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## *Texas State Securities Board*

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IN THE MATTER OF THE INVESTMENT §  
ADVISER REGISTRATION OF §  
IRONWOOD WEALTH MANAGEMENT §  
AND THE INVESTMENT ADVISER §  
REPRESENTATIVE REGISTRATION OF §  
JOHN STUART §

**Order No. IC20-SUS-06**

TO: John Stuart, Managing Member (CRD No. 4916217)  
Ironwood Wealth Management, LLC (CRD No. 171008)  
11731 E. Grand Pond Court  
Montgomery, TX 77356

### **DISCIPLINARY ORDER**

Be it remembered that John Stuart ("Respondent Stuart") and Ironwood Wealth Management, LLC ("Respondent Ironwood"), (collectively, "Respondents") appeared before the Securities Commissioner of the State of Texas ("Securities Commissioner") and consented to the entry of this order ("Order") and the Findings of Fact and the Conclusions of Law contained herein.

### **OVERVIEW**

From November 2018 through February 2019, Respondents day-traded options in Respondent Stuart's personal account and the accounts of Respondents' clients. The options trades were executed through Respondent Ironwood's omnibus brokerage account using a feature called block trading. Respondents had no procedures in place or other adequate safeguards to ensure that Respondent Ironwood's client accounts received a fair allocation of trades and certain accounts did not receive preferential treatment over other accounts. As a result, multiple clients lost a total of \$5,392.30, while Respondent Stuart's account profited \$10,050.05. As such, Respondents are ordered to refund to clients that participated in options trading \$15,442.35 and Respondents' registrations with the Securities Commissioner are suspended for a period of three months. Respondents are also ordered to comply with the terms of the Undertaking contained herein in which Respondents agree to not solicit new clients for a period of six months and to engage a compliance consultant during this six-month period.

## FINDINGS OF FACT

1. Respondents have waived (a) Respondents' rights to notice and hearing in this matter; (b) Respondents' rights to appear and present evidence in this matter; (c) Respondents' rights to appeal this Order; and (d) all other procedural rights granted to the Respondents by The Securities Act, Tex. Rev. Civ. Stat. Ann. arts. 581-1 to 581-45 ("Texas Securities Act"), and the Administrative Procedure Act, Tex. Gov't Code Ann. §§ 2001.001 to 2001.902.
2. On March 1, 2014 Respondent Ironwood registered with the Securities Commissioner as an investment adviser. This registration is currently effective.
3. On March 1, 2014 Respondent Stuart registered with the Securities Commissioner as an investment adviser representative of Respondent Ironwood. This registration is currently effective.
4. Respondent Stuart is the sole owner and investment adviser representative of Respondent Ironwood.
5. Respondent Ironwood offers its clients asset management services as well as financial, retirement, and college planning services. A flat fee of either \$125 per hour or a fixed fee of \$3,000 is charged for the financial, retirement, and college planning services. For the asset management services, Respondent Ironwood charges a fee ranging from 0.70% to 1.75%, depending on account size.
6. Respondents' asset management focuses primarily on trading equities.
7. However, Respondent Ironwood also reserved a portion of each client's account to trade options.
8. Options are financial instruments that are derivatives based on the value of an underlying security such as equities.
9. Each option contract will have a specific expiration date by which the holder must exercise their option to buy (or sell) shares of the underlying security. The expiration date could be from one trading day up to many months or even a couple of years. And the holder of the option could sell the option without exercising it prior to the expiration date.
10. Respondent Ironwood executes its transactions through online, discount brokers that offer the service known as "block trading."

