



STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

RICK SNYDER
GOVERNOR

SHELLY EDGERTON
DIRECTOR

Complaint No. 328900

In the matter of:

CHRISTOPHER T. TOLMACS
CRD# 4648724

Respondent.

FINAL ORDER

1. This matter came before the Department of Licensing and Regulatory Affairs under the Michigan Uniform Securities Act (2002), 2008 PA 551, as amended, MCL 451.2101 *et seq.* (the "Act"), and associated administrative rules.
2. On April 29, 2016, the Director of the Corporations, Securities & Commercial Licensing Bureau, who is the Administrator of the Act (the "Administrator"), issued a Notice of Intent to Revoke Investment Adviser Representative and Securities Agent Registrations (the "Notice of Intent to Revoke") to Christopher T. Tolmacs ("Respondent"), providing him with notice and an opportunity to show compliance under the Administrative Procedures Act, 1969 PA 306, as amended, MCL 24.201 *et seq.*, and notice and an opportunity to request a hearing under MCL 451.2412.
3. On July 6, 2016, Respondent, through his attorney, indicated that he did not contest the findings of fact and conclusions of law set forth in the Notice of Intent to Revoke, waiving his right to a hearing on the matter.
4. The findings of fact and conclusions of law set forth in the Notice of Intent to Revoke are incorporated by reference.
5. Respondent is in violation of the Act and/or its associated administrative rules as specified in paragraph 19 of the Notice of Intent to Revoke.

THEREFORE, IT IS ORDERED, that Respondent's Investment Adviser Representative Registration and Securities Agent Registration are revoked, as authorized by section 412(2) of the Act, MCL 451.2412(2); and

IT IS FURTHER ORDERED, that the following penalties authorized by section 412(3) of the Act, MCL 451.2412(3), are imposed:

A. Respondent must pay a FINE in the amount of Fifty Thousand Dollars and 00/100 Cents (\$50,000.00) based on the multiple violations identified in paragraph 19 of the Notice of Intent to Revoke. The fine is payable to the State of Michigan within sixty (60) days from the mailing date of this Final Order. Complaint No. 328900 must be clearly indicated on the cashier's check or money order, and the payment sent to the Department of Licensing and Regulatory Affairs, Corporations, Securities & Commercial Licensing Bureau, Final Order Monitoring – Securities & Audit Division, P.O. Box 30018, Lansing, Michigan 48909.


B. No application for a permit, registration, licensure, relicensure, reinstatement, or renewal submitted by Respondent under the Act will be considered or granted by the Department, until all final orders of the Department are fully complied with.

C. Failure to comply with this Order may subject Respondent to additional administrative or criminal sanctions, fines, and/or penalties. Under MCL 451.2508, a person that willfully violates the Act, or an order issued under the Act, is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$500,000.00 for each violation, or both. An individual convicted of violating a rule or order under the Act may be fined, but shall not be imprisoned, if the individual did not have knowledge of the rule or order.

This Final Order is effective immediately upon its mailing.

Given under my hand at Okemos, Michigan, this 18 day of July, 2016.

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

By: 

Julia Dale, Administrator and
Corporations, Securities & Commercial Licensing Bureau Director

Date mailed: July 19, 2016

This is the last and final page of the Final Order in the matter of Christopher T. Tolmacs, Complaint No. 328900.

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
CORPORATIONS, SECURITIES & COMMERCIAL LICENSING BUREAU

In the matter of:

Agency No. 328900

CHRISTOPHER T. TOLMACS
CRD# 4648724

Applicant.
_____ /

Issued and entered
This 29 day of April, 2016

NOTICE OF INTENT TO REVOKE
INVESTMENT ADVISER REPRESENTATIVE
AND SECURITIES AGENT REGISTRATIONS

I. RELEVANT FACTS AND APPLICABLE LAW.

Relevant information and statutory provisions, under the Michigan Uniform Securities Act (2002), 2008 PA 551, as amended, MCL 451.2101 *et seq* (the "Securities Act"):

