

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 6732 / September 26, 2024

ADMINISTRATIVE PROCEEDING
File No. 3-22212

In the Matter of

**FEDERAL PREP
ADVISORS, INC. AND
MICHAEL KERPER**

Respondents.

**ORDER INSTITUTING ADMINISTRATIVE
AND CEASE-AND-DESIST PROCEEDINGS,
PURSUANT TO SECTIONS 203(e), 203(f)
AND 203(k) OF THE INVESTMENT
ADVISERS ACT OF 1940, MAKING
FINDINGS, AND IMPOSING REMEDIAL
SANCTIONS AND A CEASE-AND-DESIST
ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Sections 203(e), 203(f) and 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”), against Federal Prep Advisors, Inc. and Michael Kerper (collectively “Respondents”).

II.

In anticipation of the institution of these proceedings, Respondents have submitted Offers of Settlement (the “Offers”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over them and the subject matter of these proceedings, which are admitted, and except as provided herein in Section V, Respondents consent to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings, Pursuant to Sections 203(e), 203(f) and 203(k) of the Investment Advisers Act of 1940, Making Findings, And Imposing Remedial Sanctions and a Cease-And-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondents' Offers, the Commission finds that:

Summary

1. Since at least June 2020, in advising more than 300 clients to roll over assets totaling more than \$80 million from Thrift Savings Plan ("TSP")¹ accounts to advisory Individual Retirement Accounts ("IRAs"), Commission-registered investment adviser Federal Prep Advisors, Inc. ("Federal Prep") and its principal, Michael Kerper ("Kerper") provided information regarding TSP fees, TSP investment options, and IRA money manager fees that was false or that omitted material facts. This included telling clients that TSP fees were .50% when in fact TSP fees were approximately one-tenth that amount and continuing to provide that inaccurate information to clients after the Commission's Division of Examinations ("SEC Exams") notified Kerper of the inaccuracy. Moreover, despite the low costs of the TSP and the significantly higher costs associated with the advisory IRA recommended by Federal Prep and Kerper—Federal Prep clients pay advisory fees plus third-party money manager and underlying investment fees that often total 1.50% to over 2.00% per year—Federal Prep and Kerper did not adequately consider any total fee comparisons in advising clients to roll assets out of their TSP accounts, nor did Federal Prep or Kerper have an adequate understanding of the total costs associated with the rollover investment strategy that they recommended to clients. Federal Prep and Kerper also failed to adequately consider, and lacked an adequate understanding of, the investment options available within the TSP and how those options compared to the investments that they recommended clients make in a rollover advisory IRA.

2. Kerper is the Chief Executive Officer ("CEO"), Chief Operating Officer ("COO"), and an Investment Adviser Representative ("IAR") of Federal Prep. Kerper was also Federal Prep's Chief Compliance Officer ("CCO") until May 21, 2024 when he stepped down from the CCO position and Federal Prep retained a new CCO who had prior experience working in a compliance capacity. Federal Prep failed to, and Kerper took no action to, adopt and implement written policies and procedures intended to ensure that Federal Prep adhered to the fiduciary duty that it owed to clients, including when providing rollover or other investment advice. For example, despite having policies and procedures requiring that they do so, Federal Prep and Kerper did not fill out the investor profile form that was specified in Federal Prep's policies and procedures and that it said it would use to supervise and direct client investments, nor did they prepare a checklist to document whether their rollover advice was in the best interest of their clients. Federal Prep also failed to retain, and had no written policies and procedures regarding, text messages sent or received by IARs to or from clients and prospective clients relating to advice given or proposed to be given, disbursement of funds or securities, or the placing or execution of securities transactions.

3. As a result, and as detailed below, Federal Prep willfully violated Sections 206(2), 206(4), and 204 of the Advisers Act and Rules 206(4)-7 and 204-2 thereunder, and Kerper willfully violated Section 206(2) of the Advisers Act and caused Federal Prep's violations of Sections 206(4) and 204 of the Advisers Act and Rules 206(4)-7 and 204-2 thereunder.

¹ The Thrift Savings Plan is a defined contribution retirement savings and investment plan for federal government employees and uniformed services members, including the Ready Reserve.

