

STATE OF NEVADA
OFFICE OF THE SECRETARY OF STATE
SECURITIES DIVISION

2250 LAS VEGAS BOULEVARD NORTH, SUITE 400
NORTH LAS VEGAS, NEVADA 89030

In the Matter of

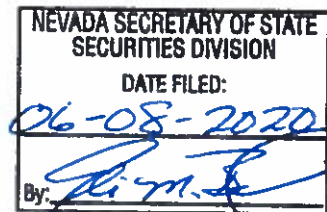
**FIRST CHOICE FINANCIAL PLANNING,
LLC, CRD No. 166363, a Nevada Limited
Liability Company; and IAN R.
TOMLINSON, CRD No. 2492696, an
individual.**

ADMINISTRATIVE CONSENT ORDER

File No. CI15-063

Respondents.

TO: IAN R. TOMLINSON
c/o Nathan A. Crane, Esq.
Richard A. Van Wagoner, Esq.
SNOW CHRISTENSEN & MARTINEAU
10 Exchange Place, 11th Floor
Post Office Box 4500
Salt Lake City, Utah 84145-5000
Counsel for Ian R. Tomlinson



FIRST CHOICE FINANCIAL PLANNING, LLC
c/o Nathan A. Crane, Esq.
Richard A. Van Wagoner, Esq.
SNOW CHRISTENSEN & MARTINEAU
10 Exchange Place, 11th Floor
Post Office Box 4500
Salt Lake City, Utah 84145-5000
Counsel for First Choice Financial Planning, LLC

IAN R. TOMLINSON
1034 San Miguel Street
Alamogordo, NM 88310

FIRST CHOICE FINANCIAL PLANNING, LLC
c/o Ian r. Tomlinson
1034 San Miguel Street,
Alamogordo, NM 88310

WHEREAS, Respondent Ian R. Tomlinson, CRD No. 2492696 (“Tomlinson,”) is an individual living in Alamogordo, New Mexico;

WHEREAS, Respondent First Choice Financial Planning, LLC ("FCFP") is a Nevada Limited Liability Company in default status, organized on or about June 2, 2006;

WHEREAS, a Complaint for Summary Order and Final Order to Cease and Desist and Other Appropriate Relief was filed against and served upon Tomlinson and FCFP (“Respondents”) on April 26, 2018;

WHEREAS, a Notice and Summary Order to Cease and Desist was filed against and served upon Respondents on April 26, 2018;

WHEREAS, Respondents requested a hearing within forty-five (45) days of receiving the Notice and Summary Order to Cease and Desist and have agreed to abide by the Summary Order pending final resolution of this matter;

WHEREAS, Respondents have advised the Nevada Securities Division (“Division”) of their agreement to resolve the violations alleged in the above-referenced pleadings and to comply with the requirements in the State of Nevada on the terms specified in this Administrative Consent Order (“Order”);

WHEREAS, Respondents now elect to permanently and expressly waive any right to a hearing and appeal under the Nevada Uniform Securities Act (“Act”) and/or to seek judicial review under the Nevada Administrative Procedures Act, codified in NRS Chapter 233B, with respect to this Order.

NOW THEREFORE, the Administrator of the Division, pursuant to the Act, hereby enters this Order:

I.

RELEVANT FACTS

1. Respond Tomlinson neither admits nor denies the facts stated below.
2. Respondent FCFP, CRD No. 166363, is currently a New Mexico domiciled Investment Adviser ("IA") licensed with the Division from January 29, 2013 to November 19, 2019.

1 3. Respondent Tomlinson, CRD No. 2492696, is the Chief Compliance Officer and sole
2 Investment Adviser Representative ("IAR") of FCFP, licensed with the Division since January 29,
3 2013 . Tomlinson currently resides in Alamogordo, New Mexico. Tomlinson has resided in New
4 Mexico since August 2014.

5 4. On May 21, 2015, a Compliance/Audit Investigator with the Division, pursuant to the
6 Administrator's authority under NRS 90.410, initiated an onsite inspection ("Onsite Inspection") of
7 FCFP at its then location at 3432 Conough Lane, Las Vegas, NV.

8 5. At the time of the Onsite Inspection, FCFP, through Tomlinson, acknowledged that it
9 did not provide clients with an invoice separate from its custodian itemizing the fees that were
10 charged.

