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BEFORE THE ARKANSAS SECURITIES COMMISSIONER 5 OCT -5 AM 11:07  
CASE NO S-15-0015  
ORDER NO. S-15-0015-15-OR02 ARKANSAS SECURITIES DEPT.

IN THE MATTER OF:  
BILLY WAYNE ALLEN

RESPONDENT

**ORDER**

On September 15, 2015, a hearing was held concerning the Complaint filed herein by the Staff of the Arkansas Securities Department (“Staff”) against Billy Wayne Allen (“Allen”). Although receiving reasonable notice of this hearing, Respondent Allen failed to appear at the hearing. The hearing was held pursuant to the Arkansas Securities Act, codified at Ark. Code Ann. §§ 23-42-101 through 23-42-509 (“Act”), the Rules of the Arkansas Securities Commissioner (“Rules”) promulgated under the Act, and the Arkansas Administrative Procedures Act, codified at Ark. Code Ann. §§ 25-15-201 through 25-15-219. From the testimony of witnesses and documentary evidence presented at the hearing, the Hearing Officer does find and order the following:

**FINDINGS OF FACT**

1. Allen, CRD number 5515997, was registered with the Arkansas Securities Department (“Department”) from October 5, 2012 through January 28, 2015 as an agent of and from October 9, 2012 through January 28, 2015 as a registered representative of Merrill Lynch, Pierce, Fenner & Smith Inc. (“Merrill Lynch”).

2. On July 19, 2014 Allen sent a text message to one of his clients, Arkansas Resident one (“AR1”), requesting a meeting. At the meeting Allen told AR1 that his wife had left him and took everything. Allen asked AR1 to loan him \$500 for food and a place to stay. AR1 loaned \$500 to

Allen. Allen continued to ask for and borrow money from AR1 in \$300 to \$500 increments until on or about October 2014. Allen borrowed a total of \$7,800.00 from AR1. Allen used various reasons for his continued need to borrow money from AR1. Allen's reasons included: needing to travel to Missouri to take care of his sick mother, needing to travel to make funeral arrangements for his grandmother, and needing medical treatments for Allen's stage two stomach cancer. In spite of repeated requests from AR1 for Allen to repay this money, Allen failed and refused to pay back any amount of said money to AR1.

3. After AR1 realized that Allen had lied to him about the money he borrowed, AR1 filed a complaint with Allen's employer, Merrill Lynch. Allen borrowed the money from AR1 without the knowledge of his employer, Merrill Lynch. Once Merrill Lynch learned of this activity, Merrill Lynch conducted an internal investigation. As a result of Merrill Lynch's internal investigation, Allen was fired. In addition, Merrill Lynch paid AR1 \$7,800.00 to settle his complaint.

4. Allen admitted to the Staff that he borrowed money from another client, who is also Allen's grandmother, Arkansas Resident two ("AR2"). Allen admitted borrowing \$6,500 from AR2 in a written statement to the Staff dated April 14, 2015. Allen did not tell his employer, Merrill Lynch, about borrowing money from AR2.

5. On three separate occasions Allen failed and refused to appear at the Arkansas Securities Department in order to answer questions and/or provide a statement to the Staff concerning the circumstances surrounding his termination from Merrill Lynch, as well as his borrowing money from clients. The meetings between the Staff and Allen were set for June 4, 15, and 30, 2015. Prior to each of these meetings, the Staff sent an email or letter to Allen confirming the time, date, and the need for Allen to discuss or provide testimony to the Staff. Further, when Allen was

questioned by the Staff during telephone conversations about his termination from Merrill Lynch and borrowing cash from clients, Allen was not truthful in his verbal statements to the Staff.

#### APPLICABLE LAW

6. Ark. Code Ann. § 23-42-308(a)(2)(G) states that the Commissioner may by order suspend or revoke any registration, if he finds that the registrant has engaged in dishonest or unethical practices in the securities business.

7. Rule 308.01(p) states that it is grounds to suspend or revoke an agent's registration for borrowing customer's funds.

8. Rule 308.02(f) states that it is grounds to suspend or revoke a representative's registration for borrowing money or anything of value from a client unless the client is a broker-dealer, and affiliate investment advisor, or a financial institution engaged in the business of loaning funds.

9. Rule 308.01(v) states that it is grounds to suspend or revoke an agent's registration for unreasonably failing to appear to provide testimony or documents to the Commissioner, after receipt of a written request from the Commissioner.

10. Rule 308.02(r) states that it is grounds to suspend or revoke a representative's registration for unreasonably failing to appear to provide testimony or documents to the Commissioner, after receipt of a written request from the Commissioner.

#### CONCLUSIONS OF LAW

11. Allen violated Ark. Code Ann. § 23-42-308(a)(2)(G) and Rule 308.01(p), when Allen borrowed money from his clients as detailed in paragraphs two through four.

12. Allen violated Ark. Code Ann. § 23-42-308(a)(2)(G) and Rule 308.02(f) of the Rules, when Allen borrowed money from his clients as detailed in paragraphs two through four.

13. Allen violated Ark. Code Ann. § 23-42-308(a)(2)(G) and Rule 308.01(v) of the Rules, when Allen unreasonably failed to appear and provide a statement and documents to the Staff as detailed in paragraph five.

14. Allen violated Ark. Code Ann. § 23-42-308(a)(2)(G) and Rule 308.02(r) of the Rules, when Allen unreasonably failed to appear and provide a statement and documents to the Staff as detailed in paragraph five.

15. The registrations of Allen should be and hereby are ordered revoked pursuant to Ark. Code Ann. § 23-42-308(a)(2)(G), Rule 308.01(p), Rule 308.02(f), Rule 308.01(v), and Rule 308.02(r) for repeatedly violating said sections of the Act and Rules as detailed in paragraphs two through five.

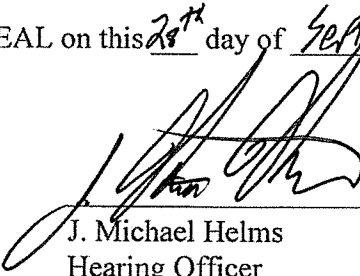
OPINION

This order is in the public interest. The facts as set out in paragraphs 2 through 5 support the violations of the Act and the Rules as set out in paragraphs 11 through 15.

ORDER

IT IS THEREFORE ORDERED that the agent of a broker-dealer and the investment adviser representative registrations of Allen are hereby revoked.

WITNESS MY HAND AND SEAL on this 20<sup>th</sup> day of September, 2015.

  
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J. Michael Helms  
Hearing Officer