

STATE OF NEW JERSEY  
BUREAU OF SECURITIES  
P.O. Box 47029  
Newark, New Jersey 07101  
Telephone (973) 504-3600

IN THE MATTER OF:

Harry S. Datys (CRD # 1877750)

Respondent.

**CONSENT ORDER**

Pursuant to the authority granted to Amy G. Kopleton, Acting Chief of the New Jersey Bureau of Securities ("Bureau Chief"), under the Uniform Securities Law (1997), N.J.S.A. 49:3-47 et seq. ("Securities Law"), more particularly, N.J.S.A. 49:3-58 and N.J.S.A. 49:3-70.1, and after investigation, careful review and due consideration of the facts, certain documents provided to the Bureau, and statutory provisions set forth below, the Bureau Chief has determined that a **MONETARY PENALTY** shall be issued against Harry S. Datys ("Datys").

**WHEREAS**, the New Jersey Bureau of Securities ("Bureau") is the State agency with the responsibility to administer and enforce the Securities Law; and

**WHEREAS**, N.J.S.A. 49:3-67 authorizes the Bureau Chief from time to time to issue such Orders as are reasonably necessary to carry out the provisions of the Securities Law, upon a finding that the action is necessary and appropriate in the public interest for the protection of investors or consistent with the purposes fairly intended by the provisions of the Securities Law; and

**WHEREAS**, the Bureau has conducted an investigation into certain activities of Datys as set forth in this Consent Order; and

**WHEREAS**, the Bureau, having examined the facts and circumstances relating to two specific New Jersey client relationships with Datys as further identified in Appendix A (the “Appendix A Clients”), does not object to Datys conducting business with the Appendix A Clients while he is being supervised by WestPark Capital, Inc. (CRD# 39914)(“WestPark” ) as long as such business is not transacted to or from New Jersey; and

**WHEREAS**, WestPark has separately consented to notifying the Appendix A Clients of the matters that are the subject of this Consent Order prior to commencement of transactions with Datys; and

**WHEREAS**, the Bureau Chief could commence a formal action against Datys; and

**WHEREAS**, Datys and the Bureau Chief wish to resolve these issues in accordance with the terms of this Consent Order and without the expense and delay that a formal court or administrative proceeding would involve; and

**WHEREAS**, Datys consents to the form and entry of this Consent Order without admitting or denying the findings set forth herein. Accordingly, Datys waives the following rights:

- a. To be afforded the opportunity for a hearing on the Bureau Chief’s findings and conclusions of law in this Consent Order after reasonable notice within the meaning of N.J.S.A. 49:3-58(c)(2); and
- b. To seek judicial review of, or otherwise challenge or contest, the validity of this Consent Order; and

**WHEREAS**, this Consent Order concludes the investigation by the Bureau Chief and any civil or administrative action that could be commenced, pursuant to the Securities Law, on behalf of the Bureau Chief, as it relates to seeking civil monetary penalties or other relief from Datys for the conduct described herein.

### **FINDINGS OF FACT**

The Bureau Chief makes the following findings of fact:

1. Datys (CRD # 1877750), residing in Warwick, New York, was registered with the Bureau as an agent of various broker-dealers from February 27, 1990, until May 15, 2008. He has been employed by WestPark since June 10, 2005 as an agent and has worked out of several New York branch offices.
2. WestPark has been registered with the Bureau as a broker-dealer since September 8, 2000 and maintains a primary business location at 1900 Avenue of the Stars, Suite 310, Los Angeles, California, 90067.
3. The Bureau registered Datys as an agent of WestPark on January 27, 2006, conditioned upon his entering into a heightened supervisory agreement (“Agreement”) with WestPark pursuant to N.J.A.C. 13:47A-3.1(e).
4. While under the purview of the Agreement, Datys and WestPark failed to comply with the requirements of the Agreement, by failing to notify the Bureau of: a) a supervisory change; b) a Colorado Division of Securities action against Datys; c) a New Jersey customer complaint; and, d) a Texas civil litigation suit pending against Datys.
5. On May 15, 2008, the Bureau Chief entered a Summary Revocation Order and Assessment of Monetary Penalties (“Datys Revocation Order”) revoking Datys’ agent

registration for failing to comply with the Agreement and assessed civil monetary penalties against Datys in the amount of six thousand dollars, \$6,000.00.

6. A letter dated June 27, 2008 was received by the Bureau contesting Datys' Revocation Order and requesting a hearing. The matter was transmitted to the Office of Administrative Law and the revocation remained in effect.

