

UNITED STATES OF AMERICA
before the
SECURITIES EXCHANGE COMMISSION

In the Matter of the Application of

PAUL H. GILES, CRD# 2041288

For Review of Action Taken by Self-
Regulatory Organization,

PAUL GILES' MOTION TO CONSOLIDATE APPLICATIONS
FOR REVIEW OF STATUORY DISQUALIFICATION

INTRODUCTION

Mr. Giles requests that the Commission consolidate his two pending applications for review because they consider common questions of law or fact. Mr. Giles filed his first application for review on April 21, 2021 (the “First Application”).¹ He filed his second application for review on October 27, 2021 (the “Second Application”). The First Application and Second Application both consider whether state insurance commission orders that revoke insurance licenses but permit the individual to reapply are equivalent to a bar.

The First Application and Second Application both request the Commission to review FINRA’s determination that Mr. Giles is statutorily disqualified as a result of state insurance commission orders. The First Application was initially based on a Default Decision and Order of Revocation filed by the California Department of Insurance that revoked Mr. Giles’ insurance license in California (the “California Default Order”).² On May 6, 2021, FINRA notified Ameriprise Financial Services, LLC that Mr. Giles was subject to “additional disqualifying events” including the Order Revoking License filed by the Commonwealth of Kentucky Department of Insurance (the “Kentucky Order”), dated January 11, 2010.³ Mr. Giles and FINRA subsequently addressed the Kentucky Order in its briefing for the First Application.

Mr. Giles contends that the First Application encompasses all of his state insurance license revocations, including the Kentucky Order. However, FINRA has taken the position that the First Application did not encompass the Kentucky Order. In an abundance of caution, Mr. Giles filed the Second Application to include the Kentucky Order. The First Application and Second Application should be consolidated because they involve the same question of law and facts, and consolidation would not unduly delay the disposition of the legal question before the Commission.

¹ The First Application for Review is File No. 3-20267.

² The California Default Order is attached as Exhibit A.

³ FINRA’s May 6, 2021 Notice is attached as Exhibit B. The Kentucky Order is attached as Exhibit C.

I. The First Application and Second Application involve the same legal question and are based on the same fact pattern.

Pursuant to 17 C.F.R § 201.201(a), the Commission may order consolidation of proceedings “involving a common question of law or fact.” The First Application and Second Application involve common questions of law and are based on the same fact pattern.

The First Application and Second Application both consider the same legal question; whether state insurance commission orders that revoke insurance licenses but permit the individual to reapply are equivalent to a bar. FINRA believes the revocations of Mr. Giles’ insurance licenses in California and Kentucky operate as a bar. Mr. Giles contends that a plain reading of the applicable Exchange Act Sections, FINRA’s own forms, and Mr. Giles’ successful reapplication and current active license to conduct insurance business in both Kentucky and California all show that FINRA’s interpretation is incorrect. The First Application and Second Application will both be resolved when the Commission issues a decision on the legal question presented.

The Commission has previously consolidated applications for review filed by entirely different applicants where the applicants shared a “common fact pattern.”⁴ The First Application and Second Application share a closer connection. They are filed by the same applicant and are based on the same fact pattern. At a minimum, the First Application is based on the California Default Order, which revoked Mr. Giles’ California insurance license.⁵ Similarly, the Second Application is based on the Kentucky Order, which revoked Mr. Giles’ Kentucky insurance license. The California Default Order and the Kentucky Order both resulted in FINRA statutorily disqualifying Mr. Giles based on FINRA’s belief that revocation orders are the equivalent to bars. Moreover, Mr. Giles has since

⁴ See *In the Matter of Consolidated Applications for Review of Action Taken by FINRA*, Exchange Release Act No. 87615, 2019 LEXIS 4816, at *2 (November 25, 2019).

⁵ Mr. Giles contends that the First Application is also based on the Kentucky Order. As indicated above, Mr. Giles filed the Second Application specifically referencing the Kentucky Order in an abundance of caution.

reapplied for insurance producer licenses in both California and Kentucky and he is now licensed to conduct insurance business in both states.

II. The ultimate disposition of the legal question at issue in the First Application and Second Application will not be unduly delayed by consolidation.

