

STATE OF OREGON  
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
DIVISION OF FINANCIAL REGULATION

In the Matter of:

Case No. S-19-0041

KEITH R. GEBERT,  
Respondent.

ORDER TO CEASE AND DESIST,  
ORDER ASSESSING CIVIL  
PENALTIES, AND CONSENT TO  
ENTRY OF ORDER

The Division of Financial Regulation (the “Division”), acting on behalf of the Director of the Department of Consumer and Business Services for the State of Oregon (the “Director”), conducted an investigation of Keith R. Gebert (“Respondent”). The Division determined that Respondent violated provisions of Oregon Revised Statutes (“ORS”) 59.005 to 59.505, 59.991 and 59.995 (the “Oregon Securities Law”) and the Oregon Administrative Rules (“OAR”) promulgated under those laws. The Director issues the following Findings of Fact, Conclusions of Law, Order to Cease and Desist, Proposed Order Assessing Civil Penalties, and Notice of Right to an Administrative Hearing.

Respondent, without either admitting or denying the Findings of Fact or Conclusions of Law contained herein, wishes to resolve and settle this matter with the Director.

Now, therefore, as evidenced by the signature(s) subscribed herein, Respondent hereby CONSENTS to entry of this Order.

**FINDINGS OF FACT**

The Director FINDS that:

1. Between December 1, 2016, and March 25, 2019, AE Wealth Management, LLC (“AE Wealth Management”) (Firm Central Registration Depository (“CRD”) number

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Labor and Industries Building  
350 Winter Street NE, Suite 410  
Salem, OR 97301-3881  
Telephone: (503) 378-4387





1 282580) maintained Respondent (Individual CRD number 5340558) as an investment  
2 advisor representative.

3 2. On or about December 6, 2016, an individual identified herein as DW and his  
4 wife signed an agreement with AE Wealth Management to become clients of the firm. On  
5 that same date, Respondent became the investment advisor representative for DW and his  
6 wife. DW established both a joint account with his wife as well as an Individual Retirement  
7 Account. DW was born in 1949.

8 3. At all relevant times, DW has been a resident of Eugene, Oregon.

9 4. At all relevant times, Fidelity Investments (“Fidelity”) was the custodian of  
10 DW’s investment funds for which Respondent served as an investment advisor  
11 representative.

12 5. In or about December, 2018, Respondent and DW discussed and agreed to  
13 move DW’s accounts from AE Wealth Management to another advisory firm, Brookstone  
14 Capital Management, LLC (“Brookstone Capital”), for which Respondent would continue  
15 to provide investment management services. Also at this time, Respondent maintains that  
16 DW further agreed to have Respondent manage a \$10,000 separate trading account.

17 6. On January 11, 2019, DW signed account transfer paperwork to move his  
18 accounts from Fidelity (AE Wealth Management’s custodian) to TD Ameritrade, the  
19 custodian for Brookstone Capital.

20 7. On January 16, 2019, Respondent called Fidelity and identified himself as DW.  
21 Respondent used DW’s personal information that he had access to – including telephone  
22 numbers, account numbers, account information, and names and dates of birth – in order  
23 to verify that he was DW. After completing that verification process by impersonating DW,  
24 Respondent transferred \$10,000 from DW’s account to the account of Respondent’s  
25 associate, identified herein as OM. Respondent confirmed OM’s name and account number  
26 with the Fidelity representative.



1 8. DW did not consent to Respondent representing himself as DW to Fidelity.

2 9. On January 17, 2019, Fidelity notified DW that \$10,000 had been transferred  
3 out of his account. DW then contacted Fidelity by phone and informed Fidelity that he had  
4 never called Fidelity to initiate this particular transfer. DW stated he did not contact Fidelity  
5 the previous day and that he did not know OM.

6 10. According to Respondent, DW subsequently came to believe that Respondent’s  
7 actions as described in Paragraph 7 were an effort to effectuate their agreement for  
8 Respondent to manage \$10,000 of DW’s funds in a separate trading account, although DW  
9 did not understand the methods Respondent employed to attempt to transfer those funds.

10 11. By mid-February 2019, all of DW’s investment accounts were successfully  
11 transferred to Respondent and Brookstone Capital. DW remains an advisory client of  
12 Respondent as of the date of this Order. DW does not allege that he suffered any financial  
13 harm due to Respondent’s actions outlined in Paragraph 7.

14 12. On March 25, 2019, AE Wealth Management terminated Respondent. That  
15 same day, AE Wealth Management filed Form U-5 with the Financial Industry Regulatory  
16 Authority (“FINRA”). On that form, AE Wealth Management stated that it terminated  
17 Respondent following an investigation because “It was determined that Mr. Gebert  
18 impersonated a client and a former client<sup>1</sup> on phone calls with a custodian.”

