[File No.]

UNITED STATES OF AMERICA
BEFORE THE
SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549

In the Matter of

Calmwater Asset Management, LLC
11755 Wilshire Blvd., #1425, Los Angeles, CA, 90025

APPLICATION FOR AN ORDER PURSUANT TO SECTION 206A OF THE INVESTMENT ADVISERS ACT OF 1940, AS AMENDED, AND RULE 206(4)-5(e) THEREUNDER, EXEMPTING CALMWATER ASSET MANAGEMENT, LLC FROM RULE 206(4)-5(a)(l) UNDER THE INVESTMENT ADVISERS ACT OF 1940

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This Application, including Exhibits, consists of 37 pages.
Exhibit Index appears on page 28.

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I. PRELIMINARY STATEMENT AND INTRODUCTION

Calmwater Asset Management, LLC (the "Applicant" or the "Adviser") hereby applies to the Securities and Exchange Commission (the "Commission") for an order, pursuant to Section 206A of the Investment Advisers Act of 1940, as amended (the "Act"), and Rule 206(4)-5(e) under the Act, exempting the Adviser from the two-year prohibition on compensation imposed by Rule 206(4)-5(a)(l) under the Act for investment advisory services provided to the government entity described below following a contribution to a candidate for the office of State Treasurer of Colorado ("Colorado State Treasurer") by a covered associate as described in this application, subject to the representations set forth herein (the "Application").

Section 206A of the Act authorizes the Commission to "conditionally or unconditionally exempt any person or transaction ... from any provision or provisions of [the Act] or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of [the Act]."

Section 206(4) of the Act prohibits investment advisers from engaging "in any act, practice, or course of business which is fraudulent, deceptive, or manipulative," and directs the Commission to adopt such rules and regulations, define, and prescribe means reasonably designed to prevent, such acts, practices, or courses of business. Under this authority, the Commission adopted Rule 206(4)-5 (the "Rule"), which prohibits a registered investment adviser from providing "investment advisory services for compensation to a government entity within two years after a contribution to an official of the government entity is made by the investment adviser or any covered associate of the investment adviser."

The term "government entity" is defined in Rule 206(4)-5(f)(5)(ii) as including a pool of assets sponsored or established by a state or political subdivision, or any agency, authority, or instrumentality thereof, including a defined benefit plan. The definition of an "official" of such government entity in Rule 206(4)-5(f)(6)(i) includes any candidate for an elective office, if the office is directly or indirectly responsible for, or can influence the outcome of, the hiring of an investment adviser by a government entity. The "covered associate" of an investment adviser is defined in Rule 206(4)-5(f)(2)(i) as including its managing member, executive officer, or other individual with similar status or function.

Rule 206(4)-5(c) specifies that, when a government entity invests in a covered investment pool, the investment adviser to that covered investment pool will be treated as providing advisory services directly to the government entity. "Covered investment pool" is defined in Rule 206(4)-5(f)(3)(ii) as including any company that would be an investment company under Section 3(a) of the Investment Company Act of 1940, as amended (the "Company Act"), but for the exclusion provided from that definition by either Section 3(c)(1), 3(c)(7) or 3(c)(11) of the Company Act.

Rule 206(4)-5(b) provides exceptions from the two-year prohibition under Rule 206(4)-5(a)(1) with respect to contributions that do not exceed a *de minimis* threshold, were made by a person more than six months before becoming a covered associate, or were discovered by the adviser and returned by the official within a specified period and subject to certain other conditions. In the event that none of the aforementioned exceptions is applicable, Rule 206(4)-5(e) permits an investment adviser to apply for, and the Commission to conditionally or unconditionally grant, an exemption from the Rule 206(4)-5(a)(1) prohibition on compensation.

In determining whether to grant an exemption, the Rule contemplates that the Commission will consider, among other things, (i) whether the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act; (ii) whether the investment adviser, (A) before the contribution resulting in the prohibition was made, adopted and implemented policies and procedures reasonably designed to prevent violations of the Rule; (B) prior to or at the time the contribution which resulted in such prohibition was made, had no actual knowledge of the contribution; and (C) after learning of the contribution, (1) has taken all available steps to cause the contributor involved in making the contribution which resulted in such prohibition to obtain a return of the contribution, and (2) has taken such other remedial or preventive measures as may be appropriate under the circumstances; (iii) whether, at the time of the contribution, the contributor was a covered associate or otherwise an employee of the investment adviser, or was seeking such employment; (iv) the timing and amount of the contribution which resulted in the prohibition; (v) the nature of the election *(e.g.,* federal, state or local); and (vi) the contributor's apparent intent or motive in making the contribution that resulted in the prohibition, as evidenced by the facts and circumstances surrounding such contribution.

Based on those considerations and the facts described in this Application, the Adviser respectfully submits that the relief requested herein is appropriate in the public interest and is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Absent an exemptive order, the Adviser would serve without compensation for a two-year period resulting in the financial loss of between $3.3 to $4.2 million to the Adviser, which would cause the Adviser substantial financial harm. Accordingly, the Adviser requests an order exempting it to the extent described herein from the prohibition under Rule 206(4)-5(a)(1) to permit it to receive compensation for investment advisory services provided to the Client (as defined below) within the two-year period following the Contribution (as defined below) identified herein to an official of such government entity by a covered associate of the Applicant.

II. STATEMENT OF FACTS

A. The Applicant

The Adviser is a Delaware limited liability company registered with the Commission as an investment adviser pursuant to the Act. The Adviser provides discretionary investment advisory services to private funds and has aggregate assets under management of approximately $1,331,264,674 as of June 30, 2022.

B. The Government Entity

One of the Adviser's clients is a government entity as defined in Rule 206(4)-5(f)(5) in the State of Colorado (the "Client").[1] The Client is a state pension fund with a board of trustees

[1] The government entity invests in Adviser's "covered investment pool." As noted in the text on page 3 above, Rule 206(4)-5(c) states that, "for purposes of rule 206(4)-5, an investment adviser to a covered investment pool in which a government entity invests or is solicited to invest, shall be treated as though that investment adviser were providing or seeking to provide investment advisory services directly to the government entity." Therefore, we define the government entity as "Client."

("Board") that consists of sixteen (16) trustees (each a "Trustee" and, together, the "Trustees"). The Colorado State Treasurer serves on the Board as an *ex officio* voting member, and the Board has the authority to select the investment adviser.

The Client holds interests in two of the private funds (each a "Fund" and, together the "Funds") for which Applicant acts as investment adviser, each of which is excluded from the definition of investment company by Section 3(c)(7) under the Company Act and thereby is a "covered investment pool" as defined in Rule 206(4)-5(f)(3).

C. The Contribution

(1) *The Contributor*

The individual who made the campaign contribution to a state-level candidate that triggered the two-year compensation ban (the "Contribution") is Larry Grantham (the "Contributor"). At the time of the Contribution, the Contributor was the Managing Principal of the Applicant, a position he has held since the Adviser's founding in 2015. Thus, the Contributor was at all relevant times an executive officer of the Applicant and a "covered associate," as defined in Rule 206(4)-5(f)(2)(i) under the Act.

