

**Eagan Capital Management, LLC**  
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**315-637-8004/8007**  
**March 7, 2024**

This Brochure provides information about the qualifications and business practices of Eagan Capital Management, LLC ("ECM"). If you have any questions about the contents of this Brochure, please contact us at 315-637-8004/8007 or via email at [eeagan@eagancapital.net](mailto:eeagan@eagancapital.net). The information in this Brochure has not been approved or verified by the United States Securities and Exchange Commission ("SEC") or by any state securities authority.

Eagan Capital Management, LLC is a registered investment adviser. Registration of an Investment Adviser does not imply any level of skill or training. The oral and written communications of an Adviser provide you with information about which you determine to hire or retain an Adviser.

Additional information about Eagan Capital Management, LLC also is available on the SEC's website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).

**Item # 2 Material Changes**

In this section we discuss only material changes since the last Other-Than-Annual Amendment update which was filed with the SEC on December 21, 2023.

There have been no significant changes since that last update.

Pursuant to SEC Rules, we will ensure that you receive a summary of any material changes to this and subsequent Brochures within 120 days of the close of our business' fiscal year. We may further provide other ongoing disclosure information about material changes as necessary.

We will further provide you with a new Brochure as necessary based on changes or new information, at any time, without charge.

Our Brochure may be requested by contacting Edward W. Eagan, Managing Member, at 315-637-8004 or [eeagan@eagancapital.net](mailto:eeagan@eagancapital.net). Additional information about ECM is also available via the SEC's web site [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov). The SEC's web site also provides information about any persons affiliated with ECM who are registered, or are required to be registered, as investment adviser representatives of ECM.

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### Item 4 – Advisory Business

A) Clients use the services provided by ECM for a variety of purposes. Some want to learn how to save for the college education of their children. Some wish to know if they're on track for a comfortable retirement. The typical ECM client is either retired, preparing to retire or accumulating wealth. After an initial meeting, ECM will develop a plan to help clients meet their financial goals. If appropriate, prior to implementing the plan, an Investment Policy is prepared for and signed by the client. Once signed, ECM will begin to invest the client's assets according to the Policy. This helps avoid confusion and misunderstandings. Edward W. Eagan is the Managing Member of ECM, its sole owner and only member. He has worked in the financial services industry since May 1988. He started his Investment Advisory business in 1998 and created an LLC within which to conduct his advisory practice in March 2001. ECM is not a publicly traded company.

B) Investment portfolio management is the most common service provided by ECM. The portfolio management process is described in Item #8 below. For many clients who are not retired, ECM will prepare a goal-specific financial plan to help them determine if they're on track to reach their objective. Those goals might include retirement, funding their children's college education, buying a second home or leaving a legacy. In very rare instances, a client will ask ECM to prepare a thorough financial plan. Only in those instances does ECM charge a fee for the preparation of the comprehensive plan. Clients may impose restrictions as to the types of investments held within their accounts. However, none have chosen to do so. ECM also acts as a Solicitor for Hammer Asset Management, LLC ("HAM") - a registered investment adviser. The investment methodology used by HAM often appeals to investors interested in active (versus passive) management and which includes the ownership of individual stocks and bonds.

C) All financial plans, as well as investment portfolios, are tailored to the individual client's needs. Many factors are taken into consideration when tailoring an investment portfolio to a particular client. Some of the items considered are investment objectives, time horizon, risk tolerance, tax bracket, inheritances, other assets owned, business interests, investment experience, how the assets are owned, marital status, children, estate plans, gifting plans, and charitable bequests, among others. Whereas many clients will own similar investments, their particular portfolio composition will be unique in an effort to reflect their individual investment objectives.

D) ECM does not currently participate in wrap fee programs.

E) As of December 31, 2023, ECM managed approximately \$77,842,506 in assets on a discretionary basis.

