

**STATE OF NEVADA**  
**OFFICE OF THE SECRETARY OF STATE**  
**SECURITIES DIVISION**  
**555 EAST WASHINGTON AVENUE, SUITE 5200**  
**LAS VEGAS, NEVADA 89101**

In the Matter of:

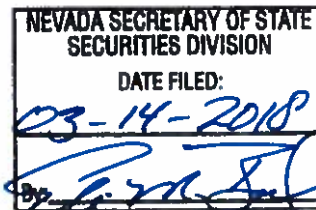
**CUBED SYSTEMS, CRD No. 174967, a sole  
proprietorship of ROBERT PATRICK  
BAFFA, JR., CRD No. 2367531,**

**Respondent.**

**ADMINISTRATIVE CONSENT ORDER**

**File No. CI16-216**

**TO: Cubed Systems  
Robert Patrick Baffa, Jr.  
2620 Mason Avenue  
Las Vegas, NV 89102**



**WHEREAS, Cubed Systems, CRD No. 174967, has been licensed as an investment  
adviser in the State of Nevada since July 28, 2015;**

**WHEREAS, Robert Patrick Baffa, Jr., CRD No. 2367531, has been licensed in the State  
of Nevada as a representative of an investment adviser since July 28, 2015, and operates Cubed  
Systems as a sole proprietorship;**

**WHEREAS, pursuant to the authority provided in Nevada Revised Statutes ("NRS")  
90.410, the Securities Division of the Office of the Nevada Secretary of State ("Division")  
conducted an inspection of Respondent's records to determine compliance with the Nevada  
Uniform Securities Act ("Act"), codified at NRS Chapter 90, and the regulations adopted  
thereunder and codified in Chapter 90 of the Nevada Administrative Code ("NAC");**

**WHEREAS, based on the facts and circumstances revealed during the course of this  
inspection, the Division has concluded that Respondent failed to enter into written investment  
advisory agreements with clients and failed to provide clients with itemized fee invoices when  
deducting advisory fees from client accounts in violation of Nevada law;**

**WHEREAS, pursuant to the Act and the regulations adopted thereunder, Respondent is  
charged with complying with all applicable requirements while engaged in any securities-related  
business in or from the State of Nevada;**

**WHEREAS**, Respondent has cooperated with the Division's inspection by responding to inquiries, and providing documentary evidence;

**WHEREAS**, Respondent has advised the Division of its agreement to resolve the aforementioned violations on the terms specified in this Administrative Consent Order (“Order”);

**WHEREAS, Respondent elects to permanently and expressly waive any right to a hearing and appeal under the Act and/or to seek judicial review under the Nevada Administrative Procedures Act, codified in NRS Chapter 233B, with respect to this Order; and**

**WHEREAS**, Respondent consents to the entry of this Order solely for the purpose of terminating the Division's inspection and in settlement of the issues contained in this Order.

**NOW THEREFORE**, the Administrator of the Division, pursuant to the Act, hereby enters this Order:

I.

## **FINDINGS OF FACTS**

1. Cubed Systems, CRD No. 174967, has been licensed as an investment adviser in the State of Nevada since July 28, 2015, with its principal place of business located at 2620 Mason Avenue, Las Vegas, Nevada.

2. Robert Patrick Baffa, Jr., CRD No. 2367531, has been licensed in the State of Nevada as a representative of an investment adviser since July 28, 2015, and operates Cubed Systems as a sole proprietorship.

3. On December 12, 2016, investigators with the Division initiated an inspection of Respondent's records pursuant to the authority provided in NRS 90.410.

4. Although Respondent provided the Division with a form of an investment advisory contract in connection with licensing, Respondent has never entered into a written investment advisory contract with clients.

5. Although Respondent provided the Division with a form of an itemized fee invoice in connection with licensing, Respondent has never provided clients with itemized fee invoices when deducting fees from client accounts.

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II.

**CONCLUSIONS OF LAW**

1. The Division has jurisdiction over this matter pursuant to the Act, which authorizes the Division to regulate an entity or person acting as an investment adviser. Specifically, NRS 90.420 and NRS 90.630 allows the Division, through its Administrator, to take action against Respondent for violating the Act or any regulation or order adopted or issued under said Act.

2. The Administrator of the Division has adopted by reference NASAA Model Rule 102(a)(4)-1, entitled Unethical Business Practices of Investment Advisers, Investment Adviser Representatives, and Federal Covered Advisers. See NAC 90.3864.