19 **CONCLUSIONS OF LAW**

20 The Director CONCLUDES that:

21 13. Under ORS 59.015(19)(a), “security” means a note, stock, treasury stock, bond,  
22 or, in general, any interest or instrument commonly known as a “security.”

23 14. The investments contained in DW’s accounts that Respondent managed  
24 constitute “securities” under ORS 59.015(19)(a).

25 15. Under ORS 59.135(3), it is unlawful for any person, directly or indirectly, in

26 <sup>1</sup> AE Wealth Management’s investigation involved other clients of Respondent who did not reside in Oregon.



1 connection with the purchase or sale of any security or the conduct of a securities business  
2 or for any person who receives any consideration from another person primarily for  
3 advising the other person as to the value of securities or their purchase or sale, whether  
4 through the issuance of analyses or reports or otherwise to engage in any act, practice, or  
5 course of business which operates or would operate as a fraud or deceit upon any person.

6 16. By impersonating DW in order to transfer funds from DW's account without  
7 DW's consent to represent himself to Fidelity as DW, Respondent engaged in an act or  
8 practice in violation of ORS 59.135(3).

9 17. Under ORS 59.245(4), if the Director has reason to believe that any person has  
10 engaged, is engaging, or is about to engage in any violation of the Oregon Securities Law,  
11 the Director may issue an order, subject to ORS 59.295, directed to the person to cease and  
12 desist from the violation or threatened violation.

13 18. Because the Director has reason to believe that Respondent violated ORS  
14 59.135(3), the Director may issue an order directed to Respondent to cease and desist from  
15 that violation pursuant to ORS 59.245(4).

16 19. Under ORS 59.995(1)(a), any person who violates or who procures, aids, or  
17 abets the violation of ORS 59.005 to 59.505, 59.710 to 59.830, 59.991 and 59.995, or any  
18 rule or order of the Director shall be subject to a penalty of not more than \$20,000 for every  
19 violation, which shall be paid to the General Fund of the State Treasury.

20 20. Because Respondent violated ORS 59.135(3), Respondent is subject to a  
21 penalty of not more than \$20,000 for that violation pursuant to ORS 59.995(1)(a).

## 22 ORDERS

23 The Director ISSUES the following ORDERS:

24 21. Pursuant to ORS 59.245(4), the Director hereby ORDERS Respondent, and all  
25 entities owned or controlled by Respondent, his successors and assignees, to CEASE AND  
26 DESIST from violating ORS 59.135 or any administrative rule adopted by the Director

1 under that statute.

2 22. Pursuant to the authority of ORS 59.995(1), the Director hereby assesses  
3 CIVIL PENALTIES in the amount of twenty thousand dollars (\$20,000) against  
4 Respondent.

5 23. The Director SUSPENDS the collection of ten thousand dollars (\$10,000) of  
6 the foregoing civil penalties and agrees to waive such amount at the end of a period of three  
7 (3) years from the effective date of this Order, provided Respondent complies with the  
8 Oregon Securities Law and the terms and conditions of this Order. If Respondent fails to  
9 comply with the Oregon Securities Law or otherwise fails to comply with the terms of this  
10 Order, the suspended portion of the civil penalty shall become immediately due and  
11 payable.

12 24. At the time Respondent submits this executed Order, Respondent shall also  
13 submit to the Director a payment for the remaining ten thousand dollars (\$10,000) of civil  
14 penalties.

15 25. For a period of ten years from the effective date of this Order, Respondent  
16 voluntarily agrees to refrain from applying for or filing the following financial services  
17 business licenses and/or registrations in Oregon:

18 A. investment adviser, investment adviser representative, broker-dealer, or  
19 securities salesperson license in the State of Oregon.

20 B. register or renew any securities registration in the State of Oregon.

21 C. any license or registration required by the Director in Oregon, including but not  
22 limited to insurance, consumer finance, collection agency, or mortgage lending.

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CONSENT TO ENTRY OF ORDER

I, Keith Gebert, have read the foregoing Order and I know and fully understand the contents hereof. The factual allegations stated herein are true and correct. I have been advised of the right to a hearing and of the right to be represented by counsel in this matter, and I have been represented by counsel in this matter. I voluntarily consent to the entry of this Order without any force or duress, expressly waiving any right to a hearing in this matter, as well as any rights to administrative or judicial review of this order. I understand that the Director reserves the right to take further action against me to enforce this Order or to take appropriate action upon discovery that I have committed other violations of the Oregon Securities Law. I will fully comply with the terms and conditions stated herein.

I understand that this Order is a public document.

Signature: /s/ Keith Gebert

State of New Jersey

County of Union

Signed or attested before me on this 14 day of April, 2020

by Tara M. Napolitano.

/s/ Tara M. Napolitano

Notary Public

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