

**Part 2A of Form ADV: *Firm Brochure***

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Updated  
02/07/2012

**This brochure provides information about the qualifications and business practices of Given Capital Management, LLC (hereinafter “GCM” or “firm” or “we”). If you have any questions about the contents of this brochure, please contact us at (831) 625-1530 or at [hgiven@givencap.com](mailto:hgiven@givencap.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 GCM is available on the SEC’s website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov). You can search this site by a unique identifying number, known as a CRD number. The CRD number for GCM is 133975**

## **Item 2. Summary of Material Changes**

On July 28, 2010, the United State Securities and Exchange Commission (“SEC”) published “Amendments to Form ADV” which amends the disclosure document that we provide to clients as required by SEC Rules. This Brochure is a new document prepared according to the SEC’s new requirements and rules. As such, this document is materially different in structure and requires certain new information that our previous brochure did not require.

In the future, this Item will discuss specific material changes that are made to the Brochure and provide clients with a summary of such changes.

In the past we have offered or delivered information about our qualifications and business practices to clients on at least an annual basis. Pursuant to new SEC Rules, we will ensure that you receive a summary of any materials changes to this and subsequent Brochures within 120 days of the close of our business’ fiscal year. We may further provide other ongoing disclosure information about material changes as necessary.

**Item 3. Table of Contents**

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#### **Item 4.        Advisory Business**

GCM is a fee-based SEC-registered investment adviser with its principal place of business located in Carmel, California. Our firm has been in business since 2002, with Howard Carl Given, II, Managing Member and Chief Compliance Officer, as sole direct owner.

##### Investment Supervisory Services

Our firm provides continuous advice to a client regarding the investment of client funds based on the individual needs of the client. Through personal discussions in which goals and objectives based on a client's particular circumstances are established, we develop a client's personal investment policy and create and manage a portfolio based on that policy. During our data-gathering process, we determine the client's individual objectives, time horizons, risk tolerance, and liquidity needs. We may also review and discuss a client's prior investment history, as well as family composition and background.

We will manage advisory accounts on a discretionary and non-discretionary basis, as agreed with each client. Account supervision is guided by the stated objectives of the client (i.e., maximum capital appreciation, growth, income, or growth and income), as well as tax considerations. Clients may impose reasonable restrictions on investing in certain securities, types of securities, or industry sectors. Discretionary assets under our firm's management were \$37,812,698 and non-discretionary assets were \$906,896 as of December 31, 2011.

We may also provide additional advice which is investment advisory in nature (i.e., opinions relating to asset allocation, cash flow, risk management and various other financial planning issues), but do not consider ourselves a financial planner or provider of general financial services beyond the scope of services as outlined in our advisory agreement(s).

Our investment recommendations are not limited to any specific product or service offered by a broker dealer or insurance company and will generally include advice regarding exchange-listed and over-the-counter securities, corporate debt securities, "no-load" or "load-waived" mutual funds, exchange traded funds ("ETFs"), warrants, municipal securities, United States governmental securities, and commercial paper.

##### Consulting Services

Clients can also receive investment advice on a more limited basis. This may include advice on only an isolated area(s) of concern such as investment strategy consultations, estate planning, retirement planning, or any other specific topic.

#### **Item 5.        Fees and Compensation**

##### Investment Supervisory Services

Our fees for Investment Supervisory Services are based upon a percentage of assets under management at an annual rate of 1.25% for equity accounts and 0.40% for fixed income accounts. Our annual fees

for balanced accounts range from 0.50% to 1.20%, depending on the mix of equities and non-equities, as well as particular circumstances and requirements of each client.

### Consulting Services

GCM charges clients on an hourly or fixed fee basis, depending on the specific arrangement reach with a client. While fees vary, based on the complexity of the project and the range of services we are retained to provide, our typical hourly rate is \$150 per hour. Our fixed fees range from a minimum of \$1.00 to a maximum amount mutually agreed upon by our firm and the client, but will not exceed an annual rate of 1.25% of the aggregate account value.

### Fees in General

Generally, pursuant to client instructions and consent, we will directly debit their custodial accounts.

