

BEFORE THE IOWA INSURANCE COMMISSIONER

IN THE MATTER OF)	Division Case No. 119239
)	
JUSTIN M. BJERKE,)	ORDER AND CONSENT TO ORDER
CRD 5870149,)	
NPN 16368820,)	
DOB 09/13/XXXX,)	
)	
Respondent.)	

NOW THEREFORE, upon motion of the Iowa Insurance Division (“Division”) and by the consent of Respondent Justin M. Bjerke, pursuant to the provisions of Iowa Code chapters 502—Uniform Securities Act and 522B—Licensing of Insurance Producers, the Commissioner enters the following Order and Consent to Order (“Consent Order”):

I. PARTIES AND JURISDICTION

1. The Commissioner of Insurance, Douglas M. Ommen, directly and through his designees, administers and enforces Iowa Code chapter 502—Uniform Securities Act and Iowa Code chapter 522B—Licensing of Insurance Producers, pursuant to Iowa Code §§ 502.601(1) and 505.8.
2. Justin M. Bjerke (“Bjerke”) is an individual with a last-known residence address of 5305 NW 13th St., Ankeny, Iowa 50023-6060.
3. Bjerke is and has been registered in Iowa as a registered broker-dealer agent since June 13, 2011, and a registered investment advisor representative since August 8, 2011. Bjerke is registered under Central Registration Depository (“CRD”) number 5870149.
4. Bjerke is and has been licensed in the state of Iowa as a resident insurance producer since September 1, 2011. Bjerke is licensed under National Producer Number 16368820.

5. The Commissioner of Insurance has jurisdiction over this matter because Bjerke has committed acts governed by Iowa Code chapter 502.

6. On or about July 14, 2021, Bjerke engaged in acts and practices within the state of Iowa constituting cause for probation, suspension, or revocation of Bjerke's insurance producer license, investment advisor representative registration, and broker-dealer registration; cease and desist orders; and civil penalties or other relief under Iowa Code chapters 502, 505, and rules adopted pursuant to these chapters.

II. FINDINGS OF FACT

7. Bjerke applied for a resident insurance producer license with the Division by submitting a Uniform Application for Individual Producer License ("Uniform Application") through the National Insurance Producer Registry. In submitting the Uniform Application, Bjerke designated the Commissioner as an agent for service of process.

8. The Division issued Bjerke a license as a resident insurance producer on September 1, 2011. Bjerke is licensed under National Producer Number 16368820.

9. Bjerke is and has been registered in Iowa as a registered broker-dealer agent since June 13, 2011, and a registered investment advisor representative since August 8, 2011. Bjerke is registered under Central Registration Depository ("CRD") number 5870149.

10. On September 30, 2010, Edward D. Jones & Co., L.P. ("Edward Jones") hired Bjerke as a financial advisor.

11. Prior to January 21, 2021, investors T.E. and M.G.E., a married couple, used Bjerke as their financial advisor for their joint brokerage account as well as T.E.'s IRA account. T.E. made 99% of the decisions on the accounts according to M.G.E.

12. On January 21, 2021, T.E. and M.G.E. initiated divorce proceedings. While the divorce was pending, on January 22, 2021, the divorce court issued an order to preserve assets. Edward Jones placed a restriction on the accounts owned by T.E. and M.G.E. allowing Bjerke to conduct trades for T.E. but no funds could be withdrawn from the accounts.

13. On June 15, 2021, M.G.E. called Bjerke's branch office administrator and advised her that she would be leaving Edward Jones and utilizing another investment advisor company after the assets were split pursuant to the forthcoming divorce decree. This conversation was noted and described in M.G.E.'s client records with Edward Jones.

14. The divorce decree for T.E. and M.G.E. was filed June 16, 2021.

15. On June 18, 2021, Bjerke spoke with M.G.E. by phone. M.G.E. told him that she was unsure who she was going to use for a financial advisor going forward. This conversation was noted and described in M.G.E.'s client records with Edward Jones.

16. On or about July 12, 2021, two accounts were opened with Edward Jones in M.G.E.'s name to help facilitate the split of assets pursuant to the divorce decree. One of these accounts was an individual IRA account, and the other was an individual brokerage account. A portion of the assets from T.E.'s IRA account was transferred to M.G.E.'s new individual IRA account, and a portion of the joint brokerage account assets was transferred in kind to M.G.E.'s new individual brokerage account.

17. On July 14, 2021, Bjerke called M.G.E. about her brokerage account. During this call, Bjerke told M.G.E. that the accounts had been split and he suggested that he could "simplify things" for her in her account. This phone conversation lasted approximately one minute and thirty-eight seconds.

