



Company, L.L.C. (“J.P. Turner”) (CRD # 43177). During that time, Konner was a representative in J.P. Turner’s Brooklyn North branch office. Most recently, on April 11, 2012, Konner was registered with the Bureau as an agent of DPEC Capital, Inc. (CRD # 103737).

2. J.P. Turner was registered with the Bureau as a broker-dealer from July 1997 through February 2016. J.P. Turner maintained a primary business address in Atlanta, Georgia.

3. On September 10, 2012, the United States Securities and Exchange Commission, (“SEC”) issued an order (“September 2012 Order”) instituting administrative and cease-and-desist proceedings against Jason Konner pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”), Sections 15(b) and 21C of the Securities Exchange Act of 1934 (“Exchange Act”), Section 203(f) of the Investment Advisers Act of 1940 (“Advisers Act”), and Section 9(b) of the Investment Company Act of 1940 (“Investment Company Act”).

4. The September 2012 Order contained allegations including, among other things, that:

- a. Between January 1, 2008 and December 31, 2009 (the “relevant period”), Konner “churned” the accounts of two customers by engaging in excessive trading for his own gain in disregard of the customers’ conservative investment objectives and low or moderate risk tolerances for the purpose of generating commission business; and
- b. Konner willfully violated Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, which prohibit fraudulent conduct in the offer and sale of securities and in connection with the purchase or sale of securities.

5. A hearing was held before an administrative law judge from January 28 to February 20, 2013.

6. The administrative law judge issued a 125 initial decision on November 8, 2013 (“November 2013 initial decision”) which contained findings that Konner willfully violated Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act, and Exchange Rule 10b-5 by, including:

- a. In July 2007, after a few cold calls, Konner filled out a J.P. Turner account application for James Carlson (“Carlson”). Carlson signed the account application on July 18, 2007, and initially funded the account with \$6,500.
- b. The account application’s listed income and assets, including a net worth of \$700,000, were accurate. The listed investment objectives (trading profits first, speculation second, and capital appreciation third) and risk tolerance (aggressive) were accurate for a small investment but not for a large investment.
- c. No person at J.P. Turner ever called Carlson to ask if he understood the risks associated with his account’s trading activity.
- d. Carlson indicated that he would be more conservative with a higher account balance; however, in April 2008, Carlson’s primary investment objective was changed from trading profits to speculation, following Carlson’s increased funding of his account.
  - i. In April 2008, Carlson’s account value was approximately \$200,000; the additional invested funds were contributed by Carlson.
  - ii. On April 6, 2008, Carlson signed a pre-filled account update form. The form inaccurately stated that Carlson’s risk tolerance was aggressive and inaccurately stated that his primary investment objective was speculation.

- iii. The account update form also listed a knowingly inaccurate net worth of \$2,500,000, and inaccurate investable assets of \$750,000.
- iv. Carlson told Konner that the numbers on the account update form were inaccurate, but Carlson initialed the numbers because Konner told him that the net worth figure “doesn’t really mean anything.”
- e. On May 1, 2008, Carlson signed a pre-filled margin account application that inaccurately stated Carlson’s net worth as \$2,500,000. Carlson initialed next to the number because Konner said they “didn’t mean that much.”
- f. On March 23, 2009, Carlson signed an Active Account Suitability Questionnaire (“AASQ”) and an Active Account Suitability Supplement (“AASS”). Much of the forms were pre-filled by Konner, including annual income, net worth, and investment objectives (speculation and short term trading). The forms listed an inaccurate net worth figure of \$2,000,000 – altered from \$2,500,000. Again, Carlson signed the forms because Konner said it “doesn’t really mean anything.”
- g. Carlson did not have a conservative risk tolerance initially, but by April 10, 2011, Carlson’s risk tolerance had changed to conservative. On August 5, 2011, Carlson signed a pre-filled J.P. Turner New Account Form that listed an inaccurate investment objective of speculation and an inaccurate risk tolerance of 100 percent.
- h. In 2009, Konner executed over 188 sales transaction totaling \$4,163,638.86, and over 134 purchase transactions totaling \$4,419,365.84. These trades resulted in \$54,199 in losses and Konner would have earned commissions of over \$55,000.
- i. Carlson’s account had an annualized turnover rate of seventeen, a cost equity factor of 34.6 percent and in excess of 250 purchase and sales transactions. A turnover rate

of seventeen is nearly triple the rate (six or more) presumed to indicate excessive trading.

- j. Konner exercised *de facto* control over Carlson's account because
  - i. Carlson was an unsophisticated investor;
  - ii. Carlson relied on the direction and recommendations of his registered representatives;
  - iii. Konner made unauthorized trades in Carlson's account;
- k. Konner engaged in excessive trading in Carlson's account; and
- l. Konner acted with scienter.

7. The Judge concluded that Konner churned Carlson's account because:

- a. Konner exercised *de facto* control over Carlson's account because, among other things, Carlson lacked familiarity with the companies in his account, lacked the knowledge and experience required to recommend securities to Konner, and "passively acquiesced to Konner's trade recommendations trusting Konner and relying upon his knowledge and expertise of the financial markets";
- b. Konner engaged in excessive trading in Carlson's account; and
- c. Konner acted with scienter.

