

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

In the matter of:

Complaint No. 340324

MARK HOPKINS
CRD# 2653473

Respondent.

Issued and entered
this 30th day of January, 2020

ADMINISTRATIVE CONSENT AGREEMENT
AND ORDER

A. **RELEVANT INFORMATION AND STATUTORY PROVISIONS**, under the Michigan Uniform Securities Act (2002) (the "Act"), 2008 PA 551, MCL 451.2101 *et seq.*:

1. On November 18, 2019, the Director of the Corporations, Securities & Commercial Licensing Bureau of the Michigan Department of Licensing and Regulatory Affairs (the "Bureau"), as the Administrator of the Act (the "Administrator"), issued a Notice and Order to Cease and Desist ("C&D Order") against Mark Hopkins ("Respondent"), Complaint No. 340324. Respondent was registered as an agent of American Portfolios Financial Services, Inc. (CRD#18487, "American Portfolios"), a Michigan-registered broker-dealer, until on or around December 14, 2018, when he was permitted to resign for accepting customer funds for an investment not on the books of the broker-dealer without obtaining approval from the firm. For purposes of this Administrative Consent Agreement and Order

("Consent Order"), Respondent and Bureau staff are referred to individually as a "Party" and collectively as the "Parties."

2. The C&D Order ordered Respondent to immediately cease and desist from violating the Act, specifically section 501 of the Act, MCL 451.2501, and further notified Respondent that the Administrator intended to impose a civil fine against him in the amount of \$10,000 under MCL 451.2604(4)(a).

3. The C&D Order was immediately effective pursuant to MCL 451.2604(2); however, Respondent, through counsel, timely requested an administrative hearing on the C&D Order under MCL 451.2604(2) and (3) (the "Hearing Request"). Thereafter, the Parties waived the 15-day statutory requirement to schedule a hearing and agreed to hold Respondent's Hearing Request in abeyance while negotiating possible resolution through this Consent Order.

4. As a result of negotiations, the Parties agree to and recommend that the Administrator order a settlement of this matter under the terms and conditions set forth in this Consent Order. Respondent was represented by, and had the advice of, legal counsel throughout the process of resolving the C&D Order through this Consent Order.

B. AGREEMENT

The Parties agree to resolve the C&D Order under the following terms and conditions:

1. Respondent admits that the findings of fact and the conclusions of law in the C&D Order are true.

2. Respondent agrees to pay the Bureau a reduced civil fine in the settlement amount of two thousand five hundred and 00/100 Dollars (\$2,500.00) (the "Reduced Civil Fine"). Respondent agrees to pay the Reduced Civil Fine within sixty (60) calendar days after the mailing date of this Consent Order, once entered. The Reduced Civil Fine must be paid by cashier's check or money order made payable to the "State of Michigan," contain identifying information (name and "Complaint No. 340324"), and be mailed to the Bureau at the following address:

Corporations, Securities & Commercial Licensing Bureau
Securities & Audit Division – Final Order Monitoring
P.O. Box 30018
Lansing, MI 48909

If any portion of the Reduced Civil Fine is overdue, the Administrator may refer it to the Michigan Department of Treasury for collection action against Respondent. In addition, and consistent with Paragraph B.12. below, the Administrator reserves the right to take other available legal action to enforce payment of and collect the Reduced Civil Fine.

3. Following entry of the attached Order, the Bureau will file a Form U6 reflecting the Parties' resolution of the C&D Order under this Consent Order. The Bureau will also report and publish this Consent Order according to its current policy, as follows:

- This Consent Order is a public record required to be published and made available to the public, consistent with section 11 of the

Michigan Freedom of Information Act, MCL 15.241. The Bureau will publish this Consent Order consistent with its current policy, whereby copies of orders issued under the Act are posted to the Bureau's website and a summary of order content is included in monthly disciplinary action reports separately published on the Bureau's website.

4. Notwithstanding the potential application of MCL 451.2412(9), this Consent Order expressly preserves the Bureau's and Administrator's ability to rely on and assert, in any future proceeding under the Act, all activities, conduct, and alleged Act violations by Respondent contained in or relating to the C&D Order.

5. The Parties agree that this Consent Order resolves only Respondent's activities, conduct, and alleged Act violations contained in the C&D Order, but it does not address or resolve any other activities, conduct, or potential Act violations engaged in by Respondent not expressly contained in the C&D Order or occurring after the date this Consent Order is entered.

6. Respondent agrees that, effective upon entry of this Consent Order, his Hearing Request is automatically revoked without further action by the Parties.

7. Respondent agrees to cooperate with the Bureau and comply with any reasonable investigative demands made by the Bureau in the future for purposes of ensuring compliance with this Consent Order or the Act.

8. Respondent acknowledges and agrees that: (a) the Administrator has jurisdiction and authority to enter this Consent Order; (b) the Administrator may enter this Consent Order without any further notice to Respondent; and (c) upon entry of this Consent Order, it is final and binding, and Respondent waives any

right to a hearing or appeal of this Consent Order and the C&D Order under the Act, the rules promulgated under the Act or the predecessor Act, the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 *et seq.*, or other applicable law.