18. Bjerke made the following note in M.G.E.'s account regarding the July 14 call:

[S]poke [with M.G.E] about rebalancing her individual account as she wanted to keep it more simple than what it was since her investment experience is limited and when the assets were in the joint account with [T.E.,] he made all of the investment decision which was why we utilized a lot of individual equities. In rebalancing we felt that it was best to us an allocation fund using MFS (more so of a hands-off experience going forward since the allocation takes care of self/fits IPC guidance) since she gets the \$250K NAV breakpoint so no sales charge involved with the purchase but let her know that the sells [*sic*] of the individual equities and ETF's would carry a sales charge, also encouraged her to really think hard about keeping the portfolio as-is since there are quite large unrealized gian [*sic*] attached to each of the holdings/only 3 holding are showing and unrealized loss (about \$15XX in unrealized losses)[,] but she said she can worry about taxes 'later,' to give her an update on the transfers – she was pretty upset that it has taken this long to transfer, she said she thought that it would all be done the day that she signed her paperwork, nonetheless she wanted the conversation to be brief as she was busy and didn't want to talk long, let her know she has a temporary ID emailed to her to log in online and she said she would have Kevin (?) help her with that.

19. The next day, Bjerke again called M.G.E. to discuss her investment accounts. That phone call lasted approximately 40 seconds.

20. Bjerke made the following note in M.G.E.'s account regarding the July 15 call:

[G]ave a call to [M.G.E], started call off with "why are you calling me again" but cooled her tone when I let her know that the last of the transfers is done from [T.E.], wanted to also walk her through the rebalancing of the cash in her Trad IRA now that the \$189K was moved into that and will utilize the Franklin Templeton moderate allocation fund which aligns to IPC guidance and she ack'd the sales charge/internal cost involved with purchasing that fund, chose that fund given her limited investment experience/hands off approach since she does not like to be bothered[.]

21. On or about July 16, 2021, Bjerke liquidated M.G.E.'s brokerage account assets and used the proceeds to invest in two mutual funds. Edward Jones received a commission of \$4,677.49 (of which, Bjerke received approximately \$1,774) and fees of \$108.90 on these sales.

22. On July 27, 2021, M.G.E.'s portfolio was transferred to her new broker-dealer.

23. Bjerke did not clearly or adequately explain to M.G.E. during either of the phone calls referenced in paragraphs 18 and 20 or at any other time that he was proposing to liquidate her

current assets and reinvest them based on his own advice, or that there would be significant tax implications from this transaction.

24. On or about August 1, 2021, Edward Jones sent M.G.E. a seven-page document that contained her portfolio information and a statement for the period of June 26 to July 30, 2021. This statement showed the liquidation of the original assets, the purchase of shares of two mutual funds, and a summary of realized gains of \$63,436.95 in M.G.E.'s brokerage account.

25. The liquidation of the original assets in her brokerage account was a taxable event, subjecting M.G.E. to a \$9,501.61 capital gains tax liability.

26. On August 2, 2021, M.G.E. contacted Bjerke's office. M.G.E. stated that she did not remember talking to Bjerke about making trades in her account, giving him permission to make trades, or discussing any tax implications regarding trades. M.G.E. said that if she had a conversation with Bjerke, it was not in-depth because she would not have given permission for Bjerke to sell the original assets and buy new ones.

27. Later that day, Bjerke called M.G.E. and read the notes that he had made about the call on July 14, 2021. M.G.E. then informed Bjerke that she was going to use a new financial advisor and was going to talk to him about how to proceed with the transfer of her individual account.

28. Immediately following her call with Bjerke, M.G.E. emailed Bjerke, stating that Bjerke had not told her everything mentioned in his call note, that she had not agreed to the 22 trades, and that she knew that he was receiving a commission on the sales.

29. Bjerke responded by email, restating that they went through the details of the transactions the morning of July 14, 2021, that M.G.E. had been upset that the process of separating the assets from T.E. was taking so long, that she had requested the conversation be brief, and that M.G.E. did not have any questions at the conclusion of the call.

30. M.G.E. replied that Bjerke had not gone into detail during their conversations and that he took advantage of the situation. M.G.E. wrote, “Why would I agree for you to close those trades when you should have just transferred them [*sic*] to my other Financial Advisor [who] would have taken care of it.” M.G.E further expressed that Bjerke knew that she had little knowledge of the stock market, and that she felt Bjerke took advantage of her situation.