11 6. The Division's onsite inspection of FCFP also revealed that Tomlinson was
12 compensating a third party consultant by the name of Norman Flemens ("Flemens"), CRD No.
13 3212865, for providing investment advice on option strategy for the benefit of FCFP clients.
14 Tomlinson admitted that he regularly consulted with Flemens in an email to the Division on May
15 28, 2015.

16 7. At all times relevant Flemens was acting in the capacity of a representative of an
17 investment adviser for clients of FCFP. Flemens received compensation for the same.

18 8. Tomlinson and Flemens previously worked together at First Command Financial
19 Planning, LLC.

20 9. None of Flemens' personal history was shared with FCFP's clients, including a prior
21 FINRA 18 month suspension and fine in the amount of \$5,000.00.

22 10. Flemens has not been licensed with the Division or with any other state as a
23 representative of an investment adviser or as a registered sales representative since April 27, 2006,
24 following his FINRA suspension.

25 11. Tomlinson provided Flemens with full access to client data by allowing Flemens to
26 utilize a confidential username and password belonging to Tomlinson for clients of FCFP's Custodian
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1 to accomplish trades on client's behalf. This created an environment whereby continued
2 unauthorized access may have been attained without Tomlinson's permission.

3 12. Flemens, Tomlinson, and FCFP never disclosed in writing to FCFP clients that they
4 were utilizing the advice of an unlicensed individual (Flemens).

5 13. On or about April 26, 2018, the Division filed and served a Complaint for Summary
6 Order and Final Order to Cease and Desist and Other Appropriate Relief, which was properly served
7 on Respondents.

8 14. On or about April 26, 2018, the Division filed and served a Notice and Summary Order
9 to Cease and Desist, which was properly served on Respondents.

10 15. Respondents requested a hearing within forty-five (45) days of receiving the Notice
11 and Summary Order to Cease and Desist

12 16. Respondents, through counsel, stipulated to enlarge the time for hearing and agreed to
13 abide by the Summary Order.

14 17. Tomlinson and FCFP currently do not have any clients in Nevada, are not practicing in
15 Nevada, and do not have any future plans to practice in Nevada.

16 18. Respondents Tomlinson and FCFP, without admitting to or denying the above facts,
17 now elect to permanently and expressly waive any right to a hearing and appeal under the Act and/or
18 to seek judicial review under the Nevada Administrative Procedures Act, codified in NRS Chapter
19 233B, with respect to this Order.

20 II.

21 CONCLUSIONS OF LAW

22 1. The Division has jurisdiction over this matter pursuant to the Act, which authorizes the
23 Division to regulate any entity or person acting as an investment adviser or investment adviser
24 representative. Specifically, NRS 90.630 allows the Division, through its Administrator, to take action
25 against an investment adviser or investment adviser representative if either violates any provision of
26 Act or any regulation adopted under said Act.
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2. Pursuant to NRS 90.630(2), if the Administrator of the Division reasonably believes that a person has violated Chapter 90, the Administrator may (a) issue an order against the person... (c) bar or suspend a person from association with an investment adviser in this State or (d) issue an order against an applicant, licensed person or other person who willfully violates this chapter, imposing a civil penalty of not more than \$25,000 for each violation or, if the violation was committed against an older person or vulnerable person, a civil penalty equal to twice the amount of the civil penalty that would otherwise have been imposed pursuant to this paragraph, not to exceed \$50,000.

3. Up and until April 2018, Respondents failed to comply with the requirements set forth in NRS 90.330, which sets forth that it is unlawful for any person to transact business in this State as an investment adviser or as a representative of an investment adviser unless licensed or exempt from licensing by statute. Specifically, Tomlinson compensated Flemens for transacting business as a representative of an investment adviser without licensing by the Division and without any applicable exemptions. Therefore, Tomlinson violated the Act and is subject to a complete bar on further securities related activities in the State pursuant to NRS 90.630(2).

4. The Division has jurisdiction over this matter pursuant to the Act which authorizes the Division to regulate the business activities of investment advisers and investment adviser representatives acting in the State of Nevada.

III.

ORDER

Finding the following appropriate and in the public interest, and on the basis of the Findings of Facts, Conclusions of Law, and Respondent's consent to the entry of this Order,

IT IS HEREBY ORDERED:

1. Respondents are hereby permanently barred from offering, soliciting, or selling any securities or investment advisory services and Respondents shall not make any application in the future to be licensed as an investment adviser, representative of an investment adviser, sales representative of a broker-dealer or sales representative of an issuer in the State of Nevada.

