



**BEFORE THE COMMISSIONER OF COMMERCE AND INSURANCE
FOR THE STATE OF TENNESSEE**

TENNESSEE SECURITIES DIVISION,)	
)	
Petitioner,)	
)	
v.)	TSD No.: 21-009
)	
BRANDON LITTLETON AND)	
FORM ADVISORY GROUP, LLC,)	
)	
Respondents.)	

CONSENT ORDER

The Securities Division of the Tennessee Department of Commerce and Insurance (“Division”), by and through undersigned counsel, Brandon Littleton, and Form Advisory Group, LLC (“Form Advisory Group”, collectively with Brandon Littleton “Respondents”) agree to the entry and execution of this Consent Order in accordance with Tennessee Code Annotated (“Tenn. Code Ann.”) § 48-1-116 of the Tennessee Securities Act of 1980 (“Act”), as amended, and Tenn. Code Ann. §§ 48-1-101 to 48-1-201, subject to the approval of the Commissioner of the Department (“Commissioner”).

I. PARTIES

1. The Division is the lawful agent through which the Commissioner discharges the administration of the Act pursuant to Tenn. Code Ann. § 48-1-115.
2. Brandon Littleton is a resident of Tennessee and is an investment adviser representative with Central Registration Depository number (“CRD #”) 5970632.

3. Form Advisory Group is an investment adviser in Tennessee with CRD # 299524 and an address of 501 Union Street, Nashville, TN 37219.

II. GENERAL STIPULATIONS

4. It is expressly understood that this Consent Order is subject to the Commissioner's acceptance and has no force and effect until such acceptance is evidenced by the entry and execution of this Consent Order by the Commissioner. Entry and execution of this Consent Order by the Commissioner shall occur when the Commissioner signs and dates this Consent Order.

5. It is expressly understood that this Consent Order is in the public interest, necessary for the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the Act.

6. This Consent Order is executed by the Commissioner, the Division, and the Respondents to avoid further administrative action with respect to the findings of fact described herein. Should this Consent Order not be accepted by the Commissioner, it is agreed that presentation to and consideration of this Consent Order by the Commissioner shall not unfairly or illegally prejudice the Commissioner from further participation or resolution of these proceedings.

7. The Respondents fully understand that this Consent Order will in no way preclude additional proceedings by the Commissioner against the Respondents for acts and/or omissions not specifically addressed in this Consent Order nor for facts and/or omissions that do not arise from the facts or transactions herein.

8. The Respondents fully understand that this Consent Order will in no way preclude proceedings by state government representatives, other than the Commissioner, for acts or omissions addressed specifically in this Consent Order, violations of law under statutes, rules, or regulations of the State of Tennessee that arise out of the facts, acts, or omissions contained in this

Consent Order, or acts or omissions addressed specifically herein that result from the execution of this Consent Order.

9. The Respondents waive all further procedural steps and all rights to seek judicial review of, or otherwise challenge the validity of this Consent Order, the stipulations and imposition of discipline contained herein, or the consideration and entry and execution of this Consent Order by the Commissioner.

III. FINDINGS OF FACT

10. On or about July 8, 2020, Ethan Rosenberg (“Rosenberg”), Securities Examiner II for the Division, conducted an examination of the books and records of the Respondents pursuant to Tenn. Code Ann. § 48-1-111.

11. Mr. Rosenberg’s examination concluded on or about October 22, 2020, and found multiple deficiencies.

12. On or about January 14, 2020, the Respondents registered with the Division and falsely claimed that Form Advisory Group met the fifteen thousand dollar (\$15,000) minimum net capital requirement by submitting a 2019 year-end balance sheet that stated Form Advisory Group had cash in the amount of twenty-seven thousand, five hundred eighty-five dollars (\$27,585.00).

13. The Respondents further falsely claimed that Form Advisory Group met the fifteen thousand dollar (\$15,000) minimum net capital requirement every month since it registered in January 2020 by stating it had access to at least fifteen thousand dollars (\$15,000).

14. The Respondents failed to maintain client agreements with Form Advisory Group’s three (3) clients.

15. The Respondents also failed to maintain the following records: a compliance manual; monthly net capital calculations; monthly balance sheets; statements of profit and loss;

marketing, advertising, and/or disclosure documents; proof of initial disclosure delivery; or a privacy policy.

16. The Respondents have not established cyber-security or risk management procedures.

17. On or about October 22, 2020, the Respondents sent a letter to the Division admitting that they did not have twenty-seven thousand, five hundred eighty-five dollars (\$27,585.00) in their accounts.

18. As of the date of entry and execution of this Consent Order, the Respondents have not established compliance with the minimum net capital requirement for any month since registering on January 14, 2020.

