

**SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549**

**APPLICATION FOR AN ORDER UNDER SECTION 202(a)(11)(H) OF THE
INVESTMENT ADVISERS ACT OF 1940 (“ADVISERS ACT”)
DECLARING THE APPLICANT TO BE A PERSON
NOT WITHIN THE INTENT OF THE ADVISERS ACT**

**EDMUNDS PRIVATE CAPITAL, LLC
10831 Ridgefield Parkway
Richmond, Virginia 23233**

All communications, notices, and orders to:

**S. Brian Farmer, Esq.
Hirschler Fleischer, P.C.
2100 E. Cary Street
Richmond, Virginia 23223**

April 12, 2018

This Application (including Exhibits) consists of 18 pages.

Edmunds”), who serves as Chief Investment Officer of the Office.² For purposes of this Application, the term “Edmunds Family” will mean the lineal descendants of Mr. Edmunds, their spouses, and all persons and entities that qualify as family clients under the Family Office Rule (“Family Clients”).³

The Office’s services include asset allocation, investment due diligence, investment management, recordkeeping and tax reporting assistance, federal and state advice, coordination of professional relationships, management and administration of trusts for Edmunds Family members, as well as numerous other responsibilities (collectively, “Services”). Any Service provided by the Office that relates to investment advice about securities is referenced in this Application as an “Advisory Service.”

Other than the provision of Services to the Additional Family Clients (defined below), the Office complies with the three general conditions of the Family Office Rule for exclusion from the definition of “investment adviser” and regulation under the Advisers Act, including: (i) each of the persons served by the Office is a Family Client, *i.e.*, the Office has no investment advisory clients other than the Family Clients as required by paragraph (b)(1) of the Family Office Rule; (ii) the Office is owned and controlled in a manner that complies in all respects with paragraph (b)(2) of the Family Office Rule; and (iii) the Office 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 this

² Edmunds White Partners LLC (“EWP”), a former Registered Investment Adviser previously owned by Mr. Edmunds, was an investment adviser continuously registered with either the Commission or the Commonwealth of Virginia at various times based on assets under management. Mr. Edmunds provided Advisory Services to the Additional Family Clients for over 25 years, through EWP and earlier through Branch Cabell & Co., Inc., a broker-dealer that employed Mr. Edmunds before he founded EWP. When Mr. Edmunds de-registered EWP, he established the Office. Currently, the Office has approximately \$58 million in assets under management and, as such, is not a federally covered adviser.

³ Unless otherwise indicated, all capitalized words have the meaning ascribed to them in the Family Office Rule.

spouses, and all of the persons and entities that qualify as Family Clients as defined in paragraph (d)(4) of the Family Office Rule. Capitalized terms have the same meaning as defined in the Family Office Rule.

2. The Applicant's services include asset allocation, investment due diligence, investment management, recordkeeping and tax reporting assistance, federal and state advice, coordination of professional relationships, management and administration of trusts for Edmunds Family members, as well as numerous other responsibilities (collectively, "Services"). Any Service provided by the Applicant that relates to investment advice about securities is referenced in this Application as an "Advisory Service."

3. The Applicant represents that: (i) other than the exception discussed in representation 4 below, each of the persons served by the Applicant is a Family Client, *i.e.*, the Applicant has no investment advisory clients other than Family Clients as required by paragraph (b)(1) of the Family Office Rule; (ii) the Applicant is owned and controlled in a manner that complies in all respects with paragraph (b)(2) of the Family Office Rule; and (iii) the Applicant does not hold itself out to the public as an investment adviser as required by paragraph (b)(3) of the Family Office Rule.

4. The Applicant provides Advisory Services to Mr. Edmunds' father-in-law and mother-in-law (the "Additional Family Clients"). The Applicant represents that if the Additional Family clients were Family Clients, the Applicant would meet the requirements of (d)(4)(v) of the Family Office Rule.

5. The Additional Family Clients do not have an ownership interest in the Applicant. At the time of the application, the Applicant represents that Family Members account for account for 15 of the total 17 clients to whom the Applicant provides Advisory Services. Furthermore, the assets beneficially owned by Family Clients make up at least 85% of the total assets for which the Applicant provides Advisory Services.

6. The Applicant represents that the Additional Family Clients have important familial ties to and is an integral part of the Edmunds Family. The 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 20 years while the assets of the Additional Family Clients were managed by Mr. Edmunds.

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. The 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. Section 203(a) of the Advisers Act requires investment advisers to register with the SEC. Because the Applicant has regulatory assets under management of less than \$90 million, it is prohibited from registering with Commission under Section 203A(a) of the Advisers Act. While the Applicant is not required to register under Section 203(a) of the Advisers Act, absent relief, the Applicant would be required to register with the Commonwealth of Virginia.