### *Block Trading*

11. Block trading is a feature that allows an adviser to enter trades in an omnibus (master) brokerage account and then allocate trades across multiple, separate accounts after the orders have been executed.
12. In order to determine how to allocate shares from the omnibus account into client accounts, advisers may create a record, such as a spreadsheet, identifying to which accounts to allocate the orders. For example, an adviser may allocate based on a pro-rata percentage of each client's account size.
13. Use of block trading could require additional steps when an investment adviser or investment adviser representatives participates in a trading strategy along with its clients because of the conflict of interest it could present with the adviser's ability to allocate favorable orders to it or its associates own accounts.
14. This expectation is contemplated in Item 11. C. of the Form ADV, Part 2<sup>1</sup> instructions. If an advisor or a related person invests in the same securities (or related securities, e.g., warrants, options or futures) that the advisor or a related person recommends to clients, the advisor must describe the practice and discuss the conflicts of interest this presents and generally how the advisor will address the conflicts that could arise in connection with the personal trading.
15. An adviser may pre-allocate its orders to ensure that the adviser's account is not benefitting at the expense of clients' accounts, or that certain client accounts do not receive preferential treatment over other client accounts.
16. This means that the adviser would document how all options positions would be allocated across client accounts prior to entering a buy order (and necessarily before the sell order).

### *Respondents' Options Trading*

17. Beginning in November 2018 and continuing through February 2019 (the "Relevant Period"), Respondent Stuart began participating in trading options along with Respondent Ironwood's clients.
18. Trades for both Respondent Stuart and Ironwood client accounts were placed in Respondent Ironwood's omnibus trading account and then allocated to the individual accounts after the orders were executed.

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<sup>1</sup> The Form ADV Part 2 is a part of the investment adviser application form that is the primary disclosure document that investment advisers deliver to clients and prospective clients. The Part 2 contains information such as the types of advisory services offered, the adviser's fee schedule, and any potential conflicts of interest.

19. Notably, during the Relevant Period, Respondents' strategy was to trade in options contracts that expired the same day or the next day.

20. This practice meant that Respondent Ironwood was routinely buying options contracts and then turning around and selling the contract a short time later. At times, options would be held for just a couple of hours.

21. For example, on December 4, 2018, Respondents:

- a. purchased ten (10) call options of Invesco (QQQ) at 1:31 p.m.;
- b. allocated the positions to seven (7) different client accounts at 3:03 p.m.;  
and
- c. sold the ten (10) positions at 3:12 p.m.

22. This active, day-trading strategy amplified the need for Respondent Ironwood to have sound policies with respect to the allocation of trades from the omnibus, block trading account to the individual accounts.

23. Recognizing this, Respondent Ironwood's Form ADV Part 2 addressed the use of block trading:

IWM and its associated persons may buy or sell securities identical to those securities recommended to clients. Therefore, IWM and/or its associated persons may have an interest or position in certain securities that are also recommended and bought or sold to clients. IWM and its associated persons will not put their interests before a client's interest. IWM and its associated persons may not trade ahead of clients or trade in such a way to obtain a better price for themselves than for clients.

IWM is required to maintain a list of all securities holdings for its associated persons and develop procedures to supervise the trading activities of associated persons who have knowledge of client transactions and their related family accounts at least quarterly.

24. However, despite the assurances contained in Respondent Ironwood's Form ADV Part 2, Respondent Ironwood did not have procedures to supervise Respondent Stuart participating in trades alongside clients.

25. In fact, Respondent Ironwood had no written supervisory procedures at all.

26. Furthermore, Staff identified instances where Respondents engaged in day-trading but did not allocate the options purchased in the omnibus account until shortly before executing the sell order—giving Respondents the opportunity to monitor the price movement of the options before allocating.
27. For example, in the example laid out in Item 21, above, on December 4, 2018, Respondents executed the following transactions:
- a. at 1:31 p.m. on December 4, 2018 Respondents purchased 10 positions of Call Invesco (QQQ) in the omnibus account at a value of \$3.37;
  - b. at 3:03 that same day, after the positions depreciated from a value of \$3.37 to \$2.95, Respondents allocated the positions across seven different client accounts; and
  - c. nine minutes later, at 3:12 p.m. Respondents sold the 10 positions and allocated the sell orders to seven clients' accounts.
28. On December 28, 2018, Respondents executed the following transactions:
- a. at 9:41 a.m., Respondents purchased twenty (20) call positions of Invesco (QQQ) in the omnibus account at a price of \$1.94;
  - b. at 2:07 p.m., after the price of the positions increased from \$1.94 to \$2.45, Respondents allocated ten (10) positions to Respondent Stuart's personal account and allocated the remaining ten (10) positions across three clients' accounts; and
  - c. thirteen (13) minutes later, at 2:20 p.m., Respondents sold the twenty (20) positions and allocated the sell orders to his account and the three other client accounts.
29. This inconsistent pattern of allocating during the Relevant Period resulted in five (5) clients losing a total of \$5,392.30, while five (5) clients profited a total of \$3,239.05.
30. During the same Relevant Period, Respondent Stuart profited \$10,050.05.