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

The specific manner in which fees are charged by ECM is established in a client's written advisory agreement with ECM. The Client (or custodian) shall pay to the Advisor quarterly, in advance, one fourth of the annual fee. The annual fee equals three quarters of one percent (0.75%) of the assets under management. Calculation of the assets at inception and quarterly thereafter shall be based upon the fair market value of the portfolio (including cash or its equivalents) as determined by the Advisor. The fee payable for any portion of a calendar quarter shall be pro-rated. This quarterly assessment shall be due and payable within thirty (30) days of its receipt by the Client. For a client who invests in a private equity real estate fund ("REOC") associated with ECM, this fee is assessed on a monthly basis and deducted from the REOC. No fee shall be based upon either capital gains or capital appreciation of the Client's assets. Most clients choose to have this fee deducted from their account. A small number of clients choose to be billed. The choice of how to pay the fee is entirely up to the Client.

ECM's fees are exclusive of brokerage commissions, transaction fees, and other related costs and expenses which shall be incurred by the client. Clients may incur certain charges imposed by custodians, brokers, third party investment 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. Mutual funds and exchange traded funds also charge internal management fees, which are disclosed in a fund's prospectus. Such charges, fees and commissions are exclusive of and in addition to ECM's fee, and ECM shall not receive any portion of these commissions, fees, and costs. See Item #12 as well.

When ECM acts as a Solicitor for HAM, ECM receives a third of the fee assessed by HAM. The fee paid by the Client to HAM is exactly the same as it would be if no Solicitor were involved. It is HAM and not the client which compensates ECM for acting as a Solicitor. See Item #10 as well.

On those rare occasions when ECM is asked by the Client to prepare a comprehensive financial plan, ECM charges an hourly fee. At this time, that hourly fee is \$600/hour. Fees are not normally charged to prepare goal-specific plans.

ECM does not receive compensation for the sale of securities or other investment products. The vast majority of investments found within advisory accounts today consist of individual securities, both public and private, ETFs, or no-load mutual funds. Whenever possible, Institutional share classes are used to purchase actively managed mutual funds.

Clients have the option of purchasing investment products recommended by ECM from other Broker/Dealers or agents that are not affiliated with ECM or Edward W. Eagan.

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

ECM does not charge any performance-based fees (fees based on a share of capital gains on or capital appreciation of the assets of a client).

#### **Item 7 – Types of Clients**

ECM provides portfolio management services to individuals and high net worth individuals. However, the vast majority of clients are individuals. There is no minimum account size required to open an account with ECM.

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

The most common investment strategy employed by ECM is based upon the concept of diversification across many asset classes and the use of both momentum and timing tools to determine which asset classes to invest in and what percentage to invest. This is a dynamic portfolio that uses an asset allocation algorithm designed to reduce portfolio risk. The portfolio is able to invest in nine different asset classes like large and small company U.S. stocks, the NASDAQ, U.S. real estate, international stocks, emerging market stocks, U.S. bonds, gold and commodities. Each month the top five of the nine asset classes are selected based on their momentum over the past 180 days. Next, the percentage allocation to the chosen five is determined so as to minimize risk based on the last 20 trading days. ETFs are used to make these investments. In addition to these nine asset classes, a portfolio may include cash and what are known generically as alternative strategies that may include themes like managed futures, market neutral, collars, long/short, merger arbitrage and risk parity.

For clients with lower risk tolerances, ECM may use what is known as the Minimum Variance Portfolio (“MV”) to help determine when to change portfolio allocations. This is a portfolio that is designed to minimize risk while maximizing total return. As a result of the use of the timing signals, clients may experience higher portfolio turnover than would be expected if they pursued what is known as a “buy and hold” investment strategy. Portfolio turnover refers to how frequently assets within a portfolio are bought and sold. Generally speaking, higher portfolio turnover results in higher costs due to an increase in the number of transactions. The potential for higher transaction costs may be offset in part by the ECM’s use of index funds and/or exchange traded funds whenever advisable. These funds tend to have

annual operating expense ratios that are significantly lower than actively managed mutual funds. In addition, when using actively managed mutual funds, ECM purchases institutional share classes which often enjoy lower annual operating expense ratios than retail share classes. The potential for higher transaction costs may also be partially offset through the practice of placing block trades (or aggregated trades). By buying or selling a given security for multiple clients at the same time, ECM is often able to realize savings for the clients in the form of a lower price per share (in the case of a purchase) or a higher price per share (in the case of a sale) due to the size of the order.

