

# **Berman Capital Advisors, LLC**

Part 2A of Form ADV

## **The Brochure**

March 1, 2012

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This Brochure provides information about the qualifications and business practices of Berman Capital Advisors, LLC. If you have questions about the content of this brochure, please contact us at 404-554-4999, or Jill Asrael at [jill.asrael@bermancapitaladv.com](mailto:jill.asrael@bermancapitaladv.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 Berman Capital Advisors, LLC is also available on the SEC's website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).

References to Berman Capital Advisors, LLC as a "registered investment adviser" or any reference to being "registered" do not imply a certain level of skill or training.

## Material Changes

This Brochure contains information about Berman Capital Advisors, LLC (“BCA”), and that information has materially changed since it was last published on 3/31/2011. The material changes include:

- Wendell S. Reilly joined BCA in October 2011 as Chairman, and he has assumed a minority ownership in BCA.
- Jill Asrael joined BCA in October 2011 as Chief Financial Officer, and has assumed a minority ownership in BCA. She replaced Geoffrey Lasda as Chief Compliance Officer.

BCA will provide a summary of any material changes to our Brochure by March 30<sup>th</sup> each year. We may also provide updated disclosure information about material changes on a more frequent basis as warranted. Our Brochure may be requested by contacting Jill Asrael at 404-554-4996 or at [jill.asrael@bermancapitaladv.com](mailto:jill.asrael@bermancapitaladv.com).

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## Advisory Business

Berman Capital Advisors, LLC ("BCA" or "Adviser") is a Georgia limited liability company that has been in business since 2010. BCA was founded by Justin F. Berman, who is also the majority owner.

### *Services*

BCA provides non-discretionary investment advisory services defined as giving continuous investment advice to a client, and/or making investments for a client based on the individual needs of a client on a managed account basis. The Adviser, through personal discussions with its clients in which goals and objectives based on a client's particular circumstances are identified, assists the client in developing a personal investment policy. The Adviser then manages the client's assets based on that policy.

The Adviser currently provides these investment advisory services as a co-adviser with Massey, Quick & Co., LLC ("MQ"), an unaffiliated SEC registered investment adviser pursuant to investment advisory agreements entered into by and among the Adviser, MQ and each client. Pursuant to the investment advisory agreements, MQ is responsible for the investment and reinvestment of client assets. The Adviser is responsible for monitoring and supervising the investment recommendations and decisions of MQ and furnishing clients recommendations. Client assets are allocated among various investment managers ("Investment Managers") unaffiliated with the Adviser that manage private investment funds or vehicles or managed accounts (collectively, the "Portfolio Funds"). To meet minimum investment amount requirements of certain Portfolio Funds, MQ may recommend that client assets be pooled into and invested through intermediary funds created by MQ ("Intermediary Funds"), which in turn invest directly in certain Portfolio Funds. The Adviser consults with a client prior to allocating the client's assets to a Portfolio Fund (whether directly or indirectly through an Intermediary Fund) and/or reallocating a client's assets among one or more Portfolio Funds and will do so only upon receipt of approval by the client.

The Intermediary Funds will only be offered to clients of the Adviser and MQ to provide a means of aggregating the client's assets with the assets of other clients in order to meet minimum investment amount requirements of Portfolio Funds. The Adviser and MQ will advise clients which Portfolio Funds or Intermediary Funds are appropriate to the client's financial condition and objectives.

Where a client invests in an Intermediary Fund, such investment will be in a special class of interests that is not charged additional management fees (i.e., fees calculated based on the amount of assets invested by the client) for services MQ (or the applicable affiliate of MQ) provides to the Intermediary Fund; however, for certain Intermediary Funds MQ (or the applicable affiliate of MQ) will be entitled to receive performance-based compensation (i.e., compensation calculated based on the capital gains or capital appreciation experienced by the

investment in the Intermediary Funds) and/ or fees for manager research and due diligence with respect to such investment. Given the additional compensation payable to MQ and its affiliates with respect to the investment of client's assets in the Intermediary Fund, the recommendations relating to the Intermediary Funds are subject to a conflict of interest.

At the direction of the client, BCA may allocate client assets to certain private investment funds, introduced to BCA by members of BCA's Board of Advisors, which are independent of the Investment Managers selected by MQ. No compensation is paid to a member of the Board for introducing a fund nor does BCA receive any compensation for making the recommendation.

Clients who invest in the Intermediary Funds or the private investment funds will pay their pro rata portion of fund fees and expenses as are more fully disclosed in the applicable private offering memoranda. Prospective investors in the Intermediary Funds and private investment funds are advised to review the applicable fund private offering memorandum for additional disclosure regarding fees and expenses, rights of withdrawal and other matters pertaining to those funds.

