

**COMMONWEALTH OF KENTUCKY
PUBLIC PROTECTION CABINET
DEPARTMENT OF FINANCIAL INSTITUTIONS
ADMINISTRATIVE AGENCY ACTION NO. 2012-AH-0109**

DEPARTMENT OF FINANCIAL INSTITUTIONS

COMPLAINANT

vs.

KENTUCKY CAPITAL & WEALTH ADVISORS, LLC
GARY RYAN RHOADES, individually

RESPONDENT

**FINAL ORDER DENYING APPLICATION FOR INVESTMENT
ADVISER REGISTRATION**

* * * * *

Pursuant to KRS 292.337(1), the Commissioner of the DFI enters this Final Order denying the application of Kentucky Capital & Wealth Advisors, LLC, CRD #162271, (“Capital Wealth”) for registration as an investment adviser (“IA”) and the application of Gary Ryan Rhoades, CRD #2582675, (“Mr. Rhoades”) for registration as an investment adviser representative (“IA Rep.”).

STATEMENTS OF FACT

The DFI, Division of Securities (“Division”) received an application from Capital Wealth for registration as an IA and for Mr. Rhoades as an IA Rep. on March 6, 2012.

2. Capital Wealth is registered with the Kentucky Secretary of State as a Limited Liability Company having its principal office at 71c Private Drive 54, South Point, OH, 45680.
3. Mr. Rhoades is also the managing member of Capital Wealth.
4. On March 27, 2012, representatives from the Division met with Mr. Rhoades concerning the applications. At that meeting, the Division requested additional information in

support of the application. That information has been submitted and the applications have been deemed complete as of April 2, 2012.

5. Upon review of the application, the Division learned that Mr. Rhoades was previously employed as a broker/dealer representative with Wunderlich Securities (“Wunderlich”).

6. While at Wunderlich, Mr. Rhoades was the subject of an investigation conducted by the Financial Industry Regulatory Authority (“FINRA”). FINRA is a self-regulatory organization that acts as an independent regulator for all securities firms in the United States.

7. The FINRA investigation alleged that Mr. Rhoades effected numerous securities transactions in a customer’s account without the customer’s authorization and he recommended an unsuitable concentration of a small number of stocks in the same three month period, in violation of NASD Rules 2110, 2310(A) and interpretative material 2310-2.¹

8. As a result of FINRA’s investigation, Mr. Rhoades resigned from Wunderlich and entered into an Agreement Waiver and Consent (“AWC”), effective April 16, 2012.

9. Under the AWC Mr. Rhoades was fined \$15,000 and suspended from association with any FINRA member in any capacity for eight (8) months.

10. On April 26, 2012, the Commissioner entered an Order denying the application of Kentucky Capital & Wealth Advisors, LLC, CRD #162271, (“Capital Wealth”) for registration as an investment adviser (“IA”) and the application of Gary Ryan Rhoades, CRD #2582675, (“Mr. Rhoades”) for registration as an investment adviser representative (“IA Rep.”).

11. The Order was sent certified mail, return receipt requested to the Respondents at 71C Private Drive 54, South Point, OH 45680. This was the address supplied by the Respondents during the application process as their mailing address.

¹ NASD Rules 2110, 2310(A) and interpretative material 2310-2 are rules of FINRA.

12. The Order informed the Respondents that they had twenty (20) days to appeal the application denial. The Order denying the application was signed for on April 30, 2012 and the domestic return receipt was returned to DFI on May 3, 2012.

13. More than twenty (20) days has passed and the Respondents have failed to request a hearing in this matter.

STATUTORY AUTHORITY

14. KRS 292.337(1) states “The commissioner may deny, refuse to renew, suspend, or revoke the registration of any broker-dealer, agent, investment adviser, or investment adviser representative. The commissioner may bar, censure, or place on probation any registrant or any officer, director, partner, or person occupying a similar status or performing similar functions for a registrant, or, restrict, condition, or limit a registrant as to any function or activity of the business for which registration is required in this state. The commissioner may take any of the foregoing actions for any reason set forth in subsection (2).”

15. KRS 292.337(2) states in order to deny the registration of a IA or IA Rep., DFI shall find that such denial is in the public interest and that IA Rep. or in the case of an investment adviser, any person directly or indirectly controlling the investment adviser, has committed one of the violations enumerated in KRS 292.337(2)(a)-(n).

