

**ADMINISTRATIVE PROCEEDING  
BEFORE THE  
SECURITIES COMMISSIONER OF SOUTH CAROLINA**

<b>IN THE MATTER OF:</b>	)	
	)	<b>CONSENT ORDER</b>
<b>Raymond James &amp; Associates, Inc.</b>	)	
<b>(CRD No. 705),</b>	)	<b>Matter No. 20186982</b>
	)	
<b>Respondent.</b>	)	
_____	)	

**I. PRELIMINARY STATEMENT**

Pursuant to the authority granted to the Securities Commissioner of South Carolina (the “Securities Commissioner”) under the South Carolina Uniform Securities Act of 2005, S.C. Code Ann. § 35-1-101, *et seq.*, and the regulations and rules promulgated thereunder (the “Act”), and delegated to the Securities Division of the Office of the Attorney General (the “Division”) by the Securities Commissioner, the Division conducted an investigation into the securities-related activities of Raymond James & Associates, Inc. (CRD No. 705) (the “Respondent”), and, in connection with its investigation, the Division has determined that the Respondent violated the Act.

Without admitting or denying the Findings of Fact and Conclusions of Law set forth below, except as to the jurisdiction of the Securities Commissioner over the Respondent and the subject matter of this proceeding, which are admitted, the Respondent, having been advised of its right to counsel, expressly consents to the entry of this Consent Order, which resolves the allegations against it set forth herein. The Respondent elects to waive permanently any right to a hearing and appeal under S.C. Code Ann. § 35-1-609, with respect to this Consent Order.

## **II. JURISDICTION**

1. The Securities Commissioner has jurisdiction over this matter pursuant to S.C. Code Ann. § 35-1-601(a).

## **III. THE RESPONDENT**

2. The Respondent is registered with the Division as a broker-dealer with a corporate, home office address of 880 Carillon Parkway St. Petersburg, Florida 33716.

## **IV. FINDINGS OF FACT**

### **A. THE RELEVANT PERIOD**

3. Except as otherwise expressly stated, the conduct described herein occurred during the period of January 1, 2014, to June 30, 2018 (the “Relevant Period”).

### **B. THE UNIT INVESTMENT TRUSTS**

4. During the Relevant Period, the Respondent employed two South Carolina based agents (the “South Carolina Agents”) who recommended certain investment strategies involving Unit Investment Trusts (“UITs”) to clients (the “UIT Investors”) without having a reasonable basis for recommending those strategies.

5. A UIT is a registered investment company that holds a portfolio of securities that is not actively managed by an adviser. UIT issuers make a public offering of units, typically for a one to six-month primary offering period, and may support a secondary market. UIT term lengths vary, but a UIT commonly has a maturity date 15 to 24 months from the initial offering date. At maturity, an investor holding a UIT typically has three options: (1) receive the proceeds based on the value of the investment; (2) rollover the investment into a newly issued UIT (“rollover”); or (3) under limited circumstances, receive the proportionate share of the securities held in the portfolio, *i.e.*, an in-kind transfer.

6. The UITs sold by the South Carolina Agents during the Relevant Period to the UIT Investors typically had stated investment objectives. For example, one UIT sought capital appreciation by exposure to equities in the aerospace and defense industry. For a second example, another UIT sought capital appreciation and dividend income by exposure to equities that had a history of strong dividend growth.

7. UITs with specific objectives were organized into series, whereby when one UIT of a particular objective terminated, investors could move their capital into the next available entry of that same series, which enabled the UIT Investor to maintain a substantially similar or identical investment portfolio.

8. Most of a UIT's fees are non-recurring charges that occur in the first six months of the UIT's lifecycle. These non-recurring fees include sales charges, creation and development fees, and pass-through costs related to organizing the trust. The sales charges are paid to the recommending broker-dealer agent. The remainder of the charges are paid to the UIT's sponsor.

9. Because sales charges and other costs reduce the overall investment return, UITs are often more beneficial for investors who adopt a "buy and hold" strategy. Repeatedly selling UITs well before their maturity date, a practice often referred to as "Short Holds," and then repeatedly purchasing newly-issued UITs is a practice that will cause investors to incur sales charges with greater frequency than if they followed a longer term "buy and hold" approach. When an investor liquidates a UIT prior to termination, the upfront sales charges will amortize over a shorter period, resulting in higher costs to the UIT Investor.