As of December 31, 2011, BCA manages approximately \$1,178,316,594 on a non-discretionary basis. BCA does not manage any assets on a discretionary basis.

## **Fees and Compensation**

BCA is paid fees based on assets advised and not on a transactional basis. Generally fees are payable quarterly, in arrears, on the basis of the value of the assets in the account as of the end of each calendar quarter. Any accounts opened or closed during a calendar quarter will have the advisory fee pro-rated for the period. In certain circumstances, fees may be negotiated and are set forth in the investment advisory agreement. Fees payable to the Adviser for services provided pursuant to the investment advisory agreements will be determined, in the Advisor's discretion, on a client-by-client basis, and may include a different rate, or a flat annual fee paid quarterly. Clients have the option to have fees deducted from their accounts, or to be billed for the fees incurred.

The annual fees for advisory services provided under the investment advisory agreement generally will be tiered, as follows:

## **Wealth Management and Financial Planning**

Wealth management and financial planning services include ongoing comprehensive financial planning (estate planning, income tax planning, estate tax planning, charitable gift planning, cash flow analysis, asset protection strategies and business continuity planning), the development and maintenance of investment policy, manager selection and monitoring, portfolio construction, ongoing due diligence and monthly reporting.

#### Fees charged on Equity Assets Under Management

- 1.25% on the first \$10,000,000
- 0.90% from \$10,000,001 to \$25,000,000
- 0.75% from \$25,000,001 to \$75,000,000
- 0.65% from \$75,000,001 to \$150,000,000
- 0.50% from \$150,000,001 and above

#### Fees charged on Fixed Income Assets Under Management

- 0.15% on the first \$50,000,000
- 0.08% from \$50,000,001 to \$100,000,000
- 0.04% from \$100,000,001 and above

### Investment Consulting

Investment consulting services include the development and maintenance of investment policy, manager selection and monitoring, portfolio construction, ongoing due diligence and monthly reporting. Investments/Accounts that are not recommended by MQ and are not included for purposes of the advisory fee calculation will be charged a reporting fee of \$250 per account per annum. In addition, any added costs to report on legacy positions that require performance backdating, or any special project costs, will be passed on directly to the client.

#### Fees Charged on Equity Assets Under Management:

- 1.00% on the first \$10,000,000
- 0.75% from \$10,000,001 to \$25,000,000
- 0.65% from \$25,000,001 to \$75,000,000
- 0.50% from \$75,000,001 to \$150,000,000
- 0.35% from \$150,000,001 and above

#### Fees charged on Fixed Income Assets Under Management

- 0.15% on the first \$50,000,000
- 0.08% from \$50,000,001 to \$100,000,000
- 0.04% from \$100,000,001 and above

Where BCA and MQ are co-advisers to an account, BCA and MQ will share these fees.

All clients should understand that all fees paid to the Advisers for investment advisory services are separate and distinct from the fees and expenses charged to clients by the Investment Managers of the Portfolio Funds to which client assets may be allocated. A complete explanation of these expenses in connection with or charged by such Investment Managers will be fully disclosed to clients. Where the Portfolio Fund is an investment fund, all fees and expenses are generally described in the applicable Fund's private offering memorandum. BCA receives no compensation from the Investment Managers.

Clients may be required to pay other fees related to their accounts, separate from the advisory fees charged by BCA. These fees and expenses may include:

- Custodial fees
- Brokerage commissions and transaction fees
- SEC fees
- Internal fees charged by mutual funds and exchange traded funds (“ETFs”)
- Other fees and taxes on brokerage accounts and securities transactions

BCA’s co-adviser, MQ, has created and manages Intermediary Funds, as previously discussed. BCA does not receive any additional compensation from MQ for recommending that clients invest in the Intermediary Funds. However, for certain Intermediary Funds, MQ (or the applicable affiliate of MQ) will be entitled to receive performance-based compensation (i.e., compensation calculated based on the capital gains or capital appreciation experienced by the Intermediary Funds) and/or fees for manager research and due diligence with respect to such investment. Given the additional compensation payable to MQ and its affiliates with respect to the investment of client’s assets in the Intermediary Fund, the recommendations relating to the Intermediary Funds are subject to a conflict of interest. Benefits to invest in the Intermediary Fund include, but are not limited to, access to underlying Investment Managers well below their stated relationship minimums, and are reviewed on a case by case basis.

## **Financial Planning**

Financial Planning Services include ongoing comprehensive financial planning (estate planning, income tax planning, estate tax planning, charitable gift planning, cash flow analysis, asset protection strategies and business continuity planning), the development and maintenance of investment policy, and reporting.

