

David Witherbee & Associates, Inc.
Investment Adviser Brochure
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This brochure provides information about the qualifications and business practices of David Witherbee & Associates, Inc. (“DWA”). If you have any questions about the contents of this brochure, please contact David Witherbee at (978) 371-2551 or dave@dwitherbee.com. The information in this brochure has not been approved or verified by the United States Securities and Exchange Commission or by any state securities authority.

Additional information about David Witherbee & Associates, Inc. also is available on the SEC’s website at www.adviserinfo.sec.gov.

Item 2: Material Changes

DWA does not have any applicable material changes at this time.

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Item 4: Advisory Business

- A. David Witherbee & Associates, Inc. (“DWA”) is a corporation formed on February 15, 2000 in the state of Massachusetts. DWA became registered with the Securities & Exchange Commission as an Investment Adviser Firm in April 2000. DWA’s President and sole owner is David Witherbee.
- B. DWA offers, to its clients, investment advisory services on a discretionary basis and, to the extent specifically requested by a client, financial planning and related consulting services.

Investment Advisory Services

DWA manages investment money for clients in an effort to meet individual financial goals and risk/reward levels. An asset allocation approach is used to take advantage of investment opportunities and to control excess volatility. DWA creates models as a guide to keep the allocation in line. Brokerage accounts are established at firms such as Fidelity Investments Institutional Services Company, Inc. (“Fidelity”) or Charles Schwab Co., Inc. (“Schwab”) where the funds are held in custody for safekeeping and for easy monitoring.

Financial Planning and Consulting Services (In Conjunction with Investment Advisory Services)

To the extent specifically requested by a client, DWA may provide financial planning and/or consulting services (investment and non-investment related matters, including estate planning, insurance planning, etc.) Neither DWA, nor any of its representatives, serves as an attorney, accountant or insurance agent, and no portion of DWA’s services should be construed as such. To the extent requested by a client, DWA may recommend the services of other professionals for certain non-investment implementation purposes (i.e. attorneys, accountants, insurance agents, etc.); including representatives of DWA in their separate registered/licensed capacities (see Item 10C). The client is under no obligation to engage the services of any such recommended professional. The client retains absolute discretion over all such implementation decisions and is free to accept or reject any recommendation from DWA.

Please Note: If the client engages any such recommended professional, and a dispute arises thereafter relative to such engagement, the client agrees to seek recourse exclusively from and against the engaged professional.

Client Obligations

In performing its services, DWA shall not be required to verify any information received from the client or from the client’s other professionals, and is expressly authorized to rely thereon. Moreover, each client is advised that it remains his/her/its responsibility to promptly notify DWA if there is ever any change in his/her/its financial situation or investment objectives for the purpose of reviewing/evaluating/revising DWA’s previous recommendations and/or services.

Disclosure Statement

A copy of DWA’s written Brochure (this document), as set forth on Part 2A of Form ADV, shall be provided to each client prior to, or contemporaneously with, the execution of the *Investment Advisory Agreement*.

- C. DWA shall provide investment advisory services specific to the needs of each client. An Investment Policy Statement will be agreed upon, which addresses portfolio risk/reward levels and income needs. Portfolios may be comprised of a combination of individual stocks, individual bonds and mutual funds, or it may be all funds, depending on the comfort level of the client. The client may, at anytime, impose reasonable restrictions, in writing, on DWA's services.
- D. DWA does not participate in a wrap fee program.
- E. As of January 31, 2012, DWA had \$115,000,000 in assets under management on a discretionary basis.

