

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING AND SECURITIES

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COMMONWEALTH OF PENNSYLVANIA	:	
DEPARTMENT OF BANKING AND	:	
SECURITIES, BUREAU OF SECURITIES	:	
COMPLIANCE AND EXAMINATIONS	:	Docket No.: 23 <u>0026</u> (SEC-OSC)
	:	
v.	:	
	:	
DUKE AND DUKE WEALTH	:	
MANAGEMENT, LLC	:	
MICHAEL DANIEL NEFT	:	
	:	

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**NOTICE TO ANSWER AND REQUEST A HEARING**

You have 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 the 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 Answer and any other documents must be filed via first-class mail and electronic mail with the Docket Clerk:

Docket Clerk  
Pennsylvania Department of Banking and Securities  
17 North Second Street, Suite 1300  
Harrisburg, Pennsylvania 17101  
Email: [RA-BNDOCKETCLERK@pa.gov](mailto:RA-BNDOCKETCLERK@pa.gov)

Further, you must serve a copy of the Answer and any other documents on the person who signed the Order by providing a hard and electronic copy to his or her counsel indicated below:

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

Email: [RA-BNChiefCounsel@pa.gov](mailto:RA-BNChiefCounsel@pa.gov)

Once you file your Answer, you will be notified of pertinent information such as the name of the presiding officer designated by the Commission to hear this matter and, if a hearing is scheduled, the date, time, and location of the hearing. You have the right to be represented by an attorney.

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.

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	:	

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**ORDER TO SHOW CAUSE**

You, Duke and Duke Wealth Management, LLC (“Respondent Duke”) and Michael Daniel Neft (“Respondent Neft”), are notified that the Department of Banking and Securities (“Department”), through the Bureau of Securities Compliance and Examinations (“Bureau”), hereby **ORDERS YOU TO SHOW CAUSE** why the Banking and Securities Commission (“Commission”) should not impose the sanctions and remedies described below. Specifically, this proceeding is instituted pursuant to 1 Pa. Code § 35.14 to determine:

- (1) whether the allegations set forth below are true; and
- (2) if these allegations are true, whether there has been a violation of the Pennsylvania Securities Act of 1972 (“1972 Act”) or of the regulations promulgated thereunder; and
- (3) if so, whether the sanctions and remedies proposed by the Bureau should be imposed by the Commission.

The Bureau alleges the following facts and violations of law for the purpose of tentatively framing the issues for consideration by the Commission. The Commission may consider this

matter directly or may designate a hearing officer to issue a recommended decision prior to the Commission issuing a final order.

**STATEMENT OF THE PARTICULARS AND MATTERS**  
**CONCERNING WHICH THE BUREAU IS INQUIRING**

**PARTIES**

1. The Department is the Commonwealth of Pennsylvania's administrative agency authorized and empowered to administer and enforce the 1972 Act.

2. The Bureau is primarily responsible for administering and enforcing the 1972 Act for the Department.

3. The Bureau operates from the Department's main office located at 17 North Second Street, Suite 1300, Harrisburg, Pennsylvania 17101.

4. Respondent Duke, CRD # 290184, was, at all times material herein, a Pennsylvania limited liability company with an address at 3359 Durham Road, Suite 100, Doylestown, Pennsylvania 18902.

5. Respondent Neft, CRD # 345660, was, at all times material herein, an individual with an address at 3359 Durham Road, Suite 100, Doylestown, Pennsylvania 18902. At all times material herein, Respondent Neft was the owner, managing member, and chief compliance officer of Respondent Duke.

**FACTUAL ALLEGATIONS**

6. From in or about December 2017 to the present, Respondent Duke has been registered pursuant to Section 301 of the 1972 Act, 70 P.S. § 1-301, as an investment adviser.

7. From in or about December 2017 to the present, Respondent Neft has been registered pursuant to Section 301 of the 1972 Act, 70 P.S. § 1-301, as an investment adviser representative of Respondent Duke.

8. As the owner, managing member, and chief compliance officer of Respondent Duke, Respondent Neft acted as an “affiliate” of Respondent Duke within the meaning of Section 102(b) of the 1972 Act, 70 P.S. § 1-102(b), and, as such, caused Respondent Duke to commit the herein stated acts which violated the 1972 Act.

9. From in or about October 2018 to January 2023, an investment adviser representative (the “Employee of Respondent Duke”) had been registered pursuant to Section 301 of the 1972 Act, 70 P.S. § 1-301, as an investment adviser representative of Respondent Duke.

10. Secure Retirement Strategies (“SRS”) is a Pennsylvania entity with an address at 3359 Durham Road, Suite 100, Doylestown, Pennsylvania 18902.

11. Respondent Neft is the sole owner and managing partner of SRS.

12. From in or about February 2019 to the present, SRS has employed the Employee of Respondent Duke.

13. SRS maintains a website at [www.srsstrategies.com](http://www.srsstrategies.com) (the “Website”).

14. The Website states that SRS “offer[s] professional financial retirement strategies to individuals and families living in throughout [sic] the US.”

15. From in or about January 2022 to January 2023, the Website indicated that Respondent Duke is the “investment group for Secure Retirement Strategies” and that Respondent Duke is “registered with the SEC.”

### **Respondent Duke's Custody of Client Funds or Securities**

16. Regulation 102.021, 10 Pa. Code § 102.021, defines “custody” as: “[f]or purposes of an investment adviser, if a related person holds directly or indirectly, client funds or securities, or has authority to obtain possession of them, in connection with advisory services the investment adviser provides to clients.”

17. “Custody” includes “[a]ny arrangement (including a general power of attorney) under which the investment adviser is authorized or permitted to withdraw client funds or securities maintained with a custodian on the investment adviser’s instruction to the custodian.” 10 Pa. Code § 102.021.

18. From in or about January 2018 to the present, Respondent Duke deducted its advisory fees directly from its clients’ accounts that were maintained with a third-party custodian.

