

TENNESSEE SECURITIES DIVISION,

Petitioner,

v.

ANDREW POE BORDEN
STEPHEN DOMINIC LONGO, and
SOLYTIX CAPITAL, LLC

Respondents.

ANDREW POE BORDEN)
STEPHEN DOMINIC LONGO, and)
SOLYTIX CAPITAL, LLC)

Respondents.)

)

The Securities Division of the Tennessee Department of Commerce and Insurance (“Division”) and Andrew Poe Borden (“Respondent Borden”), Stephen Dominic Longo (“Respondent Longo”), and Solytix Capital, LLC (“Respondent Solytix” and together “Respondents”), hereby stipulate and agree to the entry and execution of this Consent Order, subject to the approval of the Commissioner of the Tennessee Department of Commerce and Insurance (“Commissioner”) as follows:

1. 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 an order by the Commissioner.

2. This Consent Order is executed by the parties for the purpose of avoiding further administrative action with respect to this cause. Furthermore, 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.

3. The Respondents fully understand that this Consent Order will in no way preclude additional proceedings by the Commissioner against the Respondents for acts or omissions not specifically addressed in this Consent Order or for facts and/or omissions that do not arise from the facts or transactions herein addressed.

4. The Respondents fully understand that this Consent Order will in no way preclude proceedings by state government representatives, other than the Commissioner, for alleged violations of the law addressed specifically in this Consent Order, violations of law under statutes, rules, or regulations of the State of Tennessee, which may arise out of the facts, acts, or omissions contained in the Findings of Fact and Conclusions of Law stated herein, or which may arise as a result of the entry and execution of this Consent Order by the Respondents.

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

AUTHORITY AND JURISDICTION

6. The Commissioner has jurisdiction over securities matters pursuant to Tennessee Code Annotated (“Tenn. Code Ann.”) §§ 48-1-101 to 48-1-201 *et seq.* of the Tennessee Securities Act of 1980, as amended (“Act”). The administration of the Act is vested in the Commissioner pursuant to Tenn. Code Ann. § 48-1-115.

PARTIES

7. Respondent Borden is registered with the Division as an investment adviser representative and has been assigned Central Registration Depository (“CRD”) number 2074311 by the Financial Industry Regulatory Authority (“FINRA”).

8. Respondent Longo is registered with the Division as an investment adviser representative and has been assigned CRD number 5209687 by FINRA.

9. Respondent Solytix has been registered with the Division as an investment adviser firm since or about 2008 and has been assigned CRD number 137333 by FINRA.

FINDINGS OF FACT

10. Respondent Solytix became registered in 2008 and identified its principal place of business on its Uniform Application for Investment Adviser Registration (“Form ADV”) with the United States Securities and Exchange Commission as 165 Allens Creek Road, Hohenwald, Tennessee 38462 (“Tennessee address”). Solytix was formed in the State of Delaware in 2005 and has never been registered as doing business in the State of Tennessee according to the Tennessee Secretary of State.

11. From or about 2008 until 2016, Respondents reported on the Form ADV that the principal place of business was located at the Tennessee address.

12. From or about 2011 to 2014, Respondents reported that Respondents’ documents and records were being held with Larry Hyatt at Larry Hyatt and Associates, located at 5214 Maryland Way, Suite 307, Brentwood, Tennessee 37027.

13. In or about 2015, the Form ADV was updated to show that Larry Hyatt and Associates had merged with Decosimo to become The Hyatt Company of TN, LLC.

14. From or about 2017 until 2018, Respondents reported on the Form ADV that the principal place of business had changed to 108 Farmers Avenue, Bethpage, New York 11714 (“New York address”).

15. Starting in or about 2018, Respondents changed the principal place of business back to the Tennessee address. The principal place of business remains in Tennessee on subsequent updates to the Form ADV through the present date.

16. However, a brochure of Respondent Solytix from or about January 1, 2019, identified the address of Respondent Solytix to be the New York address.

17. On or about May 3, 2023, Respondents Borden and Longo provided the Division with their business cards as part of a response to standard examination document requests. The business card of Borden shows a California address, and the business card of Longo shows the New York address.

