

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND SECURITIES**

COMMONWEALTH OF PENNSYLVANIA	:	
DEPARTMENT OF BANKING AND	:	
SECURITIES, BUREAU OF SECURITIES	:	
COMPLIANCE AND EXAMINATIONS	:	Docket No.: 250024 (SEC-OSC)
	:	
v.	:	
	:	
D. MORGAN CAPITAL, INC.	:	
DEREK MORGAN	:	

NOTICE OF RIGHT TO APPEAL

You are hereby notified that you have the right to appeal the attached Final Report and Order (“Order”) issued by the Commonwealth of Pennsylvania Banking and Securities Commission.

If you wish to appeal the attached Order you may file a petition for review with the Prothonotary of the Commonwealth Court of Pennsylvania that complies with the format and timing requirements of the applicable Pennsylvania Rules of Appellate Procedure. Pa. R.A.P. 1511-1561. Failure to file a petition for review within 30 days of the mailing date of this Order will result in the attached Order becoming final and unappealable. You may reach the Commonwealth Court at 717-255-1650.

Please be advised that this Notice of Right to Appeal is not intended to and does not constitute legal advice. You may consult an attorney regarding your legal rights including your right to appeal the attached Order or your right to file an application for rehearing or reconsideration under the General Rules of Administrative Practice and Procedure. 1 Pa. Code § 35.241.

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FINAL ORDER

AND NOW, the Pennsylvania Banking and Securities Commission (“Commission”) pursuant to the final adjudication authority granted to the Commission under section 1122-A of the Department of Banking and Securities Code, 71 P.S. § 733-122-A, the Commission issues this Final Order, adopting the Hearing Officer’s proposed report.

The Commission reviewed the proposed report and proposed order of Hearing Officer Peter Kovach, which are attached. Pursuant to 1 Pa. Code § 35.207, the Commission served these documents on the parties by letter dated April 30, 2026, giving the parties 30 days to appeal the findings and recommendations by submitting exceptions to the Commission. No party filed exceptions. Accordingly, the Commission may proceed to issue a Final Order in the matter pursuant to the final adjudication authority granted it under Section 1122-A of the Department of Banking and Securities Code, 71 P.S. § 733-1122-A.

The Department of Banking and Securities, Bureau of Securities, Compliance and Examination (“Bureau”) made certain allegations in an Order to Show Cause (“OSC”) that it served on D. Morgan Capital, Inc. and Derek Morgan (“Respondents”) on August 26, 2025. When Respondents failed to respond to such allegations, the Bureau filed a Motion to Deem Facts

Admitted and Entry of Default Judgment on March 28, 2026. By Order dated April 17, 2026, the hearing officer granted the Bureau's motion.

With this Final Order, the Commission adopts the hearing officer's proposed report as written. The Commission ORDERS Respondents jointly and severally, pursuant to section 602.1 (c) of the 1972 Act, 70 P.S. §1-602.1(c), to pay an administrative assessment in the amount of One Hundred Thousand Dollars (\$100,000.00), for their proven violations of the 1972 Act. Respondents are also ordered to PAY the COSTS OF INVESTIGATION in an AMOUNT VERIFIABLE BY THE BUREAU AS AUTHORIZED BY SECTION 602.1(B) OF THE 1972 ACT.

Respondents Derek Morgan and D. Morgan Capital, Inc. shall be and hereby are both **INDEFINITELY BARRED**, pursuant to Section 512 of the 1972 Act from:

- Representing an issuer offering or selling securities in the Commonwealth of Pennsylvania;
- Acting as a promoter, officer, director or partner of an issuer (or an individual occupying a similar status or performing similar functions) offering or selling securities in the Commonwealth of Pennsylvania, or of a person who controls or is controlled by such issuer;
- Being registered as a broker-dealer, agent, investment adviser or investment adviser representative under Section 301 of the 1972 Act;
- Being an affiliate of any person registered under Section 301 of the 1972 Act; and/or,
- Relying upon an exemption from registration contained in Section 202, 203 or 302 of the 1972 Act.

Respondents shall pay the administrative assessments by mailing to the following official a certified check, attorney's check, or U.S. Postal Service money order, made payable to the "Commonwealth of Pennsylvania," within thirty (30) days of the effective date of this Order:

Pennsylvania Department of Banking and Securities
Office of Chief Counsel
17 N. Second Street
Suite 1300
Harrisburg, PA 17101

Upon compliance with all of the requirements of this Order, Respondent Morgan and/or Respondent D. Morgan Capital, Inc. may apply to the Commission for relief from the bar on registration, engaging in regulated activities and/or relying on an exemption from registration; however, it shall be Respondents' burden to prove to the satisfaction of the Commission at that future date that it is in the public interest to lift or modify the prohibition on registration/exemption.

This Final Order shall be effective 30 days after the Commission mails it.



BY ORDER OF THE COMMISSION:

Redacted

James R. Biery

Chair

Pennsylvania Banking and Securities Commission

So ORDERED this 16th day of July, 2026

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND SECURITIES
BEFORE THE BANKING AND SECURITIES COMMISSION**

**Commonwealth of Pennsylvania,
Department of Banking and
Securities, Bureau of Securities
Compliance and Examinations,**

vs.

**D. Morgan Capital, Inc., and
Derek Morgan,**

Respondents.

Docket No. 250024 (SEC-OSC)

Proposed Report

**Peter D. Kovach
Presiding Officer**

**Commonwealth of Pennsylvania
Office of General Counsel
Department of State
Office of Hearing Examiners
PO Box 60130
Harrisburg PA 17106-0130**

BACKGROUND AND PROCEDURAL HISTORY

This case comes before the Banking and Securities Commission (“Commission”) for a determination whether D. Morgan Capital, Inc., (“DMC” or “Respondent DMC”) and Derek Morgan (“Morgan” or “Respondent Morgan”) (collectively, the “Respondents”) have acted in violation of the Pennsylvania Securities Act of 1972¹ (“1972 Act”), and if so, the penalties which should be imposed, if any. The matter commenced on August 26, 2025, when the Commonwealth of Pennsylvania, Department of Banking and Securities (“Department”), Bureau of Securities Compliance and Examinations (“Bureau”), filed a 32-count *Order to Show Cause* (“OSC”) against Respondents.

In summary, the Bureau alleged in the OSC that Respondents had offered and sold regulated Agreements in Pennsylvania in violation of Section 201 of the 1972 Act, 70 P.S. § 1-201, (2 counts); that in connection with the offer and sale of those Agreements in Pennsylvania, Respondents had directly and/or indirectly, used a device, scheme, or artifice to defraud in willful violation of Section 401(a) of the 1972 Act, 70 P.S. § 1-401(a) (10 counts); that Respondents had omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading in willful violation of Section 401(b) of the 1972 Act, 70 P.S. § 1-401(b) (10 counts); and that Respondents had engaged in acts, practices, or courses of business which operated as a fraud or deceit upon any person, in willful violation of Section 401(c) of the 1972 Act, 70 P.S. § 1-401(c). The Bureau further alleged within the OSC that Morgan was the president, chief executive officer, and owner of DMC, and that Morgan caused DMC to commit the acts which allegedly violated the 1972 Act.

¹ 70 P.S. §§ 1-101 to 1-705.

The OSC was sent by certified mail, as well as by first-class mail, to Respondents at their joint address at Redacted . The Notice section attached to the OSC advised Respondents of the necessity to file a written Answer with the Department's Docket Clerk within thirty (30) days of the date of the OSC. Respondents were further advised via the Notice that the failure to file an answer within 30 days would result in a waiver of Respondents' right to a hearing and that the Commission may enter a final order against Respondents without holding a hearing.

