UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 67640 / August 10, 2012

INVESTMENT ADVISERS ACT OF 1940
Release No. 3443 / August 10, 2012

INVESTMENT COMPANY ACT OF 1940
Release No. 30165 / August 10, 2012

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 3400 / August 10, 2012

ADMINISTRATIVE PROCEEDING
File No. 3-14979

In the Matter of **PEAK WEALTH OPPORTUNITIES, LLC and DAVID W. DUBE, CPA,** **Respondents.**	**ORDER INSTITUTING ADMINISTRATIVE AND CEASE-AND-DESIST PROCEEDINGS, PURSUANT TO SECTION 15(b)(6) OF THE SECURITIES EXCHANGE ACT OF 1934, SECTIONS 203(e), 203(f) AND 203(k) OF THE INVESTMENT ADVISERS ACT OF 1940, SECTIONS 9(b) AND 9(f) OF THE INVESTMENT COMPANY ACT OF 1940, AND RULE 102(e) OF THE COMMISSION'S RULES OF PRACTICE AND NOTICE OF HEARING**

I.

The Securities and Exchange Commission ("Commission") deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 15(b)(6) of the Securities Exchange Act of 1934 ("Exchange Act"), Sections 203(e), 203(f), and 203(k) of the Investment Advisers Act of 1940 ("Advisers Act"), Sections 9(b) and 9(f) of the Investment Company Act of 1940 ("Investment Company Act"), and Rule 102(e) of the Commission's Rules of Practice[1] against Peak Wealth Opportunities LLC ("Peak Wealth") and David W. Dube (collectively "Respondents").

[1] Rule 102(e)(1)(iii) provides, in pertinent part, that:

II.

After an investigation, the Division of Enforcement alleges that:

A. RESPONDENTS

1. Peak Wealth, a Florida limited liability company located in Largo, Florida, has been registered with the Commission as an investment adviser since October 2007. From April 2008 to June 2010, Peak Wealth was the investment adviser to the StockCar Stocks Index Fund (the "Fund"), the sole series of the StockCar Stocks Mutual Fund, Inc. (the "Company"), formerly a registered investment company. Peak Wealth's basis for its registration with the Commission was its status as an investment adviser to an investment company registered under the Investment Company Act. Peak Wealth is a wholly owned subsidiary of Peak Capital Corporation ("Peak Capital"), which also owns Peak Securities Corporation, a former broker-dealer (which withdrew its broker-dealer registration in March 2010), and a publishing and debt collection business.

2. Dube, age 55, owns Peak Capital and its subsidiary businesses. He is the president and sole managing member of Peak Wealth. He was also the acting chief compliance officer of the Fund from October 2009 until June 2010. Dube is a certified public accountant licensed in Florida and New Hampshire. Dube registered with the Public Company Accounting Oversight Board in January 2010, indicating that he may conduct or play a substantial role in an audit in the future. A recent public company filing in September 2011 indicates that Dube has been engaged to prepare the company's audited financial statements. Other public filings from 2001 and 2002 indicate that Dube has also served on at least two public company audit committees. Dube has a disciplinary history with the Financial Industry Regulatory Authority in connection with his formerly registered broker dealer.

B. RELEVANT ENTITY

The Company, now defunct, was a Maryland corporation that operated as an open-end diversified management investment company. The Company's sole series was the Fund. The Company was registered with the Commission from September 1998 until March 2011, when it formally deregistered.

C. BACKGROUND

1. The Fund was an open-end management company that invested in companies of the StockCar Stocks Index (the "Index"), the Fund's proprietary index consisting of

---

The Commission may deny, temporarily or permanently, the privilege of appearing or practicing before it to any person who is found…to have willfully violated, or willfully aided and abetted the violation of any provision of the Federal securities laws or the rules and regulations thereunder.

approximately 40 companies that support NASCAR racing events. The Fund reported net assets of approximately $3.9 million in its most recently filed annual report for the fiscal year ended September 30, 2009.

