



COMMONWEALTH OF KENTUCKY  
PUBLIC PROTECTION CABINET  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
ADMINISTRATIVE ACTION NO. 2022-AH-0001

DEPARTMENT OF FINANCIAL INSTITUTIONS

COMPLAINANT

v.

NYPPEX, LLC

RESPONDENT

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FINAL ORDER OF DEFAULT

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The Department of Financial Institutions (“the Department”), pursuant to Kentucky Revised Statute (“KRS”) 292.470, KRS 292.500, and 808 Kentucky Administrative Regulation (“KAR”) 10:225, hereby enters this **Final Order of Default** against NYPPEX, LLC. In support thereof, the Department states the following:

**PARTIES**

1. The Department of Financial Institutions (“the Department”) is responsible for administering the provisions of KRS Chapter 292, the Securities Act of Kentucky (“the Act”), as well as any applicable rules, regulations and orders entered pursuant to the Act.

2. Respondent, NYPPEX, LLC (CRD#47654), is a Delaware limited liability company with its principal office at 800 Westchester Avenue, Rye Brooke, New York 10573. Respondent is currently registered as a broker-dealer in Colorado and Michigan as well as with FINRA, and Respondent is federally registered with the SEC.

3. On March 4, 2022, the Department filed an Administrative Complaint in the above-styled action, alleging numerous violations of the Act by Respondent and requesting revocation of Respondent’s broker-dealer registration.

## **SERVICE OF THE ADMINISTRATIVE COMPLAINT**

4. On March 4, 2022, The Department sent a copy of the Administrative Complaint to NYPPEX via certified mail to the last known address for the company.

5. The last known address where the Administrative Complaint was sent is the same address NYPPEX provided to the Department in NYPPEX's recent application for registration as a broker-dealer. Upon information and belief, the address used is an affiliated mailing facility for the Respondent.

6. On or about March 7, 2022, the Department received confirmation of the Administrative Complaint's successful delivery, which took place on that date. The return receipt was signed "3305" and the address instructions included the notation "C-19."

## **STATEMENTS OF FACT**

7. On or about December 9, 2021, the Department's Division of Securities, Licensing and Registration Branch, received notice of Respondent's request for broker-dealer registration in Kentucky when Respondent filed a Form BD amendment.

8. On or about December 9, 2021 through December 16, 2021, the Department reviewed Respondent's CRD record and discovered pertinent civil and regulatory actions, which are described herein.

9. On February 8, 2021, the state of New York filed a U6 disclosing that the Supreme Court of New York rendered a judgment against Respondent and its owner, Laurence Geoffrey Allen (CRD #1063970), for violations of the Martin Act, which is New York's anti-fraud law. The Supreme Court of New York's Decision After Trial, dated February 4, 2021, arose from a case brought by the New York Office of the Attorney General against Mr. Allen and NYPPEX, LLC,

among other defendants, for material misrepresentations, misleading omissions, and misrepresentations to investors.

10. On February 21, 2020, the state of Connecticut filed a Notice of Intent to Deny Registration as Broker-Dealer, Notice of Intent to Revoke Registration as a Broker Dealer Agent, and Notice of Right to Hearing. Connecticut's denial of Respondent's broker-dealer registration and revocation of Mr. Allen's broker-dealer agent registration was due to the above-referenced legal action in the Supreme Court of the State of New York and the facts therein, particularly as to the preliminary injunction enjoining NYPPEX, LLC, Allen, and other defendants from violating New York's general business laws and "from engaging in fraudulent, deceptive and illegal acts, and further employing any device, scheme or artifice to defraud or to obtain money or property by means of false pretense, representation or promise."

11. On July 13, 2021, the state of Maryland filed an Order of Revocation of Broker-Dealer Registration, which resulted from Respondent's failure to file a timely answer to an Order to Show Cause and Order of Summary Suspension.

12. On May 27, 2021, FINRA's Department of Enforcement filed a U6 and a complaint for disciplinary proceeding naming Respondent and its CCO, Michael Joseph Schunk (CRD #732595), which alleged Mr. Schunk aided Mr. Allen in selling securities in Respondent's parent holding company, which had material misrepresentations and omissions of material fact in the offering material presented to potential investors.