18. On or about March 17, 2023, the Division sent a letter via United States Postal Service (“USPS”) to Respondent Longo and Respondent Solytix at the Tennessee address.

19. On or about March 28, 2023, the USPS returned the letter with a message stating that there was no such street, and that the letter could not be forwarded.

20. On or about April 19, 2023, the Securities Division opened an examination into Respondent Solytix.

21. On or about March 28, 2023, Respondent Solytix filed a Form ADV with the United States Securities and Exchange Commission. The Form ADV identified the address of Solytix as the Tennessee address.

22. On or about May 8, 2023, Respondent Borden stated to Division Examiner Tonia Shafer (“Examiner Shafer”) that he resides at the Tennessee address fifty percent (50%) of the year

and the other fifty percent (50%) in California. As part of the examination of Solytix, Examiner Shafer reviewed Respondent Borden's most recent Form U4, which was filed on or about March 2, 2011. Section 11. Residential History of the U4 does not list a California address. The address listed indicates "165 Allens Creek Rd, PO Box 49, Hohenwald, TN 38462 USA. The Form U4 Instructions indicate that for Section 11. Residential History, "Post Office boxes are not acceptable. Report changes as they occur."

23. On or about May 12, 2023, the Division sent an email to Respondents Borden and Longo requesting clarification as to the correct principal place of business for Respondent Solytix.

24. On or about the evening of May 12, 2023, Respondent Longo sent an email to the Division stating the principal place of business of Respondent Solytix is the Tennessee address. The email further stated that Respondent Solytix had operated from both the Tennessee address and the New York address. However, Respondent Longo stated there had not been any walk-in clients or prospects at the Tennessee address. Additionally, the email asserted that Respondent Borden had spent several weeks at the Tennessee address working on investment research in 2022, but Respondent Borden stated he had started working remotely in California. The email also indicated that Respondent Longo works from the New York address on research and compliance responsibilities.

25. On or about June 6, 2023, Examiner Shafer conducted a surprise onsite examination at the Tennessee property. Examiner Shafer was unable to access the property because the gate was closed and locked. Additionally, posted on the gate were signs reading "Private Property" and "No Trespassing" as well as a sign reading "Buffalo River Farm." There was no signage on the property indicating it was the business location for Respondent Solytix. Examiner Shafer

believed the property was vacant from her observations of no signage for Solytix and the overgrowth of vegetation.

26. On that same day, June 6, 2023, Examiner Shafer conducted a surprise onsite visit at The Hyatt Company of TN, LLC office. Mr. Hyatt was not present at the office, but an employee, Clayton Cooper, stated that he was not familiar with Solytix.

27. Later that same day, Respondent Longo clarified to Examiner Shafer that Mr. Hyatt only completed an audit for Solytix in 2011, and the only information held by Mr. Hyatt was relevant to the audit performed.

28. That same day on June 6, 2023, Respondent Longo filed an amended Form ADV that stated the documents and records were located at the New York address.

29. On or about June 7, 2023, Examiner Shafer sent an email to Mr. Hyatt regarding Respondent Borden. Mr. Hyatt stated that he had no professional relationship with Respondent Borden in over ten (10) years.

30. Respondent Solytix submitted outside business activity records to the Division in the course of the examination. These outside business activity records show that Respondent Borden obtained approval from Solytix in 2020 to perform work for We4c, LLC, and additional approval in 2021 to perform treasury analysis for various banking entities. These outside business activity records also show that Respondent Longo obtained approval from Solytix to serve as a trader for National Grid in 2012.

31. Respondent Borden's most recent Uniform Application for Securities Industry Registration or Transfer ("Form U4"), Section 13, filed on or about March 2, 2011, was not amended in March 2020 or in November 2021 to indicate that Respondent Borden was performing work for We4c, LLC, and performing treasury analysis for various banking entities. Additionally,

Section 12 of the U4 does not disclose We4C, LLC, or the various banking entities in Respondent Borden's employment history. To date, no Form U4 Amendments have been filed for Respondent Borden to disclose this outside business activity.

