to require that "all stock sells for stocks held less than one year should be entered with the 50% discount." In February of 2015, Black sold and purchased multiple equities contrary to the Firm's recommendations. As a result, the Firm refunded certain client commissions associated with these trades. Black shared in the costs of such refunds.

8. During a review conducted on February 6, 2015, it was noted that Black was not complying with the imposed commission discount requirement for multiple client accounts. In addition, it was determined that Black had violated firm policy and industry regulations by not forwarding two pieces of correspondence from a client that could be considered complaints. The complaints were written complaints lodged by AR1 ("AR1"), an Arkansas resident, regarding excessive trading. On February 11, 2015 the Firm issued a "Letter of Education" to Black in response to his failure to report the customer complaints. No further disciplinary action was taken against Black at that time.

9. On May 5, 2015, Black's conduct was referred to the Firm's Compliance Resolution group for investigation.

10. On May 13, 2015, in the course of the investigation by Compliance Resolution, the Firm discovered a third complaint that Black had failed to report. The customer complaint was from AR2 ("AR2"), an Arkansas resident who emailed Black directly on December 9, 2014 expressing frustration over the performance of his account. Per the Firm's own written supervisory procedures, all of Black's incoming correspondence, including the e-mail referenced above, were required to be reviewed by designated Firm personnel and promptly forwarded to the Firm's Complaint Department for review and action, as appropriate. However, AR2's complaint was not forwarded to the Firm's Complaint Department in accordance with Firm procedures until May, 13 2015, five months after it was initially sent to Black, at which time it was addressed by the Firm.

11. The May 20, 2015 special supervision quarterly review noted that three additional written sales related complaints had been lodged against Black. Client AR3 ("AR3") filed a complaint on April 17, 2015; Client AR4 ("AR4") filed a complaint on April 18, 2015; and Client AR5 ("AR5") filed a complaint on May 14, 2015. All three complaints pertained to excessive trading or excessive fees. According to the disclosure on CRD, the alleged compensatory damage amount was \$5,000.00, with "5000.00 OR MORE" written in the explanation section. The Firm ultimately resolved the above referenced complaints by settling in the amount of \$510,000.00 with AR1, Client AR6 ("AR6"), the AR7 Revocable Trust ("AR7"), the Client AR8 Trust ("AR8"), Client AR9 ("AR9"), Client AR10 ("AR10"), Client AR11 ("AR11"), AR5, and AR3 (collectively, "Claimants"). Claimants are related and were represented by the same attorney. The Firm listed the settlement on Black's Form U5 as one disclosure event listing all of the above-referenced Claimants despite the fact that the settlement pertained to multiple client accounts and multiple customer complaints.

12. Although Black was on special supervision since November of 2013, the Firm did not realize until May of 2015 that Black had implemented an inappropriate investment strategy for multiple client accounts. Black was using income riders from annuity products held by clients to purchase other investments in the clients' accounts (the "Annuity Strategy"). Many of Black's clients involved in the Annuity Strategy were unaware of the fees Black received from this activity. Following the May 2015 special supervision quarterly review when the Firm discovered the activity, Black was instructed to immediately cease using the Annuity Strategy. No further disciplinary action was taken against Black at this time. However, the Firm did contact certain clients involved in the Annuity Strategy to ensure that they understood the Annuity Strategy and to inform them of their options with respect to their accounts.

13. The May 2015 review also revealed that Black had not complied with a Firm requirement with respect to all newly created advisory accounts that the client receive the "Acknowledgment Letter: Advisory Solutions Costs Compared to Mutual Funds" and the "Acknowledgment Letter: Funding Advisory Solutions with Proceeds from Liquidated Mutual Funds." Lastly, the Firm discovered that Black had failed to disclose outside business activity for rental property that Black had owned and rented for the past 25 years. No disciplinary actions were taken with respect to the matters identified in the May 2015 review; however, as noted above, an investigation was ongoing by the Firm's Compliance Resolution group and Black's association with the Firm was terminated on August 4, 2015.

