

BEFORE THE ARKANSAS SECURITIES COMMISSIONER

CASE NO. S-10-0110

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ARKANSAS SECURITIES DEPT.

IN THE MATTER OF:

Order No. S-10-0110-11-OR01

Advisors Disciplined Trust 440
(Tactical Income Closed-End
Portfolio, Series 10)

RESPONDENT

CONSENT ORDER

This Consent Order is entered pursuant to the Arkansas Securities Act, codified at Ark. Code Ann. §§ 23-42-101 through 23-42-509 (“Act”), the Rules of the Arkansas Securities Commissioner (“Rules”) promulgated under the Act, and the Arkansas Administrative Procedures Act, codified at Ark. Code Ann. §§ 25-15-201 through 25-15-219 in accordance with an agreement by and between the Staff of the Arkansas Securities Department (“Staff”) and Advisors Disciplined Trust 440 (Tactical Income Closed-End Portfolio, Series 10 (“Advisors Disciplined Trust 440”)) in full and final settlement of all claims that could be brought against Advisors Disciplined Trust 440 by the Staff on the basis of the facts set forth herein.

Advisors Disciplined Trust 440 admits the jurisdiction of the Act and the Arkansas Securities Commissioner (“Commissioner”), waives its right to a formal hearing, consents to the entry of this order, and agrees to abide by its terms. Advisors Disciplined Trust 440 also agrees that entry of this order has no impact on its civil liability to Arkansas investors under Ark. Code Ann. § 23-42-106 for the violations detailed below.

FINDINGS OF FACT

1. On or about November 16, 2009, Advisors Disciplined Trust 440 filed a Form NF with the Arkansas Securities Department (“Department”). As part of this notice filing the Department received a \$150.00 filing fee from Advisors Disciplined Trust 440 for an amount of securities to be offered in Arkansas for \$150,000. The filing became effective on November 18, 2009.
2. Agents or employees of Advisors Disciplined Trust 440 made sales of securities in an Advisors Disciplined Trust 440 offering in excess of the \$150,000 in the amount of \$393.29 on December 18, 2009, \$17,985.92 on January 4, 2010, \$19,991.88 on January 14, 2010, and \$15,986.55 on March 2, 2010.
3. Advisors Disciplined Trust 440 did not file an amendment increasing the amount of securities to be sold in Arkansas until November 2, 2010, shortly before the filing was to expire on November 18, 2010.
4. In violation of Ark. Code Ann. § 23-42-509(b), Advisors Disciplined Trust 440 failed to file an amendment increasing the amount of securities proposed to be offered in Arkansas until after the sales were made.
5. In settlement of this matter, Advisors Disciplined Trust 440 has agreed to pay a fine and reevaluate its procedures for estimating the appropriate notice filing fee pursuant to Ark. Code Ann. § 23-42-509(a)(1)(A).

CONCLUSIONS OF LAW

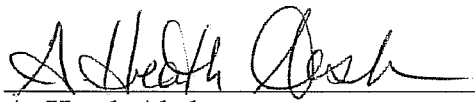
6. A notice filing relating to a covered security may be amended after its effective date so as to increase the securities specified as proposed to be offered pursuant to Ark. Code Ann. § 23-42-509(b). Advisors Disciplined Trust 440’s filing of an amendment

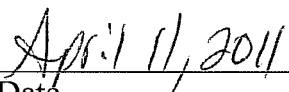
increasing the amount of securities to be sold in Arkansas with the Department approximately twelve months after the sale of securities in the Advisors Disciplined Trust 440 offerings to Arkansas residents as detailed in paragraphs 1-4 is a violation of Ark. Code Ann. § 23-42-509(b).

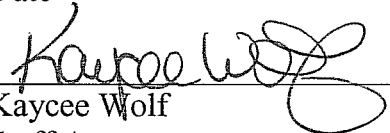
7. Entry of this Order does not affect the civil liability of Advisors Disciplined Trust 440 under Ark. Code Ann. § 23-42-106 for Arkansas investors in the Advisors Disciplined Trust 440 offerings.

ORDER

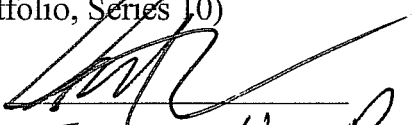
IT IS THEREFORE ORDERED that Advisors Disciplined Trust 440 pay a fine in the amount of \$500.00 and reevaluate its procedures for estimating the appropriate notice filing fee pursuant to Ark. Code Ann. § 23-42-509(a)(1)(A).


A. Heath Abshure
Arkansas Securities Commissioner


Date


Kaycee Wolf
Staff Attorney

Advisors Disciplined Trust 440
(Tactical Income Closed-End
Portfolio, Series 10)

By: 
Title: SENIOR VICE PRESIDENT
Date: _____