

**Magnus Capital Management LLC**

Form ADV Part 2A Brochure

March 31, 2016



**Magnus Capital Management, LLC**

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Firm Brochure

(Part 2A of Form ADV)

March 31, 2016

This brochure provides information about the qualifications and business practices of Magnus Capital Management. If you have any questions about the contents of this brochure, please contact us at: 239-262-8501 or by email at: [craig@5advise.com](mailto:craig@5advise.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 Magnus Capital Management is available on the SEC's website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).

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### *Item 2 Material Changes*

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The purpose of this page is to inform you of any material changes since the previous version of this brochure. There are no new material changes in our business since the previous brochure (3/31/2015). We review and update our brochure at least annually to make sure that it remains current. Magnus Capital Management is a wholly owned subsidiary of Fifth Avenue Advisors LLC.

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

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#### **Description of Advisory Firm**

Magnus Capital Management, LLC ("Magnus Capital") is a wholly owned subsidiary of Fifth Avenue Advisors, LLC headquartered in Naples, Florida. Magnus Capital is registered as an investment adviser with the SEC.

Craig W. Lyon founded Magnus Capital in 2003. Craig and Timothy J. Cartwright, founder of Compass Advisory Group, LLC (a merger & acquisition consultancy) combined their operating companies under the holding company of Fifth Avenue Advisors in 2006. Gary B. Price II joined Magnus Capital as an independent professional on April 25, 2008 and Fifth Avenue Advisors as a Partner on July 1, 2011.

#### **Advisory Services Offered**

Magnus Capital offers investment supervisory services to individuals, families, trusts, estates, and charitable organizations. We tailor a strategy to your specific needs and risk profile. We are not affiliated with any broker/dealer and do not sell any investment products but we do sell life insurance. We seek suitable investments for your specific situation. We are a life insurance agency providing tailored policies from Lafayette Life Insurance Company.

#### **Investment Supervisory Services**

We offer Investment Supervisory Services by analyzing and supervising your investments. We provide specific advice on asset allocation and risk management, selection of investment sub-advisors and funds, and coordinating your professional advisors.

#### **Assets Under Management**

As of 12/31/2015 we advise on approximately \$244,042,000. Of which, approximately \$23,100,00 is discretionary and approximately \$220,942,000 non-discretionary.

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

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#### **Fee Schedule**

The investment advisory fees may vary but are reflected in this standard fee schedule of percent of Assets Under Management ("AUM"):

Annual Fee	AUM
1.00%	on the first \$2,000,000
0.75%	on the next \$8,000,000
0.50%	on the next \$20,000,000
0.25%	on values over \$30,000,000

The fee assessed will be grouped by the overall AUM of the relationship, rather than by individual account. The initial fee will be deducted at the inception of your account and is prorated for the period remaining in the initial quarter. The fee for all subsequent quarters will be billed within the first 10 business days following the close of each calendar quarter. The fee will be calculated as of the end of each calendar quarter using the ending balance of assets in your accounts under your agreement. Fees may also be fixed and are negotiable in limited situations and we may agree to aggregate related accounts for purposes of calculating portfolio valuation and related fee.

#### **Termination**

You may terminate your investment advisory agreement at any time, without the payment of any penalty on thirty (30) days written notice. Any prepaid unearned adviser fees will be returned to you.

#### **Billing Method**

We bill and receive fees in three methods:

1. Send an invoice directly to you or your appointed representative.
2. Deduct fees directly from your account.
3. Fee is deducted by sub-advisor and rescinded to Magnus Capital.

#### **Other Fees and Expenses**

Our fees do not include custodian fees or management fees associated with mutual funds, exchange traded funds, separately managed accounts, or private investment funds. Any brokerage commissions, transaction charges, stock transfer fees, and other similar charges that are incurred in connection with transaction for your accounts will be paid out of the assets in the account and are in addition to the fees paid to us.

