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Utah Department of Commerce
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**BEFORE THE DIVISION OF SECURITIES
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH**

**IN THE MATTER OF THE LICENSE
OF:**

**ACADIA CAPITAL ADVISORS, LLC,
IARD#142470
MICHAEL BRENT PETERSEN,
CRD#5087824**

Respondents.

**PETITION TO CENSURE, BAR AND
IMPOSE A FINE**

Docket No. SD-15- 0046

Docket No. SD-15- 0047

Pursuant to the authority of the Utah Uniform Securities Act (“Act”), Utah Code Ann. § 61-1-6, the Utah Division of Securities (“Division”) hereby petitions the Utah Securities Commission (“Commission”) to enter an Order censuring, barring, and imposing a fine on Respondents Acadia Capital Advisors, LLC (“ACA”) and Michael Brent Petersen (“Petersen”) (collectively referred to at times herein as “Respondents”). In support of this petition, the Division alleges:

STATEMENT OF FACTS

Background and Licensing History

1. ACA is a Delaware limited liability company with its principal place of business in Salt

Lake County, Utah. During the relevant period, its sole principal, chief executive officer and designated official was Petersen, CRD#5087824.

2. After filing an initial application in November 2006, ACA and Petersen became licensed in Utah in February 2007 as an investment adviser and investment adviser representative, respectively.
3. Petersen has taken and passed the FINRA Series 7, General Securities Representative Examination, and Series 66, Uniform Combined State Law Examination.
4. From February 2007 until August 2013 Petersen was also licensed in Utah as a broker-dealer agent of Colony Park Financial Services LLC (“CPFS”), CRD#41534.
5. At the end of December 2009, ACA failed to renew its license for the following year, which caused Petersen’s investment adviser representative license to likewise expire.
6. Several months later, the Respondents applied to become licensed again. The Division approved ACA’s and Petersen’s licensing applications in May 2010.
7. On December 17, 2013, the Financial Industry Regulatory Authority (“FINRA”) sent emails to investment adviser firms whose licenses would terminate at year end to remind the firms to add monies to the accounts drawn by FINRA to pay renewal fees. That group included ACA.
8. At the end of December 2013, ACA again failed to renew its license. At the time, the Division had a pending audit of Respondents. Neither ACA nor Petersen have been licensed since December 2013.
9. In January 2014, the Division sent reminder emails to investment adviser firms that had failed to renew, including ACA. Respondents made no response and did not seek to

renew their licenses.

10. On July 15, 2014, the Division examiner for the pending audit (“examiner”) attempted to contact Respondents by telephone using contact information from the period Respondents were licensed. The voicemail system still referred to ACA. The examiner left a message for Petersen.
11. On July 17, 2014, the Division again attempted to contact Respondents by telephone and left another voicemail message. The examiner also sent an email to Petersen at both the email address used by ACA during the period Respondents were licensed and a personal email address Petersen used to communicate with the Division previously, noting the failure to connect by telephone, and requesting that Petersen call the examiner.
12. On August 4, 2014, the Division again attempted to contact ACA and Petersen by phone.
13. ACA and Petersen did not return any of the Division’s telephone calls or emails.
14. On August 6, 2014, ACA filed Form ADV¹ through the Central Registration Depository (“CRD”)² in order to become licensed in Utah as an investment adviser. However, the Form ADV contained material errors, described further below, and was incomplete.
15. Although Respondent ACA submitted Form ADV, it did not submit FINRA Form U4³ in

¹Form ADV is used by investment advisers to register with the United States Securities and Exchange Commission (“SEC”) or with state securities regulators.

²CRD is a computerized database maintained by FINRA. CRD contains employment, licensing and disciplinary information on broker-dealers, agents, investment advisers and investment adviser representatives.

³Form U4, Uniform Application for Securities Registration or Transfer, is filed through CRD with FINRA and the Division in order for an individual to become licensed as an investment adviser representative.

order to license its designated official, Petersen, as an investment adviser representative, as required by Utah Admin. Code Rule R164-4-2(C)(1)(b)(i).

16. The Division made further attempts to contact Respondents and left messages on August 7th, 12th, and 18th concerning additional information required before the Division could approve Respondents' licenses. Respondents did not respond.
17. On September 4, 2014, the Division denied ACA's application.⁴
18. On June 29, 2015, Respondents filed a new investment adviser application.