Management fees are billed in advance, at the beginning of each quarter, based upon the billable balance on the last day of the previous calendar quarter, pro-rated for additions and withdrawals.

Fixed fees are due and payable upon completion of the plan or services and payment is expected within 30 days of client's receipt of the bill. Hourly fees are payable as services are performed. We will estimate how long a project will take and provide the client with a quote based on the hourly rate. GCM may require an advanced deposit and the balance becomes due and payable upon completion of the service. The deposit amount is noted in the agreement the client signs.

Fees and account minimums for all services are negotiable based upon certain criteria (i.e. anticipated future earning capacity, anticipated future additional assets, dollar amount of assets to be managed, related accounts, account composition, negotiations with client, competitive considerations, etc.). Discounts, not generally available to our advisory clients, may be offered to family members and friends.

We may group certain related client accounts for the purposes of determining the account size and/or annualized fee.

Certain legacy client agreements may be governed by fee schedules different from those listed above.

Under no circumstances will we earn fees in excess of \$500 more than six months in advance of services rendered.

### Account Termination

Clients will have a period of five (5) business days from the date of signing the agreement to unconditionally rescind the agreement and receive a full refund of all fees. Thereafter, the client may terminate the agreement by providing us with a 30-day written notice at our principal place of business. Upon termination of any account, any prepaid, unearned fees will be promptly refunded, and any earned, unpaid fees will be due and payable.

Mutual Fund and ETF Fees and Expenses: All fees paid to our firm for investment advisory services are separate and distinct from the fees and expenses charged by mutual funds and ETFs to their shareholders. These fees and expenses are described in each fund's prospectus. These fees will generally include a management fee, other fund expenses, and a possible distribution fee. A client could invest in a mutual fund or and ETF directly, without the services of our firm. In that case, the client would not receive the services provided by us which are designed, among other things, to assist the client in determining which mutual fund or funds or ETFs are most appropriate to each client's financial condition and objectives. Accordingly, the client should review both the fees charged by the funds and ETFs and the fees charged by us to fully understand the total amount of fees to be paid by the client and to thereby evaluate the advisory services being provided.

#### Brokerage and Custodian Fees

In addition to advisory fees paid to our firm, clients will also be responsible for all transaction, brokerage, and custodian fees incurred as part of their account management. Please see Item 12 of this Brochure for important disclosures regarding our brokerage practices.

### **Item 6. Performance-Based Fees and Side-By-Side Management**

We do not charge any fees based on a share of capital gains on or capital appreciation of the assets of a client.

### **Item 7. Types of Clients**

Our firm generally provides advisory services to individuals, pension and profit sharing plans, trusts, estates, and charitable organizations.

For new clients engaging our services after 3/1/11, we generally require a minimum of \$200,000 of assets under management or a minimum fee of \$1,500 per year, whichever is greater. However, this minimum account size is negotiable under certain circumstances.

### **Item 8. Methods of Analysis, Investment Strategies and Risk of Loss**

Our firm employs the following methods of analysis to formulate client recommendations:

Fundamental Analysis: Fundamental analysis of a business involves analyzing its income statement, financial statements and health, its management and competitive advantages, and its competitors and markets. Fundamental analysis school of thought maintains that markets may mis-price a security in the short run but that the "correct" price will eventually be reached. Profits can be made by trading the mis-priced security and then waiting for the market to recognize its "mistake" and re-price the security. However, fundamental analysis does not attempt to anticipate market movements. This presents a potential risk, as the price of a security can move up or down along with the overall market regardless of the economic and financial factors considered in evaluating the stock. Therefore, unforeseen market conditions and/or company developments may result in significant price fluctuations that can lead to investor losses.

Technical Analysis: Technical analysis seeks to identify price patterns and trends in financial markets and attempt to exploit those patterns. We follow and examine such indicators as price, volume, moving averages of the price and market sentiment.

Charting: In this type of technical analysis, we review charts of market and security activity in an attempt to identify when the market is moving up or down and to predict when how long the trend may last and when that trend might reverse.

Technical analysis does not consider the underlying financial condition of a company. This presents a risk in that a poorly-managed or financially unsound company may underperform regardless of market movement.