1. Christopher T. Tolmacs ("Respondent") was registered as an investment adviser representative in the State of Michigan through Harbinger Asset Management, LLC (IARD#146811) from in or around July 2012 until on or around March 21, 2016. Harbinger Asset Management, LLC withdrew its investment adviser registration on or around March 24, 2016.
2. Respondent was registered as a securities agent in Michigan through Vanguard Capital (CRD#22081) from in or around August 2003 until in or around February 2005; through Voya Financial Advisors, Inc. (CRD#2882) from in or around February 2005 until in or around April 2008; and through Triad Advisors, Inc. (CRD#25803) from in or around April 2008 until in or around March of 2016, when the firm discharged Respondent for violations of firm policy and Financial Industry Regulatory Authority ("FINRA") rule 3240, which prohibits registrants from taking loans from firm customers unless specific criteria are met.
3. Respondent, in addition to being an investment adviser representative, is the sole shareholder and was the chief compliance officer of Harbinger Asset Management, LLC. Respondent, in addition to being a securities agent, was the supervisor of the Triad Advisors, Inc. branch office (Branch Office CRD#365367) located at 5220 Lovers Lane, Ste. 130, Portage, MI 49002 ("the Triad Branch Office").

4. The Corporations, Securities & Commercial Licensing Bureau ("the Bureau") within the Department of Licensing and Regulatory Affairs began an examination of Harbinger Asset Management, LLC and the Triad Branch Office in or around August 2015. Bureau staff interviewed Respondent on or around August 5, 2015 and on or around February 11, 2016.
5. During the course of the examination of Harbinger Asset Management, LLC and the Triad Branch Office, Bureau staff received information that Respondent had accepted loans from investment advisory clients of Harbinger Asset Management, LLC and from broker-dealer customers of Triad Advisors, Inc., which the Bureau considers to be an unethical business practice.
6. During the interview that occurred on or around August 5, 2015, Bureau staff verbally asked Respondent if he had borrowed money or securities from clients, and Respondent answered the question, "No." Respondent's answer was false, as Bureau staff later came into possession of a promissory note between Respondent and a husband and wife who had been Respondent's clients. Respondent admitted to borrowing money from the clients when confronted with the promissory note during an interview conducted on or around February 11, 2016.
7. During the interview conducted on or around February 11, 2016, Bureau staff asked if the funds borrowed from the couple identified in paragraph 6 herein were deposited in a personal account. Respondent stated that the funds were deposited in a business account for Harbinger Asset Management, LLC. The statement was false, as the relevant check had been made out to Respondent personally, and deposited in a personal account.
8. During the interview that occurred on or around February 11, 2016, Bureau staff asked Respondent if he had borrowed money or securities from clients other than those identified in paragraph 6 herein; Respondent answered the question, "No," which was false.
9. Respondent provided personal bank statements to the Bureau which were altered or redacted to conceal from Bureau staff relevant information regarding withdrawals from the account.
10. During the course of the examination of Harbinger Asset Management, LLC and the Triad Branch Office, Bureau staff discovered that Respondent was the subject of an IRS tax lien in the amount of \$210,273.25 and a State of Michigan tax lien in the amount of \$15,858.30, neither of which had been disclosed on Respondent's form U4. Respondent stated in the interview that occurred on or around February 11, 2016 that he was aware of the existence of the liens, but had not disclosed them.
11. The liens referred to in paragraph 10 herein raised questions of Respondent's solvency, so Bureau staff requested a copy of Respondent's personal balance sheet to confirm

compliance with the Securities Act solvency requirements; however, Respondent never submitted a balance sheet to staff.

12. Respondent entered into an Acceptance, Waiver & Consent with FINRA ("FINRA AWC") in or around March of 2016 whereby Respondent agreed to a bar from associating with any FINRA member in any capacity (Exhibit 1).

13. The Director ("Administrator") of the Bureau has reviewed materials relating to Respondent's actions as a registrant under the Securities Act. The Administrator has determined that the REVOCATION OF RESPONDENT'S REGISTRATIONS AS AN INVESTMENT ADVISER REPRESENTATIVE AND AS A SECURITIES AGENT is authorized, appropriate, and in the public interest based upon Respondent's conduct discussed above and hereafter.

