

1 MARY ANN SMITH
Deputy Commissioner
2 SEAN M. ROONEY
Assistant Chief Counsel
3 VANESSA T. LU (State Bar No. 295217)
Counsel
4 TAYLOR STEINBACHER (State Bar No. 285335)
Counsel
5 Department of Financial Protection and Innovation
1455 Frazee Road, Suite 315
6 San Diego, California 92108
Telephone: (619) 610-1232
7 Facsimile: (619) 209-3612

8 Attorneys for Complainant

9 BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION
10 OF THE STATE OF CALIFORNIA
11

12 In the Matter of:) OAH CASE NO.: 2020070502
13)
14 THE COMMISSIONER OF FINANCIAL) CRD NO.: 2387799
PROTECTION AND INNOVATION,)
15 Complainant,) ORDER BARRING PAUL HORTON SMITH,
16 v.) SENIOR FROM ANY POSITION OF
17) EMPLOYMENT, MANAGEMENT, OR
18 PAUL HORTON SMITH, SENIOR,) CONTROL OF ANY INVESTMENT
19 Respondent.) ADVISER, BROKER-DEALER OR
20) COMMODITY ADVISER
21)
22)
23)
24)
25)
26)
27)
28)

TO: Paul Horton Smith, Senior
13234 Twinflower Court
Moreno Valley, California 92553

///
///
///

ORDER BARRING PAUL HORTON SMITH, SENIOR FROM ANY POSITION OF EMPLOYMENT,
MANAGEMENT, OR CONTROL OF ANY INVESTMENT ADVISER, BROKER-DEALER
OR COMMODITY ADVISER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Egate Client #1 – T.N.

6. On or around December 10, 2019, the Department interviewed T.N., a former client of Egate. T.N.’s advisory file was one of the sampled investment accounts retrieved by the examiner. T.N. told the Department that he never received a copy of Egate’s Investment Advisory Contract (I.A. contract) and that his signature was forged. Smith knowingly made an untrue statement to the Commissioner when he submitted T.N.’s “signed” I.A. contract dated September 14, 2017.

Egate Client #2 – R.N.

7. On or around December 10, 2019, the Department interviewed R.N., a former client of Egate. R.N.’s advisory file was one of the sampled investment accounts retrieved by the examiner. R.N. told the Department she never received a copy of Egate’s I.A. contract and that her signature was forged. Smith knowingly made an untrue statement to the Commissioner when he submitted R.N.’s “signed” I.A. contract dated September 14, 2017.

Egate Client #3 – L.D.

8. On or around December 17, 2019, the Department interviewed L.D., a client of Egate. L.D.’s advisory file was one of the sampled investment accounts retrieved by the examiner. L.D. told the Department that his signature was forged in Egate’s I.A. contract. Smith knowingly made an untrue statement to the Commissioner when they submitted L.D.’s “signed” I.A. contract dated September 16, 2017.

9. From September 2018 through January 2020, Smith failed to follow his clients’ instructions. When clients inquired about their requests, Smith misrepresented to these clients that these requests were completed. But in reality – Smith did not nothing.

10. On or around December 10, 2018, T.N. emailed Smith regarding his recommendation to transfer funds from Fidelity Investments (Fidelity) to Pacific Life Insurance Company (Pacific Life). T.N. asked Smith if he thought his money would be “safe” with Pacific Life. Smith told T.N. and R.N. to transfer 50% of their income from Fidelity to Pacific Life because their money was “guaranteed” to be safe.

///
///

1 17. The Commissioner finds Smith failed to maintain books and records in violation of
2 Corporations Code section 25241 and California Code of Regulations (Cal. Code Reg.), title 10,
3 section 260.241.3 during the 2014 and 2018 regulatory examinations of Egate.

4 18. The Commissioner finds that Smith willfully violated Corporations Code sections
5 25238 and 25235, subdivisions (b) and (d); and Cal. Code Reg., title 10, section 260.238,
6 subdivision (o), by forging clients’ signatures in their I.A. contracts.

7 19. The Commissioner finds that Smith willfully violated Corporations Code sections
8 25235 and 25238; and Cal. Code Reg., title 10, section 260.238, subdivisions (l) and (o), by
9 breaching his fiduciary duty by guaranteeing a client a specific result, failing to follow clients’
10 instructions, and making false statements to clients. The aforementioned conduct constitutes a failure
11 to promote “fair, equitable or ethical principles” and Smith engaged in a course of business which is
12 fraudulent, deceptive, and manipulative to his clients.

13 20. Finally, the Commissioner finds Smith also willfully violated Corporations Code
14 section 25404, subdivision (b), by knowingly making untrue statements to the Commissioner during
15 the course of licensing, investigation, or examination, with the intent to impede, obstruct, or
16 influence the administration or enforcement of any provision of this division.

17 21 On February 19, 2020, the Department personally served Smith with the following:
18 Notice of Intention to Issue Order Barring Paul Horton Smith, Senior from Any Position of
19 Employment, Management or Control of Any Investment Adviser, Broker-Dealer or Commodity
20 Adviser Under Corporations Code section 25232.1; Accusation; Statement to Respondents;
21 Government Code sections 11507.5, 11507.6, and 11507.7; and a blank form Notice of Defense.

22 22. On March 12, 2020, Smith filed with the Commissioner his notice of defense, request
23 for discovery, designation of counsel, and waiver of priority hearing right.

24 23. On December 7, 2020, Smith withdrew his notice of defense from the Commissioner.

25 ///

26 ///

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

The above-described violations constitute grounds under the Corporations Code section 25232.1 to bar Smith from any position of employment, management or control of any investment-adviser, broker-dealer or commodity- adviser. The Commissioner hereby finds that, by reason of the foregoing, it is in the public interest to bar Senior from any position of employment, management or control of any investment adviser, broker-dealer or commodity adviser.

THEREFORE, GOOD CAUSE APPEARING, IT IS ORDERED that Paul Horton Smith, Senior is barred in the State of California from any position of employment, management or control of any investment adviser, broker-dealer or commodity adviser pursuant to Corporations Code section 25232.1. This order is effective immediately.

Dated: December 15, 2020

MANUEL P. ALVAREZ
Commissioner of Financial Protection and Innovation

By _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division