When a new fund is in a fundraising cycle, a placement agent generally introduces the Adviser to the potential investor and sets up meetings between them. The Contributor has historically attended such meetings with prospective investors, including occasionally government entities, *e.g.*, the Client, on behalf of the Adviser.

The Contributor has a lifelong passion for the outdoors, is an avid outdoorsman, is very active in the non-profit community and has been a supporter for many years of various environmental causes and organizations. During his high school years, he attended local events for conservation organizations. While at college, the Contributor co-founded a university

chapter of a conservation organization. After college, the Contributor was a board member and eventual chapter president of a leading U.S. wetlands conservation organization. The Contributor is also an annual member of a ranch where he goes for relaxation and to practice his outdoorsman skills and spend time in nature.

Although the Contributor currently lives in California (and lived in California at the time of the Contribution), the Contributor has a strong connection to Colorado. He lived in Colorado from February 2005 to December 2009. Additionally, the Contributor has family in Colorado. Since 2009, the Contributor has consistently visited the state multiple times per year for business purposes and vacations that involve outdoor activities.

(2) *The Candidate*

The recipient of the Contribution was Brian Watson (the "Candidate"), an entrepreneur who owns and operates a commercial real estate firm and a private citizen who unsuccessfully campaigned for the office of Colorado State Treasurer in 2018. The Candidate did not hold a public office at the time of the Contribution and, to the Applicant's knowledge, has never held a public office before or after the Contribution nor served in any role that was directly or indirectly responsible for, or could influence the outcome of the hiring of an investment adviser by a government entity. Nevertheless, because the Candidate was seeking the office of Colorado State Treasurer at the time of the Contribution, an office that includes a position as an *ex officio* voting member of the sixteen-member of the Board, the Candidate is an "official" of the Client as defined in Rule 206(4)-5(f)(6)(i).

The Candidate and the Contributor have a longstanding personal and professional relationship. The Contributor and the Candidate have had real estate related business dealings with each other in connection with the Applicant's commercial real estate lending business since

2012—predating the Contribution Date by approximately six (6) years. Additionally, the Candidate and the Contributor developed a personal friendship over the years because the Candidate shares the Contributor's passion for the outdoors, wildlife and environmental conservation and both enjoy activities, occasionally together, related to these interests.

(3) *The Contribution*

The Contribution was made to Brian Watson on November 6, 2018 (the "Contribution Date") for the amount of $250. The Contributor did not solicit or coordinate any other contributions for the Candidate. The Contribution was made for personal reasons based on the Contributor's friendship with the Candidate, which grew out of their professional relationship in commercial real estate lending and their shared interests in the outdoors, wildlife and environmental conservation, separate and apart from the Contributor's role with the Adviser. The Contributor believes this was his first and only contribution to any candidate for elective office. Because the Contributor was a "covered associate" of the Applicant, the Client is a "government entity," and the Candidate is an "official" of the Client, the Contribution triggered the Rule's prohibition against providing advisory services for compensation to the Client during the two years following the Contribution.

Because he was no longer a Colorado resident, the Contributor was not permitted to vote in the election and therefore could make only aggregate contributions of up to $150 under Rule 205(4)-5(b)(1) (the "*de minimis* exception"). Although not entitled to vote in Colorado elections, the Contributor has a legitimate personal interest in the outcome of such elections given that he had lived and worked in Colorado for approximately four years, had extended family there and regularly visited the state. The Contributor's decision to make the Contribution was spontaneous and motivated by the Contributor's friendship with the Candidate and the Contributor's

understanding of the Candidate's appreciation for environmental conservation. The Contributor did not attend any campaign events for the Candidate, and the Contribution is entirely consistent with the Contributor's longstanding concern for, and donations of time and resources to, environmental conservation as described above.

The Contributor decided to make the Contribution a short time before the November 6, 2018 election date, while attending a commercial real estate industry networking event in October 2018, which the Candidate also attended. The event was held on a ranch, similar to the one where the Contributor holds an annual membership, and included a number of outdoor activities (*e.g.*, horseback riding, fishing, etc.). The event was not a fundraiser for either the Candidate or the Applicant's Funds, and no fundraising occurred. The Contributor's purpose in attending the event was to generate commercial lending deal flow for the Adviser's Funds.

During the course of the event, the Contributor learned of the Candidate's campaign for Colorado State Treasurer. The Contributor spontaneously decided he wanted to contribute to the Candidate's campaign as a small gesture in support of his friend and colleague who also appreciated wildlife, treasured the outdoors, valued environmental conservation and was running for office in a state where the Contributor had once lived and often visited.

The Contributor and Candidate did not discuss the Adviser's investment advisory business or potential investments by Colorado government entities. In addition, the Contributor has confirmed that there was no intention to seek, and no action was taken either by the Contributor or the Applicant to obtain, any direct or indirect influence from the Candidate or any other person regarding the Client's decision-making. Accordingly, the reason for the Contribution was personal and wholly unrelated to the investment advisory services provided to the Client by the Applicant. Moreover, the Candidate was a private citizen on the Contribution

Date, November 6, 2018, lost the election that same day, never held public office and never had any direct or indirect influence regarding the Board's selection of investment advisers.

The Contributor attempted to pre-clear the $250 Contribution by (i) orally requesting pre-approval from the then-chief compliance officer and (ii) following up via email with a written pre-approval request on November 5, 2018. Further, on December 13, 2018, the Contributor completed and submitted the Adviser's Political Contribution Disclosure Form to disclose the Contribution as required under the Policy.

The then-chief compliance officer forwarded the pre-approval request email to a designee, expecting the designee to confirm the permissibility of the Contribution with the Adviser's then-compliance consultant, but the inquiry as to permissibility was not completed. On November 6, 2018, the Contributor believed that he had received oral pre-approval from the then-chief compliance officer and, when he did not hear otherwise, assumed the Contribution was approved and made the Contribution. The Contributor did not complete pre-clearance through the Adviser's compliance software tool as required by the Adviser's Policy because the Contributor believed that the then-chief compliance officer had sufficient written pre-clearance information via email.

