

April 12, 2004

Kevin Laffey
172 Coe Hill Road
Center Harbor, NH 03226

RE: Investment Adviser Exam Licensing Requirement Inquiry – Series 7 & 66

Dear Mr. Laffey:

Reference is made to your letter to this Bureau dated March 22, 2004 wherein you requested an opinion from the Bureau on whether a currently valid Series 7 license meets the examinations requirements for an investment adviser representative even though you are no longer associated with a National Association of Securities Dealers (NASD) member firm and the Series 7 license is due to expire in October 2005 unless you re-associate with an NASD member firm . Furthermore, you requested an opinion on whether any investment adviser representative license granted to you will remain valid in the event that your Series 7 lapses while operating under an approved license.

According to your letter, you had been affiliated with an NASD member firm for several years until October 2003, at which time you left the NASD member firm. During your time with the NASD member firm, you had obtained the Series 7 and Series 66 examinations. You are now considering becoming licensed as an investment adviser and want to confirm whether your current Series 7 and Series 66 examinations will allow you to become qualified and stay qualified as an investment adviser.

It is this Bureau's opinion that currently valid Series 7 and Series 66 examinations are sufficient to meet the examination requirements for investment advisers under New Hampshire law and that the lapsing of the Series 7 at some point in the future will not create a deficiency with regard to the examination requirements for an otherwise currently valid license. New Hampshire Revised Statutes Annotated (RSA) 421-B:7, VI(b) states: "Each applicant for individual investment adviser licensure, investment adviser agent licensure, or investment adviser representative licensure shall provide the secretary of state with proof of obtaining a passing score on one of the following

examination requirements: (1) The Uniform Investment Adviser Law Examination (Series 65 examination); or (2) The General Securities Representative Examination (Series 7 examination) and the Uniform Combined State Law Examination (Series 66 examination.” The statute does not address the validity of an examination that is currently valid but may lapse in the future. It is the validity of the examination at the time of application that is determinative, not the potential for the examination to lapse. Therefore, a currently valid Series 65 examination is sufficient to meet the examination requirements for licensing as an investment adviser. Secondly, the statute addresses the examination requirements at the time of application for a license and not during the period in which a valid license is held. If the Series 7 examination lapses after licensing due to the applicant no longer being associated with an NASD member firm, the license still remains in effect so long as it has not been withdrawn, suspended, revoked or otherwise made ineffective. If the applicant at some future date applies for licensing as an investment adviser after the Series 7 lapses, then the applicant would need to retake any necessary qualifying examinations at that time.

This position is based on facts and representations contained in your letter, and different facts or conditions might require a different conclusion. This position cannot be used as a precedent for other situations with similar facts or conditions. The Bureau cannot and does not provide legal opinions, advice or conclusions to the public. This response merely expresses the Bureau’s position on enforcement action and does not express a legal conclusion on the question presented.

Very truly yours,

Kevin B. Moquin
Attorney, Licensing and Examinations