

SECURITIES AND EXCHANGE COMMISSION

Release No. IA-5488 / File No. 803-00246

Edmunds Private Capital, LLC

April 24, 2020

AGENCY: Securities and Exchange Commission (“Commission”).

ACTION: Notice.

Notice of application for an exemptive order under section 202(a)(11)(H) of the Investment Advisers Act of 1940 (“Advisers Act”).

Applicant: Edmunds Private Capital, LLC (“Applicant”).

Relevant Advisers Act Sections: Exemption requested under section 202(a)(11)(H) of the Advisers Act from section 203(a)(11) of the Advisers Act.

Summary of Application: Applicant requests that the Commission issue an order declaring it to be a person not within the intent of section 202(a)(11) of the Advisers Act, which defines the term “investment adviser.”

Filing Dates: The application was filed on April 13, 2018, and amended on October 17, 2018, April 11, 2019, September 23, 2019, December 19, 2019, and January 29, 2020.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by e-mailing the Commission’s Secretary at Secretarys-Office@sec.gov and serving the Applicant with a copy of the request by email. Hearing requests should be received by the Commission by 5:30 p.m. on May 19, 2020 and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0-5 under the Advisers Act, hearing requests should state the nature of the writer’s interest, any facts bearing upon the

desirability of a hearing on the matter, the reason for the request, and the issues contested.

Persons may request notification of a hearing by e-mailing the Commission's Secretary at Secretarys-Office@sec.gov.

ADDRESSES: The Commission: Secretarys-Office@sec.gov. Applicants: S. Brian Farmer, Esq., bfarmer@hf-law.com.

FOR FURTHER INFORMATION CONTACT: Laura J. Riegel, Senior Counsel, at (202) 551-3038 or Andrea Ottomanelli Magovern, Branch Chief, at (202) 551-6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website either at <http://www.sec.gov/rules/iareleases.shtml> or by calling (202) 551-8090.

Applicant's Representations:

1. Applicant is a multi-generational single-family office that provides services to the family and descendants of Henry Garnett Chesley. Applicant is wholly-owned by Family Clients and is exclusively controlled by one or more Family Members and/or Family Entities in compliance with rule 202(a)(11)(G)-1 ("Family Office Rule"). For purposes of the application, the term "Chesley Family" means the lineal descendants of Henry Garnett Chesley, their spouses or spousal equivalents, and all other persons and entities that qualify as Family Clients as defined in paragraph (d)(4) of the Family Office Rule.¹ Capitalized terms herein have the same meaning as defined in the Family Office Rule.

2. Applicant provides both advisory and non-advisory services (collectively, the "Services") to members of the Chesley Family. Any Service provided by Applicant that relates

¹ Specifically, Applicant is wholly-owned and exclusively controlled by Paul C. Edmunds II, a lineal descendant of Henry Garnett Chesley.

to investment advice about securities or may otherwise be construed as advisory in nature is considered an “Advisory Service.”

3. Prior to forming Applicant, Paul C. Edmunds was associated with a broker-dealer and afterwards a registered investment adviser (“Predecessor RIA”) that for approximately 24 years managed substantially all of the advisory accounts of the Chesley Family and the accounts of the Additional Family Clients (as defined below). Effective as of September, 2015, Paul C. Edmunds terminated his association with the Predecessor RIA and formed Applicant. Commencing October 1, 2015, the advisory accounts of the Family Clients and the Additional Family Clients managed by the Predecessor RIA were transitioned to Applicant.

4. Applicant represents that: (i) each of the persons served by Applicant is a Family Client, *i.e.*, Applicant has no investment advisory clients other than Family Clients as required by paragraph (b)(1) of the Family Office Rule, with the limited exception that Applicant provides Services to the Additional Family Clients (as defined below), (ii) Applicant is owned and controlled in a manner that complies in all respects with paragraph (b)(2) of the Family Office Rule, and (iii) Applicant does not hold itself out to the public as an investment adviser as required by paragraph (b)(3) of the Family Office Rule. At the time of the application, Applicant represents that Family Clients that are natural persons account for approximately 67% of the natural persons to whom Applicant provides Advisory Services.

5. Applicant provides Services, including Advisory Services, to the parents of the spouse of Paul C. Edmunds (the “Additional Family Clients”). The Additional Family Clients do not have an ownership interest in Applicant. The assets owned by the Additional Family Clients represent approximately 11% of the Applicant’s assets under management.

6. Applicant represents that the Additional Family Clients have important familial ties to and are an integral part of the Chesley Family. Applicant maintains that including the Additional Family Clients in the “family” simply recognizes and memorializes the familial ties and intra-familial relationships that already exist, and have existed for over two decades, and that the inclusion of the Additional Family Clients as members of the Chesley Family for which Applicant provides services will be consistent with the existing familial relationship among the Family Members.