19. By deducting advisory fees directly from its clients’ accounts, Respondent Duke, in connection with the advisory services it provides to clients, has authority to obtain possession of client funds or securities and thus has “custody” of client funds or securities as defined in Regulation 102.021, 10 Pa. Code § 102.021.

### **Respondent Duke's Failure to Maintain the Required Minimum Net Worth**

20. Pursuant to Regulation 303.042(a)(3), 10 Pa. Code § 303.042(a)(3), an investment adviser registered under the 1972 Act that has its principal place of business in Pennsylvania and has custody of client funds or securities shall maintain a minimum net worth of \$35,000.

21. An investment adviser registered under the 1972 Act that has its principal place of business in Pennsylvania is not required to maintain a minimum net worth of \$35,000, if the investment adviser has custody solely as the result of having the authority to make withdrawals from client accounts maintained by a qualified custodian to pay its advisory fee, and the investment

adviser: (i) possesses written authorization from the client to deduct advisory fees from an account held by a qualified custodian; (ii) sends the qualified custodian written notice of the amount of the fee to be deducted from the client's account; (iii) sends the client a written invoice itemizing the fee, including any formulae used to calculate the fee, the time period covered by the fee and the amount of assets under management on which the fee was based; and (iv) notifies the Department in writing on Form ADV that the investment adviser intends to use the safeguards listed above. 10 Pa. Code § 303.042(a)(3)(i)(A)-(D).

22. From in or about January 2018 to January 2023, Respondent Duke did not send its clients' written invoices itemizing its advisory fees, including the formula used to calculate the fees, the time period covered by the fees, and the amount of assets under management on which the fees were based.

23. From in or about January 2018 to the present, Respondent Duke did not notify the Department on Form ADV that it intended to utilize the safeguards listed in Regulation 303.042(a)(3)(i)(A)-(C), 10 Pa. Code § 303.042(a)(3)(i)(A)-(C).

24. From in or about January 2020 to December 2021, Respondent Duke's net worth was below \$35,000.

#### **Respondent Duke's Failure to Comply with Custody Requirements**

25. Pursuant to Regulation 304.022(a) an investment adviser that has custody of client funds or securities shall file an audited balance sheet as of the end of its fiscal year. 10 Pa. Code § 304.022(a).

26. Regulation 304.022(d), 10 Pa. Code § 304.022(d), provides that a registered investment adviser with custody of client funds or securities must file its audited balance sheet with the Department within 120 days of the investment adviser's fiscal year end.

27. Respondent Duke's fiscal year ends on December 31<sup>st</sup>.

28. Respondent Duke did not file with the Department within 120 days of its fiscal year end an audited balance sheet for the years 2018, 2019, 2020, 2021, and 2022.

**Respondent Duke's Failure to Complete Required Filings**

29. Regulation 303.014(c), 10 Pa. Code § 303.014(c), requires that an investment adviser representative and an investment adviser must take necessary steps to ensure that material information contained in Form U-4, the Uniform Application for Securities Industry Registration or Transfer, remains current and accurate. If a material statement made in the Form U-4 becomes incorrect or incomplete, the investment adviser representative and the investment adviser must file with the Department an amendment to Form U-4 within 30 days of the occurrence of the event which requires the filing of the amendment.

30. On Form U-4, Item 14E addresses whether a self-regulatory organization has ever found an applicant to have made a false statement or omission.

31. On or about September 4, 2018, the Financial Industry Regulatory Authority ("FINRA") took regulatory action against the Employee of Respondent Duke for making false statements or omissions which included the following sanctions: an administrative fine of \$10,000, a monetary penalty of \$4,177.62, and a 2-year suspension.

32. The sanctioned conduct of the Employee of Respondent Duke included unauthorized mutual fund purchases in a client's account. Moreover, the Employee of Respondent Duke concealed this conduct by falsely writing that he had such authorization in his employer's client records and by falsely representing to FINRA that the client had granted him time and price discretion, when the client had not granted such discretion.

33. From in or about September 2018 to January 2023, Item 14E on the Employee of Respondent Duke's Form U-4 filed by Respondent Duke did not disclose that FINRA, a self-



regulatory organization, found that the Employee of Respondent Duke had made false statements or omissions as detailed in paragraph 32, and Respondent Duke did not amend the Employee of Respondent Duke's Form U-4 to reflect FINRA's findings.

34. Respondent Duke failed to file an amendment to Form U-4 to correct the omission referenced in paragraphs 31 through 32 above within 30 days of the occurrence of the event which requires the filing of the amendment.

35. Regulation 305.061(c), 10 Pa. Code § 305.061(c), requires that, to withdraw from registration as an investment adviser representative, the investment adviser for whom the investment adviser representative was employed must file the Uniform Termination Notice for Securities/Futures Industry Registration (Form U-5) or a successor form with the Department or with the Investment Adviser Registration Depository ("IARD") within 30 days from the date of termination.

36. In or before May 2022, Respondent Duke terminated the Employee of Respondent Duke as an investment adviser representative.

37. On or about January 25, 2023, Respondent Duke filed Form U-5 for the Employee of Respondent Duke's termination as an investment adviser representative of Respondent Duke.

**Respondent Duke's Written Supervisory Procedures and Failure to Supervise**

38. Regulation 305.011(a), 10 Pa. Code § 305.011(a), requires registered investment advisers to exercise diligent supervision and accept final responsibility for proper supervision over the securities activities of their agents, investment adviser representatives, and employees by establishing and maintaining written procedures and a system for applying and enforcing those written procedures which are reasonably designed to achieve compliance with the 1972 Act and other securities laws and regulations.

39. From in or about December 2017 to the present, Respondent Duke employed at least one “investment adviser representative” in Pennsylvania within the definition of Section 102(j.1) of the 1972 Act, 70 P.S. § 1-102(j.1).

40. From in or about December 2017 to the present, Respondent Duke did not exercise diligent supervision over the securities activities of its investment adviser representatives by failing to establish and maintain written procedures and a system for applying and enforcing those written procedures, pursuant to Regulation 305.011(a), 10 Pa. Code § 305.011(a), in that Respondent Duke failed to establish and maintain its own written supervisory procedures or a system for applying and enforcing them.