The annual fee for these services is negotiated on a case by case basis, and is payable quarterly in arrears.

## **Investment Advisory Agreement and Termination**

Each client’s investment advisory agreement will continue in effect until either party terminates the agreement on 30 days' prior written notice to the other party(ies) (email notice will not suffice), which written notice must be signed by the terminating party. The actual terms of a client relationship, which may differ from the above, will be reflected in the investment advisory agreement.

## **Performance Based Fees and Side-by-Side Management**

BCA does not charge any performance based fees. Some of the Portfolio Funds, discussed above, may charge a performance based fee. However, BCA does not receive any portion of any performance based fee a manager may charge. Performance based fees are based on a share of capital gains on or capital appreciation of the assets in the account.

## **Types of Clients**

BCA offers services to high net worth individuals, families, trusts, business entities, endowments and foundations that generally have \$10,000,000 or more to dedicate to advisory services. At the Adviser's sole discretion, the stated minimum investment or fee may be waived based on certain criteria (e.g., future additional capital, related accounts, account composition, etc.).

## **Methods of Analysis, Investment strategies and Risk of Loss**

Although the Adviser will utilize information, reports and data from certain Investment Managers and various external sources, its investment advice with respect to client portfolios will be based primarily upon MQ's internal research and analytical capabilities. MQ is responsible for performing due diligence on the Investment Managers. When MQ is performing due diligence on Investment Managers, MQ will review and consider many factors including historical returns, volatility, manager experience, style, drawdowns, turnover, and operational procedures. MQ will conduct both in-person meetings and statistical screenings prior to the engagement of any Investment Manager. In addition, periodic performance/ logistical updates are conducted in order to ascertain that the Investment Manager still fulfills a client's mandate and goals.

The Adviser monitors and supervises the investment recommendations of MQ through frequent conference calls with MQ's Investment Committee executives, MQ research team, and face to face meetings with the partners of MQ. Additionally, Adviser may participate in due diligence meetings, interviews and conference calls with Investment Managers. Pursuant to the investment advisory agreements executed by the Adviser's clients, the Adviser is responsible for monitoring and supervising the investment recommendations and decisions of MQ and furnishing clients with the corresponding proposed portfolio recommendations. The Adviser may recommend termination of Investment Managers when they do not meet performance objectives due to a change in management, inability to alter their view given a changing market, being too risky or not risky enough, and other factors.

BCA may recommend investment opportunities which are introduced to BCA through family and/or business associates, such as the Board of Advisors. MQ will not be responsible for conducting due diligence on these investment opportunities.

The Adviser follows a “multi-manager” investment approach pursuant to which all of the managed accounts are allocated among a number of Investment Managers who manage Portfolio Funds. The Adviser provides advice in connection with the selection of such Investment Managers and with the subsequent review and analysis of the performance of such Investment Managers. Investment strategies employed by Investment Managers recommended by the Adviser for investment by clients may include, without limitation: long/short, opportunistic, short-selling, private placements, futures, currencies, international investing, arbitrage, and special situations. Client accounts are dependent on the continued service and active trading efforts of its Independent Managers and employees. If the services of any Independent Managers with the Adviser were to discontinue or lapse for any reason, client portfolios could be adversely affected.

All investments have inherent risks. Potential risks of proposed investments may include lack of liquidity, leverage, and loss of principal. Clients should understand and be prepared to bear the risk of loss. Over short or even long periods of time performance may be impacted by various factors including, among others:

- Market conditions – the prices of, and the income generated by, the securities owned by clients may decline due to market conditions and other factors, including those directly involving the issuers of securities held by clients.
- Manager selection – the identification of Independent Managers representing high quality businesses and management teams is a difficult task, and there are no assurances that such opportunities will be successfully recognized over the long term.
- Investment Managers Invest Independently – the Investment Managers will generally invest wholly independently of one another and may at times hold economically offsetting positions.
- Key individuals – the success of the Adviser will depend upon the ability of certain employees of the Adviser and MQ. In the event these individuals were to become unable to effectively participate in the management of clients, the consequences to the client may be material and adverse and could lead to premature termination.

BCA manages risk in several ways. Diversification is the primary method for managing risk. On-going monitoring, and the quantitative and qualitative analysis of the Investment Managers to which we allocate client assets and sizing allocations accordingly also assists us in managing risk of loss.

Although BCA works with its clients to develop an investment policy based on each client’s investment objectives and financial circumstances, there can be no guarantee that investment objectives will be met.



