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IN THE MATTER OF: *
*
FIRST ALLIED SECURITIES, INC. *
(CRD No. 32444) *
*
FIRST ALLIED ADVISORY *
SERVICES, INC. *
(CRD No. 137888) *
*

CONSENT ORDER
NO. CO-18-8399-S

I. PRELIMINARY STATEMENT

WHEREAS, the Banking Commissioner (“Commissioner”) is charged with the administration of Chapter 672a of the General Statutes of Connecticut, the Connecticut Uniform Securities Act (“Act”), and Sections 36b-31-2 to 36b-31-33, inclusive, of the Regulations of Connecticut State Agencies (“Regulations”) promulgated under the Act;

WHEREAS, First Allied Securities, Inc., located at 655 West Broadway, 12th Floor, San Diego, California 92101, has been registered as a broker-dealer under the Act since April 13, 1994, and First Allied Advisory Services, Inc. has been an investment adviser registered with the Securities and Exchange Commission (SEC No. 801-66653) from June 6, 2006 to the present, and has filed the notice required by Section 36b-6(e) of the 2018 Supplement to the General Statutes (“2018 Supplement”) since January 3, 2007. Collectively, First Allied Securities, Inc. and First Allied Advisory Services, Inc. are referred to as “First Allied”;

WHEREAS, Matthew Charles Woodard (CRD No. 5699485) (“Woodard”) is an individual whose address last known to the Commissioner is 44 Fenwick Drive, Farmington, Connecticut 06032. Woodard

was associated with First Allied as a non-registered branch assistant from July 22, 2015 to October 28, 2015;

WHEREAS, Walter John Dubiel (CRD No. 4234689) (“Dubiel”) is an individual whose address last known to the Commissioner is 353 Main Street, Farmington, Connecticut 06032. Dubiel was registered as a broker-dealer agent of First Allied under the Act from June 6, 2014 to November 30, 2015, and as an investment adviser agent of First Allied under the Act from June 12, 2014 to December 11, 2015;

WHEREAS, in 2014, Dubiel and Woodard both worked as agents at ProEquities, Inc. (CRD No. 15708) (“ProEquities”), at 1031 Farmington Avenue, Farmington, Connecticut. In 2014, Dubiel and Woodard both left ProEquities and Dubiel began working as an agent of First Allied out of the same 1031 Farmington Avenue, Farmington Connecticut location. After Woodard left ProEquities, he was no longer registered in any capacity, but began assisting Dubiel with computer, technological and administrative tasks related to Dubiel’s securities business at First Allied;

WHEREAS, Investor One is a Connecticut investor and was one of Woodard’s brokerage clients at ProEquities from approximately September 2013 to June 2014. After Dubiel began working at First Allied, Investor One moved her accounts to First Allied and became one of Dubiel’s clients from approximately June 2014 to approximately November 2015;

WHEREAS, in approximately January 2015, Dubiel, while under the supervision of First Allied, shared his First Allied confidential client account log-in credentials with Woodard without giving notice to First Allied or the affected clients. The account log-in credentials gave Woodard access to all of Dubiel’s client accounts, including Investor One’s account. First Allied policies and procedures prohibited agents from sharing log-in credentials with any other individual;

WHEREAS, as a result of Dubiel sharing his confidential client account log-in credentials with Woodard, Woodard accessed Investor One’s advisory account to execute securities transactions in Investor One’s account. These transactions were done without Investor One’s knowledge or consent and

despite the fact that Woodard was not registered under the Act. Specifically, Investor One incurred trading losses in the amount of \$19,265.89 due to transactions executed by Woodard;

WHEREAS, on March 23, 2018, the Commissioner entered a Consent Order against Woodard relating to his activities involving Investor One (No. CO-17-8279-S), wherein the Securities and Business Investments Division (“Division”) of the Department of Banking (“Department”) received documentation evidencing that Woodard paid \$325,000 in restitution and/or repayment to Investor One;

