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Douglas J. Scheidt, Esq.
Associate Director and Chief Counsel
Division of Investment Management
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-0506

Re: Ms. Stephanie Hibler

Dear Mr. Scheidt:

Our client, Ms. Stephanie Hibler (“Ms. Hibler”), seeks assurance that the staff of the Division of Investment Management (the “Staff”) will not recommend enforcement action to the Securities and Exchange Commission (the “Commission”) under Section 206(4) of the Investment Advisers Act of 1940, as amended (the “Advisers Act”), or Rule 206(4)-3 thereunder, if an investment adviser registered pursuant to Section 203 of the Advisers Act pays to Ms. Hibler a cash solicitation fee for the solicitation of advisory clients, notwithstanding an administrative order (“Order”), which has been in part vacated, that would have otherwise precluded such an investment adviser from paying such a fee to Ms. Hibler.

BACKGROUND

In June 1982, the Commission instituted administrative proceedings pursuant to Section 15(b) and 19(h) of the Securities Exchange Act of 1934 (the “Exchange Act”) alleging that Ms. Hibler willfully violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.¹ The order instituting the proceedings alleged that Ms. Hibler, as a registered representative associated with a brokerage firm, induced certain customers to purchase securities issued by Westamerica Automotive Corporation (“Westamerica”), without disclosing that she would receive payment from a Westamerica agent for purchases made by her customers. In addition, the order instituting the proceedings alleged that, in a related criminal action, Ms. Hibler had pled guilty to an information

¹ See *In the Matter of Stephanie Hibler*, Securities Exchange Act Rel. No. 18786 (June 2, 1982).

charging misdemeanor violations of Section 10(b) of the Exchange Act and Rule 10b-5, and had been sentenced by the court.²

In December 1982, based on Ms. Hibler's offer of settlement concerning the Commission's administrative proceedings against her, the Commission entered the Order finding that Ms. Hibler willfully violated Section 10(b) of the Exchange Act and Rule 10b-5 and that she had been charged in the related criminal action with willful violations of Section 10(b) of the Exchange Act and Rule 10b-5 in connection with client purchases of Westamerica stock.³ On these findings, the Commission ordered that Ms. Hibler be "barred from being associated with any broker or dealer or investment adviser or investment company or affiliate of a broker or dealer or investment adviser or investment company" for an indefinite period of time.⁴

On December 19, 2012, Ms. Hibler filed a motion to vacate entirely the bars placed upon her by the Order, so that she could act as a solicitor for investment advisers registered under the Advisers Act.

On August 8, 2013, the Commission vacated the portion of the Order with respect to the bars on Ms. Hibler being associated with an investment adviser or investment company, but not the bars from her being associated with brokers or dealers.⁵

DISCUSSION

Under Rule 206(4)-3, an investment adviser may not pay cash fees to a solicitor who is "subject to a Commission order issued under section 203(f) of the [Advisers] Act."⁶ In addition, the Rule prohibits an investment adviser from paying cash fees to a solicitor who has been found by the Commission to have engaged in conduct specified in Section 203(e)(1), (5), or (6) of the Advisers Act.⁷ The Order causes Ms. Hibler to be disqualified under the Rule, and, accordingly, absent no-action relief, Ms. Hibler is unable to receive cash payments for the solicitation of advisory clients.

² See *U.S. v. Stephanie J. Hibler*, Litigation Rel. No. 9490 (Nov. 2, 1981) (filing of the information); *U.S. v. Stephanie J. Hibler*, Litigation Rel. 9529 (Dec. 16, 1981) (sentencing).

³ See *In the Matter of Stephanie Hibler*, Securities Exchange Act Rel. No. 19338 (Dec. 15, 1982).

⁴ *Id.*

⁵ See *In the Matter of Stephanie Hibler*, Securities Exchange Act Rel. No. 70140 (Aug. 8, 2013).

⁶ 17 C.F.R. 275.206(4)-3(a)(1)(ii)(A) (2013).

⁷ 17 C.F.R. 275.206(4)-3(a)(1)(ii)(C)

In support of Ms. Hibler's request, we note that the Commission has determined that Ms. Hibler's bar of being associated with an investment adviser is no longer necessary by vacating, notwithstanding the prior findings against her, the portion of the Order concerning this bar.⁸ Accordingly, there does not appear to be any reason to prohibit any investment adviser from paying Ms. Hibler for engaging in solicitation activities under the Rule 206(4)-3.

UNDERTAKINGS

In connection with this request, Ms. Hibler undertakes as follows:

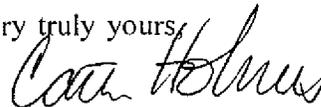
1. to conduct any cash solicitation arrangement entered into with any investment adviser registered pursuant to Section 203 of the Advisers Act in compliance with the terms of Rule 206(4)-3, except for the investment adviser's payment of cash solicitation fees, directly or indirectly, to Ms. Hibler, who is subject to the Order; and
2. that she has complied with the terms of the Order and will continue to do so, except for those portions vacated by the Commission.

CONCLUSION

We respectfully request the Staff to advise us that it will not recommend enforcement action to the Commission under Section 206(4) of the Advisers Act, or Rule 206(4)-3 thereunder, if an investment adviser registered pursuant to Section 203 of the Advisers Act pays to Ms. Hibler a cash solicitation fee for the solicitation of advisory clients, notwithstanding the Order, which has been in part vacated, that would have otherwise precluded such an investment adviser from paying such a fee to Ms. Hibler.

Should you have any further questions, please contact the undersigned.

Very truly yours,



CATHERINE DEBONO HOLMES of
Jeffer Mangels Butler & Mitchell LLP

CJD:cjd

cc: Stephanie Hibler

⁸ We note that Ms. Hibler was not originally sanctioned for conduct under the Advisers Act, although the Order included a bar on all activities associated with any investment adviser, among others.