



## **DeWaay Capital Management, Inc.**

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**March 23, 2015**

**FORM ADV PART 2A  
BROCHURE**

This brochure provides information about the qualifications and business practices of DeWaay Capital Management, Inc. If you have any questions about the contents of this brochure, please contact us at 800-722-9861. 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 DeWaay Capital Management, Inc. is available on the SEC's website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).

DeWaay Capital Management, Inc. is a registered investment adviser. Registration with the United States Securities and Exchange Commission or any state securities authority does not imply a certain level of skill or training.

## Item 2 Material Changes

Form ADV Part 2 requires registered investment advisers to amend their brochure when information becomes materially inaccurate. If there are any material changes to an adviser's disclosure brochure, the adviser is required to notify you and provide you with a description of the material changes.

Since our annual updating amendment dated March 28, 2014, we updated our brochure with the following changes.

### Additional Disclosures

On or around January 9, 2012, Donald DeWaay, DeWaay Capital Management, Inc. ("DCM") and other affiliates were named as defendants in two class-action lawsuits involving DeWaay Financial Network, LLC, et al (LACV6033 and LACV6034) in the District Court of Decatur County Iowa. The actions involved claims related to the sale of certain private placement investments to the plaintiffs and putative class members by the defendants. The plaintiffs claimed, among other things, that defendants failed to exercise due diligence in vetting the various investments and/or that certain investments were not appropriate for the individual investor. Plaintiffs sought for themselves and all similarly-situated investors rescission and/or compensatory damages plus interest, costs and attorneys' fees.

*On January 30, 2013, a hearing was held on the issues of certification of the putative classes and approval of a proposed settlement. The District Court of Decatur County Iowa concluded the following:*

- 1. That the motion to consolidate the class actions should be granted.*
- 2. The class should be certified as consisting of all those investors who purchased one of the named securities (Exhibit on file with the court) from any of the defendants.*
- 3. The class should be certified as a non-opt out, limited-fund class. In that connection, the temporary injunction previously entered herein shall be made permanent.*
- 4. The proposed settlement agreement should be approved in its entirety, with the settlement amount being \$3 million, \$200k of which would be paid by DCM.*
- 5. Fees, expenses and awards are approved to be paid from the settlement funds.*
- 6. That counsel should prepare and submit to the court for signature a formal judgment entry.*

*On 04/15/2013, the court issued a Ruling Regarding Class Certification and Approval of Final Settlement consistent with the above.*

*On 05/31/2013, the court issued an Order of Final Settlement, Approval and Judgment. Subsequently, on 06/25/2013, a notice of appeal was filed with the Iowa Court of Appeals.*

In 2007, certain DCM clients purchased certain promissory notes (the "IPofA Notes") issued by IPofA 5201 Lender, LLC ("5201 Lender"), through DCM and its affiliated broker-dealer firm DeWaay Financial Network. On or around November 15, 2007, 5201 Lender filed Chapter 11 Bankruptcy in the United States Bankruptcy Court for the Southern District of New York. In 2009, DCM issued notes in order to return to clients monies invested and lost in the IPofA Notes. In addition to the promissory note, each affected client initially received 30% of their investment. A private placement memorandum and subscription agreement were provided to the investors to whom the DCM Notes were issued, and the subject clients executed a settlement agreement, release and assignment in connection with the offering. Interest payments ceased when DCM was named as a defendant in certain class-action matters filed on or around January 9, 2012 in the District Court of Decatur County Iowa (see separate disclosure relating to the class-action matters described above), which included as plaintiffs, among others, the same investor-clients who had executed the settlement, release and assignment in connection with the DCM Notes.

### Affiliated Entities

Commerce Wealth Advisers, LLC (CWA), an affiliated SEC-registered investment adviser has ceased conducting advisory business and investment adviser representatives of our firm are no longer dually registered with CWA. We have removed the previous related disclosures.

We have also updated our disclosures related to third party management services and fees as follows:

### Third Party Management Services

Through negotiated arrangements with certain registered investment advisers, DCM may refer client accounts to or select third-party investment advisers ("Sub-Adviser") to actively manage a portion of, or the entire, client account. Under such arrangements, DCM will make recommendations regarding the suitability of a Sub-Adviser or investment style based on, but not limited to, the client's long-term goals, risk tolerance, time horizon, account profile, investment objectives, and/or financial situation. All Sub-Advisers that DCM utilizes on behalf of clients must be either a state licensed investment adviser or a federally registered investment adviser.

In addition to evaluating and recommending Sub-Advisers to clients, DCM will gather information from the client about the client's financial situation, investment objectives, and reasonable restrictions the client may wish to impose on the management of the account. DCM then monitors the Sub-Adviser's performance; reviews reports provided to the client; contacts the client periodically to review the client's financial situation and objectives; and assists the client in understanding and evaluating the services provided by the Sub-Adviser. Clients should promptly notify DCM of any material change in their financial situation, investment objectives, or account restrictions. Recommended or selected Sub-Advisers may utilize a diversified investment portfolio model or multiple models in the management of the client accounts, which may include proprietary model portfolios or they may select other third party investment advisers or "model managers" in the management of the client accounts.

Clients may or may not be required to enter into separate investment management agreements with Sub-Advisers and/or other third party money managers. Otherwise, the Sub-Adviser will actively manage the client's portfolio based on discretionary authority granted to DCM through the investment management agreement between the client and DCM. DCM may pay a portion or all of its management fee to the Sub-Adviser in return for the investment management and trading services provided to the client or the Sub-Adviser and DCM will each be paid a portion of the advisory fee directly from the client accounts through the custodian holding the client accounts based on client written instructions for the debit of fees and the investment management agreement between the client and DCM. DCM may manage a portion of client assets directly or obtain investment discretion or trading authority over these client assets. DCM may also assume discretionary authority contractually with the client to hire and fire Sub-Advisers and reallocate the client's assets to other Sub-Advisers, where we deem the action to be in the best interest of the client.

Where clients enter into contracts directly with Sub-Advisers, they may terminate the contract in accordance with those agreements. Where the client enters into an investment management agreement with DCM, either party may terminate the investment management agreement at any time without penalty upon written notice to the other party. If the client terminates the investment management agreement within five days of the date of acceptance the client will receive a full refund of all fees and expenses. If termination occurs prior to the end of a calendar billing period, DCM will refund to the client, on a pro-rata basis, any pre-paid, unearned fees.

