

# Uniform Application for Investment Adviser Registration

FORM ADV

Part II - Page 1

## OMB APPROVAL

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hours per response ..... 9.407

Name of Investment Adviser:  
**EMPIRICAL FINANCE, LLC**

Address:	(Number and Street)	(City)	(State)	(Zip Code)	Area Code:	Telephone Number
	<b>17304 Preston Road, Suite 1230</b>	<b>Dallas,</b>	<b>Texas</b>	<b>75252</b>	<b>773</b>	<b>230-4727</b>

This part of Form ADV gives information about the investment adviser and its business for the use of clients.  
The information has not been approved or verified by any governmental authority.

## Table of Contents

<u>Item Number</u>	<u>Item</u>	<u>Page</u>
1	Advisory Services and Fees .....	2
2	Types of Clients .....	2
3	Types of Investments .....	3
4	Methods of Analysis, Sources of Information and Investment Strategies .....	3
5	Education and Business Standards .....	4
6	Education and Business Background .....	4
7	Other Business Activities .....	4
8	Other Financial Industry Activities or Affiliations.....	4
9	Participation or Interest in Client Transactions .....	5
10	Conditions for Managing Accounts.....	5
11	Review of Accounts .....	5
12	Investment or Brokerage Discretion.....	6
13	Additional Compensation.....	6
14	Balance Sheet .....	6
	Continuation Sheet .....	Schedule F
	Balance Sheet, if required .....	Schedule G

(Schedules A, B, C, D, and E are included with Part I of this Form, for the use of regulatory bodies, and are not distributed to clients.)

Potential persons who are to respond to the collection of information contained in this form  
are not required to respond unless the form displays a currently valid OMB control number.

Applicant:  
**Empirical Finance, LLC**

SEC File Number:  
**801 –**

Date:  
**December 14, 2010**

**1. A. Advisory Services and Fees.** (check the applicable boxes)

For each type of service provided, state the approximate % of total advisory billings from that service.  
(See instruction below.)

Applicant:

- |                                     |   |             |
|-------------------------------------|---|-------------|
| <input checked="" type="checkbox"/> | (1) Provides investment supervisory services .....  | <b>100%</b> |
| <input type="checkbox"/>            | (2) Manages investment advisory accounts not involving investment supervisory services .....  | _____ %     |
| <input type="checkbox"/>            | (3) Furnishes investment advice through consultations not included in either service described above .....  | _____ %     |
| <input type="checkbox"/>            | (4) Issues periodicals about securities by subscription .....   | _____ %     |
| <input type="checkbox"/>            | (5) Issues special reports about securities not included in any service described above .....   | _____ %     |
| <input type="checkbox"/>            | (6) Issues, not as part of any service described above, any charts, graphs, formulas, or other devices which clients may use to evaluate securities ..... | _____ %     |
| <input type="checkbox"/>            | (7) On more than an occasional basis, furnishes advice to clients on matters not involving securities .....   | _____ %     |
| <input type="checkbox"/>            | (8) Provides a timing service .....   | _____ %     |
| <input type="checkbox"/>            | (9) Furnishes advice about securities in any manner not described above .....   | _____ %     |

(Percentages should be based on applicant's last fiscal year. If applicant has not completed its first fiscal year, provide estimates of advisory billings for that year and state that the percentages are estimates.)

Yes No  
☐ ☒

B. Does applicant call any of the services it checked above financial planning or some similar term? .....

C. Applicant offers investment advisory services for: (check all that apply)

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> (1) A percentage of assets under management | <input type="checkbox"/> (4) Subscription fees |
| <input type="checkbox"/> (2) Hourly charges                                     | <input type="checkbox"/> (5) Commissions       |
| <input type="checkbox"/> (3) Fixed fees (not including subscription fees)       | <input checked="" type="checkbox"/> (6) Other  |

D. For each checked box in A above, describe on Schedule F:

- the services provided, including the name of any publication or report issued by the adviser on a subscription basis or for a fee
- applicant's basic fee schedule, how fees are charged and whether its fees are negotiable
- when compensation is payable, and if compensation is payable before service is provided, how a client may get a refund or may terminate an investment advisory contract before its expiration date

