



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

**TENNESSEE SECURITIES DIVISION,** )  
 )  
 **Petitioner,** )  
 )  
 **v.** ) **Matter No. 22-01196**  
 )  
 **ROBERT S. ROBBINS and** )  
 **ROBBINS CAPITAL MANAGEMENT, INC.** )  
 )  
 **Respondents.** )

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**CONSENT ORDER**

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The Securities Division of the Tennessee Department of Commerce and Insurance (“Division”), Robert S. Robbins, and Robbins Capital Management, Inc. (“Robbins Capital”) (collectively “Respondents”) by and through undersigned counsel, agree to the entry 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 Tennessee Department of Commerce and Insurance (“Commissioner”).

**PARTIES**

1. Robert S. Robbins was registered with the Division as an investment adviser representative and has the Financial Industry Regulatory Authority (“FINRA”) assigned Central Registration Depository (“CRD”) number 1269785.
2. Robbins Capital was registered with the Division as an investment adviser and has the FINRA assigned CRD number 134137.

3. Tenn. Code Ann. § 48-1-115(a) vests the responsibility for the administration of the Act 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).

### **FINDINGS OF FACT**

4. Pursuant to Tenn. Code Ann. § 48-1-111(d)(1), the Division conducts periodic examinations of the books and records of investment advisers registered in Tennessee. The Division previously conducted a books and records examination of Respondent Robbins Capital.

5. Respondents previously entered into a Consent Order in 2019 and an Agreed Order in 2020 stemming from violations of the Act and Tennessee Securities Regulations (“Regulations”).

6. As part of the 2020 Agreed Order, Respondents were to provide four (4) specific individuals with proof of completion of specific FINRA training courses. Respondents failed to provide three (3) of the four (4) individuals with the required proof of completion.

7. As part of the 2020 Agreed Order, Respondents agreed to more frequent books and records examinations by the Division. On or about May 21, 2021, the Division notified Respondents by letter that a books and records examination was being opened.

8. During the examination, the Division’s examiner determined that Respondents did not deliver a copy of their brochure, or a summary of material changes to the brochure, following the 2019 Consent Order and 2020 Agreed Order that Respondents entered into with the Division.

9. However, the Respondents referenced entry of the 2020 Agreed Order in an email regarding fees to their clients in the first quarter of 2020.

10. Respondents failed to timely file the 2022 annual amendment to the Form ADV within ninety (90) days after the end of Robbins Capital's fiscal year. The 2022 annual amendment was ultimately filed on May 24, 2022.

11. Respondents did not update their information in the Investment Adviser Registration Depository ("IARD")/CRD system, though Respondent Robbins was under the belief that such information was up-to-date.

12. As part of the examination, the Division's examiner reviewed the firm's balance sheet for June 30, 2019, which showed a net capital value of approximately \$12,430.75 for June 2019.

13. The examination found that Respondents did not maintain copies of their clients' custodial account applications or copies of limited power of attorney documents that indicated the Respondents were vested with discretionary authority for their clients as part of their books and records.

14. During the examination, the Respondents stated they believed their privacy policy was being delivered to their clients contemporaneous with the delivery of their brochure. However, the Division's examination revealed that Respondents' privacy policy was not being delivered to Respondents' clients.

15. Respondents' principal place of business was the state of Georgia until 2011, and since 2011, has been the state of Tennessee. Approximately ten (10) of Respondents' client contracts were not revised to indicate that Respondents' principal place of business was Tennessee.

16. Approximately six (6) of Respondents' clients were charged fees that were inconsistent with the terms of the investment adviser – client contract. Three (3) of Respondents'

clients were charged annual advisory fees that were greater than the individual advisory fee contained in their contracts. These three (3) clients were refunded for the overcharge.

17. Respondents obtained supplemental fee authorizations from each client in 2020 before charging clients additional advisory fees. Respondents did not have the authorization document for one (1) client. Respondents obtained that missing document during the pendency of the examination.

18. Respondents did not renew their registrations with the Division pursuant to Tenn. Code Ann. § 48-1-109(d)(1) and (2). Respondent Robbins indicated to the Division that Respondent Robbins Capital intends to cease operations.

19. Respondents did not submit documentation to the Division indicating that Respondent Robbins Capital had terminated its brokerage relationship with its custodian firm until March 16, 2023, after multiple requests from the Division to provide that documentation.

20. Respondents failed to notify their clients of the failure to renew their registrations with the Division until prompted to do so by the Division's examiner.

### **CONCLUSIONS OF LAW**

21. 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).

22. Tenn. Code Ann. § 48-1-116 provides 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.

23. Tenn. Code Ann. § 48-1-112(d) establishes that when the Commissioner is authorized to deny, revoke, or suspend the registration of an investment adviser or investment adviser representative, “the [C]ommissioner may . . . 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.”

