

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

In the matters of:

DAVID AUSTIN
CRD# 6702519

Complaint No. 342912

Respondent.

Issued and entered
this 3rd day of February, 2021

ADMINISTRATIVE CONSENT AGREEMENT AND ORDER

A. Relevant information and statutory provisions, under the Michigan Uniform Securities Act (2002) (“Securities Act”), 2008 PA 551, MCL 451.2101 *et seq.*:

1. On September 16, 2020, the State of Michigan, Department of Licensing and Regulatory Affairs, Corporations, Securities & Commercial Licensing Bureau (“Bureau”) and the Interim Director of the Bureau, who serves as Administrator of the Act (the “Administrator”), issued A Notice of Intent to Revoke Securities Agent Registration to David Austin (“Disciplinary Order”).
2. David Austin (“Austin”) is a resident of the state of Michigan. Austin was registered in Michigan as an agent of J.P. Morgan Securities, LLC (CRD#79, “JPM”) from in or around August of 2016 until on or around April 23, 2020.
3. Following issuance of the Disciplinary Order, the Bureau and Respondent (collectively, “the Parties”) engaged in settlement negotiations through this Administrative Consent Agreement and Order (“Consent Order”).

4. Respondent consulted with or had ample opportunity to consult with legal counsel of his choosing before executing this Consent Order.

B. STIPULATION

The Parties agree to resolve the Disciplinary Order based on the following terms:

1. Respondent neither admits nor denies any wrongdoing in connection with this matter and consents to entry of this Consent Order only for the purpose of resolving the Disciplinary Order in an expeditious fashion that avoids the time and expense associated with an administrative hearing and any related appeals.
2. Austin's registration as an agent under the Act is revoked effective on the issued and entered date of this Consent Order. Respondent agrees that he will not engage in any activities regulated by the Act after the issued and entered date of this Consent Order.
3. Respondent must pay a civil fine in the amount of Five Hundred Dollars (\$500.00) within sixty (60) calendar days after the issued and entered date of this Consent Order. It must be paid by check or money order made payable to the "State of Michigan," contain identifying information (David Austin and "Complaint No. 342912"), and be mailed to:

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

4. If any portion of the fine is overdue, the Administrator may refer it to the Michigan Department of Treasury for collection action against Respondent or take other available legal action to collect the fine. Failure to comply within the time limitations will constitute a violation of this Consent Order. The Administrator retains the right to pursue any action or proceeding permitted by law to enforce its provisions.
5. Respondent's Hearing Request is revoked without further action by the Parties. Following the issuance and entry of this Consent Order, the Bureau will file Forms U6 with the Central Registration Depository reflecting the Parties' resolution of the Disciplinary Order and update Respondent's registration status to "Revoked."
6. This matter is a public record required to be published and made available to the public, under section 11 of the Michigan Freedom of Information Act, MCL 15.241. The Bureau publishes copies of orders issued under the Act to its website and includes a summary of order content in monthly disciplinary action reports separately published there.
7. The Administrator may use any of the facts set out in the Disciplinary Orders when considering future applications for registration by Respondent, and Respondent agree to waive any assertion or claim under MCL 451.2412(9) which would otherwise bar the Administrator from consideration of those facts in making her determination.

8. Respondent must 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.
9. Respondent waives any right to a hearing or appeal of this Consent Order and the Disciplinary Orders under the Act, the rules promulgated under the Act, the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 *et seq.*, or other applicable law.
10. This Consent Order is fully effective and binding on its issued and entered date. The Administrator may accept or reject it. If the Administrator rejects it, the Bureau will submit the Hearing Request for adjudication through a formal administrative proceeding.
11. This Consent Order resolves only Respondent's activities, conduct, and Securities Act violations alleged in the Disciplinary Order, but it does not address or resolve any other conduct or potential Securities Act violations engaged in by Respondents not expressly alleged in the Disciplinary Orders or occurring after the date this Consent Order is entered. Further, this Consent Order does not preclude any other individual or entity, including but not limited to other authorized state or federal agencies or officials, from initiating or pursuing civil or criminal action against Respondent, and does not preclude Bureau staff from referring this matter to any law enforcement agency. The Consent Order does not preclude the Bureau or its staff from


fully cooperating with any state or federal agency or official that may investigate or pursue its own civil or criminal enforcement against Respondent.

12. This Consent Order may only be modified in writing signed by each Party and approved by the Administrator's subsequent 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.

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Through his signature, Respondent confirms that he read, understand, and agree to the above terms.

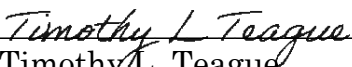
Signed: 
David Austin

Dated: 1/27/21

Signed: 
Michael R. Bartish (P65097)
Attorney for David Austin

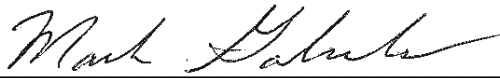
Dated: 1/27/2021

Approved by:

Signed: 
Timothy L. Teague
Securities & Audit Division Director
Corporations, Securities & Commercial
Licensing Bureau

Dated: 1/27/21

Reviewed and Drafted by:

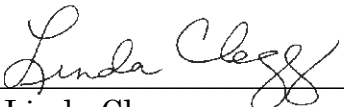
Signed: 
Mark A. Gabrielse (P75163)
Assistant Attorney General
Attorney for the Bureau

Dated: 1/27/2021

C. ORDER

The Administrator NOW, THEREFORE, ORDERS:

THE TERMS AND CONDITIONS IN THE ABOVE FULLY EXECUTED
CONSENT AGREEMENT ARE INCORPORATED IN THIS CONSENT ORDER.