The common legal question before the Commission has been extensively briefed in the First Application and any additional briefing in connection with the Second Application would be duplicative. Consolidating the First Application and Second Application would not unduly delay the disposition of the legal question before the Commission. In fact, consolidating would “promote administrative efficiency” and avoid the need for the parties to file duplicative briefs with arguments the Commission has already heard.⁶ Consolidating the First Application and Second Application would also avoid the potential for inconsistent rulings.

Notably, the briefs provided in the First Application referenced and discussed the Kentucky Order that is the subject of the Second Application. Mr. Giles’ Brief in Support of the Application for Review in the First Application incorporated the Kentucky Order, stating “the revocations of Mr. Giles’ insurance licenses are not equivalent to a bar” (emphasis added).⁷ FINRA’s Opposition to the Application for Review also discussed the Kentucky Order and even attached the Kentucky Order as an exhibit.⁸ In the interest of efficiency and fairness, the First Application and Second Application should be consolidated.

III. Conclusion

For the foregoing reasons, Mr. Giles respectfully requests that the Commission order the consolidation of the First Application and Second Application as they present the same question of

⁶ *Consolidated Applications*, 2019 LEXIS 4816, at *4.

⁷ *In the Matter of the Application of Paul H. Giles*, Brief in Support of Application for Review, File No. 3-20267 (June 25, 2021).

⁸ *In the Matter of the Application of Paul H. Giles*, FINRA’s Brief in Opposition to Application for Review, File No. 3-20267 (July 26, 2021).

law and substantially similar facts, and because consolidation would promote administrative efficiency.

MURPHY & ANDERSON, P.A.

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Attorneys for Paul Giles

December 15, 2021

CERTIFICATE OF SERVICE

I, Niels Murphy, certify that on this 15th day of December 2021, I caused a copy of the foregoing Motion to Consolidate pursuant to 17 CFR § 201.151(d), to be filed through the SEC's eFAP system and served by electronic mail on:

Andrew Love
Associate General Counsel
FINRA
1735 K Street, NW
Washington, DC 20006
(202) 728-8281
andrew.love@finra.org

UNITED STATES OF AMERICA
Before the
SECURITIES EXCHANGE COMMISSION

In the Matter of the Application of

PAUL H. GILES, CRD# 2041288

For Review of Action Taken by FINRA

PAUL H. GILES' INDEX OF ATTACHMENTS FOR MOTION TO CONSOLIDATE

<u>Attachment</u>	<u>Description</u>
A	California Insurance Default and Revocation
B	2021.05.06 FINRA letter re Giles Additional SD Group
C	Kentucky Revocation Order

Exhibit A

STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
SACRAMENTO

In the Matter of the Licenses and)	
Licensing Rights of)	DEFAULT DECISION and
)	ORDER OF REVOCATION
)	
PAUL HENRY GILES)	File No. LBB 5008-AP (AR)
)	
)	
Respondent)	
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WHEREAS, Respondent PAUL HENRY GILES, was from September 21, 1993, through September 30, 1995, and from May 17, 2006, through December 31, 2007, the holder of a license issued by the Insurance Commissioner of the State of California to act as a life agent. On January 1, 2008, said life agent license was converted to a life-only agent license and an accident and health agent license. Respondent now is and since January 1, 2008, has been licensed by the Insurance Commissioner to act as a life-only agent and as an accident and health agent;

WHEREAS, on July 2, 2009, Respondent was served with an Accusation, Statement to Respondent, and a form entitled Notice of Defense as provided for by Section 11505 of the California Government Code;

WHEREAS, as of the date of this Decision and Order, Respondent has failed to file a Notice of Defense;

WHEREAS, Respondent, having failed to file a Notice of Defense within the time allowed by Section 11506 of the Government Code; the DEFAULT of Respondent is hereby entered, and the Insurance Commissioner having determined that Respondent has waived the right to a

hearing to contest the merits of the Accusation, the Insurance Commissioner will take action on the Accusation and documents on file in this matter without any hearing, as provided by Sections 11506 and 11520 of the California Government Code.

DECISION

The Insurance Commissioner makes the following Finding of Fact, Determination of Issues Presented, and Order:

FINDINGS OF FACTS

The facts alleged in the Accusation in the above-captioned proceedings are hereby found to be true.

