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SECURITIES COMMISSIONER

TRAVIS ILES  
DEPUTY SECURITIES COMMISSIONER

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## Texas State Securities Board

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IN THE MATTER OF THE  
INVESTMENT ADVISER  
REPRESENTATIVE REGISTRATION  
AND THE AGENT REGISTRATION  
OF M F LONG II

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§

**Order No. REG16-SUS-03**

TO: M F Long II (CRD #1778299)  
Calton & Associates, Inc.  
770 San Jacinto Place  
Suite 200,  
Plano, Texas 75024

Calton & Associates, Inc. (CRD #20999)  
Christopher Simmers, Chief Compliance Officer  
2701 N Rocky Point Drive  
Suite 1000  
Tampa, Florida 33607

### DISCIPLINARY ORDER

Be it remembered that Calton & Associates, Inc. ("Calton") and M F Long II ("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 581-44 (West 2010 & Supp. 2016)("Texas Securities Act"), and the Administrative Procedure Act, Tex. Gov't Code Ann. §§ 2001.001 to 2001.902 (West 2008 & Supp. 2016)("Administrative Procedure Act").

2. From June 6, 2002 through June 30, 2016, Respondent was registered with the Securities Commissioner as an agent for VSR Financial Services, Inc. ("VSR").
3. From February 7, 2003 through June 30, 2016, Respondent was registered with the Securities Commissioner as an investment adviser representative of VSR.
4. On June 30, 2016, Respondent applied for registration with the Securities Commissioner as an investment adviser representative for Calton. This application is currently pending.
5. On June 30, 2016, Respondent applied for registration with the Securities Commissioner as an agent of Calton. This application is currently pending.

### **Unsuitable Investments & Inequitable Practices**

6. While registered as an investment adviser representative and agent of VSR, Respondent routinely recommended that Respondent's clients invest in non-listed real estate investment trusts ("non-listed REITs") and interests in exploratory drilling programs sold through private offerings.
7. VSR categorized these investment products as "alternative investments" and identified risk tolerance levels associated with these products. Non-listed REITs and exploratory drilling programs were designated as "High Risk/Moderate" and "Highest Risk/Aggressive," respectively.
8. VSR's policies and procedures effective during the time Respondent was recommending these alternative investments stated that suitability determinations for alternative investments for clients must be primarily based on: the client's financial status; the client's investment experience; the client's stated investment objectives and their risk tolerance; and the client's investment knowledge.
9. Additionally, in VSR's account opening agreements, clients would identify the percent the client would like invested at any one time in the various risk tolerance levels. The risk tolerance levels were:
  - a. Highest Risk/Aggressive;
  - b. High Risk/Aggressive;
  - c. High Risk/Moderate
  - d. Moderate Risk;
  - e. Low Risk/Conservative; and
  - f. Lowest Risk/Conservative.
10. A client ("Client") of Respondent was at least seventy years during the time Respondent recommended these alternative investments to Client. On multiple account opening agreements, Client elected to have *no more* than 20% of

Client's invested assets allocated at the "Highest Risk/Aggressive" risk tolerance level and no more than 60% of Client's invested assets in the "High Risk/Moderate" risk tolerance level.

11. Nevertheless, Respondent recommended that Client invest more than the designated 20% of Client's invested assets at the "Highest Risk/Aggressive" risk tolerance level and more than the designated 60% of Client's invested assets at the "High Risk/Moderate" risk tolerance level.
12. At one time, nearly 36% of the Client's invested assets were invested in investments at the "Highest Risk/Aggressive" risk tolerance level and nearly 78% of the Client's invested assets were invested in investments at the "High Risk/Moderate" risk tolerance level or higher.
13. Respondent did not have a reasonable basis to believe that the recommendations to Client to purchase the aforementioned alternative investments at amounts in excess of Client's stated risk tolerance allocation levels were suitable for Client.

#### CONCLUSIONS OF LAW

1. Respondent's recommendations of the alternative investments without a reasonable basis to believe that the allocation levels invested in such alternative investments were suitable for Client constitute inequitable practices in the sales of securities.
2. Pursuant to Section 14.A(3) of the Texas Securities Act, the aforementioned inequitable practices in the sale of securities are bases for the suspension of Respondent's registrations with the Securities Commissioner.

#### UNDERTAKING

1. Respondent and Calton undertake and agree that so long as Respondent is registered with the Securities Commissioner as an investment adviser representative and/or agent of Calton, Respondent will not sell or offer for sale any alternative investment or recommend the purchase of any alternative investment in connection with the rendering of services as an investment adviser representative, regardless of whether such alternative investment has been approved by Calton's compliance department.
2. Respondent and Calton further acknowledge and agree that, for the purposes of this Undertaking, "alternative investment" shall include: non-listed REITs, non-listed Business Development Companies and any security sold pursuant to a private offering.