In addition, any mutual fund shares may be subject to deferred sales charges, 12b-1 fees, short-term redemption fees, and other mutual fund annual expenses. The fees and expenses are fully described in the fund's prospectus. All fees paid to Magnus Capital for our services are

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separate and distinct from the fees and expenses charged by mutual funds. Mutual funds pay advisory fees to their manager and such fees are therefore indirectly charged to all holders of the mutual fund shares. If you have mutual funds (or exchanged traded funds) in your portfolio, you are effectively paying both Magnus Capital, and the sub-advisor (if applicable), and the mutual fund manager for the management of their assets.

We are not affiliated with any broker/dealer and you have the option to purchase an investment product that we recommend through other brokers or agents of your choosing.

### **Other Compensation**

Both Craig and Gary are licensed to sell life insurance in the State of Florida. Gary is not affiliated with a particular insurance company and refers cases to other insurance professionals. Craig is affiliated with Lafayette Life Insurance Company. Craig and Gary may receive commissions for placing or referring the cases and are separate from and in addition to the fees you pay us for Investment Supervisory Services.

The receipt of life insurance commission payments presents a conflict of interest and could give us an incentive to recommend insurance products based on the compensation we receive, rather on an assessment of your needs. Anytime we would receive a commission from the sale of a recommended insurance product, we will disclose that conflict to you. Our disclosure may be in conversations with you or may be in writing to you. You are free to choose whether to act on our recommendation to purchase insurance products or not. If you decide to purchase the recommended insurance products, you have the option to purchase the products through any broker or agent of your choice. You are not required to purchase the products through us.

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

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Magnus Capital does not charge performance-based fees.

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

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We offer our services to individuals, families, trusts, estates, charitable organizations, and individual participants of retirement plans. Our relationship minimum is \$1,000,000 which we may waive at our sole discretion.

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

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#### **Methods of Analysis and Investment Strategies**

We begin our analysis by building your investment policy statement that contains your risk tolerance and investment suitability. Only after fully understanding your specific situation and goals will we begin to implement a recommendation plan. We will look at your time horizon, cash flow, specific needs and sources of capital, annual expense budget, current asset levels and allocation, estate plan, and tolerance to risk. The asset allocation and selection of investment managers, strategies and vehicles will then be outlined and implemented. Market conditions will be a factor in regards to the speed of implementation of the investment strategy.

Investing in securities involves risk of loss that you should be prepared to bear. The following statements in this section outline risks that must be considered

#### **General Risk of Loss Statement**

Prior to entering into an agreement with Magnus Capital, you should carefully consider:

1. That investing in securities involves risk of loss which you should be prepared to bear;
2. That securities markets experience varying degrees of volatility;
3. That over time your assets may fluctuate and at anytime be worth more or less than the amount you invested;
4. Committing only those assets you believe will not be needed for current purposes
5. Committing only those assets that can be invested on a long-term basis, usually a minimum of five to seven years.

#### **Risks**

##### ***Market Risk***

Even a long-term investment approach cannot guarantee a profit. Economic, political, and issuer specific events will cause the value of securities, and the funds that own them, to rise or fall. The value of even a well-diversified portfolio will fluctuate and there is a risk that investors will lose money.

##### ***Interest Rate Risk***

Fixed income securities are subject to interest rate risk because the prices of fixed income securities tend to move in the opposite direction of interest rates. When interest rates rise, fixed income security prices fall. When interest rates fall, fixed income security prices rise. In general, fixed income securities with longer maturities are more sensitive to these price changes versus fixed income securities with shorter maturities.

##### ***Credit Risk***

Credit risk is the risk that the issuer of a security may be unable to make interest payments and/or repay principal when due. A downgrade to an issuer's credit rating or a perceived

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change in an issuer's financial strength may affect a security's value, and thus, impact fixed income performance.

### ***Emerging Markets Risk***

Numerous emerging market countries have a history of, and continue to experience economic and political disruption. Stock markets in many emerging market countries are relatively small, expensive to trade in, and risky. Foreigners are often limited in their ability to invest in, and withdraw assets from these markets. Additional restrictions may be imposed under other conditions. Frontier market countries generally have smaller economies or less developed capital markets. As a result, the risks of investing in emerging market countries are magnified in frontier market countries.

