

IRVING L. FAUGHT  
ADMINISTRATOR



MARY FALLIN  
GOVERNOR

STATE OF OKLAHOMA  
DEPARTMENT OF SECURITIES

MEMORANDUM

To: Irving L. Faught, Administrator

From: Carol Gruis, Director of Examinations

Date: November 12, 2015

Re: EXAMINATION REPORT

Attached hereto please find the report of the on-site examinations for the months ended September 30, 2015 and October 31, 2015.

## Examinations Division For The Period September 1, 2015 to October 31, 2015

<b>On-Site Exams Started</b>	<b>BD</b>	<b>IA</b>	<b>Combined</b>
Total Exams Started	0	3	3
<b>On-Site Exams Completed</b>	<b>BD</b>	<b>IA</b>	<b>Combined</b>
Started and Completed During The Current Period	0	0	0
Started In A Prior Period and Completed During The Current Period	0	7	7
Referred to Enforcement Division	0	0	0
Total Exams Completed	<u>0</u>	<u>7</u>	<u>7</u>
<b>On-Site Exams Still Open</b>	<b>BD</b>	<b>IA</b>	<b>Combined</b>
Started During The Current Period	0	3	3
Started During A Prior Period	5	9	14
Total Still Open	<u>5</u>	<u>12</u>	<u>17</u>
	<b>BD</b>	<b>IA</b>	<b>Combined</b>
% of registrants examined during current period	0%	0%	0%
% of registrants against whom final action was taken during current period	0%	2.42%	2.42%
% of registrants examined against whom final action was taken during current period	0%	0%	0%

### NonBranch Sales Office Exam Questionnaires

Total Reviewed      1

### On-Site Exam Aging

Days	Still Open	Completed
0-30	2	0
31-60	1	0
61-90	2	0
Over 90	12	7
<b>Totals</b>	<b>17</b>	<b>7</b>

**Examinations Division**  
**For The Period**  
**September 1, 2015 to October 31, 2015**

**3 On-Site Exams Started but not Completed During Period**

IA/BD	Firm Name	Date Started
IA	MAIN STREET INVESTMENT MANAGEMENT 113 SOUTH BROADWAY EDMOND,	9/2/2015
IA	WEALTH ADVISORS OF OKLAHOMA, L.L.C. 2424 E. 21st Street, Suite 200 TULSA, OK	10/12/2015
IA	C C INVESTMENT ADVISORS, INC. 8101 N. W. 10th, Suite B OKLAHOMA CITY, OK	10/27/2015

**7 On-Site Exams Completed During Period**

IA/BD	Firm Name	Date Started	Date Completed
IA	WESTON K. SOLOMON, CPA CFP P. O. Box 21563 OKLAHOMA CITY, OK	4/30/2015	9/18/2015
IA	BARNETT INVESTMENTS INC. P. O. Box 21563 BARTLESVILLE,	4/27/2015	9/18/2015
IA	VALENDO PRIVATE ASSET MANAGEMENT, INC. 1401 GLENWOOD AVENUE OKLAHOMA CITY, OK	12/9/2014	9/18/2015
IA	BOLLINGER FINANCIAL ADVISORY, INC. 205 W. Seventh, Suite 203A STILLWATER, OK	9/15/2014	9/18/2015
IA	FIRST CAPITAL MANAGEMENT, L.L.C. 9 East 4th Street TULSA, OK	11/17/2014	10/2/2015
IA	MORSE CAPITAL MANAGEMENT, INC. 6950 South Utica Avenue TULSA, OK	8/11/2014	10/2/2015
IA	LODESTAR ASSET MANAGEMENT LLC 121 NE 50TH OKLAHOMA CITY,	4/6/2015	10/6/2015

\* Referred to Enforcement

Below is a summary of deficiencies cited in the completed examinations represented in the September-October 2015 Commission Report.

1. Failure by the firm to maintain written agreements with clients, solicitors or vendors used by the firm.
2. Failure to prepare and maintain the client information needed to determine suitability.
3. The written supervisory policies and procedures are not designed to prevent violations of applicable Oklahoma securities laws and regulations.
  - Procedures do not address protection of client identity or investments.
  - Firm is not obtaining and reviewing the trading activity of supervised persons who hold accounts at unaffiliated broker-dealers or investment advisers.
  - Incomplete policies and procedures for supervising the firm's business and the activities of its associated persons.

#### 4. Form ADV

The following list represents the types of deficiencies found relating to the Form ADV, Part 1 and Part 2.

- Failure to file an Annual Updating Amendment on IARD
- Inconsistencies between Part 1 and Part 2 including:
  - Types of clients
  - Types of services performed (i.e. Financial Planning)
  - Fees charged – specifically offering a fixed fee option and then stating how the fees will be calculated and the maximum or range of the fees
  - Policy regarding refund of fees paid in advance
  - Discrepancy in the fee schedule
  - Assets under management
  - Misrepresenting industry activities, affiliations or licenses
  - Discretion – Form ADV indicates all accounts are non-discretionary; however, examination revealed numerous discretionary accounts
  - Failing to disclose if a supervised person has been the subject of a bankruptcy, when the petition was first filed and the current status
  - Email address not consistent between Part 1 and Part 2
  - Website address provided does not appear to be correct
  - Material Changes section discloses a decrease in hourly rates; however, the fees appeared to have increased
- The hourly fee disclosed on Form ADV Part 2 differs from the hourly fee disclosed in the Client Advisory Agreement.

- Inconsistent disclosure of outside business activity between Form ADV Part 2A, 2B and Form U-4.

5. Privacy Policy

Our examinations revealed that firms are either not providing a copy of their Privacy Policy or that the Privacy Policy does not meet all the requirements of the Gramm-Leach-Bliley Act. Specifically, the document does not appear to include the types of non-public information the firms collect nor the categories of non-public information the firms disclose under agreements with third parties. We also find that not all privacy disclosure documents contain an "opt out" clause or a reasonable method to opt out as defined in the Gramm-Leach-Bliley Act.

6. Client Advisory Agreements

A number of deficiencies were found involving Client Advisory Agreements. These include:

- Agreements that were not prepared or could not be located.
- The use of oral agreement – Rule 660:11-7-42 requires any investment advisory agreement to be in writing with certain disclosures.
- Failure to include termination provisions.
- Failure to include the formula for computing the advisory fee.
- The use of binding arbitration clauses stating that the arbitration would be conducted before the Financial Industry Regulatory Authority (FINRA).
- Failure to describe the services offered.
- Agreements containing hedge clauses that might cause a client to forgo a legal right because of overbroad limitations of the registered investment advisers' liability.

7. Fees

The deficiencies relating to advisory fees include:

- Advisory fees charged to clients that were not consistent with the fee calculations disclosed in the advisory contracts.
- Firms that billed fees in arrears failed to disclose the time period covered, i.e., quarterly or monthly.
- Firms that charged an hourly fee for financial planning services failed to state that they will not collect an advance retainer of \$500 or greater more than six months in advance.
- Failure to include the formula used to calculate the advisory fee and/or the amount of assets under management on which the fee is based.

8. Performance reports

The performance reports reviewed did not include an explanation of the accounts covered by the report or whether the returns are net of fees.

9. Trade Blotters

A review of the firm's trade blotter indicated that all trades were unsolicited; however, a review of the email archive showed the investment adviser representative initiated the recommendation whereupon the client either purchased or sold the security.

10. Financial Records

Firm failed to maintain accurate financial reports.