**2. Types of clients** — Applicant generally provides investment advice to: (check those that apply)

- |  |  |
|--|--|
| <input type="checkbox"/> A. Individuals                      | <input type="checkbox"/> E. Trusts, estates, or charitable organizations                               |
| <input type="checkbox"/> B. Banks or thrift institutions     | <input checked="" type="checkbox"/> F. Corporations or business entities other than those listed above |
| <input type="checkbox"/> C. Investment companies             | <input type="checkbox"/> G. Other (describe on Schedule F)   |
| <input type="checkbox"/> D. Pension and profit sharing plans |  |

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**801 -**

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**3. Types of Investments.** Applicant offers advice on the following: (check those that apply)

- |  |   |
|--|---|
| <input type="checkbox"/> A. Equity securities  | <input type="checkbox"/> H. United States government securities     |
| <input checked="" type="checkbox"/> (1) exchange-listed securities                     | <input type="checkbox"/> I. Options contracts on:                   |
| <input checked="" type="checkbox"/> (2) securities traded over-the-counter             | <input type="checkbox"/> (1) securities                             |
| <input type="checkbox"/> (3) foreign issues  | <input type="checkbox"/> (2) commodities                            |
| <input type="checkbox"/> B. Warrants   | <input type="checkbox"/> J. Futures contracts on:                   |
| <input type="checkbox"/> C. Corporate debt securities<br>(other than commercial paper) | <input type="checkbox"/> (1) tangibles                              |
| <input type="checkbox"/> D. Commercial Paper   | <input type="checkbox"/> (2) intangibles                            |
| <input type="checkbox"/> E. Certificates of deposit                                    | <input type="checkbox"/> K. Interests in partnerships investing in: |
| <input type="checkbox"/> F. Municipal securities                                       | <input type="checkbox"/> (1) real estate                            |
| <input type="checkbox"/> G. Investment company securities:                             | <input type="checkbox"/> (2) oil and gas interests                  |
| <input type="checkbox"/> (1) variable life insurance                                   | <input type="checkbox"/> (3) other (explain on Schedule F)          |
| <input type="checkbox"/> (2) variable annuities  | <input type="checkbox"/> L. Other (explain on Schedule F)           |
| <input type="checkbox"/> (3) mutual fund shares  |   |

**4. Methods of Analysis, Sources of Information, and Investment Strategies.**

A. Applicant's securities analysis methods include: (check those that apply)

- |   |   |
|---|---|
| (1) <input checked="" type="checkbox"/> Charting    | (4) <input checked="" type="checkbox"/> Cyclical                      |
| (2) <input checked="" type="checkbox"/> Fundamental | (5) <input checked="" type="checkbox"/> Other (explain on Schedule F) |
| (3) <input checked="" type="checkbox"/> Technical   |   |

B. The main sources of information applicant uses include: (check those that apply)

- |   |  |
|---|--|
| (1) <input checked="" type="checkbox"/> Financial newspapers and magazines  | (5) <input type="checkbox"/> Timing services   |
| (2) <input checked="" type="checkbox"/> Inspections of corporate activities | (6) <input checked="" type="checkbox"/> Annual reports, prospectuses, filings with the<br>Securities and Exchange Commission |
| (3) <input type="checkbox"/> Research materials prepared by others          | (7) <input checked="" type="checkbox"/> Company press releases   |
| (4) <input type="checkbox"/> Corporate rating services                      | (8) <input type="checkbox"/> Other (explain on Schedule F)   |

C. The investment strategies used to implement any investment advice given to clients include: (check those that apply)

- |  |  |
|--|--|
| (1) <input checked="" type="checkbox"/> Long term purchases (securities<br>held at least a year) | (5) <input type="checkbox"/> Margin transactions   |
| (2) <input checked="" type="checkbox"/> Short term purchases<br>(securities sold within a year)  | (6) <input type="checkbox"/> Option writing, including covered options,<br>uncovered options or spreading strategies |
| (3) <input checked="" type="checkbox"/> Trading (securities sold within 30 days)                 | (7) <input type="checkbox"/> Other (explain on Schedule F)   |
| (4) <input checked="" type="checkbox"/> Short sales  |  |

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**5. Education and Business Standards.**

Are there any general standards of education or business experience that applicant requires of those involved in determining or giving investment advice to clients? ..... Yes ☒ No ☐

(If yes, describe these standards on Schedule F.)

**6. Education and Business Background.**

For:

- each member of the investment committee or group that determines general investment advice to be given to clients, or
- if the applicant has no investment committee or group, each individual who determines general investment advice given to clients (if more than five, respond only for their supervisors)
- each principal executive officer of applicant or each person with similar status or performing similar functions.