13. Respondent did not disclose the state of New York's ongoing investigation to its current or potential investors.

14. On February 10, 2022, the Department received a response from Maryland's Investment Adviser/Broker-Dealer Unit regarding Maryland's response to NYPPEX's registration. Maryland

informed the Department that Maryland and Respondents entered into a consent order in lieu of a permanent revocation of registration, which included a fine and vacated Maryland's Order of Revocation. Notably, a term of Maryland's consent order was that NYPPEX's registration was withdrawn as of December 6, 2021 and that NYPPEX or any successor of the Respondent agreed not to apply or reapply for registration or conduct securities or investment advisory business until the later of five years from the date of the order or all pending regulatory matters have been resolved.

15. On February 16, 2022, the Department teleconferenced with Connecticut's Securities and Business Investments Division, learning that Connecticut is not in favor of approving registration in any capacity due to the New York Supreme Court's ruling but Connecticut awaits Respondents' exhaustion of appeal rights in New York before further commencing its proceedings. Additionally, Connecticut informed the Department that NYPPEX and Mr. Allen have a history with Connecticut's formal investigation and Mr. Allen has relocated multiple times when issues arise with securities-related activities.

16. On February 24, 2022, FINRA's Department of Enforcement's Principal Counsel informed the Department that FINRA's hearing will begin February 28, 2022 and that it is anticipated that a decision may be reached several months afterward.

17. On March 7, 2022, the Department's received confirmation that the Administrative Complaint was successfully served upon NYPPEX.

18. On April 27, 2022, the Department received a response from NYPPEX's counsel, presenting a summary explanation for why the Department should not revoke NYPPEX's registration and attaching what Respondent believed to be documents in support of its position.

The Department reviewed the response and attachments, finding the explanation and attachments unpersuasive to change the Department's position.

19. A Final Order of Default is appropriate because the Administrative Complaint was successfully served upon NYPPEX via certified mail on March 7, 2022 and Respondent failed to respond or request an administrative hearing within twenty (20) days of service of the Administrative Complaint.

### STATUTORY AUTHORITY

20. KRS 292.337 states,

- (1) The commissioner may deny, refuse to renew, suspend, or revoke the registration of any broker-dealer, agent, investment adviser, or investment adviser representative. The commissioner may bar, censure, or place on probation any registrant or any officer, director, partner, or person occupying a similar status or performing similar functions for a registrant, or restrict, condition, or limit a registrant as to any function or activity of the business for which registration is required in this state. The commissioner may take any of the foregoing actions for any reason set forth in subsection (2) of this section.
- (2) For actions taken in subsection (1) of this section, the commissioner shall find that it is in the public interest and further find that the applicant or registrant or, in the case of a broker-dealer, or investment adviser, any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the broker-dealer or investment adviser:
  - (a) Has filed an application for registration under this chapter which, as of its effective date, or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained any statement which was, in the light of the circumstances under which it was made, false or misleading with respect to any material fact;
  - (b) Has violated or failed to comply with this chapter or any administrative regulation promulgated or order issued under this chapter or a predecessor law;
  - (c) Has been convicted of, or has pending against him or her, a felony;
  - (d) Has been convicted within the past ten (10) years of, or has pending against him or her, any misdemeanor involving a security or any aspect of the securities business;

(e) Is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the securities business;

(f) Is the subject of an order of the commissioner denying, suspending, or revoking registration as a broker-dealer, agent, investment adviser, or investment adviser representative;

(g) Is the subject of any of the following orders that are currently effective and were issued within the last five (5) years:

1. An order by any securities administrator, entered after notice and opportunity for hearing, denying, suspending, limiting, or revoking the person's license as a broker-dealer, agent, investment adviser, or investment adviser representative or the substantial equivalent of those terms;

2. An order of a self-regulatory organization finding a violation of federal law or a rule of the self-regulatory organization;

3. A United States Postal Service fraud order;

4. A cease and desist or other administrative order entered after notice and opportunity for hearing by the commissioner, or any other securities administrator or the United States Commodity Futures Trading Commission; or

