

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING

File No. 3-22307

In the Matter of

**EPIC CAPITAL WEALTH
ADVISORS, LLC,**

Respondent.

**DIVISION OF ENFORCEMENT'S
RESPONSE TO RESPONDENT'S
SUPPLEMENTAL BRIEF**

The Division of Enforcement (“Division”) respectfully submits this Response to Epic Capital Wealth Advisors, LLC’s (“Epic”) Supplemental Brief dated September 22, 2025 (“Brief” or “Br.”).

Epic’s Brief does not contest that, in order to approve Epic’s registration request, the Commission must first find that the requirements of Section 203 of the Advisers Act are satisfied and that Epic is not prohibited from registering as an investment adviser by Section 203A of the Advisers Act. *See* 15 U.S.C. § 80b-3(c)(2)(B). Those findings, as the Division outlined in its own Supplemental Brief, would indicate eligibility to register with the Commission, and the Commission would also need to determine whether Epic would nevertheless be subject to suspension to revocation under Section 203(e). Thus, the Division and Respondent appear to agree on the statutory requirements at issue in the Commission’s Supplemental Briefing Order of September 17, 2025.

Epic, however, argues that it has a “reasonable expectation” to raise \$100 million in regulatory assets under management within 120 days of its registration becoming effective based on David Anthony’s (“Anthony”) career to date and prior work; Anthony’s credentials; his having started and operated Anthony Capital, LLC (“Anthony Capital”); his “substantial firsthand experience in the private equity marketplace;” Anthony’s access to clients and social media presence; because “thousands of affluent potential clients that have indicated an interest in working with a professional who can help them save money and reduce their tax liability;” and because of technological advances, features of the individual retirement arrangement (“IRA”) market, and Anthony’s proximity to Park City, Utah. Br. at 2-3.¹ None of these assertions of supposed fact cite to the findings of the Initial Decision (“ID”), nor to the record from the June 2025 Hearing,

¹ Many of Epic’s arguments were anticipated and addressed in the Division’s Opening Supplemental Brief, and those arguments will not be repeated here.

nor to any admitted exhibits. As previously addressed by the Division's Reply Brief of September 19, 2025, the Commission respectfully should not accept the unsupported *ipse dixit* of Anthony as evidence or proof in this proceeding, Reply Br. at 2-6, especially in light of the numerous adverse findings against Anthony made by the Law Judge in the Initial Decision. As the Law Judge recognized, when the full set of facts and points argued by the Division to date are considered, they could "raise serious issues regarding Anthony's fitness to serve in a fiduciary role." ID at 8.

With respect to Epic's arguments about Anthony's career to date, the significance of his claimed credentials, and the degree of "success" he had at Anthony Capital and with his Private Funds (defined in Div. Opening Br. at 5), the Division respectfully refers back to the fulsome recitation of the record about these matters given in the Initial Decision, the Division's Opening Brief (at pages 4 through 16), and the Division's Reply Brief (at page 9), which demonstrate that Epic's current portrayal is incomplete and outdated. Indeed, the most salient fact from Anthony's "proven 25 +yr track record of success in the financial services industry," Br. at 3, is that at no point during that period of time did Anthony Capital manage anywhere near \$100 million in regulatory assets under management. Given that Anthony had many thousands of days over the years he operated Anthony Capital to have raised such an amount, but never did, his contention that he will be able to within the abbreviated period of 120 days remains implausible.

In addition, as previously addressed in the Division's Supplemental Brief, Anthony's conduct after being enjoined by the State Court in Colorado reflects that he does not really harbor an expectation – reasonable or otherwise – to raise \$100 million. After being enjoined, Anthony sought to register Anthony Capital with the State of Utah (not the Commission), which reflects that he believed (less than two years ago) that his firm was *not* reasonably likely to raise \$110 million of regulatory assets under management that would have necessitated Commission registration. *See*

Div. Suppl. Br. at 16. Epic’s claim now that as a new firm with no track record of prior performance it will exceed what Anthony Capital anticipated is improbable.