On March 31, 2026, the undersigned was designated as the Presiding Officer for the Commission in this matter. On April 1, 2026, the Bureau filed a *Motion to Deem Facts Admitted and Entry of Default Judgment* ("MDFA"). The MDFA alleged facts related to the investigative history of this matter (including alleged investigative subpoena enforcement proceedings in the Commonwealth Court), and asserting that: the Bureau had received notice that the OSCs were delivered to Respondents on or about September 4, 2025, that Respondents had not filed a written answer to the OSC or otherwise requested a hearing regarding this matter; that Respondents were aware of this pending matter, and that the failure to file an answer was an intentional act by Respondents due to a lack of dispute regarding the allegations. Within the MDFA, the Bureau requested that the factual allegations within the OSC be deemed admitted and that a default judgment be entered against Respondents.

As with the OSC, the Respondents did not file a response to the MDFA, despite being provided at least ten (10) days, as required by Rule 35.179 of the General Rules of Administrative Practice and Procedure² ("GRAPP"), 1 Pa. Code § 35.179. Consequently, on April 17, 2026, the undersigned issued an order granting the Bureau's MDFA, entering a default against Respondents,

² 1 Pa. Code §§ 31.1-35.251

and deeming the well-pled factual allegations within the OSC as admitted. This matter is therefore ripe for adjudication.

FINDINGS OF FACT

1. The Bureau operates from the Department's main office located at 17 North Second Street, Suite 1300, Harrisburg, Pennsylvania. (OSC at ¶ 3 - Deemed admitted).

2. Respondent DMC was, at all material times, a Pennsylvania corporation with an address at Redacted (the "Brockport Address"). (OSC at ¶ 4 - Deemed admitted).

3. Respondent Morgan was, at all material times, an individual with an address at Redacted . (OSC at ¶ 5 - Deemed admitted).

4. Respondent Morgan was, at all material times, the president, chief executive officer, and owner of DMC and caused Respondent DMC to commit the acts stated within the OSC. (OSC at ¶ 5, 6 - Deemed admitted)

5. At all material times, DMC and Morgan were neither registered pursuant to Section 301 of the 1972 Act, 70 P.S. § 1-301, nor exempt from registration. (OSC at ¶ 7 - Deemed admitted)

6. At all material times, DMC maintained a LinkedIn webpage (the "Webpage") which stated that DMC was an "investment firm" and an "investment banking agency." (OSC at ¶ 8 - Deemed admitted)

7. At all material times, the Webpage stated the following:

- a. "[DMC] saw clients turning \$50,000 into \$13 million within 18 months and others turning \$50,000 into \$650,000 within two weeks of trusting [DMC] with their money";
- b. "[DMC's] years of investing expertise mixed with our proprietary AI algorithm are designed to get each client their best investment, no matter how small or large their portfolio"; and

- c. “[DMC uses] customized trading platforms to get you access to the top-performing stocks in the world”.

(OSC at ¶ 9 - Deemed admitted)

8. From in or about October 2021 through March 2023, DMC offered for sale private placement agreements (“Agreements”). (OSC at ¶ 10 - Deemed admitted).

9. The Agreements between DMC and Investors, titled “Investor Agreement” states:

- a. “The [investor] is investing ...with [Respondent DMC] to purchase, sell or otherwise distribute [investments] held in the [investor’s] Account on behalf of [investor]. [Respondent DMC] shall decide which [i]nvestments to sell, including the price, quantity, and time of sale”.
- b. “[Respondent DMC] agrees that the money/securities deposited by the [investor] shall be kept in a separate account, distinct from [Respondent DMC’s account] or account of any other [investor] and shall not be used by [Respondent DMC] for himself/itself or for any other [investor] or for any purpose other than the purposes contained herein, unless specifically notified by [Respondent DMC] otherwise.”

(OSC at ¶ 11 - Deemed admitted).

10. From in or about October 2021 through March 2023, Respondent DMC offered and sold at least ten (10) Agreements to at least ten (10) investors (“Investors”) within the United States for an aggregate amount of at least \$42,700.00. (OSC at ¶ 12. Deemed Admitted).

11. From in or about October 2021 through March 2023, Respondent DMC offered and sold at least two (2) Agreements to at least two (2) Pennsylvania residents (“PA Investors”) for an aggregate amount of at least \$6,000.00. (OSC at ¶ 13 - Deemed admitted).

12. Respondent Morgan told some or all of the Investors that they would receive returns of 12% to 14%. (OSC at ¶ 14 - Deemed admitted).

13. The records of the Department disclose that the Agreements are not registered under Section 201 of the 1972 Act, 70 P.S. § 1-201. (OSC at ¶17(a) - Deemed admitted).

14. The records of the Department disclose that the Agreements are not exempt from registration under Section 202 of the 1972 Act, 70 P.S. § 1-202. (OSC at ¶17(b) - Deemed admitted).

15. The records of the Department disclose that Agreements are not federally covered securities under Section 211 of the 1972 Act, 70 P.S. § 1-211. (OSC at ¶17(c) - Deemed admitted).

16. The records of the Department disclose that the offers relating to the Agreements are not exempt under Section 203 of the 1972 Act, 70 P.S. § 1-203. (OSC at ¶17(d) - Deemed admitted).

17. Respondent DMC failed to provide some or all of the Investors with financial statements regarding Respondent DMC, which disclosure would have been material for a reasonable investor to make an informed decision. To the extent that Respondent DMC did not have disclosure documents, Respondent DMC failed to disclose their nonexistence, which would have been material for a reasonable investor to make an informed investment decision. (OSC at ¶18 - Deemed admitted).

18. Respondent Morgan failed to disclose the following information concerning Respondent DMC to some or all of the Investors:

- a. The financial condition of Respondent DMC;
- b. The financial risk of the Agreements;
- c. The identity and relevant background of the corporate officers of Respondent DMC;
- d. Respondent DMC's operating history;
- e. Respondent DMC and Respondent Morgan were neither registered pursuant to Section 301 of the 1972 Act, 70 P.S. § 1-301, nor exempt from registration;
- f. From in or about October 2021 to June 2022, Respondent Morgan comingled the proceeds received from the sales of the Agreements in his personal account and his business account; and
- g. From in or about October 2021 to June 2022, Respondent Morgan used the proceeds received from the sale of the Agreements for his own personal expenses.

(OSC at ¶ 19 - Deemed admitted).

19. At all material times, Respondent DMC was insolvent and was unable to fulfill its financial obligations stemming from the sale of the Agreements. (OSC at ¶ 20 - Deemed admitted).

20. To date, Respondent DMC has been unable to fulfill its financial obligations to some or all of the DMC Investors. (OSC at ¶ 21 - Deemed admitted).

21. No evidence was presented that Respondent have applied for registration from the Department. (OSC, *passim*; Docket at 250024 SEC-OSC, *passim*).

22. On or about August 26, 2025, the Bureau filed an OSC against Respondents alleging violations of the 1972 Act; the OSC advised Respondents of the requirement to file a

written answer within thirty (30) days of the date of the OSC; the OSC was mailed to Respondents at their address in Brockport, Pennsylvania; on or about September 4, 2025, Respondents received the OSCs mailed to them at the Brockport address; Respondents failed to file an answer to the OSC; on April 1, 2026, the Bureau filed its MDFA; Respondents failed to respond to the MDFA, despite having been provided in excess of ten (10) days to do so; on April 18, 2026 an Order was issued granting the Bureau's MDFA and deeming all of the well-pled factual averments within the OSC admitted. (Docket at 250024 SEC-OSC; MDFA at ¶12).