9. The Parties understand and agree that this Consent Order will be presented to the Administrator for her final approval as evidenced by its entry, and that the Administrator may, in her sole discretion, decide to accept or reject this Consent Order. If the Administrator accepts this Consent Order by entering it, this Consent Order becomes fully effective and binding in accordance with Paragraph B.8. above. If the Administrator rejects this Consent Order by refusing to enter it, the Parties waive any objection to submitting the Hearing Request for adjudication through a formal administrative proceeding and the Administrator remaining the final decisionmaker at the conclusion of that proceeding.

10. The Parties acknowledge and agree that this Consent Order contains the entire understanding of the Parties and supersedes and forever terminates all prior and contemporaneous representations, promises, agreements, understandings, and negotiations, whether oral or written, with respect to its subject matter. The Parties further agree that this Consent Order may only be amended, modified, or supplemented by a duly executed writing signed by each Party and approved by Order of the Administrator.

11. The Parties acknowledge and represent that: (a) each Party has read this Consent Order in its entirety and fully understands all of its terms, conditions, ramifications, and consequences; (b) each Party unconditionally consents to the

terms of this Consent Order; (c) each Party has consulted with or had ample opportunity to consult with legal counsel of his, her, or its choosing prior to executing this Consent Order; (d) each Party has freely and voluntarily signed this Consent Order; and (e) the consideration received by each Party as described in this Consent Order is adequate.

12. The Parties acknowledge and agree that the Administrator retains the right to pursue any action or proceeding permitted by law to enforce the provisions of this Consent Order.

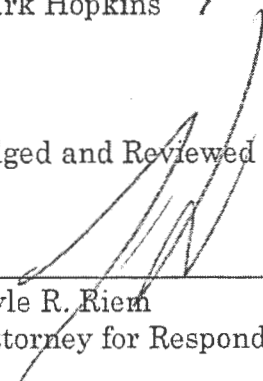
13. The Parties agree that facsimile or electronically-transmitted signatures may be submitted in connection with this Consent Order and are binding on that Party to the same extent as an original signature.

Through their signatures, the Parties agree to the above terms and conditions.

Signed: 
Mark Hopkins

Dated: 1-20-20

Acknowledged and Reviewed by:

Signed: 
Kyle R. Riem
Attorney for Respondent

Dated: 1/20/20

Approved by:

Signed: Timothy L. Teague
Timothy L. Teague


Dated: 1.27.20

Securities & Audit Division Director
Corporations, Securities & Commercial Licensing Bureau

C. ORDER

The Administrator NOW, THEREFORE, ORDERS:

THE TERMS AND CONDITIONS IN THE FOREGOING FULLY EXECUTED
CONSENT AGREEMENT ARE INCORPORATED BY REFERENCE AND MADE
BINDING AND EFFECTIVE THROUGH THIS CONSENT ORDER.

By:  _____
Linda Clegg
Interim Administrator and Interim Director
Corporations, Securities & Commercial Licensing Bureau

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

In the matter of:

Agency No. 340324

MARK HOPKINS
CRD# 2653473

Respondent.
_____ /

This 18th day of November, 2019

Issued and entered

NOTICE AND ORDER TO CEASE AND DESIST

Julia Dale, the Director (“Administrator”) of the Corporations, Securities & Commercial Licensing Bureau (“the Bureau”), pursuant to her statutory authority and responsibility to administer and enforce the Michigan Uniform Securities Act (2002), 2008 PA 551, as amended, MCL 451.2101 *et seq* (“Securities Act”), hereby orders Mark Hopkins (“Respondent”) to cease and desist from making untrue statements of material facts or omitting to state material facts necessary to make other statements made not misleading in connection with the offer or sale of securities, contrary to the Securities Act. Respondent is notified of the opportunity to request a hearing in this matter.

I. BACKGROUND

A. The Respondent

1. Mark Hopkins (CRD#2653473, “Respondent”) was registered as an agent of American Portfolios Financial Services, Inc. (CRD#18487, “American Portfolios”), a Michigan-registered broker-dealer, until on or around December 14, 2018 when he was permitted to resign for accepting customer funds for an investment not on the books of the broker-dealer without obtaining approval from the firm.

B. Findings of Fact

1. The Bureau conducted an investigation of Respondent’s activities after learning of Respondent’s conduct in the securities industry.