In addition to evaluating and recommending Sub-Advisers to clients, DCM may utilize Sub-Advisers to provide portfolio recommendations or analysis specific to certain portfolios or securities but will not actively engage Sub-Advisers in the management of the account. DCM may pay a portion or all of its management fee to the Sub-Adviser in return for the recommendation or analysis services.

### Third Party Management Fees

Depending upon the manager or models selected, on an annualized basis, the fee for third party management services generally ranges from 0.35% to 2.25% of assets under management, payable quarterly in advance. DCM may pay a portion or all of its management fee to the Sub-Adviser in return for investment management and trading services provided to the client or the Sub-Adviser and DCM will each be paid a portion of the advisory fee directly from the client accounts through the custodian holding the client accounts based on client written instructions for the debit of fees and the investment management agreement between the client and DCM. In all cases, the fee arrangements for each client will be described in the Agreement or Agreements executed prior to commencement of investment management services. In certain cases, other fees or fee payment arrangements may be negotiated.

"Qualified" clients, who sign an agreement with Sub-Advisers, may enter into arrangements where performance-based fees are assessed for advisory services offered by the Sub-Adviser. All clients referred to such Sub-Advisers who charge performance-based fees must have at least \$1,000,000 under management with the Sub-Adviser or must certify to the Sub-Adviser that such client has a net worth of at least \$2,000,000 at the time of entering into the performance-based fee arrangement.

The Sub-Adviser's fees, and fee-paying arrangements, are established and payable in accordance with the Form ADV Part 2A or other equivalent disclosure document provided by each Sub-Adviser to whom DCM selects for or refers its clients. These fees may or may not be negotiable. In addition, if the investment program recommended to a client is a wrap fee program, the client will also receive the Form ADV Part 2A supplement or equivalent wrap fee brochure provided by the sponsor of the program. In limited circumstances, DCM may share in a portion of the advisory fee, including performance-based fees collected by the Sub-Adviser, and in such cases, the client will not be assessed an additional fee by DCM. Clients referred to such Sub-Advisers are informed that lower fees may be available elsewhere, and they are under no obligation to accept DCM's recommendation for a particular Sub-Adviser.

### Trade Errors

In the event a trading error occurs in your account, our policy is to restore your account to the position it should have been in had the trading error not occurred. Depending on the circumstances, corrective actions may include canceling the trade, adjusting an allocation, and/or reimbursing the account. For accounts held at TD Ameritrade, if a profit results from correcting the trade, DCM will not retain the profit as all net gains (positive error accounts balances resulting from trade corrections) will be moved to a TD Ameritrade error account and subsequently donated to charity.

**If you have questions about these changes or would like to receive a copy of our updated brochure, please contact us at 8711 Northpark Court, Johnston, IA 50131 or 800-722-9861.**

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## Item 4 Advisory Business

DeWaay Capital Management, Inc. (DCM) is an investment adviser registered with the Securities and Exchange Commission (SEC) under the Investment Advisers Act of 1940, as amended. The Firm has been registered with the SEC since May 20, 2002.

DCM offers personalized investment advisory services to individuals, pension and profit sharing plans, trusts, estates, charitable organizations, corporations, and other business entities. Our services and fee arrangements are described on the following pages.

Individuals who are appropriately licensed, qualified, and/or authorized to provide advisory services on behalf of DCM are known as Investment Adviser Representatives (IARs).

### Principal Owners

DCM is 100% owned by Donald G. DeWaay, Chief Executive Officer. Mark B. Davis is our Chief Compliance Officer.

### Portfolio Management Services

DCM primarily provides continuous discretionary asset management and investment advisory services. In order to participate in these services, clients generally grant discretion and authority to DCM to manage their accounts and to perform various functions, at the client's expense, without further approval from the client. Such functions include making all investment decisions for the (a) securities purchased or sold; (b) the amount of securities purchased or sold; (c) the timing of trade execution of securities purchased or sold. Once the portfolio is constructed, DCM provides ongoing management, monitoring and re-balancing of the portfolio as changes in market conditions and client circumstances may require. In limited circumstances, the Firm may enter into non-discretionary arrangements with clients whereby clients must provide approval to the Firm prior to the execution of a trade.

DCM is actively engaged in managing diversified portfolios of equity, fixed income and cash equivalent securities on behalf of its clients. Equity portfolios are comprised of securities that are diversified not only by market capitalization but also by economic and industry sectors. Fixed income portfolios are diversified by issuer and maturity date. Portfolios may include but are not limited to individual stocks, taxable and municipal bonds, exchange traded funds, mutual funds and market alternatives and direct participation programs.

An IAR will work with the client to obtain necessary information regarding the client's financial condition, investment objectives, liquidity requirements, risk tolerance, time horizon, and any restrictions on investing. Portfolio composition will be determined based on each client's needs, portfolio restrictions, if any, financial goals and risk tolerances. Some strategies involve more risk than other available strategies and are only appropriate for certain investors.

The client may terminate an investment advisory services agreement without penalty within five business days after the date when all parties have signed the agreement. After the five-day period, either party may terminate the management agreement upon 30 days written notice to the other. DCM will pro-rate the management fee for the quarter in which the termination notice was given and will return any unearned fees to the client.

### Wrap Fee Program

We are a portfolio manager to/sponsor of a wrap fee program, which is a type of investment program that provides clients with access to several money managers or mutual fund asset allocation models for a single fee that includes administrative fees, management fees, and commissions. If you participate in our wrap fee program, you will pay our firm a single fee, which includes our money



management fees, certain transaction costs, and administrative costs. We receive a portion of the wrap fee for our services. The overall cost you will incur if you participate in our wrap fee program may be higher or lower than you might incur by separately purchasing the types of securities available in the program.

Transactions for your account must be executed by TD Ameritrade, a securities broker-dealer and a member of the Financial Industry Regulatory Authority and the Securities Investor Protection Corporation. To compare the cost of the wrap fee program with non-wrap fee portfolio management services, you should consider the frequency of trading activity associated with our investment strategies and the brokerage commissions charged by TD Ameritrade or other broker-dealers, and the advisory fees charged by investment advisers. For more information concerning the Wrap Fee Program, please see *Appendix 1* to this Brochure.

#### Non-Wrap Fee Program

Client portfolio's may be managed under a non-wrap fee account on either a discretionary or a non-discretionary basis, and may include a short-term investment strategy in managing this type of account. A long-term investment strategy will typically involve investing in securities that are anticipated to grow in value over a relatively long period of time. On the other hand, a short-term investment strategy will typically involve purchasing and selling securities within a relatively short period of time based on these securities' short-term price fluctuations. Therefore, transactions may occur more frequently in the non-wrap program. In considering the investment programs described in this brochure, you should be aware that participating in a non-wrap fee program may cost more or less than the cost of purchasing advisory, brokerage, and custodial services separately from other advisers or broker-dealers..