3. The Applicant requests an order declaring the Applicant to be a person not within the intent of section 202(a)(11). The requested order will allow the Applicant to continue to engage in the Services it has traditionally performed without being registered on either the state or federal level as an investment adviser. In regard to state regulation, Section 203A(b)(1)(B) of the Advisers Act preempts any state law requiring investment adviser registration from applying to persons who are excepted from the definition of "investment adviser" under Section 202(a)(11).. Specifically, an order will enable the Applicant to rely on Section 203A(b)(1)(B) to avoid any question that it need register as an investment adviser under the laws of the Commonwealth of Virginia (where its principal offices are located). Likewise, once the Applicant reaches \$90 million in assets under management, an order will provide certainty regarding the Applicant's registration posture with the Commission.

4. The 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. The Applicant is not attempting to expand its operations or engage in any level of commercial activity for which the Advisers Act would normally require registration. The Additional Family Clients increase the Applicant's number of clients by only 13% and the Applicant's assets under management by only 15%. Rather, from the perspective of the Edmunds Family, the Applicant seeks to continue providing Advisory Services exclusively to members of a single family. In support of this argument, the Applicant notes that the Applicant and its Chief Investment Officer have for many years provided Advisory Services to the Additional Family Clients, who do not fall within the definition of "family member," but who are considered to be, and are treated as, members of the Edmunds Family. If the family tree were otherwise, and the Additional Family Clients were instead lineal descendants of Mr. Edmunds rather than his father-in-law and mother-in-law, there would be no question that each of the persons presently being served by the Applicant would be a Family Client.

5. The Applicant also submits that there is no public interest in requiring the Applicant to be registered under the Advisers Act. The Applicant states that the Applicant is a private organization that was formed to be the "family office" for the Edmunds Family, and that the Applicant does not have any public clients. The Applicant maintains that the Applicant's Advisory Services are tailored exclusively to the needs of the Edmunds Family and the Additional Family Clients. The Applicant argues that the presence of the Additional Family Clients, who have been receiving Advisory Services from the Mr. Edmunds for 25 years, does not create any public interest that would require the Applicant to be registered under the Advisers Act 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. Since the adoption of the Family Office Rule, the Commission has issued four orders in response to similar requests to permit a family office to render advisory services to a member of the family who was not, technically speaking, a "family client" by reason of being similarly distant from a linear ancestor as the Additional Family Clients are here. See, In the Matter of Duncan Family Office, Advisers Act Release No. 3882 (July 29, 2014) (order granted to family office that provided investment advisory services to the mother of a spouse of a lineal descent); In the Matter of Gruss & Co. Inc., Advisers Act Release No. 3883 (July 29, 2014) (order granted to family office that provided investment advisory services to two sisters of a spouse of a lineal descendent and each sister's respective spouse and children); In the Matter of William E. Simon & Sons, LLC, Advisers Act Release No. 4001 (Jan. 20, 2015) (order granted to family office that provided investment advisory services to the sibling of a former spouse of a lineal descendent); In the Matter of D-W Investment LLC, Advisers Act Release No. 4090 (May 19, 2015) (order granted to family office that provided investment advisory services to the sister of the spouse of a lineal descendent, as well as an irrevocable trust of which she was a beneficiary). Each of the foregoing orders treated the applicant as a "family office" under the Family Office Rule even though each applicant provided advisory services to persons outside the definition of "family client" under the Family Office Rule. The Applicant believes that these orders recognize

unusual circumstances in which an entity provides advisory services to such persons while remaining focused on a single family's needs and the entity's operations have not become commercial in nature. The Applicant submits that the facts surrounding its clients and operations are substantially similar to those in the above orders.

7. For the foregoing reasons, the Applicant requests an order declaring it to be a person not within the intent of section 202(a)(11) of the Advisers Act. The 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.

Deputy Secretary

EXHIBIT D

PROPOSED ORDER OF EXEMPTION

Edmunds Private Capital LLC (“Applicant”) filed an application on April 12, 2018 for an order Section 202(a)(11)(H) of the Investment Advisers Act of 1940. The order would declare the Applicant to be a person not within the intent of section 202(a)(11) of the Act, which defines the term “investment adviser.” In turn, the Applicant would not be required to register with the Commonwealth of Virginia in reliance on Section 203A(b)(1)(B) of the Advisers Act, which preempts any state law requiring investment adviser registration from applying to persons who are excepted from the definition of “investment adviser” under Section 202(a)(11).

On _____, 2018, a notice of the filing of the application was issued (Investment Advisers Act Release No. _____). The notice gave interested persons an opportunity to request a hearing and stated that an order granting the application would be issued unless a hearing was ordered. No request for a hearing has been filed, and the Commission has not ordered a hearing.

The matter has been considered and it is found, on the basis of the information set forth in the application and the amendments thereto, that Applicant is a person not within the intent of section 202(a)(11) of the Act. Accordingly,

IT IS ORDERED, under section 202(a)(11)(H) of the Act, that the requested exemption by the Applicant is hereby granted, effective immediately.

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

Deputy Secretary

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