



**COMMISSIONER OF SECURITIES  
STATE OF GEORGIA**

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<b>In the Matter of</b>	:	
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<b>Investment Planning, LLC</b>	:	
<b>(CRD #174439), and</b>	:	
<b>Robert A. Stewart</b>	:	<b>Case Number: ENSC-170655</b>
<b>(CRD #860926)</b>	:	
	:	
<b>Respondents.</b>	:	

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**CONSENT ORDER**

Pursuant to O.C.G.A. § 10-5-71(a)(1) of the Georgia Uniform Securities Act of 2008, O.C.G.A. § 10-5-1, et seq. (“Act”), the Commissioner of Securities for the State of Georgia (“Commissioner”) caused an investigation to be made into Investment Planning, LLC (“IP”) and Robert A. Stewart (“Stewart”) (collectively “Respondents”) to determine whether Respondents had violated the Act or a rule adopted by the Commissioner thereunder (“Rules”). The Commissioner subsequently determined that Respondents had in fact engaged in actions constituting violations of the Act and the Rules. As a result, pursuant to O.C.G.A. § 10-5-73, the Commissioner issued Respondents a Proposed Order for Conditional Registration and Civil Penalty and Notice of Opportunity for Hearing dated March 2, 2017 (“Proposed Order”).

On March 29, 2017 Respondents timely requested a pre-hearing conference pursuant to Rule 590-4-6-.12. Respondents’ request for a pre-hearing conference was duly accepted by the Commissioner, thereby tolling the thirty (30) day time period for requesting and setting any formal hearing before the Commissioner. Having considered information provided by Respondents and representations made by Respondents during the pre-hearing conference period, the Commissioner and Respondents hereby agree to the terms and conditions set forth herein.

### **CONSENT TO JURISDICTION AND WAIVER**

1. Respondents consent to the jurisdiction of the Commissioner over Respondents and this matter pursuant to the Act.

2. Without Respondents admitting or denying the Findings of Fact and Conclusions of Law herein, Respondents and the Commissioner stipulate and agree to the issuance of this Consent Order without further proceedings in this matter, agreeing to be fully bound by the terms and conditions specified herein.

3. Respondents agree not to take any action or to make or permit to be made any public statements creating the impression that this Consent Order is without factual basis.

4. Respondents stipulate and agree with the Commissioner that should any facts herein prove to be false, the Commissioner reserves the right to pursue any and all legal or administrative remedies at its disposal.

5. Respondents, through the execution of this Consent Order, voluntarily waive their rights to a formal hearing on this matter and to judicial review of this Consent Order.

6. Respondents enter into this Consent Order voluntarily and represent that no threats, offers, promises, or inducements of any kind have been made by the Commissioner or any member, officer, employee, agent, or representative of the Commissioner to induce Respondents to enter into this Consent Order.

### **FINDINGS OF FACT**

7. Pursuant to O.C.G.A. § 10-5-32, IP is registered as an investment adviser with the Commissioner. During the examination period and during all relevant time periods addressed in this Consent Order, IP's principal office was located at 3 Dunwoody Park, Suite 103, Atlanta, Georgia 30338. Subsequent to the examination, IP amended its filings to reflect a principal office location of 4127 Spring Island Drive, Okatie, South Carolina, 29909. IP is registered in Georgia as a domestic limited liability company. As an investment adviser registered with the Commissioner, IP is subject to the provisions of the Act and the Rules. IP's CRD Number is 174439.

8. Stewart is an investment advisor representative with IP and is subject to the supervision of IP. Pursuant to O.C.G.A. § 10-5-33, Stewart is registered as an investment adviser representative with the Commissioner. Stewart's CRD Number is 860926. Stewart serves as the chief executive officer ("CEO") and chief compliance officer ("CCO") of IP.

9. Prior to the formation of IP, Stewart operated Investment Planning Services, Inc. ("IPS"). IPS was registered with the Commissioner as an investment advisor from January 23, 2006 until it failed to renew on December 31, 2010. IPS' principal office was located at 3 Dunwoody Park, Suite 118, Atlanta, Georgia 30338. IPS' CRD Number is 127316. Stewart served as the President of IPS.