Respondents

4. **Federal Prep** is a New York corporation with its principal place of business in Bohemia, NY. It has been registered with the Commission as an investment adviser since June 26, 2020. As of May 21, 2024, Federal Prep reported having 5 investment adviser representatives, 846 clients and \$90.93 million in regulatory assets under management.

5. **Kerper**, age 59, is a resident of Commack, NY. He is Federal Prep's CEO, COO, and an IAR of Federal Prep, and also was Federal Prep's CCO from at least June 2020 to April 2024. He is the 100% owner of Federal Prep. Kerper holds a Series 65 securities license and prior to Federal Prep, he was a registered representative with two different broker-dealers, from August 2003 to July 2013, and from July 2013 to October 2016, respectively. Kerper is also the owner of Federal Prep Inc., a New York corporation that is discussed further below.

Federal Prep's Clients

6. Most of Federal Prep's clients are federal employees, the majority of whom work or had worked for the U.S. Postal Service. These clients are most often at or near retirement age. Federal Prep's clients generally do not have much investing experience. In addition, the TSP or any other employer-sponsored plan that they or their spouse may hold is frequently the only investment or retirement account that they possess.

7. Federal Prep Inc., an affiliate of Federal Prep, provides presentations and counseling sessions to federal employees concerning retirement and federal benefits, and often coordinates with union leadership to organize seminars.² The topics addressed in these seminars and counseling sessions include health insurance, social security, life insurance, survivor benefits, federal pensions, and the paperwork required by the individual's specific agency to officially retire. Many of Federal Prep's advisory clients became clients after attending Federal Prep Inc.'s retirement seminars or counseling sessions, or after learning of Federal Prep from federal employee colleagues who were clients of Federal Prep.

TSP Investment Options and Fees

8. The TSP offers five core funds—the G, F, C, S and I Funds—that respectively provide federal employees the opportunity to invest in government securities, a fixed income index fund, a domestic stock index fund, a small cap stock index fund, and an international stock index fund. The TSP also offers ten "Lifecycle" or "L Funds" that contain different allocations of the five core funds depending on how close the investor is to their target retirement date. During the relevant period, the total expense ratios charged by the aforementioned TSP funds ranged from approximately 0.048% for the C Fund to 0.079% for the S Fund.

² Federal Prep Inc. and Federal Prep Advisors, Inc. are not affiliated with, licensed or endorsed by the U.S. government.

9. In June 2022, the TSP began offering investors the option to invest up to 25% of their TSP account balance in mutual funds by opening a separate investment account provided by the TSP's "Mutual Fund Window" vendor and choosing amongst thousands of available mutual funds. Each mutual fund has an expense ratio that is detailed in a prospectus and investors opting to use the Mutual Fund Window have also paid an annual administrative fee of approximately \$55, an annual maintenance fee of approximately \$95, and a per-trade fee of approximately \$28.75.

10. TSP assets can also be used to purchase life annuities in which the TSP's annuity provider provides monthly payments for either the life of the annuitant ("Single Life Annuity") or the life of the annuitant and their spouse or other joint annuitant ("Joint Life Annuity"). The TSP life annuities do not charge fees.

Federal Prep Advisory IRA Investment Options and Fees

11. When advising clients to roll TSP assets to an advisory IRA account, Federal Prep recommends that clients transfer the assets to an institutional IRA account held with an unaffiliated custodian. Federal Prep also recommends that the client utilize the services of a separate Commission-registered investment adviser (the "Platform Provider"), which provides a platform for unaffiliated advisers such as Federal Prep to develop their own investment portfolios or to utilize selected institutional portfolio strategists to build investment portfolios. Federal Prep and Kerper, on a non-discretionary basis, advise clients as to which portfolio strategists to use and how to allocate investments amongst those available through the Platform Provider.

12. The underlying investments in the portfolios recommended by Federal Prep and Kerper charge expense ratios that are often over 1.00% per year. In addition, the Platform Provider charges an administration fee of approximately .15% to .45% (depending on the account balance) per year, \$25 or \$50 per year for electronic or paper statement delivery, and trading and custody fees ranging from .10% to .20% based on the account value. Federal Prep and its IARs do not receive any portion of the fees or expense ratios charged by the Platform Provider or the underlying investments.