#### CONCLUSIONS OF LAW

1. Respondents' participation in options trading alongside clients without procedures or adequate safeguards in place to ensure that Respondent Stuart's account was not benefitting at the expense of clients' accounts, or that certain client accounts, did not receive preferential treatment over other client accounts, constitutes an inequitable practice in rendering services as an investment adviser and investment adviser representative, respectively.
2. Pursuant to Section 14.A(3), the aforementioned inequitable practice in the rendering of services as an investment adviser representative constitutes a basis

for the issuance of an order suspending Respondents' registrations with the Securities Commissioner.

3. Respondent Ironwood failed to establish a written system to supervise the activities of its investment adviser representatives because Respondent Ironwood had no written supervisory procedures regarding the participating of Respondents in trading alongside clients and had not otherwise established safeguards to prevent trading inequities.
4. Such failure to establish, maintain, and enforce a written supervisory system that is reasonably designed to achieve compliance with the Texas Securities Act, the Rules and Regulations of the Texas State Securities Board ("Board Rules"), and all applicable securities laws and regulations is a violation of § 116.10 of the Board Rules.
5. Pursuant to Section 14.A(6) of the Securities Act, the aforementioned violation of a Board Rule constitutes a basis for the issuance of an order suspending Respondents' registrations with the Securities Commissioner.
6. Pursuant to Section 32-1, the Securities Commissioner may order an investment adviser representative regulated under the Act to pay a refund to a client or purchaser of securities or services from the person or company as provided in an agreed order.

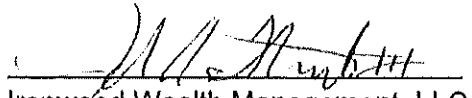
#### ORDER

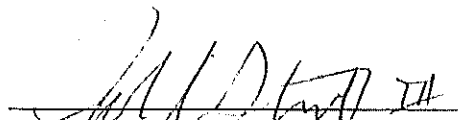
1. It is further ORDERED that the investment adviser registration of Ironwood Wealth Management, LLC is hereby SUSPENDED for a period of three (3) months.
2. It is further ORDERED that the investment adviser representative registration of John Stuart is hereby SUSPENDED for a period of three (3) months.
3. It is further ORDERED that John Stuart and Ironwood Wealth Management, LLC COMPLY with the terms of the undertaking incorporated by reference herein in which Respondents undertake and agree to refund \$15,442.35, an amount totaling the amount clients lost plus the amount Respondent Stuart profited from options trading, to all clients that participated in options trading alongside Respondent Stuart; to not solicit any new clients for a period of six (6) months; and to retain an independent outside consultant to complete a review of Respondents' business activities.

SIGNED AND ENTERED BY THE SECURITIES COMMISSIONER this 18  
day of October, 2020.

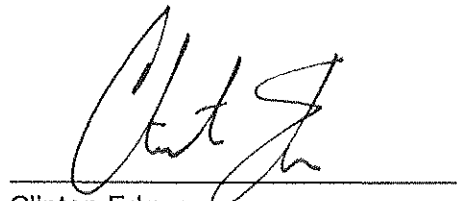
  
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TRAVIS J. TLES  
Securities Commissioner

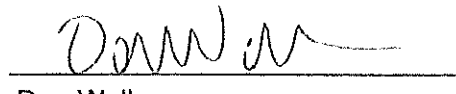
Respondents:


  
Ironwood Wealth Management, LLC  
By: John Stuart  
Managing Member

  
John Stuart  
Individually

Approved as to Form:

  
Clinton Edgar  
Deputy Securities Commissioner

  
Dan Waller  
Attorney for Respondents

  
Cristi Ramón Ochoa  
Attorney  
Inspections and Compliance Division