#### Self-Directed 401(k) Plan Consulting / Asset Management Services Program

DCM provides investment consulting and asset management services to self-directed 401(k) plan participants and/or beneficiaries. In general, these services may include asset allocation advice, money management services, communication and education services, investment performance monitoring, and/or ongoing consulting. DCM may provide these services independent of other services offered or the client may contract with DCM for additional services.

#### Third Party Management Services

Through negotiated arrangements with certain registered investment advisers, DCM may refer client accounts to or select third-party investment advisers ("Sub-Adviser") to actively manage a portion of, or the entire, client account. Under such arrangements, DCM will make recommendations regarding the suitability of a Sub-Adviser or investment style based on, but not limited to, the client's long-term goals, risk tolerance, time horizon, account profile, investment objectives, and/or financial situation. All Sub-Advisers that DCM utilizes on behalf of clients must be either a state licensed investment adviser or a federally registered investment adviser.

In addition to evaluating and recommending Sub-Advisers to clients, DCM will gather information from the client about the client's financial situation, investment objectives, and reasonable restrictions the client may wish to impose on the management of the account. DCM then monitors the Sub-Adviser's performance; reviews reports provided to the client; contacts the client periodically to review the client's financial situation and objectives; and assists the client in understanding and evaluating the services provided by the Sub-Adviser. Clients should promptly notify DCM of any material change in their financial situation, investment objectives, or account restrictions. Recommended or selected Sub-Advisers may utilize a diversified investment portfolio model or multiple models in the management of the client accounts, which may include proprietary model portfolios or they may select other third party investment advisers or "model managers" in the management of the client accounts.

Clients may or may not be required to enter into separate investment management agreements with Sub-Advisers and/or other third party money managers. Otherwise, the Sub-Adviser will actively manage the client's portfolio based on discretionary authority granted to DCM through the investment management agreement between the client and DCM. DCM may pay a portion or all of its management fee to the Sub-Adviser in return for the investment management and trading services provided to the client or the Sub-Adviser and DCM will each be paid a portion of the advisory fee directly from the client accounts through the custodian holding the client accounts based on client written instructions for the debit of fees and the investment management agreement between the client and DCM. DCM may manage a portion of client assets directly or obtain investment discretion or trading authority over these client assets. DCM may also assume discretionary authority contractually with the client to hire and fire Sub-Advisers and reallocate the client's assets to other Sub-Advisers, where we deem the action to be in the best interest of the client.

Where clients enter into contracts directly with Sub-Advisers, they may terminate the contract in accordance with those agreements. Where the client enters into an investment management agreement with DCM, either party may terminate the investment management agreement at any time without penalty upon written notice to the other party. If the client terminates the investment management agreement within five days of the date of acceptance the client will receive a full refund of all fees and expenses. If termination occurs prior to the end of a calendar billing period, DCM will refund to the client, on a pro-rata basis, any pre-paid, unearned fees.

In addition to evaluating and recommending Sub-Advisers to clients, DCM may utilize Sub-Advisers to provide portfolio recommendations or analysis specific to certain portfolios or securities but will not actively engage Sub-Advisers in the management of the account. DCM may pay a portion or all of its management fee to the Sub-Adviser in return for the recommendation or analysis services.

#### Financial Planning and Consulting Services

DCM may offer financial planning services which will typically involve providing a variety of services, principally advisory in nature, to clients regarding the management of their financial resources based upon an analysis of their individual needs. An IAR will first gather initial data in order to determine a client's needs. Once such information has been reviewed and analyzed, a written financial plan or verbal consultation, designed to achieve the client's stated financial goals and objectives, will be produced and presented to the client. The primary objective of this process is to allow the Firm to assist the client in developing a strategy for the successful management of income, assets, and liabilities in order to meet the client's financial goals and objectives.

DCM IARs base financial plans on the client's current financial situation and utilize financial information disclosed by the client to the Firm. IARs may make certain assumptions with respect to interest rates, inflation rates, applicable tax rates, rates of return and volatility of specific securities, rates of return and volatility of asset classes, correlation of returns of specific securities and asset classes, and use past trends and performance of the market and economy. Past performance is in no way an indication of future results. DCM cannot offer any guarantees or promises that the client will achieve his/her financial goals and objectives. As the client's financial situation, goals, objectives, or needs change, the client should notify the Firm promptly.

In limited circumstances, some clients may only require advice on a single aspect of the management of their financial resources. For these clients, the Firm offers modular financial plans and/or general consulting services that address only those specific areas of interest or concern.

Clients may act on the Firm's recommendations by placing securities or insurance transactions with any third party firm the client chooses. The client is under no obligation to act on the Firm's financial planning recommendations.



The client may terminate a financial planning agreement without penalty within five business days after the date when all parties have signed the agreement. After this five-day period, either party may terminate the agreement upon written notice to the other. If DCM collects a deposit or fee from the client, the Firm will make a pro rata refund to the client. Conversely, the client may incur a pro rata charge for bona fide financial planning and/or consulting services rendered prior to such termination.

#### Personal Financial Counseling and Tax Services

DCM offers financial counseling and tax services for its clients. These services consist of income tax planning and preparation, retirement planning, budgeting and personal cash flow planning, estate and business succession planning, education funding, stock option planning, and personal risk analysis including life insurance, disability and long-term care insurance needs assessment.

#### Manager of Managers

DCM may leverage the expertise of other institutional investment advisers for the benefit of our clients. We have identified certain managers through evaluation of their strategies, their organizational and personal backgrounds, performance records and investment implementation capabilities. These managers do provide investment advisory services directly to our clients. We are responsible for the managers' investment advisory fee (there is no additional management fee incurred by the client for the managers' investment advisory services), monitor and evaluate the managers' performance.

The information we obtain regarding the managers is believed to be reliable and accurate; however, we do not guarantee accuracy or independently verify reported results. We may cease working with a manager if in our sole discretion, the manager does not execute its functions in a manner consistent with its stated philosophy and approach or if the manager becomes otherwise unsuitable for performing its required duties.

#### Assets under Management

As of March 6, 2015, DCM manages approximately \$117,762,495 of client assets on a discretionary basis. We do not currently have any non-discretionary assets under management. We also provide advice on \$29,530,090 of client assets in alternative investments.

