



**BEFORE THE COMMISSIONER OF COMMERCE AND INSURANCE
FOR THE STATE OF TENNESSEE**

TENNESSEE SECURITIES DIVISION,)
)
 Petitioner,)
)
 v.) **TSD No.: 21-014**
)
 PHILLIP J. LEACH,)
)
 Respondent.)

CONSENT ORDER

The Securities Division of the Tennessee Department of Commerce and Insurance (“Division”), by and through undersigned counsel, and Phillip J. Leach (“Respondent”) agree to the entry and execution of this Consent Order in accordance with Tennessee Code Annotated (“Tenn. Code Ann.”) § 48-1-116 of the Tennessee Securities Act of 1980 (“Act”), as amended, and Tenn. Code Ann. §§ 48-1-101 to 48-1-201, subject to the approval of the Commissioner of the Tennessee Department of Commerce and Insurance (“Commissioner”).

I. PARTIES

1. The Division is the lawful agent through which the Commissioner discharges the administration of the Act pursuant to Tenn. Code Ann. § 48-1-115.
2. The Respondent is assigned Central Registration Depository number 582677, and maintains an address of record of 524 Princeton Oaks Cove, Memphis, Tennessee 38117.

II. GENERAL STIPULATIONS

3. It is expressly understood that this Consent Order is subject to the Commissioner's acceptance and has no force and effect until such acceptance is evidenced by the entry and execution of this Consent Order by the Commissioner. Entry and execution of this Consent Order by the Commissioner shall occur when the Commissioner signs and dates this Consent Order.

4. It is expressly understood that this Consent Order is in the public interest, necessary for the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the Act.

5. This Consent Order is executed by the Commissioner, the Division, and the Respondent to avoid further administrative action with respect to the same findings of fact described herein. Should this Consent Order not be accepted by the Commissioner, it is agreed that presentation to and consideration of this Consent Order by the Commissioner shall not unfairly or illegally prejudice the Commissioner from further participation or resolution of these proceedings.

6. The Respondent fully understands that this Consent Order will in no way preclude additional proceedings by the Commissioner against the Respondent for acts and/or omissions not specifically addressed in this Consent Order nor for facts and/or omissions that do not arise from the facts or transactions herein.

7. The Respondent fully understands that this Consent Order will in no way preclude proceedings by state government representatives, other than the Commissioner, for acts or omissions addressed specifically in this Consent Order, violations of law under statutes, rules, or regulations of the State of Tennessee that arise out of the facts, acts, or omissions contained in this

Consent Order, or acts or omissions addressed specifically herein that result from the execution of this Consent Order.

8. The Respondent waives all further procedural steps and all rights to seek judicial review of, or otherwise challenge the validity of this Consent Order, the stipulations and imposition of discipline contained herein, or the consideration and entry and execution of this Consent Order by the Commissioner.

III. FINDINGS OF FACT

9. In June 2019, IFS Securities (“IFS”) submitted an application for the Respondent to register him with the Division as an agent in Tennessee.

10. Subsequently, to necessitate settling this matter, the Respondent entered into a tolling agreement with the Division on September 18, 2019, that tolled the time period for the Division to review and take action on the Respondent’s application for forty-five (45) days.

11. Upon receipt of the application in June 2019, the Division reviewed it and learned that the Financial Industry Regulatory Authority (“FINRA”) suspended the Respondent’s registration for forty-five (45) days and fined him five thousand dollars (\$5,000) in 2017. FINRA pursued such disciplinary actions because the Respondent, when leaving his former employer Carty & Co., removed non-public personal information belonging to fifty-two (52) customers, including customers’ account numbers and trading histories, dates of birth, and social security numbers. The Respondent did so by downloading his Outlook contacts, in which he kept non-public personal information in the notes section of his contacts, onto a USB drive. He then provided the USB to his next employer, Morgan Stanley.

12. Further compounding the matter, the Respondent violated FINRA Rule 2010 by submitting a resignation letter to Carty & Co. that falsely stated he had “neither removed confidential information from the firm nor retained such information.”

13. On June 28, 2019, as is routine in the application process, the Division sent a letter to the Respondent asking for information pertaining to the FINRA action.

14. The Respondent responded and admitted to downloading the information but asserted that he inadvertently downloaded the non-public personal information, as he only intended to copy the names and phone numbers of customers from his Outlook contacts.

15. After the Respondent left Carty & Co.’s employment, he asserted that he provided the USB to Morgan Stanley’s local legal counsel who, to the best of the Respondent’s knowledge, returned the USB to Carty & Co.

16. In 2019, the Respondent agreed to the terms of a proposed Consent Order that would have subjected him to three (3) years of heightened supervision and assessed a five thousand dollar (\$5,000) civil penalty.

17. IFS did not agree to the heightened supervision of the proposed Consent Order, and the Respondent was allowed to withdraw his application for registration as an agent in Tennessee, and the proposed Consent Order was not signed.

