



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

TENNESSEE SECURITIES DIVISION, )  
 )  
 Petitioner, )  
 )  
 v. ) **TSD No.: 21-030**  
 )  
 MICHAEL KEVIN DAVIS and )  
 ADVIPARTNER, LLC, )  
 )  
 Respondents. )

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**CONSENT ORDER**

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The Securities Division of the Tennessee Department of Commerce and Insurance (“Division”), by and through undersigned counsel, and AdvPartner, LLC and Michael Kevin Davis (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”).

**I. PARTIES**

1. The Division is the lawful agent through which the Commissioner discharges the administration of the Act pursuant to Tenn. Code Ann. § 48-1-115.
2. Michael Kevin Davis (“Davis”) is a resident of Tennessee and has a Central Registration Depository number (“CRD #”) of 5153512.

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LEGAL OFFICE**

3. AdviParamter, LLC (“AdviParamter”) is an investment adviser located in Tennessee and has a CRD # of 288116.

## II. GENERAL STIPULATIONS

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

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

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

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

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

regulations of the State of Tennessee that arise out of the facts, acts, or omissions contained in this Consent Order, or acts or omissions addressed specifically herein that result from the execution of this Consent Order.

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

### **III. FINDINGS OF FACT**

10. AdvPartner registered as an investment adviser in Tennessee on May 4, 2017.

11. On December 18, 2020, the Division opened a routine compliance examination of AdvPartner.

12. Mr. Davis is the investment adviser representative, owner, and chief compliance officer of AdvPartner.

13. The examination found that the Respondents failed to meet and maintain minimum net capital requirements for six (6) months out of the twenty-four (24) month period that was the basis of the Division's compliance examination.

14. The examination found that the Respondents failed to disclose in their client agreements that they maintained discretionary authority over client accounts upon signing.

15. The examination found that the Respondents exercised discretion for two hundred nine (209) accounts encompassing one hundred four (104) clients without written consent.

#### IV. CONCLUSIONS OF LAW

16. 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).

17. 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.

18. Tenn. Code Ann. § 48-1-112(a)(1) and (a)(2)(B) provide that the Commissioner may by order deny, suspend, or revoke any registration upon finding that the order is in the public interest and necessary for the protection of investors if the applicant or registrant has violated or failed to comply with any rule.

19. Tenn. Code Ann. § 48-1-112(a)(1) and (a)(2)(G) provide that the Commissioner may by order deny, suspend, or revoke any registration upon finding that the order is in the public interest and necessary for the protection of investors if the applicant or registrant engaged in dishonest or unethical practices in the securities business.

20. 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.”

21. Tenn. Comp. R. & Regs. 0780-04-03-.01(6) states, in pertinent part:
- (a) Except as provided under subparagraph (6)(d) of this Rule, every investment adviser registered or to be registered shall have and maintain a minimum net capital of fifteen thousand dollars (\$15,000).

...

22. Tenn. Comp. R. & Regs. 0780-04-03-.02(6)(c)(1.) states:
- (c) The following are deemed “dishonest or unethical business practices” by an investment adviser or an investment adviser representative under T.C.A. § 48-1-112(a)(2)(G), to the extent permitted under Section 203A of the Investment Advisers Act, without limiting those terms to the practices specified herein:
    - 1. Exercising any discretionary power in placing an order for the purchase or sale of securities for the account of a customer without first obtaining written discretionary authority from the customer[.]

23. Tenn. Comp. R. & Regs. 0780-04-03-.02(6)(c)(19.)(vi) states:
- (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:

...

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

...

- (vi) Whether the contract grants discretionary power to the adviser[.]

24. Based on the Findings of Fact above, the Respondents failed to meet and maintain minimum net capital requirements for six (6) months out of the twenty-four (24) month period that was the basis of the Division’s compliance examination.

25. Based on the Findings of Fact above, the Respondents failed to disclose in their client agreements that they have discretionary authority over client accounts upon signing.

26. Based on the Findings of Fact above, the Respondents exercised discretionary authority over client accounts without written consent.

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

#### **V. ORDER**

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

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

1. Comply with the Act, as amended, and all rules promulgated thereunder;
2. Pay a civil penalty to the State of Tennessee of three thousand dollars (\$3,000). The payment of such civil penalty shall be made by check payable to the Tennessee Department of Commerce and Insurance. Page one (1) of this Consent Order must accompany the payment for reference. Payment shall be remitted within thirty (30) days after 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: William H. Leslie  
500 James Robertson Parkway  
Davy Crockett Tower  
Nashville, Tennessee 37243**

3. The Respondents' failure to comply with the terms of this Consent Order, including the manner and method of payment of the civil penalty described above, shall result in further administrative disciplinary action, which may include the assessment of additional civil penalties.

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

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

6. 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.

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

ENTERED AND EXECUTED October 4, 2021.

  
Carter Lawrence (Oct 4, 2021 08:27 CDT)  
Carter Lawrence, Commissioner  
Department of Commerce and Insurance

**APPROVED FOR ENTRY AND EXECUTION:**

  
Michael Kevin Davis  
Owner and Chief Compliance Officer  
AdviPartner, LLC  
Respondent

  
E B (Oct 4, 2021 15:47 CDT)  
Elizabeth Bowling  
Assistant Commissioner for Securities  
Department of Commerce and Insurance

  
Michael Kevin Davis  
Respondent

  
William H. Leslie, BPR #036098  
Associate General Counsel for Securities  
Department of Commerce and Insurance