2013 Complaint and Audit

19. On August 12, 2013, the Division received a complaint from a client of Respondents, who alleged her account had been managed on a discretionary basis without such authority, and that Petersen's active trading strategies led to losses and high transaction fees.
20. In October 2013, the Division conducted an audit of Respondents, which ultimately revealed that the client's losses were largely due to withdrawals, not Petersen's trading strategies, which aligned with her investment objectives and risk tolerance, and that the transaction fees were reasonable. However, the examiner concluded that Respondents failed to obtain discretionary authority for the complainant's account, as well as the accounts of other clients, despite managing those accounts on a discretionary basis through Petersen's role as a broker-dealer agent of CPFS. Moreover, Respondents engaged in a number of dishonest or unethical business practices, largely involving the

⁴See Order to Deny, <http://securities.utah.gov/dockets/14004301.pdf>

failure to maintain proper books and records, but also including misleading advertising.

21. The Division audit further found that despite being unlicensed since December 31, 2013, ACA and Petersen continued to act as an investment adviser and investment adviser representative for at least two clients in 2014.

2009 Audit

22. In March 2009, Division staff conducted an audit of ACA at Petersen's residence. As noted above, ACA failed to renew its license at the end of 2009. During the relicensing process in 2010, Form ADV revisions were made and several additional concerns were communicated to Respondents at that time, including:

- a. books and records required to be maintained under Section 61-1-5 of the Act, including a Form ADV delivery log for clients and prospective clients; and
- b. ACA needed to conduct an annual review of Form ADV Parts 1 and 2 to ensure accurate description of its advisory business.

2013 Audit

Incomplete Client Files

23. At the time of the October 2013 audit, Petersen explained that his business had scaled down since he ceased being a broker-dealer agent of CPFS in August 2013, leaving him with five clients and under \$1 million in assets under management. Petersen described ACA services as discretionary asset management, primarily consisting of stocks, exchange-traded funds ("ETFs"), and mutual funds. Petersen indicated he would be moving all client accounts to the broker-dealer firm of Interactive Brokers, Inc. ("IBI").
24. In reviewing the five client files, the Division identified significant amounts of missing

information such as:

- a. client files included initial account paperwork but no other correspondence, notes, statements, reports, or other information regarding the client's accounts;
- b. new account documents for one client were missing investor profile information, such as investment preferences, investment objectives, experience, and time horizon;
- c. another client's file left blank the type of account, net worth information, tax bracket information, income information, investment preferences, investment objectives, investing experience and time horizon.
- d. another client's paperwork was completely blank except for the signature page.
- e. A fourth client had net worth, tax bracket, and income questions marked as "N.R." and were left blank. Investment experience and time horizon questions were also left blank.
- f. The fifth client, identified by last name only, had no client file.

25. The information missing from Respondents' client documents is essential for an investment adviser to meet its fiduciary obligation and make recommendations for investments that are in the client's best interest. The examiner further noted heavy exposure to stocks and ETFs for retired clients.

Unauthorized Exercise of Discretion

26. Petersen managed client accounts on a discretionary basis despite the facts that a) client accounts were not set up as discretionary accounts; and b) Petersen had not been given third-party trade authorization on the accounts. Moreover, ACA client contracts provided

that a client needed to approve transactions recommended by ACA.

27. As part of the advisory agreement, ACA clients were required to set up brokerage accounts at CPFS. Petersen's capacity as a broker-dealer agent of CPFS enabled him to effect transactions in that capacity so long as clients consented before such transactions. Because none of the accounts were discretionary, Petersen was required to acquire client consent prior to every transaction. However, Petersen's records of obtaining such consent were incomplete and inconsistent.
28. Respondents' correspondence file contained few confirmation emails or notes of any kind demonstrating client consent prior to transactions being entered, and did not have account records of all of ACA's current and former clients for comparison.
29. The correspondence file, which consisted exclusively of emails, showed only a handful of instances where securities transactions were discussed. Among them:
 - a. In November 2012 one day before the presidential election Petersen sent emails to two clients concerning strategies depending on the outcome. No particular securities were specified, but Petersen stated if President Obama were re-elected, he recommended moving cash to inverse ETFs. If Mitt Romney were elected, Petersen suggested they "aggressively move back into equities" particularly those of "defense contractors, financials, energy, small caps, and the non-hospital medicals" which would be done through ETFs. Petersen concluded: "As Wednesday may be hectic and I may not have time to contact you individually, I would appreciate your agreement with the overall strategy now."
 - b. In December 2012 Petersen sent an email to a client recapping post-election

transactions and discussing purchase of an inverse ETF that would be done the following day.

