

**BEFORE THE DIRECTOR OF THE DEPARTMENT OF FINANCE  
OF THE STATE OF IDAHO**

In the Matter of:

GLEASON FRANKLIN SWASSING III

Docket No. 2021-7-04

**AGREEMENT AND ORDER**

The State of Idaho, Department of Finance (“Department”), acting through its Securities Bureau, instituted an investigation, as allowed by the Idaho Uniform Securities Act (2004) (“Act”), Idaho Code § 30-14-101 et seq., into the conduct of Gleason Franklin Swassing III (“Swassing”). The Department and Swassing have agreed enter into this Agreement and Order to resolve the matters alleged herein without a public hearing or formal adjudication of this matter. Therefore, the Director of the Department (“Director”) deems it appropriate and in the public interest that this Agreement and Order (“Order”) be entered. Swassing admits the jurisdiction of the Department in this matter, but neither admits nor denies the Findings of Facts or Conclusions of Law.

**FINDINGS OF FACT**

1. Swassing is a resident of Idaho. During all relevant times, Swassing was registered with the Department as an agent of LPL Financial LLC (“LPL”), a registered broker dealer and SEC registered investment adviser. From about 2005 to 2016 Swassing acted as a branch manager for LPL supervising other registered and non-registered persons affiliated with LPL. Swassing retired in 2018.

2. In September 2005, Swassing organized Six Eight Properties Inc. (“SEPI”), a Nevada corporation, to facilitate investments in real estate. Swassing was the president and only person controlling the actions of SEPI.

3. Swassing's involvement with SEPI was a business activity outside his normal business as an agent and registered principal of LPL. LPL's written policies and procedures required agents to obtain prior written approval from LPL's Compliance Department before engaging in any outside business activity.

4. Consequently, Swassing was required to disclose the SEPI activities to LPL for written approval before engaging in these activities. In November 2005, Swassing notified LPL in writing of his intent to engage in joint venture agreements to purchase and hold real estate through SEPI.

5. LPL disapproved the proposed activity.

6. In 2006, Swassing solicited two of his LPL clients to invest in a five-acre property in Nevada through SEPI. The clients agreed to invest a total of \$150,000.

7. On June 14, 2006, Swassing finalized the purchase of the Property for \$155,000. As of the date of the Order, SEPI still holds title to the Property.

8. Neither investor was involved in the creation or management of SEPI, nor in finding, evaluating, or managing the property. Consequently, the SEPI investment is a security as defined in section 30-14-102(28) of the Idaho Uniform Securities Act (the "Act"), I.C. § 30-14-101, *et seq.* As a private securities transaction with his LPL clients, NASD Rule 3040<sup>1</sup> and LPL's written policies and procedures required Swassing to obtain prior written approval from LPL to engage in the SEPI investment.

9. LPL also requires its affiliated financial advisors and branch managers to complete a questionnaire annually attesting that they understand and abide by all relevant industry rules and regulations, and LPL's policies and procedures.

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<sup>1</sup> Effective in 2006, superseded by FINRA Rule 3280 in 2015 (same text).

10. Swassing engaged in the outside business activity involving SEPI and LPL clients despite LPL disapproving the activity. Swassing also never requested or received prior written permission from LPL to engage in a private securities transaction away from LPL. Finally, Swassing never informed LPL that he had engaged in this outside business activity in his annual written disclosures in the years following the SEPI investment.

### **CONCLUSIONS OF LAW**

11. The Department has jurisdiction over this matter pursuant to the Act.

12. Swassing offered or sold securities within Idaho within the meaning of I.C. §§ 30-14-102(19), 30-14-102(26) and 30-14-102(28).

13. Swassing violated NASD Rule 3040 by engaging in a private securities transaction without prior written approval of his broker dealer.

14. Swassing violated NASD Rule 2110 NASD, which requires members to observe high standards of commercial honor and just and equitable principles of trade, by engaging in the SEPI business in violation of LPL written policies and procedures and NASD Rule 3040.

