



3300 W. Sahara Avenue, Suite 250
Las Vegas, Nevada 89102
(702) 486-4120

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF FINANCIAL INSTITUTIONS

1755 E. Plumb Lane, Suite 243
Reno, Nevada 89502
(775) 688-1730

In Re:

Advisors Capital Trust Company
In Formation,

Applicant.

**NOTICE OF ENTRY OF ORDER REFUSING TO
ISSUE TRUST COMPANY LICENSE**

The State of Nevada, Department of Business and Industry, Division of Financial Institutions, Commissioner of Financial Institutions (hereinafter "Division" or "Commissioner") hereby provides Notice of Entry of Order Refusing to Issue Trust Company License to Advisors Capital Trust Company (in formation) (hereinafter "Applicant").

JURISDICTION

1. The business of acting as a trust company in this state is governed by Nevada Revised Statutes (NRS) Chapter 669 and Nevada Administrative Code (NAC) Chapter 669.

2. The Commissioner has primary jurisdiction for the licensing and regulation of persons operating and/or engaging in the business of a trust company. See NRS and NAC 657 and 669, including, but not limited to, NRS 657.210, NRS 669.010, NRS 669.029, NRS 669.090, NRS 669.130, NRS 669.160 and NAC 669.080.

3. Pursuant to the authority vested by NRS 669, the Commissioner hereby makes the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

4. On or about February 8, 2022, Applicant submitted to the Division an application for licensure to establish a retail trust company in the State of Nevada. The application was

1 revised and signed by the Applicant after the initial submission and was provided to the
2 Division on April 21, 2022. The application lists John Hurry as owner of the Applicant.

3 5. Applicant's proposed business address is 295 Hwy 50, Unit 20, Stateline,
4 Nevada 89413.

5 6. Applicant filed a revised Business Plan on April 21, 2022, which lists the board
6 of directors to include: John Hurry, Mike Cruz, Raymond Maratea, James Cosman, and Diane
7 Imbach, and the officers to include: Diane Imbach and John Hurry.

8 7. Each officer and director were required to submit a personal history form.

9 8. None of the proposed officers or directors have any trust company experience.

10 9. The Division conducted an investigation of each proposed board member and
11 officer and found the following deficiencies to licensure:

12 a. John Hurry:

- 13 • No trust company experience.
- 14 • Failed to disclose FINRA registration on personal history form.
- 15 • FINRA Disciplinary Proceeding No. 201906123601:
16 FINRA's Department of Enforcement, Extended Hearing Panel Decision,
17 dated March 22, 2022, "FINRA Decision":
 - 18 ○ Alpine Securities Corporation, a clearing firm owned by John
19 Hurry, was found to have "converted and misused customer funds
20 and securities, engaged in unauthorized trading, charged and paid
21 customers unfair prices in securities transactions, charged
22 customers unreasonable and discriminatory fees, and made an
23 unauthorized capital withdrawal. For this misconduct, the member
24 firm is expelled and ordered to pay restitution. Additionally, FINRA
25 imposes a permanent cease and desist order against the firm"
26 (FINRA Decision at 1)
 - 27 ○ The panel discusses John Hurry's role in the misconduct: "the
28 record suggests to us that many key decisions resulting in the

1 misconduct at issue here came from John Hurry, regardless of who
2 served as chief executive officer.” (FINRA Decision at 77)

- 3 • John Hurry is currently under investigation by FINRA for acting as an
4 unregistered principal.

5 b. Diane Imbach:

- 6 • No trust company experience. Diane Imbach reported to the Division that
7 she has not worked as a trust officer or in a trust department. She has no
8 formal experience in the administration of trusts.

9 10. John Hurry’s FINRA firms, Scottsdale Capital Advisors and Alpine Securities
10 Corporation have an extensive disciplinary record.

11 11. Scottsdale Capital Advisors:

- 12 a. FINRA Case No. 2019062263701; August, 26, 2020; suspended for failure to file
13 its continuing membership applications under NASD Rule 1017.
- 14 b. FINRA Case No. 2014039940101; November 19, 2015; Acceptance, Waiver &
15 Consent; for submitting reports that contained inaccurate, incomplete, or
16 improperly formatted data. Censure and fine imposed (\$10,000).
- 17 c. FINRA Case No. 2009020646702; September 24, 2012; Acceptance, Waiver &
18 Consent; for failing to take action when notified that its registered representative
19 was using his name and CRD number in stock promotion press releases.
20 Censure and fine imposed (\$7,500).
- 21 d. FINRA Case No. 2008011593301; November 14, 2011; Decision and Order of
22 Offer of Settlement; failed to follow its own anti-money laundering procedures.
23 Censured, suspended and fined (\$125,000).
- 24 e. FINRA Case No. 2007008075101; September 28, 2009; Acceptance, Waiver &
25 Consent; bought corporate bonds from customers and failed to buy such bonds
26 at a price that was fair. Censured and fined (\$7,500).
- 27
28

