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JUL 11 2018
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COMMISSIONERS OFFICE

COMMONWEALTH OF KENTUCKY
PUBLIC PROTECTION CABINET
DEPARTMENT OF FINANCIAL INSTITUTIONS
ADMINISTRATIVE AGENCY ACTION NO. 2018-AH-00024

DEPARTMENT OF FINANCIAL INSTITUTIONS

COMPLAINANT

v.

**NOTICE OF RESOLUTION AND
AMENDED ORDER ACCEPTING WITHDRAWAL
OF APPLICATION FOR AGENT REGISTRATION**

MARK JUDE KETNER

RESPONDENT

The Department of Financial Institutions (“DFI”) is responsible for administering the provisions of Kentucky Revised Statutes (“KRS”) Chapter 292, the Securities Act of Kentucky (the “Act”), as well as any applicable rules, regulations, and Orders entered pursuant to the Act. Pursuant to KRS 292.337, DFI enters this Notice of Resolution and Amended Order accepting the withdrawal of the application of Mark Jude Ketner (“Ketner”) for registration as an Agent.

FACTS

1. Ketner (CRD# 1138522) was registered with DFI as a Broker-Dealer Agent of Maxim Group LLC (“Maxim”), CRD #120708, from October 2002 until he voluntarily terminated his registration on April 6, 2018.
2. On March 29, 2018, the Financial Industry Regulatory Authority (“FINRA”) filed a Form U6 for Regulatory Action Occurrence #1973323.
3. FINRA charged that between August 2015 and January 2017, while working for Maxim, Ketner engaged in an unsuitable pattern of short-term trading of unit investment trusts (UITs) in connection with the accounts of customers. The findings stated that prior to the maturity

dates of these UITs, Ketner repeatedly recommended that these customers sell these products well before their maturity dates. The majority of the UITs that Ketner recommended had maturity dates of at least 24 months and carried sales charges ranging from 1.95% to 3.95%. Nevertheless, Ketner repeatedly recommended that his customers sell their UIT positions less than a year after purchase. Indeed, the average holding period for the UITs recommended by Ketner was 195 days. In addition, on multiple occasions, Ketner recommended that a customer use the proceeds from the short-term sale of a UIT to purchase another UIT with identical investment objectives.

4. Without admitting or denying the findings, Ketner consented to FINRA proposed sanctions and entry of the findings. Ketner signed an Acceptance, Waiver & Consent (“AWC”) on January 23, 2018. FINRA accepted the AWC on March 27, 2018. The AWC requires Ketner to pay a \$5,000 fine, restitution of \$1,054.33, and accept a FINRA suspension from associating with any FINRA member, in any capacity, during the period of April 16, 2018 through June 15, 2018.

5. On April 10, 2018, DFI received a relicense Form U4 on Ketner from PHX Financial, Inc. (“PHX”) CRD #144403.

6. As of May 2, 2018, the FINRA regulatory action was reported as one of the thirteen disclosure events reflected on Ketner’s CRD record.

7. Ketner was subject to FINRA’s Order of suspension based upon his unsuitable pattern of short-term trading of UITs in connection with the accounts of customers while employed with Maxim. This conduct would also be in violation of KRS 292.320(2) and 808 KAR 10:440 Section 2(18).

8. After considering the facts, circumstances and allegations related to Ketner's registration history, DFI filed an Interim Order on May 4, 2018, indicating an intent to deny the application for registration of Ketner as an Agent with PHX.

9. On May 10, 2018, PHX submitted a request to withdraw the application for registration on behalf of Ketner.

10. DFI accepts the withdrawal of Ketner's application for registration as an Agent and this action resolves the matter at hand.

AUTHORITY AND CONCLUSIONS

11. KRS Chapter 13B.070(3) encourages informal settlement of matters that may eliminate the need for more elaborate proceedings under this chapter.

12. An interim Order of an intent to deny the registration was entered by the Commissioner, pursuant to KRS 292.337(2)(g), (h), and (m), providing for notice of denial of Agent registration, written findings of fact, conclusions of law and an opportunity for a hearing.

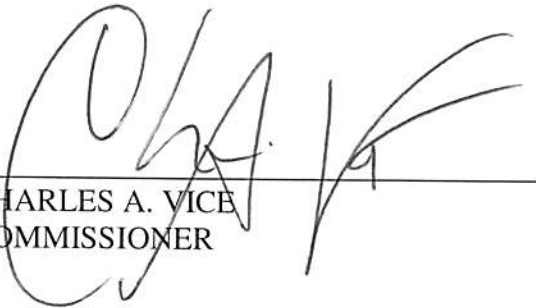
13. While KRS 292 does not explicitly allow for the Commissioner to revoke or rescind an Order, there is no legal prohibition to the Commissioner amending a previous Order in which DFI has jurisdiction.

14. Because the DFI Commissioner has not entered a Final Order denying Ketner's Agent registration, DFI has not lost jurisdiction over this matter for the purpose of amending the interim Order.

ORDER

THEREFORE, based upon the foregoing Facts, Authority and Conclusions, the Commissioner hereby amends **ORDER** stating the application of Mark Jude Ketner, as an Agent of PHX Financial, Inc., has been withdrawn.

IT IS SO ORDERED on this the 10th day of July, 2018.



CHARLES A. VICE
COMMISSIONER

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Certificate of Service

I hereby certify that a copy of the foregoing Notice of Resolution and Amended Order Accepting the Withdrawal of the Application of Mark Jude Ketner for Agent Registration was sent by certified mail return receipt requested on this the 11 day of July, 2018, to the following:

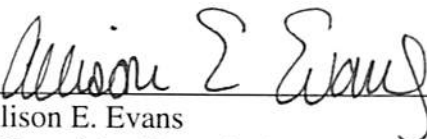
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And by hand delivery to:

Hon. Gary W. Adkins
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