In an effort to find potentially attractive alternatives to the domestic bond and publicly traded real estate portions of client portfolios, in August 2012 ECM began advising clients to consider promissory notes secured by mortgages on single-family rental homes. Studies by the likes of Morgan Stanley (Housing 2.0: The New Rental Paradigm, October 27, 2011) and the Federal Reserve Bank of San Francisco's, The Rate of Return on Everything, 1870-2015, December 2017, point out the attractive risk/reward characteristics of single-family homes used as rentals. The typical borrower is a real estate professional who already owns a large number of single-family homes used as rentals. Some borrowers also use money that is loaned to renovate homes and sell them quickly. In every case, real estate is being used to secure the loans. Loan terms vary but generally run between one and three years. Like all investments, promissory notes, mortgages and real estate contain risks. These risks would include (but not be limited to): credit risk, interest rate risk; issuer risk, liquidity risk; mortgage-related risk (including foreclosure); and real estate risk as described below.

Beginning in 2020, ECM began suggesting investments in commercial real estate leased by credit-rated tenants who have signed what is known as Triple Net or Double Net leases. A triple net lease is one where the tenant is responsible for all of the expenses associated with the property such as taxes, insurance and maintenance. A double net lease is one where the tenant will pay two of the three main expenses such as insurance and taxes while the Landlord remains responsible for the maintenance. Some of the investments made include tenants such as Amazon, AT&T, T-Mobile, and BJ's. These investments are made via two Real Estate Operating Companies ("REOCs"). Both REOCs have retained Mr. Eagan to manage their day-to-day operations. This could create the potential for a conflict of interest. This is explained further in Items 11 and 15.

Since nearly every publicly traded asset class may be represented in a client's portfolio, there could be significant risk within that asset class. Investing in securities involves risk of loss that clients should be prepared to bear. Some of the risks clients may be exposed to include:

**Arbitrage Risk:** the risk that securities purchased pursuant to an arbitrage strategy intended to take advantage of a perceived relationship between the value of two securities may not perform as expected.

**Asset Allocation Risk:** the risk a portfolio could lose money as a result of less than optimal or poor asset allocation decisions as to how the asset are allocated or reallocated.

**Commodity Risk:** the risk that investing in commodity-linked derivative instruments may subject the portfolio to greater volatility than investments in traditional securities. The value of commodity-linked derivative instruments may be affected by changes in overall market movements, commodity index volatility, changes in interest rates, or factors affecting a particular industry or commodity such as drought, floods, weather, livestock disease, embargoes, tariffs, and international economic, political and regulatory developments.

**Credit Risk:** the risk that the portfolio could lose money if the issuer or guarantor of a fixed income security, or the counterparty to a derivative contract, is unable or unwilling to meet its financial obligations.

**Currency Risk:** the risk that foreign currencies will decline in value relative to the U.S. dollar and affect the portfolio's investments in foreign currencies or securities that trade in, and receive revenues in, or derivatives that provide exposure to, foreign currencies.

**Derivatives Risk:** the risk of investing in derivative instruments, including liquidity, interest rate, market, credit and management risks, mispricing or improper valuation. Changes in the value of the derivative may not correlate perfectly with the underlying asset, rate or index, and the portfolio could lose more than the principal amount invested.

**Distressed Company Risk:** the risk securities of distressed companies may be subject to greater levels of credit, issuer and liquidity risk. Securities of distressed companies include both debt and equity. Debt securities of distressed companies are considered predominantly speculative with respect to the issuer's continuing ability to make principal and interest payments.

**Emerging Market Risk:** the risk of investing in emerging market securities, primarily increased foreign (non-U.S.) investment risk. **Equity Risk:** the risk that the value of equity securities, such as common stocks and preferred stocks, may decline due to general market conditions which are not specifically related to a particular company or to factors affecting a particular industry or industries. Equity securities generally have greater price volatility than fixed income securities.