2. Peak Wealth became the investment adviser to the Fund in April 2008, pursuant to a vote by the majority of the Company's shareholders approving Peak Wealth's written advisory agreement. The advisory agreement was for an initial term of two years and was subject to the Fund board's annual review and approval thereafter. Peak Wealth also served as the Fund's administrator pursuant to a separate administration agreement. The Fund was Peak Wealth's only client.

3. For its advisory services, Peak Wealth charged an annual fee of 0.65% of the Fund's average daily net assets. Peak Wealth contractually agreed to waive fees and/or reimburse the Fund for all expenses it incurred to the extent necessary to maintain the Fund's total operating expenses at 1.5% of the Fund's average daily net assets for a two-year period ending April 15, 2010. Throughout the period of the reimbursement agreement, the expenses paid by the Fund, exclusive of advisory fees, exceeded the 1.5% cap. Thus, due to the waiver agreement, Peak Wealth did not collect advisory fees while it served as adviser to the Fund.

D. THE FUND BOARD'S TERMINATION OF PEAK WEALTH'S ADVISORY CONTRACT

1. In late 2008, the Fund's board began to raise concerns about Peak Wealth's ability to meet its expense reimbursement obligation to the Fund. Peak Wealth had failed to reimburse the Fund for expenses it owed under the advisory agreement, which resulted in the Fund delaying the filing of its annual report for the fiscal year ended September 30, 2008.

2. By September 2009, the Fund had accumulated another receivable for expenses owed from Peak Wealth of approximately $50,000. Dube repeatedly promised the board that he would repay the Fund, but he never did. The Fund's auditor refused to release its audit opinion without repayment of the outstanding obligation, resulting in the Fund delaying the filing of its 2009 annual report. Ultimately, the board liquidated Dube's personal holdings in the Fund in order to satisfy the outstanding receivable.

3. The Fund's portfolio manager, who worked for Peak Wealth and handled the trading activity and index rebalancing for the Fund, also encountered problems with Peak Wealth and Dube. Dube failed to respond to multiple letters and emails from the portfolio manager throughout 2008 and 2009 regarding the Fund's compliance obligations, the portfolio manager's concerns about the regularity and substance of his communications with Peak Wealth and Dube, and his compensation. The portfolio manager ultimately raised his concerns about the lack of communication with the Fund's board in late 2009.

4. In March 2010, prior to the conclusion of Peak Wealth's initial two year investment advisory agreement with the Fund, the Fund's board requested documents from Peak Wealth and Dube in connection with its first annual review of Peak Wealth's investment advisory

contract under Section 15(c) of the Investment Company Act. The board sent a second request in May 2010. Peak Wealth requested an extension of time to respond to the board's requests but failed to provide the board with any of the requested documents.

5. In June 2010, the board terminated Peak Wealth's advisory agreement, and voted to liquidate the Fund's assets (approximately $4 million) and to deregister the Company.

6. The Fund has distributed to investors all remaining assets net of liquidation expenses. On March 23, 2011, the Division of Investment Management, pursuant to delegated authority, issued an order terminating the Company's registration under the Investment Company Act.

E. SEC EXAMINATION OF PEAK WEALTH

1. In April 2010, SEC examination staff from the Miami Regional Office initiated an examination of Peak Wealth and the Fund. The examination staff faxed its initial document request list to Peak Wealth and the Fund on April 7, 2010, one week before it commenced its examination. When the staff arrived on April 14, Dube did not have any documents for Peak Wealth or the Fund. Dube repeatedly assured examiners that responsive documents would be forthcoming.

2. The examination staff provided Peak Wealth with seven additional requests for documents. These included requests for financial records relating to Peak Wealth's advisory business including: Peak Wealth's balance sheet, trial balance, income statement, cash flow statements, and cash receipts and disbursements journals.

3. Dube and Peak Wealth did not produce these financial records because they did not exist. Instead, Dube told examiners that he would create the requested financial records relating to Peak Wealth.

4. The examination staff also provided a document request to Dube (in his capacity as a representative of Peak Wealth and the Fund's acting chief compliance officer) for documents relating to the maintenance of the Index, including the list of eligible issuers and proof of their eligibility, and records of daily value computations, the weighting of positions, the annual rebalancing process, and the correlation between the performance of the Fund and the Index.