10. The Commissioner conducted an on-site examination of IP and Stewart on January 12, 2017. During the course of the examination process, the Commissioner discovered several violations of the Act and Rules.

11. IP failed to produce copies of any investment advisory agreements entered into by IP with its clients. Stewart made representations to the Commissioner's staff that the investment advisory agreements were maintained in an off-site storage facility.

12. IP failed to produce copies of each written statement, amendment or revision of IP's Form ADV Part 2A and 2B given or offered to any client or prospective client who subsequently became a client.

13. IP failed to produce written information about each advisory client that is the basis for making any recommendation or providing any investment advice to such client.

14. IP purchased a policies and procedures template from an unaffiliated third party compliance firm that was not tailored to IP's business. For example, the adopted policies and procedures state that suspicious account activity will be reported to the "local U.S. Attorney's Office: (777) 777-7777; local FBI Office: (777) 777-7777; and our local SEC Office: (777) 777-7777." For the section concerning trading practices, the adopted policies and procedures contains the phrase "Edit According to Your Firm Practice," when describing factors considered when selecting a broker dealer. Additionally, the adopted policies and procedures incorrectly list Charles Schwab instead of TD Ameritrade as IP's broker dealer.

15. IP failed to produce a file containing a copy of each document that was filed with, or received from, any state or federal agency or self-regulatory organization that pertains to IP or its investment adviser representatives.

16. IP failed to produce client files for dates preceding the calendar year 2016. Stewart made representations to the Commissioner's staff that client files for years prior to 2016 were maintained at an off-site storage facility.

17. IP failed to comply with the adopted policies and procedures ("P&P"). For example,

IP failed to document the review of its P&P as prescribed, IP failed to document certification of compliance with the Code of Ethics as prescribed, IP failed to provide the Privacy Policy as prescribed, IP failed to adhere to the policy stating that only Stewart will have access to client information, Stewart, as CCO, failed to sign sections of the P&P as prescribed, IP failed to deliver the firm brochure annually as prescribed, and IP failed to maintain client records at the primary office location as prescribed.

18. IP failed to inspect each office location at least annually to ensure that the adopted P&P were enforced.

19. IP failed to produce documentation reflecting compliance with the annual delivery requirement of an updated Form ADV Part 2A and 2B. Material changes occurred that would necessitate compliance with the annual delivery requirement.

20. IP failed to produce documentation granting the use of discretionary authority in placing an order for the purchase or sale of securities for a client. IP exercised discretionary authority for all client transactions.

21. Stewart is the trustee of Stewart and Associates Trust that was formed for the benefit of all employees of Stewart's associated businesses. Stewart and Associates Trust is also an investment advisory client of IP. IP and Stewart failed to disclose the relationship with the Stewart and Associates Trust on IP's Form ADV and failed to comply with the custody rules and regulations that are initiated by such a relationship.

22. Stewart's prior investment advisory firm, IPS, was registered with the Commissioner from January 23, 2006 until it failed to renew December 31, 2010. Stewart subsequently formed IP and registered it with the Commissioner on January 6, 2015. From January 1, 2011 through January 6, 2015, neither Stewart, IPS, nor IP were registered with the Commissioner. During this same time period, Stewart collected three hundred eighty six thousand two hundred forty six dollars (\$386,246.00) in management fees from more than five (5) clients. The collection of said fees was facilitated by IPS and IP.

#### **CONCLUSIONS OF LAW**

23. Paragraphs 1 through 22 are incorporated by reference as though fully set forth herein.

24. The Commissioner has jurisdiction over this matter pursuant to the Act.<sup>1</sup>

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<sup>1</sup> See GA. CODE ANN. §§ 10-5-41, 10-5-70 and 10-5-71 (2009).

25. Pursuant to O.C.G.A. §§ 10-5-40, 10-5-70, *et seq.*, the Commissioner is authorized to conduct this examination, institute this investigation, and issue this Order.

