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COMMONWEALTH OF PENNSYLVANIA 2021 JUL -6 AM 8:19
DEPARTMENT OF BANKING AND SECURITIES

COMMONWEALTH OF PENNSYLVANIA	:	PA DEPARTMENT OF
DEPARTMENT OF BANKING AND	:	BANKING AND SECURITIES
SECURITIES, BUREAU OF SECURITIES	:	
COMPLIANCE AND EXAMINATIONS	:	DOCKET No. 210019 (SEC-CAO)
	:	
v.	:	
	:	
SUPERIOR INVESTMENT PERFORMANCE,	:	
INC. d/b/a EVERYIELD INVESTMENTS	:	
SCOTT E. ANDERSON	:	
	:	

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking and Securities (“Department”), Bureau of Securities Compliance and Examinations (“Bureau”), has conducted an investigation of the business practices of Superior Investment Performance, Inc. d/b/a EverYield Investments (“Superior”) and Scott E. Anderson (“Anderson”). Based on the results of its investigation, the Bureau has concluded that Superior and Anderson operated in violation of the Pennsylvania Securities Act of 1972, 70 P.S. § 1-101 *et seq.* (“1972 Act”). Superior and Anderson, in lieu of litigation, and without admitting or denying the allegations herein, and intending to be legally bound, hereby agree to the terms of this Consent Agreement and Order (“Order”).

BACKGROUND

1. The Department is the Commonwealth of Pennsylvania’s administrative agency authorized and empowered to administer and enforce the 1972 Act.
2. The Bureau is primarily responsible for administering and enforcing the 1972 Act for the Department.

3. Superior (CRD # 165668) was, at all times material herein, a Pennsylvania corporation with an address at Redacted

4. From in or about April 2013 until July 2017, Superior was registered pursuant to Section 301(c) of the 1972 Act, 70 P.S. § 1-301(c), as an investment adviser.

5. From in or about April 2013 until July 2017, Anderson (CRD # 6139347) was registered pursuant to Section 301(c) of the 1972 Act, 70 P.S. § 1-301(c), as an investment adviser representative of Superior.

6. From in or about April 2013 until July 2017, Anderson was the president, chief compliance officer, and owner of Superior.

7. As the president, chief compliance officer, and owner of Superior, Anderson acted as an "affiliate" of Superior within the meaning of Section 102(b) of the 1972 Act, 70 P.S. § 1-102(b), and, as such, caused Superior to commit the herein stated acts which violated the 1972 Act.

8. Regulation 305.011(a), 10 Pa. Code § 305.011(a), requires registered investment advisers to exercise diligent supervision, and accept final responsibility for proper supervision, over the securities activities of their agents, investment adviser representatives, and employees by establishing and maintaining written procedures and a system for applying and enforcing those written procedures which are reasonably designed to achieve compliance with the 1972 Act and other securities laws and regulations.

9. From in or about April 2013 until January 2016, Superior did not exercise diligent supervision over the securities activities of its investment adviser representative by failing to establish and maintain written procedures and a system for applying and enforcing those written

procedures, pursuant to Regulation 305.011(a), 10 Pa. Code § 305.011(a), with respect to alternative investments recommended by Superior to its clients.

VIOLATIONS

10. By engaging in the acts and conduct set forth in paragraphs 3 through 9 above, Superior and Anderson failed to establish and maintain written procedures with respect to alternative investments and a system for applying and enforcing those written procedures which are reasonably designed to achieve compliance with the 1972 Act, in violation of Section 305(a)(v) of the 1972 Act, 70 P.S. § 1-305(a)(v), and Regulation 305.011(a), 10 Pa. Code § 305.011(a).

RELIEF

11. Superior and Anderson shall pay the Department an administrative assessment in the amount of \$15,000.00. Payment shall be made by certified check or money order made payable to the “Department of Banking and Securities” and shall be mailed or delivered in person to the Bureau of Securities Compliance and Examinations located at 17 N. Second Street, Suite 1300, Harrisburg, Pennsylvania 17101.

12. The administrative assessment shall be paid as follows:

- a. \$1,875.00 on or before August 31, 2021;
- b. \$1,875.00 on or before November 30, 2021;
- c. \$1,875.00 on or before February 28, 2022;
- d. \$1,875.00 on or before May 31, 2022;
- e. \$1,875.00 on or before August 31, 2022;
- f. \$1,875.00 on or before November 30, 2022;
- g. \$1,875.00 on or before February 28, 2023; and
- h. \$1,875.00 on or before May 31, 2023.