24. Tenn. Comp. R. & Regs. 0780-04-03-.08 provides that:

(1) It shall constitute an act, practice, or course of business which operates or would operate as a fraud or deceit upon another person within the meaning of T.C.A. § 48-1-121(b)(2) of the Act for any investment adviser to fail to disclose to any client or prospective client all material facts with respect to:

...

(b) A legal or disciplinary event that is material to an evaluation of the adviser’s integrity or ability to meet contractual commitments to clients.

...

(3) The information required to be disclosed by paragraph (1) of this Rule shall be disclosed to clients promptly, and to prospective clients not less than forty-eight (48) hours prior to entering into any written or oral investment advisory contract, or no later than the time of entering into such contract if the client has the right to terminate the contract without penalty within five (5) business days after entering into the contract.

25. Tenn. Comp. R. & Regs. 0780-04-03-.10(3)(a) provides that

(1) General requirement. General requirement. Unless otherwise provided in this Rule, an investment adviser, registered or required to be registered pursuant to T.C.A. § 48-1-109(c) shall, in accordance with the provisions of this Rule, furnish each advisory client and prospective advisory client with a written disclosure statement which may be either a copy of Part 2 of its Form ADV or a written document containing at least the information then so required by Part 2 of Form ADV.

...

- (3) Offer to deliver.
  - (a) An investment adviser, except as provided in subparagraph (3)(b) of this Rule, annually shall, without charge, deliver or offer in writing to deliver upon written request to each of its advisory clients the statement required by this Rule.

26. Tenn. Comp. R. & Regs. 0780-04-03-.01(6)(a) provides that

- (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).

27. Tenn. Comp. R. & Regs. 0780-04-03-.02(3)(a) provides that:

- (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:

...

- (7) Records of all accounts in which the investment adviser is vested with discretionary authority, including powers of attorney and other evidence of discretionary authority;
- (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;

28. Tenn. Comp. R. & Regs. 0780-04-03-.02(6)(c)(13) provides that:

- (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:

...

(13) Charging a client an unreasonable advisory fee[.]

29. Based on the Findings of Fact above, the Respondents failed to maintain minimum net capital in violation of Tenn. Comp. R. & Regs. 0780-04-03-.01(6)(a).

30. Based on the Findings of Fact above, the Respondents failed to notify clients of material changes to the brochure in violation of Tenn. Comp. R. & Regs. 0780-04-03-.08(3) and Tenn. Comp. R. & Regs. 0780-04-03-.10(1).

31. Based on the Findings of Fact above, the Respondents charged an unreasonable advisory fee by charging an advisory fee greater than that provided for in the client agreement in violation of Tenn. Comp. R. & Regs. 0780-04-03-.02(6)(c)(13).

32. Based on the Findings of Fact above, the Respondents failed to maintain required records of client custodial account documents in violation of Tenn. Comp. R. & Regs. 0780-04-03-.02(3)(a)(7).

33. Based on the Findings of Fact above, the Respondents failed to maintain records of fee agreements with clients in violation of Tenn. Comp. R. & Regs 0780-04-03-.02(3)(a)(8).

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

**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(a), that the Respondents shall:

1. **COMPLY** with the Act, as amended, and all rules promulgated thereunder; and
2. **PAY A CIVIL PENALTY** to the State of Tennessee of five thousand dollars (\$5,000) on behalf of the Respondents. 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 remitted within thirty (30) days of the date of entry and execution of this Consent Order, as evidenced by the Commissioner's signature, and mailed to the attention of:

**State of Tennessee  
Department of Commerce and Insurance  
Attn: Jacob R. Strait  
500 James Robertson Parkway  
Davy Crockett Tower  
Nashville, Tennessee 37243**

3. Respondent Robbins Capital is barred from registering as an investment adviser in the State of Tennessee.

4. Respondent Robert S. Robbins is prohibited from engaging in any activity as or holding any interest as an owner, manager, director, supervisor, or chief compliance officer for an Investment Adviser in Tennessee for a period of four (4) years from the date of entry of this Order.

5. Respondent Robert S. Robbins, as a condition precedent to the approval of any application for registration as an investment adviser representative, must enter into a heightened supervision agreement between the prospective investment adviser firm and the Division covering a period of (2) years.

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 actions, which may include the assessment of additional civil penalties.




7. 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 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 the 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 other electronic copies shall be deemed to constitute duplicate originals.

ENTERED AND EXECUTED February 19, 2024.

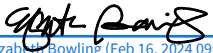
  
Carter Lawrence (Feb 19, 2024 19:56 CST)

Carter Lawrence, Commissioner  
Department of Commerce and Insurance

**APPROVED FOR ENTRY AND EXECUTION:**



Robert S. Robbins  
*Individually and on behalf of:*  
Robbins Capital Management, Inc.

  
Elizabeth Bowling (Feb 16, 2024 09:36 CST)

Elizabeth Bowling  
Assistant Commissioner for Securities  
Department of Commerce and Insurance



Jacob R. Strait, BPR #032389  
Associate General Counsel for Securities  
Department of Commerce and Insurance