

EXHIBIT X

THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION

In the Matter of:)

) File No. SL-02623-A

AMERICAN PENSION SERVICES, INC.)

WITNESS: Brad F. Bentley

PAGES: 1 through 61

PLACE: Securities and Exchange Commission

15 W. South Temple

Salt Lake City, UT

DATE: Thursday, March 13, 2014

The above entitled matter came on for hearing,
pursuant to notice, at 2:37 p.m.

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MAR 27 2014

**Securities & Exchange Commission
Salt Lake Regional Office**

Diversified Reporting Services, Inc.

(202) 467 9200

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1 APPEARANCES:
 2
 3
 4 On behalf of the Securities and Exchange Commission:
 5 SCOTT FROST, ESQ.
 6 PAUL N. FEINDT, ESQ.
 7 Securities and Exchange Commission
 8 Enforcement Division
 9 15 West South Temple, Suite 1800
 10 Salt Lake City, UT 84101
 11 (801) 524-5796
 12
 13
 14 On behalf of the Witness:
 15 BRAD F. BENTLEY, PRO SE
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1 PROCEEDINGS
 2 MR. FROST: Let's go on the record. It's
 3 Thursday, March 13th, 2014. It's 2:37 p.m.
 4 Mr. Bentley, would you raise your right
 5 hand. Do you swear to tell the truth, the whole
 6 truth and nothing but the truth?
 7 MR. BENTLEY: I do.
 8 Whereupon,
 9 BRAD F. BENTLEY
 10 was called as a witness and, having been first duly
 11 sworn, was examined and testified as follows:
 12 EXAMINATION
 13 BY MR. FROST:
 14 Q Would you please state and spell your full
 15 name for the record.
 16 A Brad Frank Bentley, B-r-a-d F-r-a-n-k
 17 B-e-n-t-l-e-y.
 18 Q My name is Scott Frost and this is Paul
 19 Feindt. We're both officers of the Commission for
 20 the purposes of this proceeding.
 21 This is an investigation by the United
 22 States Securities and Exchange Commission in the
 23 matter of American Pension Services, Inc., File
 24 Number SL-2632, to determine whether there have been
 25 violations of certain provisions of the federal

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1 securities laws. However, the facts developed in
 2 this investigation might constitute violations of
 3 other federal or state, civil or criminal laws.
 4 Prior to the opening of the record you
 5 were provided with a copy of the Formal Order of
 6 Investigation. This will be available for your
 7 examination during the course of this proceeding.
 8 Have you had an opportunity to look at the Formal
 9 Order?
 10 A Yes.
 11 Q Also prior to the opening of the record
 12 you were provided with a copy of the Commission's
 13 Supplemental Information Form. It's been marked as
 14 Government Exhibit Number 1. Have you had an
 15 opportunity to read Exhibit 1?
 16 A Yes.
 17 Q Do you have any questions concerning it?
 18 A No.
 19 Q And are you represented by counsel today?
 20 A No.
 21 Q Okay. Because you're not represented by
 22 counsel, I just have to point out a couple of
 23 things. You have the right to be accompanied,
 24 represented and advised by counsel. This means you
 25 may have an attorney present and your attorney can

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1 sizable investor on the hook for the venture, the
 2 venture that I had with my partners, and that he was
 3 going to broker the deal. And this was early in our
 4 business relationship, so I believed him.
 5 And he said, "Hey, your money will be
 6 there next week, you know, we're going up to meet
 7 with the partners." And I asked if I could come
 8 along. He said, "No, not at this point. You'll be
 9 there at the next meeting." I never met the
 10 investors.
 11 So, foolishly, I believed him, and to give
 12 my employer the proper notice, I felt it would be
 13 appropriate for me to turn in my resignation at work
 14 at KeyBank because I didn't want to, you know, all
 15 of a sudden leave them in the lurch. So I resigned
 16 from KeyBank with the understanding that I'd be
 17 receiving my money from Mike as the broker, and then
 18 it just never happened.
 19 And it was week after week, month after
 20 month where he made promise after promise, and I
 21 just never received it. It would go from investor
 22 to investor to investor. And eventually -- so I was
 23 juggling two balls at the same time. One was I was
 24 trying to secure venture funds through Mike, and
 25 then on the other hand I was trying to recover my

