BEFORE THE
STATE OF WISCONSIN
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF SECURITIES

In the matter of, EDWARD E. MATTHES, Respondent.	SUMMARY ORDER TO CEASE AND DESIST AND FOR PERMANENT BAR OF INVESTMENT ADVISER AND REGISTERED REPRESENTATIVE REGISTRATIONS DFI Case No. S-239626 (LX)

I.

The Administrator of the State of Wisconsin, Department of Financial Institutions, Division of Securities ("Division"), having legal authority and jurisdiction to administer and enforce the Wisconsin Uniform Securities Law, Wis. Stats. Ch. 551 ("Ch. 551") and rules and orders promulgated thereunder, and having determined that this action is necessary and appropriate in the public interest and for the protection of investors, hereby enters this Order as follows:

II.

Division staff have presented evidence sufficient for the Administrator to make the following findings of fact and conclusions of law:

A. Findings of Fact

Respondents

1. Edward E. Matthes ("Matthes") (CRD#2788055) is an adult male resident of Oconomowoc, Wisconsin with a last known business address of N16W37650 Parkview Drive, Oconomowoc, Wisconsin 53006-1718. Matthes was registered with the Division as a registered representative of Mutual of Omaha Investor Services, Inc. (CRD#611)("Mutual of Omaha") from March 23, 2012 to March 25, 2019 and as an investment adviser representative of Mutual of Omaha from February 18, 2014 to March 25, 2019.

Conduct

2. In or about April 2013, Matthes opened a personal checking account with US Bank. In 2017, Matthes opened a business checking account at US Bank. Matthes was the sole signatory on both accounts.

3. From 2013 to 2018, Matthes misappropriated at least $1,036,552.64 from six insurance clients' Pacific Life annuities. Five of the clients are Wisconsin residents. Matthes instructed the clients to complete an authorization on their variable annuity contracts which would authorize him to act on their behalf over telephone or other electronic instructions regarding withdrawals. Matthes included his own personal checking account information on the clients' annuities contracts in place of the clients' accounts. Matthes would subsequently effect withdrawals into his own personal bank account via telephone or online without the clients' knowledge or consent.

4. To conceal the withdrawals, Matthes created fictitious "Account Summary Forms" on Mutual of Omaha letterhead, detailing the account information and transaction history of their purported annuities and periodically provided them to the clients.

5. From June 2013 to March 2019, Matthes solicited many of his investment advisory clients and brokerage and insurance customers to liquidate preexisting securities and annuities holdings to invest in a "fixed" investment that he told them would provide an annual interest rate of up to five percent (5.00%) for a term of five years.

6. Matthes represented to the prospective investors that this fixed investment was being offered through Mutual of Omaha, and was safer than their current investment positions and other prospective investment options. In fact, no such fixed investment ever existed.

7. Between June 2013 and March 2019, at least twenty people invested approximately $1,372,960.36 in the fictitious fixed investment offered by Matthes by writing checks payable to "Ed Matthes Fin. c/o M.O.I.S." All of the investors were investment advisory clients or brokerage or insurance customers of Matthes. Eighteen of the investors are Wisconsin residents, one is a resident of South Carolina, and one is a resident of Iowa.

8. Rather than invest any of the money he received from clients, Matthes deposited each investors' check into his US Bank personal checking account or his US Bank business checking account.

9. Subsequent to the deposit of the investor money into his personal or business checking accounts at US Bank, Matthes used all of the investors' money on his own personal expenses, including but not limited to credit card payments, home mortgage payments, child support payments, student loan payments for his son, home improvement, and over $80,000 on luxury items from Tiffany & Co.

10. To conceal his scheme, Matthes regularly sent fictitious account summaries on Mutual of Omaha letterhead to the clients who had invested in the fake fixed investment. The fictitious statements include fake account numbers which did not exist at Mutual of Omaha or any other broker-dealer or custodian.

11. On or about March 22, 2019, Matthes entered into an Acceptance, Waiver, and Consent with the Financial Regulatory Authority ("FINRA") to be permanently barred from associating with any member broker-dealer in any registered capacity.

B. Conclusions of Law

<u>Legal Authority and Jurisdiction</u>

12. The Administrator has legal authority and jurisdiction over the conduct described above, pursuant to Wis. Stats. Ch. 551 and the rules and orders promulgated thereunder.

