



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

TENNESSEE SECURITIES DIVISION,)
)
 Petitioner,)
)
 v.)
)
 CAELIAN CAPITAL STRATEGIES, LLC,)
 f/k/a THOMAS WILSON & CO.,)
 DAVID W. HILL)
 and JOHN F. THOMAS,)
)
 Respondents.)

MATTER No.: 24-00598

CONSENT ORDER

The Securities Division of the Tennessee Department of Commerce and Insurance (“Division”) and Caelian Capital Strategies, LLC (the “Firm”) and Chief Compliance Officer (“CCO”) David W. Hill (“Respondent Hill”), and former CCO John F. Thomas (“Respondent Thomas”) and together, (“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 Tennessee Department of Commerce and Insurance (“Commissioner”).

PARTIES

1. The Firm is an investment adviser firm with its principal place of business located in Fairview, Tennessee, and is assigned Central Registration Depository (“CRD”) number 291163 with the Financial Industry Regulatory Authority (“FINRA”).

2. Hill is the owner and CCO of the Firm and is assigned CRD number 5939127 with FINRA.

3. Thomas is the former part-owner and former CCO of the Firm and is assigned CRD number 6242240 with FINRA.

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 entry and execution of the Commissioner.

6. 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.

7. This Consent Order is executed by the Commissioner, the Division, and the Respondents 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.

8. The Respondents fully understand that this Consent Order will in no way preclude additional proceedings by the Commissioner against the Respondent 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.

9. 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.

10. The 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 and execution of this Consent Order by the Commissioner.

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

FINDINGS OF FACT

A. Background

12. On or about, April 14, 2023, the Division opened a cyclical post-registration examination of the Firm.

13. At the time the examination was opened, the Firm was known as Thomas Wilson & Co.

14. Respondent Thomas was a sixty-six (66%) percent owner of the Firm and was serving as CCO at the time the examination was opened.

15. During Respondent Thomas' time as CCO, both Respondent Thomas and Respondent Hill served as investment adviser representatives for the Firm.

16. Respondent Thomas departed his roles as CCO and investment adviser representative for the Firm on or about June 5, 2023, and sold his ownership stake in the Firm on or about July 5, 2023.

17. Respondent Thomas did not notify the Division's examiner of his departure until he received an email from the examiner requesting more information.

18. Respondent Hill became CCO on or about June 5, 2023, and became sole owner of the Firm on or about July 5, 2023. Respondent Hill maintained an ownership interest in the Firm since 2016; however, he was not involved in the compliance responsibilities of the Firm until becoming CCO.

19. Respondent Hill indicated that he was unaware Respondent Thomas would be stepping down as CCO until after Respondent Thomas departed the Firm.

20. Respondent Hill changed the Firm's name to Caelian Capital Strategies, LLC., on or about October 27, 2023.

B. Findings from Respondent Thomas' tenure as CCO.

21. The Firm maintained a roster of nine (9) clients in 2021, and ten (10) clients in 2022.

22. During the examination, the Division discovered that the Firm failed to deliver or offer to deliver its written disclosure statement, also known as the brochure, to its clients in 2021 and 2022.

23. The Firm's policies and procedures within its compliance manual call for the Firm to update its reporting documents on an as-needed basis, including situations where the information on reporting documents becomes materially inaccurate.

24. During the examination, the Division discovered that during Respondent Thomas' time as CCO, the Firm's Form ADV filings indicated one (1) inactive outside business activity ("OBA") for the Firm, four (4) inactive OBAs for Respondent Thomas, and two (2) inactive OBAs for Respondent Hill.

25. Respondent Thomas' Form U4 disclosed an activity as a conflict of interest; however, the activity never materialized.

26. The Firm's Form ADV conflicted with its brochure regarding the Firm's participation in a wrap fee program.

27. The Firm's Form ADV indicated that the Firm deducted portfolio management fees on a quarterly basis. However, the Firm's client agreements stated that the firm deducted fees on a monthly basis.

