STATE OF NORTH CAROLINA
DEPARTMENT OF THE SECRETARY OF STATE
SECURITIES DIVISION

IN THE MATTER OF:	)	
	)	**FINAL CONSENT ORDER**
DAVID TODD MISENHEIMER,	)	19 SEC 015
(CRD No. 4475048)	)	
	)	
Respondent.	)	

The Secretary of State of the State of North Carolina ("Administrator"), as the Administrator of the North Carolina Investment Advisers Act (N.C. Gen. Stat. Chapter 78C, the "Act"), has considered the evidence in this matter and finds that it is in the public interest to resolve it on the terms set forth in this Final Consent Order ("Order"). With the consent of David Todd Misenheimer ("Misenheimer"), the Administrator enters this Order.

I. FINDINGS OF FACT

1. Misenheimer is a citizen and resident of Raleigh, Wake County, North Carolina. His assigned CRD registration number is 4475048.[1]

2. On January 8, 2019, Misenheimer applied for registration with the Administrator as an investment adviser representative for Aptus Capital Advisors, LLC, a registered investment adviser, by completing and submitting a Form U4.[2]

[1] The CRD/IARD (Central Registration Depository/Investment Advisor Registration Depository) is a database maintained by FINRA for all firms and individuals involved in the U.S. securities industry. This database is used to store and maintain information on registered securities and broker firms, as well as individuals who register as salesmen and/or investment adviser representatives.

[2] The Form U4, also known as the Uniform Application for Securities Industry Regulation or Transfer, is a form that investment adviser representatives use to register in the jurisdictions they would like to conduct business. An investment adviser representative must make certain disclosures on Form U4, including disclosures relating to employment, disciplinary history, customer complaints, liens, bankruptcies, and outside business activities.

3. From on or about March 24, 2005, through on or about January 7, 2019, Misenheimer was registered as an investment adviser representative with Gordon Asset Management, LLC, a registered investment adviser.

4. When Misenheimer's application for registration with Aptus Capital Advisors, LLC was submitted January 8, 2019, he disclosed four unsatisfied federal tax liens on his Form U4. The earliest of these liens dates to 2015.

5. Form U4 asks, at Question 14M, if the applicant has any unsatisfied judgments or liens.

6. While Misenheimer's application was pending, The North Carolina Department of the Secretary of State, Securities Division ("Securities Division"), conducted an investigation, including reviewing Misenheimer's March 28, 2017 Form U4 Amendment filed during his employment with Gordon Asset Management, LLC.

7. During his employment with Gordon Asset Management, LLC, Misenheimer failed to amend his Form U4 to disclose the liens, nor did he disclose two unsatisfied liens on his March 28, 2017 Form U4 Amendment.

8. Misenheimer did not disclose the liens until his January 8, 2019 application.

9. Under North Carolina law, an investment adviser representative is under a continuing obligation to update information required by Form U4 as changes occur. 18 NCAC 06A .1703.

10. Under North Carolina law, it is unlawful for any person to make or cause to be made, in any document filed with the Administrator or in any proceeding under the Act, any statement which is, at the time and in the light of the circumstances under which it is made, false or misleading in any material respect. N.C. Gen. Stat. §78C-9.

11. Under North Carolina law, if the information contained in any document filed with the Administrator is or becomes inaccurate or incomplete in any material respect, the registrant is required to promptly file a correcting amendment. N.C. Gen Stat. §78C-18(d).

12. Under North Carolina law, the Administrator has authority, upon finding of public interest, to enter an order to deny, suspend or revoke any registration, or bar or censure a registrant from employment with a registered investment adviser, or restrict or limit a registrant when the registrant has willfully violated or willfully failed to comply with any provision of the Act. N.C. Gen Stat. §78C-19.

13. The Administrator finds that the entry of this Final Order is necessary or appropriate in the public interest or for the protection of investors and clients and consistent with the purposes fairly intended by the policy and provisions of the North Carolina Investment Advisers Act.

II. CONCLUSIONS OF LAW

1. The Administrator has jurisdiction over Misenheimer, and over the subject matter of this Order.

2. At all relevant times herein, Misenheimer was an investment adviser representative as defined under North Carolina law. N.C. Gen. Stat. §78C-2(3). As an investment adviser representative in North Carolina, Misenheimer is required to comply with North Carolina's laws, and administrative rules, and submit himself to the jurisdiction and oversight of the Administrator. Misenheimer was also at all relevant times a registrant under North Carolina law.

3. Under North Carolina law, it is unlawful for any person to make or cause to be made, in any document filed with the Administrator or in any proceeding under the Act, any statement which is, at the time and in the light of the circumstances under which it is made, false or misleading in any material respect. N.C. Gen. Stat. §78C-9.

