BEFORE THE COMMISSIONER OF THE TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE

IN THE MATTER OF:

DELBERT FOSTER BLOUNT III **DOCKET NO.: 12.06-094805J**

ORDER

THIS ORDER IS AN INITIAL ORDER RENDERED BY AN ADMINISTRATIVE JUDGE WITH THE ADMINISTRATIVE PROCEDURES DIVISION.

THE INITIAL ORDER IS NOT A FINAL ORDER BUT SHALL BECOME A FINAL ORDER UNLESS:

1. THE ENROLLEE FILES A WRITTEN APPEAL, OR EITHER PARTY FILES A PETITION FOR RECONSIDERATION WITH THE ADMINISTRATIVE PROCEDURES DIVISION NO LATER THAN **February 27, 2008.**

YOU MUST FILE THE APPEAL, PETITION FOR RECONSIDERATION WITH THE ADMINISTRATIVE PROCEDURES DIVISION. THE ADDRESS OF THE ADMINISTRATIVE PROCEDURES DIVISION IS:

SECRETARY OF STATE
ADMINISTRATIVE PROCEDURES DIVISION
WILLIAM R. SNODGRASS TOWER
312 EIGHTH AVENUE NORTH, 8th FLOOR
NASHVILLE, TENNESSEE 37243-0307

IF YOU HAVE ANY FURTHER QUESTIONS, PLEASE CALL THE ADMINISTRATIVE PROCEDURES DIVISION, **615/741-7008 OR 741-5042, FAX 615/741-4472.** PLEASE CONSULT APPENDIX A AFFIXED TO THE INITIAL ORDER FOR NOTICE OF APPEAL PROCEDURES.

BEFORE THE COMMISSIONER OF COMMERCE AND INSURANCE OF THE STATE OF TENNESSEE AT NASHVILLE

TENNESSEE SECURITIES DIVISION and TENNESSEE INSURANCE DIVISION Petitioners,	)	
VS.	)	**Docket No.: 12.06-094805J**
DELBERT FOSTER BLOUNT III, Respondent.	)	

NOTICE OF DEFAULT AND INITIAL ORDER

This matter came to be heard on January 28, 2008, before Anthony Adgent, an Administrative Judge assigned to the Secretary of State, Administrative Procedures Division, and sitting for the Commissioner of the Tennessee Department of Commerce and Insurance in Nashville, Tennessee. Barbara A. Doak, Attorney, Department of Commerce and Insurance, represented the Petitioners. The Respondent, Delbert Foster Blount III, was not present at the hearing, nor did an attorney appear on his behalf.

ORDER OF DEFAULT

This matter was heard upon the Petitioners' Motion for Default due to the failure of the Respondent, Delbert Foster Blount III, to appear or to be represented at the hearing on January 28, 2008, after receiving proper notice thereof. The record indicates that the Respondent, Delbert Foster Blount III, was properly served under the provisions of both T.C.A. § 48-2-124 and T.C.A. § 56-6-112. After consideration of the record, it was determined that the Petitioners'

motion was well taken. The Respondent, Delbert Foster Blount III, was held in **DEFAULT**, and the Petitioner was permitted to proceed with an uncontested case and allowed to put on proof in support of their case.

INITIAL ORDER

The subject of this hearing was the proposed revocation of the Respondent's registrations as an agent of a broker-dealer and as an investment adviser representative in Tennessee, and revocation of the Respondent's insurance producer license in Tennessee. After consideration of the argument of counsel and the record in this matter, it is the determination of this administrative judge that both of the Respondent's securities registrations and his insurance producer license should be **REVOKED** and the Respondent is ordered to pay One Hundred and Fifty Thousand Dollars ($150,000) in civil penalties. This decision is based upon the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. The Respondent, Delbert Foster Blount III, ("Respondent") is a citizen of Tennessee, maintaining a mailing address of P.O Box 24596, Chattanooga, TN 37422.

2. Respondent, at all times relevant to the events as set out below, held dual securities registrations as both an agent of a broker-dealer and an investment adviser representative (CRD #2991522), both of which are currently listed as "Termed" but may be reactivated by simply associating with another broker-dealer.

