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DEPT. OF COMMERCE AND INSURANCE  
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BEFORE THE COMMISSIONER OF COMMERCE AND INSURANCE  
FOR THE STATE OF TENNESSEE

TENNESSEE SECURITIES DIVISION, )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 )  
 ROBERT S. ROBBINS and )  
 ROBBINS CAPITAL MANAGEMENT, )  
 INC., )  
 )  
 )  
 Respondents. )

TSD No.: 19-003  
APD No.: 12-.06-156022J

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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. (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 is 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 Management, Inc. is registered with the Division as an investment adviser firm and has the FINRA assigned CRD number: 134137.

3. The Tennessee Secretary of State's and Robbins Capital Management, Inc.'s records indicate that Robbins Capital Management, Inc. is a Georgia corporation previously authorized to do business in Tennessee. The registered agent of record is listed as Robert Robbins at: 808 Lynnstone Drive, Chattanooga, Tennessee 37405-1269. The records of the Tennessee Secretary of State indicate the administrative dissolution of Robbins Capital Management, Inc. on August 25, 2011.

4. The Division is the lawful agent through which the Commissioner discharges the administration of the Act pursuant to Tenn. Code. Ann. § 48-1-115.

#### **GENERAL STIPULATIONS**

5. 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 Commissioner's signature and entry of this Consent Order.

6. This Consent Order is executed by the Commissioner, the Division, and the Respondent to avoid further administrative action with respect to this cause. 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. Respondents fully understand that this Consent Order will in no way preclude additional proceedings by the Commissioner against them 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. 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. Respondents waive all further procedural steps, and waive 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 of this Consent Order by the Commissioner.

10. This Consent Order is submitted on the condition that, if accepted, the Commissioner will not bring any future actions against Respondents alleging violations based on the same factual findings described herein.

#### **FINDINGS OF FACT**

11. Pursuant to Tenn. Code Ann. § 48-1-111(d)(1), the Division conducts periodic examinations of the books and records of Tennessee-based investment advisers and these are done in the normal course of business, for the public good, and the protection of investors.

12. On July 19, 2018, the Division notified Respondents by letter that such an examination was scheduled during the week of August 6, 2018. The letter listed the materials that would be subject to inspection, and it requested that the materials be provided electronically to the examiners on the date of the examination.

13. On August 8, 2018, Securities Examiners April Odom (“Odom”) and Jay Garrick (“Garrick”) arrived at the place of business of the Respondents, which also served as the residence

of Mr. Robbins. Both the residence and the place of business were located at: 936 Mountain Creek Road, Suite 219, Chattanooga, Tennessee 37405.

14. Mr. Robbins, in his capacity as the sole investment adviser representative and sole owner of Robbins Capital Management, Inc., appeared unprepared and produced only a small portion of the required information. Respondents' documents were in disarray and Mr. Robbins was unable to locate a number of requested records.

15. While Odom and Garrick inspected Respondents' records, Mr. Robbins admitted to his awareness of the Act's provisions and the Division's rules<sup>1</sup> requiring the maintenance and production of securities related records pertaining to the operations of investment adviser firms and investment adviser representatives.

16. Due to Respondents' lack of preparation, Odom and Garrick offered Mr. Robbins an additional two (2) days to collect the missing information and arranged to return on August 10, 2018, to complete the inspection.

17. On August 10, 2018, Odom and Garrick returned as previously planned, and Respondents again failed to produce the requisite records, offering no explanation as to when or how the overdue records would be submitted to the Division.

18. On August 14, 2018, and September 21, 2018, Respondents sent the Division additional disorganized and incomplete information.

19. On November 29, 2018, the Division filed the Commissioner's Order of Summary Suspension against Respondents with the Administrative Procedures Division ("APD" – APD No. 12-.06-156022J). Simultaneously, the Division filed a Notice of Hearing and Charges against Respondents requesting that an Administrative Law Judge revoke Respondents' securities

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<sup>1</sup> Tenn. Comp. R. & Regs. 0780-04-03-.01 *et seq.*

registrations, require Respondents to cease and desist from engaging in the business of securities, and impose civil penalties totaling ten thousand dollars (\$10,000). The Division then served Respondents, by certified mail, copies of the Notice of Hearing and Charges and the Order of Summary Suspension.

20. On December 6, 2018, the Division perfected service on Respondents of its Notice of Hearing and Charges and the Commissioner's Order of Summary Suspension.

21. On December 7, 2018, Respondents timely requested, and exercised their rights to, an informal hearing pursuant to Tenn. Code Ann. § 4-5-320(d)(1)(B).

22. The Division promptly scheduled the informal hearing, which occurred on December 11, 2018, at the Division's office. Assistant Commissioner Borger-Gilligan oversaw the informal hearing.

