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## Texas State Securities Board

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MEMBER

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208 E. 10th Street, 5th Floor  
Austin, Texas 78701-2407  
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ALAN WALDROP  
MEMBER

### SOAH DOCKET NO. 312-13-0090 SSB DOCKET NO. IC12-17

IN THE MATTER OF  
THE AGENT AND INVESTMENT  
ADVISER REPRESENTATIVE  
REGISTRATIONS OF  
JASON ALLEN D'AMATO

§  
§  
§  
§  
§

BEFORE THE STATE OFFICE  
OF  
ADMINISTRATIVE HEARINGS

TO: Jason Allen D'Amato (CRD No. 3010323)  
Dia Lucrui Capital, LLC  
10205 Westheimer Rd.  
Houston, TX 77042

### NOTICE OF HEARING

This is your OFFICIAL NOTICE that a hearing will be held at the State Office of Administrative Hearings, in the William P. Clements Building, 300 W. 15th Street, 4th Floor, Austin, Texas 78701, before an Administrative Law Judge on **November 14, 2012 at 9:00 AM Central Time** for the purpose of determining whether the registrations of Jason Allen D'Amato ("Respondent") as an agent and an investment adviser representative with the Securities Commissioner of Texas ("Securities Commissioner") should be REVOKED.

This hearing will be held pursuant to The Securities Act, Tex. Rev. Civ. Stat. Ann. art. 581-1 et seq. (West 2010 & Supp. 2011) ("Texas Securities Act"); the Rules and Regulations of the State Securities Board, 7 Tex. Admin. Code Chapter 101 et seq. (Supp. 2012) ("Board Rules"); the Administrative Procedure Act, Tex. Gov't Code Ann. § 2001.001 et seq. (West 2010 & Supp. 2011); and the Rules of Practice and Procedure of the State Office of Administrative Hearings, 1 Tex. Admin. Code Chapter 155 (Supp. 2011) ("SOAH Rules").

**IF YOU DO NOT FILE A WRITTEN ANSWER OR OTHER WRITTEN RESPONSIVE PLEADING TO THIS NOTICE OF HEARING ON OR BEFORE THE 20TH DAY AFTER THE DATE ON WHICH THIS NOTICE WAS MAILED TO YOU OR PERSONALLY SERVED ON YOU, THE FACTUAL ALLEGATIONS IN THIS NOTICE WILL BE DEEMED ADMITTED, AND THE SECURITIES COMMISSIONER MAY DISPOSE**

**OF THIS CASE WITHOUT A HEARING AND GRANT THE RELIEF SOUGHT IN THIS NOTICE.  
THE RESPONSE MUST BE FILED IN AUSTIN, TEXAS, WITH THE STAFF OF THE STATE SECURITIES BOARD AND THE STATE OFFICE OF ADMINISTRATIVE HEARINGS.**

**IF YOU FAIL TO ATTEND THE HEARING, EVEN IF A WRITTEN ANSWER OR OTHER RESPONSIVE PLEADING HAS BEEN FILED, THE FACTUAL ALLEGATIONS IN THIS NOTICE WILL BE DEEMED ADMITTED, AND THE SECURITIES COMMISSIONER MAY DISPOSE OF THIS CASE WITHOUT A HEARING AND GRANT THE RELIEF SOUGHT IN THIS NOTICE.**

CONTACT INFORMATION

Clinton T. Edgar, Attorney  
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Docketing Office  
State Office of Administrative Hearings  
300 W. 15th Street, Suite 504  
Austin, Texas 78701  
Telephone: (512) 475-3445  
Facsimile: (512) 475-4994

Pursuant to §105.7 of the Board Rules, all documents filed by any party, other than business records and transcripts, and all documents issued by the Administrative Law Judge must be contemporaneously served upon the Securities Commissioner's representative as identified below:

Marlene Sparkman  
General Counsel  
Securities Commissioner's Representative  
Texas State Securities Board  
208 E. 10th Street, 5th Floor  
Austin, Texas 78701  
Telephone: (512) 305-8300  
Facsimile: (512) 305-8336

Legal authority and jurisdiction for this matter exist under Sections 14 and 23 of the Texas Securities Act, Section 2003.021(b) of the Texas Government Code, and Section 155.51 of the SOAH Rules.

The Staff of the Texas State Securities Board ("the Staff") will present evidence in support of its request that the registrations of Respondent with the Securities Commissioner be REVOKED. The evidence presented by the Staff will prove the following:

I. Registrations Summary

1. From on or about May 19, 2003 through on or about March 6, 2009, Respondent was registered with the Securities Commissioner as an agent and investment adviser representative of Stanford Group Company ("SGC").
2. On or about March 12, 2009, Respondent registered with the Securities Commissioner as an agent of IMS Securities, Inc. This registration is currently effective.
3. On or about March 17, 2009, Respondent registered with the Securities Commissioner as an investment adviser representative of IMS Financial Advisors, Inc. This registration is currently effective.
4. On or about July 9, 2009, Respondent registered with the Securities Commissioner as an investment adviser representative of Dia Lucrui Capital, LLC. This registration is currently effective.

II. Misrepresentations of Professional Designation

5. While registered with SGC, Respondent represented to co-workers, SGC clients, SGC prospective clients, and SGC financial advisors that he was a Chartered Financial Analyst ("CFA").
6. Respondent was not, and has never been, a CFA charterholder. However, Respondent used the CFA designation on thousands of e-mails and on his business cards.
7. In connection with Respondent's false representations, Respondent sent a fabricated e-mail to SGC (the "E-mail"). The E-mail was written to create the impression that the CFA Institute had sent the message to congratulate Respondent on passing the Level III CFA exam and achieving CFA charterholder status.
8. In reality, Respondent failed the Level I CFA exam the first and only time he took it.
9. Respondent's representations to others regarding his status as a CFA charterholder at a time when Respondent was not a CFA are misrepresentations of a relevant fact and constitute fraudulent business practices.
10. Respondent's actions in connection with sending the E-mail to SGC constitute fraudulent business practices.