### ***Mutual Funds (Open-end Investment Company)***

A mutual fund is a company that pools money from many investors and invests the money in stocks, bonds, short-term money-market instruments, other securities or assets, or some combination of these investments. The combined holdings the mutual fund owns are known as its portfolio. Each share represents an investor's proportionate ownership of the fund's holdings and the income those holdings generate. The price that investors pay for mutual fund shares is the fund's per share net asset value (NAV) plus any shareholder fees that the fund imposes at the time of purchase (such as sales loads). Some of the risks of mutual funds include having to pay taxes on any capital gains distribution the investor receives even if the fund goes on to perform poorly after the investor buys shares or lack of real-time prices, as mutual funds typically only calculate their NAV once every business day, typically after the major U.S. exchanges close.

When it comes to investing in mutual funds, investors have literally thousands of choices. Most mutual funds fall into one of three main categories—money market funds, bond funds (also called "fixed income" funds), and stock funds (also called "equity" funds). Each type has different features and different risks and rewards. Generally, the higher the potential return, the higher the risk of loss.

### ***Money Market Funds***

Money market funds have relatively low risks, compared to other mutual funds (and most other investments). By law, they can invest in only certain high-quality, short-term investments issued by the U.S. Government, U.S. corporations, and state and local governments. Money market funds try to keep their net asset value (NAV)—which represents the value of one share in a fund—at a stable \$1.00 per share. However, the NAV may fall below \$1.00 if the fund's investments perform poorly. Investor losses have been rare, but they are possible. Money market funds pay dividends that generally reflect short term interest rates, and historically the returns for money market funds have been lower than for either bond or stock funds. That is why "inflation risk"—the risk that inflation will outpace and erode investment returns over time—can be a potential concern for investors in money market funds.

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### ***Bond Funds***

Bond funds generally have higher risks than money market funds, largely because they typically pursue strategies aimed at producing higher yields. Unlike money market funds, the SEC's rules do not restrict bond funds to high-quality or short-term investments. Because there are many different types of bonds, bond funds can vary dramatically in their risks and rewards. Some of the risks associated with bond funds include credit risk, interest rate risk, and prepayment risk.

### ***Individual Bonds***

Individual bonds have the same risk characteristics as bond funds plus those risks specific to the issuer such as insolvency risk and marketability risk.

### ***Stock Funds***

Although a stock fund's value can rise and fall quickly (and dramatically) over the short term, historically stocks have performed better over the long term than other types of investments—including corporate bonds, government bonds, and treasury securities. Overall "market risk" poses the greatest potential danger for investors in stocks funds. Stock prices can fluctuate for a broad range of reasons—such as the overall strength of the economy or demand for particular products or services.

### ***Individual Stocks***

Individual stocks have the same risk characteristics as Stock Funds plus those risks specific to the issuer such as the entrepreneurial risk of becoming a co-owner of the company.

### ***Tax Consequences of Mutual Funds***

When investors buy and hold an individual stock or bond, the investor must pay income tax each year on the dividends or interest the investor receives. However, the investor will not have to pay any capital gains tax until the investor actually sells and unless the investor makes a profit. Mutual funds are different. When an investor buys and holds mutual fund shares, the investor will owe income tax on any ordinary dividends in the year the investor receives or reinvests them. In addition to owing taxes on any *personal capital gains* when the investor sells shares, the investor may also have to pay taxes each year on *the fund's capital gains*. That is because the law requires mutual funds to distribute capital gains to shareholders if they sell securities for a profit that cannot be offset by a loss.

### ***Exchange Traded Funds (ETFs)***

An ETF is a type of Investment Company (usually, an open-end fund or unit investment trust) whose primary objective is to achieve the same return as a particular market index. An ETF is similar to an index fund in that it will primarily invest in securities of companies that are included in a selected market index. Unlike traditional mutual funds, which can only be redeemed at the end of a trading day, ETFs trade throughout the day on an exchange. Like



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stock mutual funds, ETF prices may be affected by the prices of the underlying securities, the overall market. ETF prices that track a particular sector may be affected by factors affecting that particular industry segment.