31. On March 07, 2022, M.G.E called and spoke to Bjerke’s office administrator, who noted the following in M.G.E.’s account notes:

[M.G.E.] called in and wanted the 1099 to be altered because her accounts are closed at Edward Jones and her accounts were never intended to be used for income. She started to go into the whole story again about how [Bjerke] hadn’t transferred the amounts to her account in a timely manner, and her [new financial advisor] used to work at [Edward Jones] and said things weren’t done correctly, and she had filed a complaint – and I cut her off and said that I had already heard that whole story from her and I didn’t need to hear it again. I looked up the tax document and her statements, and she had a balance in her individual account in July, August, and September 2021, and dividends were paid during that time. I told her that [Edward Jones] would not be altering the 1099 because we follow the IRS rules and she had taxable income in her individual account in 2021. She said that isn’t right because her accounts were handled wrong and her accounts were suppose to be non-taxable. I told her she would need to talk with her [financial advisor] and CPA and they could explain it to her. She said “so where did those dividends go” and I said they were part of the total that she transferred out of [Edward Jones] in 2021. I had to repeat it again, but she said “so you aren’t going to alter the tax form” and I said we cannot do that. She then hung up.

32. Because of the sale of the original brokerage assets, M.G.E. incurred approximately \$9,501.61 in unexpected capital gains tax liabilities. Bjerke made approximately \$1,774.00 in commissions from the liquidation of M.G.E.’s original brokerage account assets that he would not have received if he had instead effected an in-kind transfer to M.G.E.’s new broker-dealer.

33. To facilitate the resolution of this matter, Bjerke consents to the entry of this Order, but does not admit or deny the facts contained herein.

III. CONCLUSIONS OF LAW

COUNT I

Transactions Without Authorization

34. Iowa Code § 502.412(4)(m) states that a person may be disciplined if the person has engaged in dishonest or unethical practices in securities, commodities, investment, franchise, banking, finance, or insurance business with the previous ten years.

35. Iowa Administrative Code 191—50.16(1)(d) defines a dishonest or unethical practice in the securities business as executing a transaction on behalf of a customer without authorization.

36. Bjerke executed a transaction on behalf of M.G.E. without authorization when he liquidated M.G.E.'s assets without her knowledge or consent.

37. Bjerke executed a transaction on behalf of M.G.E. without authorization by purchasing shares in two mutual funds without her knowledge or consent.

38. Bjerke's acts and practices violated Iowa Code § 502.412(4)(m) and Iowa Administrative Rule 191—50.16(1)(d) subjecting Bjerke to revocation, suspension, condition, or limit Bjerke's registration, the imposition of a civil penalty, an order requiring Bjerke to cease and desist from engaging in such acts and practices, an order of restitution, the imposition of costs of the investigation and prosecution of the matter, and any other corrective action the Commissioner deems necessary and appropriate pursuant to Iowa Code § 502.412.

COUNT II

Insurance Producer Subject to an Order of the Securities Administrator

39. Under Iowa Code § 522B.11(1)(q), a license may be subject to probation, suspension, or revocation and civil penalties may be levied, as provided in Iowa Code § 522B.17, for being subject of an order of the securities administrator of this state denying, suspending, revoking, or

otherwise taking action against a registration as a broker-dealer, agent, investment advisor, or investment advisor representative.

40. Bjerke is subject of an order of the securities administrator by signing this consent order.

41. Bjerke's acts and practices violated Iowa Code §522B.11(1)(q) subjecting Bjerke to the imposition of a civil penalty, the imposition of costs of the investigation and prosecution of the matter, and any other corrective action the Commissioner deems necessary and appropriate pursuant to Iowa Code §§ 505.8, 522B.11, and 522B.17.

IV. ORDER

WHEREFORE, IT IS ORDERED pursuant to the powers granted to the Commissioner of Insurance by Iowa Code chapters 502, 507B and 522B:

A. Bjerke's Iowa investment advisor and broker-dealer agent registrations are placed on probation for a period of 180 days commencing on the date of this Consent Order pursuant to Iowa Code § 502.412 and is subject to the completion of the following terms:

1. Bjerke shall be supervised by a colleague of equal or superior authority also employed by Bjerke's employer ("Supervisor"), as identified in Attachment A attached hereto. The Supervisor shall complete a supervision form as provided by the Division each month, as identified in Attachment B attached hereto. The Supervisor shall submit the first report at the beginning of the second month of the supervision. Bjerke shall ensure such form is submitted to the Division by the fifth day of each month during the probation period.
2. If, prior to the end of Bjerke's probation, Bjerke's Supervisor is unable or unwilling to supervise him, Bjerke and his Supervisor shall notify the Division

within two (2) weeks. Bjerke must provide the name and agreement of another Supervisor willing and able to supervise Bjerke. Bjerke may not make any recommendations or be the agent of record on any insurance policies or engage in any business as a broker-dealer agent or investment advisor representative until such time as a replacement Supervisor is obtained.

