

TRAVIS J. ILES  
SECURITIES COMMISSIONER



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## *Texas State Securities Board*

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CHAIR

E. WALLY KINNEY  
MEMBER

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MEMBER

KENNY KONCABA  
MEMBER

IN THE MATTER OF THE INVESTMENT §  
ADVISER REGISTRATION OF §  
GROVE CAPITAL MANAGEMENT, INC. §

**Order No. IC19-CAF-03**

TO: James Grove, President  
Grove Capital Management, Inc. (CRD No. 129970)  
4635 Southwest Freeway, Suite 750  
Houston, TX 77027

### **DISCIPLINARY ORDER**

Be it remembered that Grove Capital Management, Inc. ("Respondent") 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.

### **FINDINGS OF FACT**

1. Respondent has waived (a) Respondent's right to notice and hearing in this matter; (b) Respondent's right to appear and present evidence in this matter; (c) Respondent's right to appeal this Order; and (d) all other procedural rights granted to the Respondent by The Securities Act, Tex. Rev. Civ. Stat. Ann. arts. 581-1 to 581-45 (West 2010 & Supp. 2018) ("Texas Securities Act"), and the Administrative Procedure Act, Tex. Gov't Code Ann. §§ 2001.001 to 2001.902 (West 2010 & Supp. 2018) ("Administrative Procedure Act").
2. On February 25, 2004, Respondent registered with the Securities Commissioner as an investment adviser. This registration is currently effective.
3. On August 27, 2018 the Staff of the Texas State Securities Board ("Staff") conducted an inspection of Respondent.
4. During the inspection, Staff reviewed Respondent's registration forms.

5. The Form ADV is the uniform form used by investment advisors to register with the Securities Commissioner. The form currently consists of two parts, Form ADV Part 1 and Form ADV Part 2.
6. The Form ADV Part 2 is the primary disclosure document that investment advisers provide to their clients. It contains information about the investment adviser relating to: advisory services, fees and expenses, conflicts of interest, disciplinary information, and the educational and business background of investment adviser representatives of the adviser.
7. The Form ADV Part 2 requires the disclosures to be made in an entirely narrative format and written in plain English.
8. In July 2010, the Form ADV Part 2 replaced the Form ADV Part II, which had disclosed similar information, but the disclosures were made in a check-the-box format with limited narrative responses.
9. The rule requiring the new narrative brochure Form ADV Part 2 became effective in March 2011.
10. Respondent has never updated his Form ADV Part II to the narrative brochure Form ADV Part 2.
11. Accordingly, Respondent's clients and potential clients were not provided required disclosures regarding the investment adviser in a clear, narrative, and plain English format.
12. Section 116.11 of the Rules and Regulations of the Texas State Securities Board (the "Board Rules") requires all registered investment advisers to deliver to all clients or prospective clients the Part 2 of Form ADV<sup>1</sup> prior to or at the time of entering into any investment advisory contract.
13. Additionally, §116.12(a) of the Board Rules requires investment advisory contracts to contain language wherein the client acknowledges the receipt of the Form ADV Part 2 or a disclosure statement containing the equivalent information, and that if the appropriate document was not delivered to the client at least 48 hours prior to the client entering into any advisory contract with the investment adviser, then the client has the right to terminate the contract without penalty within five business days after entering into the contract.
14. Respondent did not include the aforementioned required language in Respondent's investment advisory contracts.

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<sup>1</sup> Board Rule 116.11 also allows for delivery of a disclosure statement which contains at least the information disclosed on Part 2 of Form ADV.

15. Notably, from 2014 to August 2018, Respondent added three new clients to Respondent's investment advisory business.
16. Each of the three clients received an outdated Form ADV Part II and signed an investment advisory contract with Respondent that failed to contain the language required by §116.12(a) of the Board Rules.
17. Respondent had previously represented to Staff in November 2014 that Respondent would update Respondent's Form ADV Part II to the new, narrative Form ADV Part 2 and include the language required by §116.12(a) of the Board Rules in Respondent's investment advisory contracts.