41. At all times material herein, Respondent Duke did not establish and maintain written supervisory procedures related to its investment advisory services. In or about December 2021, Respondent Duke submitted written supervisory procedures for an unassociated entity named “AE Wealth Management” to the Bureau pursuant to its request on or about November 10, 2021.

42. The written supervisory procedures provided by Respondent Duke to the Bureau listed an individual as the Chief Compliance Officer who is not associated with Respondent Duke in any manner.

43. During the Bureau’s May 10, 2022 examination, Respondent Duke provided the Bureau with written supervisory procedures that contained procedures which were not applicable to Respondent Duke’s business model, such as references to U.S. Securities and Exchange Commission (“SEC”) registration and regulations relevant to SEC registrants when Respondent Duke is not registered with the SEC.

44. Regulation 305.011(c), 10 Pa. Code § 305.011(c), requires registered investment advisers, as evidence of compliance with their supervisory obligations, to implement, maintain, and enforce written procedures designed to achieve compliance with the 1972 Act and other securities laws and regulations.

45. From in or about December 2017 to the present, Respondent Duke did not implement, maintain, and enforce written procedures pursuant to Regulation 305.011(c), 10 Pa. Code § 305.011(c).

**Respondent Duke's Failure to Comply with Requirements for Solicitation Activities**

46. Regulation 404.012(b), 10 Pa. Code § 404.012(b), provides that an investment adviser may not pay a cash fee or other economic benefit, directly or indirectly, to a solicitor with respect to solicitation activities unless certain conditions are met, including a written agreement between the investment adviser and the solicitor which governs the solicitation activities.

47. During the Bureau's May 10, 2022 examination of Respondent Duke, Respondent Neft admitted to the Bureau that the Employee of Respondent Duke was engaged in solicitation activities on behalf of Respondent Duke.

48. From in or about July 2021 to December 2021, Respondent Duke paid at least \$13,640 in fees to the Employee of Respondent Duke for solicitation activities on behalf of Respondent Duke.

49. At all times material herein, Respondent Duke did not enter into a written agreement with the Employee of Respondent Duke for solicitation activities and fees.

**Respondent Duke's Failure to Submit Business Continuity or Succession Plan**

50. Regulation 304.071(a), 10 Pa. Code § 304.071(a), requires that an investment adviser registered with the Department must establish, implement and maintain written procedures relating to a business continuity and succession plan.

51. At all times material herein, Respondent Duke did not have any written procedures relating to a business continuity and succession plan. Accordingly, Respondent Duke failed to establish, implement and maintain the required written procedures relating to a business continuity and succession plan.

**Respondent Duke's Failure to Maintain Books and Records**

52. Regulation 304.012(a)(3), 10 Pa. Code § 304.012(a)(3), requires that every investment adviser registered under the 1972 Act shall make and keep true, accurate and current certain books, ledgers and records, including a memorandum of each order given by the investment adviser for the purchase or sale of any security, of any instruction received by the investment adviser from the client concerning the purchase, sale, receipt or delivery of a particular security, and of any modification or cancellation of the order or instruction.

53. At all times material herein, Respondent Duke did not make and maintain memoranda related to each of its orders for the purchase or sale of securities or instructions from clients concerning the purchase, sale, receipt or delivery of securities.

54. Regulation 304.012(a)(7), 10 Pa. Code § 304.012(a)(7), requires that every investment adviser registered under the 1972 Act shall make and keep true, accurate and current certain books, ledgers and records, including originals of written communications received and copies of written communications sent by the investment adviser relating to: (i) a recommendation made or proposed to be made and any advice given or proposed to be given; (ii) a receipt, disbursement or delivery of funds or securities; or (iii) the placing or execution of an order to purchase or sell any security.

55. At all times material herein, Respondent Duke did not make and maintain originals of written communications received and copies of written communications sent related to

recommendations Respondent Duke made and advice Respondent Duke had given, the receipt, disbursement or delivery of funds or securities, or the placing or execution of an order to purchase or sell any security.

56. Regulation 304.012(a)(10), 10 Pa. Code § 304.012(a)(10), requires that every investment adviser registered under the 1972 Act shall make and keep true, accurate and current certain books, ledgers and records, including a copy in writing of each agreement entered into by the investment adviser with a client, and all other written agreements otherwise relating to the investment adviser's business as an investment adviser.

57. At all times material herein, Respondent Duke did not make and maintain copies of all written agreements entered into with its clients or other written agreements relating to Respondent Duke's business as an investment adviser.

58. Regulation 304.012(a)(14), 10 Pa. Code § 304.012(a)(14), requires that every investment adviser registered under the 1972 Act shall make and keep true, accurate and current certain books, ledgers and records, including a copy of the written statement and the amendment or revision, given or sent to a client or prospective client of the investment adviser under Regulation 404.011 (relating to investment adviser brochure disclosure), and a record of the dates that the written statement, and the amendment or revision, was given, or offered to be given, to a client or prospective client who subsequently becomes a client.

59. At all times material herein, Respondent Duke did not make and maintain copies of the written disclosure statement required under Regulation 404.011 and records of the dates that the written disclosure statement required under Regulation 404.011 was provided to clients and prospective clients.

60. Regulation 304.012(a)(24), 10 Pa. Code § 304.012(a)(24), requires that every investment adviser registered under the 1972 Act shall make and keep true, accurate and current certain books, ledgers and records, including written procedures relating to the business and continuity plan required under Regulation 304.071 (relating to business continuity and succession planning).

61. At all times material herein, Respondent Duke did not make and maintain written procedures relating to its business and continuity plan required under Regulation 304.071.