Applicant’s Legal Analysis:

1. Section 202(a)(11) of the Advisers Act defines the term “investment adviser” to mean “any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities...”

2. Applicant falls within the definition of an investment adviser under section 202(a)(11). The Family Office Rule provides an exclusion from the definition of investment adviser for which the Applicant would be eligible but for the provision of Advisory Services to the Additional Family Clients. Section 203(a) of the Advisers Act requires investment advisers to register with the Commission. Absent relief, upon reaching the required level of regulatory assets under management, Applicant would be subject to registration with the Commission under section 203(a) of the Advisers Act.

3. Applicant submits that its relationship with the Additional Family Clients does not change the nature of the office into that of a commercial advisory firm. In support of this argument, Applicant notes that if the Additional Family Clients were the parents of a lineal

descendent of Henry Garnett Chesley, rather than the parents of a spouse of a lineal descendent of Henry Garnett Chesley, there would be no question that each of them would be a Family Member. Applicant states that in requesting the order, the office is not attempting to expand its operations or engage in any level of commercial activity to which the Advisers Act is designed to apply. Indeed, although the Additional Family Clients do not fall within the definition of Family Member, they are considered to be, and are treated as, members of the Chesley Family.

4. Mr. Edmunds has managed accounts for the Additional Family Clients for 24 years. Applicant maintains that, from the perspective of the Chesley Family, allowing Applicant to provide Services to the Additional Family Clients is consistent with the family's previous experience with investment management services provided by Mr. Edmunds and the existing familial relationship among Family Members.

5. Applicant also submits that declaring Applicant to be a Family Office under the Advisers Act is not contrary to the public interest. Applicant states that the office is a private organization that was formed to be the "family office" for the Chesley Family, and that the office does not have any public clients. Applicant maintains that the office's Services are exclusively tailored to the needs of the Chesley Family and the Additional Family Clients. Applicant argues that the provision of Advisory Services to the Additional Family Clients, who have been receiving Advisory Services from Mr. Edmunds in the same manner as Family Members for over 24 years, does not create any public interest that is different in any manner than the considerations that apply to a "family office" that complies in all respects with the Family Office Rule.

6. Applicant argues that, although the Family Office Rule largely codified the exemptive orders that the Commission had previously issued before the enactment of the Dodd-

Frank Wall Street Reform and Consumer Protection Act, the Commission recognized in proposing the rule that the exact representations, conditions, or terms contained in every exemptive order could not be captured in a rule of general applicability. The Commission noted that family offices would remain free to seek a Commission exemptive order to advise an individual or entity that did not meet the proposed family client definition, and that certain situations may raise unique conflicts and issues that are more appropriately addressed through an exemptive order process where the Commission can consider the specific facts and circumstances, than through a rule of general applicability.

7. Applicant maintains that, based on its unusual circumstances – providing Services to Family Clients and to the Additional Family Clients who are relatives who have been considered and treated as Family Members for 26 years and whose status as clients of Applicant would not change the nature of Applicant’s operations to that of a commercial advisory business – an exemptive order is appropriate based on Applicant’s specific facts and circumstances.

8. For the foregoing reasons, Applicant requests an order declaring it to be a person not within the intent of section 202(a)(11) of the Advisers Act. Applicant submits that the order is necessary and appropriate, in the public interest, consistent with the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the Advisers Act.

Applicant's Conditions:

1. Applicant will offer and provide Advisory Services only to Family Clients and to the Additional Family Clients, who generally will be deemed to be, and be treated as if they are, Family Clients; provided, however, that the Additional Family Clients will be deemed to be, and treated as if they are, Family Members for purposes of paragraph (b)(1) and for purposes of paragraph (d)(4)(vi) of the Family Office Rule.

2. Applicant will at all times be wholly-owned by Family Clients and exclusively controlled (directly or indirectly) by one or more Family Members and/or Family Entities (excluding the Additional Family Clients' Family Entities) as defined in paragraph (d)(5) of the Family Office Rule.

3. At all times the assets beneficially owned by Family Members and/or Family Entities (excluding the Additional Family Clients' Family Entities) will account for at least seventy-five percent (75%) of the assets for which Applicant provides Advisory Services.

4. Applicant will comply with all the terms for exclusion from the definition of investment adviser under the Advisers Act set forth in the Family Office Rule except for the limited exception requested by the application.

For the Commission, by the Division of Investment Management, under delegated authority.

J. Matthew DeLesDernier
Assistant Secretary