14. Months after Black was discharged, one final customer complaint was lodged against him. Client AR12 ("AR12"), an Arkansas resident and client of Black's, submitted a written complaint on October 2, 2015 regarding excessive trading and high commissions. The Firm acknowledged receipt of AR12's complaint on October 26, 2015. Ultimately, this matter was settled on April 5, 2016 in the amount of \$34,642.91. Black's Form U5 has not been amended to

reflect these events.

UNRELATED ACCOUNT DOCUMENTATION

15. Separately, clients AR13 ("AR13") and AR14 ("AR14") were clients of another Edward Jones financial advisor from 2003 until 2013. Sometime between February 27, 2010 and March 26, 2010, AR13 and AR14 added their daughter ("Daughter") to their joint account as a joint owner with a right of survivorship. The Firm cannot locate the proper documentation adding Daughter to the account of AR13 and AR14.

APPLICABLE LAW

16. Ark. Code Ann. § 23-42-308(a)(2)(B) provides that the Securities Commissioner may by order deny, suspend, make conditional or probationary, or revoke any registration if he finds that the registrant has willfully violated or willfully failed to comply with any provision of the Act or Rules.

17. Ark. Code Ann. § 23-42-308(a)(2)(J) provides that the Securities Commissioner may by order deny, suspend, make conditional or probationary, or revoke any registration if he finds that the registrant has failed to reasonably supervise the agents or employees of the broker-dealer or the representatives or employees of the investment adviser.

18. Ark. Code Ann. § 23-42-308(g) authorizes fines for violations in the amount of ten thousand dollars (\$10,000) for each violation or the amount of money received in connection with each separate violation.

19. Ark. Code Ann. § 23-42-308(h) states that nothing in this section shall prohibit or restrict the informal disposition of a proceeding or allegations which might give rise to a proceeding by stipulation, settlement, consent, or default in lieu of a formal or informal hearing on the allegations or in lieu of the sanctions authorized by this section.

20. Rule 308.01(x) requires registrants to comply with conduct rules and fair practice and ethical standard laws and rules related to conducting business involving securities promulgated by the SEC or any self-regulatory organization. Failure to do so shall be grounds for suspension or revocation.

21. Ark. Code Ann. § 23-42-301(f)(1) provides that a broker-dealer shall establish, maintain, and enforce a system to supervise the activities of its agents and employees that is reasonably designed to achieve compliance with this chapter, the rules and orders of the commissioner, all other applicable state and federal securities laws, and the rules of self-regulatory organizations.

22. Rule 301.01(c)(2)(F) requires that firms have written supervisory procedures that provide for the prompt review and documentation of customer complaints.

23. Rule 301.01(c)(5) provides that the final responsibility for proper supervision shall rest with the broker-dealer or investment adviser. It is the responsibility of the broker-dealer or investment adviser to ensure through inspections of each business location that the written procedures are enforced and the supervisory obligations imposed by this Rule are being honored.

24. Article V, Section 3 of the FINRA By-Laws, FINRA Regulatory Notice 10-39, and Instructions to Form U5 require that a Uniform Termination Notice, a Form U5, be submitted within thirty (30) when a registered representative leaves a firm for any reason. Firms are under a continuing obligation to amend a previously filed Form U5 when they learn of facts or circumstances that make a previously filed Form U5 inaccurate or incomplete including Section 7 (Disclosure Questions) reportable matters that occur and become known after initial submission of the Form U5.

25. Ark. Code Ann. §23-42-306 states that every registered investment adviser shall make and keep any accounts, correspondence, memoranda, papers, books, and other records which

the Commissioner by rule prescribes. Rule 306.02 states that the business records required to be maintained shall include all investment advisory contracts and other written agreements entered into by the investment adviser with any client or otherwise relating to the business of the investment adviser.