**Respondent Duke's Dishonest and Unethical Practices**

62. Regulation 404.014, 10 Pa. Code § 404.014, provides that it is unlawful and considered to be a fraudulent, deceptive or manipulative act, practice or course of business for a registered investment adviser registered under the 1972 Act to have custody of client funds or securities, unless:

- a. The investment adviser notifies the Department promptly in writing on Form ADV that the investment adviser has or may have custody, 10 Pa. Code § 404.014(a)(1);
- b. A qualified custodian maintains those client funds and securities in certain types of accounts, 10 Pa. Code § 404.014(a)(2)(i)-(ii);
- c. The investment adviser meets conditions related to notifying clients in writing of the accounts maintained with the qualified custodian and the comparison of account statements sent by the investment adviser and the qualified custodian, 10 Pa. Code § 404.014(a)(3)(i)-(ii);
- d. The investment adviser meets conditions related to its reasonable basis to believe that the qualified custodian sends appropriate account statements to its clients, 10 Pa. Code § 404.014(a)(4)(i); and

- e. The investment adviser meets conditions related to annual verification of client funds or securities by an independent certified public accountant, 10 Pa. Code § 404.014(a)(5).
63. From in or about January 2018 to the present, Respondent Duke failed to notify the Department on Form ADV that it had custody of client funds or securities.
64. From in or about January 2018 to the present, Respondent Duke did not send account statements to its clients or urge its clients to compare account statements from the qualified custodian with any account statements provided by Respondent Duke.
65. From in or about January 2018 to the present, Respondent Duke failed to obtain an annual verification of client funds of which it had custody by an independent certified public accountant.
66. Regulation 305.019(c)(3)(xv), 10 Pa. Code § 305.019(c)(3)(xv), prohibits an investment adviser from engaging in dishonest or unethical practices in the securities business by taking an action, directly or indirectly, with respect to those securities or funds in which a client has a beneficial interest, when the investment adviser has custody or possession of the securities or funds when the adviser's action is subject to, and does not comply with, the requirements of 10 Pa. Code § 404.014 (relating to custody requirements for investment advisers).
67. Respondent Duke deducted its advisory fees directly from client accounts maintained by a third-party custodian, which resulted in Respondent Duke being subject to the custody requirements of Regulation 404.014, 10 Pa. Code § 404.014.
68. Respondent Duke did not comply with the custody requirements included in Regulation 404.014, 10 Pa. Code § 404.014, which constitutes a dishonest and unethical practice in the securities business under Regulation 305.019(c)(3)(xv), 10 Pa. Code § 305.019(c)(3)(xv).

69. Pursuant to Regulation 404.010(a)(1), 10 Pa. Code § 404.010(a)(1), the Department will consider the direct or indirect publication, circulation or distribution of an advertisement by an investment adviser or investment adviser representative to be a fraudulent, deceptive or manipulative act, practice or course of conduct within the meaning of Section 404 of the 1972 Act, 70 P.S. § 1-404, if the advertisement refers, directly or indirectly, to any testimonial of any kind concerning the investment adviser or investment adviser representative concerning any advice, analysis, report or other service given to the customer by the investment adviser or investment adviser representative.

70. The Website included advertisements and testimonials from SRS clients concerning investment advice provided to them by Respondent Neft.

71. One testimonial from an SRS client on the Website stated: “Mike Neft and his staff were very professional and personal. We met with Mike to review our existing investments. As retirement approaches we wanted assurance that we would not exhaust our funds prior to our demise. Mike did a thorough review and suggested some changes that would provide us with guaranteed income sources.”

#### **Respondent Duke’s Failure to Keep Form ADV Current and Accurate**

72. Regulation 303.012(i), 10 Pa. Code § 303.012(i), requires that an investment adviser registered under the 1972 Act shall take steps necessary to ensure that material information contained in its Form ADV and exhibits remains current and accurate. If a material statement made in Form ADV and exhibits becomes incorrect or inaccurate, the investment adviser shall file with the Department an amendment on Form ADV within 30 days of the occurrence of the event which requires the filing of the amendment.



73. From in or about January 2018 to the present, Respondent Duke's Form ADV contained the following incorrect or inaccurate information:

- a. On Form ADV, Part 1, Item 9, Respondent Duke failed to indicate that it maintains custody of client funds as a result of direct fee deductions.
- b. On Form ADV, Part 1, Item 11, Subsection E (4), Respondent Duke failed to disclose a two-year suspension by FINRA of the Employee of Respondent Duke.
- c. On Form ADV, Part 2A, Item 14, Respondent Duke did not indicate the employment, use and compensation of a solicitor. In fact, Respondent Duke admitted to paying the Employee of Respondent Duke solicitation fees, but did not have a written solicitation agreement with the Employee of Respondent Duke.
- d. On Form ADV, Part 2A, Item 19, Respondent Duke falsely indicated that it maintained a written business continuity and succession plan. However, Respondent Duke did not create and maintain a written business continuity and succession plan.
- e. On Form ADV, Part 2B, Respondent Duke failed to disclose that additional compensation was provided to the Employee of Respondent Duke while employed as its solicitor.
- f. On Form ADV, Part 2B, Item 7, Respondent Duke indicated that an investment adviser representative ("IAR") in its employ was not the subject of an arbitration claim alleging damages in excess of \$2,500. In fact, Respondent Duke had employed the Employee of Respondent Duke as an IAR and was the subject of an arbitration claim alleging damages in excess of \$2,500.

- g. On Form ADV, Part 2B, Respondent Duke failed to indicate the additional supervisory requirements imposed by the Bureau as a condition of registration for a previously suspended IAR. In fact, Respondent Duke maintained the registration of the Employee of Respondent Duke, a previously suspended IAR, without meeting the additional supervisory requirement conditions imposed upon it by the Bureau.

**Respondent Duke’s Failure to Furnish Information Reasonably Requested by the  
Department**

74. Section 305(a)(xiii) of the 1972 Act, 70 P.S. § 1-305(a)(xiii), provides that the Department may deny, suspend, revoke, or condition any registration or censure any registrant if it finds that a registrant “has made any material misrepresentation to or withheld or concealed from or omitted to state to the [D]epartment or any of its representatives any material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, or has refused to furnish information reasonably requested by the [D]epartment within the previous ten years.”