5. At the conclusion of the field work, the majority of the requests for Peak Wealth's financial records remained outstanding, as well as requests relating to the maintenance of the Index. Examination staff referred the matter to the Division of Enforcement for further review.

6. The Company, the Fund (through its board), and the former portfolio manager subsequently produced documents in response to a subpoena from the enforcement staff. However, Peak Wealth and Dube never responded to the staff's document subpoenas, and Dube failed to appear for investigative testimony pursuant to a subpoena.

F. PEAK WEALTH'S FILINGS

Although the Fund terminated Peak Wealth's advisory agreement in June 2010, Peak Wealth continues to be registered with the Commission. Peak Wealth has not filed a Form ADV since September 2008. Peak Wealth's September 2008 Form ADV states that its basis for registration with the Commission is its status as an investment adviser to a registered investment company. Peak Wealth has not filed a Form ADV-W or annually amended Forms ADV for its fiscal years ended September 30, 2009, 2010, and 2011.

G. VIOLATIONS

1. As a result of the conduct described above, Peak Wealth willfully violated Section 15(c) of the Investment Company Act which requires, among other things, that the terms of any contract or agreement, whereby a person undertakes regularly to serve or act as investment adviser of a registered investment company, and any renewal thereof, be approved by a vote of the majority of a fund's disinterested directors or trustees at a meeting called for the purpose of voting on such approval. Section 15(c) makes it the duty of an investment adviser of a registered investment company to furnish such information as may reasonably be necessary for fund directors to evaluate the terms of any contract whereby a person undertakes regularly to serve or act as investment adviser of such company.[2] Peak Wealth failed to provide the Fund's board with information necessary for the board to evaluate the nature, quality, and cost of its services in connection with the board's first annual renewal of Peak Wealth's advisory agreement. Dube willfully aided and abetted and caused Peak Wealth's violations of Section 15(c) of the Investment Company Act.

2. As a result of the conduct described above, Peak Wealth willfully violated Section 204 of the Advisers Act and Rules 204-1(a)(1) and 204-2(a)(1), (2), (4), (5), and (6) thereunder. Section 204 of the Advisers Act requires investment advisers to make and keep certain records and furnish copies thereof, and to make and disseminate such reports as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors. Section 204 specifies that all records of investment advisers are subject to examination by representatives of the Commission. Rule 204-2 provides that investment advisers registered or required to be registered shall make and keep true, accurate and current copies of various specific categories of books and records, including:

- A journal or journals, including cash receipts and disbursements, records, and any other records of original entry forming the basis of entries in any ledger;

[2] See In the Matter of Morgan Stanley Investment Management, Inc., Advisers Act Release No. 3315 (Nov. 16, 2011)(charging adviser with 15(c) violations for failing to provide board with information relating to sub-advisory services); In the Matter of New York Life Investment Management, LLC, Advisers Act Release No. 2883 (May 27, 2009)(charging adviser with 15(c) violations for failing to provide board with information reasonably necessary to evaluate fund's profitability) .

- General and auxiliary ledgers (or other comparable records) reflecting asset, liability, reserve, capital, income and expense accounts;
- All check books, bank statements, cancelled checks and cash reconciliations of the investment adviser;
- All bills or statements (or copies thereof), paid or unpaid, relating to the business of the investment adviser as such; and
- All trial balances, financial statements, and internal audit working papers relating to the business of such investment adviser.

Rule 204-1(a)(1) requires registered investment advisers to file with the Commission annual amended Forms ADV within 90 days of their fiscal year end. Peak Wealth failed to make, keep, and furnish true, accurate and current books and records. Peak Wealth failed to make and keep financial statements, bank records, cash receipts or disbursement records, general or auxiliary ledgers, trial balances, or income and expense statements for its advisory business. Peak Wealth offered to create certain financial statements for the examination staff, but only after the fact, and never actually produced them. Peak Wealth also failed to furnish certain records to the examination and enforcement staff relating to the maintenance of the Index. The enforcement staff was compelled to subpoena these documents directly from a portfolio manager who worked for Peak Wealth. Further, Peak Wealth failed to file annual amended Forms ADV for its fiscal years 2009, 2010, and 2011. Dube willfully aided and abetted and caused Peak Wealth's violations of Section 204 of the Advisers Act and Rules 204-1(a)(1) and 204-2(a)(1), (2), (4), (5), and (6) thereunder.