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1 own money from him. And he was a central player in
 2 both.
 3 Q So when he called you those two or three
 4 times with different opportunities, were they all
 5 with the same company?
 6 A No.
 7 Q Different individuals or companies?
 8 A Yes. Yes.
 9 Q Did he, with any of those investments, did
 10 he describe what would be done with your funds, who
 11 they would go to, what they would be used for?
 12 A The only one I recall was the first call,
 13 I believe, he talked about machinery for their
 14 business. And I apologize, I don't recall the
 15 specifics of collateral, but I seem to recall, I
 16 seem to remember vaguely that he talked about that
 17 the machinery would be used as collateral, but it
 18 was never collateralized. Like, I never saw any
 19 documentation. So no, I was under -- there was
 20 no -- there wasn't a lot of clear details on that.
 21 Q So you said that there were no documents
 22 that you signed with Mr. Memmott?
 23 A Correct.
 24 Q Were there any documents that you signed
 25 with Mr. DeYoung or APS to release these funds?

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1 A No.
 2 Q No documents were signed?
 3 A Correct. The only document I signed
 4 affiliated with APS was the initial account opening
 5 document.
 6 BY MR. FROST:
 7 Q And you had approximately \$94,000 that was
 8 moved from Wells Fargo to APS; is that right?
 9 A Correct.
 10 Q Did Mr. Memmott call you every time he
 11 invested that money? You know, you said he told you
 12 about the different amounts.
 13 A Yes.
 14 Q Did it all add up to the \$94,000?
 15 A Initially, on the initial calls, the calls
 16 that he -- him and I -- that he called me about
 17 didn't exactly add up to \$94,000, but it was close.
 18 I want to say it was somewhere in the 80s, I want to
 19 say. But that was the extent of it. There were no
 20 additional calls or requests made about future
 21 investments or future notes. Any future dated
 22 documents or investments were done without any
 23 communication.
 24 Q So in 2010 he told you that he wanted to
 25 invest your money in these specific projects?

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1 A Yes.
 2 Q But after that you have no idea what
 3 happened in your account?
 4 A Correct.
 5 Q In terms of you didn't authorize anything?
 6 A Correct.
 7 BY MR. FEINDT:
 8 Q And then Mr. Memmott, you said that he
 9 really didn't explain what would be done with the
 10 funds other than maybe the machinery the first time.
 11 Did Mr. Memmott talk about risk at all?
 12 A No, he didn't explicitly say this has
 13 risk, investment risk. He implied the safety or the
 14 consistency of performance from when those
 15 individuals previously borrowed from him. But I did
 16 not ask him to quantify what the risk is. It was
 17 one of those he calls me on the phone and says I
 18 have this person, was basically vouching for them,
 19 and I trusted his judgment at that point.
 20 Q What about fees? Were there any fees to
 21 Mr. Memmott for introducing any of these
 22 investments?
 23 A Not that I'm aware of. That wasn't a
 24 topic of conversation, necessarily. I have
 25 suspicions, but nothing that was communicated

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1 A Correct.

2 Q And he said that Memmott would make good

3 on those loans?

4 A Yes. And at that point in time I had not

5 put it together that Mr. Memmott was the person who

6 was the borrower. I simply was under the impression

7 that he was intermediary and that the people who had

8 defaulted were these other individuals.

9 BY MR. FROST:

10 Q You mentioned you'd spoken to Mr. DeYoung

11 three times?

12 A I believe so, yes.

13 Q Do you recall the nature of the second

14 conversation?

15 A Similar.

16 Q Similar to the first?

17 A Yes. Not around fees, but the other two

18 were around timing of when the money would be

19 deposited. And each time it was a similar

20 discussion where he would say, "I need to touch base

21 with Mike." And I found that circular conversation

22 just to be not productive, so I stopped trying to

23 contact him.

24 BY MR. FEINDT:

25 Q How soon after that first call were the

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1 second and third conversations with Mr. DeYoung?

2 A I don't recall. I don't remember.

3 Q Well, had weeks passed between them or was

4 it three days in a row?

5 A No, it was a matter of weeks or months, in

6 between. They weren't, "Okay, I'll call you

7 tomorrow and talk to you." It was, if I recall, one

8 conversation in a period of time and then it was a

9 different arrangement for assurance that might be

10 given to me that I was trying to follow up with

11 Curtis. And then at least twice I would then talk

12 to Mike and say, "Mike, Curtis wasn't aware or he

13 didn't seem to understand -- you know, he wasn't

14 aware of the money."

15 And he said, "Oh, I'll call him and we'll

16 talk and make sure that everyone's on the same page,

17 that the money is going to be deposited for you."

18 Q So the only money you received on this, on

19 all of these investments through Mr. Memmott, would

20 have been that \$10,000?

