

WHEREAS, following the termination of his employment relationship with Ameriprise, Livingston continued to provide investment advisory services, in his own name and also doing business as BWL Consulting (an unregistered entity), to approximately 31 clients and collected advisory fees from them for those services for a period of approximately one year and nine months.

WHEREAS, during this period of time Livingston was not registered as an investment adviser or as a broker/dealer representative with the DFI, Division of Securities, or with any other securities regulator.

WHEREAS, the Commissioner of the DFI entered a Summary Order to Cease And Desist and Show Cause Order on September 29, 2008 against Livingston, after receipt and investigation of a customer complaint.

WHEREAS, Livingston requested an administrative hearing following the entry of the aforementioned Order, which hearing is presently scheduled for July 21, 2009.

WHEREAS, the parties are now in agreement that said hearing is no longer necessary as they desire to settle this matter without the need for further litigation or process, and do THEREFORE AGREE to the entry of the following:

ORDER

1. By Agreement of the Parties to this matter and by Order of the Commissioner, IT IS HEREBY ORDERED that Respondent, Brian W. Livingston, personally and through any business entities, partners, agents, officers, members, attorneys, and any person in active concert or participation with him, is hereby barred from the securities industry in Kentucky for a minimum of five years commencing upon the date of entry of this Order. Livingston shall have no entitlement to re-registration or re-licensure in any

capacity in the securities industry in Kentucky following the expiration of the five year bar, and the DFI is under no obligation to accept, approve or grant any application by Livingston for such a license or registration, either conditionally or not. The DFI shall not entertain any application by Livingston without satisfactory proof of a good faith effort at full compliance with paragraph 6 of this Order, at a minimum.

2. Specifically, the terms of this bar or lifetime ban are that: a) Livingston shall not sell, offer for sale, or attempt to encourage, advise or induce any other person to sell or liquidate a security in order to purchase any other investment product (including but not limited to an equity indexed annuity) with the purpose or intent of deriving a commission or profit from such sale, to or from the Commonwealth of Kentucky to any person, whether he or she be a Kentucky resident or non-resident of this state; b) Livingston shall not engage in the business of investment adviser in any manner, nor shall he hold himself out to the investing public as an investment adviser, an investment adviser representative, or as being affiliated or associated in any manner with an investment adviser or an investment adviser representative; c) Livingston shall not act as an agent or a solicitor of an investment adviser or an investment adviser representative; d) Livingston shall not be an officer, director, manager, or other control person or control affiliate of any entity that offers or sells securities or investments from Kentucky to non-Kentucky residents or to Kentucky residents unless such securities are properly registered pursuant to the Kentucky Securities Act or are properly exempted from the registration requirement of the Kentucky Securities Act; e) Livingston shall not act as an issuer agent of any entity selling

securities in or from Kentucky; f) Livingston shall not, directly or indirectly, receive commissions, remunerations, or financial benefits from the offer or sale of any securities or investments from Kentucky to any person, whether a Kentucky resident or not, or from the offer or sale of such securities or interests outside of Kentucky to Kentucky residents; g) Livingston shall not receive compensation, remuneration, dividends, gains, or income of any sort whatsoever, through any company or entity that he would not be permitted to receive directly pursuant to the terms of this Order.

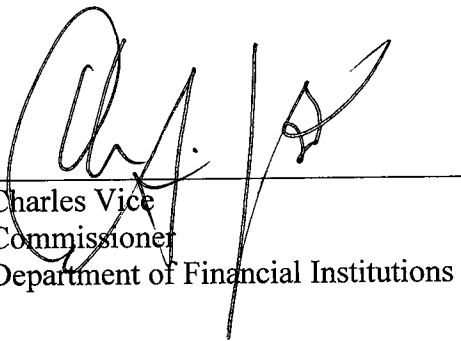
3. For purposes of this Order, securities shall include any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest in any profit sharing agreement, collateral trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or mineral rights, variable annuity, or equity indexed annuity after such time as such product may be determined to be a security by the Securities & Exchange Commission, or, in general, any interest or instrument commonly known as a "security."
4. Livingston shall not apply to the Division of Securities for any license or registration required under the Kentucky Securities Act to practice or participate in the securities industry in this state in any manner for a period of not less than five (5) years from the date of entry of this Order. Livingston may so apply for licensure or registration after such time, however, Livingston understands that the Division of Securities is under no obligation whatsoever to grant such a license or registration, either conditionally or not.

5. Should it appear to the Commissioner at any time subsequent to the entry of this Order that Livingston has engaged or is about to engage in any act or practice constituting a violation of any provision of the Order or of the Kentucky Securities Act, the Commissioner may immediately seek all legal relief available, including but not limited to injunctive relief and sanctions through a action in the Franklin Circuit Court, with or without notice. In that event, Livingston consents to the jurisdiction of the Commissioner and the Franklin Circuit Court, consents to the institution of such action without prior notice, and consents to the entry of injunctive relief by the Franklin Circuit Court or any other Court of competent jurisdiction, upon application by the Commissioner.
6. Livingston is further ordered and agrees to make full restitution for all investment advisory service fees charged and collected from clients after January 11, 2007. The amount of said fees being not less than One Hundred Twenty Thousand Eight Hundred Seventy Seven Dollars and no Cents (\$120,877.00). Livingston is responsible for making civil restitution to each client individually and upon doing so shall promptly furnish the DFI with satisfactory proof of payment, which shall be in the form of a signed acknowledgement or receipt from the client together with a copy of the cancelled check (showing both front and back of the check).
7. In regard to this matter, Respondent waives his right to a hearing, at which he would be entitled to legal representation, to confront and cross examine witnesses for the Department of Financial Institutions, and to present evidence on his own behalf. Further, Respondent agrees that the hearing presently scheduled in this matter for July 21, 2009 should be cancelled. Respondent further waives any right he may have

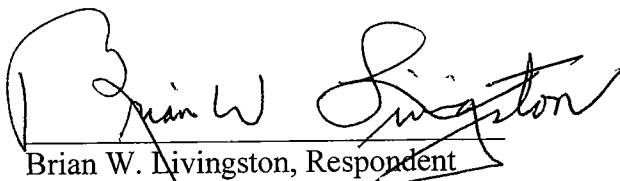
under KRS 292.490 or KRS Chapter 13B to any appeal from this order. Brian W. Livingston consents to and acknowledges the jurisdiction of the Department of Financial Institutions over this matter and understands that this Agreement and Order is a matter of public record and may be disseminated as such.

8. 3. This Settlement Agreement and Order shall constitute the Final Order in this matter.

SO ORDERED this 10th day of ~~June~~ ^{July}, 2009.


Charles Vice
Commissioner
Department of Financial Institutions

HAVE SEEN AND AGREED TO:


Brian W. Livingston, Respondent


Shonita Bossier, Director of Securities