28. Custodial account statements reviewed by the Division indicated that a total of thirteen (13) accounts were being charged fees. Six (6) accounts were charged daily, two (2) accounts were charged monthly, and one (1) account was charged monthly.

29. The Division reviewed client agreements as part of the examination. Prior to June 5, 2023, the Division determined that there were no client agreements for three (3) clients.

30. The Firm submitted nine (9) client agreements for wrap fee programs as part of the Division's examination. Respondent Thomas indicated that these agreements were entered into preemptively, and that the Firm was not yet participating in any wrap fee programs.

31. The Division determined that one client was overcharged in fees by \$273.29 on a single account due to administrative oversight. The overcharge issue was corrected during the course of the examination.

C. Findings from Respondent Hill's tenure as CCO.

32. On or about July 5, 2023, the Firm filed an amendment to its Form ADV which updated the Firm's mailing address and reflected the change in CCO from Respondent Thomas to Respondent Hill. However, the amendment failed to reflect a change in the Firm's phone number.

33. The Firm's phone number was not updated on Form ADV until on or about October 27, 2023.

34. On or about June 15, 2023, the Firm's name change to Caelian Capital Strategies, LLC became effective with the Tennessee's Secretary of State.

35. On or about July 20, 2023, the Firm's website began using the name Caelian Capital Strategies, LLC.

36. Respondent Hill did not amend the Firm's name with the Investment Adviser Registration Depository ("IARD") until on or about October 27, 2023.

37. After changing the Firm's name, Respondent Hill did not obtain new client agreements to reflect the changed name. On or about March 19, 2024, and March 25, 2024, Respondent Hill provided the Division with updated client agreements reflecting the name change.

CONCLUSIONS OF LAW

38. 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).

39. 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.

40. Tenn. Code Ann. § 48-1-112 provides, in part, that:

- (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:
 - ...
 - (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.

41. Tenn. Comp. R. & Regs. 0780-04-03-.10 provides, in part, that:

- (1). 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.

....

- (8) An investment adviser that fails to make written disclosure statements as required by this Rule shall be deemed to have engaged in a dishonest and unethical practice in the securities business as provided under T.C.A. §48-1-112(a)(2)(G).

42. Tenn. Comp. R. & Regs. 0780-04-03-.02(3) provides, in part, 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:

...

- 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;

43. Tenn. Comp. R. & Regs. 0780-04-03-.02(4) provides, in part, that:

- (c)1. Each investment adviser, registered in this state, shall file with the Division a notice of transfer of control or change of name not more than thirty (30) days after the date on which the transfer of control or change of name becomes effective.
- (d) Except as otherwise provided in the Act, all material changes in the information included in an investment adviser's most recent application for registration shall be set forth in an amendment to Form ADV, pursuant to the updating instructions on Form ADV, and filed promptly through the IARD or directly with the Division, whichever is appropriate.

44. Tenn. Comp. R. & Regs. 0780-04-03-.02(6) provides, in part, 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:

...

11. Misrepresenting to any advisory client, or prospective advisory client, the qualifications of the investment adviser or any employee of the investment adviser, or misrepresenting the nature of the advisory services being offered or fees to be charged for such service, or omitting to state a material fact necessary to make the statements made regarding qualifications, services, or fees, in light of the circumstances under which they are made, not misleading;
- ...
13. Charging a client an unreasonable advisory fee;
- ...
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;

45. The Findings of Fact detailed above show that the Firm failed to deliver or offer to deliver its written disclosure statement to nine (9) clients in 2021 and ten (10) clients in 2022 in violation of Tenn. Comp. R. & Regs. 0780-04-03-.10(3)(a).

46. The Findings of Fact detailed above show that the Respondents failed to promptly update Form ADV in violation of Tenn. Comp. R. & Regs, 0780-04-03-.02(4)(d).

47. The Findings of Fact detailed above show that the Respondents engaged in dishonest and unethical business practices by failing to enforce their written policies and procedures in violation of Tenn. Comp. R. & Regs. 0780-04-03-.02(6)(c)20.