## **Item 5 Fees and Compensation**

#### Portfolio Management Fees

DCM's portfolio management fees are negotiable based upon each client's individual needs and circumstances, such as the account size and the nature of the investment activity within the account. The specific services to be provided by DCM and the fees assessed for provision of such services are described in an Investment Advisory Agreement ("Agreement"), or similarly titled agreement, to be executed between DCM and each client. The Firm's portfolio management fees are generally between 1.0% and 1.5% of assets under management. The fees may be higher or lower based upon the individual circumstances noted above but will not exceed 2.20% of assets under management. Typically, fixed income and annuity portfolios will be charged 0.50%. DCM may aggregate accounts of members of the same household for the purposes of determining the advisory fee. This consolidation practice is designed to allow clients the benefit of an increased assets total, which could potentially result in a reduced advisory fee.

DCM bills portfolio management fees quarterly in advance based on the value of the assets under management on the last business day of the preceding calendar quarter. Fees are assessed pro-rata in the event the client agreement is executed at any other time than the first day of a calendar quarter. In such cases, the fees are assessed on the first day of the following quarter along with the regular quarterly portfolio management fee for the upcoming quarter.

Clients will either receive an invoice from DCM for the advisory fees or the qualified custodian holding the client's funds and securities will debit the client account directly for the advisory fees. Where the client account is debited directly for the advisory fee, the client must provide written authorization permitting the fees to be paid directly from their account held by the qualified custodian. DCM will not have access to client funds for payment of fees without written client consent. Further, the qualified custodian will deliver a quarterly account statement directly to the client. DCM encourages its clients to review their account statements for accuracy. DCM will receive duplicate copies of the statements.

#### Third Party Management Fees

Depending upon the manager or models selected, on an annualized basis, the fee for third party management services generally ranges from 0.35% to 2.25% of assets under management, payable quarterly in advance. DCM may pay a portion or all of its management fee to the Sub-Adviser in return for investment management and trading services provided to the client or the Sub-Adviser and DCM will each be paid a portion of the advisory fee directly from the client accounts through the custodian holding the client accounts based on client written instructions for the debit of fees and the investment management agreement between the client and DCM. In all cases, the fee arrangements for each client will be described in the Agreement or Agreements executed prior to commencement of investment management services. In certain cases, other fees or fee payment arrangements may be negotiated.

"Qualified" clients, who sign an agreement with Sub-Advisers, may enter into arrangements where performance-based fees are assessed for advisory services offered by the Sub-Adviser. All clients referred to such Sub-Advisers who charge performance-based fees must have at least \$1,000,000 under management with the Sub-Adviser or must certify to the Sub-Adviser that such client has a net worth of at least \$2,000,000 at the time of entering into the performance-based fee arrangement.

The Sub-Adviser's fees, and fee-paying arrangements, are established and payable in accordance with the Form ADV Part 2A or other equivalent disclosure document provided by each Sub-Adviser to whom DCM selects for or refers its clients. Sub Advisor fees may be either wrap or non-wrap. They may or may not be negotiable. These fees may or may not be negotiable. In addition, if the investment program recommended to a client is a wrap fee program, the client will also receive the Form ADV Part 2A supplement or equivalent wrap fee brochure provided by the sponsor of the program. In limited circumstances, DCM may share in a portion of the advisory fee, including performance-based fees collected by the Sub-Adviser, and in such cases, the client will not be assessed an additional fee by DCM. Clients referred to such Sub-Advisers are informed that lower fees may be available elsewhere, and they are under no obligation to accept DCM's recommendation for a particular Sub-Adviser.

#### Financial Planning Fees

DCM may charge financial planning fees on an hourly basis or as a fixed fee. The fee can be negotiable, dependent upon the facts and circumstances presented by the client's financial situation and the complexity of the service rendered by the advisor. Generally, the Firm's hourly fee for financial planning services ranges between \$100 and \$300. An IAR will determine an estimate of the total time and cost at the start of the advisory relationship. In limited circumstances, the time or cost could potentially exceed the initial estimate. In such cases, the Firm will notify the client and may request that the client approve the additional fee.

Generally, DCM requires clients to pay 50% of the estimated fee in advance, with the remaining portion due upon completion of the services rendered. Under no circumstances will the Firm require prepayment of a fee more than six months in advance and in excess of \$1,200. The Firm may

negotiate the financial planning fees and fee payment arrangements with the client on an individual basis depending upon the client's individual needs and circumstances. In all such cases, the fees and terms of the agreement will be clearly set forth in the financial planning agreement.

At its discretion, DCM may waive or offset a portion of the financial planning fees should the client choose to implement the recommendations through IARs in through implementation of a portfolio management program through the Firm.

#### Personal Financial Counseling and Tax Services

Generally, DCM will charge an hourly fee for financial counseling and tax services of between \$150 and \$300. The hourly fee is variable, based upon the individual circumstances, as well as the scope of the engagement, and the anticipated complexity of the client's individual circumstances. DCM will determine and communicate an estimate of the total cost to the client at the start of the counseling relationship. In limited circumstances, the cost could potentially exceed the initial estimate. In such cases, DCM will notify the client and may request that the client approve any additional fees.

#### Additional Fees

DCM's fees are exclusive of brokerage commissions, mark-ups and mark-downs, transaction fees, and other related costs and expenses which may be incurred by the client. Clients may incur certain charges imposed by custodians, brokers, dealers, and other third parties such as fees charged by managers, custodial fees, deferred sales charges, odd-lot differentials, transfer taxes, wire transfer and electronic fund fees, and other fees and taxes on brokerage accounts and securities transactions. Such charges, fees and commission are exclusive of and in addition to DCM's fee, and DCM shall not directly receive any portion of these commissions, fees or costs.

Advice offered by DCM may involve investments in mutual funds. All fees paid to DCM for investment advisory services are separate and distinct from the fees and expenses charged by mutual funds (as described in each mutual fund's prospectus) to their shareholders. These fees generally include a management fee and other expenses. Further, clients may incur transaction charges when purchasing or selling securities.

Advice offered by DCM may also involve investments in fixed income/bonds and structured products. In addition to the annual fee prescribed in the Investment Advisory Agreement, investments in fixed income/bonds and structured products may also be subject to an additional delivery fee charge on each transaction which is charged to the client.

DCM does not share in any portion of the brokerage fees or delivery fee charges imposed by the custodian holding the client funds or securities. The client should review all fees charged by mutual funds, custodians, DCM, and others to fully understand the total amount of fees charged to his/her account(s).