The then-chief compliance officer remained unaware the Contributor had made the Contribution until its discovery in December 2019 when the then-compliance consultant discovered the Contribution during their annual review while assessing certain reports generated by a compliance software tool (the "Tool"). The then-compliance consultant brought the Contribution to the attention of the then-chief compliance officer who took prompt action as described below under *Section E. The Adviser's Discovery of the Error and Response.*

(4) *The Investments of the Client with the Adviser*

The Client made its initial investment commitment to one of the Funds in May 2017, approximately eighteen (18) months before the November 6, 2018 Contribution Date, which, as noted above, is also the date the Candidate lost the election. In March 2021, approximately twenty-seven (27) months after the Contribution Date and approximately fourteen (14) months after the Contribution's return (as described below), the Client made a subsequent investment commitment to a new Fund. At no point did the Candidate hold public office or have direct or indirect influence with the Board regarding the Client's selection of investment advisers, and at no point did the Contributor intend to influence the Candidate regarding the Client's investments in the Funds. The circumstances, including (i) the date of the Contribution in relation to the dates of the Client's investments and (ii) the Candidate's election loss, indicate that neither the Contribution nor the Candidate had any influence whatsoever on the Adviser's relationship with the Client. The Client determined to invest initially with the Adviser approximately eighteen (18) months prior to the Contribution and established its advisory relationship on an arm's length basis free from any improper influence and then followed up approximately twenty-seven (27) months after the Contribution and the Candidate's election loss (and fourteen (14) months after the Contribution's return) with a second investment, which was also on an arm's length basis free from any improper influence.

D. The Adviser's Pay-to-Play Policies and Procedures

Since its registration in 2017, the Adviser has maintained and updated a Political Contributions Policy (the "Policy"), which the Adviser believes was reasonably designed to prevent violations of the Rule. On the Contribution Date, the Policy required that that "covered associates" (defined to include all employees), all of whom were aware they were subject to the

Policy, request and receive written pre-approval by the chief compliance officer with respect to all political contributions made by each covered associate and each covered associate's spouse to a state or local political official, political candidate (including state and local officials running for federal office), political party or political action committee. The Adviser's Policy further stated that all covered associates are required to submit pre-approval requests to the chief compliance officer via the Tool. Between its registration in 2017 and the Contribution Date, the Adviser conducted training sessions regarding the Compliance Manual, including the Policy, and informed the employees that they were subject to the Policy's requirements. All employees are required to attend the trainings, initially upon joining the firm and on an annual basis. The Adviser collects acknowledgements from the employees regarding their familiarity and compliance with the Compliance Manual, including the Policy, and their attendance at the training. The Contributor had attended all such required trainings since the Adviser's registration in 2017 and provided all related acknowledgements. Prior to the Contribution, the Adviser had engaged a compliance consultant to annually review and test its compliance program and compliance systems, make recommendations and implement changes, as appropriate, and conduct training for the employees on the Rule, the Policy and other compliance topics, as needed.

E. The Adviser's Discovery of the Error and Response

In response to the then-compliance consultant's discovery of the Contribution in December 2019 during the Adviser's annual review, the Adviser sought advice from its outside counsel regarding the effect of the Contribution under the Rule. After a review, the then-chief compliance officer determined that, absent an exemption, the Contribution violated the Rule and informed the Contributor. The Contributor requested a return of the Contribution from the

Candidate by phone on or about January 11, 2020, which was granted, and the Contributor received a check refunding the full amount of the Contribution ($250) on or about January 27, 2020.

The Adviser also engaged in other reactive and remedial measures, including the following: (i) the then-compliance consultant conducted (A) a comprehensive search on behalf of the Adviser via the Federal Election Commission website, Home | FEC, and OpenSecrets for any other political contributions by the Adviser's covered associates and (B) targeted searches on state election contribution websites for certain other states (including the Candidate's state) for a random selection of covered associates, including the Contributor,[2] but found no other political contribution made without pre-clearance to any official in the jurisdictions searched; (ii) the Adviser hired a monitoring service that checks the names of the Adviser's employees against political contributions databases on a daily basis; (iii) the Adviser replaced the then-chief compliance officer; (iv) the Adviser updated the Policy to allow for political contribution pre-authorization requests to be sent to the chief compliance officer via email and to add quarterly certifications from employees regarding political contributions; and (v) the Adviser installed an upgraded version of the Tool in early May 2021. Also, the Adviser further amended its compliance manual to implement procedures to identify and monitor the political contributions of covered associates. The procedures include a review conducted on a quarterly basis by the Adviser's compliance department that includes the following: (i) updating the list of covered associates, government entities and regulated persons whom the Adviser pays to solicit government entities; (ii) preparing and printing a contribution disclosure form for the previous period and having each employee acknowledge adherence to the Policy; (iii) conducting an online contribution search

[2] A targeted search was conducted rather than a state-by-state search because the Adviser has only two pension plan investors.

for each employee as described above; (iv) comparing the contribution disclosure form received from each employee to the online search results; and (v) reporting the findings to the Adviser's chief executive officer. Further, if it is discovered that a covered associate made a contribution during the previous period that was not pre-cleared, the following steps will be taken: (i) immediately request that the covered associate request a return of the contribution; (ii) research the contribution to determine if the contribution is a violation of the Rule (*i.e.*, research the recipient of the contribution, any office the recipient currently holds and the office for which the recipient is running to determine if the recipient is an official of a government entity client and the contribution triggers the two-year compensation prohibition under the Rule); (iii) conduct a review of the current government entity clients to determine what corrective action should be taken to comply with the Rule, if any; (iv) if the contribution triggers the two-year prohibition and no exception is applicable, implement an action plan to comply with the two-year prohibition; and (v) notify the Commission of any violations.

Additionally, the Adviser created an escrow account on July 14, 2021 and escrowed advisory fees from the Client of $1.6 million. The Applicant will continue to deposit fees that accrue from the Client's investments into the escrow account pending the outcome of the Application. The Adviser has notified the Client about the Contribution and the two-year prohibition on compensation imposed by Rule 206(4)-5(a)(1) under the Act for investment advisory services provided to a government entity.

III. STANDARD FOR GRANTING AN EXEMPTION

In determining whether to grant an exemption, Rule 206(4)-5(e) provides that the Commission will consider, among other factors:

(i) whether the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act;

(ii) whether the investment adviser,

(A) before the contribution resulting in the prohibition was made, adopted and implemented policies and procedures reasonably designed to prevent violations of the Rule;

(B) prior to or at the time the contribution which resulted in such prohibition was made, had no actual knowledge of the contribution; and

(C) after learning of the contribution,

(1) has taken all available steps to cause the contributor involved in making the contribution which resulted in such prohibition to obtain a return of the contribution; and

(2) has taken such other remedial or preventive measures as may be appropriate under the circumstances;

(iii) whether, at the time of the contribution, the contributor was a covered associate or otherwise an employee of the investment adviser, or was seeking such employment;

(iv) the timing and amount of the contribution which resulted in the prohibition;

(v) the nature of the election (*e.g.*, federal, state or local); and

(vi) the contributor's apparent intent or motive in making the contribution that resulted in the prohibition, as evidenced by the facts and circumstances surrounding such contribution. The Commission, in the adopting release for the Rule, made clear that it "intend[s] to apply these factors with sufficient flexibility to avoid consequences disproportionate to the violation, while

effecting the policies underlying the [R]ule."[3] As explained below, each of these factors weighs in favor of granting the relief requested in this Application.