3. Respondent, at all times relevant to the events as set out below, held an insurance producer license (Lic. #755495; NAIC #2804599) issued by the Commissioner on December 5, 1997. This license is currently in "cancelled" status, but may be renewed anytime within twelve (12) months from the due date of the renewal fee pursuant to T.C.A. § 56-6-107(d).

4. On May 7, 2001, the Respondent opened a business checking account with the Knoxville TVA Employee Credit Union ("TVA"), account #65120658, under the name Foster Blount DBA American Express Financial Advisors ("AEFA"), in violation of the company policy of American Express Financial Advisors, Inc./Ameriprise Financial Inc. ("AEFAI"/"AFI"), the broker-dealer through whom he was a registered.

5. Respondent was the only authorized signatory on the TVA account and therefore exercised exclusive, total and complete control over said bank account.

6. From April 2001 until approximately November 2007, the Respondent accepted checks made payable to AEFA/AFI from twenty-eight (28) investors, representing a total of thirty (30) separate transactions with instructions from the clients that the funds be invested in securities offerings of or through AEFAI/AFI, totaling more than two million, six hundred thousand dollars ($2,600,000) and deposited them into the bank account referenced in paragraphs 4 and 5 above.

7. For each of the thirty (30) transactions, Respondent failed to execute or delayed the execution of the purchasing instructions of his clients,

choosing to deposit the investment funds in the TVA bank account controlled by him instead of buying the investment securities his clients ordered him to purchase on their behalf.

8. Respondent misrepresented to his clients that their recent investments would not be reflected on their regular AEFAI/AFI statements, but would either come on a separate quarterly statement or would only be reflected in their online account information.

9. With some of his clients, Respondent set up online accounts for them, thereby gaining access to their user names and passwords, and then used the proprietary online account system of AEFAI/AFI to alter his client's online data to fraudulently reflect securities holdings not actually purchased for their account in order to delay the clients' discovery of his misappropriation of their investment funds.

10. With non-computer-savvy clients, Respondent created hard copy documents and reports made to appear to be on official AEFAI/AFI letterhead, to reflect securities holdings not actually purchased for their account in order to delay the clients' discovery of his misappropriation of their investment funds.

11. Respondent failed to execute client purchase instructions in connection with two (2) life insurance policies by not transmitting the premium checks to the insurer, failing to obtain issuance of the insurance policies and failing to send the proper policy documentation to the insureds.

12. Respondent misrepresented to an insurance client that, with the exception of the first quarterly premium payment, all other quarterly premiums on

a long term care insurance policy would be paid out of assets in the client's cash management account with AEFAI/AFI. Respondent then failed to make the proper arrangements and execute the necessary paperwork to have the quarterly premiums paid from said cash management account, resulting in the lapse of the long term care insurance policy without notification to or knowledge of the insured.

13. During the relevant time period, Respondent failed to inform any of the clients referred to above that the account in which he was depositing their investment funds was not an AEFAI/AFI bank account, but was in fact a personal account opened by the Respondent using the name of AEFA in violation of company policy.

14. Respondent engaged in unauthorized transactions and trades in his clients' accounts without their permission or consent, by depositing money withdrawn from the TVA account into their AEFAI/AFI account and liquidating investments from their AEFAI/AFI account to cover disbursement checks requested by the clients to meet financial obligations or to comply with federally mandated disbursements from deferred retirement accounts. The disbursements requested by the clients were based on financial reports provided by the Respondent which indicated sufficient funds in their accounts to allow for the disbursements. The clients were unaware that Respondent was liquidating investments in order to cover the disbursements as a result of his misappropriation of their investment funds on the front end.

15. Respondent knowingly and willfully falsified AEFAI/AFI account

statements, both online and in hard copy form, and distributed the false account statements to his clients.

CONCLUSIONS OF LAW

1. T.C.A. § 48-2-112(a)(2)(B) provides, that the Commissioner may by order deny, suspend, or revoke any registration under this part if the Commissioner finds that: ...(2) The applicant or registrant or, in the case of a broker-dealer or investment adviser, any affiliate, partner, officer, director, or any person occupying a similar status or performing similar functions: ... (B) Has willfully violated or willfully failed to comply with any provision of this part or a predecessor chapter or any rule or order under this part or a predecessor chapter, including, without limitation, any net capital requirements.