32. Respondent Longo's most recent Form U4, Section 13, filed on or about March 28, 2013, indicated that Respondent Longo was not currently engaged in any other businesses as either a proprietor, partner, officer, director, employee, trustee, agent or otherwise. However, Respondent Longo has been employed full time with National Grid since 2012 according to outside business activity records submitted by Respondent Solytix as part of the Division's examination. Additionally, Section 12 of the U4 does not disclose National Grid in Respondent Longo's employment history. No Form U4 Amendments have been filed for Respondent Longo to disclose this outside business activity.

33. Respondent Solytix's most recent Form ADV, filed on or about March 6, 2023, does not list Respondent Longo's employment with the National Grid or Respondent Borden's work for We4c, LLC, as required in Part 1B Item 2.G(2) to disclose other business activities of advisory affiliates or any management person.

CONCLUSIONS OF LAW

34. At all times relevant hereto, Tenn. Code Ann. § 48-1-112 has provided:

- (a) The commission may by order deny, suspend, or revoke any registration under this part if the commissioner finds that:

...

- (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

- (A) Has filed an application for registration which as of its effective date, or as of any date after filing in the case of an order denying effectiveness, includes any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;
- (B) Has willfully violated or willfully failed to comply with any provision of this part of a predecessor chapter or any rule or order under this part or a predecessor chapter, including, without limitation, any net capital requirements;
- ...
- (G) Has engaged in dishonest or unethical business practices in the securities business;

- (e) Pending final determination whether or not any registration under this section shall be revoked, the commissioner may by order suspend such registration, if after notice and opportunity for hearing, the commissioner finds such suspension to be in the public interest and necessary for the protection of investors.

35. Tenn. Comp. R. & Regs. 0780-04-01-.04(3)(e)(1) provides that:

All applications, reports, registration statements, financial statements, correspondence, exhibits, and/or other information required or requested pursuant to the Act or these Rules may be submitted to the Division in the paper format prescribed in this paragraph (3) or through the CRD System or other electronic data gathering, access, and retrieval methods acceptable to the Division.

36. Tenn. Code Ann. § 48-1-111(c) provides that:

If the information contained in any document filed with the commissioner is or becomes inaccurate or incomplete in any material respect, the registrant shall promptly file a correcting amendment.

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

As used herein “principal place of business” of an investment adviser means the executive office of the investment adviser from which the

officers, partners, or managers of the investment adviser direct, control, and coordinate the activities of the investment adviser.

38. Tenn. Comp. R. & Regs. 0780-04-03-.02(4)(d) provides that:

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.

39. Tenn. Comp. R. & Regs 0780-04-03-.02(6)(c)(26) 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:

26. Failing to provide information requested by the Division pursuant to the Act or these Rules.

40. Tenn. Comp. R. & Regs. 0780-04-01-.04(a) provides that:

All filings submitted with the Division shall be on the proper form as designated under these Rules. An application shall be deemed submitted on the proper form unless objection to the form is made by the Division prior to the effective date of the application. The following forms, as in effect at the time of use, are approved for filing with the Division:

...

4. “Form U4”, Uniform Application for Securities Industry Registration or Transfer;

...

11. “Form ADV”, Uniform Application for Investment Adviser Registration;

41. Tenn. Comp. R. & Regs. 0780-04-01-.04(b) provides that:

All instructions on the above named forms are applicable, except as expressly provided elsewhere in these Rules, and are adopted verbatim and incorporated herein by reference.