4. Under North Carolina law, if the information contained in any document filed with the Administrator is or becomes inaccurate or incomplete in any material respect, the registrant is required to promptly file a correcting amendment. N.C. Gen Stat. §78C-18(d).

5. Under North Carolina law, an investment adviser representative is under a continuing obligation to update information required by Form U4 as changes occur. 18 NCAC 06A .1703.

6. As more particularly described above, Misenheimer failed to timely amend his Form U4 to disclose the tax liens during his employment with Gordon Asset Management, and failed to disclose tax liens on his March 28, 2017 Form U4 Amendment. Misenheimer therefore violated N.C. Gen. Stat. §78C-9, N.C. Gen. Stat. §78C-18(d), and 18 NCAC 06A 1703. These violations were willful.

7. Misenheimer's willful violations of N.C. Gen. Stat. §78C-9, N.C. Gen. Stat. §78C-18(d), and 18 NCAC 06A 1703 serve as a basis for action under N.C. Gen. Stat. §78C-19(b)(2)(b), including denying, suspending or revoking his registration.

8. This Order is necessary or appropriate in the public interest, is for the protection of investors and clients, and is consistent with the purposes fairly intended by the policy and provisions of the Act.

9. The Administrator has the authority to enter this order pursuant to the Act and the administrative rules adopted thereunder.

III. JURISDICTION, CONSENT, AND WAIVER

Misenheimer, as evidenced by the authorized signature of the Consent to Entry of Final Order, below, affirmatively states and agrees that:

1. The Administrator has jurisdiction over him and the subject matter of this Order.

2. Misenheimer voluntarily consents to the entry of this Order and understands it is a public document.

3. Misenheimer has read the contents of this Order and has had the opportunity to consult with an attorney prior the signing of this Order.

4. Misenheimer freely signs this Order. No threats, promises, or offers of any kind, other than as stated in this document, have been made by the Administrator, Deputy Securities Administrator, any member of the staff of the Securities Division, or any agent or employee of the North Carolina Department of the Secretary of State in connection with the signing of this Order.

5. Misenheimer permanently waives any and all rights under the North Carolina Investment Adviser's Act, the North Carolina Administrative Procedure Act (N.C. Gen. Stat. Chapter 150B), and any other law, to a *Notice of Hearing*, a hearing, and any other proceedings before the Administrator or other entity to which he may be entitled related to the subject of this Order, including any court of competent jurisdiction. Misenheimer also permanently waives his right to seek judicial review of this Order under N.C. Gen. Stat. Chapter 150B, to appeal this Order, or to otherwise challenge either the validity or entry of this Order in any court or administrative agency. This Order resolves this matter without further administrative proceedings.

6. This Order contains the entire agreement between the undersigned, and Misenheimer understands its effect.

7. The presentation of this Order to the Administrator and any subsequent discussion of the Order prior to its entry without Misenheimer or his counsel being present shall not constitute an improper *ex parte* communication between the Administrator and the Securities Division or counsel for the Securities Division.

NOW, THEREFORE, the Administrator, pursuant to and under all authority granted by the North Carolina Investment Advisers Act based upon the forgoing Findings of Fact, Conclusions of Law, and Jurisdiction, Consent and Waiver, and with Misenheimer's express written consent to the entry of this Order, orders the following:

IV. ORDER

1. Misenheimer shall immediately and permanently cease and desist from violating N.C. Gen. Stat. §78C-9, §78C-18(d), and 18 NCAC 06A .1703.

2. Misenheimer shall immediately and permanently cease and desist from violating any other provisions of the North Carolina Investment Advisers Act and any administrative rules promulgated under the Act.

3. Misenheimer shall timely amend his Form U4 with respect to all reportable events, and will keep his Form U4 current and in accordance with the instructions on the Form U4 and applicable statutes and regulations.

4. Misenheimer shall pay to the Securities Division a civil penalty in the amount of $5,000.00 within 30 days of the date of entry of this Order.

5. The Administrator will register Misenheimer as an investment adviser representative with Aptus Capital Advisors, LLC upon entry of this Order.

6. Misenheimer shall not take any action, or make, or permit to be made, any public statement, denying, directly or indirectly, any finding in this Order or creating the impression that this Order is without factual basis.

7. This Order shall become final upon entry.

WITNESS MY HAND AND THE OFFICIAL SEAL of the North Carolina

Department of the Secretary of State, this the 13TH day of May 2019.

Time of entry: 3:02 P.M.

ELAINE F. MARSHALL
SECRETARY OF STATE OF NORTH CAROLINA and
SECURITIES ADMINISTRATOR, by

[redacted]

KEVIN M. HARRINGTON
Deputy Securities Administrator