In the matter of:   

Michael Claiborne (CRD #2624787)   

ORDER IMPOSING PERMANENT BAR   
DENYING USE OF EXEMPTIONS   
AND CONSENT TO ORDER

ORDER NO: 12-0947-S

The Director of the Department of Commerce, Community, and Economic Development, Division of Banking and Securities (the Administrator), has conducted an investigation into the conduct of Michael Claiborne (respondent), and has determined that respondent violated certain provisions of AS 45.55 et seq. (the “Alaska Securities Act”) by accepting a loan from a client and from engaging in dishonest or unethical conduct.

Respondent agrees that the Administrator has jurisdiction over respondent and these matters pursuant to the Alaska Securities Act.

Respondent wishes to resolve and settle this matter with the Administrator. As evidenced by the authorized signature on this Order, respondent consents to the entry of this Order imposing a permanent bar based on the Conclusions of Law and Order. Respondent waives his right to hearing under AS 45.55.920(d).

I. FACTS

1. Respondent, with a last known mailing address of P.O. Box 100244 Anchorage, Alaska 99510 and physical address of 1101 Ramona St. #18, Anchorage, Alaska 99515, first became registered as a broker-dealer agent in the State of Alaska on July 5, 1999 (CRD #2624787).

3. Sometime in 2006, respondent became acquainted with an individual referred to in this order as DRH. DRH also became one of respondent’s clients around that time. DRH had an individual retirement account (IRA) with PFS, serviced by respondent.

4. In June or July of 2008, respondent had financial problems and asked DRH if he could charge some personal travel expenses to DRH’s credit card. DRH agreed, and respondent charged approximately $600 worth of travel expenses to DRH’s card. Respondent repaid DRH over a period of several months.

5. On or about September 16, 2008, DRH gave respondent a check for $1,000 with the payee line left blank. DRH instructed respondent to deposit the check into DRH’s IRA. DRH assumed that respondent would place the appropriate name in the payee line so the check could be invested as the two had discussed. Respondent wrote his own name into the payee line and cashed the check for himself.

6. In late 2008 and early 2009, DRH noticed that the $1,000 investment was not reflected on any of his PFS statements. DRH asked respondent a number of times why the investment was not on his statements and respondent assured him that it had been deposited.

7. In February 2009, respondent deposited $1,000 into DRH’s investment account.

8. On or about March 1, 2009, DRH filed a complaint with the Division regarding respondent’s activities with DRH’s IRA.

9. On or about March 17, 2009, PFS permitted respondent to resign his position in lieu of termination after learning about the converted check and the loan from DRH.

10. In September 2009 respondent voluntarily surrendered his insurance license issued by
the State of Alaska Division of Insurance.

11. On August 27, 2010, respondent voluntarily consented to a permanent bar from associating with any members of the Financial Industry Regulatory Authority (FINRA).

12. On January 4, 2012, respondent pled guilty in Alaska Superior Court to third degree theft, a violation of AS 11.46.140(a)(1), for signing DRH’s check over to himself. Respondent was sentenced to 180 days suspended jail time and placed on three years of probation.

II. CONCLUSIONS OF LAW

1. Respondent violated AS 45.55.027(1) by borrowing approximately $600 from his client, DRH, in June or July of 2008.

2. Respondent engaged in dishonest or unethical conduct, a violation of AS 45.55.060(a)(7), by taking a check from his client intended for his client’s IRA account and cashing it for himself.

III. ORDER

As consideration for the acceptance of the Consent Order by the Division, respondent does hereby agree to the revocation of all existing securities registrations and/or licenses, if any, and to an Order of Permanent Bar:

1. Respondent shall not apply for registration as an issuer agent, broker-dealer agent or investment adviser representative in the State of Alaska.

2. Respondent shall not serve as an officer, director, or manager of a broker-dealer firm or investment advisory firm registered or operating in Alaska.

3. Respondent shall not serve as an issuer of interests in a mutual fund, money market fund, pooled-investments or similar securities and investment vehicles which are publicly offered or sold in the State of Alaska.
4. Respondent is denied the use of any exemptions listed in AS 45.55.900 pursuant to AS 45.55.900(d).

5. Respondent shall not apply for licensure as a loan originator, mortgage broker, money transmitter or delegate, or deferred deposit (Pay Day) lender or representative in the State of Alaska.

IT IS SO ORDERED.

SUSAN BELL, Commissioner
Department of Commerce, Community and Economic Development

June 7, 2013 /s/ Kevin Anselm for:
Date Lorie L. Hovanec, Director
Division of Banking and Securities

Consent to Entry of Order

Michael Claiborne (respondent) hereby acknowledges that he has read the foregoing order imposing permanent bar, denying use of exemptions and consent to order (Consent Order), is aware of his right to a hearing and appeal in this matter, and has waived the same. Respondent admits the jurisdiction of the Department of Commerce, Community and Economic Development, Division of Banking and Securities (Division) for purposes of settling this action and respondent further consents to entry of this Consent Order and Permanent Bar by the Division as settlement of the issues contained in this Consent Order and Permanent Bar.

Respondent enters into this Consent Order voluntarily and represents that no threats, offers, promises, or inducements of any kind have been made by the Division or any member, officer, employee, agent, or representative of the Division to induce respondent to
enter into this Consent Order.

Respondent understands that this Consent Order is a public document.

June 7, 2013 /s/ Michael Claiborne
Date MICHAEL CLAIBORNE

SUBSCRIBED AND SWORN TO before me this 7th day of June, 2013 at Anchorage, Alaska.

/s/ Michael W. French
Notary Public in and for Alaska
Michael W. French
Notary Printed Name
My commission expires: 09/11/2016

Contact Person:
Kristy Naylor
Securities Examiner
(907) 269-7675