**Foreign (non-U.S.) Investment Risk:** the risk that investing in foreign securities may result in the portfolio experiencing more rapid and extreme changes in value than a portfolio that invests exclusively in securities of U.S. companies, due to smaller markets, differing reporting, accounting, and auditing standards, and nationalization, expropriation or confiscatory taxation, currency blockage, or political changes or diplomatic developments.

**High Yield Risk:** the risk that high yield securities and unrated securities of similar credit quality (commonly known as "junk bonds") are subject to greater levels of credit and liquidity risk. High yield securities are considered primarily speculative with respect to the issuer's continuing ability to make principal and interest payments.

**Interest Rate Risk:** the risk that fixed income securities will decline in value because of an increase in interest rates. A fund with a longer average portfolio duration will be more sensitive to changes in interest rates than a fund with a shorter average portfolio duration.

**Issuer Non-diversification Risk:** the risk focusing investments in a small number of issuers, industries or foreign currencies, including being more susceptible to risks associated with a single economic, political or regulatory occurrence than a more diversified portfolio might be.

**Issuer Risk:** the risk that the value of a security may decline for reasons directly related to the issuer, such as management performance, financial leverage and reduced demand for the issuer's goods or services. **Liquidity Risk:** the risk that a particular investment may be difficult to purchase or sell and that ECM may be unable to sell illiquid securities at an advantageous time or price or achieve its desired level of exposure to a certain sector.

**Management Risk:** the risk that the investment techniques and risk analyses applied by ECM will produce the desired results and that legislative, regulatory, or tax developments may affect the investment techniques available to ECM. There is no guarantee that the client's investment objectives will be achieved.

**Market Risk:** the risk that the value of securities owned by the client may go up or down, sometimes rapidly or unpredictably, due to factors affecting securities markets generally or particular industries.

**Mortgage-related and Other Asset-backed Risk:** the risks of investing in mortgage-related and other asset-backed securities, including interest rate risk, extension risk, prepayment risk, as well as default risk. A default could trigger the need to foreclose. There are costs and potential legal issues associated with foreclosure.

**Real Estate Risk:** the risk that a portfolio's investments in real estate investment trusts ("REITs") or real estate-linked derivative instruments will subject the portfolio to risks similar to those associated with direct ownership of real estate including losses from casualty or condemnation, and changes in local or general economic conditions, supply and demand, interest rates, zoning laws, regulatory limitations on rents, property taxes and operating expenses. A portfolio's investment in REITs subjects it to management and tax risks.

**Smaller Company Risk:** the risk that the value of securities issued by a smaller company may go up or down, sometimes rapidly and unpredictably, as compared to more widely held securities due to narrow markets and limited resources of smaller companies. A portfolio's investments in smaller companies subject it to greater levels of credit, market and issuer risk.

**Tax risk:** the risk that the tax treatment of swap agreements and other derivative instruments, such as commodity-linked derivative instruments, including commodity index-linked notes, swap agreements, commodity options, futures, and options on futures, may be affected by future regulatory or legislative changes that could affect the character, timing and or amount of the portfolio's taxable income or gains and distributions.

## **Item 9 – Disciplinary Information**

Registered investment advisers are required to disclose all material facts regarding any legal or disciplinary events that would be material to your evaluation of ECM or the integrity of ECM's management.

Eagan Capital Management, LLC ("ECM") entered into a Settlement Agreement with the Securities and Exchange Commission on December 1, 2023, related to ECM's failure to comply with the custody rule as it relates to two private real estate funds that it advises. Among other things, Rule 206(4)-2 requires registered investment advisers with custody of client funds or securities to have independent public accountants conduct surprise examinations of those client funds or securities, or to have private fund clients timely distribute to their investors annual audited financial statements prepared in accordance with GAAP. The Settlement Agreement and the accompanying Administrative Proceeding can be viewed at:

<https://www.sec.gov/litigation/admin>

In the Search box type in the word “Eagan Capital Management, LLC” and click on “Administrative Summary.” Without admitting or denying the findings, ECM consented to a cease-and-desist order and censure, agreed to pay a \$50,000 penalty, and agreed to comply with undertakings pursuant to which ECM shall, among other things, hire an independent compliance consultant (“ICC”), not unacceptable to the SEC, to conduct a comprehensive review and assist ECM in developing written compliance policies and procedures designed to promote ECM's compliance with the Advisers Act with respect to the custody of client funds and securities. As of this writing, an ICC has begun its review.