On Schedule F, give the:

- name
- formal education after high school
- year of birth
- business background for the preceding five years

**7. Other Business Activities.** (check those that apply)

- ☐ A. Applicant is actively engaged in a business other than giving investment advice.
- ☐ B. Applicant sells products or services other than investment advice to clients.
- ☐ C. The principal business of applicant or its principal executive officers involves something other than providing investment advice.

(For each checked box describe the other activities, including the time spent on them, on Schedule F.)

**8. Other Financial Industry Activities or Affiliations.** (check those that apply)

- ☐ A. Applicant is registered (or has an application pending) as a securities broker-dealer.
- ☐ B. Applicant is registered (or has an application pending) as a futures commission merchant, commodity pool operator or commodity trading adviser.
- C. Applicant has arrangements that are material to its advisory business or its clients with a related person who is a:
- |  |  |
|--|--|
| <input type="checkbox"/> (1) broker-dealer   | <input type="checkbox"/> (7) accounting firm                                       |
| <input type="checkbox"/> (2) investment company  | <input type="checkbox"/> (8) law firm  |
| <input checked="" type="checkbox"/> (3) other investment adviser   | <input type="checkbox"/> (9) insurance company or agency                           |
| <input type="checkbox"/> (4) financial planning firm   | <input type="checkbox"/> (10) pension consultant                                   |
| <input type="checkbox"/> (5) commodity pool operator, commodity trading adviser or futures commission merchant | <input type="checkbox"/> (11) real estate broker or dealer                         |
| <input type="checkbox"/> (6) banking or thrift institution   | <input type="checkbox"/> (12) entity that creates or packages limited partnerships |

(For each checked box in C, on Schedule F identify the related person and describe the relationship and the arrangements.)

- D. Is applicant or a related person a general partner in any partnership in which clients are solicited to invest? ..... Yes ☒ No ☐

(If yes, describe on Schedule F the partnerships and what they invest in.)

Applicant:  
**Empirical Finance, LLC**

SEC File Number:  
**801 –**

Date:  
**December 14, 2010**

**9. Participation or Interest in Client Transactions.**

Applicant or a related person: (check those that apply)

- ☐ A. As principal, buys securities for itself from or sells securities it owns to any client.
- ☐ B. As broker or agent effects securities transactions for compensation for any client.
- ☐ C. As broker or agent for any person other than a client effects transactions in which client securities are sold to or bought from a brokerage customer.
- ☐ D. Recommends to clients that they buy or sell securities or investment products in which the applicant or a related person has some financial interest.
- ☒ E. Buys or sells for itself securities that it also recommends to clients.

(For each box checked, describe on Schedule F when the applicant or a related person engages in these transactions and what restrictions, internal procedures, or disclosures are used for conflicts of interest in those transactions.)

Describe, on Schedule F, your code of ethics, and state that you will provide a copy of your code of ethics to any client or prospective client upon request.

- 10. Conditions for Managing Accounts.** Does the applicant provide investment supervisory services, manage investment advisory accounts or hold itself out as providing financial planning or some similarly termed services *and* impose a minimum dollar value of assets or other conditions for starting or maintaining an account?

Yes No  
☐ ☒

(If yes, describe on Schedule F.)

- 11. Review of Accounts.** If applicant provides investment supervisory services, manages investment advisory accounts, or holds itself out as providing financial planning or some similarly termed services:

- A. Describe below the reviews and reviewers of the accounts. **For reviews**, include their frequency, different levels, and triggering factors. **For reviewers**, include the number of reviewers, their titles and functions, instructions they receive from applicant on performing reviews, and number of accounts assigned each.

See disclosure Item 11 on Schedule F.

- B. Describe below the nature and frequency of regular reports to clients on their accounts.

See disclosure Item 11 on Schedule F.

