

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

IN THE MATTER OF: )  
Declan W. Whitmyer, ) ORDER TO CEASE AND DESIST  
Respondent. ) Matter No. 20203064

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## **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 (collectively, the “Act”), and delegated to the Securities Division of the Office of the Attorney General of the State of South Carolina (the “Division”) by the Securities Commissioner, the Division conducted an investigation into the securities-related activities of Declan W. Whitmyer (“Whitmyer” or the “Respondent”), and in connection with its investigation, the Division has determined that the Respondent violated the Act.

## II. JURISDICTION

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

### III. RELEVANT PERIOD

2. Except as otherwise expressly stated, the conduct described herein occurred between January 1, 2019, through the present (the “Relevant Period”).

#### IV. RESPONDENT

3. Whitmyer's last known address was in Connecticut. Whitmyer attended college in South Carolina. Whitmyer has never been registered with the Division in any capacity.

## **VI. FINDINGS OF FACT**

4. During the Relevant Period, Whitmyer held himself out as an experienced and successful “day trader” who was making thousands of dollars a day making trades.

5. During the Relevant Period, Whitmyer approached two South Carolina investors—a husband and wife (the “SC Investors”—with the promise of using his prowess as a day trader to make the SC Investors money.

6. The SC Investors initially transferred \$50,000 via a wire to Whitmyer’s personal checking account.

7. Prior to the SC Investors’ wire, the balance of Whitmyer’s checking account was \$20.53.

8. The same day that the SC Investors wired \$50,000, Whitmyer wired \$48,000 to an account held in his name at a securities trading platform (the “Securities Trading Platform”).

9. Whitmyer spent the remaining \$2,000, together with other commingled funds, on various personal expenses, including restaurants, a movie rental, an ATM cash withdrawal, and an Airbnb rental.

10. Three days after the \$48,000 was transferred to the Securities Trading Platform, Whitmyer effectuated a series of trades with the SC Investors’ money and lost \$45,627.50. Within a month, Whitmyer had lost all of the SC Investors’ money, together with other commingled funds. According to financial statements obtained by the Division, the amount of money in the Securities Trading Platform account had plunged from a balance of \$48,414.58 to \$129.58 that month.

11. Despite losing all of the SC Investors’ money, Whitmyer informed the SC Investors that his securities trading resulted in profits.

12. Four months after their initial investment, in light of what the SC Investors believed to be Whitmyer's success in trading securities, the SC Investors decided to invest an additional \$50,000 via a second wire to Whitmyer's personal checking account.

13. Prior to the SC Investors' second wire, the balance of Whitmyer's checking account was \$674.63.

14. Three days after receiving the SC Investors' second wire, Whitmyer wired \$40,000 to his account at the Securities Trading Platform.

15. After the transfer of \$40,000 to the Securities Trading Platform, the balance of Whitmyer's checking account was \$10,326.23, reflecting Whitmyre retained \$10,000 from the SC Investors' wire.

16. Within 14 days of the transfer to the Securities Trading Platform, the balance of Whitmyer's checking account plummeted from \$10,326.23 to \$3.27. During those 14 days, Whitmyer withdrew over \$800 in cash from various ATMs in New York City, and he spent (i) over \$1,860 at Barneys New York in New York City; (ii) over \$2,800 in one night at an adult nightclub in New York City; (iii) over \$2,060 at an electronics and computer store in New York City; and (iv) over \$900 at two spa or health centers in New York City. Whitmyer also spent money on taxis and at a hotel in New York City, and at various bars and restaurants in New York City and in Connecticut. Whitmyer also wired an additional \$480 to his Securities Trading Platform account.

17. Prior to transferring the SC Investors' \$40,000 to the Securities Trading Platform account, Whitmyer's account at the Securities Trading Platform had a negative balance of - \$158.94.

18. In the same 14-day period that he was spending \$10,000 dollars of the SC Investors' money on himself, the balance of Whitmyer's Securities Trading Platform account plunged from \$39,841.06 to -\$91.57.

19. During the Relevant Period, Whitmyer stopped responding to the SC Investors' attempts to contact him regarding the \$100,000 that they entrusted him to invest.

### **Division Subpoenas**

20. As part of its investigation, the Division has sent multiple subpoenas to Whitmyer to appear for testimony and produce records.