DETERMINATION OF ISSUES PRESENTED

IT IS HEREBY DETERMINED:

That the Findings of Fact show that Respondent has violated the provisions of the Insurance Code as alleged in said Accusation and are grounds, as specified in said Accusation, for the disciplinary action stated therein.

WHEREFORE, the Insurance Commissioner makes the following Order:

ORDER

NOW, THEREFORE, pursuant to the authority of California Insurance Code Section 1668, in conjunction with Section 1738 of the California Insurance Code, the Insurance

Commissioner hereby orders that the licenses and licensing rights of Respondent, including, but not limited to those referenced herein above, be, and the same hereby are, REVOKED, effective thirty (30) days from the date of this order.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed by official seal,
this 8th day of September, 2009.

STEVE POIZNER
Insurance Commissioner

By: /S/

ROBERT HAGEDORN
Assistant Chief Counsel

Exhibit B



May 6, 2021

Sent via certified mail and email to REGULATORY.AFFAIRS@AMPF.COM

Lauren Holmes
Ameriprise Financial Services, LLC
5221 Ameriprise Financial Center
Minneapolis, MN 55474

Re: Paul Giles, CRD # 2041288

Dear Lauren Holmes,

In addition to our letter dated March 24, 2021, FINRA has determined that Paul Giles is subject to two additional disqualifying events, as defined in Section 3(a)(39) of the Securities Exchange Act of 1934. These disqualifications arise as a result of the Order Revoking License filed by the Commonwealth of Kentucky Department of Insurance, DOI No. 677280, File No. 2010-0009, dated January 11, 2010, in which Paul Giles' license was revoked and may also include findings of fraudulent, manipulative and deceptive conduct, and the Order Revoking License filed by the State of Washington Office of Insurance Commissioner, Case No. 10-0154, dated August 13, 2010, in which Paul Giles' license was also revoked, effective September 2, 2010.

Generally, no person who is, or who becomes, subject to a disqualification shall associate, or continue association, with a FINRA member unless the member requests and receives written approval from FINRA. The process for requesting such approval is referred to as the Membership Continuance process.

To initiate the Membership Continuance process, the member must send a completed Form MC-400 Application (which includes an authorization to deduct the \$5000 application fee) to **Pascal Goddard** at SDGroup@finra.org. However, in light of the firm's recent Application for Review and Motion to Stay ("Motion") filed with the U.S. Securities and Exchange Commission ("SEC"), the member's response is due **no later than 13 days from the SEC's ruling on this Motion**.

In connection with the Membership Continuance proceeding, the member will be required to provide proof that the disqualified individual is covered by the firm's fidelity bond. In addition, if the association is approved, FINRA will conduct periodic special examinations for the duration of the individual's statutory disqualification, for which FINRA will assess the member an annual fee in accordance with [Schedule A, Section 12\(b\) of FINRA's By-Laws](#).

If the firm declines to pursue the Membership Continuance process, it should immediately terminate its association with this individual, and notify FINRA in writing, at the above email address, of the termination **no later than 13 days from the aforementioned SEC ruling**. The firm must submit the Form U5 Termination Notice to CRD within 30 days after the termination.

PLEASE NOTE: Failure to timely file the written request for relief or Form MC-400 Application, could result in a revocation of the registration of the disqualified person unless the Department of Member Regulation grants an extension *for good cause* (see FINRA Rule 9522). You may direct any questions about this process to Patricia Delk-Mercer, Senior Director and Counsel, FINRA's Statutory Disqualification Program at (240) 386-5461 or SDMailbox@FINRA.org.

For more information about our statutory disqualification and Membership Continuance process or to obtain a copy of the Form MC-400 Application, please visit our web site:
<http://www.FINRA.org/sdprocess>.

We anticipate your firm's response **no later than 13 days from the aforementioned SEC ruling**. If you have any questions regarding the above information, please contact the undersigned at 240-386-5193.