10. UITs also charge recurring fees that accrue on an annual basis. These fees include administration costs and the trustee's fees.

11. In general, during the Relevant Period, the UIT Investors paid sales charges of approximately 2.25% to the South Carolina Agents when purchasing most UITs. In addition to the sales charges, they paid approximately 0.870% in other upfront, non-recurring fees.

### **C. SALES PRACTICES FOR UITs BY THE SOUTH CAROLINA AGENTS**

12. During the Relevant Period, the South Carolina Agents recommended that certain UIT Investors liquidate their UITs early, and then recommended UIT Investors roll that liquidity into new issue UITs without a reasonable basis for believing that such transactions were suitable.

13. The South Carolina Agents would often recommend that UIT Investors execute a Short Hold—and then roll the funds into a newly-issued UIT within thirty (30) days after the disposition of the previous UIT position. The Short Hold period typically resulted in sales twelve (12) months or more before the respective UIT maturity dates. In many cases, these newly-issued UITs held assets similar to those in the liquidating position (individually, a “Short Hold Swap;” collectively, the “Short Hold Swaps”).

14. These recommendations accelerated the frequency of UIT transactions for the affected UIT Investors, thereby increasing the cost over time of investing in these UITs. The added costs for these transactions included more sales charges and additional processing fees for each trade.

15. Recommending a Short Hold Swap without a reasonable basis for believing the transaction was suitable was a sales tactic employed by the South Carolina Agents to generate substantial excess commissions.

16. During the Relevant Period, the Respondent had supervisory controls in place to discourage agents from recommending and executing any Short Holds. The South Carolina Agents took steps to evade these controls and to avoid supervision.

17. For example, an automated Raymond James system alert notified the Respondent if a UIT transaction was liquidated within a specified period of time. In some cases, the South Carolina Agents waited until just after the alert period had passed before liquidating UITs. As early as 2015, when asked by their manager about their sale of UIT positions prior to maturity, the South Carolina Agents claimed that they often sold UITs early to lock in gains or to limit losses. During most of the Relevant Period, the Raymond James system alert triggered if the liquidation was within 180 days of purchasing the UIT.<sup>1</sup>

18. The Respondent's supervisory controls were not comprehensive enough to detect and prevent the South Carolina Agents' Short Hold Swap activities during the Relevant Period.

#### **D. THE RESPONDENT'S REMEDIAL EFFORTS**

19. During the Relevant Period, the United States Securities and Exchange Commission (the "SEC") began an investigation unrelated to the Respondent's UIT sales practices.

20. In response to the SEC's investigation, the Respondent promptly undertook its own internal investigation, through which the Respondent discovered the South Carolina Agents' improper UIT sales practices.

21. As a result of its own internal investigation, the Respondent proactively executed the following undertakings:

- a. Terminated the South Carolina Agents;
- b. Retained an independent compliance consultant;
- c. Self-reported the findings of its internal investigation to relevant regulatory agencies;

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<sup>1</sup> In November 2017 and January 2018, the Respondent widened the alert window to 365 days after purchase and then moved it to 90 days before maturity, respectively.

- d. Substantially revised and enhanced its policies and procedures with respect to UITs; and
- e. Refunded certain commissions resulting from Short Hold Swaps.

## **V. CONCLUSIONS OF LAW**

22. UITs are securities pursuant to S.C. Code Ann. § 35-1-102(29).

23. Pursuant to S.C. Code Ann. § 35-1-412(c), if the Commissioner finds that the order is in the public interest and S.C. Code Ann. §§ 35-1-412(d)(1) through (6), (8), (9), (10), (12), or (13) authorizes the action, an order under the Act may censure, impose a bar, and/or impose a civil penalty in an amount not to exceed \$10,000 for each violation, on a registrant, and, if the registrant is a broker-dealer or investment adviser, a partner, officer, director, or person having a similar status or performing similar functions, or a person directly or indirectly in control, of the broker-dealer or investment adviser.