13. Federal Prep charges clients a 1.00% annual advisory fee, of which Federal Prep pays 60% to the particular IAR who advises the client. This 1.00% advisory fee, combined with the underlying investment and Platform Provider fees described above, often result in Federal Prep clients paying total fees and expenses of 1.50% to over 2.00% per year in connection with their Federal Prep advisory IRA.

14. Federal Prep also advises certain clients to use TSP assets to purchase fixed life annuities from third-parties other than the TSP's annuity provider. Clients who choose to open an advisory IRA with Federal Prep and are purchasing fixed life annuities through Federal Prep roll the TSP assets to the IRA after speaking with a Federal Prep IAR and then use a portion of the funds in the IRA to purchase the fixed life annuity. If an individual chooses to purchase a fixed life annuity, but is not opening an advisory IRA with Federal Prep, the TSP funds are sent directly to the fixed life annuity provider recommended by Federal Prep.

15. The fixed life annuities that Federal Prep recommends do not charge the annuitant a fee, but the annuity provider pays a commission to Federal Prep that it shares with its IARs and that ranges from 2.00% to 5.00% of the annuity purchase amount.

Respondents Did Not Adequately Understand, and Provided Inaccurate Information About, Costs Associated with the Investment Strategy that they Recommended

16. From at least June 2020 to in or around April 2023, Federal Prep and Kerper did not compare TSP costs to the costs associated with the Federal Prep advisory IRA when recommending that clients roll over their assets.

17. The information that Federal Prep and Kerper provided to clients about TSP fees and the fees associated with the advisory IRA that they recommended was frequently inaccurate or omitted material facts. Federal Prep and Kerper often mistakenly told clients that the TSP charged .50%, which was false and around ten times more than the average fee charged by the TSP funds.

18. In some communications with clients, Federal Prep compared its 1.00% advisory fee to what it inaccurately said was a .50% TSP fee, and indicated that the client or prospective client would receive advice and personal service from Federal Prep for only approximately .50% more than the TSP charged for its investment options. For example, when one client asked about fees, a Federal Prep IAR indicated that the client would pay a 1.00% advisory fee, but stated that because a portion of the client's TSP assets were going to a fixed life annuity that had no fees, the client's approximate cost would be .55%, which the IAR described as "slightly higher than the tsp [sic] with many more options control access and flexibility . . . I will always be a phone call away when you need me." Such comparisons were false and misleading with respect to the amount of fees because TSP fees were around .05% and the total fees associated with the advisory IRA recommended by Respondents were often 1.50% to over 2.00% when the Platform Provider fees and underlying investment fees were included.

19. Kerper mistakenly understood that the TSP fee was .50%, and told his employees so. Moreover, in the fall of 2022, Kerper indicated to SEC Exams staff on multiple occasions that the TSP charged .50%. For example, in response to a question from SEC Exams, Kerper stated that "TSP charges a .50 bps fee on all accounts . . . [t]he extra .50 bps that we charge allows our clients to call and meet with an advisor who knows them, their family and their entire financial picture." In a follow-up to that e-mail, Kerper stated to Exams, "[w]hen we were speaking you said they [TSP fees] were .05% and I said they were closer to .5%." As indicated by his statements to SEC Exams, Kerper both misunderstood the difference between 50 basis points and .50 basis points, and also mistakenly believed that the TSP charged approximately half the amount of the 1.00% advisory fee that Federal Prep charged.

20. Federal Prep and Kerper conducted no research to determine whether the information that they provided to clients and prospective clients about TSP fees was accurate.

21. As a result, when advising clients or prospective clients to roll over TSP assets to an advisory IRA, Respondents did not adequately consider information about the total fees and

expenses the Federal Prep client would incur. Respondents lacked an adequate understanding of the expense ratios of the underlying investment funds in the IRA and of the fees charged by the Platform Provider. Respondents often did not provide clients or prospective clients with written information regarding the underlying IRA investments and their associated costs until after the client had already initiated or completed the rollover of assets from their TSP.

22. In or around April 2023, Federal Prep began using a third-party's software to generate rollover comparison reports. While the reports provided written information documenting Federal Prep's advice to roll TSP assets over to an IRA, they typically contained several pieces of inaccurate information, as described further below. The reports were also not typically signed by the client, IAR or supervisor, despite signature fields on the form for those individuals to sign. In addition, the reports often were not provided to the client until after the TSP rollover had been initiated or completed.