- c. In April 2013, Petersen sent an email to a client discussing some “defensive actions” that had been taken in the account, then outlined ten (10) transactions that were recently entered. The email concluded by stating “Please indicate your receipt of this communication and your agreement with the above” transactions that had already been effected.
 - d. In April 2013 Petersen sent an email to a client also discussing “defensive action in reducing your exposure to this asset class (equities) ...” followed by a list of seven (7) transactions. The email concludes by: “Would you please indicate the receipt of this message and your agreement with the proposed strategy” with respect to transactions already placed.
30. Petersen either failed to document confirmation of client consent before entering transactions, or as he admitted during the Division’s on-site examination, Petersen often entered transactions without discussing specifics with the client beforehand.
31. Moreover, the transactions could only have been entered by Petersen acting in the capacity of a broker-dealer agent of CPFS since Respondents did not have discretionary authority to enter transactions at the time. From the lack of records it is unclear whether the transactions were entered by Petersen as a broker-dealer agent – which would be in violation of CPFS policy – or as an investment adviser representative of ACA using Petersen’s CPFS access to effectively assert discretionary authority – in violation of the

client contracts in effect.⁵

32. With respect to the complaining investor, C.W., client files for C.W. and her daughter O.V. contained five (5) additional documents that were not kept in the correspondence file. Those documents demonstrate the extent to which Petersen obtained client consent and took discretionary authority over accounts through ACA contrary to ACA's Form ADV and without meeting the financial requirements for advisers with discretionary authority:

- a. an undated spreadsheet table showing client withdrawals between March 2010 and July 2013 that Petersen prepared in response to C.W.'s allegations that O.V.'s account sustained losses due to Petersen's management.
- b. a March 7, 2010 letter signed by C.W. to confirm that a financial report/plan had been reviewed by C.W. for both C.W.'s and O.V.'s accounts, and that the client authorized ACA "...to make changes to our account positions as discussed in said report." The letter demonstrates:
 - i. Respondents sought discretionary authority outside the ACA client agreement;
 - ii. for Respondents to exercise such authority, Petersen would necessarily have used his access as a CPFS broker-dealer agent;
 - iii. ACA failed to keep Form ADV current with its business model; and

⁵After Petersen terminated his license with CPFS, in August and September 2013 he obtained discretionary authority on behalf of ACA for his four advisory clients at the time. The timing of those actions indicates that he was indeed using his CPFS access to manage accounts on a discretionary basis in the absence of authority through ACA to do so.

- iv. ACA failed to meet the financial requirements for advisers with discretionary authority.⁶
 - c. two emails from Petersen to C.W., the first from March 23, 2010, confirming the purchase of four stocks in O.V.'s Roth IRA; the second from November 7, 2011, confirming liquidation of a mutual fund to purchase an annuity for O.V. These are two of the few records Petersen ever produced confirming transactions with a client *prior* to their entry. In an interview with the Division, C.W. stated that Petersen occasionally sought consent before entering transactions but eventually ceased doing so altogether. The lack of any similar records for other transactions shows at a minimum a failure of record keeping, but also supports the claim that Petersen did not regularly obtain client consent before making trades.
33. The Division's analysis of O.V.'s UTMA account (the largest of C.W. and O.V.'s accounts) shows that 217 securities transactions were entered from the inception of the account on February 9, 2010 until the closing of the account on September 17, 2013. Excluding the transactions described in subparagraphs 32 b. and c. above, at least 184 securities transactions were entered without documented client consent,⁷ thus substantiating C.W.'s allegations that Petersen failed to obtain client consent.
34. Because Petersen admitted entering transactions without client consent and neither ACA correspondence nor client files included additional documentation of client consent, the

⁶Those requirements are discussed further in para. 35 d. ii. below.

⁷If client consent had been obtained, the failure to retain such records would be a violation of 17 C.F.R. §275.204-2(a)(7)(iii) of the 1940 Investment Advisers Act ("IA Act"), which is incorporated in the Act through Utah Admin. Code Rule R164-5-1(D)(1).

examiner concluded Respondents engaged in multiple instances of unauthorized exercise of discretion.

