

COMMONWEALTH OF KENTUCKY
PUBLIC PROTECTION CABINET
DEPARTMENT OF FINANCIAL INSTITUTIONS
ADMINISTRATIVE AGENCY ACTION NO. 2015-AH-00157

DEPARTMENT OF FINANCIAL INSTITUTIONS

COMPLAINANT

vs.

J-THADDEUS PETER McGAFFEY

RESPONDENT

**FINAL ORDER DENYING APPLICATION FOR INVESTMENT ADVISER
REPRESENTATIVE REGISTRATION**

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(1), the Commissioner of the DFI enters this Final Order denying the application of Respondent J-Thaddeus Peter McGaffey (“McGaffey”) for registration as an investment adviser representative.

I. FINDINGS OF FACT

1. The DFI’s Division of Securities received a completed application from McGaffey (CRD# 3263062) for registration as an investment adviser representative on October 13, 2015.
2. McGaffey is currently employed by Caitlin John, LLC as an investment adviser representative and he is registered with Michigan.
3. From May 10, 2013 to August 1, 2014, McGaffey was employed by Waddell & Reed, Inc. as a broker-dealer agent and as an investment adviser representative. During that time period, McGaffey was registered with the state of Michigan.

4. On or about July 31, 2013, McGaffey, while working at Waddell & Reed, borrowed thirty-five thousand dollars from an individual who was his customer/client.

5. On August 14, 2014, the customer/client filed a written complaint with Waddell & Reed stating that McGaffey had failed to repay the loan. On November 5, 2014, Waddell & Reed filed an amended U-5 which stated that based on its internal review, Waddell & Reed concluded that McGaffey borrowed funds from a firm customer without obtaining prior written permission as required by the firm's written policies.

6. On September 24, 2015, FINRA accepted a Letter of Acceptance, Waiver, and Consent ("AWC") from McGaffey. As set forth in the AWC, FINRA found that McGaffey borrowed \$35,000 from a customer and thereby violated FINRA Rules 3240 and 2010. McGaffey neither admitted nor denied FINRA's findings set forth in the AWC. However, under the terms of the AWC, McGaffey consented to a three month suspension from association with any FINRA registered broker-dealer; restitution to the customer; and a \$5,000 fine.

7. On November 4th, 2015, the DFI entered a Denial Order denying McGaffey's application for investment adviser representative registration. A copy of the Denial Order was sent to McGaffey by certified mailed at 5115 Windwood Court, Pinckney, MI 48169 which was the address provided by McGaffey in his application. The Denial Order was served on McGaffey by certified mail on November 9, 2015.

8. McGaffey did not request a hearing after being served with the Denial Order.

STATUTORY AUTHORITY

9. KRS 292.337(1) states "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.”

10. KRS 292.337(2) states: “For actions taken in subsection (1), 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:

(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.

(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;”

11. 808 KAR 10:440 Section 2(4) makes it a dishonest and unethical practice for a broker-dealer agent to borrow money from a customer.

12. 808 KAR 10:450 Section 2(6) makes it a dishonest and unethical practice for an investment adviser representative to borrow money from a client.

CONCLUSIONS OF LAW

13. While working as an agent and investment adviser representative of Waddell & Reed, Inc., McGaffey borrowed money from his customer on July 31, 2013 and thereby engaged in dishonest or unethical practices in the securities business within the past ten (10) years.

14. Based upon the FINRA AWC, McGaffey is the subject of an action of a self-regulatory organization operating under the authority of a securities regulator suspending him from membership in the self-regulatory organization.

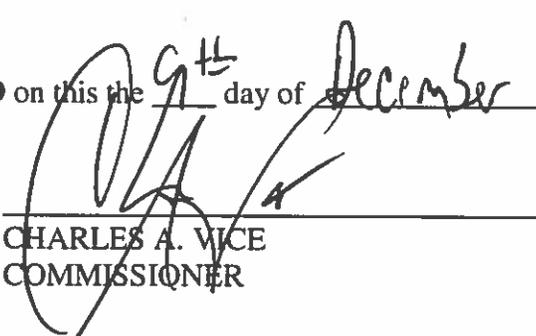
15. In accordance with KRS 292.337(1), KRS 292.337(2)(h) and KRS 292.337(2)(m), the Commissioner of the DFI finds that McGaffey engaged in dishonest or unethical practices in the securities business within the previous ten (10) years, is currently subject to suspension by FINRA, and further finds that it is in the public interest that McGaffey's application for registration as an investment adviser representative be denied.

ORDER

16. **THEREFORE**, based upon the foregoing findings of fact and conclusions of law, the Commissioner hereby **ORDERS** that J-Thaddeus Peter McGaffey's application for registration as an investment adviser representative of Caitlin John, LLC is **DENIED**.

17. This is a **FINAL AND APPEALABLE ORDER**. The **EFFECTIVE DATE** of this order shall be the date reflected on the certificate of service attached to this order.

IT IS SO ORDERED on this the 9th day of December 2015.



CHARLES A. VICE
COMMISSIONER

NOTICE OF APPEAL RIGHTS

Pursuant to KRS 292.490, you are hereby notified that you have the right to appeal this Final Order of the Commissioner. If you choose to appeal, you must file a written petition asking that the order be modified or set aside in whole or in part with the Franklin Circuit Court within thirty (30) days after entry of this Order. A copy of the petition must be served upon the Commissioner.

Certificate of Service

I hereby certify that a copy of the foregoing **Final Order** was sent by certified mail return receipt requested on this the 9th day December, 2015, to the following:

J-Thaddeus Peter McGaffey
5115 Windwood Court
Pinckney, MI 48169-8442

And hand delivered to:

Simon Berry
Department of Financial Institutions
1025 Capital Center Drive, Suite 200
Frankfort, Kentucky 40601



Kelly Childers
Department of Financial Institutions