5. An order by the United States Commodity Futures Trading Commission denying, suspending, or revoking registration under the Commodity Exchange Act, 7 U.S.C. secs. 1 et seq.;

(h) Has engaged in dishonest or unethical practices in the securities, commodities, investment, franchise, banking, finance, or insurance business within the previous ten (10) years;

(i) Is insolvent;

(j) Is not qualified on the basis of such factors as training, experience, or knowledge of the securities business. However, an order against an individual shall not be based on this paragraph if the individual has passed all examinations required as a condition of registration;

(k) Has reasonably failed to supervise an agent, investment adviser representative, or other individual, if the agent, investment adviser representative, or other individual was subject to the person's supervision and, within the previous ten (10) years, committed a violation of this chapter or administrative regulation promulgated or order issued under this chapter;

- (l) Has failed to pay a fee required under this chapter within thirty (30) days after having received written notice from the commissioner of the failure to pay the required fee. The commissioner shall vacate an order issued under this subsection if the fee is paid within thirty (30) days of the date of the order;
- (m) Has violated the law of any jurisdiction governing or regulating any aspect of the business of securities or banking, or, within the past five (5) years, has been the subject of an action of any securities regulator denying, revoking, or suspending the right to engage in the business of securities as a broker-dealer, agent, investment adviser, or investment adviser representative or is the subject of an action of any securities exchange or self-regulatory organization operating under the authority of a securities regulator suspending or expelling the person from membership in the exchange or self-regulatory organization; or
- (n) Refuses to allow or otherwise impedes an examination under this chapter or refuses access to a registrant's office to conduct an examination.
- (3) The commissioner may not institute a proceeding under this section based solely on a fact or transaction known to him or her when a registration became effective, unless the proceeding is instituted within sixty (60) days after the effective date of the registration.
- (4) The commissioner may by order summarily restrict, condition, limit, or suspend a registration, or censure or bar a registrant before final determination of an administrative proceeding under this section. A summary order issued under this subsection shall only be based upon a finding by the commissioner that such action is in the public interest and that there is substantial evidence of a violation of law that constitutes an immediate danger to the public health, safety, or welfare. One (1) or more of the grounds listed in subsection (2) of this section shall be considered for a summary order. Any person aggrieved by an order of the commissioner under this section may file with the office an application for an emergency hearing pursuant to KRS 13B.125 within thirty (30) days of the date of the order. The commissioner shall comply with KRS 13B.125 when entering a summary order. The commissioner may modify, stay, extend, or vacate the summary order issued under this subsection.
- (5) The commissioner shall not issue an order under this section, except under subsection (4) of this section, without appropriate notice to the applicant or registrant, opportunity for a hearing, and written findings of fact and conclusions of law in accordance with KRS Chapter 13B.

21. KRS 292.470(3) states,

Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this chapter or any rule or order under this chapter, the commissioner may in his or her discretion bring any or all of the following remedies:

...

(3) Issue a final order, after notice and an opportunity for a hearing, containing findings of fact and conclusions of law, directing any person or persons found to have engaged in, or about to be engaged in, activity that constitutes a violation of this chapter or any rule or order under this chapter:

(a) To cease and desist from the activity;

(b) To perform any other reasonable mandates directed by the commissioner pursuant to an appropriate remedy fashioned by the commissioner and reasonably calculated to carry out the provisions of this chapter; or

(c) To pay fines assessed under KRS 292.500(14) and costs assessed under KRS 292.500(15).

22. 808 KAR 10:225, Section 2 states, in pertinent part,

(1) The office attorney may file a written complaint against a person if:

(a) The attorney believes that the person is violating or has violated a provision of KRS Chapter 292; and

(b) The commissioner has not entered an order against the person based on the same conduct or allegation.

...

(3) A person shall respond to the complaint by filing a written answer with the office. If an answer is not filed in accordance with subsection (4) of this section, the office attorney shall seek a final order from the commissioner granting the relief requested in the complaint.