CONCLUSIONS OF LAW

1. The Banking and Securities Commission has jurisdiction over this matter. (Findings of Fact (“F.F.”) 2-16; 70 P.S. Chapter 1.5; Part VI (Administration)).

2. Respondents were afforded reasonable notice of the allegations against them and was given an opportunity to be heard in accordance with Section 504 of the Administrative Agency Law³ (“AAL”), 2 Pa.C.S. § 504. (F.F. 22).

3. For purposes of the 1972 Act, the term “securities” includes any note; stock; treasury stock; bond; debenture; evidence of indebtedness; share of beneficial interest in a business trust; certificate of interest or participation in any profit-sharing agreement; collateral trust certificate; preorganization certificate or subscription; transferable share; investment contract; voting trust certificate; certificate of deposit for a security; limited partnership interest; fractional undivided interest in oil, gas or other mineral rights; put, call, straddle, option or privilege on a security, certificate of deposit of a security or group or index of securities, including any interest in the securities or based upon the value of the securities, or any put, call, straddle, option or privilege entered into on a national securities exchange relating to foreign currency; membership interest in a limited liability company of any class or series, including any fractional or other interest in such interest, unless excluded as a membership interest in a limited liability company where specified conditions are satisfied; or, in general, any interest or instrument commonly known as a “security”; or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. All of the foregoing are securities whether or not evidenced by written document. (Section 102(t) of the 1972 Act, 70 P.S. § 1-102(t)).

³ 2 Pa. C.S. §§ 501-508, 701-704.

4. The Agreements sold by Respondent were “securities.” (F.F. 8, 9, 12; Conclusion(s) of Law (“C.O.L”) 3).

5. For purposes of the 1972 Act, the term “issuer” is any person who issues or proposes to issue any security, and any promoter who acts for an issuer proposed to be formed. With respect to certificates of deposit, voting trust certificates or collateral-trust certificates, or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors or persons performing similar functions or of the fixed, restricted management or unit type, the term “issuer” means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which the security is issued; except that with respect to equipment-trust certificates or like securities, the term “issuer” means the person by whom the equipment or property is or is to be used. With respect to certificates of interest or participation in oil, gas or mining titles or leases or in payments out of production under such titles or leases, the term “issuer” means the person or persons actively managing the exploration or development of the property who sell such interests or participations or payments or any person or persons who subdivide and sell such interests or participations or payments. The determination of the person or persons actively managing the exploration or development of the property shall be made on the basis of the actual relationship of the parties and not on the basis of the legal designation of a person’s interest. Section 102(*l*) of the 1972 Act, 70 P.S. § 1-102(*l*).

6. Respondent DMC was the “issuer” of the Agreements sold by Respondents (F.F. 6-11; C.O.L. 3-5).

7. For purposes of all but Section 511 of the 1972 Act, the terms “wilful” and “wilfully” means that the person acted intentionally in the sense that the person intended to do the act and

was aware of what the person was doing. Proof of evil motive or intent to violate the act or knowledge that the person's conduct violated the act is not required. (Section 102(w)(1) of the 1972 Act, 70 P.S. § 1-102(w)(1)).

8. Morgan and DMC offered and sold the Agreements in Pennsylvania in willful violation of Section 201 of the 1972 Act, 70 P.S. § 1-201. (F.F. 4-16; C.O.L. 3-7). **COUNTS ONE AND TWO ARE SUSTAINED.**

9. Morgan and DMC, in connection with the offer and sale of the Agreements in Pennsylvania, directly and/or indirectly used a device, scheme, or artifice to defraud in willful violation of Section 401(a) of the 1972 Act, 70 P.S. § 1-401(a). (F.F. 4-20; C.O.L. 3-7). **COUNTS THREE THROUGH TWELVE ARE SUSTAINED.**

10. Morgan and DMC, in connection with the offer and sale of the Agreements in Pennsylvania, omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading in willful violation of Section 401(b) of the 1972 Act, 70 P.S. § 1-401(b). (F.F. 4-20; C.O.L. 3-7). **COUNTS THIRTEEN THROUGH TWENTY-TWO ARE SUSTAINED.**

11. Morgan and DMC, in connection with the offer and sale of the Agreements in Pennsylvania, engaged in an act, practice, or course of business which operates or would operate as a fraud or deceit upon any person, in willful violation of Section 401(c) of the 1972 Act, 70 P.S. § 1-401(c). (F.F. 4-20, C.O.L. 3-7). **COUNTS TWENTY-THREE THROUGH THIRTY-TWO ARE SUSTAINED.**

12. Despite the Respondent having been found in violation of the 1972 Act, in that neither of the Respondents are registrants of the Department and there is no evidence that Respondent have applied for registration, the Commission is NOT authorized at this time to deny, suspend,

revoke or condition any registration or censure Respondents as requested by the Department. (F.F. 5, 21; C.O.L. 8-11; Section 305 of the 1972 Act, 70 P.S. § 1-305).

13. In that Respondents have violated the 1972 Act, the Commission IS authorized to bar Respondents DMC and/or Morgan, conditionally or unconditionally, and either permanently or for such period of time as may be determined, from:

- a. representing an issuer offering or selling securities in this State;
- b. acting as a promoter, officer, director or partner of an issuer (or an individual occupying a similar status or performing similar functions) offering or selling securities in this State or of a person who controls or is controlled by such issuer; being registered as a broker-dealer, agent, investment adviser or investment adviser representative under section 301 of the 1972 Act;
- c. being an affiliate of any person registered under Section 301 of the 1972 Act; and/or
- d. relying upon an exemption from registration contained in Section 202, 203 or 302 of the 1972 Act.

(C.O.L. 8-11; Section 512(a) of the 1972 Act, 70 P.S. § 1-512(a)).

14. In that Respondents have violated the 1972 Act, the Commission IS authorized to order Respondents to pay the costs of the investigation of this matter. (C.O.L. 8-11; Section 602.1(b) of the 1972 Act, 70 P.S. § 1-602.1(b)).

15. In that Respondents have violated the 1972 Act, the Commission IS authorized to order Respondents to pay an administrative assessment for each act or omission constituting a

willful violation of the 1972 Act. (C.O.L. 8-11; Section 602.1(c) of the 1972 Act, 70 P.S. § 1-602.1(c)).

DISCUSSION

NOTICE AND OPPORTUNITY TO BE HEARD

Prior to reaching the merits of this matter, the Commission must assure itself that its proceedings occurred in accordance with the requirements of the AAL and the GRAPP. An adjudication of a Commonwealth agency is valid only as to those parties that have “been afforded reasonable notice of a hearing and an opportunity to be heard.” 2 Pa.C.S. § 504. Adequate notice of administrative action is notice that is reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections. *Clark v. Commonwealth, Dep’t. of Pub. Welfare*, 427 A.2d 712 (Pa. Cmwlth. 1981).

On August 26, 2025, the Bureau filed a thirty-two (32) count Order to Show Cause (“OSC”) against Respondents alleging that Respondent DMC, through the activities of Respondent Morgan, held DMC out as an investment firm and an investment banking agency, made representations concerning alleged returns of clients, and offered and sold private placement agreements to persons within and outside this Commonwealth. The OSC further alleged that the written agreements indicated that the investments of the person purchasing an Agreement would be held in accounts separate from DMC and the other investors. The Agreements further represented that the purchaser’s investments would not be used for purposes other than the investment purposes stated in the Agreement without notice. Respondent Morgan is alleged in the OSC to have represented to some or all of the investors that they would receive returns of 12-14%.