Failure to Maintain Books and Records

35. Overall, ACA failed to maintain numerous books and records as required under the Act, which the Division previously cautioned Respondents about in the 2009 audit. In particular, the 2013 audit found the following deficiencies:

- a. *Trading Records.* Respondents failed to maintain records of each purchase or sale of securities in client accounts, as required by 17 C.F.R. §275.204-2(a)(3) of the IA Act, incorporated into the Act through Utah Admin. Code Rule R164-5-1(D)(1).
- b. *Form ADV, Amendments and Delivery Log.*
 - i. ACA had a file for Form ADV, but the file only contained the most recent Firm Brochure, dated March 31, 2013. ACA should have retained copies of all previous versions of its Form ADV as required by 17 C.F.R. §275.204-2(a)(14)(i) of the IA Act, incorporated into the Act through Utah Admin. Code Rule R164-5-1(D)(1).
 - ii. Given various changes to ACA's business (e.g. office location, terminated affiliation with CPFS, adding discretionary authority), ACA was required to amend its Form ADV as required by Utah Admin. Code Rule R164-4-3(E)(1)(d).
 - iii. ACA had no Form ADV delivery log despite the 2009 audit wherein the Division required ACA to create and maintain the log. Petersen provided

a copy of the log in January 2010 during the closing of the 2009 audit, but ACA failed to maintain the log sometime thereafter, which constitutes a violation of 17 C.F.R. §275.204-2(a)(14)(i) of the IA Act, incorporated into the Act through Utah Admin. Code Rule R164-5-1(D)(1).

- c. *Policies and Procedures Manual.* Although ACA had a policies and procedures manual during the 2009 audit, ACA could not produce a manual during the 2013 audit. Petersen stated that it had been lost during the move from ACA's previous office location (Cottonwood Parkway office suite) to its current office location (Petersen's Cottonwood Heights residence). Failure to maintain a policies and procedures manual constitutes a violation of 17 C.F.R. §275.204-2(a)(17)(i) of the IA Act, incorporated into the Act through Utah Admin. Code Rule R164-5-1(D)(1).
- d. *ACA Financials.*
 - i. ACA did not have any financial statements for the firm, despite the 2009 audit wherein the Division required that ACA provide a copy of its most recent annual balance sheet and income statement as required by 17 C.F.R. §275.204-(2)(a)(6) of the IA Act, incorporated into the Act through Utah Admin. Code Rule R164-5-1(D)(1).
 - ii. Having assumed discretionary authority in client accounts between August and September 2013, ACA was required to meet the financial requirements of Utah Admin. Code Rule R164-4-4(D)(1) and/or R164-4-5(F)(1)(a), which require maintaining a \$10,000 bond or net worth of

\$10,000. ACA did not have a bond to meet those requirements and did not have any bank account in ACA's name to demonstrate minimal net worth.

iii. Petersen explained ACA had a Key Bank account at one time, but it had been closed a year before the audit. Client fees had since been paid directly to Petersen, but ACA was unable to provide books and records related to the financials of the firm as required by 17 C.F.R. §§275.204-2(a)(1), (2), (4), (5) and (6), incorporated into the Act by Utah Admin. Code Rule R164-5-1(D)(1).

e. *Correspondence.* ACA's correspondence file consisted of email that had been printed. Those documents were in no particular order and appeared to have been printed in preparation for the audit. Some written client correspondence was found in client files, primarily that of C.W., but ACA kept no documentation of phone calls or other communications provided to clients such as financial reports, which is a violation of 17 C.F.R. §275.204-2(a)(7) of the IA Act, incorporated in the Act by Utah Admin. Code Rule R164-5-1(D)(1).

f. *Advertising and Marketing Files.*

i. Marketing materials were not dated to indicate when the piece was used, and there were no notes about the material's use or approval. In addition, as described below in paras. 37-42 the examiner found at least one instance of an advertisement used that was not included in ACA's files, which is a violation of 17 C.F.R. §275.204-2(a)(11) of the IA Act,

incorporated into the Act by Utah Admin. Code Rule R164-5-1(D)(1).

Other Violative Conduct

Misleading Client Regarding Qualifications

36. One client interviewed by the Division stated that in soliciting her, Petersen touted his 22 years working on Wall Street⁸ and stated he worked out of a “virtual office” in Salt Lake, but his “people” were “back East” and ACA was located “back East.” Those statements misrepresent ACA and Petersen’s qualifications and services, and misled the client into believing ACA was something other than a one-person firm located in Utah, which constitutes a dishonest or unethical practice under Utah Admin. Code Rule R164-6-1g(E)(8).