2. The Summary Order to Cease and Desist issued against Respondents on April 26, 2018 is hereby entered as a final order. Respondents shall continue to comply with that Order.

1 3. In consideration of Respondents' consent to entry of this Order, the Division will not
2 pursue any further administrative proceedings, including not seeking civil monetary penalties, against
3 Respondents based on the limited allegations contained in the Complaints filed in Case No. CI15-063.

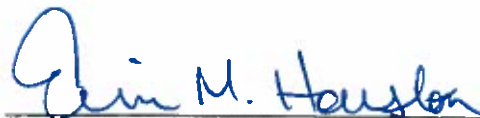
4 4. Nothing in this Order shall be construed as a waiver of the Division's right to
5 investigate and pursue any criminal violations by Respondents.

6 5. Nothing in this Order is intended to limit or create for third parties any private remedies
7 against Respondents. Furthermore, nothing in this Order is intended to or shall in any way limit,
8 restrict or adversely affect Respondents' ability to defend himself in any civil proceeding brought by
9 any third party and/or criminal prosecution brought for the conduct identified in the complaints filed
10 in Case No. CI15-063.

11 6. This Order shall be effective as of the date on which it is signed by the Administrator
12 as set forth below.

13 DATED this 8th day of June, 2020.

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15 **BY ORDER OF THE ADMINISTRATOR**
 Office of the Secretary of State, Securities Division

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18 ERIN M. HOUSTON
19 Deputy Secretary for Securities
 Securities Administrator

1 CONSENT TO ENTRY OF ADMINISTRATIVE ORDER

2 Respondent Ian Tomlinson ("Tomlinson") hereby acknowledges, through counsel, that he
3 has been served with a copy of this Order, has read the foregoing Order, is aware of his rights to a
4 hearing and appeal in this matter, and has waived the same.

5 Tomlinson specifically acknowledges that a violation of this Order may constitute a felony
6 pursuant to NRS 90.650 Tomlinson neither admits nor denies the facts as outlined in this
7 Administrative Consent Order.

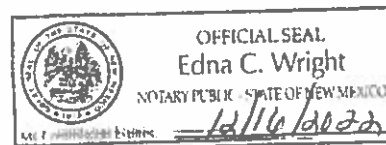
8 Tomlinson admits the jurisdiction of the Securities Division of the Nevada Office of the
9 Secretary of State and consents to entry of this Order by the Administrator of the Division as
10 settlement of the issues contained within this Order.

11 Tomlinson states that no promise of any kind or nature, other than the consideration set forth
12 in the Order, was made to it to induce him to enter into this Order and that he has entered into this
13 Order voluntarily.

14
15 Ian R. Tomlinson
16 Ian R. Tomlinson

17
18 Subscribed and sworn to before me
19 On this 8th day of June, 2020

20
21 Edna C. Wright
22 Notary Public, in and for the
County of Alameda, State of NM.



1
2 **CONSENT TO ENTRY OF ADMINISTRATIVE ORDER**

3 Respondent First Choice Financial Planning, LLC ("FCFP") hereby acknowledges, through
4 its Representative, that it has been served with a copy of this Order, and its Representative has read
5 the foregoing Order, is aware of its rights to a hearing and appeal in this matter, and has waived the
6 same.

7 Ian R. Tomlinson represents that he has full power and authority to act as the Authorized
8 Representative for FCFP and consent to the entry of the attached Administrative Consent Order.

9 FCFP specifically acknowledges that a violation of this Order may constitute a felony
10 pursuant to NRS 90.650. FCFP neither admits or denies the facts as outlined in this Administrative
11 Consent Order.

12 FCFP admits the jurisdiction of the Securities Division of the Nevada Office of the Secretary
13 of State and consents to entry of this Order by the Administrator of the Division as settlement of the
14 issues contained within this Order.

15 FCFP states that no promise of any kind or nature, other than the consideration set forth in
16 the Order, was made to it to induce it to enter into this Order and that it has entered into this Order
17 voluntarily.

18 First Choice Financial Planning, LLC

19
20 Ian R. Tomlinson
21 By: Ian R. Tomlinson
22 Its Authorized Representative

23
24 Subscribed and sworn to before me
25 On this 8th day of June, 2020

26 Edna C. Wright
27 Notary Public, in and for the
28 County of Alamo, State of NM.