By:  _____

Linda Clegg

Administrator and 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. 342912

DAVID AUSTIN
CRD# 6702519

Respondent.
_____ /

This 16th day of September, 2020
Issued and entered

**NOTICE OF INTENT TO REVOKE
SECURITIES AGENT REGISTRATION**

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. David Austin (CRD# 6702519, "Respondent") was registered as an agent of J.P. Morgan Securities, LLC (CRD#79, "JPM") from in or around August of 2016 until on or around April 23, 2020¹, when his registration was terminated because he admitted to misappropriating approximately \$144,000 from customers of a bank affiliated with JPM.
2. The Corporations, Securities & Commercial Licensing Bureau ("the Bureau") within the Department of Licensing and Regulatory Affairs routinely monitors disclosures made through the Financial Industry Regulatory Authority's ("FINRA") Central Registration Depository ("CRD"). One such disclosure related to Respondent was filed on CRD by JPM when it terminated Respondent's registration after discovery of the misappropriated funds. The Bureau opened an investigation to review Respondent's activities as they related to his employment in the securities industry.
3. The Bureau's investigation developed evidence that Respondent, while employed as an agent of JPM, engaged in dishonest or unethical activities in the securities, commodities, investment, franchise, banking, finance, or insurance business within the previous 10 years. He misappropriated at least \$144,000 from multiple customers of the bank affiliate of JPM and attempted to cover up the misappropriations until the bank discovered the activity and terminated his employment in or around April of 2020. The

¹ JPM filed a Form U5 reflecting the termination on CRD on or around May 5, 2020; however, Respondent's association with the firm was terminated earlier – on or around April 23, 2020 – at which point his registration as an agent in Michigan became in effective under MCL 451.2402(3).

activities began in or around late 2018 or early 2019 and continued until Respondent's termination in April of 2020.

4. The investigation also found evidence that Respondent entered into an Acceptance, Waiver, and Consent ("AWC") with FINRA, a self-regulatory organization, wherein he agreed to be barred from association with any FINRA-member in any capacity. FINRA, in its sanction matrix², considers a "bar" of an individual to be the "permanent expulsion of an individual from associating with a firm in any or all capacities..."
5. The Interim 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 it is authorized, appropriate, and in the public interest to revoke Respondent's securities agent registration based upon Respondent's conduct discussed above and hereafter.
6. Section 409 of the Securities Act, MCL 451.2409, allows the administrator to retroactively revoke a registration within one year after it was withdrawn:

The administrator may institute a revocation or suspension proceeding under section 412 within 1 year after the withdrawal became effective automatically and issue a revocation or suspension order as of the last date on which registration was effective if a proceeding is not pending.

7. 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, suspend, condition, or limit 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...

8. 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.

² FINRA Sanction Guidelines, at page 3 (March 2019 Update). Available online at: https://www.finra.org/sites/default/files/Sanctions_Guidelines.pdf

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

A person may be disciplined under subsections (1) to (3) if any of the following apply to the person:

(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.

(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...

10. 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.

11. The Administrator may revoke Respondent David Austin's securities agent registration under sections 409 and 412(2) of the Securities Act, MCL 451.2409 and MCL 451.2412(2), and may impose a fine under section 412(3), MCL 451.2412(3), because it is in the public interest and because:

- A. Respondent is the subject of an order by a self-regulatory organization expelling him from membership, causing the applicability of section 412(4)(e)(iii), MCL 451.2412(4)(e); and
- B. Respondent engaged in dishonest or unethical behavior in the banking industry by converting customer funds, causing the applicability of 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.

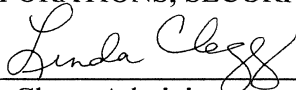
IT IS ORDERED as follows:

1. The Administrator intends TO REVOKE THE SECURITIES AGENT REGISTRATION OF DAVID AUSTIN under section 412(2) of the Securities Act, MCL 451.2412(2), because he is subject to an order expelling him from membership from a self-regulatory organization and because he engaged in dishonest or unethical business practices in the banking industry within the previous 10 years, both of which support the revocation of his securities agent registration under the above-cited provisions of the Michigan Uniform Securities Act (2002), 2008 PA 551, MCL 451.2101 *et seq.*
2. In her final order, the Administrator intends to impose a civil fine of \$20,000.00 against Respondent under section 412(3) of the Securities Act, MCL 451.2412(3).
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 securities agent registration, 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.


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.

Requests for compliance conferences and hearings may be submitted by e-mail to CSCL-FOIA@michigan.gov.

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
CORPORATIONS, SECURITIES, AND COMMERCIAL LICENSING BUREAU



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


Date