Item 5: Fees and Compensation

- A. DWA's annual investment advisory fee is based upon a percentage of the market value of the assets placed under DWA's management (between 0.50% and 1.25%) as follows:

<u>Market Value of Portfolio</u>	<u>Fee %</u>
\$10,000,000.01 to \$25,000,000	0.50%
\$7,000,000.01 to \$10,000,000	0.65%
\$2,000,000.01 to \$7,000,000	0.75%
\$500,000.01 to \$2,000,000	1.00%
Up to \$500,000	1.25%

- B. Both DWA's *Investment Advisory Agreement* and the custodial agreement (account application) authorize the broker-dealer/custodian to debit the account for the amount of DWA's investment advisory fee and to directly remit that management fee to DWA in compliance with regulatory procedures. If the client elects to be billed directly for fees incurred, payment is due upon receipt of DWA's invoice. DWA shall deduct fees and/or bill clients quarterly, in arrears, based upon the market value of the assets on the last business day of the previous quarter.
- C. Unless the client directs otherwise, DWA shall generally recommend that *Fidelity* or *Schwab* serve as the broker-dealer/custodian for client investment management assets. Broker-dealers/custodians such as *Fidelity* and *Schwab* charge brokerage commissions and/or transaction fees for effecting certain securities transactions (i.e. transaction fees are charged for certain no-load mutual funds; commissions are charged for individual equity and fixed income securities transactions). Clients will also incur, relative to all mutual fund and exchange traded fund purchases, charges imposed at the fund level (e.g. management fees and other fund expenses).

When beneficial to the client, individual fixed-income and/or equity transactions may be effected through Broker-dealers/custodians with whom DWA and/or the client have entered into arrangements for prime brokerage clearing services. This includes effecting certain client transactions through other SEC registered and FINRA member broker-dealers/custodians (in which event, the client generally will incur both the transaction fee charged by the executing broker-dealer/custodian and a "trade away" fee charged by the account broker-dealer/custodian).

- D. As noted in Item 5B, DWA's annual investment advisory fee shall be prorated and paid quarterly, in arrears, based upon the market value of the assets on the last business day of

the previous quarter. DWA does not accept pre-payment of fees, and therefore does not have a refund policy.

The *Investment Advisory Agreement* between DWA and the client will continue in effect until terminated by either party, by written notice, in accordance with the terms of the *Investment Advisory Agreement*. Upon termination, the client shall be responsible for paying the pro-rated portion of the advisory fee for services rendered but not previously billed.

E. **Commission Transactions.** In the event that the client desires, the client can engage DWA's Principal David Witherbee, in his individual capacity, as a registered representative of *Triad Advisors, Inc.* ("*Triad*"), an SEC registered and FINRA member broker-dealer/custodian, to implement investment recommendations on a commission basis. In the event the client chooses to purchase investment products through *Triad*, *Triad* will charge brokerage commissions to effect securities transactions, a portion of which commissions *Triad* shall pay to DWA's Principal David Witherbee, as applicable. The brokerage commissions charged by *Triad* may be higher or lower than those charged by other broker-dealers/custodians. In addition, *Triad*, as well as DWA's Principal David Witherbee, relative to commission mutual fund purchases, may also receive additional ongoing 12b-1 trailing commission compensation directly from the mutual fund company during the period that the client maintains the mutual fund investment.

1. The recommendation that a client purchase a commission product from *Triad* presents a **conflict of interest**, as the receipt of commissions may provide an incentive to recommend investment products based on commissions received, rather than on a particular client's need. No client is under any obligation to purchase any commission products.
2. Clients may purchase investment products recommended by DWA through other, non-affiliated brokers or agents.
3. DWA does not receive more than 50% of its revenue from advisory clients as a result of commissions or other compensation for the sale of investment products DWA recommends to its clients.
4. When DWA's representatives sell an investment product on a commission basis, DWA does not charge an advisory fee in addition to the commissions paid by the client for such product. When providing services on an advisory fee basis, DWA's representatives do not also receive commission compensation for such advisory services (except for any ongoing 12b-1 trailing commission compensation that may be received as previously discussed). However, a client may engage DWA to provide investment management services on an advisory fee basis and, separate from such advisory services, purchase an investment product from DWA's representatives on a commission basis.

Item 6: Performance-Based Fees and Side-by-Side Management

Neither DWA nor any supervised person of DWA accepts performance-based fees.

Item 7: Types of Clients

DWA's clients shall generally include individuals, business entities, retirement, pension and profit sharing plans, trusts, estates and charitable organizations. DWA does not generally require an annual minimum fee or asset level for investment advisory services.