## **Disciplinary Information**

Neither BCA nor any of its affiliates has been the subject of any material legal or disciplinary events.

## **Other Financial Industry Activities and Affiliations**

Neither the Adviser nor any of its representatives are registered, or are pending registration, as a broker/dealer, a futures commission merchant, a commodity pool operator, a commodity trading adviser, insurance agency, real estate broker or dealer, or as a representative thereof. In the case where the Adviser may recommend other investment advisers, the Adviser receives no additional compensation either directly or indirectly from such recommendations.

Wendell Reilly, Chairman, is a Manager of Peachtree Equity Partners, a private equity firm specializing in structured equity investments in middle-market companies. Peachtree Equity Partners may serve as General Partner to certain private equity funds, which are independent of BCA. This relationship may create a conflict of interest for Mr. Reilly in allocating his time. However, every effort is made to help ensure that he is available to clients of BCA.

BCA's Board of Advisors is comprised of unaffiliated industry professionals, otherwise unaffiliated with BCA, who provide guidance and mentoring to BCA and its staff regarding areas such as business development, client acquisition and client retention. They do not engage in providing advisory services to clients of BCA. BCA pays each member a de minimis fee to compensate them for their time.

## **Code of Ethics, Participation or Interest in Client Transactions and Personal Trading**

The Adviser's principal and personnel do at times purchase and sell securities that the Adviser recommends for its investment advisory clients. These purchases and sales may be for their own accounts, or accounts in which they have a financial interest or over which they have control. Clients will not be provided with notification of any such occurrences. This may present a conflict of interest for the Adviser. Personal trading is permitted pursuant to the Adviser's policies and procedures, which include a pre-clearing process for transactions by certain defined personnel. These procedures are designed to prevent and detect any account activity that may violate the Adviser's policies or applicable laws.

The Adviser has adopted a written code of ethics (the "Code of Ethics") pursuant to Rule 204A-1 of the Advisers Act which applies to the Adviser, its employees and certain related persons. The Code of Ethics is administered by the Adviser's Chief Compliance Officer or her designees. Each client and prospective client may obtain a copy of the Code of Ethics by submitting a written

request to Jill Asrael at 3475 Lenox Road , Suite 970, Atlanta, GA 30326 or via email at [admin@bermancapitaladv.com](mailto:admin@bermancapitaladv.com).

### *Code of Ethics*

The following is a summary of the Code of Ethics:

#### *Standard of Conduct*

Employees of the Adviser are required to operate at the highest level of ethical standards in keeping with the Adviser's fiduciary duties to clients, and in compliance with all applicable laws. Employees have a duty to place the interest of clients first and to avoid conflicts of interest.

#### *Confidentiality*

Information about the Adviser's operations and investment strategies and the clients ( unless otherwise consented to by the client) is strictly confidential and, pursuant to our Privacy Policy, will not be disclosed to anyone outside the Adviser and its consultants and agents, unless required by law or government agency upon prior notice to the Chief Compliance Officer.

#### *Conflicts of Interests*

Employees of the Adviser may not use any confidential information or otherwise take inappropriate advantage of their position for the purpose of furthering any private interest or as a means of making any personal gain. Employees of the Adviser and their immediate families may not accept any benefit from a client or person who does business with the Adviser, except for normal business courtesies and non-cash gifts of nominal value.

### *Insider Trading*

Trading securities, while in possession of material nonpublic information, or improperly communicating that information to others is frequently called "insider trading." Insider trading is prohibited and may expose an employee to stringent penalties.

### *Trading for Personal Accounts*

Employees must disclose all personal accounts and all current securities holdings for which such persons are beneficial owners (i) upon commencing employment with the Adviser, (ii) immediately upon opening any new personal brokerage account and (iii) annually thereafter (noting any changes in such accounts); and employees must provide copies of all brokerage statements for accounts in which the employee has a beneficial ownership to the Chief Compliance Officer or her designee on a quarterly basis . This may be addressed by the firm's receipt of duplicate statements directly from the broker.

### *Reporting Violations*

Employees are required to promptly report to the Chief Compliance Officer any actual or potential conflicts of interest, violations of any government or regulatory law, rule or regulation or violations of the Adviser's policies and procedures, including, without limitation, the Code of Ethics. Any action taken against a person who reports violation or potential violation shall be a violation of the Code of Ethics.

## Brokerage Practices

The Investment Managers selected by the Adviser to manage the assets of each client have the discretion to determine the brokers or dealers to be used with respect to transactions of the Portfolio Funds and to negotiate brokerage commissions and the manner of execution of transactions. The Adviser has no authority with respect to the choice of brokers or dealers.