14. Section 412(2) of the Securities Act, MCL 451.2412(2), states:

If the administrator finds that the order is in the public interest and subsection (4) authorizes the action, an order under this act may revoke... the registration of a registrant and if the registrant is a broker-dealer or investment adviser, of a partner, officer, or director, or a person having a similar status or performing similar functions, or a person directly or indirectly in control of the broker-dealer or investment adviser...

15. Section 412(3) of the Securities Act, MCL 451.2412(3) states:

If the administrator finds that the order is in the public interest and subsection (4)(a) to (f), (i) to (j), or (l) to (n) authorizes the action, an order under this act may censure, impose a bar, or impose a civil fine in an amount not to exceed a maximum of \$10,000.00 for a single violation or \$500,000.00 for more than 1 violation on a registrant and, if the registrant is a broker-dealer or investment adviser, on a partner, officer, or director, a person having a similar status or performing similar functions, or a person directly or indirectly in control of the broker-dealer or investment adviser.

16. Section 412(4) of the Securities Act, MCL 451.2412(4) states in relevant part:

(a) The person filed an application for registration in this state under this act or the predecessor act within the previous 10 years, which, as of the effective date of registration or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained a statement that, in light of the circumstances under which it was made, was false or misleading with respect to a material fact.

(b) The person willfully violated or willfully failed to comply with this act or the predecessor act or a rule adopted or order issued under this act or the predecessor act within the previous 10 years.

(e) The person is the subject of an order, issued after notice and opportunity for hearing by any of the following:

(iii) The securities and exchange commission or a self-regulatory organization suspending or expelling the registrant from membership in a self-regulatory organization.

(h) The person refuses to allow or otherwise impedes the administrator from conducting an audit or inspection under section 411(4) or refuses access to a registrant's office to conduct an audit or inspection under section 411(4).

(m) The person has engaged in dishonest or unethical practices in the securities, commodities, investment, franchise, banking, finance, or insurance business within the previous 10 years...

17. Section 412(7) of the Securities Act, MCL 451.2412(7) states:

(7) Except under subsection (6), an order shall not be issued under this section unless all of the following have occurred:

- (a) Appropriate notice has been given to the applicant or registrant.
- (b) Opportunity for hearing has been given to the applicant or registrant.
- (c) Findings of fact and conclusions of law have been made on the record pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

18. Section 505 of the Securities Act states:

A person shall not make or cause to be made, in a record that is used in an action or proceeding or filed under this act, a statement that, at the time and in the light of the circumstances under which it is made, is false or misleading in a material respect, or, in connection with the statement, omit to state a material fact necessary to make the statement made, in the light of the circumstances under which it was made, not false or misleading.

19. The Administrator may revoke Respondent's investment adviser representative and securities agent registrations pursuant to section 412(2) of the Securities Act, MCL 451.2412(2), because it is in the public interest, and because:

- A. Respondent failed to update his form U4 to reflect state and federal tax liens, contrary to section 412(4)(a) of the Securities Act, MCL 451.2412(4)(a);