24. Pursuant to S.C. Code of Regulations § 13-501(A)(3), dishonest and unethical practices by a broker-dealer or agent include recommending to a customer the purchase, sale, or exchange of any security without reasonable grounds to believe that such transaction or recommendation is suitable for the customer based upon reasonable inquiry concerning the customer's investment objectives, financial situation, and needs, and any other relevant information known by the broker-dealer or agent.

25. The Short Hold Swaps recommended and executed by the South Carolina Agents were unsuitable transactions in violation of S.C. Code of Regulations § 13-501(A)(3).

26. Pursuant to S.C. Code Ann. § 35-1-412(d)(9), a person may be disciplined under S.C. Code Ann. §§ 35-1-412(a) through (c) if the person failed to reasonably supervise an agent, investment adviser representative, or other individual, if the agent, investment adviser

representative, or other individual was subject to the person's supervision and committed a violation of the Act or a rule adopted or order issued under the Act within the previous ten (10) years.

27. In violation of S.C. Code Ann. §§ 35-1-412(d)(9), the Respondent failed to reasonably supervise the South Carolina Agents, both of whom violated the Act (and specifically S.C. Code Ann. § 13-501(B)(6)) by recommending and executing the Short Hold Swaps described above.

28. This Consent Order is not intended to subject the Respondent to any disqualification contained in the federal securities laws or the Commodity Exchange Act, the rules and regulations thereunder (including, without limitation, Rule 503(a) of Regulation Crowdfunding, Rule 262(a) of Regulation A and Rules 504(b)(3) and 506(d) under the Securities Act of 1933), the rules and regulations of any self-regulatory organizations, or various states' securities laws, including any disqualifications from relying upon registration exemptions or safe harbor provisions.

## **VI. ORDER**

**NOW THEREFORE**, pursuant to S.C. Code Ann. § 35-1-412(c), it is hereby **ORDERED** that:

- a. The Respondent is censured; and
- b. In recognition of the Respondent's significant remedial efforts, detailed in Section IV (D) of this Consent Order, and continued compliance with the Act, the Respondent shall pay a civil penalty in the amount of \$50,000.

Upon execution by the Securities Commissioner, this Consent Order resolves Matter Number 20186982 as to the Respondent; however, it is expressly stated and understood that the

Division does not waive its right to pursue its regulatory claims against the South Carolina Agents.

As part of this Consent Order the Respondent agrees that it: (i) will not take any action or make or permit to be made any public statement denying, directly or indirectly, any allegation in this Consent Order or creating the impression that this Consent Order is without factual basis; and (ii) will not make or permit to be made any public statement to the effect that the Respondent does not admit the allegations of this Consent Order, or that this Consent Order contains no admission of the allegations, without also stating that the Respondent does not deny the allegations. If the Respondent breaches this agreement, the Securities Commissioner may vacate this Consent Order. Nothing in this paragraph affects the Respondent's: (i) testimonial obligations or (ii) right to take differing legal or factual positions in litigation or other legal proceedings.

This Consent Order should not be interpreted to waive any (i) criminal cause of action, (ii) private cause of action that may have accrued to investors as a result of the activities detailed herein, or (iii) other causes of action that may result from activities of the Respondent not detailed in this Consent Order.

ENTERED, this the 28 day of September, 2022.

ALAN WILSON  
SECURITIES COMMISSIONER

By: Alan Wilson  
ALAN WILSON  
Securities Commissioner  
State of South Carolina




Respondent:

By:   
Tash Elywn  
Raymond James & Associates, Inc.

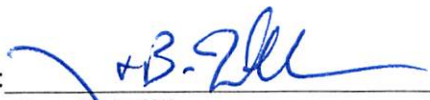
Date: 9/9/22

Attorney for Respondent:

By:   
Jaclyn Moyer  
Wilmer Cutler Pickering Hale and Dorr LLP

Date: 9/9/2022

South Carolina Attorney General's Office Securities Division:

By:   
Jonathan B. Williams  
Assistant Deputy Attorney General

Date: 9/27/22