(4) An answer shall:

(a) Be filed within twenty (20) days of service of the complaint;

(b) Respond to each allegation in the complaint; and

(c) Include a request for an administrative hearing if the person:

1. Does not agree that there has been a violation of KRS Chapter 292; or

2. Believes that the requested action is not appropriate.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

23. In contravention of KRS 292.337(2)(e), Respondent has been permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the securities business.

24. In contravention of KRS 292.337(2)(g)(1), Respondent is the subject of recent orders by securities administrators in other states regarding denial and revocation of Respondent's



registrations as a broker-dealer in those states and were subject to entry after notice and opportunity for hearing.

25. In contravention of KRS 292.337(2)(g)(2), Respondent is the subject of FINRA, a self-regulatory organization, finding a violation of federal law or a rule of the self-regulatory organization.

26. In contravention of KRS 292.337(2)(h), Respondent has engaged in dishonest or unethical practices in the securities, commodities, investment, franchise, banking, finance, or insurance business within the previous ten (10) years, which supported by the recent actions taken by New York, Connecticut, Maryland, and FINRA regarding Respondent's conduct.

27. Respondent failed to file an answer to the Department's Administrative Complaint or request for administrative hearing within twenty (20) days from the date of service.

28. A final order revoking Respondent's broker-dealer registration would be in the public interest.

### **ORDER**

The Commissioner hereby **ORDERS**:

1. Revocation of Respondent's broker-dealer registration in Kentucky, pursuant to KRS 292.337(1);
2. Respondent shall cease and desist from engaging in the securities industry in Kentucky for a period of ten (10) years;
3. Respondent shall cease and desist from committing or causing any future violations of the Act; and
4. This Order shall be final and appealable.

SO ORDERED on this the 13<sup>th</sup> day of May 2022.

/s/ Charles A. Vice

CHARLES A. VICE  
COMMISSIONER

Charles  
A. Vice

Digitally signed by: Charles A.

Vice

DN: CN = Charles A. Vice email =  
charles.vice@ky.gov C = US O =

Dept. of Financial Institutions OU

= PPC/DFI/Commissioner

Date: 2022.05.13 12:25:56 -05'00'

## NOTICE TO RESPONDENT

1. The Commissioner of the Kentucky Department of Financial Institutions has entered a Final Order.

2. You are hereby notified that, pursuant to KRS 292.490,

Any person aggrieved by a final order of the commissioner may obtain a review of the order by filing in accordance with KRS Chapter 13B in the Franklin Circuit Court, within thirty (30) days after the entry of the order, a written petition praying that the order be modified or set aside in whole or in part. A copy of the petition shall be forthwith served upon the commissioner, and thereupon the commissioner shall certify and file in court a copy of the filing, testimony, and other evidence upon which the order was entered. When these have been filed, the court has exclusive jurisdiction to affirm, modify, enforce, or set aside the order, in whole or in part. No objection to the order may be considered by the court unless it was urged before the commissioner or there were reasonable grounds for failure to do so. The findings of the commissioner as to the facts, if supported by substantial evidence, are conclusive. If either party applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for failure to adduce the evidence in the hearing before the commissioner, the court may order the additional evidence to be taken before the commissioner and to be adduced upon the hearing in such manner and upon such conditions as the court may consider proper. The commissioner may modify his or her findings as to the facts, by reason of the additional evidence so taken; and the commissioner shall file any modified or new findings, which if supported by substantial evidence shall be conclusive, and any recommendation for the modification or setting aside of the original order. The commencement of proceedings under this section does not, unless specifically ordered by the court, operate as a stay of the commissioner's order. An appeal may be taken from the judgment of the Franklin Circuit Court on any such appeal to the Court of Appeals on the same terms and conditions as an appeal is taken in civil actions.

## CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Final Order of Default was sent on this the 16 day of May, 2022 by the method indicated below to the following:

*Via certified mail, return receipt requested:*

NYPPEX, LLC  
120 N. Washington  
Suite 200  
Lansing, MI 48933  
*Respondent*

*Via electronic delivery:*

Brandon Adcock  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
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Frankfort, KY 40601  
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Kentucky Department of Financial Institutions

Name: Allison Reed, by Victoria Word

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