42. Form ADV Instructions Item 4 states in pertinent part:

4. When am I required to update my Form ADV?

- SEC-and State-Registered Advisers:
 - Annual updating amendments: You must amend your Form ADV each year by filing an annual updating amendment within 90 days after the end of your fiscal year. When you submit your annual updating amendment, you must update your responses to all items in Part 1A, 1B, 2A and 2B (as applicable), including corresponding sections of Schedules A, B, C, and D and all sections of Schedule R for each relying adviser. You must submit your summary of material changes required by Item 2 of Part 2A either in the brochure (cover page or the page immediately thereafter) or as an exhibit to your brochure. You may, but are not required, to submit amended versions of the relationship summary required by Part 3 as part of your annual updating amendment.
 - Other-than-annual amendments: In addition to your annual updating amendment,
 - If you are registered with the SEC or a state securities authority, you must amend Part 1A, 1B, 2A and 2B (as applicable) of your Form ADV, including corresponding sections of Schedules A, B, C, D, and R, by filing additional amendments (other-than-annual amendments) promptly, if:
 - you are adding or removing a relying adviser as part of your umbrella registration;
 - information you provided in response to Items 1 (except 1.O. and Section 1.F. of Schedule D), 3, 9 (except 9.A.(2), 9.B.(2), 9.E., and 9.F.), or 11 of Part 1A or Items 1, 2.A. through 2.F., or 2.I. of Part 1B or Sections 1 or 3 of Schedule R becomes inaccurate in any way;
 - information you provided in response to Items 4, 8, or 10 of Part 1A, or Item 2.G. of Part 1B, or Section 4 of Schedule R becomes materially inaccurate; or information you provided in your brochure becomes materially inaccurate (see note below for exceptions).

Notes: Part 1: If you are submitting an other-than-annual amendment, you are not required to update your responses to Items 2, 5, 6, 7, 9.A.(2), 9.B.(2), 9.E., 9.F., or 12 of Part

1A, Items 2.H. or 2.J. of Part 1B, Section 1.F. of Schedule D or Section 2 of Schedule R even if your responses to those items have become inaccurate.

43. Form U4 Instructions state, in relevant part, with regards to business activities outside of employment with the individual's firm:

13. OTHER BUSINESS

Enter "yes" or "no" to indicate whether you currently are engaged in any other business, either as a proprietor, partner, officer, director, employee, trustee, agent, or otherwise. Exclude non-investment-related activity that is exclusively charitable, civic, religious or fraternal, and is recognized as tax exempt.

If you answer "yes" to this question, provide the following information:

- name and address of the other business
- the nature of the other business, including whether it is investment-related
- your position, title, or association with the other business, including your duties
- the start date of your relationship with the other business
- the approximate number of hours per month you devote to the other business
- the number of hours you devote to the other business during securities trading hours

44. Form U4 Instructions also state, in relevant part, that "An individual is under a continuing obligation to amend and update information required by Form U4 as changes occur."

45. FINRA By-Laws Article V § 2(c) states, in relevant part, that:

Every application or registration filed with the Corporation shall be kept current at all times by supplementary amendments via electronic process or such other process as the Corporation may prescribe to the original application. Such amendment to the application shall be filed with the Corporation not later than 30 days after learning of the facts or circumstances giving rise to the amendment.

46. By filing and/or allowing to be filed a misleading application for registration on Form ADV and renewal of registration for their securities business by providing a false principal place of business for Respondent Solytix, the Respondents violated Tenn. Code

Ann. § 48-1-112(a)(2)(A).

47. By stating on the filed Form ADV that the principal place of business for Respondent Solytix was the Tennessee address, but having not directed, controlled, or coordinated the activities of Respondent Solytix from the Tennessee address from the initial registration through multiple renewals, the Respondents willfully violated and willfully failed to comply with Tenn. Code Ann. § 48-1-112(a)(2)(A) which is also a violation of Tenn. Code Ann. § 48-1-112(a)(2)(B).

48. By failing to update the Form U4 within 30 days of the date of the changing event along with Form ADV regarding material changes related to other business activities and employment history, the Respondents violated Tenn. Code Ann. §§ 48-1-111(c) and 48-1-112(a)(2)(G), along with Tenn. Comp. R. & Regs. §§ 0780-04-01-.04(a)&(b) and 0780-04-03-.02(6)(c)(26).

49. By failing to promptly file amendments to Form ADV reflecting all material changes to the investment adviser's most recent application for registration, the Respondents violated Tenn. Code Ann. §§ 48-1-111(c) and 48-1-112(a)(2)(G) along with Tenn. Comp. R. & Regs. §§ 0780-04-01-.04(a)&(b), 0780-04-03-.02(6)(c)(26), and 0780-04-03-.02(4)(d).