III. Misleading Performance Reporting

11. Respondent was hired by SGC in or about May 2003 to assist in tracking the performance of an investment program known as Mutual Fund Partners ("MFP") and

to create personalized proposals (“Pitchbooks”) for SGC financial advisors to use in presentations with prospective clients.<sup>1</sup>

12. The Pitchbooks typically contained multiple charts reflecting the performance returns for each investment strategy of MFP dating back to 2000. The performance charts in the Pitchbooks were labeled originally as hypothetical or model performance because the charts were not based on actual returns of the program. Rather, the returns were calculated by backtesting existing allocations against historical data.
13. In or about October 2006, at least one SGC financial advisor raised concerns to SCM senior management because the hypothetical returns contained in the Pitchbooks did not match the actual returns in client portfolios.
14. As a result of these concerns, SCM hired an outside consultant who conducted an audit of all client accounts dating back to 2005. SCM later formed a performance reporting department and began calculating returns based on a composite of actual client returns.
15. The Pitchbooks then began to contain audited, composite returns for years starting in 2005 but continued to include the unaudited performance data for 2000 through 2004. However, the performance charts within the Pitchbooks were labeled as “Historical” even though the 2000 through 2004 figures were not actual returns.
16. Additionally, the unaudited performance data from 2000 through 2004 was blended with composite performance data from 2005 through 2008 to create annualized returns for certain periods (i.e. one, three, five, or seven years). This blended data was also labeled as “Historical” even though it was based in part on hypothetical returns.
17. The labeling of the blended data from 2000 through 2008 as “Historical” was therefore misleading to clients.
18. Respondent participated in discussions about the SAS Funds with clients and prospective clients. In connection with these discussions, Respondent used Pitchbooks that contained “Historical” returns for the SAS program that had blended the composite returns for 2005 through 2008 with the hypothetical returns for 2000 through 2004.
19. Respondent knew that the 2000 through 2004 performance data for the SAS program was calculated differently than the 2005 through 2008 data. Further, Respondent knew that labeling the blended data as “Historical” performance was misleading.

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<sup>1</sup> In or about November 2005, Respondent was named director of the investment advisory group of SGC and MFP’s portfolio manager. In or about March 2006, the name of the investment program was changed from MFP to Stanford Allocation Strategies (“SAS”). In or about September 2006, the investment advisory group of SGC separated from SGC and formed Stanford Capital Management (“SCM”). Respondent remained the portfolio manager for SAS.

20. Nonetheless, Respondent intentionally failed to disclose to clients and prospective clients that the performance data presented in the Pitchbooks was a combination of hypothetical data and audited composite numbers not accurately labeled as "Historical" performance.
21. Notably, Respondent's compensation was directly tied to the amount of assets invested in the programs he managed, which included the SAS program.
22. Respondent's intentional failures to disclose that the performance returns labeled as "Historical" in the Pitchbooks after May 2007 were actually a combination of hypothetical data and audited composite numbers constitute fraudulent business practices.

IV. Legal Authority

1. Section 14 of the Texas Securities Act states in part:
  - (A) The Commissioner may ... revoke a registration issued under this Act... if the person:  
...
    - (3) has engaged in any fraudulent business practice[.]
2. Pursuant to Section 14.A(3) of the Texas Securities Act, the aforementioned fraudulent business practices are bases for the revocation of Respondent's registrations with the Securities Commissioner.

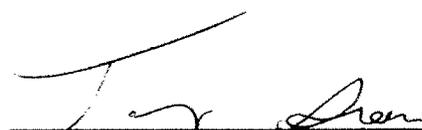
V. Relief Requested

Based on the foregoing allegations, the Staff requests that the Securities Commissioner issue an Order REVOKING Respondent's registrations with the Securities Commissioner.

Pursuant to § 105.13 of the Board Rules, the Staff respectfully requests that the State Office of Administrative Hearings order that all costs charged to the Texas State Securities Board by any court reporting service involved in this matter be assessed against Respondent.

You are invited to appear personally, with, without, or through counsel, and to present any and all evidence relating to the matters set forth in this Notice.

Signed this 10<sup>th</sup> day of September, 2012.

  
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Tommy Green  
Director of Inspections & Compliance

## CERTIFICATE OF SERVICE

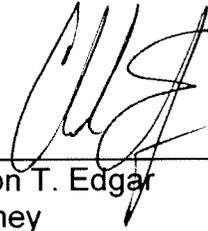
I hereby certify that true and correct copies of the foregoing have been sent via certified mail to the Respondent, and to the Securities Commissioner's Representative by hand-delivery, done on this, the 10<sup>th</sup> day of September, 2012.

Jason Allen D'Amato  
10205 Westheimer Rd.  
Houston, TX 77042

VIA CERTIFIED MAIL # 9171999991703062324465

Marlene Sparkman  
General Counsel  
Securities Commissioner's Representative  
Texas State Securities Board  
208 E. 10th Street, 5th Floor  
Austin, Texas 78701  
Telephone: (512) 305-8300  
Facsimile: (512) 305-8336

VIA HAND DELIVERY



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Clinton T. Edgar  
Attorney  
Inspections & Compliance Division