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ARKANSAS SECURITIES DEPT.

BEFORE THE ARKANSAS SECURITIES COMMISSIONER

Case No. S-15-0028

Order No. S-15-0028-15-OR01

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IN THE MATTER OF  
TIMOTHY ALONZA LILLY

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CONSENT ORDER

This consent order is entered pursuant to the Arkansas Securities Act, codified at Ark. Code Ann. §§ 23-42-101, *et seq.* (Repl. 2000), (Act), the Rules of the Arkansas Securities Commissioner promulgated under the Act (Rules) and the Arkansas Administrative Procedures Act, codified at Ark. Code Ann. §§ 25-15-201, *et seq.* (Repl. 2002) in accordance with an agreement by and between the Staff of the Arkansas Securities Department (Staff) and Timothy Alonza Lilly in full settlement of all claims brought against Lilly by the Staff in its complaint filed on August 20, 2015.

Lilly admits the jurisdiction of the Act and the Arkansas Securities Commissioner (Commissioner), waives his right to a formal hearing and, without admitting or denying the findings of fact made herein, consents to the entry of this order and agrees to abide by its terms.

FINDINGS OF FACT

1. Timothy Alonza Lilly, CRD No. 5304681, is an Arkansas resident. He has never been registered in any capacity pursuant to the Act. He is presently seeking employment and registration with Harvest Financial Group, LLC, as an investment adviser representative.
2. Lilly willfully violated or willfully failed to comply with several provisions of the Act and engaged in certain dishonest and unethical practices in the securities business set out in the

Rules. The Arkansas Securities Commissioner (Commissioner) issued two cease and desist orders against Lilly pursuant to Ark. Code Ann. § 23-42-209 setting out these violations of the Act and Rules. For ease of reference the two orders are referred to by shortened versions of the names of the limited liability companies Lilly was using to do business in each of the orders.

*First Fidelity*

3. The first order was *In the Matter of Timothy Alonza Lilly, et al.*, Order No. S-08-043-08-CD01, 2008 WL 2206541 (May 23, 2008); *aff'd. as to Lilly*, Order No. S-08-043-09-FO01, 2009 WL 3496291 (October 27, 2009) (*First Fidelity*). First Fidelity Financial Group of Maumelle, LLC, (*First Fidelity*), a limited liability company formed and owned by Lilly, ran newspaper advertisements for several weeks advertising CDs carrying an annual percentage yield of 4.75%. In order to make an annual percentage yield of 4.75%, First Fidelity promised to add additional principal to the CDs purchased by investors. The Staff investigated First Fidelity, and discovered that in sixteen of twenty-three cases First Fidelity did not make promised deposits of additional principal, and in two cases where deposits of additional principal were made, the deposits were in amounts insufficient to generate an annual yield of 4.75%.
4. Lilly was found to have committed two violations of the Act, to wit: 1) the offer and sale of unregistered securities, a violation of Ark. Code Ann. § 23-42-501, and 2) securities fraud in the offer and sale of the securities offered and sold, a violation of Ark. Code Ann. § 23-42-507(2). Fraud was found in the statement made in the newspaper advertisement that First Fidelity was offering certificates of deposit paying a 4.75% annual yield and in the statement

made to individual investors that they would realize a 4.75% annual yield from First Fidelity's deposit of additional principal in an amount sufficient to raise the annual yield to 4.75%.

5. In this case Lilly requested and was granted a hearing before the Commissioner. The hearing was held on June 17, 2009. On October 27, 2009, the Commissioner found insufficient evidence against one party respondent to affirm the order as to that party but affirmed the order as to Lilly in all respects.

*Covenant*

6. The second cease and desist order was *In the Matter of Timothy Alonza Lilly, d/b/a Covenant Senior Advisors, LLC*, Order No. S-08-053-08-CD01, 2008 WL 2625360 (July 1, 2008) (*Covenant*). Lilly was found to have acted as an unregistered investment adviser and to have committed securities fraud. The finding of acting as an unregistered investment adviser was based on two factual bases. First, Lilly had approached an Arkansas couple near retirement and advised them to liquidate their 401(k) plan, an IRA and their bank CDs and invest the money in an equity indexed annuity with a 10 year maturity date. Second, an examination of Lilly's office showed that he had recommended that other customers liquidate their securities in order to purchase equity indexed annuities from Lilly and had facilitated the liquidation of those securities by supplying and filling out various forms 1) opening new accounts with a Florida broker-dealer, 2) transferring all the securities in the customers' existing securities accounts to new ones, 3) liquidating the securities once they reached the new accounts with the Florida broker-dealer and 4) instructing the Florida broker-dealer to send the money realized from the liquidation of securities to the insurance companies issuing the equity

indexed annuities.

7. The findings in *Covenant* regarding misleading statements centered around professional designations Lilly used in a postcard advertisement for a free lunch seminar to be held at a Sherwood restaurant and on his web site. On the postcard Lilly used the designation, CSA, next to his name. On the website he made the designation explicit: “Certified Senior Advisor and Certified Retirement Financial Advisor.” Because Lilly’s membership dues were not paid, his membership in the Society of Certified Senior Advisors (SCSA) had lapsed, and he was not permitted to use the CSA designation. Further, the SCSA required the use of a disclaimer along with the designation that its use, alone, did not imply specific credentials and education and that persons presented with the CSA designation should inquire about the user’s education and experience. The use of the CSA designation was found to be unauthorized and misleading when used alone.

A second designation used on both the postcard advertisement and the website was that of Certified Retirement Financial Advisor (CRFA), a designation bestowed by the Society of Certified Retirement Financial Advisors (SCFRA) after completion of a course of training and study. SCFRA had no record of Lilly having applied or completed such a course of training or study. Thus, the use of this designation was found to be misleading and a positive misstatement of fact.