3. As a result of the conduct described above, Peak Wealth willfully violated Section 203A of the Advisers Act and Rule 203A-1(b)(2) thereunder. Section 203A of the Advisers Act generally prohibits investment advisers with assets under management of less than $25 million from registering with the Commission, unless the adviser is an investment adviser to a registered investment company, or comes within one of the specified exemptions.[3] Advisers Act Rule 203A-1(b)(2) requires a registered investment adviser who becomes ineligible for SEC registration to file Form ADV-W to withdraw its SEC registration within 180 days of its fiscal year end. Peak Wealth failed to timely file a Form ADV-W after it became ineligible for SEC registration because the Fund terminated its advisory agreement on June 1, 2010. Peak Wealth should have filed its Form ADV-W within 180 days of September 30, 2010, its 2010 fiscal year end. Dube willfully aided and abetted and caused Peak Wealth's violations of Section 203A of the Advisers Act and Rule 203A-1(b)(2) thereunder.

[3] Effective July 21, 2011, Section 203A generally prohibits an adviser that has assets under management between $25 million and $100 million from registering with the Commission, unless it is an investment adviser to a registered investment company, or it comes within one of the specified exemptions. *See* Advisers Act Section 203A(a)(2) (amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 124 Stat. 1376 (2010)); *Final Rule: Rules Implementing Amendments to the Investment Advisers Act of 1940,* Investment Advisers Act Release No. 3221 (June 22, 2011).

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate in the public interest that public administrative and cease-and-desist proceedings be instituted to determine:

A. Whether the allegations set forth in Section II hereof are true and, in connection therewith, to afford Respondents an opportunity to establish any defenses to such allegations;

B. What, if any, remedial action is appropriate in the public interest against Respondents pursuant to Sections 203(e) and 203(f) of the Advisers Act including, but not limited to, civil penalties pursuant to Section 203 of the Advisers Act;

D. What, if any, remedial action is appropriate in the public interest against Respondents pursuant to Section 9(b) of the Investment Company Act including, but not limited to, civil penalties pursuant to Section 9 of the Investment Company Act;

E. What, if any, remedial action is appropriate in the public interest against Respondents pursuant to Section 15(b)(6) of the Exchange Act;

F. What, if any, remedial action is appropriate in the public interest against Dube pursuant to Rule 102(e)(1)(iii) of the Commission's Rules of Practice; and

G. Whether, pursuant to Section 203(k) of the Advisers Act, and Section 9(f) of the Investment Company Act, Respondents should be ordered to cease and desist from committing or causing violations of and any future violations of Sections 203A and 204 of the Advisers Act and Rules 203A-1(b)(2), 204-1(a)(1), 204-2(a)(1), (2), (4), (5) and (6) thereunder, and Section 15(c) of the Investment Company Act, and whether Respondents should be ordered to pay civil penalties pursuant to Section 203(i) of the Advisers Act, and Section 9(d) of the Investment Company Act.

IV.

IT IS ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened not earlier than 30 days and not later than 60 days from service of this Order at a time and place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice, 17 C.F.R. § 201.110.

IT IS FURTHER ORDERED that Respondents shall file an Answer to the allegations contained in this Order within twenty (20) days after service of this Order, as provided by Rule 220 of the Commission's Rules of Practice, 17 C.F.R. § 201.220.

If Respondents fails to file the directed answer, or fails to appear at a hearing after being duly notified, the Respondents may be deemed in default and the proceedings may be determined against them upon consideration of this Order, the allegations of which may be deemed to be true as

provided by Rules 155(a), 220(f), 221(f) and 310 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f) and 201.310.

This Order shall be served forthwith upon Respondents personally or by certified mail.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 300 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

By the Commission.

Elizabeth M. Murphy
Secretary