SECURITIES AND EXCHANGE COMMISSION

Release No. IA-3693 / 803-00215

Davidson Kempner Capital Management LLC; Notice of Application

October 17, 2013

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

Action: Notice of application for an exemptive order under Section 206A of the Investment Advisers Act of 1940 (the "Advisers Act") and Rule 206(4)-5(e) thereunder.

Applicant: Davidson Kempner Capital Management LLC ("Applicant").

Relevant Advisers Act Sections: Exemption requested under section 206A of the Advisers Act and rule 206(4)-5(e) thereunder from rule 206(4)-5(a)(1) under the Advisers Act.

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

Filing Dates: The application was filed on October 16, 2012, and an amended and restated application was filed on July 5, 2013.

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 November 12, 2013, and should be accompanied by proof of service on Applicant, in the form of an affidavit or, for

lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Commission's Secretary.

Addresses: Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, D.C. 20549-1090. Applicant, Davidson Kempner Capital Management LLC, c/o Shulamit Leviant, 65 East 55th Street, 19th Floor, New York, New York 10022.

For Further Information Contact: Melissa S. Gainor, Senior Counsel, or Sarah A. Buescher, Branch Chief, at (202) 551-6787 (Investment Adviser Regulation Office, Division of Investment Management).

Supplementary Information: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 100 F Street, NE, Washington, D.C. 20549-0102 (telephone (202) 551-5850).

Applicant's Representations:

1. Applicant is a limited liability company registered with the Commission as an investment adviser under the Advisers Act. Applicant serves as investment adviser to Davidson Kempner Institutional Partners, L.P. (the "Fund"), an issuer excluded from the definition of investment company pursuant to section 3(c)(7) of the Investment Company Act of 1940. Three of the investors in the Fund (the "Clients") are Ohio public pension plans. The investment decisions for each Client are overseen by a board of between 9 and 11 trustees that includes one individual appointed by the Ohio State Treasurer.

2. On May 22, 2011, Anthony Yoseloff, a managing member and senior investment professional of Applicant (the "Contributor"), made a contribution of $2,500 (the "Contribution") to the federal senate campaign of Joshua Mandel, the Ohio State Treasurer (the

"Official"). The Contributor's wife also made a contribution for the same amount. Applicant represents that the amount of the Contribution, profile of the candidate and characteristics of the campaign are consistent with the pattern of the Contributor's other political contributions.

3. Applicant represents that the Contributor did not solicit any persons to make contributions to the Official's campaign, and that the executive managing member of Applicant was informed of the Contributor's plan to meet with the Official, but never learned that the Contributor made the Contribution.

4. Applicant represents that each Client's relationship with the Applicant pre-dates the Contribution and only one investment made by the Clients occurred after the contribution. The Applicant also represents that it took steps designed to limit the Contributor's contact with each Client and each Client's representatives during the duration of the two-year compensation time out. Applicant represents that the Contributor's role with the Clients was limited to making substantive presentations to the Client's representatives regarding the investment strategy for which the Contributor is a manager. Applicant represents that the Contributor had no contact with any representative of a Client outside of those presentations, and no contact with any member of a Client's board. No member of a Client's board serving at the time of the Contribution was appointed by the Official.

5. Applicant represents that at no time did any employees of the Adviser other than the Contributor have any knowledge of the Contribution prior to its discovery by the Adviser on November 2, 2011. The Contribution was discovered by the Adviser's compliance department during compliance testing that included random testing of campaign contribution databases for the names of employees. After discovery of the Contribution, the Adviser and Contributor obtained the Official's agreement to return the full amount of the Contribution, which was

subsequently returned. An escrow account was established and all fees paid from the Clients' capital accounts in the Fund for the two-year period beginning on May 22, 2011 were deposited in the account. Applicant represents that it notified each Client of the Contribution and resulting two-year prohibition on compensation absent exemptive relief from the Commission.

