



**COMMONWEALTH OF KENTUCKY
PUBLIC PROTECTION CABINET
DEPARTMENT OF FINANCIAL INSTITUTIONS
ADMINISTRATIVE ACTION NO. 2023-AH-0024**

KENTUCKY DEPARTMENT OF FINANCIAL INSTITUTIONS

COMPLAINANT

v.

MARVIN DAVID WARREN
and
D'S JERKY LLC

RESPONDENTS

AGREED ORDER

PARTIES

1. The Kentucky Department of Financial Institutions (hereinafter, the "Department") is responsible for administering the provisions of Kentucky Revised Statutes (KRS) Chapter 292, the Securities Act of Kentucky, as well as any applicable rules, regulations, and orders enacted pursuant to the Code.
2. D's Jerky LLC is a Kentucky limited liability company. Respondents have a principal office located at 1990 Highway 138, Dixon, KY 42409. As of the date of the Department's Administrative Complaint, D's Jerky LLC had an inactive status but good standing on the Kentucky Secretary of State's business database, with the last annual report being filed August 25, 2019. Despite this status on the Secretary of State's business database, a dissolution of the business was filed by Mr. Warren on April 29, 2020.
3. Marvin David Warren is the owner, manager, and registered agent for D's Jerky LLC.

STATEMENT OF FACTS

4. On May 7, 2020, the Department's Division of Securities, received three letters of referral from the Kentucky Office of the Attorney General, Office of Consumer Protection regarding

investor fraud allegations against D's Jerky LLC. The fraud allegations involved three separate investors alleging Warren defrauded them after investing in his business, D's Jerky.

5. The first of these investor complaints stated that Warren defrauded the investor after the investor provided Warren with \$30,000. The investment contract was signed by the investor on June 13, 2017 and by Warren on June 14, 2017. The contract stated the \$30,000 was to be used expressly to fund D's Jerky and that Warren guaranteed a return of 1.5% to the investor upon the sale of D's Jerky.

6. The second of these investor complaints stated the investor provided \$16,400 to Warren with a promise of a 10% annual return. The investor stated that the investment was not returned and that "David Warren has run off with the money without compensation for the investment."

7. The third of these investor complaints stated that, in 2017, the investor learned of an investment opportunity with D's Jerky through the investor's friend, the second investor complainant. Shortly after, this third investor provided Warren with \$20,000 as an investment in his company. The investment contract was signed by the investor on May 24, 2017, and by Warren on May 31, 2017. The contract stated the investor would contribute \$20,000 as a one-time investment to be used expressly to fund D's Jerky. In return, the investor would receive a 1% return upon the sale of D's Jerky. The investor stated that after giving Warren the investment, Warren contacted the investor in early 2019 and asked if the investor would give him more money. The investor refused that request.

8. All three investors reported that none of them received the promised return nor any of their initial money back from Warren.

9. On May 11, 2020, the Department sent a letter to Warren, requesting information regarding all investors in D's Jerky as well as copies of any advertising materials, agreements, or other related

items. On May 21, 2020, the Department received a response from Respondents' bankruptcy counsel. The letter explained Respondents were in bankruptcy proceedings, that the investors were creditors to the bankruptcy. In response, on May 22, 2020, the Department extended Warren's time to respond to July 4, 2020.

10. On June 28, 2020, Warren sent an email and attached correspondence, neither of which contained substantive responses to the Department's requests. Warren explained that he had fallen ill in 2018 and his business had begun to struggle and eventually failed. He explained that this failure required him to file for bankruptcy and he emphasized that D's Jerky was not sold. Additionally, he said that D's Jerky had not reopened and would never reopen.

11. On June 29, 2020, the Department followed up with Warren through his bankruptcy counsel, explaining that Warren's responses were not substantive to the Department's requests. Response from Warren's bankruptcy counsel to this correspondence were clear that bankruptcy counsel did not represent Respondents in this administrative matter, only the described bankruptcy proceedings. Considering this communication, the Department continued to communicate with Warren directly as a pro se party.

12. On July 24, 2020, Warren responded that he and at least one of the investors had planned to pattern D's Jerky off of the success of Crave Jerky, a jerky company acquired by The Hershey Company, which resulted in large profits for its owners and stakeholders. D's Jerky was formed specifically to return profit as a future acquisition target to a large company.

13. Warren admitted in his July 24th correspondence that he did not register the transaction as a securities offering.

14. In the July 24th correspondence, Warren failed to mention one of the three investors in his response despite being asked for information regarding all investors.