23. The third-party software that Respondents used to generate the rollover comparison reports did not contain fee information regarding the TSP. When a user of the software selected the TSP from a drop-down menu, a note of "N/A" or "not available" would appear. The user then had the option of either manually entering the TSP fees or inputting the asset size range of the plan in order to populate the form with industry average costs for plans of that size range. Federal Prep used the industry average option, however, Federal Prep didn't recognize that the industry average was calculated using data regarding private employer-sponsored plans and other plans that had costs that were significantly higher than the TSP. As a result, Federal Prep generated rollover comparison reports that inaccurately listed TSP fees as 0.51%.

24. In addition, Federal Prep's IARs, including Kerper, indicated in the rollover comparison reports their view that the TSP does not offer flexible investment options and in some reports they gave the TSP a score of zero in that regard. This was misleading and Respondents lacked a reasonable basis for providing that information to clients, because, as discussed further below, Respondents failed to conduct a reasonable investigation of, and lacked an adequate understanding of, the number and nature of investment options available in the TSP.

Respondents Did Not Understand, or Provide Material Information About, Available Investment Options

25. A reasonable belief that it was in the best interest of a client to roll assets out of the TSP to make investments through the Platform Provider in the advisory IRA, required that Respondents conduct a reasonable investigation of that investment strategy so as to not base their advice on materially inaccurate or incomplete information. Respondents, however, did not conduct a reasonable investigation.

26. Federal Prep's IARs, including Kerper, had a minimal understanding of the investments available within the TSP, didn't know what, or how many, investment options were available in the TSP Mutual Fund Window that became available to TSP investors in June 2022, and didn't consider the investment options in the TSP when advising clients to roll assets out of the

TSP. Respondents also did not provide information about investment options in the Mutual Fund Window to clients or prospective clients.

27. Respondents did not conduct a reasonable investigation of, and lacked an adequate understanding of both the investment options and strategies available through the TSP, as well as of the investment options and strategies available through the Platform Provider, including their respective investment objectives and costs. This inadequate understanding included Respondents not knowing whether the TSP and Platform Provider offered similar investment options, and therefore also not knowing whether client investment objectives could be achieved in the TSP in a manner comparable to, or better than, how they could be achieved in the advisory IRA that Federal Prep recommended.

28. Separately, from at least June 2020 to in or around December 2022, a section that Kerper drafted of a presentation deck that Federal Prep’s IARs provided at retirement seminars and one-on-one counseling sessions stated that the TSP offered a Single Life Annuity for which “Beneficiaries [are] left out in the cold.” The presentation omitted any information regarding the Joint Life Annuity options offered by the TSP, creating a misleading impression that no one beyond the federal employee annuitant could receive payments from a TSP life annuity.

Respondents Did Not Disclose Conflicts of Interest Created by Annuity Commissions

29. While Respondents sometimes orally told clients and prospective clients that Federal Prep would receive commissions on client annuity purchases, Respondents did not disclose the amount of the commissions or the conflict of interest that such compensation creates.

30. Starting on March 27, 2023, Federal Prep stated in its Form ADV Part 2A brochure that its IARs “may receive compensation from the sale of annuities and insurance products as a licensed insurance agent.” Saying, however, that Federal Prep IARs “may” receive compensation, when they in fact do receive commissions on all client annuity purchases, is not a complete or accurate disclosure. Also, the amount of the commissions—2.00% to 5.00% of the annuity purchase amount—is significant and the magnitude of the compensation was not disclosed. Further, Federal Prep omitted the fact that the compensation its IARs receive on client annuity purchases presents a conflict of interest for Federal Prep and its IARs.

Federal Prep Failed to, and Kerper Failed to Take Action to, Adopt and Implement Policies and Procedures Designed to Ensure that Advice was in Clients’ Best Interest

31. During the relevant period, Kerper was Federal Prep’s CCO, as well as its CEO, COO and 100% owner, and therefore had ultimate authority and responsibility with respect to Federal Prep’s adoption and implementation of compliance policies and procedures.