8. The November 2013 initial decision provided for sanctions as to Konner including:

- a. Konner cease-and-desist from committing or causing violations or future violations of Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder;

- b. a bar from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization; and
  - c. disgorgement of \$55,000, plus prejudgment interest of \$6,613.57, and a civil money penalty of \$150,000.
9. On January 13, 2014, Konner filed an appeal against the administrative law judge's ruling and received a *de novo* review.
10. After the SEC conducted the *de novo* review, on May 29, 2015, the SEC issued an opinion ("SEC decision") which contained similar findings as in the November 2013 initial decision.
11. The SEC decision sustained the sanctions of the initial decision, detailed above.

### CONCLUSIONS OF LAW

#### KONNER IS THE SUBJECT OF AN ORDER BY THE SECURITIES AND EXCHANGE COMMISSION BARRING HIM FROM A NATIONAL SECURITIES ASSOCIATION

N.J.S.A. 49:3-58(a)(1)

N.J.S.A. 49:3-58(a)(2)(vi)

12. The preceding paragraphs are incorporated by reference as though set forth verbatim herein.
13. Pursuant to N.J.S.A. 49:3-58(a):

[t]he bureau chief may by order deny, suspend, or revoke any registration if he finds: (1) that the order is in the public interest; and (2) that the applicant or registrant ...(vi)... is the subject of an order of the Securities and Exchange Commission, a self-regulatory organization, the Commodity Futures Trading Commission, an insurance regulator, or a federal or state banking regulator, suspending or expelling him from a national securities or commodities exchange or national securities or commodities association registered under the "Securities Exchange Act of 1934"...

14. Having been barred by the SEC from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization, there is good cause, pursuant to N.J.S.A. 49:3-58(a)(2)(vi), to revoke Konner's agent registration.

15. Based upon the foregoing, and pursuant to N.J.S.A. 49:3-58(a)(1), the revocation of Konner's registration as an agent and all applicable exemptions is in the public interest.

**KONNER HAS ENGAGED IN DISHONEST OR UNETHICAL PRACTICES IN THE  
SECURITIES BUSINESS**

N.J.S.A. 49:3-58(a)(1)  
N.J.S.A. 49:3-58(a)(2)(vii)

16. The preceding paragraphs are incorporated by reference as though set forth verbatim herein.

17. The foregoing conduct by Konner as described above constitutes dishonest or unethical practices in the securities business, which is good cause, pursuant to N.J.S.A. 49:3-58(a)(2)(vii), to revoke Konner's agent registration.

18. Based upon the foregoing, and pursuant to N.J.S.A. 49:3-58(a)(1), the revocation of Konner's registration as an agent and all applicable exemptions is in the public interest.

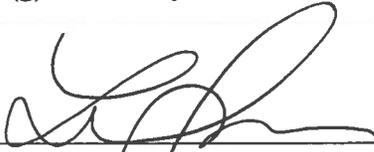
**CONCLUSION**

For the reasons stated above, it is on this 9<sup>m</sup> day of March, 2016

**ORDERED** that the agent registration of Jason Ivan Konner be **REVOKED**; and it is further

**ORDERED** that Konner is denied all exemptions contained in N.J.S.A. 49:3-50 subsections (a) paragraph 9, 10, and 11 and subsection (b); and it is further

**ORDERED** that the exemptions to the registration requirements provided by N.J.S.A. 49:3-56(b), N.J.S.A. 49:3-56(c) and N.J.S.A. 49:3-56(g) are hereby denied.



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Laura H. Posner  
Chief, Bureau of Securities

## NOTICE OF RIGHT TO HEARING

Pursuant to the Uniform Securities Law (1997), N.J.S.A. 49:3-47 et seq., specifically, N.J.S.A. 49:3-58(c), the Bureau Chief shall entertain on no less than three days notice, a written application to lift the summary revocation on written application of the applicant or registrant and in connection therewith may, but need not, hold a hearing and hear testimony, but shall provide to the applicant or registrant a written statement of the reasons for the summary revocation.

This matter will be set down for a hearing if a written request for such a hearing is filed with the Bureau within 15 days after the respondent receives this Order. A request for a hearing must be accompanied by a written response, which addresses specifically each of the allegations set forth in the Order. A general denial is unacceptable. At any hearing involving this matter, an individual respondent may appear on his/her own behalf or be represented by an attorney.

Orders issued pursuant to this subsection to suspend or revoke any registration shall be subject to an application to vacate upon 10 days' notice, and a preliminary hearing on the order to suspend or revoke any registration shall be held in any event within 20 days after it is requested, and the filing of a motion to vacate the order shall toll the time for filing an answer and written request for a hearing.

If no hearing is requested, the Order shall be entered as a Final Order and will remain in effect until modified or vacated. If a hearing is held, the Bureau Chief shall affirm, vacate or modify the order in accord with the findings made at the hearing.

**NOTICE OF OTHER ENFORCEMENT REMEDIES**

You are advised that the Uniform Securities Law provides several enforcement remedies, which are available to be exercised by the Bureau Chief, either alone or in combination. These remedies include, in addition to this action revoking your registration, the right to seek and obtain injunctive and ancillary relief in a civil enforcement action, N.J.S.A. 49:3-69, and the right to seek and obtain civil penalties in an administrative or civil action, N.J.S.A. 49:3-70.1.

You are further advised that the entry of the relief requested does not preclude the Bureau Chief from seeking and obtaining other enforcement remedies against you in connection with the claims made against you in this action.