Cyclical analysis: Cyclical analysis concentrates on business cycles as well as asset market cycles, examining alternating phases of rises (expansion) and falls (contraction) in volumes, prices and returns. Since cyclical analysis is based on examination of rising and falling trends, investors bear risk of mis-timing, with a specific trend lasting longer or shorter than expected.

Mutual fund and/or ETF analysis: We look at the experience and track record of the manager of the mutual fund or ETF in an attempt to determine if that manager has demonstrated an ability to invest over a period of time and in different economic conditions. We also look at the underlying assets in a mutual fund or ETF in an attempt to determine if there is significant overlap in the underlying investments held in other fund in the client's portfolio. We also monitor the funds or ETFs in an attempt to determine if they are continuing to follow their stated investment strategy.

A risk of mutual fund and/or ETF analysis is that, as in all securities investments, past performance does not guarantee future results. A manager who has been successful may not be able to replicate that success in the future. In addition, as we do not control the underlying investments in a fund or ETF, managers of different funds held by the client may purchase the same security, increasing the risk to the client if that security were to fall in value. There is also a risk that a manager may deviate from the stated investment mandate or strategy of the fund or ETF, which could make the fund or ETF less suitable of the client's portfolio.

Risks for all forms of analysis: Our securities analysis method relies on the assumption that the companies whose securities we purchase and sell, the rating agencies that review these securities, and other publicly-available sources of information about these securities, are providing accurate and unbiased data. While we are alert to indications that data may be incorrect, there is always a risk that our analysis may be compromised by inaccurate or misleading information.

Our firm employs the following investment strategies to implement investment advice given to clients:

Long-term purchases: We mostly purchase securities with the idea of holding them in the clients account for a year or longer. We may do this because we believe the securities to be currently undervalued. We may do this because we want exposure to a particular asset class over time, regardless of the current projection for this class.

A risk in a long-term purchase strategy is that, by holding the security for this length of time, we may not take advantages of short-term gains that could be profitable to a client. Moreover, if our predictions are incorrect, a security may decline sharply in value before we make the decision to sell.

Short-term purchases: At times, we may also purchase securities with the idea of selling them within a relatively short time (typically a year or less). We do this in an attempt to take advantage of conditions that we believe will soon result in a price swing in the securities we purchase.

A risk in a short-term purchase strategy is that, should the anticipated price swing not materialize, we are left with the option of having a long-term investment in a security that was designed to be a short-term purchase, or potentially taking a loss. In addition, this strategy involves more frequent trading than does a longer-term strategy, and will result in increased brokerage and other transaction-related costs, as well as less favorable tax treatment of short-term capital gains.

Trading: We purchase securities with the idea of selling them very quickly (typically within 30 days or less). We do this in an attempt to take advantage of our predictions of brief price swings.

A risk in a short-term purchase is the potential for sudden losses if the anticipated price swing does not materialize. Moreover, should the anticipated price swing not materialize, we are left with the option of having a long-term investment in a security that was designed to be a short-term purchase, or potentially taking a loss. In addition, this strategy involves more frequent trading than does a longer-term strategy, and will result in increased brokerage and other transaction-related costs, as well as less favorable tax treatment of short-term capital gains.

*Clients should understand that investing in any securities, including mutual funds, involves a risk of loss of both income and principal.*

#### **Item 9. Disciplinary Information**

Our firm has no reportable disciplinary events to disclose.

#### **Item 10. Other Financial Industry Activities and Affiliations**

Neither our firm nor our employees engage in any other financial industry activities or have any other financial industry affiliations.

#### **Item 11. Code of Ethics, Participation in Client Transactions and Personal Trading**

##### Code of Ethics Disclosure

Our firm has adopted a Code of Ethics which sets forth high ethical standards of business conduct that we require of our employees, including compliance with applicable federal securities laws. Our Code of Ethics includes policies and procedures for the review of quarterly securities transactions reports as well as initial and annual securities holdings reports that must be submitted by the firm's access persons. Among other things, our Code of Ethics also requires the prior approval of any acquisition of securities in a limited offering (e.g., private placement) or an initial public offering. Our code provides



for oversight, enforcement and recordkeeping provisions. A copy of our Code of Ethics is available to our advisory clients and prospective clients upon request to Howard Given, II, Managing Member Compliance Officer, at the firm's principal office address.