Item 8: Methods of Analysis, Investment Strategies and Risk of Loss

- A. DWA's security analysis, in a combined effort with Grimes & Company, Inc. (see Item 10C), includes charting, fundamental analysis, technical analysis, and cyclical analysis. The research committee meets weekly in Westborough to discuss markets, news, and individual investment securities.

DWA utilizes a strategic asset allocation approach combined with a tactical investment management strategy. Portfolios are periodically (at least quarterly) reviewed and rebalanced in order to maintain long-term goals. The specific investment holdings within the portfolio are also reviewed and rebalanced in order to take advantage of market pricing and strong market sectors.

Please Note: Investment Risk. Different types of investments involve varying degrees of risk, which the client should be prepared to bear. It should not be assumed that future performance of any specific investment or investment strategy (including the investments and/or investment strategies recommended or undertaken by DWA) will be profitable or equal any specific performance level(s).

- B. DWA's methods of analysis do not present any significant or unusual risks. However, every method of analysis has its own inherent risks. An accurate market analysis can only produce a forecast of the direction of market values. There can be no assurances that a forecasted change in market value will materialize into actionable and/or profitable investment opportunities.

In addition to the fundamental investment strategies discussed above, DWA may also implement and/or recommend use of margin transactions, a strategy with a high level of inherent risk. A margin transaction occurs when an investor uses borrowed assets to purchase financial instruments. The investor generally obtains the borrowed assets by using other securities as collateral for the borrowed sum. The effect of purchasing a security using margin is to magnify any gains or losses sustained by the purchase of the financial instruments on margin.

Please note: To the extent that a client authorizes the use of margin, and margin is thereafter employed by DWA in the management of the client's investment portfolio, the market value of the client's account and corresponding fee payable by the client to DWA may be increased. As a result, in addition to understanding and assuming the additional principal risks associated with the use of margin, clients authorizing margin are advised of the potential **conflict of interest** whereby the client's decision to employ margin may correspondingly increase the management fee payable to DWA. Accordingly, the decision as to whether to employ margin is left totally to the discretion of the client.

- C. Currently, DWA primarily allocates client investment assets among various individual equities (stocks), debts (bonds), fixed income securities, mutual funds and/or exchange

traded funds (“ETFs”), on a discretionary basis in accordance with the client’s designated investment objective(s).

Item 9: Disciplinary Information

DWA has not been the subject of any disciplinary actions.

Item 10: Other Financial Industry Activities and Affiliations

- A. As disclosed above in Item 5E, DWA’s Principal, David Witherbee, is a registered representative of Triad Advisors, Inc., a FINRA member broker-dealer.
- B. Neither DWA, nor its representatives, are registered or have an application pending to register, as a futures commission merchant, commodity pool operator, a commodity trading advisor, or a representative of the foregoing.
- C. DWA shares research and trade functions with Grimes & Company, Inc. of Westborough, MA, a Registered Investment Advisor with the SEC. This relationship does not create a conflict of interest.
- D. DWA does not receive, directly or indirectly, compensation from investment advisors that it recommends or selects for its clients.

Item 11: Code of Ethics, Participation or Interest in Client Transactions and Personal Trading

- A. DWA maintains an investment policy relative to personal securities transactions. This policy is part of DWA’s overall Code of Ethics, which serves to establish a standard of business conduct for all of DWA’s representatives that is based upon fundamental principles of openness, integrity, honesty and trust, a copy of which is available upon request. In accordance with Section 204A of the Investment Advisers Act of 1940, DWA also maintains and enforces written policies reasonably designed to prevent the misuse of material non-public information by DWA or any person associated with DWA.
- B. Neither DWA nor any related person of DWA recommends, buys, or sells, for client accounts, securities in which DWA or any related person of DWA has a material financial interest.
- C. DWA and/or DWA’s representatives may buy or sell securities that are also recommended to clients. This practice may create a situation where DWA and/or representatives of the firm are in a position to materially benefit from the sale or purchase of those securities, thus creating a potential **conflict of interest**. DWA has a personal securities transaction policy in place to monitor the personal securities transactions and securities holdings of each of DWA’s “Access Persons.” DWA’s securities transaction policy requires that Access Persons of DWA must provide the Chief Compliance Officer or his/her designee with a written report of their current securities holdings within ten (10) days after becoming an Access Person. Additionally, each Access Person must provide the Chief Compliance Officer or his/her designee with a written report of the Access Person’s current securities holdings at least once each twelve (12) month period thereafter on a date DWA selects. However, at any time that DWA has only one Access Person, he or she shall not be required to submit any securities report as described above.