CONCLUSIONS OF LAW

26. The facts set out above in Paragraphs 3-15 demonstrate that Edward Jones failed to establish, maintain, and enforce a system to adequately supervise the activities of Black that was reasonably designed to achieve compliance with the Act and Rules. It is the responsibility of the broker-dealer or investment adviser to ensure through inspections that the written procedures are enforced and the supervisory obligations imposed by the Rules are being honored. Black was allowed to continue to violate his trade restrictions and Firm policies and specific restrictions placed on his activity by the Firm without sufficient consequence while on special supervision. The Firm violated Ark. Code Ann. § 23-42-301(f)(1) and Rule 301.01(c)(5) through its failure to properly supervise Black.

27. The facts set out above, demonstrate that Edward Jones failed to promptly review and document the handling of at least one customer complaint and failed to establish, maintain, and enforce a system to supervise the activities of its agents and employees that was reasonably designed to achieve compliance with the rules and orders of the commissioner, all other applicable state and federal securities laws, and the rules of self-regulatory organizations in violation of Rule 301.01(c)(2)(F) and Ark. Code Ann. § 23-42-301(f)(1).

28. Question 7E(2)(b) on the Form U5 asks "In connection with events that occurred while the individual was employed by or associated with your firm, was the individual the subject of an investment-related, consumer-initiated (written or oral) complaint, which alleged that the individual was involved in one or more sales practice violations, and which was settled, on or after

5/18/2009, for an amount of \$15,000.00 or more?" Edward Jones answered "No" to this question when they should have answered "yes." AR12 complained to Edward Jones alleging excessive trading and high commissions, a sales practice violation, and Edward Jones settled the matter with AR12 on April 5, 2016 in the amount of \$34,642.91. Failing to properly disclose AR12's complaint and settlement on Black's Form U-5 is a violation of FINRA By-Law Article V, Section 3 and Rule 308.01(x).

29. At the Time of Black's termination, he was on special supervision and the subject of a Firm internal review relating to his conduct while on special supervision. Question 7B on the Form U5 asks if the adviser "currently is, or at termination was, the individual under internal review for fraud or wrongful taking of property, or violating investment-related statutes, regulations or industry standards of conduct?" Upon updating Black's U5, Edward Jones selected "No" to question 7B, when they should have selected "yes." Failing to properly update and disclose the fact that Black was the subject of a Firm internal review relating to his conduct while on special supervision at the time he was terminated is a violation of FINRA By-Law Article V, Section 3 and Rule 308.01(x).

30. The failure by Edward Jones to make and keep required books and records in connection with the account(s) of AR13 and AR14 above constitutes a violation of Ark. Code Ann. §23-42-306 and Rule 306.02.

OPINION

31. This Order is in the public interest. The facts as set out above in Paragraph 3 through 15 support the violations of the Act and Rules set out in Paragraphs 16 through 30.

ORDER

By agreement and with the consent of the Staff and the Firm, IT IS HEREBY ORDERED:

1. Edward Jones shall conduct a review of their current supervisory provisions and practices to ensure that the oversights and resulting violations that occurred with Black do not occur in the future.

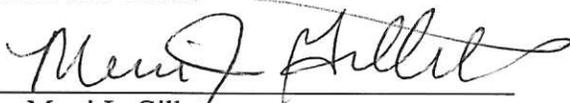
2. Edward Jones shall immediately update Black's Form U-5 to accurately reflect all customer complaints and reportable disciplinary actions.
3. Edward Jones shall pay a fine in the amount of \$50,000 to the Arkansas Securities Department upon entry of this Order.

WITNESS MY HAND AND SEAL this the 13 day of Sept, 2018.



B. Edmond Waters
Arkansas Securities Commissioner

Respondent, Edward D. Jones & Co., L.P., hereby agrees to the entry of this Consent Order; consents to all terms, conditions, and orders contained therein; and waives any right to an appeal from this Order.



By: Merri Jo Gillete
Deputy General Counsel
On behalf of Edward D. Jones & Co., L.P.

9/11/18

Date

APPROVED AS TO FORM AND
CONTENT:



Robert M. Cossio, *Staff Attorney*
Arkansas Securities Department

9-13-18

Date



Robert G. Brunton
Associate General Counsel
Edward D. Jones & Co., L.P.

9/10/18

Date