15. On July, 29, 2020, the Department sent a letter to Warren requesting the names and locations of any bank or financial institution used in a personal and business capacity from October 11, 2011 to the date of that letter. Since Warren did not disclose one of the investments in his previous correspondence, the Department repeated its request for the name and contact information for all individuals who invested with D's Jerky LLC.

16. On July 30, 2020, the Department spoke with Warren by telephone. During that conversation, Warren disclosed two financial institutions responsive to the Department's July 29th request.

17. On August 10, 2020, the Department learned that Warren had a history of scamming investors in the past couple of years, one of which resulted in a lawsuit where another investor in D's Jerky lost \$20,000 in a similarly presented investment opportunity. The Department further learned that Warren had used money received from investors to purchase motorcycles, ATVs, jet skis, and other luxury items. This use of investor money was not disclosed to prospective or current D's Jerky investors as a possible use of their money in the investment contracts or offering materials.

18. On or about August 10, 2020, the Department learned that Warren had two more bank accounts related to the investment than the two he had disclosed and several other possible investors in D's Jerky were identified.

19. On January 27, 2021, the Department learned that a fifth investor in D's Jerky, who was over 60 years old, was contacted by Warren investing and provided Warren \$30,000 with the promise to receive \$39,000 after three years. Warren did not fulfill the terms of the contract, did not provide the promised amount, and did not provide a refund of the initial investment.

20. On January 29, 2021, the Department learned that Warren was keeping D's Jerky in business due in part to personal loans from Warren's family. Furthermore, the Department learned that the USDA had investigated and monitored Warren's business under allegations of unsafe food preparation. These circumstances were not disclosed to investors.

21. On February 5, 2021, the Department learned that a sixth investor in D's Jerky provided Warren a total of \$52,000 after Warren presented the opportunity to invest. Warren promised a return of three to four times the initial investment within a couple of years. This investor did not receive their investment back.

22. On February 23, 2021, the Department learned that a seventh investor provided Warren \$25,000, with the impression the investment would be used for raw materials and inventory. The investor stated that the investment was instead used for employee bonuses and back taxes Warren had failed to mention. The promissory note and an "Individual Personal Guarantee" signed by Warren stated he would repay the investor \$27,500.

23. On March 18, 2021, the Department learned that an eighth investor, over 60 years old, provided Warren \$75,000, with the agreement stating a 10% interest per year with a maturity date in 2021. The investor's recollection of what the funds would be used for consisted of capital improvements to expand market and sales. Warren asked the investor for more money six months after the initial investment and the investor was never provided the promised return nor a refund of the initial investment.

24. During the Department's correspondence with Warren, he only disclosed two investors. The Department's investigatory efforts uncovered at least eight investors and a total contribution of \$252,000 of investor capital.

25. Warren's use of investor money included transactions to acquire a jet ski; motorcycle related expenses; home improvement and swimming pool payments; purchases at various retail establishments, such as pawn shops, clothing stores, pet stores, and jewelry stores; purchases for tanning salon services; and child support payments. Additionally, from the time Warren obtained the first investor funds in October 2016 until he filed bankruptcy, a total of \$125,016 was paid from his D's Jerky business accounts toward outstanding credit card debt, personal debt and personal loans. None of these transactions were disclosed to investors prospectively or during the time that he held their investment capital.

26. On July 26, 2021, the Department performed a case search and found cases against Warren for charges of Defrauding a Secured Creditor.

STATUTORY AUTHORITY

27. KRS 292.310(19) defines a "security", in relevant part, as:

...any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, life settlement investment, voting-trust certificate, certificate of deposit for a security; fractional undivided interest in oil, gas, or other mineral rights; or, in general, any interest or instrument commonly known as a "security[.]"

28. KRS 292.320 states, in pertinent part,

(1) It is unlawful for any person, in connection with the offer, sale, or purchase of any security, directly or indirectly:

(a) To employ any device, scheme, or artifice to defraud;

(b) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; or

(c) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

29. **KRS 292.340 states,**

It is unlawful for any person to offer or sell any security in this state, unless the security is registered under this chapter, or the security or transaction is exempt under this chapter, or the security is a covered security.

30. **KRS 292.440 states,**

It is unlawful for any person to make or cause to be made, in any document filed with the commissioner or the commissioner's designee or in any proceeding under this chapter, any statement which is, at the time and in the light of the circumstances under which it is made, false or misleading in any material respect.