1 12. Alpine Securities Corporation:

- 2 a. Civil Action brought by the US Securities and Exchange Commission on June 5,
3 2017. Failed to properly file suspicious activity reports (SAR); failed to identify
4 and report suspicious activity in its SAR filings; failed to follow its own policies
5 and procedures. 2,720 violations. \$12,000,000 judgment imposed.
6 b. FINRA Case No. 2018057162401; Acceptance, Waiver & Consent June 7, 2021;
7 submitted inaccurate data. Censured and fined (\$30,000).
8 c. FINRA Case No. 2019062263301; August 26, 2020, failed to file continuing
9 membership applications under NASD Rule 1017. Suspended.
10 d. FINRA Case No. 2012031507401; Acceptance, Waiver & Consent September
11 29, 2014; reports contained inaccurate, incomplete or improperly formatted data.
12 Censured and fined (\$20,000).

13 13. The Applicant provided no evidence that the proposed board members and
14 officers have good reputations for honesty, trustworthiness and integrity and display
15 competence to transact the business of a trust company in a manner which safeguards the
16 interests of the general public.

17 14. The Division found the application to be deficient so the following items, which
18 are required for licensure, were not requested or received by the Division: executed lease,
19 municipal business license, proof of insurance, fidelity bond, evidence of business formation
20 and state business license, and verification of capital funds.

21 15. On or about July 29, 2022, the Commissioner, having found defects and
22 deficiencies in the application, submitted written notice of grounds for denial of the application
23 via USPS Certified Mail and via email to the applicant. Certified Mail No. 7019 1120 0000
24 3407 8171. The letter provided thirty (30) days to submit a new, complete application to cure
25 the deficiencies and/or defects in the original application pursuant to NRS 669.160(2).
26
27
28

1 5. The proposed officers and directors fail to meet the requirements of NRS
2 669.085(1)(c).

3 6. NRS 669.117 provides as follows:

4 1. No person is eligible to serve as a director or manager of
any retail trust company unless the person:

5 (a) Displays the competence and integrity to transact the
6 business of the retail trust company in a manner which safeguards
the interests of the general public; and

7 (b) Has a financial status consistent with his or her
responsibilities to the public.

8 2. The Commissioner may require any or all new directors or
9 managing directors of a retail trust company to provide such
10 financial and biographical information and verification thereof as
the Commissioner deems appropriate, including the completion of
any forms required to be completed in connection with the
licensing of a retail trust company.

11 7. The proposed directors fail to meet the requirements of NRS 669.117(1)(a).

12 8. NRS 669.160(1)(a)(1) provides as follows:

13 1. Within 90 days after the application for a license is filed, the
14 Commissioner shall investigate the facts of the application and the
other requirements of this chapter to determine:

15 (a) That the persons who will serve as directors or officers
16 of the corporation, or the managers or members acting in a
managerial capacity of the limited-liability company, as applicable:

17 (1) Have a good reputation for honesty,
trustworthiness and integrity and display competence to transact
18 the business of a trust company in a manner which safeguards the
interests of the general public. The applicant must submit
satisfactory proof of these qualifications to the Commissioner.

19
20 9. The proposed officers and directors fail to meet the requirements of NRS
21 669.160(1)(a)(1).

22 10. In consideration of all the criteria pursuant to NRS 669.083(2), NRS 669.085,
23 NRS 669.117 and NRS 669.160, the Applicant has not met the statutory requirements for
24 issuance of a trust company license under NRS 669.

25 11. If any Conclusion of Law is more properly characterized as a Finding of Fact, it
26 shall be considered as such.

ORDER

1
2 Based on the foregoing Findings of Fact and Conclusions of Law, and for GOOD
3 CAUSE APPEARING THEREFORE, the Commissioner refuses to issue a trust company
4 license to Applicant pursuant to NRS 669.160(3).

5 It is so Ordered.

6 The Applicant has 30 days to request a hearing before the Commissioner pursuant to
7 NRS 669.160(3). Failure to do so will result in a final order refusing to issue a trust company
8 license to Applicant.

9 DATED this 22 day of September 2022.

10 STATE OF NEVADA
11 DEPARTMENT OF BUSINESS AND INDUSTRY
12 DIVISION OF FINANCIAL INSTITUTIONS

13 By: 
14 Sandy O'Laughlin
15 Commissioner of Financial Institutions
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Department of Business and Industry, Financial Institutions Division, and that on 22 day of September 2022, I deposited in the U.S. mail, postage prepaid, via First Class Mail and Certified Return Receipt Requested, a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER REFUSING TO ISSUE TRUST COMPANY LICENSE**, addressed as follows:

William E. Peterson, Esq.
Snell & Wilmer L.L.P.
50 W. Liberty Street, Suite 510
Reno, NV 89501

Certified Mail: 7019 1120 0000 3407 8331



An Employee of the State of Nevada
Department of Business and Industry
Financial Institutions Division