2. T.C.A. § 48-2-112(a)(2)(G) provides, that the Commissioner may by order deny, suspend, or revoke any registration under this part if the Commissioner finds that: ...(2) The applicant or registrant or, in the case of a broker-dealer or investment adviser, any affiliate, partner, officer, director, or any person occupying a similar status or performing similar functions: ... (G) Has engaged in dishonest or unethical practices in the securities business.

3. Tenn. Comp. R. & Regs. tit. Dep't of Commerce and Ins., ch. 0780-4-3-.02(6)(b) states that it shall be deemed a "dishonest or unethical business practice" by an agent under T.C.A. § 48-2-112(a)(2)(G) to engage in the activity of: (1) Borrowing money or securities from a customer; (2) Acting as a custodian for money, securities or an executed stock power of a customer; (3) Effecting securities transactions with a customer not recorded on the regular books or

records of the broker-dealer which the agent represents, unless the transactions are disclosed to, and authorized in writing by, the broker-dealer prior to execution of the transactions; ... (17) Violating any rule of a national securities exchange or national securities dealers association of which the agent is an associated person with respect to any customer, transaction or business in this state; (18) Causing any unreasonable delay in the execution of a transaction on behalf of a customer.

4. NASD Conduct Rule 2330(a) states that no member or person associated with a member shall make improper use of a customer's securities or funds.

5. T.C.A. § 48-2-121(a) provides, that it is unlawful for any person, in connection with the offer, sale or purchase of any security in this state, directly or indirectly, to: (1) Employ any device, scheme, or artifice to defraud; (2) Make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading; or (3) Engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

6. T.C.A. § 48-2-121(b)(3) provides, that it is unlawful for any person who receives any consideration from another person primarily for advising the other person as to the value of securities or their purchase or sale, whether through the issuance of analyses or reports or otherwise, in this state, to: ... (3) Take or have custody of any securities or funds of any client except as the commissioner may by rule permit or unless the person is licensed as a broker-

dealer under this part.

7. T.C.A. § 48-2-112(d) provides, that in any case in which the commissioner is authorized to deny, revoke, or suspend the registration of a broker-dealer, agent, investment adviser, investment adviser representative, or applicant for broker-dealer, agent, investment adviser, or investment adviser representative registration, the commissioner may, in lieu of or in addition to such disciplinary action, impose a civil penalty in an amount not to exceed five thousand dollars ($5,000) for all violations for any single transaction.

8. T.C.A. § 56-6-112(a)(8) provides, that the Commissioner may place on suspension, revoke, or refuse to renew any license under this part if she finds that an insurance producer used fraudulent, coercive, or dishonest practices, or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of doing business in this state or elsewhere.

9. The State has met its burden of proof by a preponderance of the evidence that the Respondent has willfully violated the numerous provisions of the Tennessee Securities Act of 1980, as amended, by depositing client funds into a bank account exclusively controlled by the Respondent.

10. The State has met its burden of proof by a preponderance of the evidence that the Respondent has engaged in dishonest or unethical practices in the securities business by borrowing money from customers.

11. The State has met its burden of proof by a preponderance of the evidence that the Respondent has engaged in dishonest or unethical practices in

the securities business by acting as a custodian of the money of multiple customers.

12. The State has met its burden of proof by a preponderance of the evidence that the Respondent has engaged in dishonest or unethical practices in the securities business by effecting securities transactions with a customer not recorded on the regular books or records of the broker-dealer which the agent represents, unless the transactions are disclosed to, and authorized in writing by, the broker-dealer prior to execution of the transactions.

13. The State has met its burden of proof by a preponderance of the evidence that the Respondent has engaged in dishonest or unethical practices in the securities business by violating any rule of a national securities exchange or national securities dealers association of which the agent is an associated person with respect to any customer, transaction or business in this state.

14. The State has met its burden of proof by a preponderance of the evidence that the Respondent has engaged in dishonest or unethical practices in the securities business by violating NASD Conduct Rule 2330(a) by making improper use of a customer's securities or funds.

15. The State has met its burden of proof by a preponderance of the evidence that the Respondent has engaged in dishonest or unethical practices in the securities business by causing many unreasonable delays in the execution of transactions on behalf of customers.