13. Matthes was an agent of a broker-dealer, as defined pursuant to Wis. Stat. § 551.102(2).

14. Matthes was an investment adviser representative, as defined pursuant to Wis. Stat. § 551.102(16).

15. FINRA is a self-regulatory organization pursuant to Wis. Stat. § 551.102(29).

16. Pursuant to Wis. Stat. §§ 551.412(3) and (4)(m), the administrator may permanently bar a person from registration by summary order under Ch. 551 if the administrator finds that the order is in the public interest and the person has engaged in dishonest or unethical practices in the securities, commodities, investment, franchise, banking, finance, or insurance business within the previous 10 years.

17. Pursuant to Wis. Admin. Code §§ DFI-Sec. 4.06(2)(b)-(c), (i) and 4.06(1)(q) , it is dishonest and unethical business practice and taking unfair advantage of a customer under Wis. Stat. § 551.412(4)(m) for an agent to:

    a. Act as a custodian for money, securities or an executed stock power of a customer;
    b. Effect any securities transaction not recorded on the regular books or records of the broker-dealer which the agent represents, unless the transaction is disclosed to, and authorized in writing by, the broker-dealer prior to execution of the transaction; and
    c. Violating any rule of any securities exchange or national securities association of which it is a member with respect to any customer, transaction or business in this state;
        i. Pursuant to FINRA Rule 2020, no member shall effect any transaction in, or induce the purchase or sale of, any security by means of any manipulative, deceptive or other fraudulent device or contrivance; and
        ii. Pursuant to FINRA Rule 2150(a), no member or person associated with a member shall make improper use of a customer's securities or funds.

18. Pursuant to Wis. Admin. Code § DFI-Sec. 5.06(20), it is a dishonest and unethical business practice and taking unfair advantage of a client under Wis. Stat. § 551.412(4)(m) for an investment adviser representative to make, in the solicitation of clients, any untrue statement of a material fact, or omitting to state a material fact necessary in order to make the statement made, in light of the circumstances under which they are made, not misleading.

19. Pursuant to Wis. Stat. §§ 551.412(3) and (4)(e)(3), the administrator may permanently bar a person from registration by summary order under Ch. 551 if the administrator finds that the order is in the public interest and the Securities and Exchange Commission or a self-regulatory organization has suspended or expelled the registrant from membership in the self-regulatory organization.

20. Pursuant to Wis. Stat. § 551.501(2), it is unlawful for a person, in connection with the offer, sale, or purchase of a security, directly or indirectly, to make an untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

Violations

21. As described above in ¶¶ 2-11, Matthes violated Wis. Stat. § 551.412(4)(m) and Wis. Admin. Code § DFI-Sec. 4.06(2)(b)-(c) and (i) when he:
    a. Took custody of customer funds and used the funds for his own personal expenses and use;
    b. Purported to effect securities transactions which were not recorded on the books of his employing broker-dealer and failing to disclose such transactions and receive authorization prior to effecting them; and
    c. Violated FINRA Rules 2020 and 2150(a).

22. As described above in ¶¶ 2-11, Matthes violated Wis. Stat. § 551.412(4)(m) and Wis. Admin. Code § DFI-Sec. 5.06(20) when he made untrue statements of a material fact and omitted to state material facts necessary in order to make the statement made, in light of the circumstances under which they are made, not misleading.

23. As described above in ¶¶ 2-11, Matthes violated Wis. Stat. § 551.412(4)(e)(3) when he was permanently barred by FINRA from associating with any broker-dealer member in any capacity on March 22, 2019.

24. As described above in ¶¶ 2-11, Matthes violated Wis. Stat. § 551.501(2) when, in connection in the offer and sale of a security, he made untrue statements of material fact and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

III.

In view of the above findings of fact and conclusions of law, the Administrator deems it necessary and appropriate in the public interest and for the protection of investors, and pursuant to its legal authority and jurisdiction under Ch. 551, to wit Wis. Stat. §§ 551.604 and 551.412, to issue the following orders and notices:

A. Summary Orders issued pursuant to Wis. Stat. §§ 551.412 and 551.604

(a) IT IS ORDERED that MATTHES, his agents, servants, officers, employees, successors, affiliates, and every entity and person directly or indirectly controlled or organized by or on behalf of MATTHES, shall cease and desist from making or causing to be made to any person or entity in Wisconsin any further offers or sales of securities unless and until such securities qualify as covered securities or are registered under Ch. 551 or successor statute.

(b) IT IS FURTHER ORDERED that all exemptions from registration set forth in Ch. 551 or successor statute that might otherwise apply to the offer or sale of any security of or by MATTHES, his agents, servants, successors, affiliates, and every entity and person directly or indirectly controlled or organized by or on behalf of MATTHES, are hereby revoked.