3. NASAA Model Rule 102(a)(4)-1(p) requires investment advisory contracts to be in writing. Specifically, subsection (p) prohibits an investment adviser from:

Entering into, extending or renewing any investment advisory contract, unless such contract is in writing and discloses, in substance, the services to be provided, the term of the contract, the advisory fee, the formula for computing the fee, the amount of prepaid fee to be returned in the event of contract termination or non-performance, whether the contract grants discretionary power to the adviser and that no assignment of such contract shall be made by the investment adviser without the consent of the other party to the contract.

4. Respondent has violated NASAA Model Rule 102(a)(4)-1(p) by failing to enter into written investment advisory contracts with clients.

5. NASAA Model Rule 102(a)(4)-1(o) requires investment advisers having custody of client securities or funds to comply with NASAA Rule 102(e)(1)-1, entitled Custody Requirements for Investment Advisers, which requires, among other things, an annual independent verification of the client securities or funds by a certified public accountant.

6. NASAA Model Rule 102(e)(1)-1(b)(3) contains an exception to the independent verification requirement when an investment adviser is deemed to have custody as a consequence of the investment adviser's ability to deduct its fee from a client's account. Specifically, subsection (b)(3) provides:

1 Notwithstanding paragraph (a)(6) of this rule, an investment  
2 adviser is not required to obtain an independent verification of  
3 client funds and securities maintained by a qualified custodian if  
all of the following are met:

4 (A) The investment adviser has custody of the funds and securities  
5 solely as a consequence of its authority to make withdrawals from  
client accounts to pay its advisory fee;

6 (B) The investment adviser has written authorization from the  
7 client to deduct advisory fees from the account held with the  
qualified custodian;

8 (C) Each time a fee is directly deducted from a client account, the  
9 investment adviser concurrently:

10 (i) sends the qualified custodian an invoice or statement of  
11 the amount of the fee to be deducted from the client's account; and

12 (ii) sends the client an invoice or statement itemizing the  
13 fee. Itemization includes the formula used to calculate the fee, the  
14 amount of assets under management the fee is based on, and the  
time period covered by the fee.

15 (D) The investment adviser notifies the Administrator in writing  
16 that the investment adviser intends to use the safeguards provided  
above. Such notification is required to be given on Form ADV.

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18 7. Respondent violated Model Rule NASAA Rule 102(e)(1)-1 by having custody as  
19 a consequence of its authority to make withdrawals from client accounts to pay advisory fees, but  
20 failing to send the clients an invoice or statement itemizing the fee, including the formula used to  
21 calculate the fee, the amount of assets under management the fee is based on, and the time period  
22 covered by the fee.

### 23 III.

### 24 ORDER

25 Finding the following appropriate and in the public interest, and on the basis of the  
26 Findings of Fact, Conclusions of Law, and Respondent's consent to the entry of this Order,

27 **IT IS HEREBY ORDERED** that:

28 1. Respondent shall cease from violating the Act and the regulations adopted  
thereunder, and will comply with said Act and regulations now and in the future.

2. As required by NASAA Model Rule 102(a)(4)-1(p), Respondent shall enter into written investment advisory agreements with clients.

3. As required by NASAA Rule 102(e)(1)-1(b)(3), whenever Respondent deducts advisory fees from client accounts, Respondent shall send such clients an invoice or statement itemizing the fee, including the formula used to calculate the fee, the amount of assets under management the fee is based on, and the time period covered by the fee.

4. Respondent shall pay the Nevada Secretary of State, on or before this Order is executed, a civil penalty in the amount of Seven Thousand Five Hundred Dollars and No Cents (\$7,500.00) concurrently with the filing of this Order.

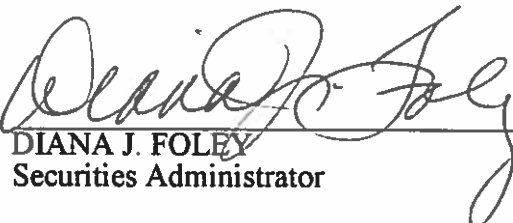
5. In addition, Respondent shall pay the Nevada Secretary of State, on or before this Order is executed, the fee for the Division's inspection of records performed pursuant to NRS 90.410 in the amount of One Thousand Dollars and No Cents (\$1,000.00).

6. In consideration, the Division will take no further enforcement action based upon the circumstances covered by this inspection and this Order and close its administrative investigation of Respondent in connection with the aforementioned activities.

7. Nothing in this Order shall be construed as a waiver of the Division's right to investigate and pursue any violations by Respondent in connection with actions other than the actions as set forth herein.

DATED this 14<sup>th</sup> day of March, 2018.

**BY ORDER OF THE ADMINISTRATOR**  
Securities Division, Office of the Secretary of State

  
DIANA J. FOLEY  
Securities Administrator

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Respondent represents that no promise of any kind or nature, other than the consideration set forth in this Order, was made to him to induce him to enter into this Order and that he has entered into this Order voluntarily.

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