The OSC alleged that Respondents sold at least \$6,000.00 worth of Agreements to Pennsylvania residents, and an additional \$42,700.00 to residents of other jurisdictions. The OSC further alleges that Respondents are not registered or exempt from registration under the 1972 Act, that the Respondents failed to disclose to their investors the financial condition of DMC, the risks

of the Agreements, the identity and background of the corporate officers of DMC, DMC's operating history, the lack of registration by DMC and Morgan, and that DMC and Morgan were not exempt from registration. The OSC additionally alleged that between October 2021 and June 2022, Morgan was commingling the sale proceeds of the Agreements with his personal and business accounts and used the proceeds from the sale of the Agreements for his personal expenses. Finally, the OSC alleged that DMC has been insolvent at all material times and was unable to fulfill its financial obligations to some or all of the DMC investors in the Agreements.

Under the circumstances, the allegations within the OSC provided Respondents with sufficient information such that the Respondents would have the ability to marshal evidence to dispute (or mitigate) the Bureau's allegations. Respondents' due process rights to notice have been satisfied.

Due process considerations also require that a party be given a meaningful opportunity to provide the tribunal deciding the matter relevant information which might act in defense or mitigation of the accusations against the party. General due process considerations, however, do not specify the manner in which the tribunal must permit an administrative Respondent to provide that information. *See e.g., Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 546, 105 S.Ct. 1487 (noting that providing an interested party with the opportunity to respond in writing can broadly satisfy due process requirements for a hearing).

By contrast, Section 504 of Pennsylvania's AAL,⁴ 2 Pa.C.S. § 504, requires that for an adjudication to be valid against a party, the party must be afforded both "reasonable notice of the hearing" as well as "opportunity to be heard." However, even with Section 504's implied requirement of a hearing, "due process is flexible and calls for such procedural protections as the

⁴ 2 Pa. C.S. §§ 501-508, 701-704

particular situation demands.” *Shah v. State Bd. of Med.*, 139 Pa.Cmwlth. 94, 105, 589 A.2d 783, 789 (1991) citing *Mathews v. Eldridge*, 424 U.S. 319, 335, 96 S.Ct. 893, 903 (1976). Courts of this Commonwealth have consistently held that no courtroom-like hearing is necessary when there are no relevant factual issues in dispute. See, e.g. *Gruff v. Department of State*, 913 A.2d 1008, 1014 (Pa. Cmwlth. 2006). Put another way, due process and the AAL do not require convening a hearing where the parties appear before a ‘judge’ to provide testimony, engage in witness cross examination, and if appropriate, offer into evidence documentary or physical evidence when there are no relevant facts at issue. In such cases, the matter may be decided on the written pleadings.

Rule 35.37 of the GRAPP provides as follows:

§ 35.37. Answers to orders to show cause.

A person upon whom an order to show cause has been served under § 35.14 (relating to orders to show cause) shall, if directed so to do, respond to the same by filing within the time specified in the order an answer in writing. ... A respondent failing to file answer within the time allowed shall be deemed in default, and relevant facts stated in the order to show cause may be deemed admitted.

1 Pa. Code § 35.37 (emphasis added).

The OSC filed in this matter included with it a Notice to Answer and Request a Hearing section (the “Notice Section”) (Docket at 250024 (SEC-OSC) at OSC, pgs. 1-2). Within the Notice Section, Respondents were advised that they had:

*... the right to challenge the attached Order to Show Cause (“Order”) by filing an Answer, in writing, with the Docket Clerk **within 30 days** of the date of this Order as required by 1 Pa. Code § 35.37. **If you do not file an Answer within 30 days, then you will waive your right to a hearing and the Banking and Securities Commission (“Commission”) may enter a final order against you.***

Your Answer must be in writing. Your Answer must specifically admit or deny the allegations in this Order, set forth the facts you rely upon, and state concisely the law upon which you rely. General denials of the allegations set forth in the Order are not sufficient; you must support your denials with specific facts. Failure to support your denials with specific facts may cause the Commission to

deem the facts in the Order as admitted and to enter a final order against you, without a hearing.

* * * * *

The hearing and all other procedural matters will be governed by the Pennsylvania Administrative Agency Law, 2 Pa.C.S. §§ 501-508, 701-704, and the General Rules of Administrative Practice and Procedure, 1 Pa. Code §§ 31.1-35.251.

(Emphasis in original).

Despite the requirements of Rule 35.37 of the GRAPP, 1 Pa. Code § 35.37, and the information provided in the Notice section of the OSC specifically advising Respondents that they were required to file a written answer within thirty (30) days, that the failure to file an answer could result in the waiving of the right to a hearing and entry of a final order, and that the hearing and procedural matters would be governed by the AAL and the GRAPP, neither of the Respondents filed an Answer to the August 26, 2025 OSC. Ultimately, on April 1, 2026, the Department filed a *Motion to Deem Facts Admitted and Entry of Default Judgment* (the “MDFA”).

As with the OSC, the Respondents have also not filed a written response to the MDFA, or otherwise sought to cure their prior failure to file an Answer, despite having been provided at least ten (10) days to do so after the filing of the MDFA, as set forth in Rule 35.321 of the GRAPP, 1 Pa. Code § 35.321.⁵ Consequently, the MDFA was granted by Order dated April 17, 2026, and the well-pled factual allegations of the OSC were deemed admitted.

Respondents’ failure to respond has also failed to put into question any additional assertions which might act as a defense or in mitigation of the allegations against Respondents. In this circumstance, there is no need to convene a ‘courtroom-like’ hearing in this matter because there are no relevant facts at issue. Gruff. Respondents have been given the necessary opportunity

⁵ “ Any participant shall have 10 days within which to answer or object to any motion unless the period of time is otherwise fixed by the agency head or the presiding officer.” 1 Pa. Code § 35.321. No other response time has been fixed in this matter.

to be heard; they simply failed to take advantage of that opportunity. Consequently, this matter may be fully resolved based on the deemed admitted facts from the pleading without scheduling a hearing.

BURDEN OF PROOF

The degree of proof required to establish a case before an administrative tribunal is a preponderance of the evidence. Samuel J. Lansberry, Inc. v. Pennsylvania Public Utility Commission, 578 A.2d 600 (Pa. Cmwlth. 1990). A preponderance of the evidence is “the lowest degree of proof recognized in civil judicial proceedings, ” Id. citing Se-Ling Hosiery, Inc. v. Margulies, 70 A.2d 854 (Pa. 1950), and is generally understood to mean that the evidence demonstrates a fact is more likely to be true than not to be true, or if the burden were viewed as a balance scale, the evidence in support of the proponent’s case must weigh slightly more than the opposing evidence. Se-Ling Hosiery, 70 A.2d at 856. The factual allegations of the OTSC have been deemed admitted by default. Hence, any objection by Respondents to the accuracy of the factual averments in the OSC has been waived.

ALLEGED VIOLATIONS

This action currently before the Commission arises from the provisions of Sections 201 and 401 of the 1972 Act, which provide, in relevant part, as follows:

Section 201. Registration requirement

It is unlawful for any person to offer or sell any security in this State unless the security is registered under this act, the security or transaction is exempted under section 202 or 203 hereof or the security is a federally covered security.