21 A Correct.

22 Q That he then took \$8,500?

23 A Correct.

24 BY MR. FROST:

25 Q And the difference between the \$8,500 that

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1 was reinvested and the \$10,000 were fees that were

2 taken out by APS?

3 A Correct.

4 BY MR. FEINDT:

5 Q All of it? I mean, there was no cash

6 after fees were taken out?

7 A It was close. I think it had a \$100

8 balance or something like that. It had \$136.66 left

9 after that, when that note was taken out.

10 BY MR. FROST:

11 Q And then that was taken out for fees also?

12 A Correct.

13 BY MR. FEINDT:

14 Q Have you looked recently at your

15 statements?

16 A I haven't.

17 (SEC Exhibit No. 61 was marked

18 for identification.)

19 BY MR. FROST:

20 Q Handing you a stack of paper we've marked

21 as Exhibit 61, the first page appears to be an IRA

22 account application.

23 A Yes.

24 Q If you look at the first couple of pages

25 there, then there's a signature page on page 3.

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1 Does it look like you filled this out?

2 A Yes, that's in my handwriting, and that is

3 my signature.

4 Q And this is the document that Mr. Memmott

5 gave you?

6 A Yes.

7 Q Did he give you any other documents that

8 you recall?

9 A Page 5, that was part of that original

10 packet, yes, that was in there. That's my

11 handwriting. And the fee statement, I recall doing

12 that.

13 Q Okay.

14 A Page 6.

15 Q What about page 9, "buy direction" letter,

16 promissory note?

17 A No.

18 Q There are initials at the bottom of the

19 page.

20 A Those are not my initials.

21 Q Then if you turn the page, more initials.

22 A Those aren't mine.

23 Q And then on page 11 there's a signature.

24 A That is not my signature.

25 BY MR. FEINDT:

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1 Q Have you ever seen a "buy direction"
 2 letter?
 3 A Scott had e-mailed some of these documents
 4 previously asking me if these are my signature, and
 5 that's the first I'd seen this.
 6 Q So prior to that, back in 2010, 2011, no
 7 one never ever had you review, sign, approve --
 8 A Correct.
 9 Q -- a "buy direction" letter?
 10 A I've never seen one or signed one.
 11 Q Do you recognize the initials or the
 12 signature, who did that?
 13 A I don't. It's clearly an attempt to mimic
 14 mine, my signature, but it's not my signature.
 15 BY MR. FROST:
 16 Q And you didn't fill out this form,
 17 starting on page 9?
 18 A I did not.
 19 Q And if you look at page 12, the client's
 20 signature, is that your signature?
 21 A No.
 22 BY MR. FEINDT:
 23 Q Did you ever sign a wire request form for
 24 any of the investments that were made in your
 25 account?

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1 A No.
 2 BY MR. FROST:
 3 Q Then if we go to page 16, another "buy
 4 direction" letter, promissory note, are those your
 5 signatures, your initials at the bottom?
 6 A No.
 7 Q Same on page 17?
 8 A Those are not my initials.
 9 Q And 18?
 10 A That is not my signature.
 11 Q If we turn to page 21, it's a wire request
 12 form dated September 20, 2010. Is that your
 13 signature?
 14 A It is not.
 15 Q And did Mr. Memmott tell you he was going
 16 to be signing documents? Did he ask you for your
 17 permission?
 18 A No.
 19 Q To sign documents?
 20 A No.
 21 BY MR. FEINDT:
 22 Q You never authorized anyone to sign on
 23 your behalf?
 24 A No.
 25 BY MR. FROST:

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1 Q No power of attorney?
 2 A No power of attorney.
 3 Q On page 23, another "buy direction"
 4 letter, promissory note.
 5 A Those are not my initials on page 23 or
 6 24.
 7 BY MR. FEINDT:
 8 Q And looking at 23, page 23 where it says
 9 "note information, borrower, Mike Memmott,
 10 borrower's address, phone number," would that have
 11 been -- that's not what you anticipated?
 12 A No.
 13 Q As far as how your funds would be used; is
 14 that correct?
 15 A Correct.
 16 BY MR. FROST:
 17 Q So you obviously hadn't seen this before,
 18 or haven't seen this before?
 19 A I have not.
 20 Q And page 25, is that your signature?
 21 A No.
 22 BY MR. FEINDT:
 23 Q Going to the next page, page 26, there's a
 24 promissory note. You never received copies of any
 25 of these promissory notes, did you?

