

**ADMINISTRATIVE PROCEEDING
BEFORE THE
MARYLAND SECURITIES COMMISSIONER**

IN THE MATTER OF:

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First Management Group Investments, Inc.

*

File No.: 2012-0309

and

*

John R. Katkish

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Respondents.

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FINAL ORDER OF REVOCATION AND BAR

WHEREAS, the Securities Division of the Office of the Maryland Attorney General (the “Division”), pursuant to the authority granted in section 11-701 of the Maryland Securities Act, Corporations and Associations Article, Title 11, Annotated Code of Maryland (2007 Repl. Vol. and 2012 Supp.) (the “Act”), undertook an investigation into the securities and investment advisory-related activities of First Management Group Investments, Inc. (“Respondent FMGI” or “FMGI”) and John Katkish (“Respondent Katkish” or “Katkish”), (collectively, the “Respondents”); and

WHEREAS, on the basis of that investigation the Maryland Securities Commissioner (the “Commissioner”) issued a Summary Order to Cease and Desist, Order of Summary Suspension and Order to Show Cause, and a First Amended Summary Order to Cease and Desist, Order of Summary Suspension and Order to Show Cause (the “Orders”), which are incorporated by reference, summarily suspending Respondent FMGI’s investment adviser registration, ordering Respondents to cease and desist from violating sections 11-401 and 11-402 of the Act, requiring Respondent FMGI to show cause why its investment registration should not be revoked, and requiring

Respondents to show cause why they should not be barred permanently from engaging in the securities and investment advisory business in Maryland and why a statutory penalty of up to \$5,000 per violation should not be entered against them; and

WHEREAS, the Orders provided that the failure to file an answer, including a request for a hearing, within fifteen (15) days of service of the Orders would result in the entry of a Final Order revoking Respondent FMGI's registration as an investment adviser in Maryland, barring Respondents from engaging in the securities or investment advisory business in Maryland for or on behalf of any others, or from acting as principal or consultant in any entity so engaged; and imposing on Respondents a monetary penalty of up to \$5,000 per violation of the Act, and

WHEREAS, Respondents have failed to file a timely answer to the Orders or to make a written request for a hearing; and

WHEREAS, the Commissioner has determined that it is in the public interest to issue this Final Order of Revocation and Bar;

NOW, THEREFORE, pursuant to sections 11-412(a)(2), 11-412(a)(7), 11-412(a)(9), 11-415(c), and 11-701.1(a) of the Act, THE COMMISSIONER FINDS AND ORDERS:

I. JURISDICTION

1. The Commissioner has jurisdiction in this proceeding pursuant to section 11-701.1 of the Securities Act.

II. RESPONDENTS

2. At all times relevant to this matter, John R. Katkish maintained a place of residence in Washington, D.C. and a place of business in Chevy Chase, MD. Katkish is the president, CEO and majority owner of First Management Group, Inc., and the president of FMGI.

3. FMGI is a Maryland corporation. At all times relevant to this matter, FMGI

maintained a place of business in Chevy Chase, MD. From May 2005 to December 31, 2012, FMGI was registered with the State of Maryland as an investment adviser. Prior to January 2011, FMGI was registered with the Division under the name of First Management Group, Inc. FMGI is owned by First Management Group, Inc. and Katkish.

III. STATEMENT OF FACTS

Unregistered Advisory Activities

4. On or about February 25, 2005, FMGI filed with the Division an application to register as an investment adviser. FMGI also submitted an application to register K.S. as an investment adviser representative. K.S. held the S65 examination and also was listed as FMGI's compliance principal.

5. At the time of the application filing, FMGI was registered as an investment adviser with the District of Columbia.

6. During the application process, FMGI notified the Division that, in January 2003, FMGI had failed to comply with the District of Columbia's Department of Insurance, Securities and Banking's ("DISB") registration requirements by not having a registered investment adviser representative. FMGI also told the Division that "Mr. John Katkish, CEO, had scheduled to take the Series 65 exam and register himself as an Investment Adviser Representative. However, due to a family emergency, he was unable to take the exam and hence could not be registered as a representative."

