ADMINISTRATIVE PROCEEDING BEFORE THE
SECURITIES COMMISSIONER OF SOVTH CAROLINA IN THE MATTER OF:

E. Thomas Byrd, Jr.,
Respondent.

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File Number 06046
CONSENT ORDER

WHEREAS, the Securities Division of the Office of the Attorney General of the State of South Carolina (the "Division"), pursuant to authority granted in the South Carolina Unifonn Securities Act, S.C. Code Ann. § 35-l-10 et. seq. (Supp. 2004) (the "Act"), initiated an investigation into the securities-related activities of E. Thomas Byrd, Jr. ("Byrd" or "Respondent"), a registered representative ofCIBC World Markets Corporation operating out of the Charleston, South Carolina Office (the "Charleston Office); and
WHEREAS, in occurring atthe Charleston Office; and

WHEREAS, Respondent wishes to resolve the Complaint by Consent Order rather than
by a formal hearing before the Securities Commissioner (the "Conunissioner");
Now THEREFORE, as evidenced by the signature of Respondent on this Order, Respondent hereby accepts the jurisdiction and sanction portions of this Order and consents to entry of this Order based upon the following findings of fa<:t and concJusions of law which are accepted by the Respondent for purposes of entering this Order but which are neither admitted nor denied for any other purpose:

Page I of6

I. Jurisdiction
1. The Commissioner has jurisdiction over this matter pursuant to Section 35-1-180 of the
Act.

II. Respondent
2. Byrd was, at all material times herein, registered with the Division as an agent, as defined
by Section 35-1-20(2) ofthe Act.
111. Factual Summary
3. Beginning in or about March, 1999, Byrd began to send letters and make telephone calls
to South Carolina clients who had maintained a relationship with Byrd at other brokerage finns. [n these contacts, Byrd encouraged these clients to open accounts with CIBC and transfer their assets there to enable Byrd to continue to mange their assets.
4. Beginning in or about March, 1999, and continuing through at least August, 2000, Byrd
made presentations to potential South Carolina clients during which he touted his claim of expertise in stock picking. In his contacts with existing and prospective clients, Byrd represented that he bad special research capacities that enabled him to develop his own investment model he calloo a "stock universe." Byrd further represented that over at least the past five years, Byrd's model outperformed all indices. Clients and prospective clients were told that Byrd's was a proven long-tenn investment strategy that purchased stock in companies with proven track records, past and projected growth rates above 20%, high capitafi7.ation, market penetration, and product dominance. Byrd represented that stocks in the Byrd universe would be acquired for the purpose of long-term holding and that he would provide continual monitoring of these companies, so that portfolio adjustments could be made in the event that unforeseen factors arose, such as a company's having disappointing earnings or a change in its business model. Byrd even promised that all holdings would be completely liquidated if international or domestic circumstances dictated that going to cash would be prudent. Byrd did not discuss the risks posed Page 2 of6

by Byrd's strategy, which involved all equities and a high degree of sector concentration, other than to dism1ss any concerns raised by clients or potential clients on the grounds that ills superior research and stock-picking skills would eliminate any such risk.
5. Based upon representations by Byrd that they could make more money by investing their
assets in the Byrd stoc.k universe, many new and ex.isting clients turned over all or a substantial portion of their assets to Byrd to invest for them.
6. Byrd inaccurately completed New Accolmt Forms for many of the clients who turned
over a~ets to h.im for investment by representing on the client account opening cards that the clients had many more years or types of prior investment experience than they actually had and, in some instances, by marking investment objectives for cJients not in line with the clients' actual objectives.
7. With respect to these same clients, Byrd purchased securities which were unsuitable for
many of the client accounts for which they were purchased because of the investment goals, experience, or income of the client for whose account the security was purchased.
8. Byrd recommended to or placed in the accounts of several South Carolina clients high
concentrations of volatile speculative stocks when such concentrations of volatile or speculative stocks were unsuitable for the clients' accounts based on client objectives, education, experience, income and other relevant factors.

9. Byrd effeL-1ed purchases and sales of securities for certain non-discretionary client
accounts without first receiving client approval.
I 0. Byrd effected purchases and sales of securities for certain of his discretionary clients
when discretion was not permitted by finn rules without prior client contact and stated approval and no contacts had been made with or approvals obtained from the clients for whom he was exercising discretion.

Page 3 of6

11. During the time period May, 1999, through March, 2000, Byrd executed around two hundred thirty (230) transactions totaling approximately one million two hundred thousand ($1 ,200,000.00) dollars in the account of client L \1., which was excessive in size and frequency in view of the tinancial resources, investment objectives and character ofL. M.'s account.
IV. Violations

12. For purposes of this settlement only, Respondent hereby:
A. Admits that he is guilty of at least one (I) count of violating S.C. Code of Regulations 113-25 A(21) & B(6) and Rule 2310, NASD Conduct Rules as a result of his mismarking client new account documentation;
B. Admits that he is guilty of at least one (1) count of violating S.C. Code of Regulations 113-25 A(3), A(21), & 8(6) and Rule 2310, NASD Conduct Rules as a result ofhis
making unsuitable recommendations to at !.east one client;
C. Admits that he is guilty of at least one (1) count of violating S.C. Code of Regulations 113-25 A(21) & B(6) and Rule IM-231 0-2(8)(2), NASD Conduct Rules as a result of his placing excessive trades in client accounts;
D. Admits that he is guilty of at least one (1) count of violating S.C. Code of Regulations 11 3-25 A(4), A(21), & 8(6) and Rule 231 0-2(b X4)(iii), NASD Conduct Rules as a result of his making unauthorized transactions in client accounts; and
E. Admits that he is guilty of at least one (I) count of violating S.C. Code of Regulations 113-25 A(4), A(21), & 8(6) and Rule 2310-2(b)(4)(ii), NASD Conduct Rules as a result
of his making unauthorized transactions in otherwise discretionary client accounts.
V. Sanction

In view of the foregoing, the Commissioner deems it appropriate and in the public interest, for the protection of the investors and the capital markets of the State of South Carolina to impose the sanction of a pennanent bar from the securities industry on Respondent.
Page 4 of6

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NOW, THEREFORE, IT IS HEREBY ORDERED, and Respondent expressly consents

and agrees that effective immediately, Respondent is permanently barred from participating in

any aspect of the securities industry in or from the State of South Carolina.

VI. Conclllsion

Upon execution by the Commissioner, this Order resolves Administrative Proceeding

06046 as it relates to the Respondent. This Order should not be interpreted to waive any (i)

criminal cause of action, (ii) private cause of action that may nave accrued to investors as a result

of Respondent's participation in the securities transactions described herein, or (iii) other causes

of action which may result from activities of the Respondent not detailed above or which may

hereafter arise.

By his signature on this docwnent, Respondent hereby makes the following

representations:

a. Respondent is competent to make the representations herein and to
execute thi~ document;

b. Respondent is aware of his right to a hearing in regard to the matters
above and waives this right; and

c. Respondent admits that the Securities Commissioner has jurisdiction in
this matter and consents to entry of this Consent Order.

IT JS SO ORDERED this 5th day of Feb £u a ry 2007.

Byh~~

Page 5 of6

Henry D. McMaster
Securities Commissioner
State of South Carolina

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WE CONSENT:

Securities Division of the Office of the Attorney General

By: _ __ ~~~ c~ ~v:Y TracyA.eyers~
Assistant Attorney General
Securities Division

Respondent

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By: - E Thorn~\-----

Page 6 of6

Date:

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