* * * * *

Section 401. Sales and purchases

It is unlawful for any person, in connection with the offer, sale or purchase of any security in this State, directly or indirectly:

(a) To employ any device, scheme or artifice to defraud;

(b) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; or

(c) To engage in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person.

* * * * *

70 P.S. §§ 1-201 and 1-401.

Within the OSC, the Bureau alleged that Respondent Morgan was considered an “affiliate” of Respondent DMC. The terms “affiliate” of, or a person “affiliated” with a specified person, are defined within Section 102(b) of the 1972 Act, 70 P.S. § 1-102(b), as being “a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the person specified.” As recited above and as deemed admitted, Respondent Morgan was the president, chief executive officer, and owner of Respondent DMC. In those positions, he could clearly exercise control directly or indirectly over the activities of DMC and therefore was clearly an affiliate of Respondent DMC. The OSC alleged, and it was deemed admitted, that Respondent Morgan caused Respondent DMC to commit the violations alleged in the OSC. (F.F. 4).

Respondent DMC maintained a LinkedIn webpage representing DMC to be an “investment firm” and an “investment banking agency.” (F.F. 6). The webpage asserted that DMC’s clients turned \$50,000 into \$13 million within 18 months and others turned \$50,000 into \$650,000 within two weeks of trusting DMC with their money. (F.F. 7.a.). The webpage asserted that DMC had years of investing expertise mixed with a proprietary AI algorithm designed to get each client their best investment, no matter how small or large their portfolio. (F.F. 7.b.). The webpage claimed that DMC used customized trading platforms to get clients access to the top-performing stocks in the world. (F.F. 7.c.).

Between October 2021 and March 2023, DMC offered for sale private placement agreements. (F.F. 8). Those Agreements represented that “[t]he [investor] is investing ...with [Respondent DMC] to purchase, sell or otherwise distribute [investments] held in the [investor’s] Account on behalf of [investor]. [Respondent DMC] shall decide which [i]nvestments to sell, including the price, quantity, and time of sale.” (F.F. 9.a.). The Agreements also represented that DMC agreed that the money/securities deposited by the investor would be kept in a separate account, distinct from DMC’s account and the accounts of other investors and that the money deposited would not be used by Respondents for himself/itself or for any other investor or for any purpose other than the purposes stated in the Agreement, unless specifically notified by DMC otherwise. (F.F. 9.b.).

Respondent sold at least ten (10) Agreements to at least ten (10) investors (“Investors”) between October 2021 through March 2023 for an aggregate amount of at least \$42,700.00. (F.F. 10). At least two (2) of the Agreements were sold to at least two (2) Pennsylvania residents (“PA Investors”) for an aggregate amount of at least \$6,000.00. (F.F. 11). Respondent Morgan told some or all of the Investors that they would receive returns of 12% to 14%. (F.F. 12).

Respondent DMC failed to provide some or all of the investors with financial statements regarding Respondent DMC, and to the extent that Respondent DMC did not have disclosure documents, Respondent DMC failed to disclose their nonexistence. (F.F. 17). Respondent Morgan also failed to disclose to some or all of the Investors the financial condition of Respondent DMC, the financial risk of the Agreements; the identity and relevant background of the corporate officers of DMC, DMC’s operating history, that Respondent were not registered pursuant to Section 301 of the 1972 Act, and were not otherwise exempt from registration. (F.F. 18.a.e.). It

is not hard to understand that the financial statements and/or lack of financial statements would have been material for a reasonable investor to make an informed investment decision.

Despite the written assurance that the investor's money would be held in separate accounts, between October 2021 and June 2022, Respondent Morgan commingled the proceeds received from the sales of the Agreements in his personal account and his business account and used the proceeds received from the sale of the Agreements for his own personal expenses. (F.F. 18.f.,g.). In fact, Respondent DMC was insolvent and was unable to fulfill its financial obligations stemming from the sale of the Agreements and has been unable to fulfill its financial obligations to some or all of the DMC Investors. (F.F. 19-20).

There is little doubt that the Agreements being offered by Respondent were "securities" within the meaning of Section 102(t) of the 1972 Act, 70 P.S. § 1-102(t) or that Respondent Morgan acted as an "affiliate" of Respondent DMC within the meaning of Section 102(b) of the 1972 Act, 70 P.S. § 1-102(b). Under the 1972 Act, the terms 'wilful' and 'wilfully' mean that that the person merely intended to do the act and was aware of what the person was doing – it is not necessary to show an evil motive or intent to violate the act, or even knowledge that the person's conduct violated the act. *See*, Section 102(w)(1) of the 1972 Act, 70 P.S. § 1-102(w)(1). Consequently, there is also little doubt based upon the deemed admitted facts that Respondents willfully violated Section 201 of the 1972 Act, 70 P.S. § 1-201 by offering the Agreements without being properly registered or exempted from registration.

In connection with the offer and sale of the Agreements, the deemed admitted facts also lead to the conclusion that Respondents directly and/or indirectly: used a device, scheme, or artifice to defraud in violation of Section 401(a) of the 1972 Act, 70 P.S. § 1-401(a); that they omitted to state material facts necessary in order to make the statements made, in light of the

circumstances under which they were made, not misleading, in violation of Section 401(b) of the 1972 Act, 70 P.S. § 1-401(b); and that Respondents, in connection with the offer and sale of the Agreements, engaged in an act, practice, or course of business which operates or would operate as a fraud or deceit upon any person, in violation of Section 401(c) of the 1972 Act, 70 P.S. § 1-401(c). In short, Respondents are the proper subject of disciplinary sanctions by the Commission based upon Respondent's conduct and failure to make necessary disclosures.

SANCTIONS

When the Commission determines that a person has willfully violated the 1972 Act, the sanctions that may be imposed by the Commission are wide-ranging and include sanctions such as the revocation, suspension or condition of a registration, an order barring individuals and companies from offering, or selling securities, an order preventing individuals from being a person who can exercise control over an issuer, and an order preventing violators from relying upon exemptions from registration going forward. In addition, the individuals and companies involved may be ordered to pay the costs of investigation as well as substantial administrative assessments of up to \$100,000 per violation.

The Respondents' actions, as deemed admitted and recounted above, clearly require the imposition of sanctions. Respondents engaged in the sale of securities without being properly registered or exempted from registration, they failed to provide investors with relevant information which would be necessary to make a knowing investment decision. Of great concern, they specifically promised to segregate the invested funds they received and use them only for investment purposes unless Respondents notified the investor. Despite this assurance, Respondents commingled the invested funds with personal and business accounts and Morgan used the client/investor's funds for personal expenses.

The question then becomes, not so much whether sanctions are appropriate, but instead, what form(s) of sanction(s) is authorized and appropriate in this matter. The purpose of *administrative* disciplinary action (as compared to criminal action) against those who violate various laws enacted for the benefit of the public is not to punish; instead, the prior offending conduct is utilized as a guide to determine the appropriate discipline necessary to protect the public going forward. See e.g., Sweeny v. State Bd. of Funeral Directors, 666 A.2d 1137, 1139-1140 (Pa.Cmwlth. 1995). A properly fashioned administrative sanction always serves that primary function – to provide sufficient deterrence to the violator to keep him or her from engaging in the same or similar conduct in the future and thus protect the public from future violations by the current Respondent. However, administrative sanctions often have secondary, salutary results. The imposition of sanctions can motivate other regulated parties and unlicensed persons who may be faced with similar circumstances as Respondents to refrain from engaging in the same or similar improper conduct. Administrative sanctions also often have the effect of maintaining the reputation of the industry by reassuring the public that action will be taken when an individual or company acts inappropriately.