### ***Private Equity Funds***

Private Equity Funds invest in the ownership of non-publicly traded companies. Because there is no liquid market to value or transact, these funds have significant marketability and liquidity risks. Typically, they have long term holding periods with initial lock-up periods that preclude you from withdrawing your capital. Private Equity Funds typically also have relatively high management fees and performance fees.

### ***Venture Capital and Angel Funds***

Venture Capital and Angel Funds specifically invest in the ownership of very early stage or early stage non-publicly traded companies. These funds would have all the risks associated with Private Equity Funds with the addition of non-operating history risk of the companies. These funds expect a certain percentage of their investments will lose much if not all of their value.

### ***Hedge Funds/Fund of Funds/Alternative Investments***

This asset class consists of a myriad of investment styles and vehicles, some that utilize leverage. Each should be carefully scrutinized for suitability and risks specifically associated with each strategy and manager of the strategy.

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

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We are required to disclose whether there are legal or disciplinary events that are material to your evaluation of our advisory business or the integrity of our management. Magnus Capital does not have any legal or disciplinary information to disclose.

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

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Both Craig and Gary are licensed to sell life insurance in the State of Florida. Gary is not affiliated with a particular insurance company and refers cases to other insurance professionals. Craig is affiliated with Lafayette Life Insurance Company. They may receive commissions for placing or referring the cases and are separate from and in addition to the fees you pay us for Investment Supervisory Services.

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Our holding company, Fifth Avenue Advisors, has other operations in mergers & acquisitions (Compass Advisory Group), and fund administration (Peninsula Fund Administrators). If a specific need or strategy arises where we refer you to these organizations for products or services they offer, we will disclose that conflict to you. Our disclosure may be in conversations with you or may be in writing to you. You are free to choose whether to act on our recommendation to purchase services or investment products or not. If you decide to purchase the recommended services or products, you have the option to purchase the products through any broker or agent of your choice. You are not required to purchase the services or products through us.

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

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We have adopted a Code of Ethics and Professional Standards (the "Code") for avoiding prohibited acts and designed to eliminate potential conflicts of interest. The Code works in conjunction with our written Statement of Policy and Procedures (the "Statement") designed to detect and prevent insider trading and to govern personal securities trading. Such statement forbids any of our members or employees from trading, either personally or on behalf of others, on material non-public information or communicating material non-public information to others in violation of the law (i.e., insider trading).

It also sets forth our policy that your interests are always placed ahead of any personal interest. This policy requires our personnel to do their buying and selling after transactions have been completed for clients and include procedures requiring all of our employees to report their personal securities transactions to our designated supervisor on a periodic basis. We believe that the Code and Statement are appropriate to prevent or eliminate potential conflicts of interest situations between us, our employees and you. However, you should be aware that no set of rules can possibly anticipate or relieve all potential conflicts.

#### Code of Ethics and Professional Standards

As a professional organization serving the public in the area of asset management, we are guided in our actions by the highest ethical and professional standards and subscribe to the Code of Ethics and Standards of Professional Conduct adopted by the CFA Institute as stated below:

1. The general conduct of our personnel must at all times reflect the professional nature of the business we are in. Our personnel strive to be judicious, accurate, objective and reasonable in dealing with both clients and other parties. The personal integrity of all employees must be beyond the slightest shadow of a doubt.

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2. All of our personnel must act within the spirit and the letter of all relevant federal, state and local laws and regulations pertaining to an investment adviser and to the general conduct of business.

3. At all times, the interest of our clients has precedence over personal interests. This applies particularly in the case of purchases and sales of stocks and other securities that are owned, purchased or sold in the advisory and fiduciary accounts that we service.

4. Supervised Persons must immediately report any violations of the Code to the Chief Compliance Officer ("CCO").

5. All Supervised Persons will be provided with a copy of the Code and any amendments thereto and must acknowledge their receipt of same in writing.

