

STATE OF OHIO
DEPARTMENT OF COMMERCE
DIVISION OF SECURITIES
COLUMBUS, OHIO 43215-6131

Order No. 23-022

IN THE MATTER OF: JOHN M. MARMION, JR.
CRD NO. 1139175

CEASE AND DESIST ORDER
CONSENT AGREEMENT

DIVISION ORDER

WHEREAS, the Ohio Division of Securities (hereinafter "the Division") is charged with the responsibility of protecting investors and finds that this Order is in the best interest of the public and necessary for the protection of investors, and is consistent with the purposes of the Ohio Securities Act, Chapter 1707 of the Ohio Revised Code (hereinafter "R.C.");

WHEREAS, the Division has conducted an investigation into the activities of John M. Marmion, Jr. ("Marmion" or "Respondent"), operating from a business address of 5007 Horizons Drive, Suite 200, Upper Arlington, Ohio 43220;

WHEREAS, the Division and Respondent have negotiated a settlement in this matter and Respondent has voluntarily entered into a Consent Agreement with the Division, attached hereto as Exhibit A and incorporated herein ("Consent Agreement");

WHEREAS, Respondent has agreed to waive his rights to the issuance, lawful service, and receipt of a Notice of Opportunity for Hearing in this matter, stipulates to the jurisdiction of the Division, and waives his right to an adjudicative hearing pursuant to Ohio Revised Code Chapter 119, as well as any other appealable rights found therein; and

WHEREAS, as a result of said investigation and the signed Consent Agreement, attached hereto and incorporated herein, the Division finds as follows:

EMPLOYMENT AND LICENSURE

- (1) John M. Marmion, Jr., Central Registration Depository ("CRD") No. 1139175, is a resident of the State of Ohio, operating from an office located at 5007 Horizons Drive, Suite 200, Upper Arlington, Ohio 43220;
- (2) Respondent has been an Ohio-licensed investment advisor representative registered with UBS Financial Services, Inc. ("UBS"), CRD No. 8174, since November 1, 2012, and an Ohio-licensed securities salesperson registered with UBS since November 5, 2012;

UBS FRAUD PREVENTION GUIDELINES AND TRAINING

- (3) As an investment advisor representative registered with UBS, Marmion is subject to UBS Branch Guidelines and Procedures, including its Fraud Prevention Guidelines;
- (4) UBS Fraud Prevention Guidelines states:

"As a UBS representative who has contact with the client, you have a responsibility to report all instances of fraud/attempted fraud where client vulnerability is suspected. Fraud/attempted fraud reporting for vulnerable/elderly clients is no different to normal fraud/attempted fraud reporting and is achieved by opening a Serviceworks case in the Fraud Reporting Tool (FRT). Please ensure you make reference to the vulnerable/elderly client status in the comments section; this information is vital as we are required to report instances of fraud/attempted fraud to state and federal regulators.";
- (5) UBS Fraud Prevention Guidelines states: "Vulnerable clients are those clients, regardless of age, who have exhibited behavior ... indicating that they are particularly susceptible to fraud or financial abuse.";
- (6) On or about October 29, 2021, Respondent completed and passed UBS training session, "Vulnerable Clients at UBS";
- (7) Section 5.2 of the 2021 "Vulnerable Clients at UBS" training session states:

"As the front line of defense, you must use standard fraud-reporting procedures to document:

 - All fraud
 - All attempted fraud
 - There is no requirement for a transaction to have taken place to report fraud attempts.";

- (8) Section 6.1 of the “Vulnerable Clients at UBS” 2021 training session states:

“Once you’ve shared your concerns and documentation:

- Your manager will escalate and provide guidance
- **Do not act on the disbursement request until you receive guidance”;**

FACTUAL BACKGROUND

- (9) K.F. is an 84-year-old resident of Powell, Ohio;
- (10) On or about December 14, 2021, K.F. contacted Respondent to request \$200,000 from her Individual Retirement Account, distributed via four separate checks payable to K.F. in the amount of \$50,000.00 each and sent via overnight delivery;
- (11) On or about December 14, 2021, K.F. informed Respondent that the \$200,000 was intended for the purchase of a house;
- (12) On or about December 14, 2021, Respondent had reasonable cause to believe that K.F. may be a potential victim of attempted financial exploitation and asked her if she was being scammed;
- (13) On or about December 15, 2021, Respondent mailed to K.F. four separate checks as requested via overnight delivery in the amount of \$50,000 each, including a handwritten note from Respondent stating in part, “I wish I was more comfortable with this transaction”;
- (14) On or about December 15, 2021, Respondent spoke to K.F. regarding the prospective house purchase and offered to accompany her to visit the seller because he was concerned that she could be a potential victim of a scam;
- (15) On or about December 17, 2021, Respondent joined a conference call with the manager of a check cashing service and K.F. to express their concerns regarding her request to cash two of the \$50,000 checks issued to her and Respondent informed her of his belief that she was being scammed;
- (16) On or about December 17, 2021, K.F. informed Respondent that she “wanted to spread some of the money around” and that the real estate agent wanted cash;
- (17) On or about December 17, 2021, K.F. received \$100,000 in cash from two checks payable to K.F. in the amount of \$50,000 each;

- (18) Despite suspecting that K.F. may have been a victim of fraud as early as December 14, 2021, based on multiple communications with K.F. and a call with a manager at a check cashing business, Respondent did not open a Serviceworks case in the Fraud Reporting Tool (FRT) maintained by UBS;
- (19) On or about January 15, 2022, Respondent spoke with a son of K.F., who told Respondent that K.F. had been scammed into believing that he had been kidnapped which led K.F. to send cash payments in order to free him;