- D. DWA and/or representatives of DWA may buy or sell securities, at or around the same time as those securities are recommended to clients. As indicated above in Item 11C, DWA has a personal securities transaction policy in place to monitor the personal securities transaction and securities holdings of each of DWA's Access Persons.

Item 12: Brokerage Practices

- A. In the event that the client requests that DWA recommend a broker-dealer/custodian for execution and/or custodial services (exclusive of those clients that may direct DWA to use a specific broker-dealer/custodian), DWA generally recommends that investment management accounts be maintained at *Fidelity* or *Schwab*. Prior to engaging DWA to provide investment management services, the client will be required to enter into a formal *Investment Advisory Agreement* with DWA setting forth the terms and conditions under which DWA shall manage the client's assets, and a separate custodial/clearing agreement with each designated broker-dealer/custodian.

Factors that DWA considers in recommending *Fidelity* or *Schwab* (or any other broker-dealer/custodian to clients) include historical relationship with DWA, financial strength, reputation, execution capabilities, pricing, research and service. Although the commissions and/or transaction fees paid by DWA's clients shall comply with DWA's duty to obtain best execution, a client may pay a commission/transaction fee that is higher than another qualified broker-dealer/custodian might charge to effect the same transaction where DWA determines, in good faith, that the commission/transaction fee is reasonable in relation to the value of the brokerage and research services received. In seeking best execution, the determinative factor is not the lowest possible cost, but whether the transaction represents the best qualitative execution, taking into consideration the full range of custodial services, including the value of research provided, execution capability, commission rates, and responsiveness. Accordingly, although DWA will seek competitive rates, it may not necessarily obtain the lowest possible commission rates for client account transactions. The brokerage commissions or transaction fees charged by the designated broker-dealer/custodian are exclusive of, and in addition to, DWA's investment management fee. DWA's best execution responsibility is qualified if securities that it purchases for client accounts are mutual funds that trade at net asset value as determined at the daily market close.

1. Research and Additional Benefits

Although not a material consideration when determining whether to recommend that a client utilize the services of a particular broker-dealer/custodian, DWA may receive from *Fidelity* or *Schwab* (or another broker-dealer/custodian) without cost (and/or at a discount) support services and/or products, certain of which assist DWA to better monitor and service client accounts maintained at such institutions. Included within the support services that may be obtained by DWA may be investment-related research, pricing information and market data, software and other technology that provide access to client account data, compliance and/or practice management-related publications, discounted and/or gratis consulting services, discounted and/or gratis attendance at conferences, meetings, and other educational or social events, marketing support, computer hardware and/or software and/or other products used by DWA in furtherance of its investment advisory business operations.

As indicated above, certain support services and/or products that may be received may assist DWA in managing and administering client accounts. Others do not directly provide such assistance, but rather assist DWA to manage and further develop its business enterprise.

DWA's clients do not pay more for investment transactions effected and/or assets maintained at *Fidelity* or *Schwab*, as a result of this arrangement. There is no corresponding commitment made by DWA to *Fidelity* or *Schwab*, or any other entity, to invest any specific amount or percentage of client assets in any specific mutual funds, securities or other investment products as result of the above arrangement.

