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E WALLY KINNEY
MEMBER

IN THE MATTER OF
THE INVESTMENT ADVISOR REGISTRATION
OF JOSEPH ANDREW ACCIARITO

§
§
§

Order No. IC08-SUS-14

TO: J. Andrew Acciarito (CRD No. 119162)
DBA Acciarito Financial Management
515 South Elm Street
Arlington, TX 76010

DISCIPLINARY ORDER

Be it remembered that Joseph Andrew Acciarito, dba Acciarito Financial Management ("Respondent"), appeared before the Securities Commissioner of the State of Texas ("Securities Commissioner") and consented to the entry of this order ("Order") and Undertaking ("Undertaking") 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 Respondent by The Securities Act, TEX. REV. CIV. STAT. ANN. art. 581-1 et seq. (Vernon 1964 & Supp. 2007) ("Texas Securities Act") and the Administrative Procedure Act, TEX. GOV'T CODE ANN. § 2001.001 et seq. (Vernon 2000 & Supp. 2007) ("Administrative Procedure Act").
2. On or about May 8, 1992, Respondent was registered with the Securities Commissioner as an investment adviser. Respondent's registration lapsed on December 31, 1995 due to non-renewal, but was restored on January 23, 1996. Respondent's registration again lapsed on December 31, 2000 due to non-renewal, but was reinstated on February 11, 2002, and is currently effective.
3. The Staff of the Texas State Securities Board ("Staff") performed an inspection of Respondent from on or about January 24, 2005 to on or about January 25, 2005 ("2005 Inspection").
4. During the course of the 2005 Inspection, Staff discovered the following:
 - (a) Respondent failed to maintain a general ledger and income statement.

- (b) Respondent failed to maintain an accurate Form ADV.
 - (c) Respondent indicated on its Form ADV that Respondent was in good standing with the Certified Financial Planning Board ("CFPB") and authorized to use the Certified Financial Planner ("CFP") designation, and Respondent used such designation on its letterhead; however Respondent had not been in good standing with the CFPB since April, 1998, and was not authorized to use the CFP designation.
- 5. On or about March 15, 2005, in response to Staff's letter outlining the deficiencies discovered in Staff's 2005 Inspection, Respondent sent a letter ("2005 Response") to Staff stating, among other things:
 - (a) Respondent maintained a general ledger and income statement, however they were unavailable at the time of the 2005 Inspection because they were not updated and Respondent was in the process of updating those documents.
 - (b) Respondent would amend the Form ADV as necessary.
 - (c) Respondent would amend the Form ADV and letterhead to reflect Respondent was not in good standing with the CFPB and was not authorized to use the CFP designation.
- 6. Staff performed an inspection of Respondent on or about May 8, 2008 ("2008 Inspection").
- 7. During the course of the 2008 Inspection, Staff discovered the following:
 - (a) Respondent still failed to maintain a general ledger and income statement.
 - (b) Respondent still failed to maintain an accurate Form ADV.
 - (c) Respondent failed to correct its letterhead until sometime after July 1, 2007 to show Respondent was not authorized to use the CFP designation, further Respondent continued to indicate on its Form ADV that Respondent was in good standing with the CFPB and authorized to use the CFP designation at the time of the 2008 Inspection.
- 8. Pursuant to §116.5(b)(2) of the Rules and Regulations of the State Securities Board ("Board Rules"), persons registered as investment advisors whose principal place of business is located in Texas shall make and keep current general and auxiliary ledgers reflecting assets, liabilities, reserve capital, income and expense accounts.
- 9. Pursuant to §116.9(a)(6) of the Board Rules, each person registered as an investment adviser shall report to the Securities Commissioner, within thirty (30) days, any change in any information previously disclosed to the Securities Commissioner on any application form or filing.
- 10. Pursuant to §101.2(c) and §133.33(a)(3)&(6) of the Rules and Regulations of the State Securities Board ("Board Rules"), certain forms required to be filed with the Securities Commissioner, including the Form ADV, have been adopted as Board Rules and have the same force and effect.

11. Pursuant to Section 14.A(3) of the Texas Securities Act, the Securities Commissioner may reprimand or suspend a person registered under the Texas Securities Act if the person has engaged in any fraudulent business practice.
12. Pursuant to Section 14.A(6) of the Texas Securities Act, the Securities Commissioner may reprimand or suspend a person registered under the Texas Securities Act if the person has violated any of the provisions of the Board Rules.
13. Pursuant to Section 14.A(7) of the Texas Securities Act, the Securities Commissioner may reprimand or suspend a person registered under the Texas Securities Act if the person has made any material misrepresentation to the Securities Commissioner in connection with information deemed necessary to determine an investment adviser's financial responsibility, business repute, or qualifications.
14. Pursuant to Section 23-1 of the Texas Securities Act, the Securities Commissioner may assess an administrative fine against any person found to have engaged in fraud or a fraudulent practice in connection with the rendering of services as an investment adviser or an act or practice that violates the Board Rules.

