

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

<hr style="border: 0.5px solid black;"/>	§	
<b>SECURITIES AND EXCHANGE COMMISSION,</b>	§	
	§	
<b>Plaintiff,</b>	§	
	§	
<b>v.</b>	§	
	§	
<b>BRIAN A. BJORK;</b>	§	
<b>ESTATE OF JOEL DAVID SALINAS;</b>	§	
<b>J. DAVID GROUP OF COMPANIES, INC.</b>	§	
<b>J. DAVID FINANCIAL GROUP, L.P.;</b>	§	
<b>SELECT ASSET MANAGEMENT, LLC;</b>	§	<b>§ Civil Action No.: 4:11-cv-2830</b>
<b>SELECT CAPITAL MANAGEMENT, LLC</b>	§	<b>§ ECF</b>
<b>SELECT ASSET FUND I, LLC; and</b>	§	
<b>SELECT ASSET PRIME INDEX FUND, LLC,</b>	§	
	§	
<b>Defendants.</b>	§	
	§	
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**UNOPPOSED MOTION TO ENTER AGREED ORDERS OF PRELIMINARY  
INJUNCTION AS TO DEFENDANTS J. DAVID FINANCIAL GROUP, L.P.; J. DAVID  
GROUP OF COMPANIES, INC.; J. DAVID FINANCIAL GROUP L.P.; SELECT ASSET  
MANAGEMENT, LLC; SELECT CAPITAL MANAGEMENT, LLC; SELECT ASSET  
FUND I, LLC; AND SELECT ASSET PRIME INDEX FUND, LLC**

Plaintiff Securities and Exchange Commission (“Commission”) files this Unopposed Motion to Enter Agreed Orders of Preliminary Injunction against Defendants J. David Group of Companies, Inc.; J. David Financial Group L.P.; Select Asset Management, LLC; Select Capital Management, LLC; Select Asset Fund I, LLC; and Select Asset Prime Index Fund, LLC (collectively “Defendants”) and would respectfully show the Court as follows:

1. Counsel for the Commission and attorney Steven A. Harr, Receiver for the Defendants, have engaged in discussions resulting in the accompanying three proposed Agreed Orders of Preliminary Injunction (“Agreed Orders”). The Agreed Orders restrain and enjoin the

Defendants from violations of specified provisions of the federal securities laws while this case is pending or until the Court orders otherwise.

2. As reflected in the proposed Agreed Orders—each approved as to form and entry requested by the Receiver—Defendants have agreed to the entry of the Orders without admitting or denying the allegations contained in the Complaint in this case; have agreed that this Court has jurisdiction over Defendants and over the subject matter of this action; and have agreed to waive a hearing and the entry of findings of fact and conclusions of law.

3. Entry of the Agreed Orders will resolve the Commission’s motion for preliminary injunction against the Defendants (Doc. 2) now pending before the Court.

#### **BRIEF IN SUPPORT**

4. The Receiver is authorized to consent to this relief on behalf of the Defendants. On August 1, 2011, the Court entered an Order Appointing Receiver (“Receivership Order”)(Doc. 11), appointing attorney Steven A. Harr Receiver for the Defendants (Doc.11). In the Receivership Order, the Court defined “Receivership Assets” to include “the assets, monies, securities, properties, real and personal, tangible and intangible, of whatever kind and description, wherever located, and the legally recognized privileges (with regard to the entities), of the Defendants and all entities they own or control.” (Doc. 11, ¶ 1).

5. The Court authorized the Receiver “to immediately take and have complete and exclusive control, possession, and custody of the Receivership Estate,” defined to include both the Receivership Assets and the books and records of the Defendants. (Doc. 11, ¶¶1 and 4). The Court empowered the Receiver “to retain or remove, as the Receiver deems necessary or advisable, any officer, director, independent contractor, employee, or agent of the Receivership Estate.” (Doc. 11, ¶ 5(a)). Finally, the Court authorized the Receiver “to defend, compromise,

or adjust or otherwise dispose of any or all actions or proceedings instituted against the Receivership Estate.” (Doc. 11, ¶ 5(i)). As a result of the Receivership Order, the Receiver has the exclusive authority to consent to the entry of the Agreed Orders on behalf of the Defendants.

6. For the foregoing reasons, the Commission respectfully requests the Court to enter the Agreed Orders. Doing so will resolve fully the Commission’s motion for preliminary injunction (Doc. 2) presently scheduled for hearing August 10, 2011, at 2:30.

DATED: August 9, 2011

Respectfully submitted,

*s/Timothy S. McCole*

TIMOTHY S. McCOLE  
Mississippi Bar No. 10628  
SDTX Bar No. 899792  
United States Securities and  
Exchange Commission  
Fort Worth Regional Office  
801 Cherry Street, Suite 1900  
Fort Worth, Texas 76102  
(817) 978-6453  
(817) 978-4927 (facsimile)  
Counsel for Plaintiff

**CERTIFICATE OF CONFERENCE**

I certify that, on August 8, 2011, I conferred with attorney Steven A. Harr, court-appointed Receiver for the Defendants. The Defendants do not oppose the motion.