Our firm or individuals associated with our firm may buy or sell securities identical to those recommended to customers for their personal accounts. In addition, any related person(s) may have an interest or position in a certain security(ies) which may also be recommended to a client.

It is the expressed policy of our firm that no person employed by us may purchase or sell any security prior to a transaction(s) being implemented for an advisory account, and therefore, preventing such employees from benefiting from transactions placed on behalf of advisory accounts.

As these situations represent a conflict of interest, we have established the following restrictions in order to ensure its fiduciary responsibilities:

- 1) No principal or employee of our firm may buy or sell securities for their personal portfolio(s) where their decision is substantially derived, in whole or in part, by reason of his or her employment unless the information is also available to the investing public on reasonable inquiry. No principal or employee of our firm may prefer his or her own interest to that of the advisory client.
- 2) We maintain a list of all securities holdings for our firm and anyone associated with this advisory practice with access to advisory recommendations.
- 3) We do not allow employee trades to be aggregated with client trades.
- 4) We emphasize the unrestricted right of the client to decline to implement any advice rendered, except in situations where our firm is granted discretionary authority.
- 5) All of our principals and employees must act in accordance with all applicable Federal and State regulations governing registered investment advisory practices.
- 6) Any individual not in observance of the above may be subject to disciplinary action or termination.

## **Item 12. Brokerage Practices**

We do not have any formal or informal soft-dollar arrangements and do not receive any soft-dollar benefits.

Our firm endeavors to select those brokers or dealers which will provide the best services at the lowest commission rates possible. The reasonableness of commissions is based on the broker's ability to provide professional services, competitive commission rates, research and other services which will help us in providing investment management services to clients. We may, therefore recommend or select a broker who provides useful research and securities transaction services even though a lower commission may be charged by a broker who offers no research services and minimal securities

transaction assistance. Research services may be useful in servicing all our clients, and not all of such research may be useful for the account for which the particular transaction was effected.

Our firm participates in the Schwab Institutional (SI) services program offered to independent investment advisers by Charles Schwab & Company, Inc. (“Schwab”), a FINRA-registered broker dealer. Clients in need of brokerage and custodial services may have Schwab recommended to them. As part of the SI program, our firm receives benefits that it would not receive if it did not offer investment. These benefits include: receipt of duplicate client confirmations and bundled duplicate statements; access to a trading desk serving SI participants exclusively; access to block trading which provides the ability to aggregate securities transactions and then allocate the appropriate shares to client accounts; ability to have investment advisory fees deducted directly from client account; access, for a fee, to an electronic communication network for client order entry and account information; receipt of compliance publications; and access to mutual funds which generally require significantly higher minimum initial investments or are generally available only to institutional investors. The benefits received through participation in the SI program may or may not depend upon the amount of transactions directed to, or amount of assets custodied by, Charles Schwab & Co., Inc. Participation in the SI program results a potential conflict of interest for our firm, as the receipt of the above benefits creates an incentive for us to recommend Schwab to clients.

Nonetheless, we have reviewed the services of Schwab and recommend the services based on a number of factors. These factors include the professional services offered, commission rates, and the custodial platform provided to clients. While, based on our business model, we will not seek to exercise discretion to negotiate trades among various brokers on behalf of clients, we will, however, periodically attempt to negotiate lower commission rates for our clients with Schwab.

#### Trade Aggregation

We may aggregate client trades when doing so is advantageous to our clients. Mostly, we will batch client transactions to receive volume discounts and to obtain better and more uniform pricing across client accounts. If we determine that aggregation of trades in a certain situation will be beneficial to our clients, transactions will be averaged as to price and will be allocated among our clients in proportion to the purchase and sale orders placed from each client account on any given day (also known as a pro-rata allocation procedure).

### **Item 13. Review of Accounts**

#### Investment Supervisory Services

Howard Given, II, Managing Member and Chief Compliance Officer, will continuously monitor the underlying securities in client accounts and perform at least weekly reviews of account holdings for all clients. Accounts are reviewed for consistency with client investment strategy, asset allocation, risk tolerance and performance relative to the appropriate benchmark. More frequent reviews may be triggered by changes in an account holder’s personal, tax or financial status. Economic and macroeconomic specific events may also trigger reviews.