3. Respondent and Calton further undertake and agree that, in addition to the aforementioned requirements of this Order and Undertaking, Calton will establish a heightened supervision plan for Respondent that will require, at a minimum, that Respondent send account paperwork, securities transactions and correspondence to a principal of Calton prior to opening an account, entering a transaction or distributing client correspondence.
4. Respondent and Calton further undertake and agree that the heightened supervision plan will be in effect for a period of two (2) years from the date of this Order and Undertaking.
5. Respondent and Calton further undertake and agree that, for a period of two (2) years from the date of this Order and Undertaking, Respondent and/or Calton will deliver to the legal counsel of the Inspections & Compliance Division of the Texas State Securities Board ("Counsel") any written or oral complaints and report the initiation of any regulatory actions within which Respondent's name appears or in which Respondent is otherwise involved.
6. Respondent and Calton further undertake and agree that each referenced complaint and regulatory action will be delivered and/or reported to Counsel within ten (10) business days of when Respondent receives such complaint or initiation of such regulatory action.

#### ORDER


1. It is therefore ORDERED that the registration of M F Long II as an investment adviser representative of Calton & Associates, Inc. with the Securities Commissioner is hereby GRANTED.
2. It is further ORDERED that the registration of M F Long II as an agent of Calton & Associates, Inc. with the Securities Commissioner is hereby GRANTED
3. It is further ORDERED that the investment adviser representative registration of M F Long II with the Securities Commissioner is hereby SUSPENDED for a period of forty-five (45) days.
4. It is further ORDERED that the agent registration of M F Long II with the Securities Commissioner is hereby SUSPENDED for a period of forty-five (45) days


5. It is further ORDERED that M F Long II and Calton & Associates, Inc. COMPLY with the terms of the Undertaking contained herein.

SIGNED AND ENTERED BY THE SECURITIES COMMISSIONER this 4<sup>th</sup>  
day of October, 2016.

  
JOHN MORGAN  
Securities Commissioner


Respondent:

  
M F Long II  
Individually

  
Calton & Associates, Inc.  
By: Christopher Simmers, CCO

Approved as to Form:

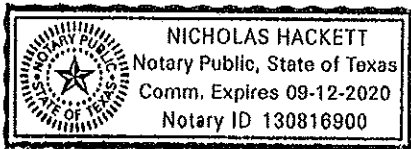
  
Callie A. Hester  
Attorney, Inspections and  
Compliance Division

  
Cristi Ramón  
Attorney, Inspections and  
Compliance Division

**ACKNOWLEDGMENT**

On the 29 day of September, 2016, M F Long II ("Respondent"), appeared before me, executed the foregoing Order, and acknowledged that:

1. Respondent has read the foregoing Order and Undertaking;
2. Respondent has been fully advised of his rights under the Texas Securities Act and the Administrative Procedure Act;
3. Respondent knowingly and voluntarily consents to the entry of the foregoing Order and the Findings of Fact, Conclusions of Law, and Undertaking contained therein; and
4. Respondent, by consenting to the entry of the foregoing Order, has knowingly and voluntarily waived his rights as set forth therein.



[affix notary seal here]

A handwritten signature in black ink, appearing to read "Nicholas Hackett".

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Notary Public in and for  
the State of Texas

My commission expires on: 9/12/20

**ACKNOWLEDGMENT**

On the 30 day of September, 2016, Calton & Associates, Inc. ("Calton") by and through Christopher Simmers, its Chief Compliance Officer, appeared before me, executed the foregoing Order, and acknowledged that:

1. Christopher Simmers is duly authorized to enter into the foregoing Order and Undertaking on behalf of Calton;
2. Christopher Simmers has read the foregoing Order and Undertaking;
3. Calton has been fully advised of its rights under the Texas Securities Act and the Administrative Procedure Act;
4. Calton knowingly and voluntarily consents to the entry of the foregoing Order and the Findings of Fact, Conclusions of Law, and Undertaking contained therein; and
5. Calton, by consenting to the entry of the foregoing Order, has knowingly and voluntarily waived its rights as set forth therein.



DAVID S. COLE  
NOTARY PUBLIC  
STATE OF FLORIDA  
Comm# FF180716  
Expires 9/26/2018

[affix notary seal here]

David S. Cole  
Notary Public in and for  
the State of FLORIDA

My commission expires on: 9/26/18



DAVID S. COLE  
NOTARY PUBLIC  
STATE OF FLORIDA  
Comm# FF180716  
Expires 9/26/2018