IV. STATEMENT IN SUPPORT OF EXEMPTIVE RELIEF

A. Public Policy

The Applicant submits that an exemption from the two-year prohibition on compensation is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

The Client determined to invest with the Adviser and retain the advisory relationship on an arm's length basis, free from any improper influence from the Contribution. In support of that conclusion, the Adviser notes that it had a pre-existing commercial relationship with the Candidate dating back to 2012, six years before he became an "official," and that the Adviser's relationship with the Client began in May 2017 when the Client decided to make its initial investment with the Adviser (a decision that predates the Contribution by approximately eighteen (18) months). The Client's only additional investment with the Adviser took place in March 2021, which post-dates the Contribution by approximately twenty-seven (27) months and post-dates the discovery of the Contribution, its return and the Adviser's remedial steps, including the return of the Contribution to the Contributor, by approximately fourteen (14) months. Moreover, there was no connection between the Contribution and any past or potential business between the Client and the Applicant.

The Applicant notes that the Contribution was made because of (i) the ideological beliefs of the Contributor and the Contributor's understanding of the Candidate's views on environmental conservation (*i.e.*, to support the Candidate because of his position on

[3] *Political Contributions by Certain Investment Advisers*, 75 Fed. Reg. 41069 (July 14, 2010) ("Adopting Release.")

environmental conservation) and (ii) the Contributor's friendship with the Candidate—not because of any desire to influence the award or retention of investment advisory business. These beliefs significantly predate the Contribution as demonstrated by the Contributor's over thirty (30)-year history of involvement in, and donations of time and resources to, environmental conservation causes, and the friendship predates the Contribution by six (6) years.

The Rule's intended purpose is to prevent *quid pro quo* arrangements involving investment advisers making contributions in order to influence a government official's decision regarding advisory business with the adviser. The nature of the Contribution, together with the lack of any evidence that the Adviser or the Contributor intended to or actually did interfere with the Client's process for the selection or retention of investment advisory services, each of which the Commission considers when determining whether to grant an exemption, considered in light of the nature of the Client's longstanding arrangement with the Applicant, demonstrate the unlikelihood that the Contribution was a part of, or was intended to be a part of, any *quid pro quo* arrangement with respect to the Client or even could appear to be part of such an arrangement.

As such, the Rule's intended purpose of combating *quid pro quo* arrangements would in no way be served by imposition of the Rule's prohibition on providing investment advisory services for compensation. Causing the Adviser to serve without compensation for a two-year period would result in a financial loss of between $3.3 million and $4.2 million, approximately 13,200-16,800 times the amount of the Contribution and approximately 33,000-42,000 times the amount of the Contribution over the *de minimis* exception. Such a loss would severely impact the Adviser's business. This result is not necessary to protect the government entity in this case. The Adviser or its affiliates have been managing the Client's assets since 2017 using its expertise and

understanding of the local economy and real estate market. The policy underlying the Rule is served by ensuring that no improper influence is exercised over investment decisions by governmental entities as a result of campaign contributions—not by withholding compensation as a result of unintentional violations.

The Applicant understands that the Rule's objective serves an important function in the protection of investors, and it is not the purpose of the Applicant to subvert the intent of the Rule. The Applicant seeks exemptive relief because the Contribution was made by the Contributor with no effort or intent by the Applicant or the Contributor to influence the Client or any other person or to act in a manner adverse to the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

The Commission stated in the Adopting Release for the Rule that it sought to "prevent investment advisers from obtaining business from government entities in return for political contributions or fund raising."[4] An exemption for the Applicant is consistent with the purposes of the Rule, because the Contribution was not made to influence a government entity to invest with or retain services from the Applicant, and there is no evidence that the Contributor or the Applicant interfered with the Client's process for selection or retention of advisory services.

The other factors suggested for the Commission's consideration in Rule 206(4)-5(e) similarly weigh in favor of granting an exemption to avoid consequences disproportionate to the violation, as follows.

B. Policies and Procedures before the Contribution

The Applicant maintained and updated the Policy, which it believes was reasonably designed to prevent violations of the Rule, since its registration in 2017. Please see § II.D. *supra*

[4] *Adopting Release* at 41020.

for additional information regarding the Applicant's Policy before, and on the date of, the Contribution.

C. Adviser's Response After the Contribution

After learning of the Contribution, the Adviser consulted outside counsel, caused the Contributor to request a full refund of the Contribution and took steps to implement additional measures to prevent future error. The Adviser established an escrow account on July 14, 2021 to custody fees from the Client. The Applicant amended its Policy and conducted training for all employees about the amended Policy. The Adviser has also revised its Policy to require employees to make quarterly certifications that they have not made political contributions in the previous quarter and implemented daily searches of political contributions through a third-party service provider. In addition, the Adviser removed the then-chief compliance officer after discovery of the Contribution and hired a new outsourced chief compliance officer. Prior to the Contribution, the Adviser had engaged a compliance consultant to annually review and test its compliance program and compliance systems, make recommendations and implement changes, as appropriate, and conduct training for the employees on the Rule, the Policy and other compliance topics as needed. The Adviser will maintain records regarding such review and testing, which will be maintained and preserved in an easily accessible place for a period of not less than five years, the first two years in an appropriate office of the Adviser, and be available for inspection by the staff of the Commission. The Applicant intends to continue its practice of using an outsourced chief compliance officer and/or otherwise involve an experienced outside compliance consultant in its compliance program.

D. Status of the Contributor

The Contributor is, and at all relevant times was, an executive officer and therefore a

"covered associate" of the Adviser under the Rule.

E. Timing and Amount of the Contribution

The Client's advisory relationship and initial investment with the Adviser predates the Contribution and the Candidate's simultaneous election loss by approximately eighteen (18) months, and the Client's subsequent investment postdates (i) the Contribution and the Candidate's simultaneous election loss by approximately twenty-seven (27) months and (ii) the Contribution's return by approximately fourteen (14) months. Thus, the relationship was formed and the investments were made on an arm's length basis. Neither the Contributor nor the Applicant took any action to obtain any direct or indirect influence from the Candidate related to the relationship between Client and Adviser.

The Contributor was not eligible to vote in the election but could make aggregate contributions up to the *de minimis* exception of $150. The total amount of the Contribution from the Contributor to the Candidate of $250 exceeded the *de minimis* exception by $100. Under Colorado law, an individual may contribute up to $625 to a candidate for State Treasurer in each of the primary election and general election for a total of $1,250.[5]

F. Nature of the Election and Other Facts and Circumstances

The nature of the election and other facts and circumstances surrounding the Contribution indicate that the Contributor's intent in making the Contribution was not to influence the Client's selection or retention of the Adviser.

The Contributor had previously lived in Colorado for several years, frequently visits Colorado and has a legitimate personal interest in supporting the Candidate because of (i) his friendship with the Candidate that predates the Contribution by approximately six (6) years and

[5] Contribution Limits (state.co.us).