2. The investigation developed evidence that Respondent convinced a Michigan customer, KC, to liquidate \$400,000 of marketable securities to invest the proceeds in a “credit union” investment that would pay six percent to seven percent in approximately nine months. KC became concerned when he was unable to get information about the investment from Respondent and contacted the credit union. The credit union told KC Respondent never made any investment with the institution over which KC had any ownership or control.
3. American Portfolios discovered the check drawing \$400,000 on the client account and questioned Respondent about the matter. Respondent admitted to the transaction and was directed by American Portfolios to return the funds to KC.¹ Respondent told American Portfolios that he refunded KC, but never actually returned the money. Respondent was terminated by American Portfolios in December of 2018 because of the activities described herein.
4. A reasonable investor might consider it important to his or her investment decision to know that liquidated investment funds would not be reinvested on the customer’s behalf as represented by his or her securities agent, but instead would be put in an account over which the investor has no ownership or control.

II. RELEVANT STATUTORY PROVISIONS

1. Section 501 of the Securities Act, MCL 451.2501, states in part:

It is unlawful for a person, in connection with the offer, sale, or purchase of a security or the organization or operation of a Michigan investment market under article 4A, to directly or indirectly do any of the following:

(b) Make an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading...

III. CONCLUSIONS OF LAW

1. Respondent Mark Hopkins, in connection with the offer or sale of securities, omitted a material fact necessary to make other statements made not misleading when he recommended that KC liquidate securities to be invested in a credit union investment on KC’s behalf, but omitted to state that the liquidated funds would not be invested in an account over which KC had any ownership or control, contrary to section 501 of the Securities Act, MCL 451.2501.

¹ American Portfolios represented to Bureau staff that it repaid the customer the \$400,000.

IV. ORDER

IT IS THEREFORE ORDERED, pursuant to section 604 of the Securities Act, MCL 451.2604, that:

- A. Respondent shall immediately CEASE AND DESIST from misstating or omitting to state material facts necessary to make other statements made not misleading in connection with the offer or sale of securities, contrary to the Securities Act.
- B. Pursuant to section 604(2) of the Securities Act, this Notice and Order to Cease and Desist is IMMEDIATELY EFFECTIVE.
- C. In her Final Order, the Administrator, under section 604(4) of the Securities Act, MCL 451.2604(4), intends to impose a civil fine of \$10,000.00 against Respondent.
- D. Pursuant to section 508 of the Securities Act, MCL 451.2508, a person that willfully violates the Securities Act, or an order issued under the Securities 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 this act may be fined, but shall not be imprisoned, if the individual did not have knowledge of the rule or order.

V. NOTICE OF OPPORTUNITY FOR HEARING

Section 604 of the Securities Act, MCL 451.2604, provides that Respondent has 30 days beginning with the first day after the date of service of this Notice and Order to Cease and Desist to submit a written request to the Administrator asking that this matter be scheduled for a hearing. If the Administrator receives a written request in a timely manner, the Administrator shall schedule a hearing within 15 days after receipt of the request. The written request for a hearing must be addressed to:

Corporations, Securities & Commercial Licensing Bureau
Regulatory Compliance Division
P.O. Box 30018
Lansing, MI 48909

VI. ORDER FINAL ABSENT HEARING REQUEST

- A. Under section 604 of the Securities Act, MCL 451.2604, the Respondent's failure to submit a written request for a hearing to the Administrator within 30 days after the service date of this **NOTICE AND ORDER TO CEASE AND DESIST** shall result in this order becoming a **FINAL ORDER** by operation of law. The **FINAL**

Notice & Order to Cease & Desist
Mark Hopkins (CN 340324)
CRD#2653473

ORDER includes the imposition of the fines cited described in section IV.C., and the fine amounts set forth below will become due and payable to the Administrator within sixty (60) days after the date this order becomes final:

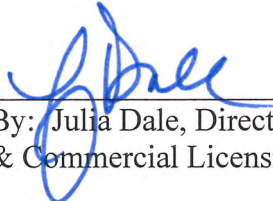
\$10,000.00 – Mark Hopkins, under section 604 of the Securities Act, MCL 451.2604.

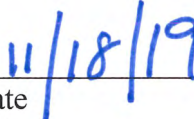
- B. CIVIL FINE payments should be payable to the STATE OF MICHIGAN and contain identifying information (e.g., names and complaint numbers) and mailed to the following address:

Corporations, Securities & Commercial Licensing Bureau
Final Order Monitoring
P.O. Box 30018
Lansing, MI 48909

- C. Failure to comply with the terms of this Order within the time frames specified may result in additional administrative penalties, including the summary suspension or continued suspension of all registrations held by Respondent under the Securities Act, the denial of any registration renewal, and/or the denial of any future applications for registration, until full compliance is made. Respondent may voluntarily surrender or withdraw a registration under the Securities Act; however, the surrender or withdrawal will not negate the summary suspension or continued suspension of the relevant registrations or any additional administrative proceedings if a violation of this Order or the Securities Act occurred.
- D. Failure to pay the civil fines within six (6) months after this Order becomes final may result in the referral of the civil fines to the Michigan Department of Treasury for collection action against Respondents.

CORPORATIONS, SECURITIES & COMMERCIAL LICENSING BUREAU


By: Julia Dale, Director, Corporations, Securities
& Commercial Licensing Bureau


Date