26. Pursuant to O.C.G.A. § 10-5-41(a) and (b), the Commissioner may condition the registration of an investment advisor representative if the Commissioner find that the condition is in the public interest and the Commissioner's action is authorized by § 10-5-41(d).

27. Pursuant to O.C.G.A. § 10-5-41(a) and (b), the Commissioner may condition the registration of an investment advisor if the Commissioner find that the condition is in the public interest and the Commissioner's action is authorized by § 10-5-41(d).

28. Pursuant to O.C.G.A. § 10-5-41(d)(2) a person may be disciplined if that person "[w]illfully violated or willfully failed to comply with this chapter or the predecessor Act or a rule adopted or order issued under this chapter or the predecessor Act within the previous ten years."

29. Pursuant to O.C.G.A. § 10-5-41(c), the Commissioner may impose a civil penalty on an individual not to exceed a maximum of fifty thousand dollars (\$50,000.00) for a single violation or five hundred thousand dollars (\$500,000.00) for several violations.

30. Rule 590-4-4-.14(1)(d) requires every investment adviser to maintain "[a] copy, in paper or electronic format, of each investment advisory agreement entered into by the investment adviser with any client." IP's failure to properly maintain records of the investment advisory agreements, detailed in paragraph 11 above, is a violation of Rule 590-4-4-.14(1)(d). The violation is an actionable event pursuant to O.C.G.A. § 10-5-41(d)(2) and therefore, under O.C.G.A. §§ 10-5-41(a), 10-5-41(b), and 10-5-41(c), IP is subject to discipline.

31. Rule 590-4-4-.14(1)(f) requires every investment adviser to maintain "[a] copy of each written statement and each amendment or revision given or sent to any client or prospective client of the investment adviser in accordance with the provision of Rule 590-4-4-.16, and a record or the dates that each written statement and each amendment or revision was given or offered to be given to any client or prospective client who subsequently becomes a client." IP's failure to properly maintain of each written statement, amendment or revision of the IP's Form ADV Part 2A and 2B, detailed in paragraph 12 above, is a violation of Rule 590-4-4-.14(1)(f). The violation is an actionable event pursuant to O.C.G.A. § 10-5-41(d)(2) and therefore, under O.C.G.A. §§ 10-5-41(a), 10-5-41(b), and 10-5-41(c), IP is subject to discipline.

32. Rule 590-4-4-.14(1)(f) requires every investment adviser to maintain "[w]ritten information about each investment advisory client that is the basis for making any recommendation

or providing any investment advice to such client.” IP’s failure to properly maintain suitability information for each client, detailed in paragraph 13 above, is a violation of Rule 590-4-4-.14(1)(f). The violation is an actionable event pursuant to O.C.G.A. § 10-5-41(d)(2) and therefore, under O.C.G.A. §§ 10-5-41(a), 10-5-41(b), and 10-5-41(c), IP is subject to discipline.

33. Rule 590-4-4-.14(1)(k) requires every investment adviser to maintain “[w]ritten procedures for supervising the activities of employees and investment adviser representatives that are reasonably designed to achieve compliance with applicable securities laws and regulations.” IP’s failure to maintain policies and procedures that are reasonably designed to achieve compliance, detailed in paragraph 14 above, is a violation of Rule 590-4-4-.14(1)(k). The violation is an actionable event pursuant to O.C.G.A. § 10-5-41(d)(2) and therefore, under O.C.G.A. §§ 10-5-41(a), 10-5-41(b), and 10-5-41(c), IP is subject to discipline.

34. Rule 590-4-4-.14(1)(l) requires every investment adviser to maintain “[a] file containing a copy of each document (other than any notice of general dissemination) that was filed with, or received from, any state or federal agency or self-regulatory organization that pertains to the registrant or its investment adviser representatives.” IP’s failure to properly maintain registration documentation, detailed in paragraph 15 above, is a violation of Rule 590-4-4-.14(1)(l). The violation is an actionable event pursuant to O.C.G.A. § 10-5-41(d)(2) and therefore, under O.C.G.A. §§ 10-5-41(a), 10-5-41(b), and 10-5-41(c), IP is subject to discipline.