Respondents seemingly recognize the gravity of their actions. Despite notice of the charges and being afforded the opportunity to be heard, they have chosen not to contest the Bureau's allegations and have not requested to appear at an administrative hearing to present evidence in mitigation of the potential sanctions which might be imposed upon them by the Commission. Owing to the serious nature of the violations at issue and the Commission's responsibility to regulate the securities industry in a manner that safeguards the public, significant sanctions are appropriate.

Within the OSC and MDFA, the Department requested that various forms of sanctions be imposed upon Respondents. They will be addressed *seriatim*.

First, the Bureau requested that an order be issued pursuant to Section 305 of the 1972 Act, 70 P.S. § 1-305, that the registration of Respondent Morgan and Respondent DMC be suspended, revoked, or conditioned, or that Respondent Morgan and Respondent DMC be censured. Section 305 states, in relevant part, as follows:

Section 305. Denial, suspension, revocation and conditioning of registration

The department may, by order, deny, suspend, revoke or condition any registration or may censure any registrant if it finds that such order is in the public interest and that such registrant or applicant, or in the case of any broker-dealer or investment adviser, any affiliate thereof, whether prior or subsequent to becoming associated with such person:

* * * * *

(a.1) The department, by order, may deny the application of:

* * * * *

(a.2) The department, by order, may suspend the registration of a broker-dealer, investment adviser, agent or investment adviser representative if such person is obligated, pursuant to an award of an arbitration panel, to pay compensation to purchasers of securities in this Commonwealth and has not paid the awarded compensation in full and in cash. The department shall rescind the suspension order prospectively if the person provides credible evidence to the department that the compensation awarded by the arbitration panel has been paid in full and in cash to purchasers of securities in this Commonwealth. Rescission of a suspension order issued under this section shall reinstate the person as a registrant in the same category held at the time the suspension order was issued but only if:

* * * * *

(b) The following provisions govern the application of section 305(a)(xi)

* * * * *

(c) The department may not institute a suspension or revocation proceeding solely on the basis of a final judicial or administrative order made known to it by the applicant prior to the effective date of the registration unless the proceeding is instituted within the next ninety days following registration. This provision shall not apply to renewals of registrations.

(d) The department may by order summarily deny, postpone or suspend an application or registration pending final determination of any proceeding under this section. The order may be issued summarily without notice or hearing. Upon issuance of a summary order, the department shall promptly provide the order to the applicant or registrant and the employer or prospective employer if the applicant or registrant is an agent or investment adviser representative. The order shall contain findings of fact and conclusions of law and include a notice affording the applicant or registrant an opportunity for a hearing in accordance with section 607(a).

(e) If the department finds that any registrant or applicant is no longer in existence or has ceased to do business as a broker-dealer, agent, investment adviser or investment adviser representative, or is subject to an adjudication of mental incompetence or to the control of a committee, conservator or guardian, or cannot be located after reasonable search, the department may by order revoke the registration or deny the application.

(f) Withdrawal from the status of a registered broker-dealer, agent, investment adviser or investment adviser representative becomes effective on the thirtieth day after receipt of an application to withdraw, or within such shorter period as the department determines, unless a revocation or suspension proceeding is pending before the department when the application is filed or a proceeding to revoke or suspend or to impose conditions upon the withdrawal is instituted before the department within thirty days after the withdrawal application is filed. If a proceeding is so pending or instituted, withdrawal becomes effective at such time and upon such conditions as the department by order determines. If no proceeding is so pending or instituted and withdrawal automatically becomes effective, the commission may institute a revocation or suspension proceeding under subsections (a)(i), (v), (vi), (vii), (viii), (ix), (xii) and (xiii) within one year after withdrawal became effective and enter a revocation or suspension order as of the last date on which the registration was in effect.

(g) No order may be entered under this section except under subsection (d) without appropriate prior notice to the applicant or registrant as well as the employer or prospective employer if the applicant or registrant is an agent or associated person, opportunity for hearing and written findings of fact and conclusions of law. In cases of denial orders, such findings and conclusions shall be provided only if requested by the applicant.

(h) A person that controls, directly or indirectly, a person who is subject to an action of the department under subsection (a) may be subjected to the same discipline by the department and to the same extent as the controlled person unless the controlling person did not know, and in the exercise of reasonable care could not have known, of the existence of conduct that is the basis for the action by the department against the controlled person.

Had Respondents been registered through the Department or applying for registration, then a sanction under Section 305 would be appropriate. However, both Respondent Morgan and Respondent DMC were alleged in the OSC (and ultimately were deemed to have admitted) to not be registered. There are no allegations in the OSC or the other docketed pleadings provided to the undersigned in this matter which indicate that Respondents have applied for registration. Consequently, the provisions of Section 305 of the 1972 Act, 70 P.S. § 1-305, do not appear to apply to Respondents because they are neither registrants nor do they have pending applications before the Commission. Therefore, sanctions under Section 305 will not be imposed.

Next, the Bureau requests that an order be issued pursuant to Section 512 of the 1972 Act. Under Section 512 of the 1972 Act, 70 P.S. § 1-512(a), the Commission may issue an order which bars, conditionally or unconditionally and either permanently or for such period of time as it shall determine, such person from:

- (1) Representing an issuer offering or selling securities in this State;
- (2) Acting as promoter, officer, director or partner of an issuer (or an individual occupying a similar status of performing similar functions) offering or selling securities in this State or of a person who controls or is controlled by such issuer;
- (3) Being registered as a broker-dealer, agent, investment adviser or investment adviser representative under section 301;
- (4) Being an affiliate of any person registered under section 301;
or,
- (5) Relying upon an exemption from registration contained in section 202, 203 or 302.

Unlike Section 305 of the 1972 Act, Section 512 is not limited in application to those who are registered or applying for registration. Therefore, a sanction under Section 512 appears appropriate.

The Bureau also requested sanctions under Section 602.1 of the 1972 Act. Section 602.1 authorizes and, in some instances, requires assessments to be imposed. For example, subsection (b) provides:

Section 602.1. Assessments

* * * * *

(b) A registrant, applicant for registration, issuer or other person upon whom the commission has conducted an examination, audit, investigation or prosecution and who has been determined by the commission to have violated this act or rule or order of the commission under this act shall pay for all the costs incurred in the conduct of such examination, audit, investigation or prosecution. These costs shall include, but not be limited to, the salaries and other compensation paid to clerical, accounting, administrative, investigative, examiner and legal personnel, the actual amount of expenses reasonably incurred by such personnel and the commission in the conduct of such examination, audit, investigation or prosecution, including a pro-rata portion of the commission's administrative expenses.

(70 P.S. § 1-602.1(b)).

Subsection (c) similarly provides, in pertinent part:

(c) After giving notice and opportunity for a hearing, the commission may issue an order accompanied by written findings of fact and conclusions of law which imposes an administrative assessment in the amounts provided in paragraph (1) against a broker-dealer, agent, investment adviser or investment adviser representative registered under section 301 or an affiliate of any broker-dealer or investment adviser where the commission determines that the person willfully has violated this act. . . or has engaged in dishonest or unethical practices in the securities business. . . .

(1) The department, in issuing an order under this subsection, may impose the administrative assessments set forth below. Each act or omission that provides a basis for issuing an order under this subsection shall constitute a separate violation.