3. Bjerke and Bjerke's Supervisor must respond to any information requests made under the Supervision Agreement by the Division within 72 hours. All correspondence, notices, and reporting required by Paragraph A of this Consent Order shall be submitted in writing to the Division by email iowasec@iid.iowa.gov or by mail to Iowa Insurance Division, ATTN: Securities Regulation, 1963 Bell Ave., Ste. 100, Des Moines, Iowa 50315.

- B. Bjerke shall, contemporaneously with this Consent Order, pay restitution in the amount of \$14,288 for the capital gains tax liabilities paid by M.G.E. and associated commissions and fees paid in connection with the sales, made payable to the Iowa Insurance Division, pursuant to Iowa Code § 502.604, to be distributed to M.G.E.;
- C. Bjerke shall, contemporaneously with this Consent Order, pay a civil penalty in the amount of \$10,000.00, made payable to the Iowa Insurance Division, \$7,500 of which shall be credited to the securities investor education and financial literacy training fund, to provide funds for securities fraud education pursuant to Iowa Code § 502.601(5), and \$2,500 of which shall be credited to the Iowa Enforcement Fund to provide funds for insurance enforcement and education;
- D. Bjerke shall, contemporaneously with this Consent Order, pay the amount of \$1,644.50 for costs of the investigation and proceeding pursuant to Iowa Code §

502.604(5). Payment shall be made payable to the Iowa Insurance Division shall be credited to the securities investor education and financial literacy training fund, to provide funds for securities fraud education pursuant to Iowa Code § 502.601(5); and

E. These orders may be enforced under Iowa Code chapters 502 and 522B, including but not limited to Iowa Code § 502.604(7), and 522B.17(3), and additionally, by any collection remedies available to the State of Iowa Department of Revenue for unpaid penalties and other ordered monetary amounts.

SO ORDERED on this 29th day of January, 2025.



DOUGLAS M. OMMEN
Iowa Insurance Commissioner

Respectfully submitted,



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ATTORNEY FOR THE DIVISION

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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause, or their attorney, at their respective addresses disclosed on the pleadings on January 30, 2025.

By: First Class Mail Personal Service
 Restricted certified mail, return receipt Email
 Certified mail, return receipt _____

Signature: Brooke Hohn
Brooke Hohn

NOTICE OF PENALTIES FOR WILLFUL VIOLATION OF THIS ORDER

YOU ARE NOTIFIED that if you violate this Order, you may be subject to administrative and civil penalties pursuant to Iowa Code §§ 502.604 and 522B.17(3). The Commissioner may petition the district court to hold a hearing to enforce the order as certified by the Commissioner. The district court may assess a civil penalty against you in an amount not less than three thousand dollars but not greater than ten thousand dollars for each violation and may issue further orders as it deems appropriate.

NOTICE OF FINAL ORDER IMPACT

A final order of license probation, suspension, or revocation or a cease and desist order may adversely affect other existing business or professional licenses and may result in license revocation or disciplinary action.

A final order in an administrative action does not resolve any potential criminal or civil violations or causes of action that might arise from the same or similar conduct that is the subject of this this order. It may result in criminal law enforcement authorities, including the fraud bureau of the Iowa Insurance Division, pursuing a criminal investigation or prosecution of potential criminal law violations.

CONSENT TO ORDER AND AGREEMENT

I, Justin M. Bjerke, Respondent in this matter, have read, understood, and do knowingly consent to this Order in its entirety. I understand and acknowledge I have the right to consult with an attorney on this matter if I choose to do so, and I acknowledge that the Division cannot provide me an attorney nor can the Division provide me legal advice. By executing this Consent, I understand that I am waiving my rights to a hearing, to confront and cross-examine witnesses, to produce evidence, and to judicial review.

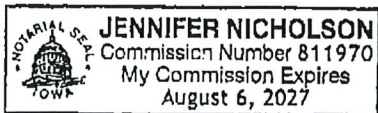
I further understand this Order is considered a final administrative action that will be reported by the Division to the National Association of Insurance Commissioners, FINRA, and to other regulatory agencies. I also understand this Order is a public record under Iowa Code chapter 22 and information may be shared with other regulatory authorities or governmental agencies, pursuant to Iowa Code § 505.8(8)(d). I also understand this Order will be posted to the Division's website and a notation will be made to the publicly available website record that administrative action has been taken against me.

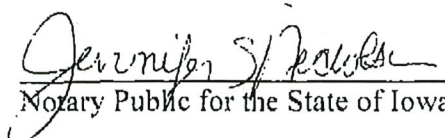

Justin M. Bjerke, Respondent

1-27-2025
Date

2575 N Ankeny Blvd, Suite 217, Ankeny, IA 50023
Address of Signatory

Subscribed and sworn before me by Justin Bjerke on this 27th day of January, 2025.




Notary Public for the State of Iowa