7. During the application process, the Division also learned that, prior to applying for registration as an investment adviser in Maryland, Respondent had relocated its offices from the District of Columbia to Maryland and provided investment advisory services to twenty clients.

8. In resolution of the violations resulting from the unregistered investment advisory

activities, in May 2005, FMGI entered into an Undertaking with the Securities Commissioner. In the Undertaking, FMGI agreed to cease and desist from further violations of sections 11-401 and 11-402 of the Act, waived its reliance upon section 11-412(b) of the Act, and agreed to comply with the Act and the rules and regulations under the Act. The Undertaking was executed by Katkish on behalf of FMGI.

9. FMGI's application for registration as an investment adviser in the State of Maryland was made effective on May 23, 2005.

10. In June 2010, the DISB conducted an on-site examination of FMGI's investment advisory practice.

11. As a result of the examination, in October 2010, the DISB issued to FMGI a letter setting forth the "areas of [FMGI's] operation that [were] of concern to [DISB]." In particular, the DISB noted that, despite the fact that he was not registered as an investment adviser representative, Katkish was providing investment advice and otherwise acting as an investment adviser representative. The DISB letter set forth specific examples of Katkish providing advisory services to clients. The letter also directed FMGI to "license all persons who act as investment adviser representatives in the District of Columbia."

12. According to the CRD system, applications to register Katkish as an investment adviser representative in the State of Maryland and the District of Columbia were filed on December 6, 2010 and August 29, 2011; however, in both instances, Katkish failed to sit for the S65 examination.

13. In a follow-up examination letter to FMGI dated June 30, 2011, the DISB asked why Katkish had failed to take the scheduled S65 examination and why Katkish still was not licensed as an investment adviser representative. The DISB directed that FMGI, within ten days of receipt of

the letter, provide evidence of Katkish's compliance with the examination requirements and license Katkish as an investment adviser representative. Alternatively, the DISB directed FMGI to eliminate all of Katkish's supervisory duties and to amend all FMGI documents making reference to Katkish's supervisory duties, including FMGI's compliance procedures manual and Form ADV, both of which listed Katkish as FMGI's chief compliance officer.

14. On or about July 17, 2012, the Maryland Securities Division conducted an on-site examination of FMGI's investment advisory practice.

15. During the examination, the Division's examiners obtained records indicating that Katkish had directly provided investment advisory services to clients, including by providing clients with written reports summarizing their asset allocations, by providing clients with letters discussing the performance of their accounts, and by meeting with and planning future meetings with clients.

16. According to one client, Katkish regularly met with the client to discuss investments.

17. Katkish is not now, nor has he ever been, registered as an investment adviser representative in the State of Maryland.

18. Katkish has never taken or passed the investment adviser examination required to qualify him to act as an investment adviser representative.

19. On or about July 23, 2012, the Division received information from the Investment Adviser Registration Depository that FMGI's sole investment adviser representative, and the person listed on Form ADV as the person responsible for compliance and supervision for FMGI, terminated his affiliation with Respondent.

20. Respondent no longer has a principal or an investment adviser representative that has passed the investment adviser examination and, thus, no investment adviser representative through which the firm can conduct advisory business.

Misuse of Advisory Clients' Funds - E.S. and L.B.

