
*
IN THE MATTER OF: *
*
JAMES ALBERT PETTIT *
CRD No. 733916 *

CONSENT ORDER
DOCKET NO. NDCDF-17-8218-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, the Commissioner, through the Securities and Business Investments Division (“Division”) of the Department of Banking, conducted an investigation pursuant to Sections 36b-8 and 36b-26(a) of the Act into the activities of James Albert Pettit (“Pettit”) to determine whether he has violated, is violating or is about to violate provisions of the Act;

WHEREAS, as a result of the investigation, on May 15, 2017, the Commissioner acting pursuant to Sections 36b-15 and 36b-27 of the Act, issued a Notice of Intent to Deny Registrations as a Broker-Dealer Agent and an Investment Adviser Agent, Order to Cease and Desist, Notice of Intent to Fine and Notice of Right to Hearing (collectively, “Notice”) (Docket No. NDCDF-17-8218-S) against Pettit, which Notice is incorporated by reference herein;

WHEREAS, on June 1, 2017, Pettit requested a hearing on the matters alleged in the Notice;

WHEREAS, on June 12, 2017, the Commissioner issued a Notification of Hearing and Designation of Hearing Officer appointing Attorney Stacey Serrano as Hearing Officer, wherein the Commissioner scheduled the hearing on the matters alleged in the Notice for August 3, 2017 (“Hearing”);

WHEREAS, on August 1, 2017, Hearing Officer Serrano continued the hearing at the mutual request of the parties so that settlement negotiations could continue;

WHEREAS, based on information the Division received after the Notice was issued, the Commissioner finds that facts exist that warrant the amendment of paragraph 35 of the Notice. Paragraph 35 of the Notice should be removed and replaced as follows:

35. On November 8, 2013, Pettit wrote a \$14,000 check made payable to “Edward J. Murphy Clients Fund Account” from Client D’s estate account. On November 12, 2013, attorney Edward J. Murphy in turn issued a \$14,000 check to Pettit from the Attorney Edward J. Murphy Client Fund account. That check bore the notation “[Client D] Estate – Executor’s Fees”.

WHEREAS, Section 36b-31(a) of the Act provides, in relevant part, that “[t]he commissioner may from time to time make and amend . . . 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, 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, an administrative proceeding initiated under Sections 36b-27 and 36b-15 of the Act would constitute a “contested case” within the meaning of Section 4-166(4) of the General Statutes of Connecticut;

WHEREAS, Section 36b-27(f) of the Act provides, in relevant part, that “[a]ny time after the issuance of an order or notice provided for in subsection (a) or . . . subdivision (1) of subsection (d) of this section, the commissioner may accept an agreement by any respondent named in such order or notice to enter into a written consent order in lieu of an adjudicative hearing”;

WHEREAS, Pettit and the Commissioner now desire to resolve the matters alleged in the Notice without the need for further administrative proceedings;

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;

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

WHEREAS, on May 16, 2016, the Greater Windsor Probate Court (the “Probate Court”) issued a Decree ordering Pettit to repay \$171,274.59 to the estate of the individual referred to as Client D in the Notice (“Decree”);

WHEREAS, a civil action, brought by the executor in the Superior Court for the Judicial District of Hartford at Hartford, to enforce the Decree is pending and seeks to enforce and recover money ordered by the Probate Court, plus upwards of three times the amount in damages (*Gostyla v. Pettit*, HHD-CV17-6074354-S);

WHEREAS, Pettit has provided the Commissioner with a written financial affidavit demonstrating that he is and will be unable to pay any fine that might otherwise have been imposed against him pursuant to Section 36b-27(f) of the Act as a result of the Notice or as a term of this Consent Order ;

WHEREAS, Pettit acknowledges that he has had the opportunity to consult with and be represented by independent counsel in negotiating and reviewing this Consent Order and executes this Consent Order freely;

AND WHEREAS, Pettit, through his execution of this Consent Order, specifically assures the Commissioner that none of the violations alleged in the Notice shall occur in the future.