16. Pursuant to KRS 292.337(2)(g)2., DFI can deny an IA’s registration if the IA or anyone directly or indirectly controlling the IA is the subject of an order of a self-regulatory organization finding a violation of a rule of the self-regulatory organization.

17. Pursuant to KRS 292.337(2)(g)2., DFI can deny an IA Rep.’s registration if the IA Rep. is the subject of an order of a self-regulatory organization finding a violation of a rule of the self-regulatory organization.

18. DFI can deny an IA's registration if the IA, or anyone directly or indirectly controlling the IA, "Has violated the law of any jurisdiction governing or regulating any aspect of the business of securities or banking, or, within the past five (5) years, has been the subject of an action of any securities regulator denying, revoking, or suspending the right to engage in the business of securities as a broker-dealer, agent, investment adviser, or investment adviser representative or is the subject of an action of any securities exchange or self-regulatory organization operating under the authority of a securities regulator suspending or expelling the person from membership in the exchange or self-regulatory organization." *See* KRS 292.337(2)(m).

19. DFI can deny an IA Rep.'s registration if the IA Rep., "Has violated the law of any jurisdiction governing or regulating any aspect of the business of securities or banking, or, within the past five (5) years, has been the subject of an action of any securities regulator denying, revoking, or suspending the right to engage in the business of securities as a broker-dealer, agent, investment adviser, or investment adviser representative or is the subject of an action of any securities exchange or self-regulatory organization operating under the authority of a securities regulator suspending or expelling the person from membership in the exchange or self-regulatory organization." *See* KRS 292.337(2)(m).

CONCLUSIONS OF LAW

20. Mr. Rhoades, as managing member of Capital Wealth, directly controls Capital Wealth.

21. Mr. Rhoads is the subject of an order of FINRA, a self-regulatory organization, with findings of violations of FINRA rules.

22. Mr. Rhoads is the subject of an order of FINRA, a self-regulatory organization, whereby he is suspended from associating with any FINRA member in any capacity for eight (8) months.

23. In accordance with KRS 292.337(1), KRS 292.337(2)(g)2. and KRS 292.337(2)(m), the Commissioner of the DFI finds that it is in the public interest that the IA application for registration of Capital Wealth and the IA Rep. application for registration of Mr. Rhoades be denied.

24. The Commissioner further finds that the Denial Order was served on Respondents at their last known address.

25. Respondents failed to timely request a hearing within twenty (20) of service. Thus, the Respondents have not perfected their appeal and their right to a hearing is waived in this matter.

FINAL ORDER

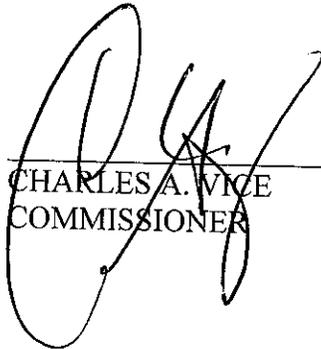
THEREFORE, based upon the foregoing facts and findings, the Commissioner hereby **ORDERS** that:

1. Kentucky Capital & Wealth Advisors LLC's, CRD #162271, application for registration as an investment adviser is **DENIED**; and
2. Gary Ryan Rhoades', CRD #2582675, application for registration as an investment adviser representative is **DENIED**.

NOTICE OF APPEAL RIGHTS

Pursuant to KRS 13B.140, you are hereby notified that you have the right to appeal this Final Order of the Commissioner. If you choose to appeal, you must file a written Notice of Appeal with the Franklin Circuit Court within thirty (30) days after entry of this Order.

IT IS SO ORDERED on this the 31st day of MAY, 2012.

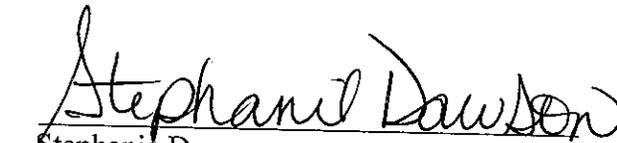


CHARLES A. VICE
COMMISSIONER

Certificate of Service

I hereby certify that a copy of the foregoing **Final Order** was sent by certified mail return receipt requested and on this the 4th day of June, 2012, to the following:

Gary Ryan Rhoades
Kentucky Capital & Wealth Advisors, LLC
71c Private Drive 54
South Point, OH 45680



Stephanie Dawson
Department of Financial Institutions