23. Respondent Robert Robbins attended on behalf of himself and Robbins Capital Management, Inc.

24. Elizabeth Bowling, Director of Registration, Ben Whitehouse, Supervising Attorney for the Tennessee Department of Commerce and Insurance, and Virginia Smith, Assistant General Counsel for Securities, attended on behalf of the Division.

25. At the informal hearing, the Division provided Respondents with additional documentation outlining the continued deficiencies in Respondents' documentation.

26. A few weeks after the conclusion of the informal hearing, Assistant Commissioner Borger-Gilligan issued a letter to Respondents informing them of his recommendation that the Commissioner rescind her Order of Summary Suspension, due to the Division's ongoing attempts to settle this matter with Respondents.

27. The Commissioner agreed with Assistant-Commissioner Borger-Gilligan's recommendation and, on January 3, 2019, her Order Rescinding the Order of Summary Suspension was filed with the APD.

28. Respondents finally provided all requisite records in its responses dated January 7, 2019, six months after the Division initially attempted to examine Respondents' records. At this point, the Division was able to determine whether Respondents remained in compliance with other provisions of the Act, besides the rules requiring the maintenance and production of securities related records.

29. Nonetheless, Respondents' responses were dilatory and necessitated the pursuit of a Summary Suspension and allocation of significant resources and time to obtain Respondents' compliance with the production of requisite records.

30. On or about January 11, 2019, the Division found that Robbins Capital Management, Inc. supplied two monthly balance sheets, July of 2017, and October of 2018, that exhibited a net capital of less than fifteen thousand dollars (\$15,000), which is the minimum net capital requirement of investment advisers that retain a principal place of business in Tennessee.

31. On January 14, 2019, the Parties submitted a Joint Motion to Continue the hearing set for January 25, 2019, as they worked towards a settlement. The Honorable Mattielyn B. Williams, Administrative Judge, granted the Joint Motion to Continue via her Order entered on January 16, 2019.

32. On February 20, 2019, Respondents provided a statement to the Division that attempted to alter his net capital amount in July of 2017. Such an alteration to his past records, a year and a half after his net capital amount was established, raised additional concerns about Respondents' ability to keep accurate and reliable records.

33. The hearing on this matter is still set for March 22, 2019; however, the case will be dismissed immediately after the entry of this Consent Order.

#### **CONCLUSIONS OF LAW**

34. 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.

35. 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.

36. Unless the investment adviser retains its principal place of business in another state, Tenn. Comp. R. & Regs. 0780-04-03-.01(6)(a) requires registered investment advisers to have and maintain a minimum net capital of fifteen thousand dollars (\$15,000).

37. The Findings of Fact detailed in paragraph 30. exhibit that Respondents failed to maintain the minimum net capital of fifteen thousand dollars (\$15,000) for July of 2017 and October of 2018. 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.

#### **ORDER**

**NOW, THEREFORE**, based on the foregoing, including 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 Respondents' admission to the jurisdiction of the Commissioner, the Commissioner finds that Respondents agree to the entry of this Consent Order to settle this matter as evidenced by Respondent's signature.

**IT IS ORDERED**, pursuant to Tenn. Code Ann. § 48-1-116(a), that 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 one thousand dollars (\$1,000.00) 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 after entry of this Consent Order, mailed to the attention of:

**State of Tennessee  
Department of Commerce and Insurance  
Attn: Virginia Smith  
Davy Crockett Tower  
500 James Robertson Parkway  
Nashville, Tennessee 37243**

3. 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.

4. **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 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.

5. 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 or more counterparts, Respondents affirmatively state the following: Respondents freely agree to the entry of this Consent Order; 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; and Respondents encountered no threats or promises of any kind by the Commissioner, the Division, or any agent or representative thereof.

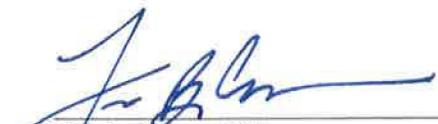
6. By signing this Consent Order, the Commissioner, Division, and Respondents affirmatively state their agreement to be bound by the terms of this Consent Order and aver that no promises or offers relating to the circumstances described herein, other than the terms of settlement as set forth in this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

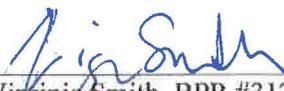
7. This Order may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same document. The facsimile, email or other electronically delivered signatures of the parties shall be deemed to constitute original signatures,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

ENTERED this 19 day of March, 2019.

  
Julie Mix McPeak, Commissioner  
Department of Commerce and Insurance

APPROVED FOR ENTRY:  
  
Robert S. Robbins  
Robbins Capital Management, Inc.  
MARCH 14, 2019

  
Frank Berger-Gilligan  
Assistant Commissioner for Securities  
Department of Commerce and Insurance

  
Virginia Smith, BPR #31248  
Assistant General Counsel for Securities  
Department of Commerce and Insurance