II. CONSENT TO WAIVER OF PROCEDURAL RIGHTS

WHEREAS, Pettit, through his 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 Sections 36b-15(f) and 36b-27 of the Act and Section 4-177(a) of the General Statutes of Connecticut;
2. To present evidence and argument and to otherwise avail himself of Sections 36b-15(f) and 36b-27 of the Act and Section 4-177c(a) of the General Statutes of Connecticut;
3. To present his position in a hearing in which he 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 ALLEGATIONS

WHEREAS, Pettit, through his execution of this Consent Order, acknowledges the allegations of the Commissioner in the Notice, without admitting or denying them, yet admits that, if proven, sufficient evidence exists for the Commissioner to issue: (a) an order denying Pettit's applications for registration as a broker-dealer agent and an investment adviser agent; (b) a permanent order to cease and desist against Pettit; and (c) an order imposing upon Pettit a maximum administrative fine of one hundred thousand dollars (\$100,000) per violation of the Act, or any regulation, rule or order adopted or issued thereunder;

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

AND WHEREAS, Pettit 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, Pettit, through his execution of this Consent Order, consents to the Commissioner's entry of an order imposing on him the following sanctions:

1. The Order to Cease and Desist issued against James Albert Pettit on May 15, 2017 shall be and is hereby made **PERMANENT**;
2. From the date this Consent Order is entered by the Commissioner, the registration of James Albert Pettit as a broker-dealer agent and an investment adviser agent shall be **DENIED**; and
3. For a period of ten (10) years commencing on the date this Consent Order is entered by the Commissioner, Pettit shall be **BARRED** from: (a) transacting business in or from Connecticut as an agent, broker-dealer, broker-dealer agent, investment adviser or investment adviser agent, as such terms are defined in the Act, and notwithstanding any definitional exclusion that might otherwise be available under the Act; (b) maintaining a direct or indirect ownership interest in a broker-dealer or an investment adviser registered or required to be registered in Connecticut; and (c) acting in any other capacity that requires a license or registration under laws administered by the Commissioner;
4. Based on the contents of the financial affidavit submitted by Pettit to the Division, the imposition of any fine that otherwise would have been imposed against Pettit pursuant to Section 36b-27 of the Act shall be temporarily stayed for three years from the date this Consent Order is entered by the Commissioner, provided that such stay shall no longer be in force and effect, and Pettit will be obligated to immediately pay a fine of \$25,000 by the Commissioner, if the Commissioner ascertains at any time that (i) Pettit is able to pay an administrative fine; or (ii) Pettit failed to disclose any material asset, materially misstated the value of any asset or made any other material misstatement or omission in the financial affidavit. This paragraph is without prejudice to the right of the Commissioner, in his discretion, to take such further action on the matter in the future following expiration of the temporary stay as may be warranted by the then existing circumstances. Pettit, through his execution of this Consent Order, knowingly, wilfully and voluntarily waives his right to notice and an administrative hearing in conjunction with the implementation of this paragraph; provided, however, that, prior to invoking any enforcement measures contemplated by this paragraph, the Commissioner shall provide the Pettit with an informal opportunity to demonstrate his compliance with this Consent Order. After the expiration of three years from the date this Consent Order is entered, if the Division determines that Pettit is still unable to pay the administrative fine, such fine will be waived.

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 Pettit 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 or if any representation made by Pettit and set forth herein is subsequently discovered to be untrue;

3. Nothing in this Consent Order shall be construed as limiting the Commissioner's ability to take enforcement action against Pettit 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. Pettit shall not take any action or make or permit to be made any public statement, including in regulatory filings 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. Pettit 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. However, nothing in this Consent Order affects Pettit's testimonial obligations or right to take any legal or factual position in litigation, arbitration, or other legal proceedings in which the Commissioner is not a party; and
6. This Consent Order shall become final when entered.

So ordered at Hartford, Connecticut,
this 7th day of September 2022.

_____/s/_____
Jorge L. Perez
Banking Commissioner

CONSENT TO ENTRY OF ORDER

I, James Albert Pettit, state that I have read the foregoing Consent Order; that I know and fully understand its contents; that I agree freely and without threat or coercion of any kind to comply with the terms and conditions stated herein; and that I consent to the entry of this Consent Order.

_____/s/_____
James Albert Pettit

State of: Connecticut

County of: Hartford

On this the 30th day of [left blank on original] 2022, before me, the undersigned officer, personally appeared James Albert Pettit, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand.

_____/s/_____
Notary Public / Commissioner of the Superior Court
Date Commission Expires: April 30, 2023