18. On March 18, 2021, Lifemark Securities Corp. (“Lifemark”) submitted an application for the Respondent to register him with the Division as an agent in Tennessee.

19. On April 15, 2021, the Respondent entered into a tolling agreement with the Division that tolled the time period for the Division to review and take action on the Respondent’s application for forty-five (45) days.

IV. CONCLUSIONS OF LAW

20. Pursuant to Tenn. Code Ann. § 48-1-115(a), the responsibility for the administration of the Act is vested in the Commissioner. The Division is the lawful agent through which the Commissioner discharges this responsibility pursuant to Tenn. Code Ann. § 48-1-115.

21. Tenn. Code Ann. § 48-1-116 provides that the Commissioner may make, promulgate, amend, and rescind such orders as are necessary to carry out the provisions of the Act upon a finding that such order is in the public interest, necessary for the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the Act.

22. Tenn. Code Ann. § 48-1-112(a)(1) and (a)(2)(G) provide that the Commissioner may by order deny, suspend, or revoke any registration upon finding that the order is in the public interest, necessary for the protection of investors, and the applicant or registrant has engaged in dishonest or unethical practices in the securities business.

23. Tenn. Comp. R. & Regs. 0780-04-03-.02(6)(b)17. establishes that “[v]iolating any rule of a national securities exchange or national securities dealers association [FINRA] of which the agent is an associated person with respect to any customer, transaction, or business in this state” is deemed dishonest or unethical business practices by an agent pursuant to Tenn. Code Ann. § 48-1-112(a)(2)(G).

24. FINRA Rule 2010 requires that all members, in the conduct of business, observe the “high standards of commercial honor and just and equitable principles of trade.”

25. The United States Securities and Exchange Commission’s Regulation S-P of the Securities Exchange Act of 1934 generally prohibits disclosure of “nonpublic personal information” about a customer unless the customer receives proper notice and an opportunity to opt out. “Nonpublic personal information” includes names, addresses, telephone and social

security numbers, birth dates, and account balances that are provided to a financial institution by its customers.

26. Tenn. Code Ann. § 48-1-112(d) establishes that when the Commissioner is authorized to deny, revoke, or suspend the registration of an agent, “the [C]ommissioner may . . . impose a civil penalty in an amount not to exceed five thousand dollars (\$5,000) for all violations for any single transaction, or in an amount not to exceed ten thousand dollars (\$10,000) per violation if an individual who is a designated adult is a victim.”

27. Based on the Findings of Fact above, the Respondent engaged in dishonest and unethical practices in the securities business when he removed non-public personal information of fifty-two (52) customers at Carty & Co., including customers’ account numbers and trading histories, dates of birth, and social security numbers, in violation of Tenn. Code Ann. § 48-1-112(a)(2)(G) and Tenn. Comp. R. & Regs. 0780-04-03-.02(6)(b)17.

28. The Commissioner finds the following relief appropriate, in the public interest, and necessary for the protection of investors.

V. ORDER

NOW, THEREFORE, based on the foregoing, including the Respondent’s waiver of the right to a hearing and appeal under the Act and the Tennessee Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-101 *et seq.*, the Respondent’s admission to the jurisdiction of the Commissioner, the Commissioner finds that the Respondent agrees to the entry and execution of this Consent Order to settle this matter as evidenced by the Respondent’s signature.

IT IS ORDERED, pursuant to Tenn. Code Ann. § 48-1-116, that the Respondent shall:

1. Comply with the Act, as amended, and all rules promulgated thereunder;

2. Be subjected to heightened supervision by Lifemark Securities Corp., which shall include an examination by Lifemark Securities Corp. every year for the next three (3) years of the Respondent's e-mail, e-mail contacts, and hard-copy and electronic address book, in order to confirm that the Respondent is not saving non-public personal information¹ in those locations. Lifemark Securities Corp. shall provide the Division with a written and signed confirmation, signed by Lifemark Securities Corp. or its agent, and the Respondent, no later than January 1 of each year that certifies the following: (1) Lifemark Securities Corp. has examined the Respondent's e-mail, e-mail contacts, and hard-copy and electronic address book and (2) the Respondent is not saving any non-public personal information in any of those locations;

3. Provide each written and signed confirmation mentioned above to the Division no later than the following dates: January 1, 2022; January 1, 2023; and January 1, 2024; and

4. Pay a civil penalty to the State of Tennessee of five thousand dollars (\$5,000). The payment of such civil penalty shall be made by check payable to the Tennessee Department of Commerce and Insurance. Page one (1) of this Consent Order must accompany the payment for reference. Payment shall be remitted within thirty (30) days after entry and execution of this Consent Order, as evidenced by the Commissioner's signature, and mailed to the attention of:

**State of Tennessee
Department of Commerce and Insurance
Attn: William H. Leslie
Davy Crockett Tower
500 James Robertson Parkway
Nashville, Tennessee 37243**

¹ Non-public personal information includes sensitive information such as social security numbers and account numbers.