UNDERTAKING

Respondent hereby undertakes and agrees to take and pass the Uniform Adviser Law Examination ("Series 65") within 90 days of the date this Order is signed by the Securities Commissioner and deliver or cause to be delivered to the Director of the Inspections and Compliance Division of the Texas State Securities Board a copy of the exam results within ten (10) business days of receipt. If Respondent fails to take and pass the Series 65 within such timeframe, Respondent agrees to terminate his Texas investment adviser registration within ten (10) business days, and Respondent authorizes the Securities Commissioner to terminate his investment adviser registration in the State of Texas. Respondent further undertakes and agrees not to raise any due process or other legal claims concerning such termination of his Texas investment adviser registration.

CONCLUSIONS OF LAW

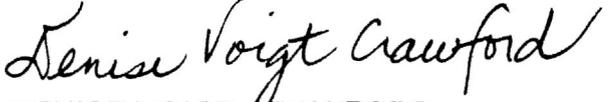
1. Respondent's failure to maintain a general ledger and income statement are violations of the Board Rules.
2. Respondent's failure to maintain an accurate Form ADV is a violation of the Board Rules.
3. Respondent's use of the CFP designation when not in good standing with the CFBP and not authorized to use such designation constitutes a fraudulent business practice and is a basis for the issuance of an order reprimanding and suspending a registered investment adviser pursuant to Section 14.A(3) of the Texas Securities Act.

4. Respondent's representation on the Form ADV that Respondent was in good standing with the CFPB and authorized to use the CFP designation constitutes a material misrepresentation to the Securities Commissioner in connection with information deemed necessary to determine an investment adviser's qualifications and is a basis for the issuance of an order reprimanding and suspending a registered investment adviser pursuant to Section 14.A(7) of the Texas Securities Act.
5. Respondent's representation to Staff that he would take the actions communicated in the 2005 Response and subsequent failure to either take such actions or notify the Staff that Respondent was not going to take such actions constitutes a fraudulent business practice and is a basis for the issuance of an order reprimanding and suspending a registered investment adviser pursuant to Section 14.A(3) of the Texas Securities Act.
6. Pursuant to Section 14.A(6) of the Texas Securities Act, the foregoing violations constitute the basis for the issuance of an order reprimanding and suspending a registered investment adviser.
7. Pursuant to Section 23-1 of the Texas Securities Act, the foregoing violations constitute the basis for the issuance of an order assessing an administrative fine against a registered investment adviser.

ORDER

1. It is therefore ORDERED that Joseph Andrew Acciarito, dba Acciarito Financial Management, is hereby REPRIMANDED.
2. It is further ORDERED that the investment adviser registration of Joseph Andrew Acciarito, dba Acciarito Financial Management, is SUSPENDED in full for ten (10) business days from the date this Order is signed by the Securities Commissioner ("Suspension").
3. It is further ORDERED that the investment adviser registration of Joseph Andrew Acciarito, dba Acciarito Financial Management, is SUSPENDED for purposes of any new business activity for thirty-five business days from the date the above Suspension is lifted.
4. It is further ORDERED that Joseph Andrew Acciarito, dba Acciarito Financial Management, is hereby ASSESSED AN ADMINISTRATIVE FINE in the amount of Ten Thousand Dollars (\$10,000.00). Payment shall be made by delivery of a cashier's check to the Securities Commissioner in the amount of Ten Thousand Dollars (\$10,000.00), payable to the State of Texas, contemporaneously with the delivery of this Order.
5. It is further ORDERED that Joseph Andrew Acciarito, dba Acciarito Financial Management, COMPLY with the terms of the Undertaking contained herein.

SIGNED AND ENTERED BY THE SECURITIES COMMISSIONER this 30th
day of September, 2008.


DENISE VOIGT CRAWFORD
Securities Commissioner

Respondent:


Joseph Andrew Acciarito,
dba Acciarito Financial Management

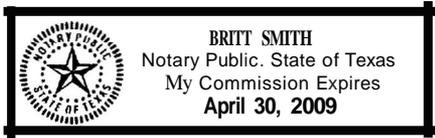
Approved as to Form:


Benette L. Zivley
Director
Inspections and Compliance Division

ACKNOWLEDGMENT

On the 2nd day of September, 2008, Joseph Andrew Acciarito, dba Acciarito Financial Management, ("Respondent"), appeared before me, executed the foregoing Order and Undertaking, and acknowledged that:

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



[affix notary seal here]

Britt Smith
Notary Public in and for
The State of Texas

My commission expires on: 4/30/2009