Applicant:  
**Empirical Finance, LLC**

SEC File Number:  
**801 –**

Date:  
**December 14, 2010**

**12. Investment or Brokerage Discretion.**

A. Does applicant or any related person have authority to determine, without obtaining specific client consent, the:

- |  |  |                                |
|--|--|--------------------------------|
| (1) securities to be bought or sold? .....               | Yes<br><input checked="" type="checkbox"/> | No<br><input type="checkbox"/> |
| (2) amount of the securities to be bought or sold? ..... | Yes<br><input checked="" type="checkbox"/> | No<br><input type="checkbox"/> |
| (3) broker or dealer to be used?.....                    | Yes<br><input checked="" type="checkbox"/> | No<br><input type="checkbox"/> |
| (4) commission rates paid?.....                          | Yes<br><input checked="" type="checkbox"/> | No<br><input type="checkbox"/> |

B. Does applicant or a related person suggest brokers to clients? ..... Yes ☒ No ☐

For each yes answer to A describe on Schedule F any limitations on the authority. For each yes to A(3), A(4) or B, describe on Schedule F the factors considered in selecting brokers and determining the reasonableness of their commissions. If the value of products, research and services given to the applicant or a related person is a factor, describe:

- the products, research and services
- whether clients may pay commissions higher than those obtainable from other brokers in return for those products and services
- whether research is used to service all of applicant's accounts or just those accounts paying for it; and
- any procedures the applicant used during the last fiscal year to direct client transactions to a particular broker in return for products and research services received.

**13. Additional Compensation.**

Does the applicant or a related person have any arrangements, oral or in writing, where it:

- |  |                                 |   |
|--|---------------------------------|---|
| A. is paid cash by or receives some economic benefit (including commissions, equipment or non-research services) from a non-client in connection with giving advice to clients?..... | Yes<br><input type="checkbox"/> | No<br><input checked="" type="checkbox"/> |
| B. directly or indirectly compensates any person for client referrals?.....  | Yes<br><input type="checkbox"/> | No<br><input checked="" type="checkbox"/> |

(For each yes, describe the arrangements on Schedule F.)

**14. Balance Sheet.** Applicant must provide a balance sheet for the most recent fiscal year on Schedule G if applicant:

- has custody of client funds or securities (unless applicant is registered or registering only with the Securities and Exchange Commission); or
- requires prepayment of more than \$500 in fees per client and 6 or more months in advance

Has applicant provided a Schedule G balance sheet? .....	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
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**Schedule F of  
Form ADV**

**Continuation Sheet for Form ADV Part II**

Applicant:	SEC File Number:	Date:
<b>EMPIRICAL FINANCE, LLC</b>	<b>801- 71697</b>	<b>December 14, 2010</b>

(Do not use this Schedule as a continuation sheet for Form ADV Part I or any other schedules.)

1. Full name of applicant exactly as stated in item 1A of Part I of Form ADV: <b>EMPIRICAL FINANCE, LLC</b>		IRS Empl. Ident. No.: <b>27-3001230</b>
Item of Form (identify)	Answer	
	<p><b>EMPIRICAL FINANCE, LLC</b> (“EMPIRICAL”) is an investment management firm that is registered with the Texas State Securities Board as an investment adviser that provides investment advisory and asset management services on a discretionary basis to corporations or other businesses by serving as investment manager to separately managed accounts.</p> <p>This schedule F narrative provides clients with information regarding EMPIRICAL’s qualifications, business practices, and nature of advisory services that should be considered before becoming an advisory client of the firm.</p> <p>Please contact Wesley Gray, Managing Member and Chief Compliance Officer, if you have any questions about this Schedule F narrative. Additional information about the firm is available at <a href="http://www.adviserinfo.sec.gov">www.adviserinfo.sec.gov</a>. You can search this site by a unique identifying number, known as a CRD number. The CRD number for the firm is 153905.</p>	
<b>Item 1.A.</b>	<p><b><u>ADVISORY SERVICES AND FEES</u></b></p> <p>EMPIRICAL has not completed its first fiscal year; accordingly, the estimates of advisory billings for a fiscal year and the estimated percentages of billing are 100% estimated, as indicated on the EMPIRICAL’s Form ADV Part II.</p>	
<b>Item 1.D.</b>	<p>EMPIRICAL provides discretionary portfolio management services where the investment advice provided is custom tailored to meet the needs and investment objectives of the specific client. Subject to any written guidelines, which the client may provide, the firm will be granted discretion and authority to manage the account. Accordingly, EMPIRICAL is authorized to perform various functions, at the client’s expense, without further approval from the client. Such functions include the determination of securities to be purchased/sold and the amount of securities to be purchased/sold. Once the portfolio is constructed, EMPIRICAL will provide continuous supervision and re-balancing of the portfolio as changes in market conditions and as client circumstances may require.</p> <p>Prior to engaging EMPIRICAL to provide any of the aforementioned investment advisory services, the client will be required to enter into one or more written agreements with EMPIRICAL setting forth the terms and conditions under which EMPIRICAL shall render its services (collectively the “Agreement”).</p> <p>Clients are advised to promptly notify EMPIRICAL if there are any material changes in their financial situation, investment objectives, or in the event they wish to alter any restrictions upon investment management services.</p>	

EMPIRICAL shall at no time have custody of any Client's funds or securities, as the services of an independent qualified custodian will be used for these asset management services. EMPIRICAL does not represent, warrant, or imply that the services or methods of analysis used by the firm can or will predict future results, successfully identify market tops or bottoms, or insulate clients from losses due to market corrections.

