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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
SECURITIES DIVISION**

IN THE MATTER OF DETERMINING
whether there has been a violation
of the Securities Act of Washington by:

Daniel N. Winger

Respondent.

Order Number S-18-2538-19-FO01

ENTRY OF FINDINGS OF FACT AND
CONCLUSIONS OF LAW AND FINAL
ORDER TO CEASE AND DESIST, TO
CHARGE COSTS, TO IMPOSE A FINE, AND
TO DENY FUTURE REGISTRATIONS

9 THE STATE OF WASHINGTON TO: Daniel N. Winger, CRD No. 1542674

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11 On April 8, 2017, the Securities Administrator of the State of Washington issued a Statement of
12 Charges and Notice of Intent to Enter Order to Cease and Desist, to Charge Costs, to Impose a Fine, and to
13 Deny Future Registrations S-18-2538-19-SC01, hereinafter referred to as "Statement of Charges," against
14 Respondent Daniel N. Winger.

15 The Statement of Charges, together with a Notice of Opportunity to Defend and Opportunity for
16 Hearing, hereinafter referred to as "Notice of Opportunity for Hearing," and an Application for Adjudicative
17 Hearing, hereinafter referred to as "Application for Hearing," was served on Daniel N. Winger on April 12,
18 2019.

19 The Notice of Opportunity for Hearing advised Daniel N. Winger that he had twenty days from the
20 date he received the notice to file a written application for an adjudicative hearing on the Statement of
21 Charges. Daniel N. Winger failed to request an adjudicative hearing within twenty days of his receipt of the
22 Statement of Charges and Notice of Opportunity for Hearing, either on the Application for Hearing provided
or otherwise.

23 ENTRY OF FINDINGS OF FACT AND CONCLUSIONS OF
24 LAW AND FINAL ORDER TO CEASE AND DESIST, TO
CHARGE COSTS, TO IMPOSE A FINE, AND TO DENY
25 FUTURE REGISTRATIONS

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DEPARTMENT OF FINANCIAL INSTITUTIONS
Securities Division
PO Box 9033
Olympia, WA 98507-9033
360-902-8760

1 The Securities Administrator therefore adopts as final the Tentative Findings of Fact and
2 Conclusions of Law as set forth in the Statement of Charges, and enters a final order against Daniel N.
3 Winger to cease and desist from violations of the Washington State Securities Act, to impose a fine, to
4 charge costs, and to deny Daniel N. Winger's future registrations. The Securities Administrator finds as
5 follows:

6 FINDINGS OF FACT

7 Respondent

8 1. Daniel N. Winger ("Winger") is a resident of Bonney Lake, Washington. Winger was registered
9 with the Securities Division as a securities salesperson of PFS Investments, Inc. ("PFS") from September
10 1986 until August 2018, when PFS terminated him for cause.

11 Nature of the Conduct

12 2. Between April 2015 and April 2018, Winger misappropriated more than \$100,000 from an elderly
13 client whom Winger had known for more than thirty years. Winger represented to this client that he would
14 use these funds to pay federal taxes on the client's behalf. Winger solicited six checks from the client.
15 Winger provided the dollar amount to be paid for each check, but instructed the client to leave the payee
16 section blank. Winger endorsed these checks and deposited them in a personal account.

17 3. When deposited, each check was payable to "Dan Winger and Associates," a business that Winger
18 did not identify as outside business activity in the Central Registration Depository. During the period in
19 which Winger misappropriated his client's funds, Winger caused four Forms U-4 to be filed that did not
20 identify Dan Winger and Associates as outside business activity.

21 FINRA Action

22 4. In August 2018, Winger and FINRA agreed to a Letter of Acceptance, Waiver, and Consent (the
23 "Letter") to settle FINRA's investigation of this matter. FINRA alleged that Winger's misappropriation of

1 his clients' funds violated FINRA rules 2150(a), forbidding the conversion of client funds, and 2010,
2 requiring representatives to observe high standards of commercial honor, and just and equitable principles
3 of trade.

4 5. Winger consented to a ban from associating with any FINRA member in any capacity as part of the
5 Letter. Winger also agreed to waive his rights to defend himself in this matter in a disciplinary hearing, and
6 to appeal any such decision to the Securities and Exchange Commission or a federal appellate court.

7 **CONCLUSIONS OF LAW**

8 Based upon the above Findings of Fact, the following Conclusions of Law are made:

9 1. Winger, by misappropriating client funds, has engaged in a dishonest or unethical practice in the
10 securities business, as defined by WAC 460-22B-090. Such conduct is grounds, pursuant to RCW
11 21.20.110(1)(g), to deny any broker-dealer, securities salesperson, investment adviser, and investment
12 adviser representative registrations that Winger might seek.

13 2. Winger, by causing to be filed four Forms U-4 that did not identify Dan Winger and Associates as
14 outside business activity, has made a false or misleading statement in violation of RCW 21.20.350. Such
15 violation is grounds, pursuant to RCW 21.20.110(1)(b), to deny any broker-dealer, securities salesperson,
16 investment adviser, and investment adviser representative registrations that Winger might seek.

17 3. Winger, by violating FINRA rules 2150(a) and 2010, has engaged in a dishonest or unethical
18 practice in the securities business as defined by WAC 460-22B-090(19), which is grounds, pursuant to
19 RCW 21.20.110(1)(g) to deny any broker-dealer, securities salesperson, investment adviser, and
20 investment adviser representative registrations that Winger might seek.

1 **FINAL ORDER**

2 IT IS HEREBY ORDERED that Daniel N. Winger shall cease and desist from violating RCW
3 21.20.350.

4 IT IS FURTHER ORDERED that Daniel N. Winger shall be liable for investigative costs of
5 \$1,000.

6 IT IS FURTHER ORDERED that Daniel N. Winger shall be liable for and shall pay a fine of
7 \$10,000.

8 IT IS FURTHER ORDERED that any broker-dealer, securities salesperson, investment adviser,
9 and investment adviser representative registrations that Daniel N. Winger may seek shall be denied.

10 **AUTHORITY AND PROCEDURE**

11 This Order is entered pursuant to the provisions of RCW 21.20.110(1), and is subject to the
12 provisions of RCW 21.20.120 and Chapter 34.05 RCW. The Respondent has the right to petition the
13 superior court for judicial review of this agency action under the provisions of chapter 34.05 RCW. For the
14 requirements for filing a Petition for Judicial Review, see RCW 34.050.510 and sections following.
15 Pursuant to RCW 21.20.395, a certified copy of this order may be filed in Superior Court. If so filed, the
16 clerk shall treat the order in the same manner as a Superior Court judgment as to the fine, and the fine
17 may be recorded, enforced, or satisfied in like manner.

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19 **WILLFUL VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.**

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DATED AND ENTERED this 7th day of May, 2019.



William M. Beatty
Securities Administrator

Presented by:

Approved by:



Edward R. Thunen
Financial Legal Examiner

Suzanne Sarason
Chief of Enforcement

Reviewed by:



Jack McClellan
Financial Legal Examiner Supervisor