32. Federal Prep’s compliance manual from at least June 2020 to August 2022 stated that Federal Prep will only make an IRA rollover recommendation if the recommendation is in the best interest of the retirement investor, and that “[a]ccordingly, Federal Prep Advisors has implemented a checklist . . . to document whether the investment advice provided is in the Best

Interest of the Retirement Investor . . . All staff members must provide a completed checklist to the CCO [Kerper] for prior approval before providing the relevant investment recommendation to the prospect or client.”

33. Kerper told Federal Prep’s IARs that there would be an IRA rollover recommendation checklist added to Federal Prep’s policies and procedures and that they would discuss it. However, Kerper did not provide IARs with a copy of the checklist and neither Kerper nor Federal Prep’s other IARs prepared any checklists when advising clients and prospective clients to roll over TSP assets to an advisory IRA.

34. In a December 2022 deficiency letter to Federal Prep and Kerper, SEC Exams cited Federal Prep’s failure to use the checklists and to follow its policies and procedures. In or around January 2023, Federal Prep began using an IRA recommendation checklist, but it removed any reference to the checklist from its policies and procedures, meaning it no longer had any written policies and procedures regarding when and how the checklists must be completed and reviewed.

35. The rollover recommendation checklist that Federal Prep began using in or around January 2023 included various assessments that the IAR would have to make and mark as “complete” or “not applicable” when advising a client to roll retirement plan assets into an IRA, as well as a section where the IAR was supposed to describe their rationale for recommending a rollover to the client. As Kerper took no action to adopt written compliance policies and procedures concerning the checklists, in practice, Federal Prep IARs used the checklists inconsistently. For example, IARs sometimes provided the checklist to clients, but other times IARs did not, or provided it after the client had already made the decision to do a rollover. IARs have also sometimes failed to complete the checklists. For example, in some instances the IAR included no information as to the rationale for the rollover recommendation, despite a section of the checklist calling for that information. Further, though the checklists called for Kerper, as CCO, to review and sign the checklists, in some instances the checklists were not signed by Kerper and there is no record of him reviewing them.

36. Federal Prep IARs, including Kerper, often marked as “complete” in the checklists an item that indicates that Federal Prep obtained a list of all available investments inside the client’s current plan. As discussed above, Respondents did not do that with respect to the TSP however, and did not know what investments are available in the TSP Mutual Fund Window.

37. Federal Prep IARs, including Kerper, also marked “not applicable” in response to a question in the checklist asking whether they had “undertake[n] and summarize[d] an assessment of the Target Date Fund that is most likely to be suitable for the client,” despite the TSP having several target date funds in the form of the Lifecycle Funds described above.

38. Federal Prep IARs, including Kerper, also checked “not applicable” in response to a question in the checklist asking whether they had assessed, with respect to the client’s existing account, each mutual fund, ETF or other investment vehicle currently used by the client, including total expenses. In failing to conduct such an assessment, as described above, Respondents lacked a

reasonable basis for believing that rolling assets out of the TSP to make investments through the Platform Provider in the advisory IRA was in the best interest of their clients or prospective clients.

39. In addition, Federal Prep’s compliance manual, advisory agreement and Form ADV Part 2A brochure all stated that Federal Prep creates an “Investment Policy Statement” for each client and that Federal Prep would supervise and direct investments subject to the objectives contained in the Investment Policy Statement. A copy of the Investment Policy Statement was attached as an exhibit to Federal Prep’s advisory agreements with clients. It contained questions regarding the client’s income and net worth, investing experience and knowledge, risk tolerance and investment objectives.

40. Federal Prep and Kerper, however, did not use the Investment Policy Statement. Instead, they used one of the Platform Provider’s risk assessment forms and obtained answers from the client to a lesser number of questions than were in the Investment Policy Statement. In addition, Federal Prep and Kerper typically waited until after the client signed the advisory agreement, after the TSP rollover had been initiated, and after the IRA account application had been submitted to the custodian and Platform Provider, before they completed the risk assessment form.

41. Kerper also did not take any action to have Federal Prep adopt any written compliance policies and procedures regarding the rollover comparison reports that Respondents began providing to clients in or around April 2023, and as described above, such reports included inaccurate and incomplete information and were not consistently used by Federal Prep’s IARs.