WHEREAS, on July 12, 2018, the Commissioner entered a Consent Order against Dubiel relating to his activities involving Investor One while Dubiel was an agent of First Allied (No. CO-18-8440-S);

WHEREAS, on July 20, 2018, the Commissioner entered a Consent Order against ProEquities relating to the activities that transpired when Woodard was an agent at ProEquities (No. CO-18-8400-S);

WHEREAS, the Commissioner, through the Division, conducted an investigation of First Allied pursuant to Section 36b-26(a) of the Act (“Investigation”) to determine whether First Allied had violated, was violating or was about to violate provisions of the Act or any regulation, rule or order adopted or issued under the Act;

WHEREAS, First Allied had an ongoing duty to supervise Dubiel during Dubiel’s association with First Allied;

WHEREAS, as a result of the Investigation, the Commissioner has reason to believe that the foregoing conduct violates certain provisions of the Regulations, and would support administrative proceedings against First Allied under Section 36b-15 of the Act and Section 36b-27 of the 2018 Supplement;

WHEREAS, Section 36b-31(a) of the Act provides, in relevant part, that “[t]he commissioner may from time to time make . . . such . . . orders as are necessary to carry out the provisions of sections 36b-2 to 36b-34, inclusive”;

WHEREAS, Section 36b-31(b) of the Act provides, in relevant part, that “[n]o . . . order may be made . . . unless the commissioner finds that the action is necessary or appropriate in the public interest or

for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of sections 36b-2 to 36b-34, inclusive”;

WHEREAS, an administrative proceeding initiated under Section 36b-15 of the Act and Section 36b-27 of the 2018 Supplement would constitute a “contested case” within the meaning of Section 4-166(4) of the General Statutes of Connecticut;

WHEREAS, Section 4-177(c) of the General Statutes of Connecticut and Section 36a-1-55(a) of the Regulations provide that a contested case may be resolved by consent order, unless precluded by law;

WHEREAS, without holding a hearing and without trial or adjudication of any issue of fact or law, and prior to the initiation of any formal proceeding, the Commissioner and First Allied have reached an agreement, the terms of which are reflected in this Consent Order, in full and final resolution of the matters described herein;

WHEREAS, First Allied expressly consents to the Commissioner’s jurisdiction under the Act and to the terms of this Consent Order;

WHEREAS, the Commissioner finds that the entry of this Consent Order is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of the Act;

AND WHEREAS, First Allied, through its execution of this Consent Order, specifically assures the Commissioner that the violation alleged in this Consent Order shall not occur in the future.

II. CONSENT TO WAIVER OF PROCEDURAL RIGHTS

WHEREAS, First Allied, through its execution of this Consent Order, voluntarily waives the following rights:

1. To be afforded notice and an opportunity for a hearing within the meaning of Section 36b-15(f) of the Act, Section 36b-27 of the 2018 Supplement and Section 4-177(a) of the General Statutes of Connecticut;
2. To present evidence and argument and to otherwise avail itself of Section 36b-15(f) of the Act, Section 36b-27 of the 2018 Supplement and Section 4-177c(a) of the General Statutes of Connecticut;

3. To present its position in a hearing in which it is represented by counsel;
4. To have a written record of the hearing made and a written decision issued by a hearing officer; and
5. To seek judicial review of, or otherwise challenge or contest the matters described herein, including the validity of this Consent Order.

III. ACKNOWLEDGEMENT OF THE COMMISSIONER'S ALLEGATION

WHEREAS, First Allied, through its execution of this Consent Order, and without admitting or denying the Commissioner's allegations, acknowledges the following allegation of the Commissioner:

First Allied violated Section 36b-31-6f(b) of the Regulations by failing to establish, enforce and maintain a system for supervising the activities of its agents that was reasonably designed to achieve compliance with applicable securities laws and regulations.