Misleading Advertising Materials

37. During the audit of another investment adviser, the Division found two documents of concern pertaining to Respondents in the other adviser’s files: an advertisement and performance report, both of which were found in the file of a client who had purchased an annuity and other products from the other investment adviser.
38. The advertisement is written as a press release, dated October 17, 2012, and includes the logo of *The Salt Lake Tribune*, which makes it appear as an article from that newspaper. The headline touts “SALT LAKE AREA WEALTH MANAGEMENT FIRM REPORTS STELLAR CLIENT RETURNS FOR THIRD QUARTER – BEATS MARKET BY 46%”. The text of the piece is written in a technical fashion and boasts:

⁸The first time Petersen was employed in the securities industry in any licensed capacity was in 2006.

“The Company attributes the third-quarter result to its proprietary I⁴™ investment management technique which, according to DALBAR research of individual investors’ historical performance characteristics, ameliorates differences as large as -9.9 (over 300%) between individual and institutional returns.”

39. The advertisement is misleading, does not contain full disclosure of terminology, and includes performance reporting that does not meet the standards of 17 C.F.R. §275.206(4)-1 of the IA Act, which is a dishonest or unethical practice under Utah Admin. Code Rule R164-6-1g(E)(13).
40. By using *The Salt Lake Tribune* logo, ACA sought to lend legitimacy by using the brand of another company, which constitutes a testimonial, in violation of 17 C.F.R. §275.206(4)-1(a)(1) of the IA Act as it “refers, directly or indirectly, to any testimonial of any kind concerning the investment adviser...” Moreover, a search of archived content shows that no such publication was ever made by *The Salt Lake Tribune*, indicating that the advertisement contains an “untrue statement of a material fact, or which is otherwise false or misleading” in violation of 17 C.F.R. §275.206(4)-1(a)(5) of the IA Act, which constitutes a dishonest or unethical practice under Utah Admin. Code Rule R164-6-1g(E)(13).
41. Further, in claiming to beat the market by 46 percent, ACA “refers, directly or indirectly, to past specific recommendations of such investment adviser” without providing a list of every transaction with the particular information required by 17 C.F.R. §275.206(4)-1(a)(2) of the IA Act, which constitutes a dishonest or unethical practice under Utah Admin. Code Rule R164-6-1g(E)(13).

42. Finally, the advertisement was not included in ACA's advertising and marketing file during the Division's on-site examination. The failure to have a complete record of advertisements in the file is a violation of 17 C.F.R. §275.204-2(a)(11) of the IA Act, incorporated in the Act by Utah Admin. Code Rule R164-5-1(D)(1).

Sharing Client Information

43. The second item of concern found in the other investment adviser's files is a performance report printout from a CPFS client account, which Petersen had access to as a broker-dealer agent of CPFS. While some redaction of the holdings had been made, the dates and values are displayed, including a circle drawn around the "+3.4%" performance for the given month. In addition to violations of the performance reporting rules described in paragraph 41 above, disclosing a client's information is also a dishonest or unethical practice under Utah Admin. Code Rule R164-6-1g(E)(14).
44. The disclosure of client information further violates ACA's own policy and client agreement, which states client information will not be disclosed to any third-party without the prior consent of the client. There was no documentation to show that any such consent was obtained.
45. In addition, like the "press release" there was no record of the performance report in ACA's advertising and marketing file, which is a violation of 17 C.F.R. §275.204-2(a)(11) of the IA Act, incorporated in the Act by Utah Admin. Code Rule R164-5-1(D)(1).

October 2013 Senior Expo Marketing

46. On October 3, 2013, Division staff attended the two-day Utah Senior Expo event, presented by the Salt Lake County Aging and Adult Services at the South Towne Expo Center in Sandy, Utah.
47. At that time, staff from the Utah Department of Insurance (“DOI”) who were also present reported that Petersen was handing out business cards and flyers in an attempt to solicit clients at the event. Petersen was speaking to senior attendees at some empty tables at the back of the venue since Respondents did not have a registered booth at the event. DOI staff notified security and a belligerent Petersen was escorted from the venue.
48. The second day of the Senior Expo, Division staff found the vehicles in the parking lot of the South Town Expo Center had been leafleted with flyers by Petersen. The flyer included the following:
 - a. The false and misleading statement that ACA/Petersen is “Fully licensed to trade securities and sell insurance.”
 - b. Offering long-term care coverage through a “...market rate, guaranteed investment vehicle, paying a MINIMUM of 3% and up to 8%, from a major ‘A’ rated financial institution with hyped product features such as “It comes with a money-back guarantee (no surrender charges, ever!)” and “Plus, you get a 10% BONUS on the amount invested.”
 - c. A quote without any source stating “...other than running out of money, the second greatest concern of seniors is relying on their children for LONG TERM CARE...!”