A last designation used on the postcard was that of a Registered Financial Advisor (RFA), a designation granted by the National Association of Personal Financial Advisors (NAPFA). This organization is open to fee-only financial planners who fit several other qualifications, including one that members be registered investment advisers. Investment advisers are

registered securities professionals. Because Lilly was not registered either with the ASD, or with the United States Securities and Exchange Commission, the Commissioner found the use of this designation to be a positive misstatement of fact and misleading.

8. *Covenant* contained three violations of the Act and two violations of the Rules. Lilly was found to have acted as an unregistered investment adviser in violation of Ark. Code Ann. § 23-42-301(c). Lilly's misrepresentations of his qualifications by the improper use of certain professional designations led to two more violations of the Act and the two violations of the Rules: securities fraud by an investment adviser in violation of Ark. Code Ann. §§ 23-42-307; securities fraud in connection with the offer or sale of a security in violation of Ark. Code Ann. § 23-42-507; misrepresenting qualifications of an investment adviser, a violation of Rule 308.02(h), Rules of the Arkansas Securities Commissioner; and false advertising, a violation of Rule 308.02(m)(5), Rules of the Arkansas Securities Commissioner.
9. Although Lilly had the right to request a hearing before the Commissioner to contest this order in accordance with Ark. Code Ann. § 23-42-209(a)(2)(A), as he did in the case of *First Fidelity*, he did not request a hearing on *Covenant*. Thus, the order remains in effect in accordance with Ark. Code Ann. § 23-42-209(a)(2)(B).

### CONCLUSIONS OF LAW

10. The Commissioner has jurisdiction over this matter pursuant to Ark. Code Ann. § 23-42-308.
11. As set out in *First Fidelity* and detailed above in ¶¶ 3-5, Lilly
  - a. offered and sold unregistered securities in violation of Ark. Code Ann. § 23-42-501 and
  - b. committed securities fraud in violation of Ark. Code Ann. § 23-42-507(2).

12. As set out in *Covenant* and detailed above in ¶¶ 6-9, Lilly
- a. acted as an unregistered investment adviser in violation of Ark. Code Ann. § 23-42-301(c),
  - b. committed securities fraud by an investment adviser in violation of Ark. Code Ann. § 23-42-307,
  - c. committed securities fraud in the offer or sale of a security in violation of Ark. Code Ann. § 23-42-507,
  - d. misrepresented his qualifications as an investment adviser, defined as a dishonest or unethical practice in Rule 308.02(h), Rules of the Arkansas Securities Commissioner, and
  - e. published, circulated or distributed an advertisement containing untrue statements of material facts or which was otherwise false and misleading, defined as a dishonest or unethical practice in Rule 308.02(m)(5), Rules of the Arkansas Securities Commissioner.

### UNDERTAKING

In settlement of this matter Lilly agrees with the Staff to not apply for registration pursuant to the Act in any capacity for five years from the date of this order.

### OPINION

This order is in the public interest. The facts set out in ¶¶ 1 - 9 support the violations of the Act and Rules set out in ¶¶ 11 and 12.

ORDER

IT IS THEREFORE ORDERED that Lilly's application for registration as an investment adviser representative for Harvest Financial Group, LLC, is hereby denied in accordance with Ark. Code Ann. § 23-42-308(a)(2)(B).

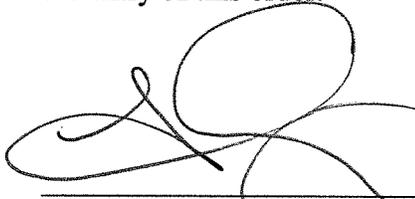
WITNESS MY HAND AND SEAL this 19<sup>th</sup> day of October, 2015.



B. Edmond Waters  
ARKANSAS SECURITIES COMMISSIONER

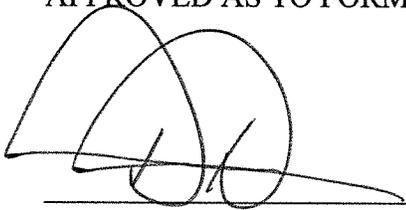
CONSENT TO ENTRY OF ORDER

Timothy Alonza Lilly hereby acknowledges that he has been served with a copy of this Order, has read it, is aware of his right to a hearing and has waived that right. He acknowledges that he is consenting to the entry of this order, including the undertaking that is a part of this order, voluntarily after consulting with counsel and that no threats, offers, promises or inducements of any kind have been made by any member of the Staff to induce him to consent to the entry of this order.

  
\_\_\_\_\_  
Timothy Alonza Lilly

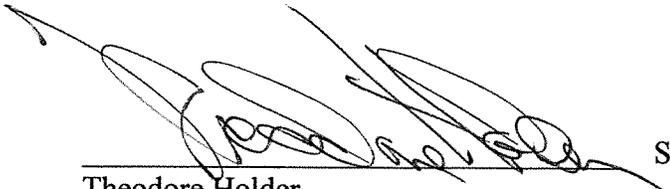
Signed this 12<sup>th</sup> day of October, 2015.

APPROVED AS TO FORM AND CONTENT

  
\_\_\_\_\_  
David Davies  
*Attorney for Timothy Alonza Lilly*

Signed this 12<sup>th</sup> day of October, 2015.

APPROVED AS TO FORM AND CONTENT

  
\_\_\_\_\_  
Theodore Holder  
*Attorney for the Staff*

Signed this 19<sup>th</sup> day of October, 2015.