(ii) the Contributor's understanding of the Candidate's support for the environment and focus on protecting Colorado's natural resources. As previously noted, the Contributor has a long history of supporting environmental conservation efforts. It was for these reasons, and not any desire to influence the award of investment advisory business, that the Contributor made the Contribution to the Candidate's campaign. The Contributor never spoke with the Candidate or to anyone else about the responsibility of the Colorado State Treasurer to serve on the 16-member Board.

Given the difficulty of proving a *quid pro quo* arrangement, the Applicant understands that adoption of a regulatory regime with a default of strict liability, like the Rule is necessary. However, the Applicant appreciates the availability of exemptive relief at the Commission's discretion where imposition of the two-year prohibition on compensation does not achieve the Rule's purposes or would result in consequences disproportionate to the mistake that was made. The Applicant respectfully submits that such is the case with the Contribution. In the case of the Applicant, the imposition of a two-year prohibition would severely financially impact the Adviser, and potentially diminish the tailored and specialized character of its advisory services to the Client. In addition, the Adviser or its affiliates have been managing the Client's assets since 2017 using its expertise and understanding of local economy and real estate market. If, due to the loss of compensation, the Adviser's services to the Client become less tailored and specialized, this result would serve no benefit to (i) the Client and in turn, the former and current employees of Colorado whose retirement funds are managed by the Client, (ii) the public interest or (iii) the protection of investors.

Neither the Adviser nor the Contributor sought to interfere with the Client's selection or retention process for advisory services, nor did they seek to negotiate higher fees or greater ancillary benefits. There was no violation of the Adviser's fiduciary duty to deal fairly or

disclose material conflicts given the absence of any intent or action by the Adviser or the Contributor to influence the Client's selection process. The Applicant has no reason to believe the Contribution undermined the integrity of the market for advisory services or resulted in a violation of the public trust in the process for awarding contracts.

G. Precedent

The Applicant notes that the Commission granted exemptions similar to that requested herein with respect to relief from Section 206A of the Act and Rule 206(4)-5(e) in Davidson Kempner Capital Management LLC, Investment Advisers Act Release Nos. 3693 (October 17, 2013) (notice) and 3715 (November 13, 2013) (order) (the "Davidson Kempner Application"); Ares Real Estate Management Holdings, LLC, Investment Advisers Act Release Nos. 3957 (October 22, 2014) (notice) and 3969 (November 18, 2014) (order) (the "Ares Application"); Crestview Advisors, L.L.C., Investment Advisers Act Release Nos. 3987 (December 19, 2014) (notice) and 3997 (January 14, 2015) (order) (the "Crestview Application"); T. Rowe Price Associates, Inc. and T. Rowe Price International Ltd., Investment Advisers Act Release Nos. 4046 (March 12, 2015) (notice) and 4508 (April 8, 2015) (order) (the "T. Rowe Application"); Starwood Capital Group Management, LLC, Investment Advisers Act Release Nos. 4182 (August 26, 2015) (notice) and 4203 (September 22, 2015) (order) (the "Starwood Application"); Blackrock Advisors, LLC, Investment Advisers Act Release Nos. 4912 (May 11, 2018) (notice) and 4937 (June 6, 2018) (order) (the "Blackrock Application"); Generation Investment Management US LLP and General Investment Management LLP, Investment Advisers Act Release Nos. 5213 (March 26, 2019) (notice) and 5227 (April 23, 2019) (order) (the "Generation Investment Application"); and D.B. Fitzpatrick & Co., Inc., Investment Advisers Act Release No. 5475 (April 9, 2020) (notice) and 5496 (May 5, 2020) (order) (the "D.B. Fitzpatrick

Application"). All of the aforementioned applications together with other precedent applications,[6] are referenced herein as the "Granted Applications."

The facts and representations made in this Application are, in many respects, largely consistent with the Granted Applications. Moreover, there are also some key similarities and differences between this Application and the Davidson Kempner Application, the Ares Application, the Crestview Application, the T. Rowe Price Application, the Starwood Application, the Blackrock Application, the Generation Investment Application and the D.B. Fitzpatrick Application that further weigh in favor of granting the exemption requested herein.

Nature of the Election and Other Facts and Circumstances. The contribution at issue in the T. Rowe Application was made in an impassioned moment, during which the contributor failed to recognize the regulatory implications of his actions. Likewise, in the Crestview Application, the contributor had a history of supporting the official at issue, and the contributor was focused on the official's aspirations for federal office and not the official's then role as a state official. Further, in the Generation Investment Application, the contributor had a relationship with the official due to the fact their children were classmates in the same primary school and a next-door neighbor solicited the contributor leading to the contributor's spontaneous decision to make the contribution. Additionally, in the D.B. Fitzpatrick

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[6] Crescent Capital Group, LP, Investment Advisers Act Release Nos. 4140 (July 14, 2015) (notice) and 4172 (August 14, 2015) (order) (the "Crescent Application"); Fidelity Management & Research Company and FMR Co., Inc., Investment Advisers Act Release Nos. 4220 (October 8, 2015) (notice) and 4254 (November 3, 2015) (order) (the "FMR Application"); Brookfield Asset Management Private Institutional Capital Adviser US, LLC et al., Investment Advisers Act Release Nos. 4337 (February 22, 2016) (notice) and 4355 (March 21, 2016) (order) (the "Brookfield Application"); Angelo, Gordon & Co., LP, Investment Advisers Act Release Nos. 4418 (June 10, 2016) (notice) and 4444 (July 6, 2016) (order) (the "Angelo Gordon Application"); Brown Advisory LLC, Investment Advisers Act Release Nos. 4605 (January 10, 2017) (notice) and 4642 (February 7, 2017) (order) (the "Brown Application"); Stephens Inc., Investment Advisers Act Release Nos. 4797 (October 18, 2017) (notice) and 4810 (November 14, 2017) (order) (the "Stephens Application"); PNC Capital Advisors, LLC, Investment Advisers Act Release Nos. 4825 (December 8, 2017) (notice) and 4838 (January 3, 2018) (order) (the "PNC Capital Advisors Application");

Application, the contributor made the contributions to support the candidate because of the candidate's likeminded views about the environment and climate change without recognizing such contributions' regulatory impact. The Contributor also spontaneously made the Contribution for a similar reason and with a similar misunderstanding as to regulatory impact.

Interactions with the Candidate. In the Starwood Application, the contributor was a longtime business associate and friend of the candidate, and the contributor had a strong personal connection to Illinois, even though he was not eligible to vote there. Similarly, in this instance, the Candidate and the Contributor are longtime business associates and friends, and, although not eligible to vote in Colorado, the Contributor had a strong personal connection with Colorado at the time of the Contribution.