IV. CONCLUSIONS OF LAW

19. Pursuant to Tenn. Code Ann. § 48-1-115(a), the responsibility for the administration of the Act is vested in the Commissioner. The Division is the lawful agent through which the Commissioner discharges this responsibility pursuant to Tenn. Code Ann. § 48-1-115(b).

20. Tenn. Code Ann. § 48-1-116 sets forth that the Commissioner may make, promulgate, amend, and rescind such orders as are necessary to carry out the provisions of the Act upon a finding that such order is in the public interest, necessary for the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the Act.

21. Tenn. Code Ann. § 48-1-111 states, in pertinent part:

- (a) Every registered broker-dealer and investment adviser shall make and keep such accounts, correspondence, memoranda, papers, books, and other records as the commissioner by rule prescribes. All records so required shall be preserved for three (3) years unless the commissioner by rule prescribes otherwise for particular types of records.

...

- (d)(1) All the records referred to in subsection (a) are subject at any time and from time to time to such reasonable periodic, special, or other examinations, within or outside of this state, by representatives of the commissioner, as the commissioner deems necessary or appropriate in the public interest or for the protection of investors.

22. Tenn. Code Ann. § 48-1-112 states, in pertinent part:

- (a) The commissioner may by order deny, suspend, or revoke any registration under this part if the commissioner finds that:

- (1) The order is in the public interest and necessary for the protection of investors; and

- (2) The applicant or registrant or, in the case of a broker-dealer or investment adviser, any affiliate, partner, officer, director, or any person occupying a similar status or performing similar functions:

- (A) Has filed an application for registration which as of its effective date, or as of any date after filing in the case of an order denying effectiveness, includes any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

- (B) Has willfully violated or willfully failed to comply with any provision of this part or a predecessor chapter or any rule or order under this part or a predecessor chapter, including, without limitation, any net capital requirements; [or]

...

- (G) Has engaged in dishonest or unethical practices in the securities business[.]

...

- (d) In any case in which the commissioner is authorized to deny, revoke, or suspend the registration of a broker-dealer, agent, investment

adviser, investment adviser representative, or applicant for broker-dealer, agent, investment adviser, or investment adviser representative registration, the commissioner may, in lieu of or in addition to such disciplinary action, impose a civil penalty in an amount not to exceed five thousand dollars (\$5,000) for all violations for any single transaction, or in an amount not to exceed ten thousand dollars (\$10,000) per violation if an individual who is a designated adult is a victim.

23. Tenn. Code Ann. § 48-1-121 states, in pertinent part:

...

- (c) It is unlawful for any person to make or cause to be made, in any document filed with the commissioner or in any proceeding under this part, any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading.
- (d) The commissioner may, after notice and opportunity for a hearing under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, impose a civil penalty against any person found to be in violation of this section, or any rule or order adopted or issued under this section, in an amount not to exceed ten thousand dollars (\$10,000) per violation, or in an amount not to exceed twenty thousand dollars (\$20,000) per violation if an individual who is a designated adult is a victim.

24. Tenn. Code Ann. § 48-1-116 states, in pertinent part:

- (a) The commissioner may from time to time make, promulgate, amend, and rescind such rules, forms, and orders as are necessary to carry out this part, including rules, forms, and orders governing registration statements, applications, reports, and filing fees, and defining any terms, whether or not used in this part, insofar as the definitions are not inconsistent with this part. For the purpose of rules and forms, the commissioner may classify securities, persons, and matters within the commissioner's jurisdiction, and prescribe different requirements for different classes.

25. Tenn. Comp. R. & Regs. 0780-04-03-.01(6) states, in pertinent part:

- (a) Except as provided under subparagraph (6)(d) of this Rule, every investment adviser registered or to be registered shall have and

maintain a minimum net capital of fifteen thousand dollars (\$15,000).

26. Tenn. Comp. R. & Regs. 0780-04-03-.02(3) states, in pertinent part:

(a) Except as provided in subparagraph (3)(c) of this Rule, every registered investment adviser shall maintain and keep current the following books and records relating to its business, unless waived by order of the commissioner:

...

8. Copies of all agreements entered into by the investment adviser with respect to any account, which agreements shall set forth the fees to be charged and the manner of computation and method of payment thereof, and copies of all communications, correspondence, and other records relating to securities transactions;

...

10. A computation made monthly of the investment adviser's net capital; and

11. Copies of all written agreements, acknowledgements, and solicitor disclosure statements required by paragraphs (5-6) of Rule 0780-04-03-.13.

27. Tenn. Comp. R. & Regs. 0780-04-03-.02(6) states, in pertinent part:

(c) The following are deemed "dishonest or unethical business practices" by an investment adviser or an investment adviser representative under T.C.A. § 48-1-112(a)(2)(G), to the extent permitted under Section 203A of the Investment Advisers Act, without limiting those terms to the practices specified herein:

1. Exercising any discretionary power in placing an order for the purchase or sale of securities for the account of a customer without first obtaining written discretionary authority from the customer;

...