75. On or about November 10, 2021, the Bureau sent a Request for Information (“First RFI”) to Respondent Duke that requested various documents and records needed by the Bureau to conduct an examination of Respondent Duke. The First RFI sought documents and records that are required to be maintained and kept by investment advisers registered pursuant to Section 301 of the 1972 Act.

76. On or about December 17, 2021, and December 19, 2021, Respondent Duke provided responses to the Bureau that did not include all of the documents and records listed in the First RFI dated November 10, 2021.

77. On or about February 4, 2022, the Bureau contacted Respondent Duke regarding the outstanding documents and records requested in the First RFI dated November 10, 2021.

78. On or about March 25, 2022, Respondent Duke provided a response to the Bureau that still did not include all of the documents and records listed in the First RFI dated November 10, 2021.

79. On or about March 25, 2022, the Bureau sent a second RFI (“Second RFI”) to Respondent Duke. Subsequently, on or about May 10, 2022, the Bureau re-sent the Second RFI to Respondent Duke.

80. On or about May 22, 2022, May 24, 2022, and June 9, 2022, Respondent Duke provided responses to the Bureau that did not include all of the documents and records listed in the Second RFI dated March 25, 2022.

81. On or about November 30, 2022, the Bureau sent a deficiency letter (“Deficiency Letter”) after the May 10, 2022 examination to Respondent Duke that requested additional documents and records.

82. On or about December 6, 2022, Respondent Duke provided a response to the Deficiency Letter that did not include the documents and records requested in the Deficiency Letter.

83. On or about January 19, 2023, the Bureau re-sent the Deficiency Letter to Respondent Duke, which requested the same documents and records.

84. On or about February 2, 2023, Respondent Duke provided a response to the Deficiency Letter that did not include the documents and records requested in the Deficiency Letter.

## COUNTS

**Conduct Forming Basis to Deny, Suspend, Revoke, or Condition the Registration of or Censure Respondent Duke and Respondent Neft Pursuant to Section 305(a)(v) of the 1972 Act, 70 P.S. § 1-305(a)(v), and Regulation § 303.042(a)(3), 10 Pa. Code § 303.042(a)(3)**

### **2 Counts**

85. Paragraphs 1 through 84 are incorporated herein by reference as if set forth in their entirety.

86. By engaging in the acts and conduct set forth in paragraphs 6 through 8 and paragraphs 16 through 24 above, Respondent Duke and Respondent Neft had custody of client funds or securities and failed to maintain a minimum net worth of \$35,000, which acts and conduct form a basis to deny, suspend, revoke, or condition the registration of Respondent Duke and Respondent Neft or censure Respondent Duke and Respondent Neft pursuant to Section 305(a)(v) of the 1972 Act, 70 P.S. § 1-305(a)(v), and Regulation 303.042(a)(3), 10 Pa. Code § 303.042(a)(3).

**Conduct Forming Basis to Deny, Suspend, Revoke, or Condition the Registration of or Censure Respondent Duke and Respondent Neft Pursuant to Section 305(a)(v) of the 1972 Act, 70 P.S. § 1-305(a)(v), and Regulation § 303.042(a)(3)(i)(A)-(D), 10 Pa. Code §**

**303.042(a)(3)(i)(A)-(D)**

### **110 Counts**

87. Paragraphs 1 through 86 are incorporated herein by reference as if set forth in their entirety.

88. By engaging in the acts and conduct set forth in paragraphs 6 through 8 and paragraphs 16 through 24 above, Respondent Duke and Respondent Neft have failed to meet conditions required of a registered investment adviser with custody of client funds or securities, which acts and conduct form a basis to deny, suspend, revoke, or condition the registration of Respondent Duke and Respondent Neft or censure Respondent Duke and Respondent Neft

pursuant to Section 305(a)(v) of the 1972 Act, 70 P.S. § 1-305(a)(v), and Regulation 303.042(a)(3)(i)(A)-(D), 10 Pa. Code § 303.042(a)(3)(i)(A)-(D).

**Conduct Forming Basis to Deny, Suspend, Revoke, or Condition the Registration of or Censure Respondent Duke and Respondent Neft Pursuant to Section 305(a)(v) of the 1972 Act, 70 P.S. § 1-305(a)(v), and Regulation § 304.022(a), 10 Pa. Code § 304.022(a)**

**5 Counts**

89. Paragraphs 1 through 88 are incorporated herein by reference as if set for in their entirety.

90. By engaging in the acts and conduct set forth in paragraphs 6 through 8, paragraphs 16 through 19, and paragraphs 25 through 28 above, Respondent Duke and Respondent Neft failed to file with the Department an audited balance sheet as of the end of its fiscal year as required for an investment adviser that has custody of client funds or securities, which acts and conduct form a basis to deny, suspend, revoke, or condition the registration of Respondent Duke and Respondent Neft or censure Respondent Duke and Respondent Neft pursuant to Section 305(a)(v) of the 1972 Act, 70 P.S. § 1-305(a)(v), and Regulation 304.022(a), 10 Pa. Code § 304.022(a).

**Conduct Forming Basis to Deny, Suspend, Revoke, or Condition the Registration of or Censure Respondent Duke and Respondent Neft Pursuant to Section 305(a)(v) of the 1972 Act, 70 P.S. § 1-305(a)(v), and Regulation § 303.014(c), 10 Pa. Code § 303.014(c)**

**1 Count**

91. Paragraphs 1 through 90 are incorporated herein by reference as if set forth in their entirety.

92. By engaging in the acts and conduct set forth in paragraphs 6 through 9 and paragraphs 29 through 34 above, Respondent Duke and Respondent Neft failed to take steps necessary to ensure that material information contained in Form U-4 remains current and accurate, and file with the Department an amendment to Form U-4 within 30 days of the occurrence of the

event which requires the filing of the amendment, which acts and conduct form a basis to deny, suspend, revoke, or condition the registration of Respondent Duke and Respondent Neft or censure Respondent Duke and Respondent Neft pursuant to Section 305(a)(v) of the 1972 Act, 70 P.S. § 1-305(a)(v), and Regulation 303.014(c), 10 Pa. Code § 303.014(c).