Nature of the Official. In the Davidson Kempner Application, the recipient of the contribution was, at the time of the contribution, the Ohio State Treasurer. The Ohio State Treasurer had authority to appoint one member of each of the two relevant government entity boards. In the Starwood Application, the recipient of the contribution was a private citizen who had only established an exploratory committee by the date of the Contribution and was successfully elected as the Governor of Illinois. In the D.B. Fitzpatrick Application, the recipient of the contribution was the incumbent Lieutenant Governor of Idaho who was successfully elected Governor of Idaho. In the Crestview Application, the recipient of the contribution was, at the time of the contribution, the Texas Governor. In the Blackrock Application, the recipient of the contribution was, at the time of the contribution, the Ohio Governor. By comparison, the Candidate was a private citizen who lost his election and never served in public office. Thus, unlike the candidates that included the Ohio State Treasurer, the Governor of Illinois, the Governor of Idaho, the Governor of Texas and the Governor of Ohio, the Candidate was a

private citizen both before and after the election who never had influence over the selection of investment advisers by a government entity.

Client Investments After the Contribution. In the Davidson Kempner Application, a State of Ohio government entity invested in the applicant's fund while the official was in office and subsequent to the contribution that triggered the two-year compensation ban but prior to its return. In contrast, the Client made its second investment subsequent to the Contribution but well after the Candidate lost the election and the Contribution had been fully refunded. This aligns with the Starwood Application where the client made a subsequent investment with the applicant well after the contribution had been refunded.

Amount of the Contribution and Nature of Election. In the BlackRock Application, the contributor made a $2,700 contribution to John Kasich's presidential campaign when he was the sitting Governor of Ohio. In the Davidson Kempner Application, the contributor and his wife each made a $2,500 contribution to the sitting Ohio State Treasurer for his campaign for United States Senator. In the Crestview Application, the contributor donated $2,500 to the sitting Texas State Governor's campaign for the federal office of President of the United States. In the D.B. Fitzpatrick Application, the contributor donated $600 to the sitting Lieutenant Governor of Idaho's campaign to be the Governor of Idaho. In the Ares Application, the contributor donated $1,100 to the re-election campaign of the Governor of Colorado. The contributions in each of the Davidson Kempner and Ares Applications were regarding elections in which the contributor was not eligible to vote. Unlike the aforementioned Granted Applications, in this Application, the Contribution was to a private citizen who was not a sitting official. Moreover, in this Application, the amount of the Contribution, $250, is substantially less than the amounts of the contributions in these Granted Applications.

V. REQUEST FOR ORDER

The Adviser seeks an order pursuant to Section 206A of the Act and Rule 206(4)-5(e), thereunder, exempting it, to the extent described herein, from the two-year prohibition on compensation required by Rule 206(4)-5(a)(1) under the Act, to permit the Adviser to receive compensation for investment advisory services provided to the Client within the two-year period following the Contribution identified herein to an official of such government entity by a covered associate of the Applicant.

Conditions. The Applicant agrees that any order of the Commission granting the requested relief will be subject to the following condition:

The Adviser will appoint an independent compliance consultant to annually review and test its compliance program and compliance systems, including the Adviser's Policy, to ensure that they are reasonably designed to prevent violations of the Act and the rules thereunder. The Adviser will maintain records regarding such review and testing, which will be maintained and preserved in an easily accessible place for a period of not less than five years, the first two years in an appropriate office of the Adviser, and be available for inspection by the staff of the Commission.

VI. CONCLUSION

For the foregoing reasons, the Adviser submits that the proposed exemptive relief, conducted subject to the representations set forth above, would be fair and reasonable, would not involve overreaching, and would be consistent with the general purposes of the Act.

VII. PROCEDURAL MATTERS

Pursuant to Rule 0-4 of the rules and regulations under the Act, a form of proposed notice

for the order of exemption requested by this Application is set forth as Exhibit C to this Application. In addition, a form of proposed order of exemption requested by this application is set forth as Exhibit D to this Application.

On the basis of the foregoing, the Applicant submits that all the requirements contained in Rule 0-4 under the Act relating to the signing and filing of this Application have been complied with and that the Applicant, who has signed and filed this Application, is fully authorized to do so.

The Applicant requests that the Commission issue an order without a hearing pursuant to Rule 0-5 under the Act.

Dated: October 5, 2022

Respectfully submitted,

Calmwater Asset Management, LLC

By: _____

David Cohen
Chairman of Calmwater Asset Management, LLC

Exhibit Index

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Authorization

All requirements of the Limited Liability Company Agreement of Calmwater Asset Management, LLC have been complied with in connection with the execution and filing of this Application. Calmwater Asset Management, LLC, by duly executed resolutions as of _____, 2022 (and attached to this Authorization), has authorized the making of this Application. Such resolutions continue to be in force and have not been revoked through the date hereof.

Calmwater Asset Management, LLC has caused the undersigned to sign this Application on its behalf in 11755 Wilshire Boulevard #1425, Los Angeles, California on this __ day of October, 2022.

Calmwater Asset Management, LLC

By: _____
David Cohen
Chairman of Calmwater Asset Management, LLC

Subscribed and sworn to before me a Notary Public this __ day of October, 2022.

(Official Seal) _____

My commission expires _____

SEE ATTACHED

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)SS
COUNTY OF LOS ANGELES)

On October 06, 2022, before me, Sharon Soyoung Yeou, a Notary Public, personally appeared David Cohen, who proved to me on the basis of satisfactory evidence to be the person whose name ise subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

SHARON SOYOUNG YEOU
Notary Public - California
Los Angeles County
Commission # 2378925
My Comm. Expires Oct 18, 2025

My Commission Expires: October 18, 2025

This area for official notarial seal

Notary Name: Sharon Soyoung Yeou
Notary Registration Number: 2378925

Notary Phone: 310-405-7484
County of Principal Place of Business: Los Angeles

SOLE WRITTEN CONSENT
OF THE
MEMBER
OF
CALMWATER ASSET MANAGEMENT, LLC

WHEREAS, Cam Holdings, LLC (the "Manager") is the sole Member and Manager of Calmwater Asset Management, LLC (the "Company"), pursuant to the Limited Liability Company Agreement of the Company (the "LLC Agreement"); and

WHEREAS, the Manager desires to adopt the following resolution; and

NOW, THEREFORE, BE IT RESOLVED, that the Company, and David Cohen as Chairman and Authorized Signatory on behalf of the Company, is authorized in the name and on behalf of the Company to execute and cause to be filed with the Securities and Exchange Commission an application for an order under Section 206A of the Investment Advisers Act of 1940, as amended (the "**Act**"), and Rule 206(4)-5(e) thereunder, substantially in the form attached hereto, granting an exemption to the Company from the provisions of Section 206(4) of the Act, and Rule 206(4)-5(a)(1) thereunder.

FURTHER RESOLVED, that the authorized signatories of the Company be, and each of them hereby is, authorized to prepare, execute and cause to be filed any and all amendments to such Application as the authorized signatories of the Company executing the same may approve as necessary and desirable, such approval to be conclusively evidenced by his, her or their execution thereof; and

FURTHER RESOLVED, that the authorized signatories of the Company be, and each of them hereby is, authorized to take such other action, including the preparation and publication of a notice relating to such Application for Exemption and the representation of the Company, in any matters relating to such Application or amendment thereof as they deem necessary or desirable.