21. Whitmyer has failed to comply with the subpoenas propounded by the Division.

22. The Division has never received the subpoenaed records from Whitmyer, and he failed to appear for testimony.

### **VII. CONCLUSIONS OF LAW**

23. Paragraphs 1 through 22 are incorporated by reference as though fully set forth herein.

24. The Respondent has never been registered with the Division in any capacity.

25. Under S.C. Code Ann. § 35-1-102(4), a "Broker-dealer" means a person engaged in the business of effecting transactions in securities for the account of others or for the person's own account.

26. Pursuant to S.C. Code Ann. § 35-1-401(a), it is unlawful for a person to transact business in this State as a broker-dealer unless the person is registered under this chapter as a broker-dealer or is exempt from registration as a broker-dealer.

27. The Respondent violated the Act when he engaged in the business of effecting transactions in securities for the Investors without being registered as a broker-dealer or claiming a registration exemption.

28. Pursuant to S.C. Code. Ann. § 35-1-501, it is unlawful for a person, in connection with the offer, sale, or purchase of a security, directly or indirectly (1) to employ a device, scheme, or artifice to defraud; (2) to make an untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or (3) to engage in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person.

29. The Respondent did not disclose to the SC Investors that he was not registered in South Carolina or any other state when he was required by law to be registered, and he failed to disclose that he was going to keep a portion of the Investors' money for himself.

30. The Respondent, in connection with the offer, sale, or purchase of a security, directly or indirectly employed a device, scheme, or artifice to defraud; made an untrue statement of a material fact or omitted a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and/or engaged in an act, practice, or course of business that operated or would operate as a fraud or deceit upon the SC Investors, in violation of the Act, when he failed to disclose that he was not registered with the Division and that he was going to take a portion of the funds he promised to invest.

31. Each violation of S.C. Code Ann. § 35-1-401(a) and § 35-1-501 is a separate violation of the Act.

32. The Respondent's violations of the Act set forth above provide the basis for this Order, pursuant to S.C. Code Ann. § 35-1-604.

33. This Order is appropriate and in the public interest, pursuant to the Act.

### **VIII. ORDER**

**NOW THEREFORE**, pursuant to S.C. Code Ann. § 35-1-604(a)(1), it is hereby  
**ORDERED** that:

- a. The Respondent and every successor, affiliate, control person, agent, servant, and employee of the Respondent, and every entity owned, operated, or indirectly or directly controlled by or on behalf of the Respondent shall **CEASE AND DESIST** from transacting business in this State in violation of the Act; and
- b. The Respondent shall pay to the Division a civil penalty of forty thousand dollars (\$40,000.00) if this Order becomes effective by operation of law, or, if the Respondent seeks a hearing and any legal authority resolves this matter, pay a civil penalty in an amount not to exceed ten thousand dollars (\$10,000.00) for each violation of the Act by the Respondent.

### **IX. NOTICE OF OPPORTUNITY FOR HEARING**

The Respondent is hereby notified that he has the right to a formal hearing on the matters contained herein. To schedule a hearing, the Respondent must file with the Division within thirty (30) days after the date of service of this Order, a written Answer specifically requesting a hearing. If the Respondent requests a hearing, the Division, within fifteen (15) days after receipt of a written request, will schedule a hearing for the Respondent. The written request shall be delivered to the Office of the Attorney General, 1000 Assembly Street, Columbia, South Carolina 29201, or mailed

to the Office of the Attorney General, Attention: Securities Division, P.O. Box 11549, Columbia, South Carolina 29211-1549.

In the written Answer, the Respondent, in addition to requesting a hearing, shall admit or deny each factual allegation in this Order, shall set forth the specific facts on which the Respondent relies, and shall set forth concisely the matters of law and affirmative defenses upon which the Respondent relies. If the Respondent is without knowledge or information sufficient to form a belief as to the truth of an allegation, the Respondent shall so state.

Failure by the Respondent to file a written request for a hearing in this matter within the thirty-day (30) period stated above shall be deemed a waiver by that Respondent of the right to such a hearing. Failure by the Respondent to file an Answer, including a request for a hearing, shall result in this Order's becoming final by operation of law. The regulations governing the hearing process can be found at S.C. Code of Regulations § 13-604.

This Order does not prevent the Division or any agency from seeking additional remedies as are available under the Act, including remedies related to the offers and sales of securities by the Respondents set forth above.

ENTERED, this the 13<sup>th</sup> day of Feb. 2026.

ALAN WILSON  
SECURITIES COMMISSIONER

By: J.B. Williams  
JONATHAN B. WILLIAMS  
Assistant Deputy Attorney General