21. J.S. was a former advisory client of FMGI. She passed away in March 2009.
22. Prior to her death, J.S. created a will. In her will, J.S. created a testamentary residuary trust for the benefit of her two adult children for life with a remainder interest in their surviving issue ("beneficiaries").
23. J.S.'s will appointed Katkish and her two children, E.S. and L.B., as co-trustees of the residuary trust. The will also appointed Katkish and E.S. and L.B. as co-personal representatives of her estate.
24. J.S. also had established an insurance trust for the benefit of E.S. and L.B. for life with a remainder interest in their surviving issue.
25. The insurance trust was to be funded by a \$1.5 million insurance policy on J.S.'s life.
26. Upon her death, the proceeds of the insurance policy were paid to the insurance trust. The insurance trust was then divided into two subtrusts, one for the benefit of each child. E.S. and L.B. and Katkish served as co-trustees for the subtrusts.
27. In his capacity as co-trustee for the subtrusts, Katkish established investment accounts for the two subtrusts at a brokerage firm. Each investment account was established in the name of John Katkish, as trustee of the subtrust, for the benefit of L.B. or E.S.
28. FMGI managed the subtrusts' investment accounts and charged the accounts an assets under management fee.
29. As the personal representative for J.S.'s estate, Katkish set up a bank account to hold the liquid assets of the estate.
30. Katkish initially acted jointly with the two co-personal representatives, L.B. and E.S., but soon began signing and issuing checks from the estate's checking account without the

concurrence of L.B. and E.S.

31. Between April 2009 and January 2010, Katkish wrote a number of checks totaling more than \$200,000 either to himself or to First Management Group, Inc. Eleven checks totaling more than \$180,000 were written to First Management Group, Inc. With the exception of the first check for \$5,200, the checks were signed solely by Katkish. Eleven checks totaling more than \$30,000 were written to Katkish personally. The memo section of the checks indicated that the checks were for reimbursement of expenses outlaid by Katkish. However, Katkish neither sought L.B.'s and E.S.'s approval for the payments nor provided them with documentation supporting the payments.

32. In August 2009, Katkish wrote five checks from the estate account to the D.C. Treasurer. The checks totaled close to \$20,000 and referenced his personal social security number and tax years 2006 and 2007. The payments were for his personal benefit, and not for the benefit of the estate or its beneficiaries.

33. In October 2009, Katkish wrote two checks from the estate account to GIFREHC for a total of \$65,000. GIFREHC is a real estate holding company controlled by Katkish and had no connection to the estate. The payments were for Katkish's personal benefit, not for the benefit of the estate or its beneficiaries.

34. In September 2009 and December 2009, Katkish wrote two checks totaling approximately \$36,000 to Stephen Hage of Strategies for Independent Living. Mr. Hage was a building contractor who performed work for Katkish. The payments benefitted Katkish, not the estate or its beneficiaries.

35. Katkish also made a number of electronic payments from the estate account to credit card companies. The credit card payments were for the benefit of Katkish, not the estate or its

beneficiaries.

36. In July 2010, L.B. and E.S., in their capacities as co-trustees, co-personal representatives, and beneficiaries, filed a lawsuit against Katkish in the Superior Court of the District of Columbia. The complaint alleged, among other things, that Katkish failed to consult with them in administering the estate, that Katkish failed to provide them with an accounting for significant transfers from the estate and trust accounts, and that Katkish misappropriated close to \$500,000 of the estate's assets.

37. On or about June 20, 2011, pursuant to an agreement reached between the parties, the court issued a consent order directing Katkish to make payments totaling \$288,980 to the estate by September 2011. The consent order also acknowledged that Katkish had already made payments of \$186,570.33 to the estate.

Misuse of Advisory Client's Funds - D.T.

38. The majority of FMGI's advisory clients' assets were custodied at Charles Schwab.

39. On or about June 20, 2012, Charles Schwab received a Letter of Authorization Form for Wire Transfers directing Charles Schwab to transfer \$40,500 from the account of one of FMGI's advisory clients, D.T., to a SunTrust bank account held in the name of First Management Group Inc. As indicated above, FMGI is owned by First Management Group, Inc., which is owned and controlled by Katkish.

40. D.T. has no recollection of having signed the Letter of Authorization Form for Wire Transfers, and does not know why the funds were transferred to First Management Group, Inc.'s bank account.

41. The June 2012 monthly statement for First Management Group, Inc.'s SunTrust bank account shows that, on the day of the transfer, the account had only \$137.