In addition to the monthly statements and confirmations of transactions that clients receive from their broker dealer, our firm will provide quarterly holdings, income, and purchase and sale reports.

**Item 14. Client Referrals and Other Compensation**

Our firm does not receive any additional compensation from third parties for providing investment advice to its clients and does not compensate anyone for client referrals.

**Item 15. Custody**

We urge all of our management clients to carefully review and compare their quarterly reviews of account holdings and/or performance results to those they receive from their custodian.

**Item 16. Investment Discretion**

For clients granting us discretionary authority to determine which securities and the amounts of securities that are to be bought or sold for their account(s), we requests that such authority be granted in writing, typically in the executed advisory agreement.

Should the client wish to impose reasonable limitations on this discretionary authority, such limitations shall be included in this written authority statement. Clients may change/amend these limitations as desired. Such amendments must be submitted to us by the client in writing.

**Item 17. Voting Client Securities**

Advisory clients may elect to delegate their proxy voting authority to us. Alternatively, clients may, at their election, choose to receive proxies related to their own accounts, in which case we may consult with clients as requested. With respect to ERISA accounts, we will vote proxies unless the plan documents specifically reserve the plan sponsor's right to vote proxies. To direct us to vote a proxy in a particular manner, clients should contact Howard Given, II by telephone, electronic mail, or in writing.

When we have discretion to vote proxies for our clients, we will vote those proxies in the best interests of its clients and in accordance our established policies and procedures. Our firm will retain all proxy voting books and records for the requisite period of time, including a copy of each proxy statement received, a record of each vote cast, a copy of any document created by us that was material to making a decision how to vote proxies, and a copy of each written client request for information on how the adviser voted proxies. If our firm has a conflict of interest in voting a particular action, we will notify the client of the conflict and retain an independent third-party to cast a vote.

Clients may obtain a copy of our complete proxy voting policies and procedures by contacting Howard Given, II directly. Clients may request, in writing, information on how proxies for his/her shares were voted. If any client requests a copy of our complete proxy policies and procedures or how we voted proxies for his/her account(s), we will promptly provide such information to the client.

We will neither advise nor act on behalf of the client in legal proceedings involving companies whose securities are held in the client's account(s), including, but not limited to, the filing of "Proofs of Claim" in class action settlements. If desired, clients may direct us to transmit copies of class action notices to the client or a third party. Upon such direction, we will make commercially reasonable efforts to forward such notices in a timely manner.

**Item 18. Financial Information**

Under no circumstances will we earn fees in excess of \$500 more than six months in advance of services rendered.

**Part 2B of Form ADV: *Brochure Supplement***

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03/01/11

**This brochure supplement provides information about Howard C. Given II that supplements the Given Capital Management, LLC brochure. You should have received a copy of that brochure. Please contact Howard Given, II if you did not receive our brochure or if you have any questions about the contents of this supplement.**

**Item 2. Educational Background and Business Experience**

Howard Carl Given, II, Managing Member and Chief Compliance Officer

Year of Birth: 1953

Education:

Howard Given, II graduated from the University of California Davis with a B.A. degree in 1975 and from the University of California Los Angeles with an MBA in 1977.

Business Background:

Given Capital Management, LLC, Managing Member and Chief Compliance Officer from 11/2003 to Present (firm name has been changed from Given and Dini Investment Management).

Given Investment Management, Partner from 10/1994 to 11/2003

Kidder Peabody, Financial Advisor from 12/1992 to 10/1994

**Item 3. Disciplinary Information**

Howard Given, II does not have any history of reportable disciplinary events.

**Item 4. Other Business Activities**

Howard Given, II is not currently involved in any outside business activities.

**Item 5. Additional Compensation**

Mr. Given does not receive any additional compensation from third parties for providing investment advice to its clients and does not compensate anyone for client referrals.

**Item 6. Supervision**

Since Mr. Given is the sole owner and investment adviser representative of Given Capital Management, LLC, he is solely responsible for all supervision and formulation and monitoring of investment advice offered to clients.