31. **KRS 292.470 states, in pertinent part,**

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:

- (1) Issue a cease and desist order, with or without a prior hearing, appealable to Franklin Circuit Court, against the person or persons engaged in the prohibited activities directing that person or persons to cease and desist from illegal activity. In order to issue an order without prior hearing, the commissioner must find that the delay in issuing a final cease and desist order will cause harm to the public.**
- (2) An action in the Franklin Circuit Court or any other court of competent jurisdiction to enjoin any such acts or practices and to enforce compliance with this chapter or any rule or order under this chapter. Upon a proper showing a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. Upon a proper showing by the commissioner, the court may enter an order of rescission, restitution, or disgorgement directed to any person who has engaged in any act constituting a violation of this chapter or any rule or order under this chapter. The commissioner may not be required to post a bond; or**
- (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).

VIOLATIONS

- 32. In contravention of KRS 292.340, Respondents offered and sold unregistered securities in the form of shares in D's Jerky to Kentucky investors.
- 33. In contravention of KRS 292.320(1), Respondents failed to notify investors about material facts regarding D's Jerky's funding sources, a related FDA investigation, and Mr. Warren's personal debts. Furthermore, Respondents made untrue statements and material omissions regarding the use of investor funds.
- 34. In contravention of KRS 292.440, Respondents made false and misleading statements to the Department regarding their banking information and contact information for all D's Jerky investors.

AGREEMENT AND ORDER

35. To resolve this matter without litigation or other adversarial proceedings, the Department and Respondents agree to compromise and settle all claims arising from the above-referenced factual background in accordance with the terms set forth herein.

36. In the interest of economically and efficiently resolving the violations described herein, it is hereby **AGREED** and **ORDERED**:

- i. Respondents shall indefinitely cease and desist from engaging in the business of securities in Kentucky;
- ii. Respondents shall cease and desist from any future violations of the Securities Act of Kentucky;

iii. Respondents waive the right to demand a hearing at which they would be entitled to legal representation, to confront and cross-examine witnesses, and to present evidence on their behalf, or to otherwise appeal or set aside this Agreed Order;

iv. Respondents consent to and acknowledge the jurisdiction of the Department over this matter and that this Agreed Order is a matter of public record and may be disseminated as such;

v. In consideration of execution of this Agreed Order, Respondents for themselves, and for their successors and assigns, hereby release and forever discharge the Commonwealth of Kentucky, the Department, Office of Legal Services, and each of their members, agents, and employees in their individual capacities, from any and all manner of actions, causes of action, suits, debts, judgments, executions, claims and demands whatsoever, known and unknown, in law or equity, that Respondents ever had, now have, may have or claim to have against any or all of the persons or entities named in this paragraph arising out of or by reason of this investigation, this disciplinary action, this settlement or its administration;

vi. By signing below, the parties acknowledge they have read the foregoing Agreed Order, fully understand its contents, and that they are authorized to enter into and execute this Agreed Order and legally bind their respective parties; and

vii. This Agreed Order shall constitute the Final Order in this matter.

SO ORDERED on this the 22nd day of April, 2024.

/s/ Marni Rock Gibson
MARNI ROCK GIBSON
ACTING COMMISSIONER

Consented to:

On behalf of the Department of Financial Institutions,

This 22nd day of April, 2024.

Chad K. Hurlan
Director, Division of Securities
Department of Financial Institutions

and

On behalf of Marvin David Warren and D's Jerky LLC,

This _____ day of _____, 2024.

Marvin David Warren
Marvin David Warren
D's Jerky LLC

ACKNOWLEDGEMENT

STATE OF Kentucky)
COUNTY OF Henderson)

On this the 10 day of April, 2024, **Marvin David Warren**, in my presence, acknowledged **himself** to be the authorized representative of **D's Jerky** and, being authorized to do so, did enter into and execute the foregoing instrument, on behalf of **D's Jerky** and **himself**, for the purposes therein contained, acknowledging the same.

My Commission Expires: 3/17/28

Stacy O'Carroll
Notary Public KYNP3331

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Agreed Order was sent on this the 22 day of April, 2024 by the method(s) described below to the follow:

Via certified mail, return receipt requested:

Marvin David Warren
D'S JERKY LLC
~~XXXXXXXXXXXXXXXXXXXX~~ 50 Rail Lake Drive
~~3350 State Route 1405~~
Slaughters, KY 42456

Via electronic delivery:

Brandon Adcock
DEPARTMENT OF FINANCIAL INSTITUTIONS
500 Mero Street
Frankfort, KY 40601
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Counsel for Department of Financial Institutions

Kentucky Department of Financial Institutions

Name: Alligan Reed by Victoria Ward

Title: Executive Staff Advisor