IN WITNESS WHEREOF, I hereunto set my hand, this __ day of October, 2022.

By: _____

Name: David Cohen
Corporate Title: Chairman of Calmwater Asset Management, LLC

Subscribed and sworn to before me a Notary Public this __ day of October, 2022.

(Official Seal) _____
My commission expires _____

SEE ATTACHED

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)SS
COUNTY OF LOS ANGELES)

On October 06, 2022, before me, Sharon Soyoung Yeou, a Notary Public, personally appeared David Cohen, who proved to me on the basis of satisfactory evidence to be the person whose name ise subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

SHARON SOYOUNG YEOU
Notary Public - California
Los Angeles County
Commission # 2378925
My Comm. Expires Oct 18, 2025

Signature

My Commission Expires: October 18, 2025

This area for official notarial seal

Notary Name: Sharon Soyoung Yeou
Notary Registration Number: 2378925

Notary Phone: 310-405-7484
County of Principal Place of Business: Los Angeles

Exhibit B

Verification:

State of California, County of Los Angeles, SS:

The undersigned being duly sworn deposes and says that he has duly executed the attached Application dated October 5, 2022 for and on behalf of Calmwater Asset Management, LLC; that he is the Chairman of such company; and that all action by stockholders, directors, and other bodies necessary to authorize deponent to execute and file such Application has been taken. Deponent further says that he is familiar with such instrument, and the contents thereof, and that the facts set forth therein are true to the best of his knowledge, information and belief.

_____

(Signature)
David Cohen

Subscribe and sworn to before me a Notary Public this __ day of October, 2022.

[OFFICIAL SEAL]

My Commissions expires _____

SEE ATTACHED

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)SS
COUNTY OF LOS ANGELES)

On October 06, 2022, before me, Sharon Soyoung Yeou, a Notary Public, personally appeared David Cohen, who proved to me on the basis of satisfactory evidence to be the person whose name ise subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

My Commission Expires: October 18, 2025

This area for official notarial seal

Notary Name: Sharon Soyoung Yeou
Notary Registration Number: 2378925

Notary Phone: 310-405-7484
County of Principal Place of Business: Los Angeles

Exhibit C

Proposed Notice for the Order of Exemption

Agency: Securities and Exchange Commission (the "**Commission**").

Action: Notice of Application for Exemption under the Investment Advisers Act of 1940 (the "**Advisers Act**" or "**Act**").

Applicant: Calmwater Asset Management, LLC (the "**Adviser**" or "**Applicant**").

Relevant Act Sections: Exemption requested under Section 206A of the Act, and Rule 206(4)-5(e) thereunder, from the provisions of Section 206(4) of the Act, and Rule 206(4)-5(a)(1) thereunder.

Summary of Application: The Applicant requests that the Commission issue an order under Section 206A of the Advisers Act and Rule 206(4)- 5(e) exempting it from Rule 206(4)-(5)(a)(1) under the Advisers Act to permit the Applicant to receive compensation for investment advisory services provided to a government entity within the two-year period following a contribution by a covered associate of the Applicant to an official of such government entity.

Filing Dates: The application was filed on [DATE].

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 writing to the Commission's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on [DATE], and should be accompanied by proof of service on Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to Rule 0-5, 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 writing to the Commission's Secretary.

Addresses: Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, D.C. 20549-1090. Applicant, Calmwater Asset Management, LLC 11755 Wilshire Boulevard, #1425, Los Angeles, CA 90025.

For Further Information Contact: Thankam Varghese, Senior Counsel, at 202-551-6825 (Division of Investment Management, Chief Counsel's Office) or Parisa Haghshenas, Branch Chief, at (202) 551-6723 (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 searching for the file number, or for an applicant using the Company name box, at http://www.sec.gov/search/search.htm, or by calling (202) 551-8090.

The Applicant's Representations:

1. Calmwater Asset Management, LLC is registered with the Commission as an investment adviser under the Act. It provides discretionary investment advisory services to several private investment funds (each a "**Fund**" and, together, the "**Funds**").

2. One of the Adviser's clients is a state pension fund that is a government entity with respect to Colorado (the "**Client**"). The State Treasurer of Colorado serves as an *ex-officio* voting Trustee on the Board of Trustees of the Client. Thus, the State Treasurer of Colorado and any candidate for such office is an "official" of the Client as defined in Rule 206(4)-5 under the Advisers Act (the "**Rule**").

3. On November 6, 2019 (the "**Contribution Date**"), Larry Grantham, the Managing Principal of the Applicant (the "**Contributor**"), contributed $250 (the "**Contribution**") to the campaign of Brian Watson (the "**Candidate**"), a private citizen who was running for the position of State Treasurer of Colorado. The Applicant represents that the Contributor did not solicit any persons to make contributions to the Candidate's campaign or coordinate any such contributions and made no other contributions to the Candidate. The Contribution Date was also the date of the Candidate's election loss.

4. The Applicant represents that the Contributor made the Contribution because of his support for environmental conservation causes and his friendship with the Candidate, and not because of any desire to influence the Client's retention or selection of an investment adviser. The Applicant represents that the Contributor failed to appreciate that his Contribution, which he made spontaneously to a Colorado State Treasurer candidate after a business event both attended, would trigger the prohibition on compensation under the Rule. The Applicant represents that, although the Contributor and the Candidate had a business and personal relationship for approximately six (6) years before the Contribution Date, they have never discussed the Adviser's investment advisory business or potential investments by Colorado government entities.

5. The Applicant represents that the Client's investment advisory business with the Applicant predates the Contribution. The Client made its first investment with the Applicant in May 2017 (approximately 18 months before the Contribution Date), and its second and final investment with the Applicant in March 2021 (approximately 27 months after the Contribution Date and over a year after the Candidate had returned the Contribution to the Contributor).

6. The Applicant represents that before making the Contribution, the Contributor (i) orally requested pre-approval from the then-chief compliance officer to make the Contribution, (ii) followed up via email with a written pre-approval request to the then-chief compliance officer on November 5, 2018 to approve of the Contribution, and (iii) made the Contribution of $250 on November 6, 2018, the same date as the Candidate's election loss. The Applicant represents that the Contributor believed that he had received oral pre-approval from the then-chief compliance officer, and, when he did not hear otherwise, he assumed the Contribution was approved. The Contributor did not seek pre-clearance through the compliance tool, as specified in the applicable policy, because the Contributor believed that the then-chief compliance officer had sufficient

written pre-clearance information via email. The Contribution was $100 over the Rule's $150 *de minimis* amount permitted for a person not entitled to vote in the election. The then-chief compliance officer forwarded the pre-approval request email to a designee, expecting the designee to confirm the permissibility of the Contribution with the Applicant's then-compliance consultant, but the inquiry as to permissibility was not completed. The then-compliance consultant discovered the contribution during a compliance review in December 2019. The Applicant represents that the then-chief compliance officer remained unaware the Contribution had been made until the then-compliance consultant discovered the Contribution during the course of the Adviser's annual review in December 2019 and informed the then-chief compliance officer.

