



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

TENNESSEE SECURITIES DIVISION,)	
)	
Petitioner,)	
)	
v.)	TSD No.: 20-035
)	
WITT FINANCIAL GROUP, LLC)	
AND HOBERT MARCUS WITT,)	
)	
Respondents.)	

CONSENT ORDER

The Securities Division of the Tennessee Department of Commerce and Insurance (“Division”), by and through undersigned counsel, Witt Financial Group, LLC, and Hobert Marcus Witt (together “Respondents”) 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 Department (“Commissioner”).

I. PARTIES

1. Witt Financial Group, LLC is a registered investment adviser with Central Registration Depository number (“CRD #”) 156462. Hobert Marcus Witt, with CRD # 4533105, is its CCO and a registered investment adviser representative. Its principal place of business is in Tennessee: 91 Highway 70 East, Crossville, Tennessee 38555.

2. The Division is the lawful agent through which the Commissioner discharges the administration of the Act pursuant to Tenn. Code. Ann. § 48-1-115.

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 Respondents to avoid further administrative action with respect to the 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 Respondents fully understand that this Consent Order will in no way preclude additional proceedings by the Commissioner against the Respondents 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 Respondents fully understand 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 Respondents waive 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 February 2020, Devlyn Simon (“Simon”), Securities Examiner II for the Division, conducted an examination of the books and records of the Respondents pursuant to Tenn. Code Ann. § 48-1-111, throughout which the Respondents remained cooperative.

10. In or about June 2020, Simon completed her examination and referred the matter to the Office of Legal Counsel for the Division.

11. Simon’s examination revealed that the Respondents failed to meet the minimum net capital requirement of fifteen thousand dollars (\$15,000) in January 2018 and February 2018.

12. In January 2018, the Respondents reported a net capital of negative forty thousand, three hundred thirty-six dollars (-\$40,336).

13. In February 2018, the Respondents reported a net capital of negative thirty-four thousand, one hundred seventy-two dollars (-\$34,172).

14. Further, during the examination, the Respondents failed to provide to the Division agreements for two (2) clients that the Respondents provided paid financial planning services for in 2019.

IV. CONCLUSIONS OF LAW

15. 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(b).

16. Tenn. Code Ann. § 48-1-116 sets forth 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.

17. Tenn. Code Ann. § 48-1-111(a) provides that every investment adviser shall make and keep such accounts, correspondence, memoranda, papers, books, and other records as the Commissioner by rule prescribes.

18. Pursuant to Tenn. Code Ann. § 48-1-111(d)(1), all records referred to in Tenn. Code Ann. § 48-1-111(a) are subject to such reasonable examinations by representatives of the Commissioner, as the Commissioner deems necessary or appropriate in the public interest or for the protection of investors.

19. As authorized by Tenn. Code Ann. § 48-1-110(d), the Commissioner may by Rule require a minimum net capital for registered investment advisers.

20. Tenn. Comp. R. & Regs. 0780-04-03-.01(6)(a) and (d) requires every investment adviser, unless its principal place of business is in another state, to have and maintain a minimum net capital of fifteen thousand dollars (\$15,000).

21. Tenn. Comp. R. & Regs. 0780-04-03-.02(3)(a)(8) requires every registered investment adviser shall maintain and keep current copies of all agreements entered into by the

investment adviser with respect to any account, which agreements shall set forth the fees to be charged and the manner of computation and method of payment thereof, and copies of all communications, correspondence, and other records relating to securities transactions.

22. Tenn. Code Ann. § 48-1-112(a)(2)(B) authorizes the Commissioner to deny, suspend, or revoke any registration under this part if the Commissioner finds that the registrant 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.

23. Tenn. Code Ann. § 48-1-112(d) authorizes the Commissioner to, in lieu of or in addition to a denial, revocation, or suspension of a registration, “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.”

24. Per Tenn. Code Ann. § 48-1-121(d), “[t]he [C]ommissioner may, after notice and opportunity for a hearing under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, impose a civil penalty against any person found to be in violation of this section, or any rule or order adopted or issued under this section, in an amount not to exceed ten thousand dollars (\$10,000) per violation, or in an amount not to exceed twenty thousand dollars (\$20,000) per violation if an individual who is a designated adult is a victim.”

25. The Findings of Fact detailed above prove that the Respondents failed to maintain the required minimum net capital from January 2018 through February 2018, in violation of Tenn. Code Ann. § 48-1-110(d) and Tenn. Comp. R. & Regs. 0780-04-03-.01(6)(a) and (d).

26. Additionally, the Findings of Fact detailed above show that the Respondents failed to maintain and keep current copies of agreements entered into by the investment adviser with respect to two (2) accounts in 2019, in violation of Tenn. Code Ann. § 48-1-112(a)(2)(B) and Tenn. Comp. R. & Regs. 0780-04-03-.02(3)(a)(8).

27. 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 Respondents' 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.*, and the Respondents' admission to the jurisdiction of the Commissioner, the Commissioner finds that the Respondents agree to the entry and execution of this Consent Order to settle this matter as evidenced by the Respondents' signature.

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

1. **COMPLY** with the Act, as amended, and all rules promulgated thereunder; and
2. **PAY A CIVIL PENALTY** to the State of Tennessee of one thousand dollars (\$1,000) on behalf of the Respondents. 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 the 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: Garron Amos
Davy Crockett Tower
500 James Robertson Parkway
Nashville, Tennessee 37243**

3. The Respondents' 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.

4. **IT IS FURTHER ORDERED** that 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 Respondents 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.

5. 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 Respondents affirmatively state the following: the Respondents freely agree to the entry and execution of this Consent Order; the Respondents waive 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 Respondents encountered no threats or promises of any kind by the Commissioner, the Division, or any agent or representative thereof.

6. By signing this Consent Order, the Commissioner, Division, and the Respondents 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.

7. 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 July 23, 2020.


Hodgen Mainda (Jul 23, 2020 17:24 CDT)

Hodgen Mainda, Commissioner
Department of Commerce and Insurance

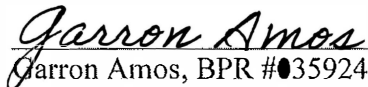
APPROVED FOR ENTRY AND EXECUTION:



Hobert Marcus Witt
Individually, and on behalf of,
Witt Financial Group, LLC


EB (Jul 23, 2020 12:21 CDT)

Elizabeth Bowling
Assistant Commissioner for Securities
Department of Commerce and Insurance



Garron Amos, BPR #035924
Associate General Counsel
Department of Commerce and Insurance