35. Rule 590-4-4-.14(2)(a) requires every investment adviser to maintain records required by Rule 590-4-4-.14(1) “in an easily accessible place for a period of not less than five (5) years from the end of the fiscal year during which the last entry was made on such record, of which the first two (2) years shall be in the principal office of the investment adviser.” IP’s failure to properly maintain client files for the in an easily accessible place for the requisite time period, detailed in paragraph 16 above, is a violation of Rule 590-4-4-.14(2)(a). The violation is an actionable event pursuant to O.C.G.A. § 10-5-41(d)(2) and therefore, under O.C.G.A. §§ 10-5-41(a), 10-5-41(b), and 10-5-41(c), IP is subject to discipline.

36. Rule 590-4-4-.15(3) states that “[w]ritten policies and procedures, a copy of which shall be kept in each business office, shall be established, maintained, and enforced and shall set forth the standards and procedures adopted to comply with the requirements imposed by the Act and Rules.” IP’s failure to adhere to the adopted policies and procedures, detailed in paragraph 17 above, is a violation of Rule 590-4-4-.15(3). The violation is an actionable event pursuant to



O.C.G.A. § 10-5-41(d)(2) and therefore, under O.C.G.A. §§ 10-5-41(a), 10-5-41(b), and 10-5-41(c), IP is subject to discipline.

37. Rule 590-4-4-.15(4) states that “[t]he investment adviser shall be responsible for inspecting each office location at least annually to ensure that its written policies and procedures are enforced.” IP’s failure to inspect its office location, detailed in paragraph 18 above, is a violation of Rule 590-4-4-.15(4). The violation is an actionable event pursuant to O.C.G.A. § 10-5-41(d)(2) and therefore, under O.C.G.A. §§ 10-5-41(a), 10-5-41(b), and 10-5-41(c), IP is subject to discipline.

38. Rule 590-4-4-.16(2)(b) requires an investment adviser to annually “(1) [d]eliver within 120 days of the end of its fiscal year a free, updated brochure and related brochure supplements which include or are accompanied by a summary of material changes; or (2) [d]eliver a summary of material changes that includes an offer to provide a copy of the updated brochure and supplements and information on how the client may obtain a copy of the brochures and supplements.” IP’s failure to comply with the annual delivery requirement, detailed in paragraph 19 above, is a violation of Rule 590-4-4-.16(2)(b). The violation is an actionable event pursuant to O.C.G.A. § 10-5-41(d)(2) and therefore, under O.C.G.A. §§ 10-5-41(a), 10-5-41(b), and 10-5-41(c), IP is subject to discipline.

39. Rule 590-4-4-.19(2) states that an investment adviser shall not engage in exercising discretionary authority for a client account without first obtaining the written authority to do so. IP’s failure to properly maintain the grant of discretionary authority over client accounts, detailed in paragraph 20 above, is a violation of Rule 590-4-4-.19(2). The violation is an actionable event pursuant to O.C.G.A. § 10-5-41(d)(2) and therefore, under O.C.G.A. §§ 10-5-41(b) and 10-5-41(c), IP is subject to discipline.

40. Rule 590-4-4-.20 states that “[i]t is unlawful and deemed to be a fraudulent, deceptive, or manipulative act, practice, or course of business for an investment adviser...” to have custody of client funds without disclosing the custody relationship to the Commissioner and following the safeguards required by the Rule. IP’s failure to notify the Commissioner of the custody relationship and follow the required safeguards, detailed in paragraph 21 above, is a violation of Rule 590-4-4-.20. The violation is an actionable event pursuant to O.C.G.A. § 10-5-41(d)(2) and therefore, under O.C.G.A. §§ 10-5-41(a), 10-5-41(b), and 10-5-41(c), IP is subject to discipline.