- B. Respondent willfully violated or failed to comply with the Securities Act by providing false information, both verbally and in writing, to Bureau staff in the course of the examinations of Harbinger Asset Management, LLC and the Triad Branch Office, contrary to section 412(4)(b), MCL 451.2412(4)(b) and section 505, MCL 451.2505;
- C. Respondent further willfully violated Securities Act by engaging in unethical business practices, contrary to section 412(4)(m), MCL 451.2412(4)(m), when he accepted loans from clients, and subsequently lied to the Bureau about those loans, contrary to section 412(4)(b), MCL 451.2412(4)(b);
- D. Respondent is the subject of an order barring him from membership or association with a self-regulatory organization, FINRA, as a result of the FINRA AWC, contrary to section 412(4)(e)(iii), MCL 451.2412(4)(e)(iii);
- E. Respondent impeded the Bureau's examinations of Harbinger Asset Management, LLC and the Triad Branch Office, contrary to section 411(4), MCL 451.2411(4), by failing to provide a balance sheet to Bureau staff, contrary to section 412(4)(h), MCL 451.2412(4)(h); the balance sheet is necessary for Respondent to demonstrate compliance with the solvency requirement of section 412(4)(g) of the Securities Act, MCL 451.2412(4)(g);
- F. Respondent further impeded the Bureau's examinations of Harbinger Asset Management, LLC and the Triad Branch Office, contrary to section 411(4), MCL 451.2411(4), by redacting or otherwise altering bank statements submitted in the course of the examination, contrary to section 412(4)(h), MCL 451.2412(4)(h); and
- G. Respondent engaged in dishonest and unethical behaviors in the securities industry by accepting loans from clients against his employer's policies, FINRA's rules, and the Securities Act, contrary to section 412(4)(m), MCL 451.2412(4)(m). Respondent exacerbated the impact of those behaviors by attempting to conceal from, and subsequently lying to Bureau staff regarding the loans, which was also contrary to section 412(4)(m), MCL 451.2412(4)(m).

II. ORDER.

The Administrator finds that this ORDER is authorized, appropriate, and in the public interest based on the above-cited facts and law.

IT IS ORDERED as follows:

1. The Administrator intends TO REVOKE THE INVESTMENT ADVISER REPRESENTATIVE AND SECURITIES AGENT REGISTRATIONS OF CHRISTOPHER T. TOLMACS under section 412(2) of the Securities Act, MCL 451.2412(2), because he failed to timely update his form U4; he willfully violated the Securities Act; he is subject to a FINRA

bar; he impeded the Bureau's examinations of Harbinger Asset Management, LLC and the Triad Branch Office; and he has engaged in dishonest and unethical business practices in the securities industry within the previous 10 years, all of which support the revocation of his investment adviser representative and securities agent registrations under the above-cited provisions of the Michigan Uniform Securities Act (2002), 2008 PA 551, MCL 451.2101 *et seq.*

2. In accordance with section 412(3) of the Securities Act, MCL 451:2412(3), the Administrator intends to impose a civil fine in the amount of \$50,000.00 against Respondent in her Final Order revoking Respondent's investment adviser representative and securities agent registrations.

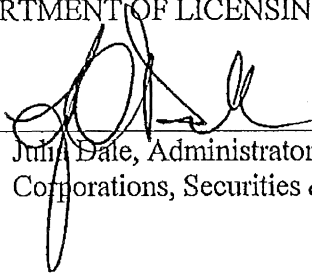
3. In accordance with sections 412(2) and 412(7) of the Securities Act, MCL 451.2412(2) and MCL 451.2412(7): This is NOTICE that the Administrator intends to commence administrative proceedings to REVOKE Respondent's investment adviser representative and securities agent registrations, and that Respondent has thirty (30) days after the date that this Order is served on Respondent to respond in writing to the enclosed Notice of Opportunity to Show Compliance. If the Administrator timely receives a written request, depending upon the election, the Administrator shall either promptly schedule a compliance conference, or schedule a hearing within fifteen (15) days after receipt of the written request. If you fail to respond to this Notice and Order within the time frame specified, the Administrator shall schedule a hearing. If a hearing is requested or ordered, the Administrator, after notice of and an opportunity for hearing to Respondent, may modify or vacate this Order or extend the Order until final determination.

3. Respondent is responsible for notifying his/her relevant supervisor and/or the Chief Compliance Officer of his/her employing firm of the issuance of this Order according to firm policies or procedures. A copy of this Order will not be mailed to Respondent's supervisor or the firm's Chief Compliance Officer. Agency representatives will only discuss this Order with a representative of Respondent's employing firm when Respondent or an attorney on Respondent's behalf is also present, because the firm is not a party to this administrative proceeding.

If Respondent requests a hearing, the request must be in writing and filed with the Department of Licensing and Regulatory Affairs, Corporations, Securities & Commercial Licensing Bureau, Regulatory Compliance Division, P.O. Box 30018, Lansing, MI 48909.

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

By: _____



Julie Dale, Administrator and Director
Corporations, Securities & Commercial Licensing Bureau