The then-chief compliance officer consulted outside counsel and undertook remedial measures, including informing the Contributor of the violation. The Contributor promptly requested a return of the Contribution from the Candidate by phone on or about January 11, 2020, which was granted, and the Contributor received a check refunding the full amount of the Contribution ($250) on or about January 27, 2020. In response to the violation of the Rule, the Applicant replaced the then-chief compliance officer with a new outsourced chief compliance officer.

7. The Applicant represents that, since its registration in 2017, it has maintained and updated a Political Contributions Policy (the "**Policy**"), which it believes was reasonably designed to prevent violations of the Rule. The Applicant represents that it has updated its Policy to allow for political contribution pre-authorization requests to be sent to the chief compliance officer via email. The Applicant represents that it further amended its Policy to implement enhanced procedures to, among other things, search federal and state campaign contribution databases on a daily basis to seek to identify and monitor any political contributions of covered associates.

8. The Applicant represents that the Adviser established an escrow account on July 14, 2021 to custody advisory fees and servicing fees received from the Client. The Applicant further represents that it will continue to deposit fees that accrue from the Client into the escrow account pending the outcome of this Application. The Applicant represents that it notified the Client of the two-year prohibition on compensation imposed by the Rule and the Application.

The Applicant's Legal Analysis:

1. Rule 206(4)-5(a)(l) under the Act prohibits a registered investment adviser from providing investment advisory services for compensation to a government entity within two years after a contribution to an official of the government entity is made by the investment adviser or any covered associate of the investment adviser. The "[R]ule's intended purpose" is to combat *quid pro quo* arrangements involving investment advisers making contributions in order to influence a government official's decision regarding advisory business with the adviser.

2. Rule 206(4)-5(b) provides exceptions from the two-year prohibition under Rule 206(4)-5(a)(1) with respect to contributions that do not exceed a *de minimis* threshold, were made by a person more than six months before becoming a covered associate or were discovered by the adviser and returned by the official within a specified period and subject to certain other conditions.

3. Section 206A and Rule 206(4)-5(e) permit the Commission to exempt an investment adviser from the prohibition under Rule 206(4)-5(a)(1) upon consideration of, among other factors:

(i) Whether the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Advisers Act;

(ii) Whether the investment adviser: (A) before the contribution resulting in the prohibition was made, adopted and implemented policies and procedures reasonably designed to prevent violations of the rule; and (B) prior to or at the time the contribution which resulted in such prohibition was made, had no actual knowledge of the contribution; and (C) after learning of the contribution: (1) has taken all available steps to cause the contributor involved in making the contribution which resulted in such prohibition to obtain a return of the contribution; and (2) has taken such other remedial or preventive measures as may be appropriate under the circumstances;

(iii) Whether, at the time of the contribution, the contributor was a covered associate or otherwise an employee of the investment adviser, or was seeking such employment;

(iv) The timing and amount of the contribution which resulted in the prohibition;

(v) The nature of the election (*e.g.*, federal, state or local); and

(vi) The contributor's apparent intent or motive in making the contribution which resulted in the prohibition, as evidenced by the facts and circumstances surrounding such contribution.

4. The Applicant requests an order pursuant to Section 206A and Rule 206(4)-5(e), exempting it from the two-year prohibition on compensation imposed by Rule 206(4)-5(a)(l) with respect to investment advisory services provided to the Client following the Contribution. The Applicant asserts that the exemption sought is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Advisers Act.

5. The Applicant states that the Client determined to invest with the Applicant and established its advisory relationship on an arm's length basis approximately eighteen (18) months before the date of the Contribution (and the Candidate's same day election loss) free from any improper influence as a result of the Contribution. In support of this argument, the Applicant notes that the Client's relationship with the Applicant predates the Contribution. The Client's only subsequent investment with the Adviser was approximately twenty-seven (27) months after the Contribution Date (and the Candidate's same-day election loss) and approximately fourteen (14) months after the Candidate had returned the Contribution to the Contributor. The Applicant also notes that the Candidate lost the election, and is a private citizen who, to the Applicant's knowledge, never held public office or had any influence with respect to

the Board. The Applicant respectfully submits that the interests of the Client are best served by allowing the Applicant and the Client to continue their relationship uninterrupted.

6. The Applicant submits that the Contributor's decision to make the Contribution to the Candidate was based on the Contributor's ideological beliefs and friendship with the Candidate, and not any desire to influence the Client's award or retention of investment advisory business. There was no connection between the Contribution and any past or potential business between the Client and the Applicant. Once it was discovered that the Contribution violated the Rule, the Contributor requested a return of the Contribution from the Candidate, which was granted and a check refunding the full amount of the Contribution was received promptly.

7. Applicant further submits that the other factors set forth in Rule 206(4)-5(e) similarly weigh in favor of granting an exemption to the Applicant to avoid consequences disproportionate to the violation. The Applicant proposes the evidence is clear that the Contributor inadvertently failed to appreciate that the Contribution violated the Rule, and there was no attempt to influence the Client's investment adviser selection process. Furthermore, the Applicant submits that if an exemption is not granted, the loss of compensation from the Client will significantly negatively impact the Applicant's business.

8. Accordingly, the Applicant respectfully submits that the interests of the Client and the purposes of the Act are best served in this instance by allowing the Adviser and the Client to continue their relationship uninterrupted in the absence of any intent or action by the Contributor to interfere with the Client's process for the selection or retention of advisory services. The Applicant submits that an exemption from the two-year prohibition on compensation is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

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

_____

Secretary [or other signatory]

Exhibit D

Proposed Order of Exemption

Calmwater Asset Management, LLC (the "Adviser" or the "Applicant") filed an application on [DATE] pursuant to Section 206A of the Investment Advisers Act of 1940 (the "Act") and Rule 206(4)-5(e) thereunder. The application requested an order granting an exemption from the provisions of Section 206(4) of the Act, and Rule 206(4)-5(a)(l) thereunder, to permit the Applicant to provide investment advisory services for compensation to a government entity within the two-year period following specified contribution to an official of such government entity by a covered associate of the Applicant. The order applies only to the Applicant's provision of investment advisory services for compensation which would otherwise be prohibited with respect to that government entity as a result of the contribution identified in the application.

A notice of filing of the application was issued on [DATE] (Investment Advisers Act Release No. IA-[insert number]). The notice gave interested persons an opportunity to request a hearing and stated that an order disposing of the application would be issued unless a hearing should be 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, that granting the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Accordingly, IT IS ORDERED, pursuant to Section 206A of the Act and Rule 206(4)-5(e) thereunder, that the application for exemption from Section 206(4) of the Act and Rule 206(4)-5(a)(l) thereunder, is hereby granted, effective forthwith.

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

By:_____