It should be noted that the Custody Rule referred to in the Agreement is so confusing that even the SEC, the author of the Rule, declined to interpret it for ECM during its investigation. Various accounting and law firms have given ECM differing opinions as to its application. ECM earnestly hopes the ICC can clarify this confusion.

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

The vast majority of ECM's clients have accounts at Cambridge Investment Research, Inc. (“CIR”). National Financial Services, LLC (“NFS”) serves as the custodian and carrying Broker/Dealer for CIR. As a result, all trades are conducted on NFS' trading platform. NFS prepares the monthly account statement clients receive. Clients using their IRA accounts to make investments in Promissory Notes or the REOCs use a self-directed custodian such as Equity Trust Company in Ohio. Clients often name ECM as an interested party on accounts held at self-directed IRA custodians, enabling ECM to receive account-related communications. Occasionally ECM acts as a Solicitor for Hammer Asset Management, LLC (“HAM”) a SEC-registered investment advisor. Each client that uses HAM as his Investment Advisor is given a copy of the Solicitor's Disclosure Agreement along with HAM's Advisory Agreement. A copy of the Solicitor's Disclosure Agreement is retained in the client's file. The Solicitor's Agreement spells out the nature of the relationship between ECM and HAM, as well as the fees ECM receives from HAM in exchange for acting in its role as Solicitor. The fee ECM receives is equal to one third of the fee charged by HAM. The fees paid by clients to HAM are identical to those paid by HAM clients wherein no Solicitor is involved. The fees HAM charges its clients are a function of the size of the assets under management with the largest fee (1.5%) assessed to the smallest accounts. Edward W. Eagan, Managing Member, is a licensed Life and Health Insurance Broker. He is also a New York State licensed Real Estate Broker.

#### **Item 11 – Code of Ethics**

ECM 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, a prohibition of rumor mongering, 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 supervised persons at ECM must acknowledge the terms of the Code of Ethics annually, or as amended.

ECM anticipates that, in appropriate circumstances, consistent with clients' investment objectives, it will cause accounts over which ECM has management authority to effect, and will recommend to investment advisory clients or prospective clients, the purchase or sale of securities in which ECM, its affiliates and/or clients, directly or indirectly, has a material financial interest. ECM does recommend proprietary products including the two private real estate funds mentioned above. The Board of Directors of both funds have given Mr. Eagan and his staff check writing and wire authorization on the



fund's bank accounts. The President of both Boards is the other authorized signer on both accounts. Money is moved out of either account to make investments only with prior authorization by the respective Board. Furthermore, the REOCs have instituted a policy wherein the bank must receive confirmation from both Mr. Eagan and Mr. Tihic before any money can be wired out. All money movement in and out of the bank accounts is tracked and reported monthly by the funds' CPA to the Boards. The CPA has no relationship with ECM.

ECM charges clients who have invested in either fund its normal advisory fee of 0.75%. Clients sign an authorization form granting ECM the ability to deduct that fee from the respective fund on a monthly basis. ECM receives no additional compensation from either REOC for his services. This fee would result in an investors' rate of return being lower than would otherwise be the case. As the Fund's assets grow, so too will the amount of money paid by the clients to ECM. It should be noted that ECM earns the same fee no matter where the client's assets are invested whether in the Fund or in traditional investments.

ECM's employees and persons associated with ECM are required to follow ECM's Code of Ethics. Subject to satisfying this policy and applicable laws, officers, directors and employees of ECM and its affiliates may trade for their own accounts in securities which are recommended to and/or purchased for ECM's clients. The Code of Ethics is designed to assure that the personal securities transactions, activities and interests of the employees of ECM 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 to invest for their own accounts. Under the Code certain classes of securities have been designated as exempt transactions, based upon a determination that these would materially not interfere with the best interest of ECM's clients. In addition, the Code requires pre-clearance of many transactions, and restricts trading in close proximity to client trading activity. Nonetheless, because the Code of Ethics in some circumstances would permit employees to invest in the same securities as clients, there is a possibility that employees might benefit from market activity by a client in a security held by an employee. Employee trading is continually monitored under the Code of Ethics so as to reasonably prevent conflicts of interest between ECM and its clients.