41. Pursuant to O.C.G.A. § 10-5-32 it is unlawful for a person to transact business in

Georgia as an investment adviser unless that person is registered with the Commissioner or exempt from the registration requirement. IP and IPS activity as an unregistered investment adviser from January 1, 2011 through January 5, 2015, detailed in paragraph 16 above, is a violation of O.C.G.A. § 10-5-32. The violation is an actionable event pursuant to O.C.G.A. § 10-5-41(d)(2) and therefore, under O.C.G.A. O.C.G.A. §§ 10-5-41(a), 10-5-41(b), and 10-5-41(c), IP is subject to discipline.

42. Pursuant to O.C.G.A. § 10-5-33 it is unlawful for an individual to transact business in Georgia as an investment adviser representative unless that person is registered with the Commissioner or exempt from the registration requirement. Stewart's activity as an unregistered investment adviser from January 1, 2011 through January 5, 2015, detailed in paragraph 16 above, is a violation of O.C.G.A. § 10-5-32. The violation is an actionable event pursuant to O.C.G.A. § 10-5-41(d)(2) and therefore, under O.C.G.A. O.C.G.A. §§ 10-5-41(a), 10-5-41(b), and 10-5-41(c), Stewart is subject to discipline.

#### **ORDER**

**WHEREFORE**, by the authority vested in me as the Commissioner of Securities for the State of Georgia, **IT IS HEREBY ORDERED**:

1. The registration of **Robert A. Stewart** as an investment adviser representative pursuant to O.C.G.A. § 10-5-33 is placed in a status of **CONDITIONAL REGISTRATION** for **ONE (1) YEAR**. Said conditional registration is considered heightened supervision requiring compliance oversight from an unaffiliated third-party. The conditional registration period will commence upon execution of this Consent Order.

2. The registration of **Investment Planning, LLC** as an investment adviser pursuant to O.C.G.A. § 10-5-32 is placed in a status of **CONDITIONAL REGISTRATION** for **ONE (1) YEAR**. Said conditional registration is considered heightened supervision requiring compliance oversight from an unaffiliated third-party. The conditional registration period will commence upon execution of this Consent Order.

3. That Investment Planning LLC shall secure the services of an unaffiliated third-party compliance consultant ("Consultant") during the conditional registration period. The Consultant must be approved by the Georgia Securities and Charities Division ("Division") and may not be in an attorney-client relationship with either Robert A. Stewart or Investment Planning, LLC. The Consultant's compensation and expenses shall be borne exclusively by Investment Planning, LLC. Shall the engagement of the Consultant with Investment Planning, LLC end for any reason during



the conditional registration period, Investment Planning, LLC must notify the Division of any termination with a Consultant within five (5) days of a termination and must engage the services of a new Consultant within thirty (30) days of the termination. Failure by Investment Planning, LLC to secure the services of a Consultant within thirty (30) days will be treated as a violation of this Consent Order.

4. That **Investment Planning, LLC** will submit to reviews conducted by the Consultant on a quarterly basis during the conditional registration period. A copy of the examination report shall be submitted by the Consultant to the Division within thirty (3) days of completion. The Consultant's examination report to the Division shall include, but is not limited to, the following items:

- a. A listing of any and all violations of the written policies and procedures of Investment Planning, LLC, the Georgia Uniform Securities Act of 2008 ("Act"), and the Rules and Regulations ("Rules") promulgated thereunder. For each reported violation, the Consultant will provide a written description of the violation and the steps taken to rectify such violation;
- b. A list including the name, address, phone number, beginning assets under management, and custodian of record for each new client or account obtained or established during the reporting period and a copy of each new client's executed investment advisory contract;
- c. A list including the name, address, phone number, ending assets under management, and custodian or record for each client or account terminated for any reason during the reporting period, and the reason for the termination;
- d. A list of any new employees hired by Investment Planning, LLC during the reporting period;
- e. A list of any employees terminated for any reason by Investment Planning, LLC, and the reason for such termination;
- f. Notice of any new bank or brokerage accounts opened on behalf of Investment Planning, LLC;
- g. Notice of any new brokers or custodians used or approved for use by Investment Planning, LLC;
- h. The total reportable regulatory assets under management as of the last day of the

reporting period, distinguishing the amount of client assets managed on a discretionary bases and the amount of clients managed on a non-discretionary basis;