42. Within two days of the transfer, Katkish began making a series of payments to himself or to third parties. Between June 22, 2012 and June 29, 2012, payments totaling more than \$22,000 were made to American Express (\$5,066.67), Capital One (\$2,500), John Katkish (\$12,500) and BMW of Rockville (\$2,376.95).

43. The payments were funded by the \$40,500 as no other funds were transferred to First Management Group Inc.'s account during that time.

44. Subsequent to the transfer, D.T. became aware of the transfer.

45. When D.T. approached Katkish about the transfer, D.T. was told that the funds were intended to be used for an investment with or in a California company, but was vague on the circumstances surrounding the investment. However, as the bank records reflect, the funds were used to fund Katkish's personal expenses.

46. The \$40,500 was subsequently returned to D.T.'s account on or about July 13, 2012, but only after pressure from D.T.

47. During the Division's examination of FMGI, Division staff presented Katkish with a document evidencing the \$40,500 transfer to First Management Group, Inc.'s account. Rather than answer any questions regarding the document or the transfer, Katkish referred Division staff to his attorney.

IV. CONCLUSIONS OF LAW

The Commissioner concludes that:

48. Respondents violated section 11-301 of the Act by misrepresenting the use of investor assets in connection with a purported investment and converting those assets to their personal use.

49. Respondents violated section 11-302 of the Act and Regulations 02.02.05.03B(6),

02.02.05.03B(8) and 02.02.05.03B(15) promulgated under the Act by, among other things, misrepresenting or omitting to disclose material facts to clients, commingling client assets with those of their own, and converting client assets to their personal use.

50. Respondent Katkish violated section 11-401 of the Act by acting as an unregistered investment adviser representative.

51. Respondent FMGI violated section 11-402 of the Act by employing or associating with an unregistered investment adviser representative.

52. Respondents violated section 11-302(f) of the Act by commingling client assets with those of their own and using some or all of those funds for their personal benefit.

53. Respondents violated section 11-303 of the Act by filing a false and misleading document with the Division.

54. Respondents willfully violated or failed to comply with sections 11-301, 11-302(a)(1), (a)(2), (a)(3), (c) and (f), 11-303, 11-401, and 11-402 of the Act, and grounds exist for the revocation of Respondent FMGI's registration as an investment adviser under section 11-412(a)(2) of the Act.

55. Respondents engaged in unethical business practices by, among other things, misrepresenting or omitting to disclose material facts to clients, and converting client funds to their personal benefit, and grounds exist for the revocation of Respondent FMGI's registration as an investment adviser under section 11-412(a)(7) of the Act.

56. Respondent FMGI's principal does not possess the requisite examination to qualify as an investment adviser, and grounds exist for the revocation of Respondent FMGI's registration as an investment adviser under section 11-412(a)(9) of the Act.

V. SANCTIONS

57. NOW, THEREFORE, IT IS HEREBY ORDERED that:

a. Respondent FMGI's registration as an investment adviser in Maryland is revoked effective December 31, 2012.

b. Respondents FMGI and Katkish are permanently barred from engaging in the securities or investment advisory business in Maryland for or on behalf of any others, or from acting as principal or consultant in any entity so engaged.

c. Respondents FMGI and Katkish, jointly and severally, are assessed a civil monetary penalty pursuant to section 11-702 of the Act in the amount of \$50,000 for the violations set forth in this Order.

VI. JURISDICTION RETAINED

58. Jurisdiction shall be retained by the Commissioner for such further orders and directions as may be necessary or appropriate for the construction or enforcement of this Order.

VII. APPEAL RIGHTS

59. Each Respondent may appeal this Final Order of Revocation and Bar to the appropriate Circuit Court of the State of Maryland within 30 days from the date this Final Order is mailed by the Securities Division.

SO ORDERED:

**Commissioner's Signature is
on File with Original Document**

Melanie Senter Lubin
Maryland Securities Commissioner

March 1, 2013