Associated persons of DCM who are licensed to do so may sell insurance products and/or may refer clients to other licensed insurance agents who sell insurance products including but not limited to annuities, life, disability, health, and long term care. As licensed insurance agents, associated persons of DCM may receive commissions either directly from insurance companies or from other licensed insurance agents (splitting of commissions with the agent) to whom client referrals were made. This may present a conflict of interest because the type and amount of compensation available may affect the products recommended. DCM advises its clients that all clients have total freedom to affect any and all recommendations of securities, insurance, and/or other services through any brokers or agents they choose including those not affiliated with DCM.

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

DCM does not charge fees based on a share of capital gains on or capital appreciation of the assets of a client. In limited circumstances, DCM may share in a portion of the advisory fee, including performance-based fees collected by the Sub-Adviser, and in such cases, the client will not be assessed an additional fee by DCM.

## Item 7 Types of Clients

DCM provides portfolio management and financial planning services to individuals, pension and profit sharing plans, trusts, estates, charitable organizations, corporations, and other business entities.

In general, we do not require a minimum annual fee or minimum dollar amount to open and maintain an advisory account; however, some sub-advisers may require minimum annual fees or minimum account balances. Additionally, we have the right to terminate your Account if it falls below a minimum size which, in our sole opinion, is too small to effectively manage.

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

We may use one or more of the following methods of analysis or investment strategies when providing investment advice to you:

**Charting Analysis** - involves the gathering and processing of price and volume pattern information for a particular security, sector, broad index or commodity. This price and volume pattern information is analyzed. The resulting pattern and correlation data is used to detect departures from expected performance and diversification and predict future price movements and trends.

**Risk:** Our charting analysis may not accurately detect anomalies or predict future price movements. Current prices of securities may reflect all information known about the security and day-to-day changes in market prices of securities may follow random patterns and may not be predictable with any reliable degree of accuracy.

**Technical Analysis** - involves studying past price patterns, trends, and interrelationships in the financial markets to assess risk-adjusted performance and predict the direction of both the overall market and specific securities.

**Risk:** The risk of market timing based on technical analysis is that our analysis may not accurately detect anomalies or predict future price movements. Current prices of securities may reflect all information known about the security and day-to-day changes in market prices of securities may follow random patterns and may not be predictable with any reliable degree of accuracy.

**Cyclical Analysis** - a type of technical analysis that involves evaluating recurring price patterns and trends. Economic/business cycles may not be predictable and may have many fluctuations between long term expansions and contractions.

**Risk:** The lengths of economic cycles may be difficult to predict with accuracy and therefore the risk of cyclical analysis is the difficulty in predicting economic trends and consequently the changing value of securities that would be affected by these changing trends.

**Long-Term Purchases** - securities purchased with the expectation that the value of those securities will grow over a relatively long period of time, generally greater than one year.

**Risk:** Using a long-term purchase strategy generally assumes the financial markets will go up in the long-term which may not be the case. There is also the risk that the segment of the market that you are invested in or perhaps just your particular investment will go down over time even if the overall financial markets advance. Purchasing investments long-term may create an opportunity cost - "locking-up" assets that may be better utilized in the short-term in other investments.

Typical sources of information include company SEC filings, press releases, company websites, company earnings calls, financial news and quotation services, financial data providers, financial newspapers and magazines, corporate rating services, analyst research reports, financial weblogs, internet discussion boards, financial websites, and, where practical, inspections of company activities.

As part of our portfolio management services, we may customize an investment portfolio for you according to your risk tolerance and investing objectives. We may also invest your assets using a predefined strategy, or we may invest your assets according to one or more model portfolios developed by our firm. Once we construct an investment portfolio for you, or select a model portfolio, we will monitor your portfolio's performance, and will rebalance the portfolio as required by changes in market conditions and in your financial circumstances.

DCM will continually adapt its investment strategies to market conditions and individual client needs. Experience has shown that no one approach works at all times for all clients. DCM makes available a number of differing strategies with varying degrees of anticipated risk to accommodate clients with different risk tolerances based on long-term goals, time horizon, account profile, investment objectives, and/or financial situation. While DMC attempts to implement strategies that maximize investment returns while minimizing risk of loss, there is no guarantee against risk of loss. Past performance of securities and investment strategies is in no way an indication of future results.

#### Tax Considerations

Our strategies and investments may have unique and significant tax implications. However, unless we specifically agree otherwise, and in writing, tax efficiency is not our primary consideration in the management of your assets. Regardless of your account size or any other factors, we strongly recommend that you consult with a tax professional prior to and throughout the investing of your assets.

#### Risk of Loss

Investing in securities involves risk of loss that you should be prepared to bear. We do not represent or guarantee that our services or methods of analysis can or will predict future results, successfully identify market tops or bottoms, or insulate clients from losses due to market corrections or declines. We cannot offer any guarantees or promises that your financial goals and objectives will be met. Past performance is in no way an indication of future performance.



## Item 9 Disciplinary Information

On August 30, 2013, DeWaay Capital Management, LLC ("DCM") and certain affiliated individuals and entities (collectively, the "Respondents") entered into a settlement with the Department of Labor ("DOL") following DOL allegations of violations of the Employee Retirement Income Security Act of 1974 (ERISA). The matter arose out of sales of market alternative investments by a broker-dealer affiliated with DCM to, among others, certain clients of DCM who were participants in ERISA-covered employee benefit plans. The sales allegedly occurred between May 2007 and November 2011, and the DOL alleged that certain Respondents received non-level fees in connection with the market alternative investments. The Respondents maintained, among other things, that fees were fully disclosed, that the market alternative investments were separate and apart from clients' actively managed accounts, and that clients saved money over what clients would have incurred had the market alternative investments been subject to an annual management fee. In the settlement, the DOL agreed not to pursue any civil action regarding its various allegations. The Respondents, among other things, agreed to comply with ERISA; to ensure that certain disclosures are made to Plan participant clients regarding fiduciary duties, conflicts of interest, services and fees; to ensure a level fee arrangement where any Respondent recommends to an ERISA-covered client an investment where a Respondent expects to acquire an interest or receive compensation or other payments; to not market securities other than publicly traded securities to ERISA-covered clients; and to charge ERISA-covered clients only such investment advisory fees that are set forth in signed advisory agreements. Additionally, Don DeWaay, agreed (i) to refund \$327,273 of commissions, due diligence and marketing fees received in connection with market alternative investments purchased by clients participating in ERISA plans between May 2007 and November 2011; (ii) to pay the DCM 401(K) Plan \$14,213.95; (iii) to pay penalties of up to approximately \$54,000. To avoid the additional time and legal expenses in the matter, the Respondents agreed to resolve the matter on these terms without admitting or denying the allegations.

