

COMMONWEALTH OF KENTUCKY  
PUBLIC PROTECTION CABINET  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
AGENCY CASE NO. 2020—AH—00029

DEPARTMENT OF FINANCIAL INSTITUTIONS

COMPLAINANT

vs.

AGREED ORDER

TASHARI LEE BERRY; and  
TASHARI FINANCIAL GROUP, LLC

RESPONDENTS

PARTIES

1. The Kentucky Department of Financial Institutions (DFI, or the “Department”) is responsible for administering the provisions of Kentucky Revised Statutes (KRS) Chapter 292, the Securities Act of Kentucky (the “Act”), as well as the rules and regulations enacted thereunder.

2. Tashari Financial Group, LLC, (TFG, or the “Firm”) is a Kentucky limited liability company with a principal office at 2401 Regency Road, Suite 103 in Lexington, Kentucky 40503. TFG was originally registered with the Department as an investment adviser under CRD # 173689 on September 29, 2015; this registration was terminated on January 14, 2020.

3. Tashari Lee Berry (Berry) is a resident of the Commonwealth of Kentucky, and was the founder, CEO, and sole member of the Firm. Berry was registered with DFI as an investment adviser representative (IAR) of TFG from September 29, 2015 until January 21, 2020; her CRD# is 6025889.

FACTUAL BACKGROUND

4. Since 2015, DFI’s Compliance Branch conducted three routine compliance examinations of TFG. After each such examination, a Statement of Findings letter was mailed to the Firm, setting forth the results and conclusions of the Department’s examination. These

Findings, along with the information obtained during these compliance examinations, provided the factual basis for the allegations addressed herein.

5. Over the past several years, DFI's compliance examinations of TFG have shown a pattern of serious noncompliance with the Act, including but not limited to failing to maintain accurate books and records; failing to provide documents requested to the Department; providing incorrect or incomplete documents to the Department; failing to promptly file a correcting amendment; failing to prepare and maintain financial records in accordance with generally accepted accounting principles (GAAP); and impeding a representative of the Department in the course of an authorized examination.

#### **STATUTORY AUTHORITY**

6. KRS 292.336 details the recordkeeping and reporting requirements of registered entities, and includes the following provisions related to investment advisers:

(1) (a) Every registered broker-dealer, firm employing issuer agents, and investment adviser shall make and keep all accounts, correspondence, memoranda, papers, books, and other records which the commissioner by rule or order prescribes.

(b) All records required shall be preserved for three (3) years unless the commissioner by administrative regulation or order prescribes otherwise for particular types of records. All required records shall be kept within this state or shall, at the request of the commissioner, be made available at any time for examination by him or her either in the principal office of the registrant or by production of exact copies thereof in this state.

...

(d) If an investment adviser has his or her principal place of business in another state, then the requirements of this section shall be limited to the books and records requirements of that state, if the adviser is registered in that state and is in compliance with its recordkeeping requirements.

(2) (a) Every registered broker-dealer, investment adviser, and firm employing issuer agents shall file such reports as required by administrative regulation or order under this chapter.

...

(c) If an investment adviser has his or her principal place of business in another state, then the requirements of this section shall be limited to the reporting requirements of that state, if the adviser is registered in that state and in compliance with its reporting requirements.

(3) If the information contained in any document filed is or becomes inaccurate or incomplete in any material respect, then the broker-dealer, investment adviser, or firm employing issuer agents, as applicable, shall promptly file a correcting amendment...

7. KRS 292.500 describes the authority of the Commissioner to enforce the provisions of Chapter 292, and provides as follows:

(5) The commissioner may by administrative regulation or order prescribe the form and content of financial statements required under this chapter and the circumstances under which consolidated financial statements shall be certified by certified public accountants. All financial statements shall be prepared in accordance with generally accepted accounting standards.

8. Enacted pursuant to the Commissioner's authority under the Act, 808 KAR 10:450 § 2(25) states that "[f]ailing to make requested records available to or otherwise impeding a representative of the Department of Financial Institutions conducting an authorized examination or investigation," shall be considered "either a breach of fiduciary duty or a dishonest and unethical practice," in violation of the Act.

9. Furthermore, 808 KAR 10:110 § 1, which pertains to the records of investment advisers, requires that:

(1) Pursuant to KRS 292.336(1)(a), an investment adviser who maintains his principal place of business in Kentucky shall:

(a) Meet the recordkeeping requirements established in 15 U.S.C. 80b-3; and

(b) Maintain his books and records in accordance with the applicable federal regulations, including 17 C.F.R. 275.204-2.

(2) The requirements established in subsection (1) of this section shall apply to an investment adviser subject to the provisions of KRS Chapter 292.

(3) The commissioner may upon application for good cause shown relieve an investment adviser of compliance with the requirements established in subsection (1) of this section if the action is in the public interest.

10. 808 KAR 10:200 § 3 contains requirements related to the minimum liquid capitalization that an investment adviser must maintain, and states:

(4) An adviser shall maintain a positive net worth at all times.

...  
(6) An adviser shall compute its net worth at least once every month at the end of the month and shall maintain a record of each computation along with supporting documentation for a period of two (2) years. Each computation shall be accompanied by documentation of the assets under management for the adviser at that point in time.

(7) If the computation of net worth results in an amount that is less than required by subsections (1) through (4) of this section, the adviser shall by the close of business on the next business day following the determination of a deficiency, notify the commissioner by facsimile or electronic mail. After transmittal of this notice, the adviser shall promptly file with the commissioner a report of its financial condition, including a balance sheet, a year-to-date income statement and copies of supporting documentation.