VIOLATION

- (20) R.C. 1707.49(A)(1) states:

"Eligible adult" means either of the following:

- (a) A person sixty years of age or older;
- (b) A person eligible to receive protective services pursuant to sections 5101.60 to 5101.71 of the Revised Code;

- (21) R.C. 1707.49(A)(2) states:

"Financial exploitation" means either of the following:

- (a) The wrongful or unauthorized taking, withholding, directing, appropriation, or use of money, assets, or property of an eligible adult;
- (b) Any act or omission by a person, including through the use of a power of attorney or guardianship of an eligible adult, to do either of the following:
 - (c) Obtain control, through deception, intimidation, or undue influence, money, assets, or property of an eligible adult and thereby deprive the eligible adult of the ownership, use, benefit, or possession of the money, assets, or property;
 - (d) Convert money, assets, or property of an eligible adult and thereby deprive the eligible adult of the ownership, use, benefit, or possession of the money, assets, or property;

- (22) K.F. was an eligible adult who was subject to financial exploitation as defined by R.C.1707.49(A)(1) and R.C.1707.49(A)(2);

(23) R.C. 1707.49(B)(1) states:

If an employee of a dealer or investment adviser has reasonable cause to believe that an eligible adult who is an account holder may be subject to past, current, or attempted financial exploitation, then both of the following apply:

- (1) The employee shall follow any internal written policy, program, plan, or procedure adopted by the dealer or investment adviser for the purpose of establishing protocols for the reporting of past, current, or attempted financial exploitation; and
- (24) Respondent Marmion violated R.C.1707.49(B)(1) because he had reasonable cause to believe that K.F. was subject to attempted financial exploitation and failed to follow UBS internal written policy and procedure for the reporting of attempted financial exploitation.

WHEREAS, pursuant to discussions between the Division and Counsel for the Respondent, Respondent wishes to enter into a Consent Agreement, attached hereto as Exhibit A and incorporated by reference herein;

WHEREAS, based on Paragraphs (1) through (24), the Division finds that Respondent John M. Marmion, Jr., has violated R.C. 1707.49(B)(2); and

THEREFORE, IT IS ORDERED THAT, pursuant to Revised Code Chapter 1707.23, John M. Marmion, Jr., CRD No. 1139175, **CEASE AND DESIST** from the acts and practices as described above which constitute a violation of Chapter 1707 of the Ohio Revised Code.

TIME AND METHOD TO PERFECT AN APPEAL

Any party desiring to appeal shall file a Notice of Appeal with the Ohio Division of Securities, 77 South High Street, 22nd Floor, Columbus, Ohio 43215, setting forth the order appealed from and stating that the agency's order is not supported by reliable, probative, and substantial evidence and is not in accordance with law. The notice of appeal may, but need not, set forth the specific grounds of the party's appeal beyond the statement that the agency's order is not supported by reliable, probative, and substantial evidence and is not in accordance with law. The Notice of Appeal shall also be filed by the appellant with the court of common pleas of the county in which the place of business of the licensee is located or the county in which the licensee is a resident. If any party appealing from the order is not a resident of and has no place of business in this state, the party may appeal to the Court of Common Pleas of Franklin County. Such notices of appeal shall be filed within fifteen (15) days after the mailing of the notice of the Ohio Division of Securities' Order as provided in Section 119.12 of the Ohio Revised Code.

TM/sb

WITNESS MY HAND AND THE OFFICIAL SEAL OF THIS DIVISION at
Columbus, Ohio this 28th day of June, 2023.



Andrea L. Seidt, Commissioner of Securities

EXHIBIT A

STATE OF OHIO
DEPARTMENT OF COMMERCE
DIVISION OF SECURITIES
COLUMBUS, OHIO 43215-6131

IN THE MATTER OF: JOHN M. MARMION, JR.

CONSENT AGREEMENT

Based upon discussions between representatives of the Ohio Division of Securities ("the Division") and John M. Marmion, Jr. (the "Respondent"), the Division and Respondent stipulate and agree to the following:

- (1) Respondent waives the issuance, lawful service and receipt of a Notice of Opportunity for Hearing in this matter, and stipulates to the jurisdiction of the Division.
- (2) The Respondent, with full knowledge of his rights and with the advice of counsel, voluntarily waives the right to an adjudicative hearing pursuant to Ohio Revised Code Chapter 119, upon the issuance and lawful service of a Notice of Opportunity for Hearing.
- (3) The Division and the Respondent consent, stipulate, admit, and agree to the findings, conclusions and order set forth in the attached order.
- (4) After being fully and adequately apprised of his right to appeal as set forth in section 119.12 of the Ohio Revised Code, Respondent knowingly and voluntarily waives his rights.
- 5) The undersigned have read this Consent Agreement, understand all of its terms, and have agreed to execute this Consent Agreement voluntarily.

SO AGREED:

BY: John M. Marion, Jr.
John M. Marion, Jr., Respondent Date
2575 Sonnington Drive
Dublin, OH 43016 06/22/2023

BY: Andrea L. Seidt 06/28/23
Andrea L. Seidt, Commissioner Date
Ohio Department of Commerce
Division of Securities
77 S. High St., 22nd Floor
Columbus, OH 43215-6131

SO AGREED:

BY: 

Eric A. Michaels, Esq.
Counsel for Respondent
995 South Eton Street
Birmingham, MI 48009

6/26/23
Date