4. Recommending to a customer the purchase, sale, or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the customer

on the basis of information furnished by the customer after reasonable inquiry concerning the customer's investment objectives, financial situation, and needs, and any other information known by the investment adviser;

...

19. Entering into, extending, or renewing any investment advisory contract, unless such contract is in writing and, in substance, discloses:

- (i) The services to be provided;
- (ii) The term of the contract;
- (iii) The advisory fee;
- (iv) The formula for computing the fee;
- (v) The amount of prepaid fee to be returned in the event of contract termination or non-performance;
- (vi) Whether the contract grants discretionary power to the adviser; and
- (vii) That no assignments of such contract shall be made by the investment adviser without the consent of the other party to the contract;

20. Failing to establish, maintain, and enforce written policies and procedures reasonably designed, taking into consideration the nature of such investment adviser's business, to prevent the misuse in violation of the Investment Advisers Act or the 1934 Act, or the rules or regulations promulgated thereunder, of material, non-public information by such investment adviser or any person associated with such investment adviser; [and]

...

26. Failing to provide information requested by the Division pursuant to the Act or these Rules.

28. The Findings of Fact detailed above show that the Respondents falsely claimed that

Form Advisory Group met the fifteen thousand dollar (\$15,000) minimum net capital requirement

by submitting a 2019 year-end balance sheet that stated Form Advisory Group had cash in the amount of twenty-seven thousand, five hundred eighty-five dollars (\$27,585.00) when registering with the Division on January 14, 2020, and falsely claimed to meet the minimum net capital requirement in all months thereafter. These actions constitute violations of Tenn. Code Ann. § 48-1-112(a)(2)(A), (B), and (G); Tenn. Code Ann. § 48-1-121(c); and Tenn. Comp. R. & Regs. 0780-04-03-.01(6)(a).

29. The Findings of Fact show that the Respondents failed to maintain a minimum net capital of fifteen thousand dollars (\$15,000) during the period of January 2020 to the date of entering into this Consent Order. These actions constitute violations of Tenn. Code Ann. § 48-1-112(a)(2)(B) and (G); and Tenn. Comp. R. & Regs. 0780-04-03-.01(6)(a).

30. The Findings of Fact establish that the Respondents failed to maintain client agreements with three (3) clients. These actions constitute violations of Tenn. Code Ann. § 48-1-112(a)(2)(B) and (G); Tenn. Comp. R. & Regs. 0780-04-03-.02(3)(a)8. and 11.; and Tenn. Comp. R. & Regs. 0780-04-03-.02(6)(c)1. and 19.

31. The Findings of Fact show that the Respondents have not established cyber-security or risk management procedures. These actions constitute violations of Tenn. Code Ann. § 48-1-112(a)(2)(B) and (G); and Tenn. Comp. R. & Regs. 0780-04-03-.02(6)(c)20.

32. The Findings of Fact detail that the Respondents failed to maintain and provide the following additional records: a compliance manual; monthly net capital calculations; monthly balance sheets; statements of profit and loss; marketing, advertising, and/or disclosure documents; or proof of initial disclosure delivery. These actions constitute violations of Tenn. Code Ann. § 48-1-112(a)(2)(B) and (G); Tenn. Comp. R. & Regs. 0780-04-03-.02(3)(a)8., 10., and 11.; and Tenn. Comp. R. & Regs. 0780-04-03-.02(6)(c)4. and 26.

33. The Commissioner finds the following relief appropriate, in the public interest, and necessary for the protection of investors.

V. ORDER

NOW, THEREFORE, based on the foregoing, including the Respondents' waiver of the right to a hearing and appeal under the Act and the Tennessee Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-101 *et seq.*, and the Respondents' admission to the jurisdiction of the Commissioner, the Commissioner finds that the Respondents agree to the entry and execution of this Consent Order to settle this matter as evidenced by the Respondents' signature.