Sincerely,

Pascalie Goddard

Pascalie Goddard
Credentialing, Registration, Education and Disclosure (CRED)
FINRA

cc: AnnMarie McGarrigle, FINRA

Christine Kolber, FINRA

Patricia Delk-Mercer, FINRA

Glynnis Kirchmeier, FINRA

Paul Giles
245 Church St.
Romeo, MI 48065

Exhibit C



**COMMONWEALTH OF KENTUCKY
DEPARTMENT OF INSURANCE
FRANKFORT, KENTUCKY**

IN THE MATTER OF:

**PAUL H. GILES
70110 Eldred Road
Romeo, MI 48065
DOI NO.: 677280
File No.: 2010-0009**

ORDER REVOKING LICENSE

WHEREAS, **PAUL H. GILES** [hereinafter, "Giles"], is licensed as a non-resident agent with health, life, and variable life and variable annuities lines of authority in active status; and

WHEREAS, this matter came before the Kentucky Department of Insurance [hereafter, "DOI"] as the result an administrative action against Giles' insurance license in the State of California. The Agent Licensing Division and Consumer Protection Division of the Kentucky Department of Insurance inquired with Giles regarding this matter. Giles has failed to answer or respond in any way to all attempts made to contact him by DOI regarding this matter. Giles' California insurance license has since been revoked; and

WHEREAS, KRS 304.9-440(1)(h) provides that the Executive Director (now Commissioner) may revoke an insurance license for using fraudulent, coercive, or dishonest practices; or demonstrating incompetence, untrustworthiness, or financial irresponsibility; or being a source of injury or loss to the public in the conduct of business in this state or elsewhere; and

WHEREAS, KRS 304.2-165(2) provides that the Executive Director (now Commissioner) shall send a copy of a complaint against a licensed individual and that the licensee shall send a written or electronic message response to the Executive Director (now Commissioner) within fifteen (15) calendar days from the date of the Executive Director's (now Commissioner's) letter; and

WHEREAS, KRS 304.9-440(1)(b) provides that the Executive Director (now Commissioner) may revoke an insurance license for violating any insurance laws, violating any administrative regulations, subpoena, or order of the Executive Director (now Commissioner); and

WHEREAS, KRS 304.9-440(1)(i) provides that the Executive Director (now Commissioner) may revoke an insurance license for having an insurance license, life settlement license, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory; and

NOW THEREFORE, pursuant to KRS 304.9-440(1)(h), KRS 304.2-165(2), KRS 304.9-440(1)(b), KRS 304.9-440(1)(i) and all other applicable laws, it is **ORDERED** that the Kentucky insurance license of Paul H. Giles is **REVOKED**.

IT IS FURTHER **ORDERED** that Paul H. Giles shall return his insurance license to the Kentucky Department of Insurance, pursuant to KRS 304.9-460(1), if he has not already done so. If the license cannot be found, then Giles shall complete, have

notarized, and return an affidavit stating that the license has been lost, pursuant to KRS 304.9-460(2). Pursuant to KRS 304.9-450(2), the Commissioner shall not again issue a license under KRS Chapter 304, Subtitle 9 to any individual or business entity whose license has been revoked, until after the expiration of one (1) year and thereafter not until the individual or business entity again qualifies in accordance with applicable licensure provisions of Subtitle 9.

NOTICE OF APPEAL RIGHTS

This Order is a final agency action within the meaning of KRS 304.2-310 and the aggrieved party may file an appeal with the Commissioner within sixty (60) days after the effective date of this Order by making a written application for a hearing. A stay of the Order shall be effective upon the receipt of a proper request for a hearing on the matter.

Done and effective this 11 day of January, 2010.

Signature on file with original document

Sharon P. Clark, Commissioner
Kentucky Department of Insurance

Certificate of Service

This is to certify that the original of the foregoing Order was served by certified mail, return receipt requested, to:

Paul H. Giles



And

Paul H. Giles



And by Messenger Mail to:

Treva Wright-Donnell, Director
Agent Licensing Division
Kentucky Department of Insurance

And

Rodney Hogle
Consumer Protection Division
Kentucky Department of Insurance

And

DOI Custodian of Record
215 W. Main Street
Frankfort, Kentucky 40601

On this 13th day of January, 2010.

Signature on file with original document

Hon. Taylor M. Hubbard
Kentucky Office of Legal Services
Insurance Division
P.O. Box 517
Frankfort, Kentucky 40601
Telephone: 502-564-6032
Fax: (502) 564-1456