In June of 2009, in connection with DFN Partners LP's private securities offering under Regulation D of the Securities Act of 1933, Mr. DeWaay was the primary speaker in a phone call with about twenty prospective investors. Following review by his firm's compliance department, the call was made available by recording the following month, and approximately eleven people listened to the recorded call. FINRA alleged that Mr. DeWaay violated NASD Conduct Rule 2210 (relating to communications with the public) in making statements regarding his and his firm's business successes, methods and outlook that were exaggerated, misleading or unwarranted. On August 23, 2013, in order to avoid incurring additional time and further legal expenses in the matter, Mr. DeWaay entered into a settlement with FINRA that resulted in a suspension of ten days from affiliating with any broker-dealer, which ended on September 16, 2013, and a fine of \$7,500. FINRA did not impose any other penalties. Mr. DeWaay agreed to the sanctions without admitting or denying the findings.

## Item 10 Other Financial Industry Activities and Affiliations

Donald G. DeWaay is the Managing Member of DFN Partners, LLC, a holding company that owns DeWaay Financial Network, LLC (DFN).

Through common control and ownership, DCM is affiliated with DFN, a limited liability company, which is the sole member of DeWaay Real Estate Management, LLC, which serves as the sole member of DeWaay Assisted Living Management, LLC (DALM). DALM is the general partner to DeWaay Assisted Living Investors, LLLP.

In addition to providing financial planning and investment advisory services, certain IARs of DCM may conduct tax planning, accounting and tax services, estate planning or insurance business in a manner not affiliated with DCM.



Donald DeWaay owns 100% of the following: DCM Partners, LTD, which serves as Managing Member to DCM Everest, LLC; and Alpha Management, Inc., which is the Managing Member to DCM Alpha, LLC (collectively referred to as the "Funds"). These Funds are pooled investment vehicles that invest in private funds ("hedge funds"). These Funds are in the process of being liquidated and are no longer open to new investors. Boyle Capital Management, LLC serves as the investment adviser to the Funds. Investors in the Funds should refer to the offering documents of the Funds for detailed disclosures regarding participation in these investments.

Donald DeWaay is a board observer for Kempharm, Inc., a biopharmaceutical company. Although clients may be associated with or invested in Kempharm, Inc., Mr. DeWaay's role as a board observer is primarily to provide feedback when requested by Kempharm, Inc. Mr. DeWaay receives no compensation in his capacity as a non-voting board observer.

We may use, suggest, or recommend the services of or recommend investment in some of or affiliated entities listed above. The referral arrangements we have with some of our affiliated entities present a conflict of interest because we may have a financial incentive to recommend investments in or the services offered by our affiliates. You may obtain comparable services and/or lower fees through other firms. Such arrangements may involve sharing or joint compensation, or separate compensation, subject to proper disclosures and the requirements of applicable law.

On occasion, Don DeWaay may purchase shares in illiquid securities, such as limited partnerships or private placements, from DCM clients. In such cases, this may occur where there is either a limited or no secondary market available and shares will be purchased at fair market value. In such cases, Mr. DeWaay may purchase such shares only in a personal capacity; DCM will not participate in principal transactions.

DCM or individuals associated with the firm may buy or sell, for their personal accounts, investment products identical to those recommended to clients. It is the expressed policy of DCM that no person employed by the firm may purchase or sell any security prior to the same transaction being implemented for an advisory account, therefore preventing such employees from benefiting from transactions placed on behalf of advisory accounts.

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

DCM has adopted a Code of Ethics for all supervised persons of the Firm describing its high standard of business conduct and fiduciary duty to its clients. The Code of Ethics includes provisions relating to the confidentiality of client information, a prohibition on insider trading, restrictions on the acceptance of significant gifts and the reporting of certain gifts and business entertainment items, and personal securities trading procedures, among other things. All associated persons at DCM must acknowledge the terms of the Code of Ethics upon affiliating with the firm and as the Code of Ethics is amended.

DCM anticipates that, in appropriate circumstances, consistent with its clients' investment objectives, it will cause accounts over which DCM has management authority to effect, and will recommend to investment advisory clients or prospective clients, the purchase or sale of securities in which DCM, its affiliates and/or clients, directly or indirectly, have a position or interest. DCM's employees and associated persons are required to follow DCM's Code of Ethics.

Subject to satisfying this policy and applicable laws, employees and associated persons of DCM and its affiliates may trade for their own accounts in securities which are recommended to and/or purchased for DCM's clients. Engaging in this activity may potentially cause a conflict of interest

between DCM and its clients. The Code of Ethics is designed to ensure that personal securities transactions of the employees and associated persons of DCM will not interfere with (i) making decisions in the best interest of advisory clients and (ii) implementing such decisions while, at the same time, allowing employees and associated persons to invest for their own accounts. It is DCM's expressed policy that employees and associated persons of the Firm shall not have priority in any purchase or sale over client accounts.

DCM's clients or prospective clients may request a copy of the Firm's Code of Ethics by calling 800-722-9861.

## **Item 12 Brokerage Practices**

### *Suggestion of Brokers*

DCM participates in the institutional advisor program (the "Program") offered by TD Ameritrade Institutional. TD Ameritrade Institutional is a division of TD Ameritrade Inc., member FINRA/SIPC/NFA (TD Ameritrade), an unaffiliated SEC-registered broker-dealer and FINRA member. TD Ameritrade offers to independent investment advisors services which include custody of securities, trade execution, clearance and settlement of transactions. DCM receives some benefits from TD Ameritrade through its participation in the Program.

As disclosed above, DCM participates in TD Ameritrade's institutional customer program and DCM may recommend TD Ameritrade to Clients for custody and brokerage services. There is no direct link between DCM's participation in the program and the investment advice it gives to its Clients, although DCM receives economic benefits through its participation in the program that are typically not available to TD Ameritrade retail investors. These benefits include the following products and services (provided without cost or at a discount): receipt of duplicate Client statements and confirmations; research related products and tools; consulting services; access to a trading desk serving DCM participants; access to block trading (which provides the ability to aggregate securities transactions for execution and then allocate the appropriate shares to Client accounts); the ability to have advisory fees deducted directly from Client accounts; access to an electronic communications network for Client order entry and account information; access to mutual funds with no transaction fees and to certain institutional money managers; and discounts on compliance, marketing, research, technology, and practice management products or services provided to DCM by third party vendors. TD Ameritrade may also have paid for business consulting and professional services received by DCM's related persons. Some of the products and services made available by TD Ameritrade through the program may benefit DCM but may not benefit its Client accounts. These products or services may assist DCM in managing and administering Client accounts, including accounts not maintained at TD Ameritrade. Other services made available by TD Ameritrade are intended to help DCM manage and further develop its business enterprise. The benefits received by DCM or its personnel through participation in the program do not depend on the amount of brokerage transactions directed to TD Ameritrade. As part of its fiduciary duties to clients, DCM endeavors at all times to put the interests of its clients first. Clients should be aware, however, that the receipt of economic benefits by DCM or its related persons in and of itself creates a potential conflict of interest and may indirectly influence the DCM's choice of TD Ameritrade for custody and brokerage services.