6. We have adopted Insider Trading Policies which set parameters for the establishment, maintenance and enforcement of policies and procedures to detect and prevent the misuse of material non-public information by our personnel. The Insider Trading Policies are in addition to and do not supersede this Code.

7. All new employees shall submit to the CCO or his designee a report of their current securities holdings that meets the following requirements: Each holdings report must contain, at a minimum:

- a) the title and type of security and, as applicable, the exchange ticker symbol or CUSIP number;
- b) number of shares and principal amount of each reportable security in which the Supervised Person has any direct or indirect beneficial ownership;
- c) the name of any broker, dealer or bank with which the Supervised Person maintains an account in which any securities are held for the Supervised Person's direct or indirect benefit; and
- d) the date the Supervised Person submits the report. Supervised Persons must each submit a holdings report no later than 10 days after becoming a Supervised Person, and the information must be current as of a date no more than 45 days prior to the date the person becomes a Supervised Person, at least once each 12-month period thereafter on a date selected and the information must be current as of a date no more than 45 days prior to the date the report was submitted.

8. All employees shall notify the designated supervisor (the "Supervisor"), as required by our Statement of Policy and Procedures of any security in which he or she may have any beneficial interest and any such transaction effected by, for, or on behalf of, any member of their household. All employees will file a complete transaction report of all securities transactions effected during a calendar quarter for his or her own account, or for the account of his or her

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immediate family, not later than 10 days after the end of the calendar quarter in which the transaction was effected. This report shall include:

- a) the date of the transaction;
- b) the title and, as applicable, the exchange ticker symbol or CUSIP number;
- c) the interest rate and maturity date;
- d) the number of shares; and
- e) the principal amount of each reportable SECURITY INVOLVED.

It should also contain:

- a) the nature of the transaction (i.e., purchase, sale or any other type of acquisition or disposition);
- b) the price of the security at which the transaction was effected;
- c) the name of the broker, dealer or bank with or through which the transaction was effected; and
- d) the date the Supervised Person submits the report.

9. Supervised Persons must obtain the approval of the CCO before they directly or indirectly acquire beneficial ownership in any security in an initial public offering or in a limited offering. These reports will be kept on file by us in accordance with applicable regulatory requirements.

10. When an employee finds that his or her personal interests conflict with the interests of our firm and our clients, he or she will report the conflict promptly to the Designated Supervisor for resolution.

11. The recommendations and actions of Magnus Capital are confidential and private matters between us and our clients. Accordingly, it is our policy to prohibit, prior to general public release, the transmission, distribution or communication of any information regarding securities transactions of client accounts except to broker/dealers or other custodians of client assets in the ordinary course of business. In addition, no information obtained during the course of employment regarding particular securities (including reports and recommendations) may be transmitted, distributed, or communicated to anyone who is not affiliated with Magnus Capital, without the prior written approval of the Designated Supervisor.

12. The policies and guidelines set forth in this Code must be strictly adhered to by all our employees. Severe disciplinary actions, including dismissal, may be imposed for violations of this Code.

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### ***Item 12 Brokerage Practices***

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We utilize leading institutional custody/brokerage companies that offer services and pricing that are exemplary for the specific needs of our clients. We do not require that you use a particular custodian/broker but will assist in determining a suitable selection. The four largest custodians/brokers in terms of our client assets are BNY Mellon, Fidelity, Wells Fargo, Goldman Sachs, and Credit Suisse.

#### **Soft Dollar Benefits**

We do not participate in any “soft dollar benefits”. We do not receive research or other products or services other than execution from a broker-dealer or a third party in connection with client securities transactions.

#### **Brokerage for Client Referrals**

We do not receive client referrals from a broker-dealer and do not consider the possibility of receiving a client referral in selecting a particular broker-dealer.

#### **Directed Brokerage**

We do not routinely recommend, request or require that a client direct transactions to be executed through a specified broker-dealer.