Certain affiliated accounts may trade in the same securities with client accounts on an aggregated basis when consistent with ECM's obligation of best execution. In such circumstances, the affiliated and client accounts will share commission costs equally and receive securities at a total average price. ECM will retain records of the trade order (specifying each participating account) and its allocation, which will be completed prior to the entry of the aggregated order. Completed orders will be allocated as specified in the initial trade order. Partially filled orders will be allocated on a pro rata basis. Any exceptions will be explained on the Order. ECM's clients or prospective clients may request a copy of the firm's Code of Ethics by contacting Edward W. Eagan.

It is ECM's policy that the firm will not affect any principal or agency cross securities transactions for client accounts. ECM will also not cross trades between client accounts. Principal transactions are generally defined as transactions where an adviser, acting as principal for its own account or the account of an affiliated Broker/Dealer, buys from or sells any security to any advisory client. A principal transaction may also be deemed to have occurred if a security is crossed between an affiliated hedge fund and another client account. An agency cross transaction is defined as a transaction where a person acts as an investment adviser in relation to a transaction in which the investment adviser, or any person controlled by or under common control with the investment adviser, acts as broker for both the

advisory client and for another person on the other side of the transaction. Agency cross transactions may arise where an adviser is dually registered as a Broker/Dealer or has an affiliated Broker/Dealer.

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

The only Broker/Dealers ECM routinely uses are CIR and NFS (see item #10 above). NFS provides services as a clearing firm to myriad smaller Broker/Dealers like CIR. Both CIR and NFS charge fees (transaction, custodial and maintenance, among others) that appear to be customary for full-service brokerage firms. A Client is free to choose to custody their assets anywhere they like. ECM can and does act as the Advisor for client accounts that are custodied elsewhere. There are two very practical reasons why that it is a relatively rare occurrence. When a client's account is custodied elsewhere, her account cannot be included in the aggregated trades described above in paragraph #3 under Item #8. All else being equal, this implies she will potentially pay more (or receive less, in the case of a sale) than ECM's other clients. It also implies she will pay someone a commission. ECM's clients do not pay commissions. That may not be the case for those clients whose accounts are custodied somewhere else. These two factors, taken together, create the potential of higher costs for that client. Clients should be aware that ECM, by directing clients to CIR and NFS, may not be able to achieve most favorable execution of client transactions. ECM acts a Solicitor for HAM. Those clients referred to HAM by ECM have their trades executed through NFS. ECM does not enter into soft dollar arrangements with anyone. ECM has no financial incentive nor receives compensation of any kind for suggesting to clients that they use CIR and NFS. Fees charged by ECM to the client are the same regardless of where her assets are custodied.

#### **Item 13 – Review of Accounts**

Investment advisory clients are encouraged to attend an Annual Review meeting. Whenever possible, the reviews are scheduled on or near the anniversary of the relationship inception date or near the anniversary of the previous review. Clients are also requested to advise ECM when there have been any significant changes in their financial situation, which would trigger an additional review. Edward W. Eagan, Managing Member, conducts all reviews. Clients can request more frequent reviews should they feel the need. All advisory clients receive monthly account statements from the broker dealer. All receive annual performance reports as part of the comprehensive annual review package.

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

Client referrals are made by existing clients. Often ECM will buy a gift certificate to a local restaurant as an expression of appreciation for a referral. In no event will ECM spend more than \$100 per client per year for such referrals. ECM acts as a Solicitor for Hammer Asset Management, LLC ("HAM") a SEC registered investment advisor. Each client that uses HAM as its Investment Advisor is given a copy of the Solicitor's Disclosure Agreement prior to signing HAM's Advisory Agreement. The Solicitor's Agreement spells out the nature of the relationship between ECM and HAM, as well as the fees ECM receives from HAM in exchange for acting in its role as Solicitor. The fees paid by clients to HAM are identical to those paid by HAM clients wherein no Solicitor is involved. A copy of the Solicitor's Disclosure Agreement is retained in the client's file. Clients solicited by ECM for HAM are clients of HAM and not those of ECM.