15. Swassing violated Idaho Rules 104.23 and 104.28 of the Rules Pursuant to the Act by engaging in a securities transaction and outside business activity with clients of LPL without complying with LPL's written policies and procedures and by violating NASD Rules 2110 and 3040.

### **ACKNOWLEDGMENT AND REMEDIES**

16. The parties agree to entry of this Order in lieu of other proceedings.

17. Swassing agrees to pay \$40,000 to be applied as restitution to the clients. Swassing agrees to make an initial payment of \$10,000 within 30 days of the effective date of the Order and the balance in 60 consecutive monthly payments of \$500 due on the first day of the month following the initial payment.

18. Swassing agrees to pay a civil penalty of \$15,000. The Department agrees to waive payment of civil penalty if Swassing completes the \$40,000 settlement payment.

19. Swassing understands and agrees that all amounts owed pursuant to this Order, if not paid according to the terms of the Order and Stipulation, can be recorded, enforced, and satisfied in the same manner as a judgment of a court, pursuant to Idaho Code § 30-14-604 (f) and (g).

20. Swassing agrees to cease and desist from any further violation of the Act and Rules promulgated thereunder, including specifically, not to solicit or sell securities in or from Idaho unless in compliance with the Act and Rules.

21. Swassing acknowledges that if he fails to comply with the Order, the Department may institute proceedings to enforce the terms of this Order.

22. Swassing waives his right to notice and opportunity for a hearing on this matter provided by Idaho Code § 30-14-604 and under the contested case provision of the Idaho Administrative Procedures Act, Idaho Code § 67-5240 *et seq.* Swassing further waives his right to seek judicial review of this Order. The terms contained in this Order constitute the entire agreement between the Department and Swassing.

23. Swassing agrees he shall not deny or contest the Findings of Violations contained in this Order in any present or future: (a) bankruptcy proceeding, or (b) non-criminal proceeding in which the Department is a party (collectively, “proceeding(s)”). Swassing further agrees that in any such proceedings, the Findings of Violations contained in this Order may be taken as true and correct and that this Order shall collaterally estop him from re-litigating with the Department or any other state agency, in any forum, the accuracy of the Findings of Violations contained in this Order. In the event Swassing pursues bankruptcy protection in the future, Swassing further agrees that in such bankruptcy proceeding, pursuant to 11 U.S.C. § 523(a)(19), the following circumstances exist:

A. The obligations incurred as a result of this Order are a result of the conduct set forth in the Findings of Fact and Conclusions of Law in the Order and are for the violation of Idaho state securities laws, pursuant to 11 U.S.C. § 523(a)(19)(A)(i);

B. This Order constitutes a judgment, order, consent order, or decree entered in a state proceeding pursuant to 11 U.S.C. § 523(a)(19)(B)(i), a settlement agreement entered into by Swassing pursuant to 11 U.S.C. § 523(a)(19)(B)(ii), and a court order for damages, fines, penalties, citations, restitution payments, disgorgement payments, attorney fees, costs or other payments owed by Swassing pursuant to 11 U.S.C. § 523(a)(19)(B)(iii).

24. In the event Swassing commits future violations of the Act or fails to adhere to the terms of this Order, he acknowledges the Department can incorporate the allegations giving rise to this Order in any future proceeding.

25. The Department agrees not to use the Order as a basis to deny any future application for registration filed by Swassing pursuant to Idaho Code 30-14-406.

26. Swassing agrees not apply for any such registration prior to completing payment of the \$40,000 payment. Also, as a prior condition to applying for registration, Swassing also agrees to pay an additional settlement payment of \$55,000 to be applied as restitution. The additional settlement payment represents a return of all the clients' funds invested through SEPI.

AGREED TO and ACKNOWLEDGED:

  
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GLEASON FRANKLIN SWASSING, III      11.22.22  
DATE



November 29, 2002

ANTHONY POLIDORI  
Deputy Director  
Idaho Department of Finance

DATE

**IT IS SO ORDERED**

DATED this 29th Day of November, 2022

STATE OF IDAHO  
DEPARTMENT OF FINANCE



On Behalf Of

PATRICIA R. PERKINS, Director  
Idaho Department of Finance