**Conduct Forming Basis to Deny, Suspend, Revoke, or Condition the Registration of or Censure Respondent Duke and Respondent Neft Pursuant to Section 305(a)(v) of the 1972 Act, 70 P.S. § 1-305(a)(v), and Regulation § 305.061(c), 10 Pa. Code § 305.061(c), Promulgated Thereunder**

**1 Count**

93. Paragraphs 1 through 92 are incorporated herein by reference as if set forth in their entirety.

94. By engaging in the acts and conduct set forth in paragraphs 6 through 9 and paragraphs 35 through 37 above, Respondent Duke and Respondent Neft, when withdrawing an investment adviser representative from registration, failed to file the Uniform Termination Notice for Securities/Futures Industry Registration (Form U-5) or a successor form with the Department or with IARD within 30 days from the date of termination, which acts and conduct form a basis to deny, suspend, revoke, or condition the registration of Respondent Duke and Respondent Neft or censure Respondent Duke and Respondent Neft pursuant to Section 305(a)(v) of the 1972 Act, 70 P.S. § 1-305(a)(v), and Regulation 305.061(c), 10 Pa. Code § 305.061(c), promulgated thereunder.

**Conduct Forming Basis to Deny, Suspend, Revoke, or Condition the Registration of or Censure Respondent Duke and Respondent Neft Pursuant to Section 305(a)(v) of the 1972 Act, 70 P.S. § 1-305(a)(v), and Regulation § 305.011(a) and 305.011(c), 10 Pa. Code §§ 305.011(a), 305.011(c), Promulgated Thereunder**

**1 Count**

95. Paragraphs 1 through 94 are incorporated herein by reference as if set forth in their entirety.

96. By engaging in the acts and conduct set forth in paragraphs 6 through 9 and paragraphs 38 through 45 above, Respondent Duke and Respondent Neft failed to exercise diligent supervision over the securities activities of its agents, investment adviser representatives, and employees by failing to establish and maintain written procedures and a system for applying and enforcing those written procedures which are reasonably designed to achieve compliance with the 1972 Act and other securities laws and regulations, which acts and conduct form a basis to deny, suspend, revoke, or condition the registration of Respondent Duke and Respondent Neft or censure Respondent Duke and Respondent Neft pursuant to Section 305(a)(v) of the 1972 Act, 70 P.S. § 1-305(a)(v), and Regulation 305.011(a) and 305.011(c), 10 Pa. Code §§ 305.011(a), 305.011(c), promulgated thereunder.

**Violation of Section 404 of the 1972 Act, 70 P.S. § 1-404, and Regulation 404.012(b), 10 Pa. Code § 404.012(b), Promulgated Thereunder**

**1 Count**

97. Paragraphs 1 through 96 are incorporated herein by reference as if set forth in their entirety.

98. By engaging in the acts and conduct set forth in paragraphs 6 through 8 and paragraphs 46 through 49 above, Respondent Duke and Respondent Neft paid a cash fee or other economic benefit, directly or indirectly, to a solicitor with respect to solicitation activities without complying with the requirements of Regulation 404.012(b), which acts and conduct constitute a fraudulent, deceptive or manipulative act, practice or course of business in wilful violation of Section 404 of the 1972 Act, 70 P.S. § 1-404, and Regulation 404.012(b), 10 Pa. Code § 404.012(b), promulgated thereunder.

**Conduct Forming Basis to Deny, Suspend, Revoke, or Condition the Registration of or Censure Respondent Duke and Respondent Neft Pursuant to Section 305(a)(v) of the 1972 Act, 70 P.S. § 1-305(a)(v), and Regulation § 304.071(a), 10 Pa. Code § 304.071(a)**

### **1 Count**

99. Paragraphs 1 through 98 are incorporated herein by reference as if set forth in their entirety.

100. By engaging in the acts and conduct set forth in paragraphs 6 through 8 and paragraphs 50 through 51 above, Respondent Duke and Respondent Neft failed to establish, implement, and maintain written procedures relating to a business continuity and succession plan, which acts and conduct form a basis to deny, suspend, revoke, or condition the registration of Respondent Duke and Respondent Neft or censure Respondent Duke and Respondent Neft pursuant to Section 305(a)(v) of the 1972 Act, 70 P.S. § 1-305(a)(v), and Regulation 304.071(a), 10 Pa. Code § 304.071(a).

**Conduct Forming Basis to Deny, Suspend, Revoke, or Condition the Registration of or Censure Respondent Duke and Respondent Neft Pursuant to Section 305(a)(v) of the 1972 Act, 70 P.S. § 1-305(a)(v), and Regulation § 304.012(a)(3), 10 Pa. Code § 304.012(a)(3)**

### **1 Count**

101. Paragraphs 1 through 100 are incorporated herein by reference as if set forth in their entirety.

102. By engaging in the acts and conduct set forth in paragraphs 6 through 8 and paragraphs 52 through 53 above, Respondent Duke and Respondent Neft failed to make and keep true, accurate and current certain books, ledgers and records, including a memorandum of each order given by Respondent Duke for the purchase or sale of any security, of any instruction received by Respondent Duke from clients concerning the purchase, sale, receipt or delivery of a particular security, and of any modification or cancellation of the order or instruction, which acts and conduct form a basis to deny, suspend, revoke, or condition the registration of Respondent Duke and Respondent Neft or censure Respondent Duke and Respondent Neft pursuant to Section



305(a)(v) of the 1972 Act, 70 P.S. § 1-305(a)(v), and Regulation 304.012(a)(3), 10 Pa. Code § 304.012(a)(3).