Federal Prep Failed to, and Kerper Failed to Take Action to, Adopt and Implement Policies and Procedures Designed to Ensure Books and Records were Maintained, and Required Books and Records were not Retained

42. Federal Prep’s compliance manual stated that the CCO, Kerper, was responsible for keeping and maintaining Federal Prep’s records, which “at a minimum” included several enumerated categories of records, including client account records for which “[a]ny time [Federal Prep] does anything regarding a client’s account, there must be some record of the action.”

43. Though Federal Prep’s IARs frequently advised clients to roll assets out of the TSP and into advisory IRAs and/or fixed life annuities, Federal Prep generally kept inconsistent and incomplete written records of the advice it provided to clients. Prior to in or around April 2023, Federal Prep’s IARs generally did not document their reasons for recommending TSP rollovers.

44. In addition, when a client wanted to make a change to their asset allocation, such changes were made based on oral communications between the IAR and the client that Respondents did not document.

45. Federal Prep IARs also used personal devices to exchange text messages, both internally and externally with clients, concerning Federal Prep’s advisory business. This included text messages regarding, amongst other topics, advice regarding TSP rollovers and rolling assets

out of an IRA to purchase fixed annuities, the placing or execution of securities transactions, and TSP and IRA disbursements and withdrawals. Federal Prep did not retain such text messages. Though Kerper told staff not to text with clients, he failed to take any action to adopt or implement any written policies or procedures regarding Federal Prep's retention of text messages.

Violations

46. As a result of the conduct described above, Federal Prep and Kerper willfully violated Section 206(2) of the Advisers Act, which makes it unlawful for any investment adviser, directly or indirectly, to "engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client." Scienter is not required to establish a violation of Section 206(2), but rather a violation may rest on a finding of negligence. *SEC v. Steadman*, 967 F.2d 636, 643 n.5 (D.C. Cir. 1992) (citing *SEC v. Capital Gains Research Bureau, Inc.*, 375 U.S. 180, 194-95 (1963)).

47. As a result of the conduct above, Federal Prep willfully violated, and Kerper caused Federal Prep's violations of, Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder, which require a registered investment adviser to adopt and implement written compliance policies and procedures reasonably designed to prevent violations of the Advisers Act and the rules thereunder.

48. As a result of the conduct above, Federal Prep willfully violated, and Kerper caused Federal Prep's violations of, Section 204 of the Advisers Act and Rule 204-2 thereunder, which require investment advisers that are registered or required to be registered to preserve in an easily accessible place originals of all written communications received and copies of all written communications sent relating to, amongst other things, any recommendations made or proposed to be made and any advice given or proposed to be given; any receipt, disbursement, or delivery of funds or securities; and the placing or execution of any order to purchase or sell any security.

Undertakings

49. Respondents have undertaken to:

a. Retention of Independent Compliance Consultant. Within sixty (60) days after the date of this Order, Respondents shall engage an independent compliance consultant not unacceptable to the Commission staff (the "Independent Consultant"), and provide a copy of this Order to the Independent Consultant. No later than ten (10) days following the date of the Independent Consultant's engagement, Respondents shall provide the Commission staff with a copy of the engagement letter detailing the Independent Consultant's responsibilities, which shall include the reviews and reports to be made by the Independent Consultant as set forth in this Order. The Independent Consultant's compensation and expenses shall be borne exclusively by Respondents.

b. Independent Consultant's Review. Respondents shall require the Independent Consultant to:

- i. conduct a comprehensive review of:
 - (1) Federal Prep’s current policies and procedures designed to ensure that Federal Prep is satisfying its fiduciary duty and providing rollover and other investment advice that is in the best interest of clients including, but not limited to, an analysis and comparison of relevant investment options and their respective fees and expenses;
 - (2) Federal Prep’s current disclosures to clients and prospective clients, including but not limited to disclosures regarding fees and commissions as well as Federal Prep’s policies and procedures with respect to its disclosures; and
 - (3) Federal Prep’s current policies and procedures designed to ensure that Federal Prep is maintaining books and records in accordance with the requirements of the Investment Advisers Act of 1940;

ii. the review shall include, but not be limited to, reviewing any policies and procedures that Federal Prep adopted or implemented since it voluntarily retained a compliance consulting firm on or about May 1, 2024;