5. The Respondent's failure to comply with the terms of this Consent Order, including the manner and method of payment of the civil penalty described above, shall result in further administrative disciplinary action, which may include the assessment of additional civil penalties.

6. Additionally, if Lifemark Securities Corp. or the Division finds that the Respondent is keeping non-public personal information in his e-mail, e-mail contacts, or hard-copy or electronic address book, the Respondent's registration shall be automatically revoked, without a hearing on the matter.

7. This Consent Order represents the complete and final resolution of and discharge of all administrative and civil claims, demands, actions, and causes of action by the Commissioner against the Respondent for violations of the Act with respect to the transactions involved in the above-referenced facts. However, excluded from and not covered by this paragraph, are any claims by the Division arising from or relating to the enforcement of the Consent Order provisions contained herein.

8. This Consent Order is in the public interest and the best interests of the Parties. It represents a settlement of the controversy between the Parties and is for settlement purposes only. By the signatures affixed below, or in two (2) or more counterparts, the Respondent affirmatively states the following: the Respondent freely agrees to the entry and execution of this Consent Order; the Respondent waives the right to a hearing on, or a review of, the matters, the Findings of Fact, and the Conclusions of Law underlying this Consent Order or the enforcement of this Consent Order; and the Respondent encountered no threats or promises of any kind by the Commissioner, the Division, or any agent or representative thereof.

9. By signing this Consent Order, the Commissioner, the Division, and the Respondent affirmatively state their agreement to be bound by the terms of this Consent Order and

aver that no promises or offers relating to the circumstances described herein, other than the terms of settlement as set forth in this Consent Order, are binding upon them.

10. This Consent Order may be executed in two (2) or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same document. The facsimile, email, or other electronically delivered signatures of the parties shall be deemed to constitute original signatures, and facsimile or electronic copies shall be deemed to constitute duplicate originals.

ENTERED AND EXECUTED May 11, 2021.


Carter Lawrence (May 11, 2021 15:41 CDT)
Carter Lawrence, Commissioner
Department of Commerce and Insurance

APPROVED FOR ENTRY AND EXECUTION:



Phillip J. Leach
Respondent

Vincent Micciche

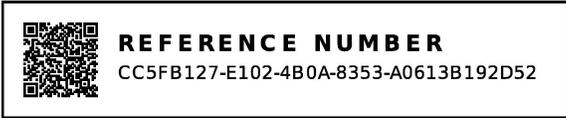
Lifemark Securities Corp.



Elizabeth Bowling
Assistant Commissioner for Securities
Department of Commerce and Insurance



William H. Leslie, BPR #036098
Associate General Counsel for Securities
Department of Commerce and Insurance



SIGNATURE CERTIFICATE

TRANSACTION DETAILS	DOCUMENT DETAILS
Reference Number CC5FB127-E102-4B0A-8353-A0613B192D52 Transaction Type Signature Request Sent At 04/17/2021 10:28 EDT Executed At 04/17/2021 11:36 EDT Identity Method email Distribution Method email Signed Checksum 9bb4bacac72ec35b058f1ce7059d5627092bb002ef1aa7cb1a0ab8c965868460 Signer Sequencing Disabled Document Passcode Disabled	Document Name Leach -tn Consent And Heightened Supervision Order Filename leach_-tn_consent_and_heightened_supervision_order.pdf Pages 10 pages Content Type application/pdf File Size 2.38 MB Original Checksum c6af77bfb37350859bf093e63a69313ba0c1e38f3444b65c64da5f5ac674e0ce

SIGNERS

SIGNER	E-SIGNATURE	EVENTS
Name Vince Micciche Email vmicciche@lifemark.com Components 1	Status signed Multi-factor Digital Fingerprint Checksum ac4ea54cb60e4da96160c90879a1d1b62cdcf78486776d2449ba27d66a8854 IP Address 67.253.151.50 Device Chrome via Windows Typed Signature  Signature Reference ID 181349FA	Viewed At 04/17/2021 11:35 EDT Identity Authenticated At 04/17/2021 11:36 EDT Signed At 04/17/2021 11:36 EDT

AUDITS

TIMESTAMP	AUDIT
04/17/2021 10:28 EDT	Dominique Reid (dreid@lifemark.com) created document 'leach_-tn_consent_and_heightened_supervision_order.pdf' on Firefox via Windows from 172.101.244.253.
04/17/2021 10:28 EDT	Vince Micciche (vmicciche@lifemark.com) was emailed a link to sign.
04/17/2021 11:35 EDT	Vince Micciche (vmicciche@lifemark.com) viewed the document on Chrome via Windows from 67.253.151.50.
04/17/2021 11:36 EDT	Vince Micciche (vmicciche@lifemark.com) authenticated via email on Chrome via Windows from 67.253.151.50.
04/17/2021 11:36 EDT	Vince Micciche (vmicciche@lifemark.com) signed the document on Chrome via Windows from 67.253.151.50.