DCM considers a number of factors in selecting brokers and custodians at which to locate (or recommend location of) its client accounts, including, but not limited to, execution capability, experience and financial stability, reputation and the quality of services provided. In selecting TD Ameritrade as the broker and custodian for certain of its current and future client accounts, DCM takes into consideration its arrangement with TD Ameritrade as to obtaining price discounts for TD Ameritrade's automatic portfolio rebalancing service for advisers known as "iRebal."

The annual license fee applicable to DCM for iRebal is \$20,000 and is subject to specified reductions (and even complete waiver) if specified amounts of client taxable assets are either already on the TD Ameritrade platform or are committed to be placed on it. Specified taxable client assets either maintained on or committed to the TD Ameritrade platform will bring fee reductions of up to \$20,000 per year.

The non-taxable assets excluded from the maintenance and commitment levels described above are those that constitute "plan assets" of plans subject to Title 1 of the Employee Retirement Income Security Act of 1974, amended, or of plans as defined in Section 4975 of the Internal Revenue Code (which include IRAs).

If Adviser does not maintain the relevant level of taxable assets on the TD Ameritrade platform, Adviser may be required to make a penalty fee payment to TD Ameritrade calculated on the basis of the shortfall.

Although DCM believes the products and services offered by TD Ameritrade are competitive in the market place for similar services offered by other broker-dealers or custodians, the arrangement with TD Ameritrade as to the iRebal service may affect DCM's independent judgment in selecting or maintaining TD Ameritrade as the broker or custodian for client accounts.

#### Research and Brokerage Products and Services

Research products and services we may receive may include economic surveys, data, and analyses; financial publications; recommendations or other information about particular companies and industries (through research reports and otherwise); and other products or services (e.g., computer services and equipment, including hardware, software, and data bases) that provide lawful and appropriate assistance to us in the performance of our investment decision-making responsibilities. Brokerage products and services (beyond traditional execution services) consist primarily of computer services and software that permit us to effect securities transactions and perform functions incidental to transaction execution. We generally use such products and services in the conduct of our investment decision-making generally, not just for those accounts whose commissions may be considered to have been used to pay for the products or services.

#### Brokerage for Client Referrals

We do not receive client referrals from broker-dealers in exchange for cash or other compensation, such as the brokerage services or research referenced above.

#### Directed Brokerage

In limited circumstances and at the Firm's discretion, some clients may instruct DCM to use one or more particular brokers for the transaction(s) in their account(s). Clients who may want to direct the Firm to use a particular broker should understand that this may prevent DCM from obtaining the most favorable net price and execution. Moreover, clients that direct brokerage may incur additional costs for performance reporting. Thus, when directing brokerage business, clients should consider whether the commission expenses and execution, clearance and settlement capabilities that they will obtain through their broker are adequately favorable in comparison to those that DCM would otherwise obtain for its clients.

DCM reserves the right to decline acceptance of any client account for which the client directs the use of a broker if we believe that this choice could hinder our fiduciary duty to the client and/or our ability to service the account.

#### Aggregation of Orders

We combine multiple orders for shares of the same securities purchased for advisory accounts we manage

(this practice is commonly referred to as "block trading"). We will then distribute a portion of the shares to participating accounts in a fair and equitable manner. The distribution of the shares purchased is typically proportionate to the size of the account, but it is not based on account performance or the amount or structure of management fees. Subject to our discretion regarding factual and market conditions, when we combine orders, each participating account pays an average price per share for all transactions and pays a proportionate share of all transaction costs. Accounts owned by our firm or persons associated with our firm may not participate in block trading with your accounts.

We combine multiple orders for shares of the same securities purchased for discretionary accounts; however, we do not typically combine orders for non-discretionary accounts. Accordingly, non-discretionary accounts may pay different costs than discretionary accounts pay. If you enter into non-discretionary arrangements with our firm, we may not be able to buy and sell the same quantities of securities for you and you may pay higher commissions, fees, and/or transaction costs than clients who enter into discretionary arrangements with our firm.

#### Trade Errors

In the event a trading error occurs in your account, our policy is to restore your account to the position it should have been in had the trading error not occurred. Depending on the circumstances, corrective actions may include canceling the trade, adjusting an allocation, and/or reimbursing the account. For accounts held at TD Ameritrade, if a profit results from correcting the trade, DCM will not retain the profit as all net gains (positive error accounts balances resulting from trade corrections) will be moved to a TD Ameritrade error account and subsequently donated to charity.

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

Generally, client accounts are reviewed periodically or in response to client requests. Arrangements for formal reviews are determined by DCM on a case-by-case basis. Additional reviews may be provided based on a significant change in the market, the client's financial situation, significant additions to or withdrawals from the account, transactions and significant changes in asset allocations, or at DCM's or the client's request.

The custodian/broker typically sends clients a confirmation of every securities transaction and a monthly or quarterly brokerage statement reflecting all transactions in the client's account held by the custodian/broker. DCM may provide additional written reports to clients on a quarterly basis or as requested. Such reports may include a detailed holdings report, transaction reports and performance reviews. Statements may be provided electronically.

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

We do not compensate any individual or firm for client referrals. Please refer to the *Brokerage Practices* section above for disclosures on research and other benefits we may receive resulting from our relationship with TD Ameritrade. Associated persons of DCM who are properly licensed as independent insurance agents may sell insurance products, including but not limited to, life, health, and longterm care products and may receive additional compensation from the sale of such products in the form of commissions or may share in commissions for referrals made to other independent or affiliated insurance agents.

## Item 15 Custody

For the purposes of this brochure, the term "custody" means holding, directly or indirectly, client funds or securities, or having any authority to obtain possession of them. An adviser has custody if it or a related person or entity holds, directly or indirectly client funds or securities, or has any authority to obtain possession of them, in connection with advisory services provided to clients. A related person is a person or entity directly or indirectly controlling or controlled by the adviser and any person or entity under common control with the adviser.