iii. at the end of the review, which in no event shall be more than 180 days after the engagement of the Independent Consultant, submit a written and dated report to Respondents and the Commission staff that shall include a description of the review performed, the names of the individual(s) who performed the review, its findings and recommendations for changes or improvements to the policies and procedures, and a procedure for implementing the recommended changes and improvements;

iv. conduct one annual review 365 days from the date of issuance of the Independent Consultant’s initial report, to assess whether Respondents are complying with the then-current policies and procedures and whether the then-current policies and procedures are effective in achieving their stated purposes with respect to ensuring that Federal Prep is (1) satisfying its fiduciary duty and providing rollover and other investment advice that is in the best interest of clients, (2) making disclosures to clients and prospective clients in accordance with the requirements of the federal securities laws, and (3) maintaining records in accordance with the requirements of the federal securities laws; and

v. at the end of the annual review, which in no event shall be more than 180 days from the date that the annual review commenced, submit a written and dated report to Respondents and the Commission staff that shall include a description of the review performed, the names of the individual(s) who performed the review, its findings and recommendations, if any, for additional changes or improvements to the policies and procedures, and a procedure for implementing the recommended changes and improvements.

c. Respondents shall, within forty-five (45) days of receipt of each of the Independent Consultant's reports, adopt all recommendations contained in the reports, provided, however, that within thirty (30) days after the date of the applicable report, Respondents shall in writing advise the Independent Consultant and the Commission staff of any recommendations that it considers to be unduly burdensome, impractical, or inappropriate. With respect to any recommendation that Respondents consider to be unduly burdensome, impractical, or inappropriate, Respondents need not adopt that recommendation at that time but shall instead propose in writing an alternative policy or procedure designed to achieve the same objective or purpose as that recommended by the Independent Consultant. Respondents shall engage in good faith negotiations with the Independent Consultant in an effort to reach agreement on any recommendations objected to by Respondents. In the event that Respondents and the Independent Consultant are unable to agree on an alternative proposal within sixty (60) days, Respondents shall abide by the determinations of the Independent Consultant.

d. Within thirty (30) days of Respondents' adoption and implementation of all of the recommendations in the Independent Consultant's reports that the Independent Consultant deems appropriate, as determined pursuant to the procedures set forth herein, Respondents shall certify in writing to the Independent Consultant and the Commission staff that Respondents have adopted and implemented all recommendations in the applicable report. The Commission staff may make reasonable requests for further evidence of compliance, and Respondents agree to provide such evidence. Unless otherwise directed by the Commission staff, all Reports, certifications, and supporting material shall be sent to Judith Weinstock, Assistant Regional Director, Division of Enforcement, New York Regional Office, Securities and Exchange Commission, 100 Pearl Street, Suite 20-100, New York, NY 10004-2616.

e. For good cause shown, the Commission staff may extend any of the procedural dates relating to the undertakings. Deadlines for procedural dates shall be counted in calendar days, except that if the last day falls on a weekend or federal holiday, the next business day shall be considered to be the last day.

f. Respondents shall cooperate fully with the Independent Consultant and shall provide the Independent Consultant with access to such of its files, books, records and personnel as reasonably requested for the Independent Consultant's review, including access by on-site inspection.

g. To ensure the independence of the Independent Consultant, Respondents (1) shall not have the authority to terminate the Independent Consultant or substitute another independent consultant for the initial Independent Consultant without prior written approval of the Commission staff; and (2) shall compensate the Independent Consultant and persons engaged to assist the Independent Consultant for services rendered pursuant to this Order at their reasonable and customary rates.

h. For the period of engagement and for a period of two years from completion of the engagement, Respondents shall not (i) retain the Independent Consultant for any other professional services outside of the services described in this Order; (ii) enter into any other professional

relationship with the Independent Consultant, including any employment, consultant, attorney-client, auditing or other professional relationship; or (iii) enter, without prior written consent of the Commission staff, into any such professional relationship with any of the Independent Consultant's present or former affiliates, employers, directors, officers, employees, or agents.

i. The reports by the Independent Consultant will likely include confidential financial, proprietary, competitive business or commercial information. Public disclosure of the reports could discourage cooperation, impede pending or potential government investigations or undermine the objectives of the reporting requirement. For these reasons, among others, the reports and the contents thereof are intended to remain and shall remain non-public, except (1) pursuant to court order, (2) as agreed to by the parties in writing, (3) to the extent that the Commission determines in its sole discretion that disclosure would be in furtherance of the Commission's discharge of its duties and responsibilities, or (4) is otherwise required by law.