WHEREAS, the Commissioner would have the authority to enter findings of fact and conclusions of law after granting First Allied an opportunity for a hearing;

AND WHEREAS, First Allied acknowledges the possible consequences of an administrative hearing and voluntarily agrees to consent to the entry of the sanctions described below.

IV. CONSENT TO ENTRY OF SANCTIONS

WHEREAS, First Allied, through its execution of this Consent Order, consents to the Commissioner's entry of an order imposing on it the following sanctions:

1. First Allied, its representatives, agents, and employees shall cease and desist from engaging in conduct constituting or which would constitute a violation of the Act or any regulation, rule or order adopted or issued under the Act, either directly or through any person, organization or other device, including without limitation engaging in any activity in or from Connecticut that violates Section 36b-31-6f(b) of the Regulations;
2. No later than the date this Consent Order is entered by the Commissioner, First Allied shall remit the sum of \$19,265.89 in good funds to Investor One as full restitution for trading losses due to transactions executed by Woodard while Investor One's account was at First Allied, and shall provide written proof of such payment to the Division; and
3. No later than the date this Consent Order is entered by the Commissioner, First Allied shall remit to the Department, by cashier's check, certified check or money order made payable to "Treasurer, State of Connecticut", the sum of thirty thousand dollars (\$30,000), which shall constitute an administrative fine.

V. CONSENT ORDER

NOW THEREFORE, the Commissioner enters the following:

1. The Sanctions set forth above be and are hereby entered;
2. Entry of this Consent Order by the Commissioner is without prejudice to the right of the Commissioner to take enforcement action against First Allied and/or its affiliates and successors in interest based upon a violation of this Consent Order or the matters underlying its entry if the Commissioner determines that compliance with the terms herein is not being observed;
3. Nothing in this Consent Order shall be construed as limiting the Commissioner's ability to take enforcement action against First Allied and/or its affiliates and successors in interest based upon evidence of which the Division was unaware on the date hereof relating to a violation of the Act or any regulation or order under the Act;
4. First Allied shall not take any action or make or permit to be made any public statement, including in regulatory filings, any proceeding in any forum or otherwise, denying, directly or indirectly, any allegation referenced in this Consent Order or create the impression that this Consent Order is without factual basis;
5. First Allied shall not take any position in any proceeding brought by or on behalf of the Commissioner, or to which the Commissioner is a party, that is inconsistent with any part of this Consent Order. Nothing in this provision affects First Allied's (i) testimonial obligations; or (ii) right to take a legal or factual position in litigation or other legal proceeding in which the Commissioner is not a party; and
6. This Consent Order shall become final when entered.

So ordered at Hartford, Connecticut,
this 2nd day of January 2019.

_____/s/_____
Jorge L. Perez
Banking Commissioner

CONSENT TO ENTRY OF ORDER

I, Kathy VanNoy-Pineda, state on behalf of both First Allied Securities, Inc. and First Allied Advisory Services, Inc. (collectively, "First Allied"), that I have read the foregoing Consent Order; that I know and fully understand its contents; that I am authorized to execute this Consent Order on behalf of First Allied; that First Allied agrees freely and without threat or coercion of any kind to comply with the terms and conditions stated herein; and that First Allied consents to the entry of this Consent Order.

First Allied Securities, Inc.

By: _____/s/_____
Kathy VanNoy-Pineda
Chief Compliance Officer

First Allied Advisory Services, Inc.

By: _____/s/_____
Kathy VanNoy-Pineda
Chief Compliance Officer

State of: Colorado

County of: Arapahoe

On this the 05th day of December 2018, before me, the undersigned officer, personally appeared Kathy VanNoy-Pineda, who acknowledged herself to be the Chief Compliance Officer of First Allied Securities, Inc. and First Allied Advisory Services, Inc., respectively, and that she, as such Chief Compliance Officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of First Allied Securities, Inc. and First Allied Advisory Services, Inc., respectively, by herself as Chief Compliance Officer.

In witness whereof I hereunto set my hand.

_____/s/_____
Notary Public
Date Commission Expires: 12-17-18