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SECURITIES COMMISSIONER



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AUSTIN, TEXAS 78711-3167

## Texas State Securities Board

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208 E. 10th Street, 5th Floor  
Austin, Texas 78701-2407  
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IN THE MATTER OF THE INVESTMENT  
ADVISER REGISTRATION OF  
212 ADVISORY GROUP, LLC AND THE  
INVESTMENT ADVISER  
REPRESENTATIVE REGISTRATION OF  
JOHN MCDONOUGH

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**Order No. IC17-CAF-04**

TO: David Samuel Allred, Managing Member  
212 Advisory Group, LLC (CRD #154995)  
6140 Hannah Street  
Covington, GA 30014

John McDonough (CRD #4425667)  
212 Advisory Group, LLC  
6140 Hannah Street  
Covington, GA 30014

### DISCIPLINARY ORDER

Be it remembered that 212 Advisory Group, LLC ("Respondent 212") and John McDonough ("Respondent McDonough") (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.

### 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 (West 2010 & Supp. 2017) ("Texas Securities Act"), and the Administrative Procedure Act, Tex. Gov't Code Ann. §§ 2001.001 to 2001.902 (West 2008 & Supp. 2017) ("Administrative Procedure Act").

2. On April 17, 2015, Respondent 212 registered with the Securities Commissioner as an investment adviser. This registration is currently effective.
3. From November 5, 2001 through June 9, 2011, Respondent McDonough was registered with the Securities Commissioner as an agent and investment adviser representative of AXA Advisors, LLC.
4. From February 23, 2012 through July 2, 2014, Respondent McDonough was registered with the Securities Commissioner as an investment adviser representative of Alphastar Capital Management, LLC.

#### **Respondent McDonough's Registration Approved with an Undertaking**

5. On November 3, 2014, Respondent McDonough applied for registration with the Securities Commissioner to be an investment adviser representative for Respondent 212.
6. At the time of his application for registration with the Securities Commissioner, Respondent McDonough was the subject of a Letter of Acceptance, Waiver and Consent Order (the "AWC") filed with the Financial Industry Regulatory Authority ("FINRA").
7. The AWC with FINRA alleged that Respondent McDonough engaged in undisclosed outside business activities and violated his firm's policies and procedures by failing to seek permission to participate in the private, undisclosed purchase of promissory notes.
8. In connection with Respondent McDonough's application inquiry, the staff of the Texas State Securities Board ("Staff") reviewed records related to Respondent McDonough's AWC with FINRA.
9. As a condition of approval of Respondent McDonough's application, Respondents filed an Undertaking with the Securities Commissioner (the "Undertaking").
10. On July 30, 2015, Respondent McDonough's investment adviser representative registration with the Securities Commissioner was approved. This registration is currently effective.

#### **Violations of Undertaking**

11. On April 17, 2017, Staff conducted an inspection (the "Inspection") of Respondent 212's Texas branch office wherein Respondent McDonough is the only registered

investment adviser representative. During the Inspection, Staff examined the books and records of Respondent 212 as well as Respondents' adherence to the Undertaking.

12. The Undertaking, among other things, subjected Respondent McDonough to heightened supervision by Respondent 212. Specifically, the Undertaking restricted Respondent McDonough's ability to serve in any supervisory capacity and subjected Respondent McDonough to direct supervision by a principal of Respondent 212.
13. The Undertaking also required Respondent 212 to perform bi-annual compliance reviews, which were to be conducted by an outside and independent compliance monitor.
14. Finally, the Undertaking required Respondent 212 to maintain written, signed, and dated records of all supervision activities necessary to comply with the Undertaking.
15. During the Inspection, Staff found that Respondents had not complied with any provisions of the Undertaking.

#### **Inadequate Written Supervisory Procedures**

16. Pursuant to §116.10 of the Rules and Regulations of the Texas State Securities Board ("Board Rules"), Respondent 212 is required to establish, maintain, and enforce a written system to supervise the activities of its investment adviser representatives that is reasonably designed to achieve compliance with the Texas Securities Act, the Board Rules, and all applicable securities law and regulations.
17. The Undertaking also required Respondent 212's written supervisory procedures to address the heightened supervision of Respondent McDonough.
18. During the Inspection, Staff found that Respondent 212 had not established written supervisory procedures related to the heightened supervision of Respondent McDonough. Specifically, Respondent 212's procedures failed to address, among other things, correspondence review, branch office audits, and new account reviews.

#### **CONCLUSIONS OF LAW**

1. Respondent McDonough serving as the only investment adviser representative in Respondent 212's branch office without any other supervision is a violation of Respondents' Undertaking with the Securities Commissioner.

2. The lack of review or direct supervision of Respondent McDonough by Respondent 212 is a violation of Respondents' Undertaking with the Securities Commissioner.
3. The failure to engage an independent compliance monitor to conduct compliance reviews is a violation of Respondents' Undertaking with the Securities Commissioner.
4. Respondent 212 failed to establish a written supervisory system that was reasonably designed to achieve compliance with the Texas Securities Act, the Board Rules, and all applicable securities law and regulations because Respondent 212 failed to establish any written supervisory procedures related to the heightened supervision of Respondent McDonough. Such failures are a violation of §116.10 of the Board Rules and Respondent 212's Undertaking with the Securities Commissioner.
5. Pursuant to Section 14.A(11) of the Texas Securities Act, Respondent McDonough's aforementioned violations of an undertaking filed with the Securities Commissioner constitute bases to suspend Respondent McDonough's registration with the Securities Commissioner.
6. Pursuant to Section 23-1.A(3) of the Texas Securities Act, the aforementioned violation of a Board Rule constitutes a basis for the assessment of an administrative fine against Respondent 212.

#### ORDER

1. It is therefore ORDERED that 212 Advisory Group, LLC shall pay an ADMISTRATIVE FINE in the amount of Fifteen-Thousand Dollars (\$15,000). Payment shall be made by delivery of a cashier's check to the Securities Commissioner in the amount of Fifteen-Thousand Dollars (\$15,000) payable to the State of Texas, contemporaneously with the delivery of this Order.
2. It is further ORDERED that the investment adviser representative registration of John McDonough with the Securities Commissioner is hereby SUSPENDED for a period of ninety (90) days.

SIGNED AND ENTERED BY THE SECURITIES COMMISSIONER this 23<sup>rd</sup>  
day of October, 2017.

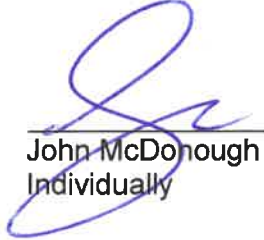


TRAVIS J ILES

Respondents:

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212 Advisory Group, LLC  
By: David Samuel Allred,  
Managing Member



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John McDonough  
Individually

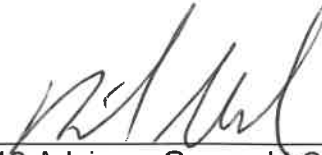
Approved as to Form:



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Cristi Ramón  
Attorney  
Inspections and Compliance Division

Respondents:



212 Advisory Group, LLC  
By: David Samuel Allred,  
Managing Member

\_\_\_\_\_  
John McDonough  
Individually

Approved as to Form:

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Cristi Ramón  
Attorney  
Inspections and Compliance Division