j. Respondents shall also provide a final certification, in writing, of compliance with the undertakings set forth above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Commission staff may make reasonable requests for further evidence of compliance, and Respondents agree to provide such evidence. The final certification and supporting material shall be submitted to Judith Weinstock, Assistant Regional Director, Division of Enforcement, New York Regional Office, Securities and Exchange Commission, 100 Pearl Street, Suite 20-100, New York, NY 10004-2616, with a copy to the Office of Chief Counsel of the Enforcement Division, no later than sixty (60) days from the date of the completion of the undertakings.

k. Respondent shall preserve, for a period of not less than six (6) years from the end of the fiscal year in which the undertakings were completed, the first two (2) years in an easily accessible place, any record of compliance with these undertakings.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondents' Offers.

Accordingly, pursuant to Sections 203(e), 203(f) and 203(k) of the Advisers Act, it is hereby ORDERED that:

A. Federal Prep and Kerper shall cease and desist from committing or causing any violations and any future violations of Sections 206(2), 206(4) and 204 of the Advisers Act and Rules 206(4)-7 and 204-2, promulgated thereunder.

B. Federal Prep and Kerper are censured.

C. Kerper shall be, and hereby is, subject to the following limitations on his activities: Kerper shall not act in a compliance capacity with any investment adviser, broker, dealer,

municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization.

Any application by Kerper to act in such a compliance capacity will be subject to the applicable laws and regulations governing the reentry process, and permission to act in such a compliance capacity may be conditioned upon a number of factors, including, but not limited to, compliance with the Commission's Order and the payment of any or all of the following: (a) any disgorgement or civil penalties ordered by a Court against the Respondent in any action brought by the Commission; (b) any disgorgement amounts ordered against the Respondent, for which the Commission waived payment; (c) any arbitration award related to the conduct that served as the basis for the Commission Order; (d) any self-regulatory organization arbitration award to a customer, whether or not related to the conduct that served as the basis for the Commission Order; and (e) any restitution order by a self-regulatory organization, whether or not related to the conduct that served as the basis for the Commission Order.

D. Federal Prep shall pay a civil money penalty in the amount of \$200,000, and Kerper shall pay a civil money penalty in the amount of \$80,000, to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. §3717. Payment shall be made in the following installments: (i) within 10 days of the entry of this Order, Federal Prep shall pay \$40,000 and Kerper shall pay \$80,000; (ii) within 6 months of the entry of this Order, Federal Prep shall pay another \$80,000; and (iii) within 12 months of entry of this Order, Federal Prep shall pay \$80,000. Payments shall be applied first to post-order interest, which accrues pursuant to 31 U.S.C. § 3717. Prior to making the final payment set forth herein, Respondents shall contact the staff of the Commission for the amount due. If Respondents fail to make any payment by the date agreed and/or in the amount agreed according to the schedule set forth above, all outstanding payments under this Order, including post-order interest, minus any payments made, shall become due and payable immediately at the discretion of the staff of the Commission without further application to the Commission.

Payment must be made in one of the following ways:

- (1) Respondents may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondents may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondents may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch

HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Federal Prep and/or Kerper as Respondents in these proceedings and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Sheldon Pollock, Associate Director, Division of Enforcement, Securities and Exchange Commission, New York Regional Office, Securities and Exchange Commission, 100 Pearl Street, Suite 20-100, New York, NY 10004-2616.

E. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondents agree that in any Related Investor Action, they shall not argue that they are entitled to, nor shall they benefit by, offset or reduction of any award of compensatory damages by the amount of any part of their payment of a civil penalty in this action (“Penalty Offset”). If the court in any Related Investor Action grants such a Penalty Offset, Respondents agree that they shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission’s counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a “Related Investor Action” means a private damages action brought against any Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

F. Respondents shall comply with the undertakings enumerated in Section III, paragraph 49 above.

V.

It is further Ordered that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. §523, the findings in this Order are true and admitted by Respondent Kerper, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent Kerper under this Order or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Respondent Kerper of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. §523(a)(19).

By the Commission.

Vanessa A. Countryman
Secretary