6. The Adviser's policies and procedures regarding pay-to-play ("Pay-to-Play Policies and Procedures") were initially adopted and implemented in August 2009 and required covered employees of the Adviser to pre-clear contributions to state and local office incumbents (including state and local officials running for federal office) and candidates. Applicant represents that the Contributor's violation of Applicant's Pay-to-Play Policies and Procedures resulted from his mistaken belief that all contributions to federal campaigns were permissible and exempt from Pay-to-Play Policies and Procedures. After learning of the Contributor's misunderstanding, Applicant represents that it revised its Pay to Play Policies and Procedures to require covered employees of the Adviser to pre-clear all campaign contributions to avoid similar misunderstandings by covered associates.

Applicant's Legal Analysis:

1. Rule 206(4)-5(a)(1) under the Advisers 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. Each Client is a "government entity," as defined in rule 206(4)-5(f)(5), the Contributor is a "covered associate" as defined in rule 206(4)-5(f)(2), and the Official is an "official" as defined in rule 206(4)-5(f)(6). Rule 206(4)-5(c) provides that when a government entity invests in a covered investment pool, the investment adviser to that covered investment pool is treated as providing

advisory services directly to the government entity. The Fund is a "covered investment pool," as defined in rule 206(4)-5(f)(3)(ii).

2. Section 206A of the Advisers Act grants the Commission the authority to "conditionally or unconditionally exempt any person or transaction . . . from any provision or provisions of [the Advisers 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 Advisers Act]."

3. Rule 206(4)-5(e) provides that the Commission may exempt an investment adviser from the prohibition under Rule 206(4)-5(a)(1) upon consideration of the factors listed below, among others:

(1) 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;

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

(3) 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;

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

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

(6) 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. Applicant requests an order pursuant to section 206A and rule 206(4)-5(e) thereunder, exempting it from the two-year prohibition on compensation imposed by rule 206(4)-5(a)(1) with respect to investment advisory services provided to the Clients within the two-year period following the Contribution.

5. Applicant submits that the exemption 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. 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.

6. Applicant states that each Client determined to invest with Applicant and established those advisory relationships on an arms' length basis free from any improper influence as a result of the Contribution. In support of this argument, Applicant notes that each Client's relationship with the Applicant pre-dates the Contribution and only one investment made by the Clients occurred after the contribution. Furthermore, the Official's influence on each Client is limited, as was the Contributor's contact with each Client's representatives. Applicant also argues that the interests of the Clients are best served by allowing the Applicant and its Clients to continue their relationship uninterrupted.

7. Applicant notes that it adopted and implemented Pay-to-Play Policies and Procedures compliant with the rule's requirements and it implemented compliance testing procedures prior to the date of the Contribution. Applicant further represents that at no time did any employees of Applicant other than the Contributor have any knowledge that the Contribution had been made prior to discovery by the Applicant in November 2011. After learning of the Contribution, Applicant and the Contributor obtained the Official's agreement to return the Contribution, which was subsequently returned, and the Applicant set up an escrow account for all fees charged to the Clients' capital accounts in the Fund for the two-year period beginning May 22, 2011.

8. Applicant states that the Contributor's apparent intent in making the Contribution was not to influence the selection or retention of Applicant. Applicant represents that the amount of the Contribution, profile of the candidate and characteristics of the campaign are consistent with the pattern of the Contributor's other substantial political donations. Applicant notes that the Contributor failed to appreciate that contributions to federal candidates who held state or local office could trigger the prohibition on compensation under Rule 206(4)-5 or that such contributions were subject to the Applicant's Pay-to-Play Policies and Procedures. Applicant represents that the Contributor had no contact with any representative of the Clients (or their boards) outside of making limited substantive presentations to the Clients' representatives and consultants about the investment strategy he manages and that the Applicant took steps designed to limit such contact during the duration of the two-year time out on compensation.

By the Commission.

Kevin M. O'Neill
Deputy Secretary