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1 A Some of these matched some of the
 2 documents that I did turn over.
 3 Q Exhibit Number 59 there were a couple?
 4 A Correct. And so on page 26 of Exhibit 61,
 5 this one is for \$7,500. I don't see it. I don't
 6 see it in this original packet, but this, that
 7 format, I've seen notes. So this specific note on
 8 page 26, I hadn't seen this one before.
 9 Q And when you did get some of the notes, it
 10 was after the default, or at the time you were told
 11 that they defaulted?
 12 A Correct.
 13 BY MR. FROST:
 14 Q Page 27, and I know this is a little bit
 15 tedious, but we're going to go through all of these.
 16 Is that your signature?
 17 A No.
 18 Q On page 30, a "buy direction" letter,
 19 promissory note, the date appears to be September
 20 10, 2010. Are those your initials?
 21 A No.
 22 Q On page 31, are those your initials?
 23 A No.
 24 Q And 32?
 25 A That is not my signature.

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1 Q Go to page 35, the wire request form. Is
 2 that your signature?
 3 A No.
 4 Q Page 37 is cut off a little bit at the
 5 top, but it's a promissory note, "buy direction"
 6 letter. Are those your initials?
 7 A No.
 8 Q Page 38?
 9 A No.
 10 Q Page 39?
 11 A No.
 12 Q Page 42 is a wire request form for
 13 \$15,000. Is that your signature?
 14 A No.
 15 Q On page 45, a "buy direction" letter,
 16 promissory note, are those your initials?
 17 A No.
 18 Q Page 46?
 19 A No.
 20 Q And page 47, is that your signature?
 21 A No.
 22 Q Page 49, another wire request form. Is
 23 that your signature?
 24 A No.
 25 Q And you never talked to anyone at APS

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1 during this time regarding any transfer of funds?
 2 A I did not.
 3 Q Page 52, I think it's the last one, a "buy
 4 direction" letter, promissory note on 52. Is that
 5 your -- are those your initials?
 6 A No.
 7 Q And 53?
 8 A No.
 9 Q And is that your signature on 54?
 10 A It looks close, but I don't recall signing
 11 this.
 12 Q It has the borrower's name as Michael
 13 Memmott, Junior.
 14 A Yes.
 15 Q But you don't recall seeing this?
 16 A No. The page 53 initials look close to
 17 how I normally do it, and the signature looks close,
 18 but it's -- but I do not recall signing that.
 19 BY MR. FEINDT:
 20 Q Did anyone, either Mr. Memmott or anyone
 21 from APS, ever ask you to sign blank documents?
 22 A No.
 23 Q It's not as if they would have had one on
 24 file that they could have filled in at a later date?
 25 A (No audible or visible response)

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1 BY MR. FROST:
 2 Q So other than the last promissory note
 3 that we looked at on page 52, all of the rest are
 4 clearly not your signature?
 5 A Correct.
 6 Q And could you look at page 57. Is that
 7 your signature?
 8 A No. It appears to me to be a clear
 9 attempt at forgery.
 10 Q It's similar to yours?
 11 A It's similar to how I do my signature, but
 12 there are a few things there that I never do on my
 13 letters.
 14 BY MR. FEINDT:
 15 Q If you'd turn to the third page of Exhibit
 16 61.
 17 A Yes.
 18 Q Under item 8, if you go down to where it's
 19 bold letters, it says: "Depositor has the sole
 20 authority and discretion to select and direct the
 21 investment of all assets in the custodial account,
 22 and depositor accepts full and sole responsibility
 23 for success or failure of any investment made in the
 24 funds in the custodial account."
 25 Now, that's not, in fact, what happened

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1 with you; correct?
 2 A Correct.
 3 Q You didn't -- you weren't the one making
 4 these decisions as far as pulling funds out of APS
 5 to Mr. Memmott?
 6 A Correct.
 7 Q And up above, also under item 8, it says:
 8 "The administrator has no responsibility" -- and I'm
 9 looking at about the third item there -- "take
 10 responsibility to buy or sell any investment unless
 11 specifically directed by depositor in a signed,
 12 written document acceptable to administrator." You
 13 never provided any signed, written document?
 14 A I did not.
 15 Q So what happened would be against the
 16 agreement that you had?
 17 A Correct.
 18 Q With APS.
 19 MR. FROST: Let's take a little break.
 20 It's 3:50.
 21 (A brief recess was taken.)
 22 MR. FROST: Let's go back on the record.
 23 It's 4:00.
 24 BY MR. FROST:
 25 Q Mr. Bentley, while we were off the record