**Conduct Forming Basis to Deny, Suspend, Revoke, or Condition the Registration of or Censure Respondent Duke and Respondent Neft Pursuant to Section 305(a)(v) of the 1972 Act, 70 P.S. § 1-305(a)(v), and Regulation § 304.012(a)(7), 10 Pa. Code § 304.012(a)(7)**

**1 Count**

103. Paragraphs 1 through 102 are incorporated herein by reference as if set forth in their entirety.

104. By engaging in the acts and conduct set forth in paragraphs 6 through 8 and paragraphs 54 through 55 above, Respondent Duke and Respondent Neft failed to make and keep true, accurate and current certain books, ledgers and records, including originals of written communications received and copies of written communications sent by Respondent Duke relating to: (i) a recommendation made or proposed to be made and any advice given or proposed to be given; (ii) a receipt, disbursement or delivery of funds or securities; or (iii) the placing or execution of an order to purchase or sell any security, which acts and conduct form a basis to deny, suspend, revoke, or condition the registration of Respondent Duke and Respondent Neft or censure Respondent Duke and Respondent Neft pursuant to Section 305(a)(v) of the 1972 Act, 70 P.S. § 1-305(a)(v), and Regulation 304.012(a)(7), 10 Pa. Code § 304.012(a)(7).

**Conduct Forming Basis to Deny, Suspend, Revoke, or Condition the Registration of or Censure Respondent Duke and Respondent Neft Pursuant to Section 305(a)(v) of the 1972 Act, 70 P.S. § 1-305(a)(v), and Regulation § 304.012(a)(10), 10 Pa. Code § 304.012(a)(10)**

**1 Count**

105. Paragraphs 1 through 104 are incorporated herein by reference as if set forth in their entirety.

106. By engaging in the acts and conduct set forth in paragraphs 6 through 8 and paragraphs 56 through 57 above, Respondent Duke and Respondent Neft failed to make and keep true, accurate and current certain books, ledgers and records, including a copy in writing of each agreement entered into by Respondent Duke with a client, and all other written agreements otherwise relating to Respondent Duke's business as an investment adviser, which acts and conduct form a basis to deny, suspend, revoke, or condition the registration of Respondent Duke and Respondent Neft or censure Respondent Duke and Respondent Neft pursuant to Section 305(a)(v) of the 1972 Act, 70 P.S. § 1-305(a)(v), and Regulation 304.012(a)(10), 10 Pa. Code § 304.012(a)(10).

**Conduct Forming Basis to Deny, Suspend, Revoke, or Condition the Registration of or Censure Respondent Duke and Respondent Neft Pursuant to Section 305(a)(v) of the 1972 Act, 70 P.S. § 1-305(a)(v), and Regulation § 304.012(a)(14), 10 Pa. Code § 304.012(a)(14)**

**1 Count**

107. Paragraphs 1 through 106 are incorporated herein by reference as if set forth in their entirety.

108. By engaging in the acts and conduct set forth in paragraphs 6 through 8 and paragraphs 58 through 59 above, Respondent Duke and Respondent Neft failed to make and keep true, accurate and current certain books, ledgers and records, including a copy of the written statement and the amendment or revision, given or sent to a client or prospective client of Respondent Duke under Regulation 404.011, and a record of the dates that the written statement, and the amendment or revision, was given, or offered to be given, to a client or prospective client who subsequently becomes a client, which acts and conduct form a basis to deny, suspend, revoke, or condition the registration of Respondent Duke and Respondent Neft or censure Respondent

Duke and Respondent Neft pursuant to Section 305(a)(v) of the 1972 Act, 70 P.S. § 1-305(a)(v), and Regulation 304.012(a)(14), 10 Pa. Code § 304.012(a)(14).

**Conduct Forming Basis to Deny, Suspend, Revoke, or Condition the Registration of or Censure Respondent Duke and Respondent Neft Pursuant to Section 305(a)(v) of the 1972 Act, 70 P.S. § 1-305(a)(v), and Regulation § 304.012(a)(24), 10 Pa. Code § 304.012(a)(24)**

**1 Count**

109. Paragraphs 1 through 108 are incorporated herein by reference as if set forth in their entirety.

110. By engaging in the acts and conduct set forth in paragraphs 6 through 8 and paragraphs 60 through 61 above, Respondent Duke and Respondent Neft failed to make and keep true, accurate and current certain books, ledgers and records, including written procedures relating to the business and continuity plan required under Regulation 304.071, which acts and conduct form a basis to deny, suspend, revoke, or condition the registration of Respondent Duke and Respondent Neft or censure Respondent Duke and Respondent Neft pursuant to Section 305(a)(v) of the 1972 Act, 70 P.S. § 1-305(a)(v), and Regulation 304.012(a)(24), 10 Pa. Code § 304.012(a)(24).

**Violation of Section 404 of the 1972 Act, 70 P.S. § 1-404, and Regulation 404.014(a)(1)-(5), 10 Pa. Code § 404.014(a)(1)-(5), Promulgated Thereunder**

**110 Counts**

111. Paragraphs 1 through 110 are incorporated herein by reference as if set forth in their entirety.

112. By engaging in the acts and conduct set forth in paragraphs 6 through 8, paragraphs 16 through 19, and paragraphs 62 through 65 above, Respondent Duke and Respondent Neft failed to comply with the custody requirements for investment advisers in Regulation 404.014(a)(1)-(5), which acts and conduct constitute a fraudulent, deceptive or manipulative act, practice or course

of business in wilful violation of Section 404 of the 1972 Act, 70 P.S. § 1-404, and Regulation 404.014(a)(1)-(5), 10 Pa. Code § 404.014(a)(1)-(5), promulgated thereunder.

**Conduct Forming Basis to Deny, Suspend, Revoke, or Condition the Registration of or  
Censure Respondent Duke and Respondent Neft Pursuant to Section 305(a)(ix) of the 1972  
Act, 70 P.S. § 1-305(a)(ix), and Regulation § 305.019(c)(3)(xv), 10 Pa. Code §  
305.019(c)(3)(xv), Promulgated Thereunder**

**110 Counts**

113. Paragraphs 1 through 112 are incorporated herein by reference as if set forth in their entirety.

114. By engaging in the acts and conduct set forth in paragraphs 6 through 8, paragraphs 16 through 19, and paragraphs 66 through 68 above, Respondent Duke and Respondent Neft engaged in dishonest or unethical practices in the securities business by taking an action, directly or indirectly, with respect to those securities or funds in which a client has a beneficial interest, when the investment adviser has custody or possession of the securities or funds when the adviser's action is subject to, and does not comply with, the requirements of 10 Pa. Code § 404.014, which acts and conduct form a basis to deny, suspend, revoke, or condition the registration of Respondent Duke and Respondent Neft or censure Respondent Duke and Respondent Neft pursuant to Section 305(a)(ix) of the 1972 Act, 70 P.S. § 1-305(a)(ix), and Regulation 305.019(c)(3)(xv), 10 Pa. Code § 305.019(c)(3)(xv), promulgated thereunder.

