

TO: ALL INVESTMENT ADVISERS REGISTERED OR APPLYING TO BE REGISTERED IN THE STATE OF ARKANSAS

FROM: ARKANSAS SECURITIES DEPARTMENT

RE: INDEPENDENT CONTRACTORS

DATE: February 6, 2012

It has come to the attention of the Department that investment advisers may consider their representatives to be "independent contractors". The Department is concerned that such representatives may have failed to properly register and that the investment advisers with which these representatives are associated may believe that they do not have the supervisory duties and liabilities concerning the activities of these representatives that are provided for in the Arkansas Securities Act ("Act"). In an effort to avoid regulatory proceedings concerning this subject, the Department is hereby making known its position concerning "independent contractors".

Ark. Code Ann. § 23-42-301(c) provides that it is unlawful for any person to transact business in this state as an investment adviser or representative unless he is registered under the Act. "Investment Adviser" is defined in section 23-42-102(8) of the Act as any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation, issues or promulgates analyses or reports concerning securities. Certain exceptions are then set forth, none of which include "independent contractors". "Representative" is defined in section 23-42-102(12) of the Act as any partner, officer, director of an investment adviser, or a person occupying a similar status or performing similar functions, or other individual employed by or associated with an investment adviser, except clerical or ministerial personnel, who: makes any recommendation or otherwise renders advice regarding securities; manages accounts or portfolios of clients; determines which recommendation or advice regarding securities should be given; or supervises employees who perform any of the foregoing. There is not an exception for "independent contractors".

By sponsoring a representative and signing the representative's Form U-4, an investment adviser agrees to be responsible for any acts of the representative in connection with the business of advising others as to the value of securities or the advisability of investing in, purchasing, or selling securities. This may include acts that the investment adviser considers to be outside the scope of the representative's employment. Therefore, the position of the Arkansas Securities Department is as follows:

The relationship of "independent contractor" between an investment adviser and a representative is not recognized under the Arkansas Securities Act. Any person sponsored by an investment adviser as a representative is a representative of the investment adviser in the business of advising others about securities, for civil and regulatory purposes, regardless of any agreement between the investment adviser and the representative purporting to limit the liability of the investment adviser and classify the representative as an "independent contractor".

The Department requires each firm to complete an acknowledgement form and send the original to the Department as part of the registration process in Arkansas. (*See below*)

Please feel free to contact this Department if you have any questions.

ACKNOWLEDGMENT

_____ of _____
(Name and Title of Signatory) (Name of Investment Adviser)

hereby certifies the Investment Adviser has received the Arkansas Securities Department Memorandum dated February 6, 2012 regarding "Independent Contractors", and acknowledges on behalf of the Investment Adviser an understanding of the conditions of registration outlined therein.

Please sign and return to the address below:

(Signature)

(Title)

(Date)

ARKANSAS SECURITIES DEPARTMENT INVESTMENT ADVISER SECTION
#1 COMMERCE WAY, SUITE 402
LITTLE ROCK, ARKANSAS 72202

Dated February 6, 2012