IT IS ORDERED, pursuant to Tenn. Code Ann. § 48-1-116, that:

1. The Respondents shall **COMPLY** with the Act, as amended, and all rules promulgated thereunder;

2. The Respondents shall **PROVIDE** the Division evidence of their compliance with the net capital requirement by April 15, 2021. Failure of the Respondents to provide evidence of their compliance with the net capital requirement shall result in the automatic suspension of the Respondents' registrations with the Division until the Respondents provide evidence of their compliance to the Division. If the Respondents fail to provide evidence of their compliance with the net capital requirement by July 15, 2021, the Respondents' registrations with the Division will be automatically revoked by the Division;

3. The Respondents shall **PROVIDE** the Division with a copy of the Respondents' compliance manual, including cyber-security policy and business continuity plan, copies of executed client agreements, copies of executed third-party agreements, a copy of the privacy policy and proof of delivery, proof of brochure delivery to clients, and documentation of discretionary authority by April 15, 2021. Failure of the Respondents to provide these documents shall result in

the automatic suspension of the Respondents' registrations with the Division until the Respondents provide evidence of their compliance to the Division. If the Respondents fail to provide these documents by July 15, 2021, the Respondents' registrations with the Division will be automatically revoked by the Division;

4. The Respondents shall, quarterly, for two (2) years **PROVIDE** the Division all workpapers, documents, and/or records, including but not limited to bank statements, depreciation schedules, or appraisals, that exhibit, calculate, or establish their net worth. The Respondents shall provide these workpapers, documents, and/or records to the Division no later than the following dates: April 15, 2021; July 15, 2021; October 15, 2021; January 15, 2022; April 15, 2022; July 15, 2022; October 15, 2022; January 15, 2023; and April 15, 2023. Failure of the Respondents to provide these workpapers, documents, and/or records shall result in the automatic suspension of the Respondents' registrations with the Division until the Respondents provide these workpapers, documents, and/or records to the Division. If the Respondents fail to provide these workpapers, documents, and/or records for three (3) or more cumulative reporting periods, the Respondents' registrations with the Division will be automatically revoked by the Division; and

5. The Respondents shall **PAY A CIVIL PENALTY** to the State of Tennessee of six thousand dollars (\$6,000). The payment of such civil penalty shall be made by check payable to the Tennessee Department of Commerce and Insurance. Page one (1) of this Consent Order must accompany the payment for reference. Payment shall be made in the form of twenty-four (24) consecutive monthly payments, made by the first day of each month, in the amount of two hundred fifty dollars (\$250) beginning May 1, 2021, and mailed to the attention of:

State of Tennessee
Department of Commerce and Insurance
Attn: Garron Amos
Davy Crockett Tower
500 James Robertson Parkway
Nashville, Tennessee 37243

Failure of the Respondents to make a timely payment shall result in the automatic suspension of the Respondents' registrations with the Division until the Respondents provide the missing payment to the Division. If the Respondents fail to make a timely payment for three (3) or more cumulative months, the Respondents' registrations with the Division will be automatically revoked by the Division.

6. The Respondents' failure to comply with the terms of this Consent Order, including the manner and method of payment of the civil penalty described above, shall result in further administrative disciplinary action, which may include the assessment of additional civil penalties. Further, if the Respondents are suspended for any reason, the Respondents must remedy the reason for the suspension within three (3) months. If the Respondents fail to remedy their suspension within three (3) months, the Respondents' registrations with the Division will be revoked.

7. **IT IS FURTHER ORDERED** that this Consent Order represents the complete and final resolution of and discharge of all administrative and civil claims, demands, actions, and causes of action by the Commissioner against the Respondents for violations of the Act with respect to the transactions involved in the above-referenced facts. However, excluded from and not covered by this paragraph, are any claims by the Division arising from or relating to the enforcement of the Consent Order provisions contained herein.

8. This Consent Order is in the public interest and the best interests of the Parties. It represents a settlement of the controversy between the Parties and is for settlement purposes only. By the signatures affixed below, or in two (2) or more counterparts, the Respondents affirmatively

state the following: the Respondents freely agree to the entry and execution of this Consent Order; the Respondents waive the right to a hearing on, or a review of, the matters, the Findings of Fact, and the Conclusions of Law underlying this Consent Order or the enforcement of this Consent Order; and the Respondents encountered no threats or promises of any kind by the Commissioner, the Division, or any agent or representative thereof.

9. By signing this Consent Order, the Commissioner, the Division, and the Respondents affirmatively state their agreement to be bound by the terms of this Consent Order and aver that no promises or offers relating to the circumstances described herein, other than the terms of settlement as set forth in this Consent Order, are binding upon them.

10. This Consent Order may be executed in two (2) or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same document. The facsimile, email, or other electronically delivered signatures of the parties shall be deemed to constitute original signatures, and facsimile or electronic copies shall be deemed to constitute duplicate originals.

ENTERED AND EXECUTED April 9, 2021.


Carter Lawrence (Apr 9, 2021 09:29 CDT)

Carter Lawrence, Commissioner
Department of Commerce and Insurance

APPROVED FOR ENTRY AND EXECUTION:



Brandon Littleton
Individually and on behalf of:
Form Advisory Group, LLC


E B (Aug 19, 2021 08:44 CDT)

Elizabeth Bowling
Assistant Commissioner for Securities
Department of Commerce and Insurance



Garron Amos, BPR #035924
Associate General Counsel
Department of Commerce and Insurance