**General Information on Advisory Services and Fees**

Upon the client's engagement of EMPIRICAL to provide portfolio management services, EMPIRICAL shall perform such services for an annual fee based on a percentage of client assets under management (the "Management Fee") and a performance fee (the "Performance Fee").

The Management Fee will be exclusive of and in addition to brokerage commissions, transaction fees, and any other costs or expenses incurred by the client and payable to client's broker. EMPIRICAL will not receive any portion of these commissions, transaction fees, or other brokerage costs. The Management Fee will be calculated and charged on a monthly basis, in arrears, based upon the average asset value per month calculated at the end of each month, commencing on the last of the month that the client account is funded. The Management Fee is equal to 1.50% per annum.

The Performance Fee is equal to 20% of the annual increase in the net asset value of the client account (without regard to capital contributions or withdrawals) subject to a high water mark.

Lower fees for comparable services may be available from other sources. EMPIRICAL does not charge any prepaid fees, if a client cancels, any prepaid fees will be refunded on a pro-rated basis.

Client may terminate the Agreement, without penalty, upon written notice within five business days of the date of acceptance. After the five-day period, either EMPIRICAL or the client, upon ten (10) days written notice to the other, may terminate the Agreement.

**METHODS OF ANALYSIS, SOURCES OF INFORMATION, AND INVESTMENT STRATEGIES.**

EMPIRICAL uses an objective, quantitative approach to identify securities whose market values differ materially from their fundamental value. EMPIRICAL believes that a compelling portfolio of investments can be created by building: 1) long positions in business that are systematically undervalued and 2) short positions in systematically overvalued businesses. In order to identify mis-priced securities, EMPIRICAL utilizes various quantitative systems which have been previously tested and developed in academic literature. EMPIRICAL then takes these system concepts and performs the following: confirms if the system is empirically robust, determines if the system is realistic to implement, identifies ways in which the system can be improved, discovers if the system has a low correlation with the systems currently in operation, and if appropriate, approves the system for inclusion

**Item 4.A.(5)**



**Item 5**

as one of EMPIRICAL's searching algorithms.

**EDUCATION AND BUSINESS STANDARDS**

Generally, EMPIRICAL requires its employees to hold a college or an advanced degree and/or have relevant working experience in the securities industry. Any employee of EMPIRICAL acting in a representative capacity will be appropriately licensed or registered as such. All investment adviser representatives and associated persons will meet the examination or experience requirements of the state(s) in which they provide investment advisory services.

**Item 6**

**EDUCATION AND BUSINESS BACKGROUND**

**WESLEY R. GRAY**

Managing Member/CEO/Chief Compliance Officer

DOB: 5/2/1980

**Education**

PhD, Finance, University of Chicago Booth School of Business, 2010.

MBA, University of Chicago Booth School of Business, 2010.

Bachelor of Science, Economics, University of Pennsylvania, The Wharton School, 2002.

**Business Background**

*Managing Member*, Empirical Finance, LLC; January 2008 to Present.

*Marine Corps Office, 0203 Ground Intelligence Officer*, United States Marine Corps; June 2004 to February 2008.

**CLIFFORD TODD GRAY**

Managing Member

DOB: 11/14/1984

**Education**

MBA, University of Chicago Booth School of Business, 2010.

Bachelor of Arts, economics, Stanford University; 2007.

**Business Background**

*Managing Member*, Empirical Finance, LLC; June 2010 to Present.

*MBA Student*, University of Chicago Booth School of Business, September 2008 to June 2010.

*Consulting Associate*, Cambridge Associates; June 2007 to August 2008.

**CARLTON H. KANNER**

Managing Member

DOB: 8/31/1986

**Education**

Bachelor of Science, business administration with concentration in finance, Babson College, 2009.