* * * * *

(ii) In issuing an order against a person for wilful violation of section 401(a) or (c)...., the department may impose a maximum administrative assessment of up to one hundred thousand dollars

(\$100,000) for each act or omission that constitutes a violation of any of those sections. ...

** * * * **

(iii) In issuing an order against a person for wilful violation of section 401(b) or 407, the department may impose an administrative assessment of up to fifty thousand dollars (\$50,000) for each of the criteria described in subclause (ii)(A) and (C) that the department determines are applicable. No assessment shall be imposed under this subclause if the person is subject to an administrative assessment imposed under any other provision of this subsection.

** * * * **

(Emphasis added), 70 P.S. § 1-602.1(c).

Respondent has been found to have violated Sections 301 and 401(a, b, and c) multiple times, and the improper conduct involved multiple investors both inside and outside Pennsylvania. In its OSC, the Bureau requests that the Commission issue an order under Section 512 of the 1972 Act that permanently bars Respondent Coleman from the following: (1) representing an issuer offering or selling securities in the Commonwealth of Pennsylvania; (2) acting as a promoter, officer, director or partner of an issuer (or an individual occupying a similar status or performing similar functions) offering or selling securities in the Commonwealth of Pennsylvania or of a person who controls or is controlled by such issuer; (3) being registered as a broker-dealer, agent, investment adviser or investment adviser representative under Section 301 of the 1972 Act; (4) being an affiliate of any person registered under Section 301 of the 1972 Act; (5) relying upon an exemption from registration contained in Sections 202, 203 or 302 of the 1972 Act. The Bureau further requests the Commission order that Respondents pay the costs of the investigation, pursuant to Section 602.1(b)⁶ of the 1972 Act, 70 P.S. § 1-602.1(b).

⁶ The Hearing Officer has no information by way of factual averments, testimony or otherwise, to determine the actual costs of investigation under section 602.1(b). Since the Commission's mandate to assess such costs on Respondent is statutorily based, to the extent that the Bureau has documentation to substantiate the costs and expenses it incurred

Section 602.1(c)(i-v) of the 1972 Act sets forth the factors which the Commission is required to consider when arriving at an appropriate assessment as follows:

Section 602.1. Assessments

* * * * *

(2) For purposes of determining the amount of administrative assessment to be imposed in an order issued under this subsection, the department shall consider:

(i) The circumstances, nature, frequency, seriousness, magnitude, persistence and willfulness of the conduct constituting the violation.

(ii) The scope of the violation, including the number of persons in and out of this Commonwealth affected by the conduct constituting the violation.

(iii) The amount of restitution or compensation that the violator has made and the number of persons in this Commonwealth to whom the restitution or compensation has been made.

(iv) Past and concurrent conduct of the violator that has given rise to any sanctions or judgment imposed by, or pleas of guilty or nolo contendere or settlement with, the department or any securities administrator of any other state or other country, any court of competent jurisdiction, the Securities and Exchange Commission, the Commodity Futures Trading Commission, any other Federal or State agency or any national securities association or national securities exchange as defined in the Securities Exchange Act of 1934 (48 Stat. 881, 15 U.S.C. § 78a et seq.).

(v) Any other factor that the department finds appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of this act.

* * * * *

(70 P.S. § 1-602.1(c)(2)).

These five (5) considerations will be addressed in turn.

during the course of its investigation, a recommendation from the Hearing Officer should not be necessary in order to allow the Bureau to recoup its costs.

(I) THE CIRCUMSTANCES, NATURE, FREQUENCY, SERIOUSNESS, MAGNITUDE, PERSISTENCE AND WILLFULNESS OF THE CONDUCT CONSTITUTING THE VIOLATION.

This factor is against the Respondents. In this case, Respondents violated the 1972 Act in two (2) distinct ways. First, Respondents acted without being properly registered or exempted. This alone would be sufficient to impose some level of discipline. Of significantly greater concern, was that Respondents also engaged in what was, at best, misleading conduct. Respondent's represented that they were capable of creating substantial gain for their clients through artificial intelligence and propitiatory algorithms. Respondents assured clients, through the Agreements, that the client's funds would be held separately and used only for investment purposes.

In reality, Respondents did not hold the investors' funds separately and did not generate the implied profits. Instead, Respondent Morgan commingled the investors' funds with his personal and business accounts and then used those funds for his personal expenses. Respondents, through their lack of response to the OSC, have failed to provide any evidence which might act to mitigate the perceived level of seriousness and willfulness of their actions.

The nature and frequency of the violations as alleged in the OSC and deemed admitted is, however, somewhat limited. Respondents' actions occurred over the course of approximately 17 months, not years or decades. Ten (10) investors were affected; not hundreds or thousands as might be possible. Averaged out, Respondents entered into one (1) new (but improper) investment agreement every seven (7) weeks or so. The amount which the investors lost averaged around \$4,250.00.

The lost funds and lost growth opportunity are clearly important to those affected; however, the amount which those individuals lost and the number of people affected were not of the same magnitude as some of the other infamous investment schemes (e.g. Bernie Madoff). Therefore, it

is appropriate to temper any sanctions imposed against Respondents slightly to more accurately match the scope of Respondents improper conduct.

(II) THE SCOPE OF THE VIOLATION, INCLUDING THE NUMBER OF PERSONS IN AND OUT OF THIS COMMONWEALTH AFFECTED BY THE CONDUCT CONSTITUTING THE VIOLATION.

As previously noted, there were a total of ten (10) investors affected by Respondents' conduct, including two (2) investors in Pennsylvania. The deemed admitted facts indicate that each investor lost all funds provided to Respondents, given the deemed admitted allegation that Respondents are insolvent. Consequently, each of the investors who entrusted funds to Respondents suffered pecuniary harm through the loss of their investments placed with Respondents. This factor, therefore, weighs against Respondents.

(III) THE AMOUNT OF RESTITUTION OR COMPENSATION THAT THE VIOLATOR HAS MADE AND THE NUMBER OF PERSONS IN THIS COMMONWEALTH TO WHOM THE RESTITUTION OR COMPENSATION HAS BEEN MADE.

Acknowledging and taking affirmative steps to correct one's previous errant ways is an important factor in demonstrating that one would likely be deterred from engaging in the same or similar conduct in the future. There are no allegations in the deemed admitted facts to indicate that Respondents have made any attempt at restitution or to compensate any of their investors. On the contrary, the deemed admitted facts allege that Respondents are insolvent and imply that no money at all has been paid to the affected investors by Respondents. This also weighs against Respondents.

(IV) PAST AND CONCURRENT CONDUCT OF THE VIOLATOR

There was no evidence set forth on the record that Respondents had any prior administrative violations with the Department or similar banking/security regulatory agencies. There was also no evidence that Respondents had any criminal history, before or after the incidents

in question. This would appear to be Respondents' first administrative disciplinary entanglement. Consequently, this factor weighs in Respondents' favor.

(V) ANY OTHER FACTOR THAT THE DEPARTMENT FINDS APPROPRIATE IN THE PUBLIC INTEREST OR FOR THE PROTECTION OF INVESTORS AND CONSISTENT WITH THE PURPOSES FAIRLY INTENDED BY THE POLICY AND PROVISIONS OF THIS ACT.

Respondents did not respond to the OSC; consequently, there were no other factors which might be considered when reaching a determination in this matter. This factor is therefore neutral.