Your funds and securities will be held with a bank, broker/dealer, or other independent, qualified custodian. As paying agent for our firm, your independent custodian will directly debit your accounts for the payment of our advisory fees. Although we do not take physical possession of your funds or securities, the ability to deduct our advisory fees from your accounts causes our firm to exercise limited custody over your funds or securities.

If you are an investor in any of our affiliated entities or our affiliated hedge funds, we may have access to certain funds and securities held in your accounts by independent, qualified custodians; therefore, we may be considered to have custody of your assets to the extent they are invested in such entities.

Clients should receive statements at least quarterly, directly from the broker/dealer or other qualified custodian that holds and maintains the clients' investment assets. The account statements from your independent, qualified custodians will show the assets in your account and indicate the amount of our advisory fees deducted from your accounts each billing period. DCM urges clients to carefully review such statements and compare the account statements we provide to you with your official custodial records. DCM's statements may vary from custodian statements based on accounting procedures, reporting dates, or valuation methodologies of certain securities. If you have a question regarding your account statement or if you did not receive a statement from your custodian, please contact us directly at the telephone number on the cover page of this brochure.

## Item 16 Investment Discretion

DCM usually receives discretionary authority from the client at the outset of an advisory relationship. Generally, clients grant DCM complete discretion over the selection, amount, pricing and timing of securities to be bought or sold for their account without obtaining their prior consent or approval. However, DCM's investment authority may be subject to specified investment objectives and guidelines, and/or conditions imposed by the client. For example, a client may specify that the investment in any particular stock or industry should not exceed specified percentages of the value of the portfolio. Such guidelines and/or conditions must be in writing, and the client can amend these conditions at any time. In limited circumstances, where the Firm enters into non-discretionary arrangements with clients, the Firm will obtain client approval prior to the execution of a transaction.

## Item 17 Voting Client Securities

As a matter of firm policy and practice, DCM does not have any authority to and does not vote proxies on behalf of advisory clients. Clients retain the responsibility for receiving and voting proxies for any and all securities maintained in client portfolios. The client should receive proxy materials directly from the account custodian. However, in the event DCM were to receive any written or electronic proxy materials, we would forward them directly to the client by mail, unless the client has authorized contact by electronic mail, in which case, we would forward any electronic solicitation to vote proxies. DCM may provide advice to clients regarding the clients' voting of proxies.

## Item 18 Financial Information

Registered investment advisers are required in this Item to provide you with certain financial information or disclosures about DCM's financial condition. DCM has no financial condition that is likely to impair our ability to meet contractual commitments to clients. DCM has not been the subject of a bankruptcy proceeding.

## Item 19 Requirements for State-Registered Advisers

DCM is registered with the Securities and Exchange Commission rather than a state securities division. Therefore, this section is not applicable to us.

## Item 20 Additional Information

### Additional Disclosures

On or around January 9, 2012, Donald DeWaay, DeWaay Capital Management, Inc. ("DCM") and other affiliates were named as defendants in two class-action lawsuits involving DeWaay Financial Network, LLC, et al (LACV6033 and LACV6034) in the District Court of Decatur County Iowa. The actions involved claims related to the sale of certain private placement investments to the plaintiffs and putative class members by the defendants. The plaintiffs claimed, among other things, that defendants failed to exercise due diligence in vetting the various investments and/or that certain investments were not appropriate for the individual investor. Plaintiffs sought for themselves and all similarly-situated investors rescission and/or compensatory damages plus interest, costs and attorneys' fees.

*On January 30, 2013, a hearing was held on the issues of certification of the putative classes and approval of a proposed settlement. The District Court of Decatur County Iowa concluded the following:*

- 1. That the motion to consolidate the class actions should be granted.*
- 2. The class should be certified as consisting of all those investors who purchased one of the named securities (Exhibit on file with the court) from any of the defendants.*
- 3. The class should be certified as a non-opt out, limited-fund class. In that connection, the temporary injunction previously entered herein shall be made permanent.*
- 4. The proposed settlement agreement should be approved in its entirety, with the settlement amount being \$3 million, \$200k of which would be paid by DCM.*
- 5. Fees, expenses and awards are approved to be paid from the settlement funds.*
- 6. That counsel should prepare and submit to the court for signature a formal judgment entry.*

*On 04/15/2013, the court issued a Ruling Regarding Class Certification and Approval of Final Settlement consistent with the above.*



*On 05/31/2013, the court issued an Order of Final Settlement, Approval and Judgment. Subsequently, on 06/25/2013, a notice of appeal was filed with the Iowa Court of Appeals.*

In 2007, certain DCM clients purchased certain promissory notes (the "IPofA Notes") issued by IPofA 5201 Lender, LLC ("5201 Lender"), through DCM and its affiliated broker-dealer firm DeWaay Financial Network. On or around November 15, 2007, 5201 Lender filed Chapter 11 Bankruptcy in the United States Bankruptcy Court for the Southern District of New York. In 2009, DCM issued notes in order to return to clients monies invested and lost in the IPofA Notes. In addition to the promissory note, each affected client initially received 30% of their investment. A private placement memorandum and subscription agreement were provided to the investors to whom the DCM Notes were issued, and the subject clients executed a settlement agreement, release and assignment in connection with the offering. Interest payments ceased when DCM was named as a defendant in certain class-action matters filed on or around January 9, 2012 in the District Court of Decatur County Iowa (see separate disclosure relating to the class-action matters described above), which included as plaintiffs, among others, the same investor-clients who had executed the settlement, release and assignment in connection with the DCM Notes.

#### Confidentiality

Protecting its customers' private information is important to DCM. Therefore, the Firm has instituted policies and procedures designed to ensure that client information is kept private and secure. DCM does not disclose non-public personal information about its clients or former clients to any non-affiliated third parties except as required by or permitted by law. In the course of servicing a client's account, DCM may share some information with its service providers, such as transfer agents, custodians, broker/dealers, accountants, and attorneys. The Firm restricts internal access to non-public personal information to those employees who need access to such information in order to provide products or services to a particular client. The Firm also maintains physical, electronic, and procedural safeguards to protect client information.

DCM will provide a copy of its privacy policy notice to each client prior to, or contemporaneously with, the execution of the advisory agreement. Thereafter, the Firm will deliver a copy of the current privacy policy notice to its clients annually. Questions regarding this policy should be directed to DCM at 800-722-9861.