Unlicensed Activity

49. The Division examiner spoke to two clients of Respondents, who both indicated they had remained clients of Respondents in 2014; one client through June 2014, and the other was unsure of the precise date of termination. Both clients stated they transferred their accounts elsewhere due to poor performance.

August 2014 Form ADV Filing

50. The Form ADV filed with the Division in August 2014 contained material errors, including:
- a. The Firm Brochure (Form ADV Part 2) submitted is for CPFS, not ACA. CPFS is a broker-dealer, not an investment adviser, and Petersen has not been affiliated with CPFS since August 2013;
 - b. Part 1A of Form ADV does not indicate ACA has any employees or investment adviser representatives;
 - c. Petersen's insurance activity is inconsistently reported on Part 1A of Form ADV. In Item 5.B.(5) ACA states it has no employees who are insurance agents, but states ACA is an insurance broker or agent in Item 6.A.(6), and sells insurance products to advisory clients in Item 6.B.(3) and 6.B.(3) of Schedule D. Lastly, ACA fails to disclose the affiliation it has with insurance companies or agencies under Item 7.A.(12);
 - d. Part 1A of Form ADV indicates ACA sponsors a wrap fee program, which it cannot, since ACA is not a broker-dealer; and

- e. ACA incorrectly reports itself as the owner (75% or more) and CEO of ACA, rather than Petersen.
51. In addition, since the September 2014 denial, Petersen has written letters to the Governor, Executive Director of the Department of Commerce, and to the Division's counsel in the Utah Attorney General's Office using long outdated ACA letterhead with an incorrect address. Significantly problematic, the letterhead states "Securities offered through Colony Park Financial Services, LLC, Member FINRA/SIPC. Custody of listed Securities through JP Morgan Chase, NA". As stated herein, Petersen and ACA have had no affiliation with CPFS – or custodian JP Morgan Chase – since August 2013, and ACA is not a member of FINRA and has no SIPC coverage.
52. The nature of the application errors and use of misleading letterhead raise further, serious concerns about Petersen and ACA's ability to run an investment advisory firm in compliance with securities laws, rules and regulations.

FIRST CAUSE OF ACTION
Unlicensed Activity under § 61-1-3(3) of the Act
(ACA and Petersen)

53. ACA's investment adviser license and Petersen's investment adviser representative licenses were terminated as of December 31, 2013 for failure to renew. Respondents continued to act in an unlicensed capacity for at least two client accounts after that time and through June 2014.

SECOND CAUSE OF ACTION

Failure to Maintain Books and Records under § 61-1-5(1) of the Act
(ACA)

54. ACA is required to maintain books and records as part of its advisory business. Many required books and records were not maintained nor could they be provided during the audit of ACA, including but not limited to:
- a. books and records described in para. 35 above;
 - b. copies of the *Salt Lake Tribune* “press release” and the performance report described in paras. 37-45;
 - c. trading records of transactions entered for clients, as required by 17 C.F.R. §275.204-2(a)(3) of the IA Act, incorporated into the Act by Utah Admin. Code Rule R164-5-1(D)(1).

THIRD CAUSE OF ACTION

Failure to Reasonably Supervise under § 61-1-6(2)(a)(ii)(J) of the Act
(ACA)

55. ACA failed to reasonably supervise by, among other things, not establishing, maintaining and enforcing policies and procedures aimed to prevent violations of the securities laws, its failure to renew and maintain licenses, its failure to maintain proper books and records, either approving or not reviewing misleading advertising materials, and allowing unauthorized trading in client accounts, warranting sanctions under Section 61-1-6(2)(a)(ii)(J) of the Act.

FOURTH CAUSE OF ACTION

**Failure to Maintain Bond under Utah Admin. Code Rule R164-4-4 and -5 of the Act
(ACA)**

56. During both the period of time when Petersen exercised unauthorized discretion over client accounts, and in 2013 when he had clients authorize actual discretion, ACA was required to meet the financial requirements of Utah Admin. Code Rule R164-4-4(D)(1) and/or R164-4-5(F)(1)(a), which require maintaining a \$10,000 bond or net worth of \$10,000. ACA did not have a bond to meet those requirements and did not have any bank account in ACA's name to demonstrate minimal net worth.