**Business Background**

*Managing Member*, Empirical Finance, July 2010 to Present.

*Investment Management*, Pubco Corporation; April 2009 to Present.

Student, Babson College; September 2006 to May 2009.

**ANDREW EDDY KERN**

Managing Member

DOB: 3/3/1979.

**Education**

PhD, finance, University of Missouri, 2010.

MBA, University of Missouri, 2005.

BS, business, Truman State University, 2001.

**Business Background**

*Managing Member*, Empirical Finance, LLC; June 2010 to Present.

*Graduate Assistant*; University of Missouri, August 2003 to June 2010.

*Vice President*; Guggenheim Transparent Value, LLC; February 2010 to Present.

**Disclosure History**

In July 2008, Mr. Kern was found to have been in violation of an investment-related regulation with the State of Missouri. Mr. Kern was found to have transacted business as an unregistered investment adviser representative while associated with Kern Asset Management, Inc. An order was entered with the State of Missouri that restricted his registration as an investment adviser representative in Missouri as follows: Mr. Kern was asked to withdraw his registration as an investment adviser representative at that time and Mr. Kern must pay a \$4500.00 fine to the Investor Education and Protection Fund if he re-registers with the State of Missouri in that same capacity. Mr. Kern's failure to register as an investment advisor representative did not inflict any injury on investors, clients, the firm(s) or its representatives.

**OTHER FINANCIAL INDUSTRY ACTIVITIES OR AFFILIATIONS****Item 8.C.(3) and (12)**

Empirical Finance, LLC, a Delaware limited liability company ("Delaware LLC"), which is under common control with the Advisor by nature of the majority ownership of both entities by Mr. Wesley Gray, provides investment management services to the Empirical Search Strategies, L.P. (the "Fund"), a Delaware limited partnership.

**Item 8.D.**

Empirical Finance, LLC, a Delaware limited liability company, ("Delaware LLC") serves as the general partner to Empirical Search Strategies, L.P., a Delaware limited partnership (the "Fund"), which invests its assets in securities. **The Fund is closed and no longer accepting investors. EMPIRICAL's clients will not be solicited to invest in the Fund and it is expected that the Fund will be liquidated by December 31, 2010.**

**Item 9.E.**

**PARTICIPATION OR INTEREST IN CLIENT TRANSACTIONS**

EMPIRICAL or a related person may from time to time purchase or sell for its own account securities recommended by EMPIRICAL for the purchase and/or sale by clients of EMPIRICAL. However, any purchase or sale of a security by EMPIRICAL or a related person will be subject to EMPIRICAL's fiduciary duty to its clients. EMPIRICAL and its employees have a fiduciary duty to place the interests of clients ahead of their own interests. Records of all security transactions by EMPIRICAL and related persons will be maintained at EMPIRICAL's office and will be available for inspection by clients upon at least two business days prior notice.

**CODE OF ETHICS**

All EMPIRICAL personnel must act in an ethical and professional manner. In view of the foregoing, EMPIRICAL has determined to adopt a Code of Ethics (the "Code") to specify and prohibit certain types of transactions deemed to create conflicts of interest (or at least the potential for or the appearance of such a conflict), and to establish reporting requirements and enforcement procedures relating to personal trading by EMPIRICAL personnel. The Code was adopted to effectuate the purposes and objectives of Sections 204A and Section 206 of the Investment Advisers Act of 1940 (the "Advisers Act") and Rule 204-2 under the Advisers Act. The Code, which specifically deals with professional standards, insider trading, personal trading, gifts and entertainment, and fiduciary duties, establishes ideals for ethical conduct based upon fundamental principles of openness, integrity, honesty, and trust. EMPIRICAL will provide a copy of its Code of Ethics to any client or prospective client upon request.

**Item 11.A.**

**REVIEW OF ACCOUNTS**

The day-to-day supervision of the accounts is the responsibility of the principals of EMPIRICAL. Each investment account is reviewed at least quarterly for compliance with policy, suitability of investments and customer investment objectives. Other factors that would trigger a more frequent review are material market events, changes in the client's personal situation, or client request. Accounts are reviewed by Wes Gray, Cliff Gray, Carl Kanner, and Andy Kern.

**Item 11.B.**

**CLIENT REPORTING**

Client performance reporting requirements are determined by the terms of the Agreement. In all cases, net performance is reported on a quarterly basis to separate account clients.