#### **Item 15 – Custody**

For Clients who have invested in traditional publicly traded assets such as stocks, bonds and ETFs, they should receive monthly statements from the Broker/Dealer or other qualified custodian that holds and

maintains the client's investment assets. Clients using self-directed IRA custodians can elect to receive electronic account statements. ECM urges Clients to carefully review such statements and compare such official custodial records to the account statements that we may provide to you. Our statements may vary from custodial statements based on accounting procedures, reporting dates, or valuation methodologies of certain securities.

ECM is considered to be the Custodian for clients investing in the REOCs using private money but not for those using IRA money or money coming from some other qualified retirement plan. Mr. Eagan has been retained by the REOCs to run their day-to-day operations including joint control over the REOCs' bank accounts. The rendering of these services to the Fund by Mr. Eagan could result in a conflict of interest between REOC investors and the clients of ECM.

Mirza Tihic is the President of the Board of Managers of both REOCs. In addition to serving as President, Mr. Tihic is also the Manager of EWE, LLC. Although he is not a member of that entity, he controls it as the Manager. The REOCs loan money to EWE, LLC so that EWE, LLC may make real estate investments on its behalf. All such loans are approved by the Fund's Board of Managers prior to the actual investment by EWE, LLC. The REOCs' Manager recognizes that if it were to invest directly in certain real estate investments where the organizer intends to borrow money from a bank or other comparable lender, said borrowing could result in the Fund realizing Unrelated Business Taxable Income ("UBTI"). UBTI would result in much lower returns earned by Investors who have used qualified plan money such as an IRA to invest in the Fund. By lending money to EWE, LLC, the Fund hopes to minimize the possibility of realizing UBTI.

Both Mr. Tihic and Mr. Eagan control the bank accounts used by EWE, LLC and the REOCs including check writing and wire issue authority. Under normal circumstances, the Fund will transfer money to EWE, LLC just prior to the closing of the investment to be made. Once the funds for the investment are in the EWE, LLC bank account, a wire is initiated transferring those funds to the bank account of the new investment entity sponsor. All wires are confirmed twice by the banking institution prior to the actual wire being sent. Distributions received by EWE, LLC from its investments are transferred to the Fund's bank account on a monthly basis.

The REOCs' CPA sends out quarterly and annual reports to ECM's REOC clients. In its role as Custodian, ECM believes it is required to retain an accounting firm registered with the Public Company Accounting Oversight Board to perform an annual independent surprise audit of its clients' accounts. The ICC hired to conduct the review mentioned in Item 9 will confirm if the annual surprise audit is required.

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

ECM usually receives discretionary authority from the client at the outset of an advisory relationship to select the identity and amount of securities to be bought or sold. In all cases, however, such discretion is to be exercised in a manner consistent with the stated investment objectives for the particular client account. Investment guidelines and restrictions must be provided to ECM in writing. ECM receives this authority as part of the Trading Authorization form signed by the Client at the same time they complete the Investment Advisory Agreement. When selecting securities and determining amounts, ECM observes the investment policies, limitations and restrictions of the clients for which it advises. For registered investment companies, ECM's authority to trade securities may also be limited by certain federal

securities and tax laws that require diversification of investments and favor the holding of investments once made. ECM has no investment discretion for client accounts held at self-directed IRA custodians.

**Item 17 – Voting Client Securities**

As a matter of firm policy and practice, ECM 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. ECM may provide advice to clients regarding the clients' voting of proxies when requested.

**Item 18 – Financial Information**

Registered investment advisers are required to provide you with certain financial information or disclosures about ECM's financial condition. ECM has no financial commitment that impairs its ability to meet contractual and fiduciary commitments to clients and has not been the subject of a bankruptcy proceeding.