7. On December 12, 2011 Datys withdrew his request for a hearing.

8. The penalty was paid in July 2013.

**Datys Continued to Actively Transact Business in Accounts of New Jersey Residents After his Registration was Revoked**

9. Although the Bureau revoked Datys' registration, between May 15, 2008 and August of 2012, Datys accepted numerous orders for securities trades in accounts of up to four New Jersey residents.

10. Even though Datys was no longer registered with the Bureau, he continued to communicate with clients who were New Jersey residents as an agent of WestPark.

11. Between May of 2008 and November of 2010 Datys had several email communications, regarding investments, with clients who were New Jersey residents.

**After Revocation, Datys Caused New Jersey Clients' Addresses to be Changed to New York Commercial Locations**

12. After his agent registration with the Bureau was revoked, Datys caused certain New Jersey clients to change their principal addresses from their residential address to New York, typically a business address, despite the fact that the clients were still residing at the New Jersey addresses.

13. According to WestPark's Supervisory Procedures Manual "WSP" "[i]t is unacceptable

for a customer to change an address to a P.O. Box or other location not indicative of the customer's true street address and Registered Representatives entering customer address changes of this nature in the record without prior clearance will be subject to further inquiry and asked for a full explanation."

14. Additionally, WestPark's WSP state "Registered Representatives must be registered in the state from which they conduct business and may be required to be registered in other states where customers are domiciled..." and further that "[n]o Registered Representative may solicit or conduct securities transactions in a given state before such individual has been approved to conduct securities business in that state."

15. Despite the obligations set out in the WSP, Datys caused up to four clients, who were New Jersey residents, to change their principal address of record to New York business locations in order to continue to do business with them without being registered in New Jersey.

#### **CONCLUSIONS OF LAW**

The Bureau Chief makes the following conclusions of law:

16. Datys acted as an unregistered agent by transacting business in the accounts of four New Jersey residents while Datys was not registered with the Bureau.

#### **ORDER**

**THEREFORE** it is on this 11<sup>th</sup> day of April, 2014, **ORDERED AND AGREED AS FOLLOWS:**

17. Harry Datys is assessed a civil monetary penalty in the amount of fifteen thousand dollars (\$15,000);

18. The civil monetary penalty is due on April 17, 2014, and payable to "State of New

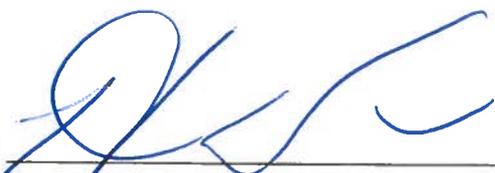
Jersey, Bureau of Securities,” 153 Halsey Street, 6th Floor, Newark, New Jersey 07102, or to be mailed to “Bureau of Securities,” P.O. Box 47029, Newark, New Jersey 07101. The civil monetary penalties shall be deposited in the Securities Enforcement Fund, pursuant to N.J.S.A. 49:3-66.1.

#### **ADDITIONAL PROVISIONS**

1. Nothing in this Consent Order shall in any matter be construed to limit or affect the rights of any persons who may have a claim against Datys.
2. Datys shall not represent or imply that any business practice or other act or practice hereinafter used or engaged in by Datys has been required or approved, in whole or in part, by the Attorney General of New Jersey, the Bureau, the State of New Jersey or any of the State’s agencies, agents or subdivisions.
3. If any portion of this Consent Order is held invalid or unenforceable by operation of law or court order, the remaining terms of this Consent Order shall remain in full force and effect.
4. Nothing contained herein shall be in any manner be construed to limit or affect any position that the Bureau Chief may take in settlement with any other party.
5. Nothing in this Consent Order is intended to limit or supersede any authority or remedy available to the Bureau Chief under the Securities Law.
6. No employee or official of, or person representing, the New Jersey Bureau of Securities has made any additional promise or representation to Datys regarding this Consent Order.

7. This Consent Order shall not bind any person not a party hereto. Each of the undersigned has read this Consent Order, understands it, and agrees to be bound by its terms.
8. This Consent Order constitutes the entire agreement between Datys and the Bureau Chief.
9. Datys agrees that solely for the purpose of settling this matter or any future proceedings to enforce this Consent Order, that this Consent Order shall have the same effect as if proven and ordered after a full hearing.

  
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Amy G. Kopleton  
Acting Chief, Bureau of Securities

By:   
\_\_\_\_\_  
Harry S. Datys  
Dated: 3-27-2014

State of PA County of Pike  
Subscribed and sworn before me on 3-27-14  
(Date)  
  
\_\_\_\_\_  
(Notary Signature)

NOTARIAL SEAL  
JANET M BRIGHT  
Notary Public  
MATAMORAS BOROUGH, PIKE COUNTY  
My Commission Expires Aug 27, 2014