(c) IT IS FURTHER ORDERED that MATTHES, his successors, affiliates, controlling persons, officers, agents, servants, employees, and every entity and person directly or indirectly controlled or hereafter organized by or on behalf of MATTHES, are prohibited from violating Ch. 551 or successor statute that may otherwise apply to any offer or sale of a security of or by MATTHES.

(d) IT IS FURTHER ORDERED that MATTHES is permanently barred from future registration under Ch. 551 in any capacity, pursuant to Wis. Stat. § 551.412(3).

(e) IT IS FURTHER ORDERED that MATTHES, his successors, affiliates, controlling persons, officers, agents, servants, employees, and every entity and person directly or indirectly controlled or hereafter organized by or on behalf of MATTHES, are prohibited from offering or selling securities without first disclosing this Order to prospective investors.

(f) PLEASE TAKE NOTICE that the summary orders of the Administrator are effective as of the issuance of this order, pursuant to Wis. Stat. §§ 551.412(6) and 551.604(2).

B. Service of Order

(g) IT IS FURTHER ORDERED that this order shall be sent promptly by certified mail to each party named in the order at his or her last known address or to the party's attorney of record, or shall be personally served upon the party or the party's attorney of record, pursuant to Wis. Admin. Code § DFI-Sec. 8.06. This order shall also be served upon the office of the administrator pursuant to Wis. Stat. § 551.611.

(h) PLEASE TAKE NOTICE that the date of service of this order is the date it is placed in the mail if the order is sent by certified mail. If the order is personally served, the date of service is the date the order is personally served on the party or the party's attorney of record. You are advised that any willful violation of an Order issued by the Division under Ch. 551 is a criminal offense punishable under the provisions of Wis. Stat. § 551.508.

C. Notice of Hearing Rights

(i) PLEASE TAKE NOTICE that you have the right to request a hearing. Every request for a hearing shall be in the form of a petition with the Division, pursuant to Wis. Admin. Code § DFI-Sec. 8.01. A petition for a hearing to review the order shall:

(1) Plainly admit or deny each specific allegation, finding or conclusion in the order and incorporated papers. However, if the petitioner lacks sufficient knowledge or information to permit an admission or denial, the petition shall so state, and that statement shall have the effect of a denial; and

(2) State all affirmative defenses. Affirmative defenses not raised in the request for hearing may be deemed waived.

(j) PLEASE TAKE FURTHER NOTICE that, within 15 days after receipt of a request in a record from you, the matter will be scheduled for hearing or other public administrative proceedings, pursuant to Wis. Stat. §§ 551.412(6), 551.604(2) and (3).

(k) PLEASE TAKE FURTHER NOTICE that if you do not request a hearing and none is ordered by the Administrator within 30 days after the date of service of this order, the findings of fact, conclusions of law, and summary orders become final as by operation of law, pursuant to Wis. Stat. §§ 551.412(6) and 551.604(2).

EXECUTED at Madison, Wisconsin, this 10th day of May, 2019.

Leslie M. Van Buskirk

Leslie Van Buskirk
Administrator

Division of Securities
State of Wisconsin
Department of Financial Institutions
4822 Madison Yards Way, North Tower
Madison, Wisconsin 53705

State of Wisconsin

Department of Financial Institutions

Tony Evers, **Governor** | Kathy Blumenfeld, **Secretary**

AFFIDAVIT OF SERVICE
AND COMPLIANCE WITH WIS. STAT. § 551.611

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

I, KATHERINE CLEMENTI, first being duly sworn, depose and state:

1. I am employed with the State of Wisconsin, Department of Financial Institutions, Division of Securities.

2. On the date of this Affidavit and in the course of regularly conducted activity, I have caused to be served by certified mail upon Respondent Edward E. Matthes at his last known business address of N16W37650 Parkview Drive, Oconomowoc, Wisconsin 53006-1718:

   i. A copy of the Summary Order to Cease and Desist and for Permanent Bar of Investment Adviser and Registered Representative Registrations, DFI Case No. S-239626 (LX); and

   ii. A copy of this Affidavit of Service.

3. In compliance with Wis. Stat. §§ 227.48, 551.611, and 891.46; and Wis. Admin. Code. §§ DFI-Sec 8.06 and 8.07, I have also caused to be served copies of those same documents upon the Administrator for the Division of Securities.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Katherine Clementi
KATHERINE CLEMENTI

State of Wisconsin
Department of Financial Institutions
Division of Securities

Subscribed and sworn to before me

This 10th day of May, 2019.

Lindsay Fedler

Notary Public, State of Wisconsin

(Notary Seal)

LINDSAY FEDLER
NOTARY PUBLIC
STATE OF WISCONSIN

My commission is permanent.