2. DWA does not receive referrals from broker-dealers/custodians.
 3. DWA does not generally accept directed brokerage arrangements (when a client requires that account transactions be effected through a specific broker-dealer/custodian). In such client directed arrangements, the client will negotiate terms and arrangements for their account with that broker-dealer/custodian, and DWA will not seek better execution services or prices from other broker-dealers/custodians or be able to "batch" the client's transactions for execution through other broker-dealers/custodians with orders for other accounts managed by DWA. As a result, a client may pay higher commissions, other transaction costs, greater spreads, or receive less favorable net prices on transactions for the account than would otherwise be incurred had the client determined to effect account transactions through alternative clearing arrangements that may be available through DWA.
- B. To the extent that DWA provides investment management services to its clients, the transactions for each client account generally will be effected independently, unless DWA decides to purchase or sell the same securities for several clients at approximately the same time. DWA may (but is not obligated to) combine or "aggregate" such orders to obtain best execution, to negotiate more favorable commission rates, or to allocate equitably among DWA's clients differences in prices and commissions or other transaction costs that might have been obtained had such orders been placed independently. Under this procedure, transactions will be averaged as to price and will be allocated among clients in proportion to the purchase and sale orders placed for each client account on any given day. DWA shall not receive any additional compensation or remuneration as a result of such aggregation.

Item 13: Review of Accounts

- A. For those clients to whom DWA provides investment advisory services, account reviews are conducted on an ongoing basis by DWA's Principals and/or representatives. All investment advisory clients are advised that it remains their responsibility to advise DWA of any changes in their investment objectives and/or financial situation. All clients (in person or via telephone) are encouraged to review (to the extent applicable) investment objectives, account performance, and other financial issues with DWA on an annual basis.
- B. DWA *may* conduct account reviews on an other than periodic basis upon the occurrence of a triggering event, such as a change in client investment objectives and/or financial situation, market corrections and client request.

- C. DWA may annually provide a written periodic report summarizing account activity and performance. Quarterly reports including position details, asset allocation charts, and advisory fee bills are provided directly by DWA to all investment advisory clients.

Item 14: Client Referrals and Other Compensation

- A. DWA does not receive an economic benefit, such as awards or prizes, as a result of providing investment advice or other advisory services to clients.
- B. DWA does not compensate any non-supervised person for client referrals.

Item 15: Custody

Clients are provided, at least quarterly, with written transaction confirmation notices and regular written summary account statements directly from the broker-dealer/custodian and/or program sponsor for the client accounts. These statements should be carefully reviewed. As stated in Item 13C, DWA provides Quarterly Reports which should be compared to the statements received directly from the broker-dealer/custodian.

Item 16: Investment Discretion

DWA provides investment advisory services on a discretionary basis. Prior to DWA assuming discretionary authority over a client's account, the client shall be required to execute an *Investment Advisory Agreement*, naming DWA as the client's attorney and agent in fact, granting DWA full authority to buy, sell, or otherwise effect investment transactions involving the assets in the client's name or found in the discretionary account. Limitations, such as trade restrictions for specific securities, may be placed on this authority, and should be submitted in writing.

Item 17: Voting Client Securities

- A. DWA does not vote client proxies. Clients maintain exclusive responsibility for: (1) directing the manner in which proxies solicited by issuers of securities beneficially owned by the client shall be voted, and (2) making all elections relative to any mergers, acquisitions, tender offers, bankruptcy proceedings or other type events pertaining to the client's investment assets.
- B. Clients will receive their proxies or other solicitations directly from their broker-dealer/custodian. Clients may contact DWA to discuss any questions they may have with a particular solicitation.

Item 18: Financial Information

- A. DWA never charges fees in advance. Rather, as stated in Item 5B, fees are charged in arrears at the end of each quarter.
- B. DWA is unaware of any financial condition that is reasonably likely to impair its ability to meet its contractual commitments relating to its discretionary authority over certain client accounts.

C. DWA has never been the subject of a bankruptcy petition.

ANY QUESTIONS?: The Registrant's Chief Compliance Officer, David Witherbee, remains available to address any questions that a client or prospective client may have regarding the above disclosures and arrangements.