

SECURITIES AND EXCHANGE COMMISSION

Investment Advisers Act Release No. 5690 / 803-00247

Lewis Family Advisors, LLC

February 24, 2021

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: Lewis Family Advisors, LLC (the “Applicant”).

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

Summary of Application: The 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 June 4, 2018, and amended on August 30, 2019, and December 8, 2020.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by emailing 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 March 22, 2021, 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 emailing the Commission's Secretary at Secretarys-Office@sec.gov.

ADDRESSES: The Commission: Secretarys-Office@sec.gov. Applicant: Lewis Family Advisors, LLC, c/o Clare F. Black, Esq., at clare.black@lewismc.com.

FOR FURTHER INFORMATION CONTACT: Jean E. Minarick, Senior Counsel, at (202) 551-6811 or Kaitlin C. Bottock, Branch Chief, at (202) 551-6825 (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. The Applicant is a Nevada Family Trust Company and a multi-generational single-family office that provides or intends to provide services to the family and descendants of Ralph M. Lewis. The Applicant is wholly-owned by Family Clients and is exclusively controlled (directly and indirectly) by one or more Family Members and/or Family Entities in compliance with Rule 202(a)(11)(G)-1 (the "Family Office Rule"). For purposes of the application, the term "Lewis Family" means the lineal descendants of Ralph M. Lewis, 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. Unless otherwise indicated, capitalized terms herein have the same meaning as defined in the Family Office Rule.

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

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

3. The Applicant represents that: (i) 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. At the time of the application, the Applicant represents that Family Members account for approximately 99% of the natural persons to whom the Applicant provides Advisory Services.

4. In addition to the Family Clients, the Applicant desires to provide Services (including Advisory Services) to a niece (“Niece”) of Ralph M. Lewis (the “Additional Family Client”). The Additional Family Client does not have an ownership interest in the Applicant. The Applicant represents that the assets beneficially owned by Family Members and/or Family Entities (excluding the Additional Family Client) would make up at least 100% of the assets for which the Applicant provides Advisory Services.

5. The Applicant represents that the Niece has been supported by Family Members and has been considered and treated as a close family member of the Lewis Family for purposes of intrafamilial affection for many years and has attended various family events. The Applicant maintains that including the Additional Family Client in the “family” would 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 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 for which the Applicant is currently eligible but would no longer qualify if the Applicant provides Services to the Additional Family Clients. Absent the requested relief, once the Applicant provides Services to the Additional Family Client and can no longer rely on the Family Office Rule, the Applicant would be required to register as an investment adviser in the State of Nevada and would be subject to regulation in the State of Nevada, notwithstanding that (i) the Applicant does not hold itself out to the public as an investment adviser and does not market non-public offerings to persons or entities that are not Family Clients, (ii) the Applicant is wholly owned and controlled by members of the Lewis Family, in accordance with paragraph (b)(2) of the Family Office Rule, and (iii) the Applicant is a "family office" for the Lewis Family and will not offer its Services to anyone other than Family Clients and the Additional Family Client.

3. The Applicant submits that its proposed relationship with the Additional Family Client does not change the nature of the office into that of a commercial advisory firm. In support of this argument, the Applicant notes that if the Common Ancestor chosen were one branch higher in the familial tree, the Niece would be a Family Member. The Applicant states that in

requesting the order, the Applicant 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 Client does not fall within the definition of Family Member, the Applicant represents that the Additional Family Client has been treated as a close family member of the Lewis Family for many years. Additionally, the Applicant represents that if the Additional Family Client's assets were managed by the Applicant, the assets owned by the Additional Family Client would represent less than half of one percent (.5%) of the Applicant's assets under management.

4. 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 office is a private organization that was formed to be the family trust company for the Lewis Family, and that the Applicant does not have any public clients. The Applicant maintains that the office's Advisory Services are exclusively tailored to the needs of the Lewis Family and the Additional Family Client. The Applicant argues that the provision of Advisory Services to the Additional Family Client does not create any public interest that would require the office 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.

5. The 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 issues would be 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.

6. The Applicant maintains that, based on its unusual circumstances — desiring to provide Services to one Additional Family Client who has been considered and treated as a family member and whose status as a client of the office would not change the nature of the office's operations to that of a commercial advisory business — an exemptive order is appropriate based on the Applicant's specific facts and circumstances.

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.

Applicant's Conditions:

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

2. The Applicant will at all times be wholly-owned by Family Clients and exclusively controlled (directly or indirectly) by one or more Family Members or Family Entities (excluding

the Additional Family Client's 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 Client's Family Entities) will account for at least 99% of the assets for which the Applicant provides Advisory Services.

4. The 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 this application.

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

J. Matthew DeLesDernier
Assistant Secretary