The Epic Brief’s inclusion of money that Anthony raised through the Private Funds (which he is now rebranding as “firsthand experience in the private equity marketplace,” Br. at 3) is itself questionable given his insistence that the Private Funds were *not* managed by Anthony Capital, and thus were *not* part of its regulatory AUM, because he, David Anthony, acted as the fund manager. T. 79:21-80:3 (“No, Anthony Capital did not provide investment advice to the funds that I set up. . . . I, David Anthony, managed those funds.”). And, if the plan is for Epic to focus on making investments like those Anthony directed through the Private Funds, then that too should give the Commission significant pause because at least two of Anthony’s earlier Private Funds suffered near total losses of investors’ principal. *See* Div. Opening Br. at 7-8 (describing Bond Fund and Promissory Note Fund); *see also* ID at 3-4. In light of that experience, it is highly unlikely – and Anthony has not argued to the contrary – that, at a minimum, those investors who previously placed and lost substantial money in the Private Funds will now seek to have Epic manage their money.

The Division has also addressed the factual inaccuracies behind Epic’s claims in its Brief that Anthony has access to “potential AUM clients,” Br. at 3, and the source of the “clients” being individuals who responded to online offers of tax-planning services. *See* Div. Suppl. Br. at 12-15. Nor has Epic has not established why it is reasonable to expect persons seeking tax-planning to also want to place millions of dollars with Epic. Likewise, Epic’s points about Anthony having access to social media and the generally sizeable nature of the “Individual Retirement Account marketplace,” Br. at 3, are points that apply to all potential advisers, are not unique to Epic, and fail to consider that there is specific, adverse information about Anthony (including that he is

enjoined in Colorado) that is also available and might reasonably lead a prudent investor to place their money with the many competitors of Epic.

Most troublingly, the Epic Brief continues to espouse Anthony's profound misunderstanding of the regulatory requirements for investment advisers and to ignore the clear red flags about impediments Epic may face if it needs to transition to a state-registered adviser. This includes Epic now claiming that if it fails to raise the necessary assets, it "could then pivot to a state registered advisor," Br. at 4, without even mentioning the events that transpired last year when Anthony Capital attempted, and failed, to register with the State of Utah, *see* Div. Opening Br. at 13-16; Div. Reply Br. at 14-16. The Brief cites to the requirements for and hiring of investment adviser *representatives*, which have no bearing on what Epic, the firm (and not its employees), must or will be able to do if it loses federal registration. And, Epic again raises the concept of transferring ownership and control of Epic "to other 3rd parties (family members and business associates) if necessary," Br. at 4, but these points raise more questions than they answer, and indicate that if Anthony's plan is to place ownership and control of Epic with someone else, then the firm should apply for registration when the actual owner and management of Epic is in place. In reality, Anthony does not intend to surrender ownership or control of Epic to anyone else; at the Hearing, he testified that he intended to retain control of Epic and remain the "rainmaker" for the firm. *See* Div. Reply Br. at 12-13; *see also* ID at 6 ("Finally, he testified that if could not register as an investment adviser representative in the states where he advised clients, he would hire new personnel to manage client funds and could transfer ownership of the company to his wife or child but 'continue to be the rainmaker and the face' of the operation.").

Finally, while Epic claims to be "dumbfounded" about certain events in this matter, Br. at 4, the more relevant, amazing fact is Epic's steadfast refusal to consider, much less make any meaningful plans to address and protect, the interests of future clients instead of Anthony.

Throughout this proceeding, the Division has put forward reasonable questions about Epic's plans for its future and the clients Anthony claims he will act in the best interest of, and Anthony throughout these proceedings instead has fixated on and attempted to rewrite the past. The record demonstrates that there should be concern for the "well-being of future advisory clients of Epic," Br. at 4, and for the many reasons argued in this proceeding by the Division, denial of Epic's registration request remains appropriate.

Respectfully submitted this 30th day of September, 2025.

/s/ James P. McDonald
James P. McDonald
Trial Counsel
Division of Enforcement
U.S. Securities and Exchange Commission
1961 Stout Street, Ste. 1700
Denver, CO 80294

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing Response contains 1,502 words excluding the cover page and certificates of compliance and service.

/s/ James P. McDonald

James P. McDonald

Division of Enforcement

Securities and Exchange Commission

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing and any attachments was served on the following on September 30, 2025, in the manner indicated below:

Epic Capital Wealth Advisors, LLC (via email)
c/o Mr. David Anthony
dave@epiccapitalwealth.com

/s/ James P. McDonald
Division of Enforcement
Securities and Exchange Commission