**Violation of Section 404 of the 1972 Act, 70 P.S. § 1-404, and Regulation 404.010(a)(1), 10  
Pa. Code § 404.010(a)(1), Promulgated Thereunder**

**1 Count**

115. Paragraphs 1 through 114 are incorporated herein by reference as if set forth in their entirety.

116. By engaging in the acts and conduct set forth in paragraphs 6 through 15 and paragraphs 69 through 71 above, Respondent Duke and Respondent Neft published advertisements that included testimonials concerning Respondent Neft and advice and services provided by Respondent Neft, which acts and conduct constitute a fraudulent, deceptive or manipulative act, practice or course of business in wilful violation of Section 404 of the 1972 Act, 70 P.S. § 1-404, and Regulation 404.010(a)(1), 10 Pa. Code § 404.010(a)(1), promulgated thereunder.

**Conduct Forming Basis to Deny, Suspend, Revoke, or Condition the Registration of or Censure Respondent Duke and Respondent Neft Pursuant to Section 305(a)(v) of the 1972 Act, 70 P.S. § 1-305(a)(v), and Regulation § 303.012(i), 10 Pa. Code § 303.012(i)**

**2 Counts**

117. Paragraphs 1 through 116 are incorporated herein by reference as if set forth in their entirety.

118. By engaging in the acts and conduct set forth in paragraphs 6 through 8, paragraphs 16 through 19, and paragraphs 72 through 73 above, Respondent Duke and Respondent Neft failed to take steps necessary to ensure that material information contained on Form ADV and exhibits remains current and accurate, and file with the Department an amendment on Form ADV within 30 days of the occurrence of the event which requires the filing of the amendment, which acts and conduct form a basis to deny, suspend, revoke, or condition the registration of Respondent Duke and Respondent Neft or censure Respondent Duke and Respondent Neft pursuant to Section 305(a)(v) of the 1972 Act, 70 P.S. § 1-305(a)(v), and Regulation 303.012(i), 10 Pa. Code § 303.012(i).

**Violation of Section 305(a)(xiii) of the 1972 Act, 70 P.S. § 1-305(a)(xiii)**

**3 Counts**

119. Paragraphs 1 through 118 are incorporated herein by reference as if set forth in their entirety.

120. By engaging in the acts and conduct set forth in paragraphs 6 through 8 and paragraphs 74 through 84 above, Respondent Duke and Respondent Neft have refused to furnish information reasonably requested by the Department within the previous ten years, in wilful violation of Section 305(a)(xiii) of the 1972 Act, 70 P.S. § 1-305(a)(xiii).

### **SANCTIONS AND REMEDIES**

**WHEREAS**, the Bureau respectfully requests the penalties and relief pursuant to its authority under the 1972 Act:

1. That an order be issued pursuant to Section 305 of the 1972 Act, 70 P.S. § 1-305, that the registration of Respondent Duke and Respondent Neft be suspended, revoked or conditioned, or that Respondent Duke and Respondent Neft be censured.

2. That an order be issued pursuant to Section 512 of the 1972 Act, 70 P.S. § 1-512, which bars, conditionally or unconditionally, and either permanently or for such period of time as may be determined, Respondent Duke and Respondent Neft 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;
- c. Being registered as a broker-dealer, agent, investment adviser or investment adviser representative under Section 301 of the 1972 Act; or
- d. Being an affiliate of any person registered under Section 301 of the 1972 Act; or
- e. Relying upon an exemption from registration contained in Sections 202, 203 or 302 of the 1972 Act.

3. That Respondent Duke and Respondent Neft be ordered to pay the cost of the investigation pursuant to Section 602.1(b) of the 1972 Act.

4. That Respondent Duke and Respondent Neft be ordered to pay an administrative assessment of up to \$100,000 for each act or omission constituting a wilful violation of the 1972 Act, pursuant to Section 602.1(c) of the 1972 Act.

**IT IS SO ORDERED.**



FOR THE COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING AND SECURITIES  
BUREAU OF SECURITIES COMPLIANCE AND  
EXAMINATIONS

Redacted

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Eric Pistilli  
Deputy Secretary for Securities

Dated: 08/02/2023

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING AND SECURITIES

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COMMONWEALTH OF PENNSYLVANIA	:	
DEPARTMENT OF BANKING AND	:	
SECURITIES, BUREAU OF SECURITIES	:	
COMPLIANCE AND EXAMINATIONS	:	Docket No.: 23 <u>0026</u> (SEC-OSC)
	:	
v.	:	
	:	
DUKE AND DUKE WEALTH	:	
MANAGEMENT, LLC	:	
MICHAEL DANIEL NEFT	:	
	:	

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of the foregoing *Order to Show Cause* upon the parties below, who constitute the only parties of record in this proceeding, in accordance with the requirements of 1 Pa. Code §§ 33.35, 33.36 and 33.37:

**BY CERTIFIED AND FIRST-CLASS MAIL**

Duke and Duke Wealth Management, LLC  
3359 Durham Road  
Suite 100  
Doylestown, PA 18902

Michael Daniel Neft  
3359 Durham Road  
Suite 100  
Doylestown, PA 18902

Redacted

Dated: 8/3/2023

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Timothy Kissinger, Legal Office Administrator  
Office of Chief Counsel  
FOR: Commonwealth of Pennsylvania  
Department of Banking and Securities  
Market Square Plaza  
17 North Second Street, Suite 1300  
Harrisburg, PA 17101  
(717) 787-1471