13. Superior and Anderson are ORDERED to comply with the 1972 Act and Regulations adopted by the Department, and in particular Section 305(a)(v) of the 1972 Act, 70 P.S. § 1-305(a)(v), and Regulation 305.011(a), 10 Pa. Code § 305.011(a).

14. Should Superior and Anderson fail to pay the assessment as set forth in paragraphs 11 and 12 above, the sanctions set forth elsewhere in this Order shall continue in full force and effect until full payment is made. However, this provision shall not be construed as affording Superior and Anderson the option of either paying the assessment or being indefinitely subject to the sanctions.

15. Should Superior or Anderson fail to comply with any and/or all provisions of this Order, the Department may impose additional sanctions and costs and seek other appropriate relief subject to Superior's and Anderson's rights to a hearing pursuant to the 1972 Act.

FURTHER PROVISIONS

16. Consent. Superior and Anderson hereby knowingly, willingly, voluntarily, and irrevocably consent to the entry of this Order pursuant to the Bureau's authority under the 1972 Act and agree that they understand all of the terms and conditions contained herein. Superior and Anderson, by voluntarily entering into this Order, waive any right to a hearing or appeal concerning the terms, conditions, and/or penalties set forth in this Order.

17. Entire Agreement. This Order contains the entire agreement between the Department, Superior, and Anderson. There are no other terms, obligations, covenants, representations, statements, conditions, or otherwise, of any kind whatsoever concerning this Order. This Order may be amended in writing by mutual agreement by the Department, Superior, and Anderson.

18. Binding Nature. The Department, Superior, and Anderson, and all officers, owners, directors, employees, heirs and assigns of Superior and Anderson, intend to be and are legally bound by the terms of this Order.

19. Counsel. This Order is entered into by the parties upon full opportunity for legal advice from legal counsel.

20. Effectiveness. Superior and Anderson hereby stipulate and agree that the Order shall become effective on the date the Bureau executes the Order (“Effective Date”).

21. Other Enforcement Action.

a. The Department reserves all of its rights, duties, and authority to enforce all statutes, rules, and regulations under its jurisdiction against Superior and Anderson in the future regarding all matters not resolved by this Order.

b. Superior and Anderson acknowledge and agree that this Order is only binding upon the Department and not any other local, state or federal agency, department, or office regarding matters within this Order.

22. Authorization. The parties below are authorized to execute this Order and legally bind their respective parties.

23. Counterparts. This Order may be executed in separate counterparts, by facsimile, and/or by PDF.

24. Titles. The titles used to identify the paragraphs of this document are for the convenience of reference only and do not control the interpretation of this document.

25. Finding. The Department finds that it is necessary and appropriate in the public interest and for the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the 1972 Act to issue this Order.

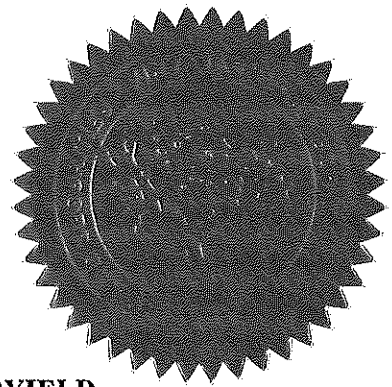
WHEREFORE, in consideration of the foregoing, including the recital paragraphs, the Commonwealth of Pennsylvania, Department of Banking and Securities, Bureau of Securities Compliance and Examinations, Superior Investment Performance, Inc. d/b/a EverYield Investments, and Scott E. Anderson, intending to be legally bound, do hereby execute this Consent Agreement and Order.

**FOR THE COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND SECURITIES
BUREAU OF SECURITIES COMPLIANCE AND EXAMINATIONS**

Redacted

Eric Pistilli, Acting Deputy Secretary for Securities

Date: 06/30/2021



**FOR SUPERIOR INVESTMENT PERFORMANCE, INC. d/b/a EVERYIELD
INVESTMENTS**

Redacted

(Signature)

Redacted

(Print Officer Name)

Date: 6/29/21

FOR SCOTT E. ANDERSON

Redacted

(Signature)

Date: 6/29/21