FIFTH CAUSE OF ACTION

**Unauthorized Trading under § 61-1-6(2)(a)(ii)(G) of the Act
(ACA and Petersen)**

57. Petersen used his access as a broker-dealer agent of CPFS to enter transactions in ACA clients' accounts without obtaining prior authorization. Aside from the several documents described herein, ACA was unable to provide records documenting client consent. Petersen did not have discretionary trading authority with CPFS, clients never granted Respondents discretionary authority and ACA's Firm Brochure affirmatively represented all accounts were non-discretionary.
58. Respondents' unauthorized trading constitutes a dishonest or unethical practice under Utah Admin. Code Rule R164-6-1g(E)(4), warranting sanctions under Section 61-1-6(2)(a)(ii)(G) of the Act.

SIXTH CAUSE OF ACTION

Misrepresenting Qualifications under § 61-1-6(2)(a)(ii)(G) of the Act
(ACA and Petersen)

59. One client interviewed by the Division stated that in soliciting her, Petersen touted his 22 years working on Wall Street and stated he worked out of a “virtual office” in Salt Lake, but his “people” were “back East” and ACA was located “back East.”
60. Those statements misrepresent ACA and Petersen’s qualifications and services and misled the client into believing ACA was something other than a one-person firm located in Utah, which constitutes a dishonest or unethical practice under Utah Admin. Code Rule R164-6-1g(E)(8).

SEVENTH CAUSE OF ACTION

Misleading Advertising under § 61-1-6(2)(a)(ii)(G) of the Act
(ACA and Petersen)

61. As described in paras. 37-42, *The Salt Lake Tribune* “press release” used by Respondents was false and materially misleading, failed to meet SEC performance-reporting standards, and constitutes dishonest or unethical practices under Utah Admin. Code Rule R164-6-1g(E)(13), warranting sanctions under Section 61-1-6(2)(a)(ii)(G) of the Act.

EIGHTH CAUSE OF ACTION

Disclosing Client Account Information under § 61-1-6(2)(a)(ii)(G) of the Act
(ACA and Petersen)

62. Petersen disclosed the name, holdings, performance, and values of at least one client account with another client as a means of advertising and bolstering his track record, which constitutes a dishonest or unethical practice under Utah Admin. Code Rule R164-6-1g(E)(14), warranting sanctions under Section 61-1-6(2)(a)(ii)(G) of the Act.

NINTH CAUSE OF ACTION

Failing to Maintain Policies and Procedures under § 61-1-6(2)(a)(ii)(G) of the Act
(ACA and Petersen)

63. As ACA did not maintain any written policies and procedures, ACA failed to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the misuse of material nonpublic client account information in violation of Section 204A of the IA Act, which constitutes a dishonest or unethical practice under Utah Admin. Code Rule R164-6-1g(E)(17), warranting sanctions under Section 61-1-6(2)(a)(ii)(G).

REQUEST FOR RELIEF

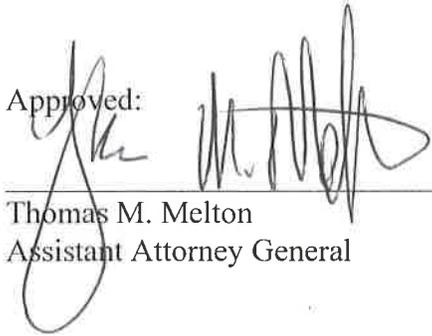
The Division requests that, based upon Respondents' willful violations of the Act, pursuant to § 61-1-6 of the Act, the Commission enter an order censuring and barring them, and imposing a fine, jointly and severally, in the amount of \$10,000.00.

Dated this 31st day of august, 2015.



Kenneth O. Barton
Director of Compliance
Utah Division of Securities

Approved:



Thomas M. Melton
Assistant Attorney General

Division of Securities
Utah Department of Commerce
160 East 300 South, 2nd Floor
Box 146760
Salt Lake City, UT 84114-6760
Telephone: (801) 530-6600

**BEFORE THE DIVISION OF SECURITIES
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH**

IN THE MATTER OF:

**ACADIA CAPITAL ADVISORS, LLC,
IARD#142470
MICHAEL BRENT PETERSEN,
CRD#5087824**

Respondents.