48. The Findings of Fact detailed above show that the Respondents failed to obtain and maintain written client agreements in violation of Tenn. Comp. R. & Regs. 0780-04-03-.02(3)(a)8.

49. The Findings of Fact detailed above show that the Respondents engaged in dishonest and unethical business practices by misrepresenting a wrap-fee advisory program in violation of Tenn. Comp. R. & Regs. 0780-04-03-.02(6)(c)11.

50. The Findings of Fact detailed above show that the Respondents engaged in dishonest and unethical business practices by overcharging an advisory fee in violation of Tenn. Comp. R. & Regs. 0780-04-03-.02(6)(c)13.

51. The Findings of Fact detailed above show that the Respondents failed to timely notify the Division of the Firm's name change in violation of 0780-04-03-.02(4)(c)1.

52. 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. Respondent John F. Thomas shall **PAY A CIVIL PENALTY** to the State of Tennessee in the amount of six thousand dollars (\$6,000).
3. Respondent David W. Hill shall **PAY A CIVIL PENALTY** to the State of Tennessee in the amount of four thousand dollars (\$4,000).

4. 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 mailed to the attention of:

**State of Tennessee
Department of Commerce and Insurance
Attn: Catherine A. Tabor
500 James Robertson Parkway
Davy Crockett Tower
Nashville, Tennessee 37243**

5. **GRACE PERIOD** – Payment shall be timely made if postmarked within five (5) business days of the date payment is due.

6. **ACCELERATION** – Respondents hereby agree that failure to remit any payment more than sixty (60) calendar days following the due date of said payment as indicated in the above-scheduled payments shall constitute default. Upon default, the entire outstanding civil penalty shall be due and payable immediately.

7. **DELINQUENCY** – Respondents hereby agree that failure to make any payment according to this Consent Order shall result in the immediate revocation of Respondents' registrations with the Division.

8. **MODIFICATION** – The Division and Respondent hereby agree that modifications to this Consent Order regarding any term may only be made in writing and signed by an authorized representative of each party.

9. 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.

10. 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.

11. 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.

12. 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.

13. 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 _____, 2024.



Carter Lawrence (Aug 21, 2024 08:47 CDT)

Carter Lawrence, Commissioner
Department of Commerce and Insurance

APPROVED FOR ENTRY AND EXECUTION:

David W. Hill
Individually, and on behalf of:
Caelian Capital Strategies, LLC.



Elizabeth Bowling (Aug 14, 2024 15:15 CDT)

Elizabeth Bowling
Assistant Commissioner for Securities
Department of Commerce and Insurance

John F. Thomas



Catherine A. Tabor (Aug 14, 2024 11:06 CDT)

Catherine A. Tabor, BPR # 038467
Associate General Counsel
Department of Commerce and Insurance

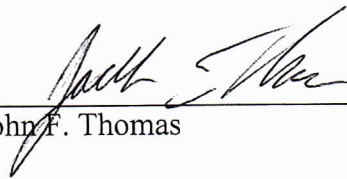
ENTERED AND EXECUTED July, 31st, 2024.

Carter Lawrence, Commissioner
Department of Commerce and Insurance

APPROVED FOR ENTRY AND EXECUTION:

David W. Hill
Individually, and on behalf of:
Caelian Capital Strategies, LLC.

Elizabeth Bowling
Assistant Commissioner for Securities
Department of Commerce and Insurance



John F. Thomas

Catherine A. Tabor, BPR # 038467
Associate General Counsel
Department of Commerce and Insurance

ENTERED AND EXECUTED _____, 2024.

Carter Lawrence, Commissioner
Department of Commerce and Insurance

APPROVED FOR ENTRY AND EXECUTION:



David W. Hill
Individually, and on behalf of:
Caelian Capital Strategies, LLC.

Elizabeth Bowling
Assistant Commissioner for Securities
Department of Commerce and Insurance

John F. Thomas

Catherine A. Tabor, BPR # 038467
Associate General Counsel
Department of Commerce and Insurance