

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS**  
**DEPARTMENT OF BUSINESS REGULATION**  
**DIVISION OF SECURITIES**  
**JOHN O. PASTORE CENTER, BLDG. 68-2**  
**1511 PONTIAC AVENUE**  
**CRANSTON, RHODE ISLAND 02920**

\_\_\_\_\_ :  
**IN THE MATTER OF** :

**DBR No. 19-SC-002**

**Carney Capital Management** :  
**Company and Stephen T. Carney,** :

**RESPONDENTS.** :  
 \_\_\_\_\_ :

**CONSENT AGREEMENT**

The Securities Division (“Division”) of the Rhode Island Department of Business Regulation (“Department”) enters into this Consent Agreement (“Agreement”) to resolve the above-captioned matter concerning violations of the Rhode Island Uniform Securities Act of 1990 (“RIUSA”), R.I. Gen. Laws § 7-11-203 *et seq.* (1989, as amended), with Carney Capital Management Company and Stephen T. Carney (the “Respondents”). The Division, after investigation, has determined to resolve this matter by entering into this Agreement pursuant to its authority under R.I. Gen. Laws §42-35-9(d).

It is hereby agreed by and between the Division and Respondents that:

1. Carney Capital Management Company (“Firm”) is a state registered Investment Adviser located at 191 Spring Road, North Kingstown, RI and has been registered with the Division since 1998.
2. In December 2015, the Firm became unregistered due to a failure to complete its annual renewal, which was quickly resolved in January 2016.
3. Stephen T. Carney (“Carney”) maintained licensing with the Division as an investment adviser representative (“IAR”) from January 21, 2010 until December 31, 2015 under registration number: CRD 41135.
4. In December 2015, the Firm failed to renew Carney as an IAR of the Firm, resulting in Carney being unlicensed from 2016-2018.
5. On December 18, 2018, the Firm contacted the Division inquiring about the due date for its annual update of the Uniform Application for Investment Adviser Registration form (“ADV”), which is required by March 31<sup>st</sup> of each year. Upon review of the Firm’s registration status,

the Division found that Carney had failed to maintain his license as an IAR of the firm.

6. During the Division's questioning of Carney's licensing status, Carney contended that he was unaware of the lack of licensing and that business has been conducted as usual since 2016.
7. Carney's explanation for his failure to renew his IAR at the same time as the Firm's renewal was: "I pay what I am billed. I did not know I wasn't registered."
8. The Division conducted a review of the Firm's business and its activities with full cooperation from Carney. Carney submitted documentation in response to the Division's request, which disclosed that Carney had provided investment advice to six clients during the period in which he was unlicensed. The review also revealed various compliance issues related to its books and records, including:
  - a. non-compliant Form ADV Part 2A;
  - b. non-existent Form ADV Part 2B;
  - c. non-existent Privacy Policy;
  - d. non-compliant client Contract Fee Agreement;
  - e. non-existent third-party trading agreement on two accounts;
  - f. not properly invoicing clients for fees.

#### Applicable Law

9. Pursuant to R.I. Gen. Laws § 7-11-203, *Investment advisor and investment adviser representative licensing*:
  - (a) No person may transact business in this state as an investment adviser or an investment adviser representative unless licensed or exempt from licensing under this chapter.
  - (b) No investment adviser licensed under this chapter may employ a person as an investment adviser representative in this state unless the investment adviser representative is licensed or exempt from licensing under this chapter...
10. Pursuant to the regulation entitled *Pre-Licensing Requirements*, 230-RICR-50-05-1.13(A)(2)(b), "An individual who has not been registered in any jurisdiction for a period of two (2) years shall be required to comply with the examinations requirements."

#### Conditions

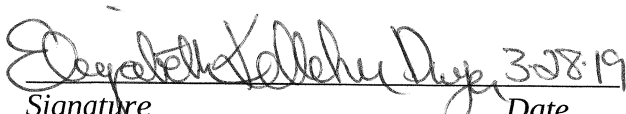
11. It is the Division's position that Respondent Carney engaged in unlicensed activity from January of 2016 to the present date in violation of § 7-11-203 of RIUSA and that Respondent Carney's failure to renew his licensing for the past three years requires him to re-take the Investment Advisers Law Examination ("Series 65") pursuant to 230-RICR-50-05-1.13(A)(2)(b).
12. Based on the foregoing, the Director finds the following conditions are in the public interest, appropriate for the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of RIUSA. Accordingly, it is hereby agreed that:
  - a. Respondents shall immediately cease and desist from any further violations of § 7-11-203 of RIUSA;


- b. Respondents shall pay one-hundred and eighty dollars (\$180.00) total in back licensing fees for the IAR payable to [the Division] by March 29, 2019;
- c. Respondent Carney will review the North American Securities Administration Association (NASAA) Investment Adviser Guide provided to him by the Division and upon his completion of that review he will certify the date of his review, the completion of the review and his comprehension of the NASAA Investment Adviser Guide by e-mail to the Chief Securities Examiner by March 29, 2019; and
- d. The Respondent Firm will:
  - (i) Update and comply with the requirements of form ADV, Parts 2A and 2B by March 31, 2019, as required;
  - (ii) Create a privacy policy satisfactory to the Division and maintain evidence of distribution to all clients annually;
  - (iii) Offer annually form ADV Part 2A to all clients and maintain evidence of said offers;
  - (iv) Invoice all clients for fees;
  - (v) Obtain third-party agreements when applicable.
- e. In consideration for the completion of Respondents' promises as expressed in paragraph twelve (12), the Department agrees to license Respondent Carney as an IAR by issuing an official examination waiver pursuant to R.I. Gen. Laws § 7-11-207.
- f. Additional violations of RIUSA may be grounds for significant and substantial penalties such as revocation or suspension, administrative penalties up to ten thousand dollars (\$10,000.00) per violation and the imposition of criminal and civil sanctions.

13. *Waiver of Hearing and Appeal.* By agreeing to resolve this matter through the execution of this Agreement, Respondents knowingly and voluntarily waive any right to an administrative hearing and waive any right to pursue an appeal to the Superior Court under the Rhode Island Administrative Procedures Act, R.I. Gen. Laws § 42-35-1 *et seq.*

14. *Enforcement.* If the Respondents fails to comply with any term or condition of this Agreement within any applicable time period set forth herein, the Respondents will be in violation hereunder and the Department shall be entitled to immediately to take enforcement or other action in accordance with applicable law.

15. *Compliance; Laws.* Compliance with the terms of this Agreement does not relieve the Respondent of any obligation to comply with other applicable laws or regulations administered by or through the Department or any other governmental agency.

  
 Signature \_\_\_\_\_ Date 3-28-19  
 Elizabeth Kelleher Dwyer, Esq.  
 Superintendent of Financial Services  
 Deputy Director  
 Department of Business Regulation

  
 Signature \_\_\_\_\_ Date 3-28-19  
 Stephen T. Carney