11. Finally, 808 KAR 10:030 § 5(1)(b), requires that "[a] investment adviser shall ... [d]eliver to each client annually, within 120 days after the end of the investment adviser's fiscal year and without charge:

1. A current brochure; or
2. The summary of material changes to the brochure as required by Item 2 of Form ADV, Part 2A that offers to provide the current brochure without charge, accompanied by the Web site address (if available) and an e-mail address (if available) and telephone number by which a client may obtain the current brochure, and the Web site address for obtaining information about the investment adviser through the Investment Adviser Public Disclosure (IAPD) system."

## VIOLATIONS

12. Since 2015, Berry and TFG have engaged in a course of business that resulted in regular and repeated violations of the provisions of the Act provided above. Specifically:
- a. Berry and TFG violated KRS 292.336(1) by failing to maintain true, accurate and current books and records. This violation was cited in the 2016, 2018, and 2019 exams.
  - b. Berry and TFG violated KRS 292.336(2) by failing to provide documents requested by DFI during examinations of Tashari Financial Group. This violation was cited in the 2016, 2018, and 2019 exams.
  - c. Berry and TFG violated KRS 292.336(3) by providing incomplete documents to DFI and then failing to promptly file a correcting amendment. This violation was cited in the 2018 and 2019 exams.
  - d. Berry and TFG violated 292.500(5) by failing to prepare all financial statements in accordance with generally accepted accounting principles on an accrual basis. This violation was cited in the 2016, 2018, and 2019 exams.
  - e. Berry and TFG violated 808 KAR 10:450, Section 2(25) when they failed to make requested records available to or otherwise impeded a representative of the Department of Financial Institutions conducting an authorized examination.
  - f. Berry and TFG violated 808 KAR 10:110 by failing to maintain true, accurate, and current books and records in accordance with applicable federal regulations. This violation was cited in the 2016, 2018, and 2019 exams.
  - g. Berry and TFG violated 808 KAR 10:200, Section 3(6) by failing to compute the Tashari Financial Group's net worth at least once every month, at the end of the

month, and by failing to maintain a record of each computation, along with supporting documentation, for a period of two (2) years. This violation was cited in the 2016, 2018, and 2019 exams.

- h. Berry and TFG violated 808 KAR 10:200, Section 3(4) by failing to maintain a positive net worth at all times. This violation was cited in the 2018 and 2019 exams.
- i. Berry and TFG violated 808 KAR 10:200, Section 3(7) by failing to notify the commissioner of a computation of net worth result in an amount that is less than required. This violation was cited in the 2018 and 2019 exams.
- j. Berry and TFG violated 808 KAR 10:030, Section 5(1)(b) by failing to deliver to each client a current brochure and by failing to maintain a record of delivery. This violation was cited in the 2018 and 2019 exams.

#### **AGREEMENT AND ORDER**

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

14. In the interest of economically and efficiently resolving the violations described herein, DFI and Respondents hereby agree as follows:

a. Respondents agree to pay a civil fine in the amount of **one thousand and five hundred dollars (\$1,500)** for the violations described herein, which shall be due and payable in six (6) equal installments of two hundred and fifty dollars (\$250) each;

b. The first installment shall be due upon the entry of this Order;

c. The second installment shall be due within thirty (30) calendar days of the entry of this Order, and each subsequent installment shall be due thirty (30) calendar days thereafter, and so on until the total civil fine has been paid in full;

d. If Respondents fail to make any payment under this Order in a timely fashion, then the full balance of the civil fine shall immediately become due and payable;

e. All payments under this Order shall be in the form of an ACH payment made via secure website, pursuant to instructions provided to Respondents, or a certified check or money order made payable to "Kentucky State Treasurer" and mailed to the Department of Financial Institutions, Securities Division, 2020-AH-00029, 500 Mero Street 2SW19, Frankfort, Kentucky 40601; and

f. Respondents shall cease and desist from any further violations of the Act.

15. Respondents waive their 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 own behalves, or to otherwise appeal or set aside this Agreed Order.


16. Respondents consent to and acknowledges the jurisdiction of DFI over this matter and that this Agreed Order is a matter of public record and may be disseminated as such.

17. In consideration of execution of this Agreed Order, Respondents for themselves, and for their successors and assigns, hereby releases and forever discharges the Commonwealth of Kentucky, DFI, 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.

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

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

**IT IS SO ORDERED** on this the 22nd day of April, 2021.

  
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**CHARLES A. VICE** Justin M. Burse  
**COMMISSIONER** Deputy Commissioner



**Consented to:**  
On behalf of the Department of Financial Institutions,

This 14th day of April, 2021.

[Signature]  
Director, Division of Securities  
Department of Financial Institutions

**AND**  
On her own behalf and on behalf of TFG,

This 31st day of March, 2021.

[Signature]  
Tashari Lee Berry  
Respondent and Agent for TFG

**ACKNOWLEDGEMENT**

STATE OF Kentucky )  
COUNTY OF Fayette )

On this the 31st day of March, 2021, before me Tashari Lee Berry  
Tashari Lee Berry personally appeared and acknowledged himself to be the Respondent named  
herein and a duly authorized representative of Tashari Financial Group, LLC., and  
acknowledged that he entered into and executed the foregoing instrument for the purposes therein  
contained.

My Commission Expires: November 27, 2021

[Signature]  
Notary Public My Notary ID No. is SP2453  
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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Agreed Order was sent on this the 28<sup>th</sup> day of April, 2022, by certified mail, return receipt requested, to:

Tashari Financial Group  
Attn: Tashari Lee Berry  
2401 Regency Road, Suite 103  
Lexington, KY 40503  
RESPONDENT

And by Hand-Delivery to:

Stuart Michael  
Department of Financial Institutions  
500 Mero Street 2SW19  
Frankfort, KY 40601  
COUNSEL FOR DEPARTMENT OF FINANCIAL INSTITUTIONS

  
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Kentucky Department of Financial Institutions