#### CONCLUSIONS OF LAW

1. Respondent's failure to provide to all clients Part 2 of Form ADV is a violation of §116.11 of the Board Rules.
2. Respondent's failure to include language required by §116.12(a) of the Board Rules in Respondent's investment advisory contracts is a violation of §116.12(a) of the Board Rules.
3. The foregoing violations of the Board Rules constitute bases for the issuance of an Order reprimanding Respondent pursuant to Section 14.A(6) of the Texas Securities Act.
4. Pursuant to Section 23-1 of the Texas Securities Act, the aforementioned violations of the Board Rules constitute bases for the assessment of an administrative fine against the Respondent.

#### UNDERTAKING

1. Respondent undertakes and agrees to retain an independent outside consultant ("Compliance Consultant") that is not unacceptable to the Staff within thirty (30) days of the date of this Order.
2. Respondent further undertakes and agrees to submit, at least ten (10) days prior to retaining the Compliance Consultant, a letter to counsel for the Inspections & Compliance Division of the Texas State Securities Board ("Counsel") identifying: the Compliance Consultant; the Compliance Consultant's experience in the securities industry; and all pre-existing personal and business relationships between the Compliance Consultant and Respondent.
3. Respondent further undertakes and agrees to retain the Compliance Consultant to complete a review ("Review") no later than within sixty (60) days of the date of this Order. The Review will examine Respondent's business activities to monitor for compliance with all applicable securities laws, and will specifically include assisting

Respondent with the updating of the ADV Part II to the narrative ADV Part 2 and addressing additional issues raised during the Inspection.

4. Respondent further undertakes and agrees to require the Compliance Consultant to deliver to Respondent, within thirty (30) days of the Review, a report ("Report") describing the areas the Compliance Consultant reviewed and its findings and recommendations.
5. Respondent further undertakes and agrees to submit to Counsel within thirty (30) days of receiving the Report: (1) the Report; and (2) a statement identifying all corrective measures taken by Respondent in response to the Report; (3) and a statement identifying the reason(s) for not following any of the Compliance Consultant's recommendations.

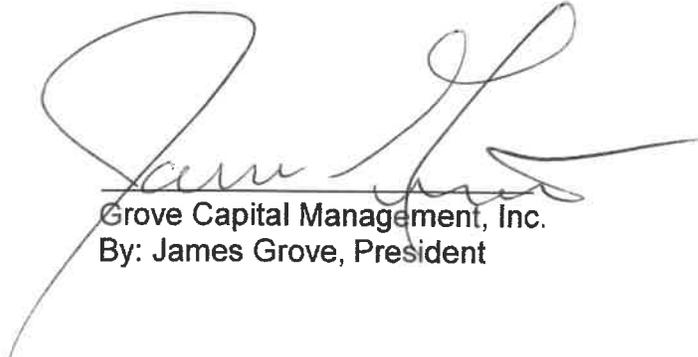
ORDER

1. It is therefore ORDERED that Grove Capital Management Inc. is hereby REPRIMANDED.
2. It is further ORDERED that Grove Capital Management Inc. shall pay an ADMISTRATIVE FINE in the amount of Five Thousand Dollars (\$5,000). Payment shall be made by delivery of a cashier's check to the Securities Commissioner in the amount of Five Thousand Dollars (\$5,000) payable to the State of Texas, contemporaneously with the delivery of this Order.
3. It is further ORDERED that Grove Capital Management Inc. COMPLY with the terms of the Undertaking contained herein.

SIGNED AND ENTERED BY THE SECURITIES COMMISSIONER this 9<sup>th</sup>  
day of July, 2019.

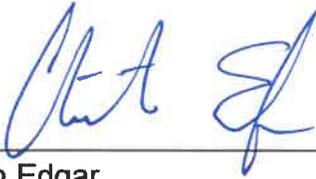
  
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TRAVIS J. ILES  
Securities Commissioner

Respondent:



Grove Capital Management, Inc.  
By: James Grove, President

Approved as to Form:



Clinton Edgar  
Deputy Securities Commissioner



Cristi Ramón Ochoa  
Attorney, Inspections and Compliance Division