16. The State has met its burden of proof by a preponderance of the evidence that the Respondent, in connection with the offer, sale or purchase of

securities in this state, directly or indirectly, employed a device, scheme, or artifice to defraud; made multiple untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading; and engaged in an act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

17. The State has met its burden of proof by a preponderance of the evidence that the Respondent engaged in fraudulent acts or devices by taking or having custody of any securities or funds of any client except as the commissioner may by rule permit or unless the person is licensed as a broker-dealer under this part.

18. The State has met its burden of proof by a preponderance of the evidence that the Respondent used fraudulent, coercive, or dishonest practices, or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of doing business in this state.

It is therefore **ORDERED** that the agent of a broker-dealer and investment adviser representative registrations represented by CRD number 2991522 and the insurance producer license number 755495, issued to Delbert Foster Blount III, be **REVOKED** and that the Respondent be ordered to pay Five Thousand Dollars ($5,000) for each of the thirty (30) transactions which violated T.C.A. § 48-2-112, for a total amount of One Hundred and Fifty Thousand Dollars ($150,000). Payment, in the form of a cashier's check or money order, ***made payable to the State of Tennessee***, shall be mailed, to:

State of Tennessee
Department of Commerce and Insurance
Securities Division
Attention: Barbara A. Doak, Attorney
Legal Section, Davy Crockett Tower
500 James Robertson Parkway
Nashville, Tennessee 37243.

This Initial Order entered and effective this 12 day of February, 2008.

Anthony Adgent
Administrative Judge

Filed in the Administrative Procedures Division, this 12 day of February, 2008.

Tom Stovall, Director
Administrative Procedures Division

APPENDIX A TO INITIAL ORDER
NOTICE OF APPEAL PROCEDURES

Review of Initial Order

This Initial Order shall become a Final Order (reviewable as set forth below) fifteen (15) days after the entry date of this Initial Order, unless either or both of the following actions are taken:

(1) A party files a petition for appeal to the agency, stating the basis of the appeal, or the agency on its own motion gives written notice of its intention to review the Initial Order, within fifteen (15) days after the entry date of the Initial Order. If either of these actions occurs, there is no Final Order until review by the agency and entry of a new Final Order or adoption and entry of the Initial Order, in whole or in part, as the Final Order. A petition for appeal to the agency must be filed within the proper time period with the Administrative Procedures Division of the Office of the Secretary of State, 8th Floor, William R. Snodgrass Tower, 312 Eighth Avenue N., Nashville, Tennessee, 37243. (Telephone No. (615) 741-7008). See Tennessee Code Annotated, Section (T.C.A. §) 4-5-315, on review of initial orders by the agency.

(2) A party files a petition for reconsideration of this Initial Order, stating the specific reasons why the Initial Order was in error within fifteen (15) days after the entry date of the Initial Order. This petition must be filed with the Administrative Procedures Division at the above address. A petition for reconsideration is deemed denied if no action is taken within twenty (20) days of filing. A new fifteen (15) day period for the filing of an appeal to the agency (as set forth in paragraph (1) above) starts to run from the entry date of an order disposing of a petition for reconsideration, or from the twentieth day after filing of the petition, if no order is issued. See T.C.A. §4-5-317 on petitions for reconsideration.

A party may petition the agency for a stay of the Initial Order within seven (7) days after the entry date of the order. See T.C.A. §4-5-316.

Review of Final Order

Within fifteen (15) days after the Initial Order becomes a Final Order, a party may file a petition for reconsideration of the Final Order, in which petitioner shall state the specific reasons why the Initial Order was in error. If no action is taken within twenty (20) days of filing of the petition, it is deemed denied. See T.C.A. §4-5-317 on petitions for reconsideration.

A party may petition the agency for a stay of the Final Order within seven (7) days after the entry date of the order. See T.C.A. §4-5-316.

YOU WILL NOT RECEIVE FURTHER NOTICE OF THE INITIAL ORDER BECOMING A FINAL ORDER

A person who is aggrieved by a final decision in a contested case may seek judicial review of the Final Order by filing a petition for review in a Chancery Court having jurisdiction (generally, Davidson County Chancery Court) within sixty (60) days after the entry date of a Final Order or, if a petition for reconsideration is granted, within sixty (60) days of the entry date of the Final Order disposing of the petition. (However, the filing of a petition for reconsideration does not itself act to extend the sixty day period, if the petition is not granted.) A reviewing court also may order a stay of the Final Order upon appropriate terms. See T.C.A. §4-5-322 and §4-5-317.