After consideration of the five (5) factors set forth in the 1972 Act, the imposition of the maximum administrative assessment authorized by the 1972 Act does not appear appropriate. First, Respondents were specifically alleged by the Department and have been deemed to be insolvent. This implies that there is no pot of money to pay either the investors who have been defrauded out of their money, or the Department. Imposing an unrealistically large administrative assessment would have the unfortunate potential side effect of making it more difficult for the investors impacted by Respondents' actions from receiving restitution. The purpose of administrative discipline is to help protect the public health, safety, and welfare, not hurt it.

Further, and as previously discussed, one of the main purposes of administrative sanctions is to gain future compliance by the Respondents and those similarly situated; it is not to punish. From the facts alleged, Respondents have gained slightly less than \$43,000 from their actions. The imposition of the full \$3.2 million administrative assessment requested by the Bureau, when balanced against \$43,000 in proven improper gains, appears more punitive than remedial. On the other hand, imposing no financial penalty at all, simply because of the asserted current insolvency of Respondents, would do little to motivate Respondents and others similarly situated to both (a) become registered when it is required, and (b) to not engage in the same or similar commingling and converting of funds for personal use in the future.

Any financial penalty imposed in this matter should be balanced. It should be sufficient to reflect the dual scope of the Respondents violations, and be sufficient to provide the proper motivation to shape Respondents' and other's conduct in the future. Conversely, it is appropriate to recognize that Respondent's improper actions were somewhat limited in terms of the number of victims (10 instead of hundreds), that the actions occurred over approximately 17 months instead of multiple years or decades, and the aggregate loss to all of the United States investors was \$42,700, not hundreds of thousands or millions of dollars.

Under the circumstances, the imposition of an administrative fine of \$100,000 appears sufficient to motivate Respondent and others to not engage in similar conduct in the future. Such a penalty removes any potential of a financial motive for the Respondents to engage in the same conduct in the future, and it is also substantial enough to warn others in similar circumstances to not attempt to emulate Respondents' behavior. However, it is not so large that it might substantially affect the Respondents' ability to make any necessary restitution to the Respondents' investors. If Respondents become solvent in the future, there is a path by which they would be able to make their investors whole and also pay the administrative assessment from this Order. Similarly, the Bureau's costs of investigation are rightly placed on Respondents, not the public, and those costs as determined by the Department will also be imposed upon Respondents.

Finally, until such time as the Respondents do comply with the payment of the administrative assessment and costs of investigation, Respondents will be ineligible to be registered under the 1972 Act, and will be barred from representing an issuer offering or selling securities in this State; acting as promoter, officer, director or partner of an issuer (or an individual occupying a similar status of performing similar functions) offering or selling securities in this State or of a person who controls or is controlled by such issuer; being an affiliate of any person

registered under section 301; and will be barred from relying upon an exemption from registration contained in section 202, 203 or 302.

Upon compliance with all provisions of this Order, Respondents may apply for relief from the registration/exemption prohibitions of this Order, but it shall be Respondents burden to prove to the satisfaction of the Commission at that future date that it is in the public interest to lift or modify the registration/exemption prohibitions. It is, therefore, recommended as follows:

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND SECURITIES
BEFORE THE BANKING AND SECURITIES COMMISSION**

**Commonwealth of Pennsylvania,
Department of Banking and Securities,
Bureau of Securities Compliance and
Examinations,**

vs.

**D. Morgan Capital, Inc., and
Derek Morgan,**

Respondents.

Docket No. 250024 (SEC-OSC)

PROPOSED ORDER

AND NOW, this **28th** day of **April 2026**, upon consideration of the foregoing Findings of Fact, Conclusions of Law, and Discussion it is **ORDERED** that Respondents Derek Morgan and D. Morgan Capital, Inc. shall be and hereby are both **INDEFINITELY BARRED**, pursuant to Section 512 of the 1972 Act from:

- Representing an issuer offering or selling securities in the Commonwealth of Pennsylvania;
- Acting as a promoter, officer, director or partner of an issuer (or an individual occupying a similar status or performing similar functions) offering or selling securities in the Commonwealth of Pennsylvania, or of a person who controls or is controlled by such issuer;
- Being registered as a broker-dealer, agent, investment adviser or investment adviser representative under Section 301 of the 1972 Act;
- Being an affiliate of any person registered under Section 301 of the 1972 Act; and/or,
- Relying upon an exemption from registration contained in Section 202, 203 or 302 of the 1972 Act.

IN ADDITION, Respondents are jointly and severally ordered to:

- **PAY** an **ADMINISTRATIVE ASSESSMENT** of one hundred thousand dollars (\$100,000.00) for their proven violations of the 1972 Act.
- **PAY** the **COSTS OF INVESTIGATION** in an **AMOUNT VERIFIABLE BY THE BUREAU AS AUTHORIZED BY SECTION 602.1(B) OF THE 1972 ACT.**

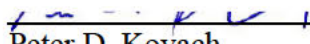
Payment of the administrative assessment and costs of investigation shall be by certified check, attorney's check or U.S. Postal Service money order, made payable to the "Commonwealth of Pennsylvania," and shall be mailed within thirty (30) days of the effective date of the Commission's Final Order in this matter, to:

Charles Vance, Commission Counsel Banking and Securities Commission Market Square Plaza 17 N. Second Street, Suite 1300 Harrisburg, PA 17101-2390

Upon compliance with all of the requirements of this Order, Respondent Morgan and/or Respondent DMC may apply to the Commission for relief from the bar on registration, engaging in regulated activities and/or relying on an exemption from registration; however, it shall be Respondents' burden to prove to the satisfaction of the Commission at that future date that it is in the public interest to lift or modify the prohibition on registration/exemption.

BY ORDER:

Redacted



Peter D. Kovach
Presiding Officer

Respondents:

Derek Morgan
D. Morgan Capital, Inc.
Redacted

For the Bureau:

Kurt Geishauser, Esquire
Assistant Counsel
Pennsylvania Department of Banking and
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Office of Chief Counsel
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**Department of Banking and
Securities Docket Clerk:**

Jamie Reed, Docket Clerk
Pennsylvania Department of Banking and
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17 N 2nd St, Ste 1300
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RA-BNDOCKETCLERK@pa.gov

Date of Mailing:

April 28, 2026

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND SECURITIES

COMMONWEALTH OF PENNSYLVANIA	:	
DEPARTMENT OF BANKING AND	:	
SECURITIES, BUREAU OF SECURITIES	:	
COMPLIANCE AND EXAMINATIONS	:	Docket No.: 250024 (SEC-OSC)
	:	
v.	:	
	:	
D. MORGAN CAPITAL, INC.	:	
DEREK MORGAN	:	

CERTIFICATE OF SERVICE

On behalf of the agency, I certify that I have this day caused to be served a copy of the foregoing *Final Order* upon the following persons pursuant to 1 Pa. Code §§ 33.31:

**BY CERTIFIED AND FIRST-
CLASS MAIL:**

Derek Morgan
Redacted
(Respondent)

D. Morgan Capital, Inc.
Redacted
(Respondent)

BY HAND DELIVERY:

Kurt B. Geishauser, Assistant Counsel
Commonwealth of Pennsylvania
Department of Banking and Securities
17 North Second Street, Suite 1300
Harrisburg, PA 17101
*Counsel for the Bureau of Securities
Compliance and Examinations*

Redacted

Dated this 21 day of July, 2026

—
Jamie Reed, Docket Clerk
PA Banking and Securities Commission
17 N. 2nd Street, Suite 1300
Harrisburg, PA 17101
Telephone: (717) 787-5783