When recommending broker/dealers to clients for custody purposes (primarily Pershing, Bank of NY, Schwab, and Northern Trust), the Adviser seeks to obtain the best execution, taking into account the following factors:

- Ability to effect prompt and reliable executions at favorable prices (including the applicable dealer spread or commission, if any)
- The operational efficiency with which transactions are effected (prompt and accurate confirmation and delivery) in light of size of order and difficulty of execution
- Financial strength, integrity and stability of the broker/dealer
- Quality, comprehensiveness and frequency of available research services considered to be of value to Adviser and its client
- Value of brokerage services over and above trade execution
- Competitiveness of commission rates

Although the Adviser generally seeks competitive commission rates and commission equivalents, it will not necessarily recommend the broker/dealer that charges the lowest commission or equivalent. Transactions may involve specialized services on the part of a broker/dealer, which may justify higher commissions and equivalents than would be the case for more routine services. The Adviser may recommend a certain custodian, however the final decisions rest with the clients.

Although not a material consideration when determining what to recommend that a client utilize the services of a particular broker/dealer or custodian, the Adviser may receive from the broker/dealer or custodian support, services or products. Services may include, but are not limited to, investment related research, pricing information and market data, practice management tools, and marketing support.

## **Review of Accounts**

Per the advisory agreement, client accounts are reviewed by BCA on an ongoing basis. All investment advisory clients are advised that it remains their responsibility to advise BCA of any changes in their investment objective or financial situation. All clients are encouraged to review all accounts, investment objectives, and overall financial situation with the Adviser at least on an annual basis, but more frequently if the situation dictates.

The Adviser may conduct account reviews on an as needed basis upon the occurrence of a triggering event, such as a change in the client investment objectives and/or financial situation, market events or corrections, and client request.

The clients will be sent transactional and holding reports directly from the custodian, or plan administrator, at least quarterly. In addition, clients will be updated on the status of their account on a monthly basis, through a written summary report where requested.

## **Client Referrals and Other Compensation**

The Adviser may receive indirect economic benefit from the custodians in the form of investment related research, pricing information and market data, practice management tools, and marketing support. The client does not pay more as a result of the Adviser accepting, or not accepting, any of the custodian's services offered.

BCA does not pay for or receive payment for client referrals.

## **Custody**

The client assets will be held by an independent and unaffiliated custodian. The Adviser is authorized by the client to give approved instructions to the custodian with respect to investment decisions regarding the client assets. The custodian is authorized and directed to effect transactions, deliver securities, and otherwise take such actions as Adviser will direct in connection with the performance of the Adviser's obligations to the client's account.

Since BCA may be authorized to deduct its fees directly from a client's account, it is deemed to have custody of client assets. Account custodians send statements directly to the account owners on at least a quarterly basis. Clients should carefully review these statements and should compare these statements to any account information provided by BCA.

## Investment Discretion

BCA does not have discretion over the clients' assets. As a non-discretionary engagement, the client agrees that the Adviser cannot effect any account transactions without obtaining prior verbal consent to any such transaction(s) from the client. Thus, in the event of a market correction, if the client is unavailable and the Adviser cannot obtain the client's consent, BCA may be unable to effect any decision-making until the client is contacted.

## Voting Client Securities

The Adviser does not vote proxies. The client will be responsible for directing the manner in which proxies solicited by issuers of securities beneficially owned by the client will be voted, and for all legal proceedings or other type events pertaining to client assets, including, but not limited to, class action lawsuits. BCA has adopted formal written Proxy Voting policy in its Compliance Manual that states the aforementioned procedures. BCA will provide its clients a copy of this policy upon the client's request free of charge. Any such requests or questions should be made to the Jill Asrael at 404-554-4996 or [jill.asrael@bermancapitaladv.com](mailto:jill.asrael@bermancapitaladv.com).

Independent Managers generally have the authority to vote proxies solicited by and with respect to issuers of securities held in allocated accounts managed by such Independent Managers.

## Financial Information

Fees are billed quarterly in arrears, unless otherwise agreed upon.

The Adviser is unaware of any financial condition that is reasonably likely to impair its ability to meet its contractual commitments relating to the operations of all general business practices. Further, the Adviser has not been the subject of a bankruptcy petition.

### *Additional Disclosure*

Clients and prospective clients should contact MQ directly for any inquiries regarding its advisory business. Clients and prospective clients may obtain a copy of MQ's Form ADV and Code of Ethics upon request by contacting Mark Delotto by email at [Mark.Delotto@masseyquick.com](mailto:Mark.Delotto@masseyquick.com) or, by calling 973-525-1000.