

**ADMINISTRATIVE PROCEEDING  
BEFORE THE  
SECURITIES COMMISSIONER OF SOUTH CAROLINA**

**IN THE MATTER OF:**

**Kirby Financial Associates, LLC  
IARD# 154672,**

**Respondent.**

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**RULE TO SHOW CAUSE**

**File Number: 14084**

**WHEREAS**, the Securities Division of the Office of the Attorney General of the State of South Carolina (the “Division”), has been authorized and directed by the Securities Commissioner of South Carolina (the “Securities Commissioner”) to administer the provisions of S.C. Code Ann. § 35-1-101, *et seq.*, the South Carolina Uniform Securities Act of 2005 (the “Act”); and

**WHEREAS**, the Division alleges the following:

**I. Jurisdiction**

1. The Securities Commissioner has jurisdiction over this matter pursuant to S.C. Code Ann. § 35-1-601(a).

**II. Respondent**

2. Respondent Kirby Financial Associates, LLC (“Respondent” or “Kirby”) is a corporation registered in the State of South Carolina and located at 119-2 East Hampton Street, Darlington, South Carolina 29532.

3. Respondent is currently registered as an investment adviser with the Division and has been registered as such since October 15, 2010.

4. Respondent’s investment adviser registration database (“IARD”) identifying number is 154672.

### **III. Factual Background**

5. On or about February 20, 2014, the Division requested information from Respondent pursuant to S.C. Code Ann. § 35-1-411(d) (the “Request for Information”), asking that a response be provided on or before March 31, 2014.

6. On or about March 25, 2014, the Division sent a reminder of its request to the Respondent via email.

7. Respondent failed to comply with the March 31, 2014, deadline.

8. On or about September 8, 2014, the Division sent a letter to the Respondent via U.S. Mail, requesting that the Respondent respond to the Request for Information within ten (10) days of the date of the letter.

9. Respondent failed to comply with the ten-day deadline.

10. Respondent has since replied with an answer to the Division’s Request for Information.

11. Respondent’s continued failure to provide its answer to the Request for Information impeded the Division’s inspection.

### **IV. Applicable Law**

12. The South Carolina Uniform Securities Act of 2005, S.C. Code Ann. § 35-1-101, *et seq.* (the “Act”), governs the offer of, sale of, and rendering of investment advice related to securities within the State of South Carolina.

13. Pursuant to S.C. Code Ann. § 35-1-411(d), the Securities Commissioner or his designee may inspect the records of an investment adviser registered with the Division.

14. Pursuant to S.C. Code Ann. § 35-1-412(c), if the Securities Commissioner finds that the order is in the public interest and subsection (d)(1) through (6), (8), (9), (10), or (12) and

(13) authorizes the action, an order under the Act may censure, impose a bar, and/or impose a civil penalty in an amount not to exceed \$10,000 for each violation on a registrant.

#### **V. Conclusion**

15. Based on the foregoing facts and applicable law, a fine not to exceed \$10,000 should be assessed against Respondent for Respondent's violation of the Act.

**NOW THEREFORE**, it is hereby **ORDERED** that Respondent **SHOW CAUSE**, if any there be, why the Securities Commissioner should not enter an Order, pursuant to S.C. Code Ann. § 35-1-412(c), imposing a fine not to exceed \$10,000 on Respondent for impeding the Division's inspection under S.C. Code Ann. § 35-1-411(d).

#### **NOTICE AND OPPORTUNITY FOR A HEARING**

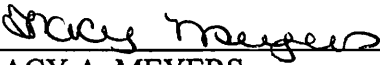
Respondent is hereby notified that it has thirty (30) days from the date of this Rule to Show Cause to file an answer and, if desired, a request for a hearing on the matters contained herein. Such documents should be filed with Thresechia Navarro, Securities Division, Post Office Box 11549, Columbia, South Carolina, 29211-1549. In its written Answer, Respondent shall admit or deny each factual allegation in this Rule to Show Cause and set forth specific facts, laws, and/or affirmative defenses which Respondent relies upon. If Respondent is without knowledge or information sufficient to form a belief as to the truth of an allegation, he shall so state.

In the event an answer and written notice requesting a hearing is not received within the above-stated thirty (30) day period of time, an order imposing a fine not to exceed \$10,000 on Respondent will be entered in this proceeding with no further notice.

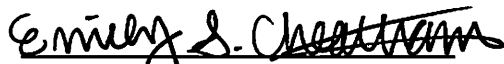
Respondent is further notified that by seeking the issuance of an order assessing an appropriate fine, the Division is not waiving any rights it may have to pursue additional remedies

available to it for violations of the Act committed by Respondent not enumerated herein.

**ENTERED**, this the 28<sup>th</sup> day of October, 2014.  
Columbia, South Carolina

By:   
TRACY A. MEYERS  
Deputy Securities Commissioner  
Post Office Box 11549  
Columbia, South Carolina 29211

**ISSUANCE REQUESTED BY:**

  
EMILY S. CHEATHAM  
Assistant Attorney General  
Securities Division  
Rembert C. Dennis Building  
1000 Assembly Street  
Columbia, SC 29201

STATE OF SOUTH CAROLINA  
OFFICE OF THE ATTORNEY GENERAL  
SECURITIES DIVISION

CERTIFICATE OF SERVICE AND  
AFFIDAVIT OF COMPLIANCE  
File Number 14084

I hereby certify that I served upon the individual/entity listed below a copy of the document indicated below and dated October 28, 2014, by serving a copy of said document upon the Securities Commissioner of the State of South Carolina and by placing a copy of said document in the United States mail, certified mail, return receipt requested, first class postage prepaid and addressed to:

C.C. Kirby  
Kirby Financial Associates, LLC  
119-2 East Hampton Street  
Darlington, SC 29533

Document(s): Rule to Show Cause

Mailed October 28, 2014 from Columbia, South Carolina.

I further hereby certify, swear and affirm that, service of the above-listed entity is in compliance with Section 35-1-611, Code of Laws of South Carolina.

By: Thresechia P. Navarro  
Thresechia P. Navarro  
South Carolina Attorney General's Office  
Securities Division  
Post Office Box 11549  
Columbia, SC 29211-1549  
(803) 734-4731

Subscribed and sworn to before me on  
this 28<sup>th</sup> day of October, 2014.

Laura Stoll  
Notary Public for South Carolina

My commission expires: 3-10-18