NOTICE OF AGENCY ACTION

Docket No. SD-15-0046

Docket No. SD-15-0047

THE DIVISION OF SECURITIES TO THE ABOVE-NAMED RESPONDENTS:

You are hereby notified that agency action in the form of an adjudicative proceeding has been commenced against you by the Utah Division of Securities (Division). Pursuant to Utah Admin. Code Rule R164-18-6(C) and Utah Code Ann. § 63G-4-202(3), the Division Director finds that it is in the public interest and does not unfairly prejudice the rights of any party to convert this adjudicative matter from an informal to formal proceeding, which will be conducted according to statute and rule. See Utah Code Ann. §§ 63G-4-201 and 63G-4-204 through -209; see also Utah Admin. Code Rule R151-4-101, *et seq.* The facts on which this action is based are set forth in the accompanying Petition. The legal authority under which this formal adjudicative proceeding is to be maintained is Utah Code Ann. § 61-1-20. You may be represented by counsel or you may represent yourself in this proceeding. Utah Admin. Code Rule R151-4-110.

You must file a written response with the Division within thirty (30) days of the mailing date of this Notice. Your response must be in writing and signed by you or your representative. Your response must include the file number and name of the adjudicative proceeding, your version of the facts, a statement of what relief you seek, and a statement summarizing why the relief you seek should be granted. Utah Code Ann. § 63G-4-204(1). In addition, pursuant to Utah Code Ann. § 63G-4-204(3), the presiding officer requires that your response:

- (a) admit or deny the allegations in each numbered paragraph of the Petition, including a detailed explanation for any response other than an unqualified admission. Allegations in the Petition not specifically denied are deemed admitted;
- (b) identify any additional facts or documents which you assert are relevant in light of the allegations made; and
- (c) state in short and plain terms your defenses to each allegation in the Petition, including affirmative defenses, that were applicable at the time of the conduct (including exemptions or exceptions contained within the Utah Uniform Securities Act).

Your response, and any future pleadings or filings that should be part of the official files in this matter, should be sent to the following:

Signed originals to:

Administrative Court Clerk
c/o Lee Ann Clark
Utah Division of Securities
160 E. 300 South, 2nd Floor
Box 146760
Salt Lake City, UT 84114-6760
(801) 530-6600

A copy to:

Thomas M. Melton
Assistant Attorney General
Utah Division of Securities
160 East 300 South, 5th Floor
Salt Lake City, UT 84114-0872
(801) 366-0310

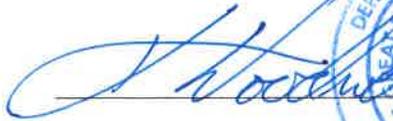
An initial hearing in this matter has been set for October 21, 2015 at the Division of Securities, 2nd Floor, 160 East 300 South, Salt Lake City, Utah, at 9 a.m. The purpose of the initial hearing is to enter a scheduling order addressing discovery, disclosure, and other deadlines, including pre-hearing motions, and to set a hearing date to adjudicate the matter alleged in the Petition.

If you fail to file a response, as described above, or fail to appear at any hearing that is set, the presiding officer may enter a default order against you without any further notice. Utah Code Ann. § 63G-4-209; Utah Admin. Code Rule R151-4-710(2). After issuing the default order, the presiding officer may grant the relief sought against you in the Petition, and will conduct any further proceedings necessary to complete the adjudicative proceeding without your participation and will determine all issues in the proceeding. Utah Code Ann. § 63G-4-209(4). In the alternative, the Division may proceed with a hearing under § 63G-4-208.

The Administrative Law Judge will be Jennie Jonnson, Utah Department of Commerce, 160 East 300 South, P.O. Box 146701, Salt Lake City, UT 84114-6701, telephone (801) 530-6706. This adjudicative proceeding will be heard by Judge Jonnson and the Utah Securities Commission. At any hearings, the Division will be represented by the Attorney General's Office. You may appear and be heard and present evidence on your behalf at any such hearings.

You may attempt to negotiate a settlement of the matter without filing a response or proceeding to hearing. To do so, please contact the Utah Attorney General's Office. Questions regarding the Petition should be directed to Thomas M. Melton, Assistant Attorney General, 160 E. 300 South, 5th Floor, Box 140872, Salt Lake City, UT 84114-0872, Tel. No. (801) 366-0320.

Dated this 31st day of August, 2015



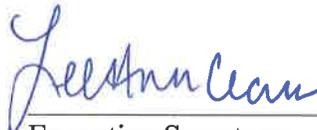
Keith M. Woodwell
Director, Division of Securities



Certificate of Mailing

I certify that on the 7st day of September, 2015, I mailed, by certified mail, a true and correct copy of the Notice of Agency Action and Petition to:

Michael B. Petersen
Acadia Capital Advisors, LLC
6977 S. Twin Aspen Cove
Cottonwood Heights, UT 84121



Executive Secretary

Certified Mail # 7014 2120 0003 7866 7118