- i. The total number of clients as of the last day of the reporting period;
- j. The total number of accounts as of the last day of the reporting period;
- k. An unaudited copy of Investment Planning, LLC's income statement, balance sheet, and statement of cash flows as of the last day of the reporting period;
- l. Copies of any new marketing or advertising materials created by Investment Planning, LLC and disseminated to any client or prospective client during the reporting period.

5. That **Robert A. Stewart and Investment Planning, LLC** will submit to further periodic inspections conducted by the Commissioner during the conditional registration period, and to a special inspection for the year following the conditional registration period to ensure the records and all advisory activities comply with the Georgia Uniform Securities Act of 2008, as amended, and the Rules and Regulations promulgated thereunder.

6. That **Robert A. Stewart and Investment Planning, LLC** will report to the Division, during the conditional registration period, in writing, any complaint received involving a resident of the State of Georgia. Said report shall be filed within ten (10) business days of receipt of the complaint. Said report shall include the name, address, phone number of complainant, and all documents relating to the complaint.

7. That **Robert A. Stewart and Investment Planning, LLC** will reimburse the Commissioner a total of **five thousand dollars (\$5,000.00)** to reflect the cost of the Commissioner's examination and investigation.

8. That **Robert A. Stewart and Investment Planning, LLC** shall notify all current clients, by letter approved by the Commissioner, of this Consent Order. **Robert A. Stewart and Investment Planning, LLC** shall provide a copy of this Consent Order to any clients that subsequently request a copy.

The entry of this Consent Order is deemed to be in the public interest. If at any time it appears to the Commissioner that Respondents have failed to comply with this Consent Order or has made any other material misrepresentations or omissions in regards to this matter, the Commissioner may take further action.

SO ORDERED this 1<sup>st</sup> day of September, 2017.

**BRIAN P. KEMP**  
**SECRETARY OF STATE**  
**COMMISSIONER OF SECURITIES**

By:

  
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C. Ryan Germany  
Assistant Commissioner of Securities

**CONSENT TO ENTRY OF CONSENT ORDER BY ROBERT A. STEWART AND  
INVESTMENT PLANNING, LLC**

Robert A. Stewart ("Stewart") and Investment Planning, LLC ("IP") (collectively "Respondents") hereby acknowledge that they have been served with a copy of this Consent Order, have read the foregoing Consent Order, are aware of their rights to a hearing and appeal in this matter, and have waived the same.

Respondents admit the jurisdiction of the Georgia Commissioner of Securities and consent to entry of this Consent Order as settlement of the issues contained in this Consent Order.

Respondents agree that they shall not claim, assert, or apply for a tax deduction or tax credit with regard to any state, federal, or local tax for any administrative monetary penalty that Respondents shall pay pursuant to this Consent Order.

Respondents state that no promise of any kind or nature whatsoever was made to them to induce them to enter into this Consent Order and that they have entered in this Consent Order voluntarily.

Stewart represents that he is an officer of IP and that, as such, has been authorized by IP to enter into this Consent Order for and on behalf of IP.

Dated this 23rd day of August, 2017

Investment Planning, LLC

Robert A. Stewart  
BY: Robert A. Stewart  
TITLE: Manager

State of Georgia  
County of DeKalb

SUBSCRIBED AND SWORN TO before me this 24 day of August, 2017

Dawn M. Heipel  
Notary Public

My commission expires:

5-1-2018



Dated this 23rd day of August, 2017

Robert A. Stewart

Robert A. Stewart

BY: Robert A. Stewart

TITLE: Individual

State of Georgia

County of DeKalb

SUBSCRIBED AND SWORN TO before me this 23 day of August, 2017

Dawn M. Heipel

Notary Public

My commission expires:

5-1-2018