Clients will receive statements from their broker-dealer. At a minimum, each client will receive a monthly report from his broker-dealer that will include a statement of account holdings, market value, broker commissions and advisory fees for the previous month.

### **INVESTMENT OR BROKERAGE DISCRETION**

#### **Items 12.A. (1) and (2)**

EMPIRICAL provides discretionary portfolio management services with respect to client accounts. EMPIRICAL and its clients will determine the level of discretion granted to EMPIRICAL prior to entering into any Agreement. Generally, however, clients will grant to EMPIRICAL complete discretion and authority to make all investment decisions with respect to the types of securities to be bought or sold or the amount of securities to be bought or sold. Notwithstanding the foregoing, all discretionary trades made by EMPIRICAL on behalf of a client will be in accordance with that client's articulated investment objectives and goals, and, as such, may be subject to various limitations. For example, a client may specify that investment in a particular market sector, type of instrument, or issuer shall not exceed a specified percentage of the value of such client's total portfolio.

#### **Items 12.A. (3) and (4)**

While EMPIRICAL will allow clients to maintain accounts at any brokerage firm, it generally recommends that clients establish prime brokerage accounts with Fidelity Prime, a subsidiary of Fidelity Capital Market, which is a division of National Financial Services LLC ("Fidelity"), a registered broker-dealer, Member NYSE, SIPC, to maintain custody of clients' assets and to effect trades for their accounts. However, the ultimate choice of custodian/broker/dealer will be left to the discretion of the client prior to entering into the Agreement. Where EMPIRICAL has discretion with respect to broker-dealer selection, EMPIRICAL will seek "best execution" for each trade, which is a combination of price, quality of execution and other factors. In making brokerage determinations, EMPIRICAL will consider a number of judgmental factors, including, without limitation: 1) clearance and settlement capabilities; 2) quality of confirmations and account statements; 3) the ability of the broker to settle the trade promptly and accurately; 4) the financial standing, reputation and integrity of the broker-dealer; 5) the broker-dealer's access to markets, research capabilities, market knowledge, and any "value added" characteristics; 6) EMPIRICAL's past experience with the broker-dealer; 7) EMPIRICAL's past experience with similar trades; and 8) any other factors. Recognizing the value of these factors, clients may pay a brokerage commission in excess of that which another broker might have charged for effecting the same transaction. "Best execution" is not synonymous with lowest brokerage commission. Consequently, in a particular transaction EMPIRICAL may pay a brokerage commission in excess of that which another broker might have charged for executing the same transaction. However, EMPIRICAL has determined that the research, execution and other services rendered by a particular broker merit greater than typical fees.

Consistent with the foregoing, EMPIRICAL may generate "soft dollars" from brokerage transactions to be used for "brokerage" or "research" services pursuant to the safe harbor of Section 28(e) of the Securities Exchange Act of 1934. **EMPIRICAL's policy is not to accept "soft dollars" with respect to brokerage transactions.**

**Item 12.B.**

EMPIRICAL shall generally recommend that its clients open brokerage accounts with Fidelity Prime Brokerage (“Fidelity”). However, clients may choose any other broker for custody and trading of their account, and are responsible for negotiating fees and commissions schedules.

**Miscellaneous**  
**PRIVACY POLICY**

EMPIRICAL considers customer privacy to be a fundamental aspect of its relationship with its clients. EMPIRICAL is committed to maintaining the confidentiality, integrity, and security of its current, prospective and former clients’ personal information.

EMPIRICAL does not disclose nonpublic personal information about its clients or former clients to any persons other than as described below.

EMPIRICAL collects information about its clients (such as name, address, social security number, assets and income) from discussions with clients, from documents that clients may deliver to EMPIRICAL (such as account applications) and in the course of providing services. In order to service its client accounts and effect client transactions, EMPIRICAL may provide client personal information to its affiliates and to firms that assist it in servicing client accounts and which have a need for such information. EMPIRICAL does not otherwise provide information about its clients to outside firms, organizations or individuals except as required by law. Any party that receives this information will use it only for the services and as allowed by applicable law or regulations, and is not permitted to share or use this information for any other purpose.

**PROXY VOTING**

Clients retain the right to vote all proxies which are solicited for securities held in their accounts. EMPIRICAL will not be required to take any action or render any advice with respect to the voting of proxies solicited by or with respect to the issuers of securities in which assets of the client account may be invested from time to time.

**Complete amended pages in full, circle amended items and file with execution page (page 1).**