#### **Order Aggregation**

Most of our investment strategies are carried out by qualified sub-advisors that have order aggregation procedures to minimize cost and maintain uniform pricing across accounts. If we are directing the execution of a specific security for multiple accounts at the same time, we will aggregate the order if there is a transaction cost advantage or significant pricing disparity.

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

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We review accounts on a weekly basis. Craig Lyon, Managing Director, and Gary Price, Director, together or individually review allocation, performance and risk factors for all accounts. Triggering factors for deeper analysis would include: re-balancing for target allocation; economic and market fundamentals; dissatisfaction with a sub-advisor's performance or service level.

We provide you with a consolidated quarterly report reflecting account values, holdings and performance (when available). You also receive regular monthly statements directly from the custodians that hold the investments.

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

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We do not participate in paying or receiving economic benefit for any other service, product or referral

### ***Item 15 Custody***

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We do not retain custody of any client assets. All client assets are with qualified institutional custodians.

### ***Item 16 Investment Discretion***

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We request written authority in the form of a limited power of attorney to trade in clients' accounts. This allows us to determine which securities to sell and in what amounts without consultation with the client on a transaction-by-transaction basis. However, the client may place conditions including restrictions on transactions in specific company securities or industries or types of financial products. These conditions should be communicated to us in writing.

### ***Item 17 Voting Client Securities***

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We do not accept discretion to vote by proxy the securities owned by our clients. You will receive proxies or other solicitations directly from your custodian, transfer agent, or forwarded from us. You may contact us in writing, in person or by telephone to discuss your questions concerning a particular solicitation.

### ***Item 18 Financial Information***

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We accept discretion over clients' accounts as described in Item 16. We are required to disclose any financial condition that is reasonably likely to impair its ability to meet contractual commitments to clients. We do not currently face such a condition and has never been subject to a bankruptcy proceeding.

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### *Item 19 Requirements for State-Registered Advisers*

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The educational background and employment histories of our advisory personnel are listed below. Craig Lyon and Gary Price equally oversee the management of the firm. They both spend the majority of their time serving existing clients, but also focus their efforts towards engaging and serving new clients. Craig and Gary spend a minority of their time assisting in the management of the parent company, Fifth Avenue Advisors LLC, and its operating subsidiaries.

Craig Lyon is a proponent of effective communication between family members to foster a rewarding legacy. He is trustee for numerous trust accounts, an officer of a private charitable foundation, and advisor to real-estate, private equity and venture capital transactions. Mr. Lyon has more than 20 years of experience in the financial industry with direct responsibility and management of institutional, retail and hedge fund investments. His early career began at the Chicago Mercantile Exchange as an Arbitrage Clerk and then a Floor Trader in the Foreign Currency Pits. He joined the investment team at Masco Corporation, a Fortune 500 company, assisting Samuel Valenti III manage a \$400 million pension fund in-house. He became a Series-7 registered representative with McDonald Financial Group and then with Leonard & Company while still working closely with Valenti Capital on its hedge funds and alternative investments and went on to establish Magnus Capital in 2002. Mr. Lyon earned his B.S. in Business from Miami University in Ohio. With a keen interest in technical and statistical analysis, Mr. Lyon has devoted much of his career to the study of the financial markets.

Gary Price is also a 20+ year veteran of the financial services industry. He is a Certified Trust Financial Advisor (CTFA). His commitment to continuing education allows him to remain at the forefront of the industry and deliver comprehensive investment services. In addition to Magnus Capital, Mr. Price is dedicated to the pursuit of public service. He served five years on the Naples Planning Advisory Board, including two years as chairman. In February 2010, he was elected to a four-year term on the Naples City Council where he oversees the city's strategic progress and currently serves as Vice-Mayor. Mr. Price has also served on many charitable boards including The Ronald McDonald House of Southwest Florida and Orlando, the Boys and Girls Club of Naples and Ocala, United Way, and the Naples Art Association. He attended Ohio State University where he earned a double major in finance and real estate and urban analysis. He also completed a three-year graduate program through the University of South Florida and the Florida Bankers Association.