50. The Respondents admit to the Findings of Fact and Conclusions of Law stated herein, and consent to entry of this Order.

ORDER

NOW, THEREFORE, on the basis of the foregoing, and the Respondents' waiver of the right to a hearing and appeal under the Law and the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-101 *et seq.*, and the Respondents' admission of jurisdiction of the

Commissioner, the Commissioner finds that the Respondents, for the purpose of settling this matter, admit the Findings of Fact and Conclusions of Law, and agree to the entry and execution of this Consent Order.

IT IS ORDERED, pursuant to Tenn. Code Ann. § 48-1-112 of the Law, that:

1. The Respondents **COMPLY** with the provisions of the Act and all rules promulgated pursuant to the Act.

2. Respondent Borden shall pay **CIVIL PENALTIES** in the amount of three thousand dollars (\$3,000).

3. Respondent Borden shall have his Tennessee investment adviser representative registration **REVOKED**.

4. Respondent Longo shall pay **CIVIL PENALTIES** in the amount of three thousand dollars (\$3,000).

5. Respondent Longo shall have his Tennessee investment adviser representative registration **REVOKED**.

6. Respondent Solytix shall pay **CIVIL PENALTIES** in the amount of three thousand dollars (\$3,000).

7. Respondent Solytix shall have its Tennessee investment adviser firm registration **REVOKED**.

8. This consent order does not constitute a final order based on a violation of any law or regulation that prohibits fraudulent, manipulative, or deceptive conduct entered within ten years before such sale.

9. 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 order must accompany payment

for reference. Payment shall be made within thirty (30) days of the date this agreement is executed by the Commissioner, and payment shall be mailed to:

**State of Tennessee
Department of Commerce and Insurance
Legal Division
Attn: Alex Corder
Davy Crockett Tower
500 James Robertson Parkway
Nashville, TN 37243**

10. This Consent Order represents the complete and final resolution of, and discharge with respect to all administrative and civil, claims, demands, actions, and causes of action by the Commissioner against the Respondents for violations of the Law alleged by or currently known by the Division to have occurred with respect to the transactions involving the above-referenced facts contained herein.

11. This Consent Order is in the public interest and in the best interests of the parties and represents a compromise and settlement of the controversy between the parties and is for settlement purposes only.

12. By the signatures affixed below, the Respondents affirmatively state they have freely agreed to the entry and execution of this Consent Order, that the Respondents waive the right to a hearing on the matters underlying this Consent Order or the enforcement of this Consent Order, and to a review of the Findings of Fact and Conclusions of Law contained herein, and that no threats or promises of any kind have been made to him by the Commissioner, the Division, or any agent or representative thereof.

13. The parties, by signing this Consent Order, 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.

14. 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. Solytix Proposed Consent Order v3 APB execution page signed

ENTERED AND EXECUTED Mar 4, 2025.



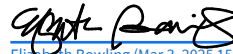
Carter Lawrence (Mar 4, 2025 20:39 CST)

Carter Lawrence, Commissioner
Department of Commerce and Insurance

APPROVED FOR ENTRY AND EXECUTION:

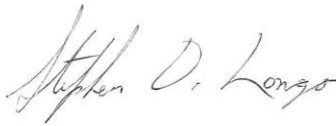


Andrew Poe Borden
Individually, and on behalf of,
Solytix Capital, LLC



Elizabeth Bowling (Mar 3, 2025 15:51 CST)

Elizabeth Bowling
Assistant Commissioner for Securities
Department of Commerce and Insurance



Stephen Dominic Longo
Individually, and on behalf of,
Solytix Capital, LLC



Alex G. Corder, BPR# 034191
Associate Counsel
Tennessee Dept. of Commerce and Insurance
500 James Robertson Pkwy
12th Floor
Nashville, TN 37243
615-770-6974
Alex.Corder@tn.gov



Jacob R. Strait, BPR# 032389
Associate Counsel for Securities
Tennessee Dept. of Commerce and Insurance
500 James Robertson Pkwy
12th Floor
Nashville, TN 37243
615-253-0646
Jacob.Strait@tn.gov