*s/Timothy S. McCole*  
TIMOTHY S. McCOLE

**CERTIFICATE OF SERVICE**

I certify that I have sent a copy of the above motion and the proposed order by email to Matt Hennessy, Esq., Defendant Brian A. Bjork's counsel, and to Steven A. Harr, court-appointed receiver for Defendant Bjork; Defendant J. David Group of Companies, Inc.; Defendant J. David Financial Group LP; Defendant Select Asset Management, LLC; Defendant Select Capital Management, LLC; Defendant Select Asset Fund I, LLC; Defendant Select Asset Prime Index Fund, LLC; Defendant Estate of Joel David Salinas.

*s/Timothy S. McCole*  
TIMOTHY S. McCOLE  
Mississippi Bar No. 10628  
SDTX Bar No. 899792  
United States Securities and  
Exchange Commission  
Fort Worth Regional Office  
801 Cherry Street, Suite 1900  
Fort Worth, Texas 76102  
(817) 978-6453  
(817) 978-4927 (facsimile)  
Counsel for Plaintiff

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
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<b>SECURITIES AND EXCHANGE COMMISSION,</b>	§	
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<b>Plaintiff,</b>	§	
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<b>BRIAN A. BJORK;</b>	§	
<b>ESTATE OF JOEL DAVID SALINAS;</b>	§	<b>Civil Action No.: 4:11-cv-2830</b>
<b>J. DAVID GROUP OF COMPANIES, INC.</b>	§	<b>ECF</b>
<b>J. DAVID FINANCIAL GROUP, L.P.;</b>	§	
<b>SELECT ASSET MANAGEMENT, LLC;</b>	§	
<b>SELECT CAPITAL MANAGEMENT, LLC</b>	§	
<b>SELECT ASSET FUND I, LLC; and</b>	§	
<b>SELECT ASSET PRIME INDEX FUND, LLC,</b>	§	
	§	
<b>Defendants.</b>	§	
	§	

**AGREED ORDER OF PRELIMINARY INJUNCTION AS TO  
DEFENDANT SELECT CAPITAL MANAGEMENT, LLC**

This matter came before me, the undersigned United States District Judge, on the unopposed motion of Plaintiff Securities and Exchange Commission (“Commission”) for issuance of a preliminary injunction against Defendant Select Asset Management, LLC (“Defendant”). Defendant has agreed to the entry of this Agreed Order of Preliminary Injunction (“Order”), without admitting or denying the allegations contained in the Complaint in this case; has agreed that this Court has jurisdiction over Defendant and over the subject matter of this action; and has agreed to waive a hearing and the entry of findings of fact and conclusions of law. Based on the pleadings and documents filed in this case and the agreement of the parties,

**IT IS THEREFORE ORDERED:**

**I.**

Defendant and Defendant’s agents, servants, employees, attorneys, and all persons in active

concert or participation with them who receive actual notice of this Order by personal service or otherwise, are restrained and enjoined from aiding and abetting violations of Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)] by knowingly providing substantial assistance to any person who, in the offer or sale of any security by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly:

- (a) employs any device, scheme, or artifice to defraud;
- (b) obtains money or property by means of any untrue statement of a material fact or any omission of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or
- (a) engages in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

## II.

Defendant and Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise are restrained and enjoined from aiding and abetting violations of Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5] by knowingly providing substantial assistance to any person who, by using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

- (a) employs any device, scheme, or artifice to defraud;
- (b) makes any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or

- (c) engages in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

### **III.**

Defendant and Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise are restrained and enjoined from, directly or indirectly, controlling any person who violates Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5], by using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or
- (c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person;

unless Defendant acts in good faith and does not directly or indirectly induce the act or acts constituting the violation.

### **IV.**

Defendant and Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Judgment by personal service or otherwise are restrained and enjoined from and violating Sections 206(1) and 206(2) of the Investment Advisers [15 U.S.C. § 80b-6(1) and (2)] by using the mails or any means or

instrumentality of interstate commerce, directly or indirectly:

- (1) to employ any device, scheme, or artifice to defraud any client or prospective client;
- or
- (2) to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client.

This Order will remain in effect throughout the pendency of this case or until otherwise ordered by the Court.

Dated: \_\_\_\_\_ 2011

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UNITED STATES DISTRICT JUDGE



Approved as to form, entry requested:

**s/Steven A. Harr**

Steven A. Harr, Receiver

On Behalf of Defendant

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
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<b>Plaintiff,</b>	§	
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<b>BRIAN A. BJORK;</b>	§	
<b>ESTATE OF JOEL DAVID SALINAS;</b>	§	<b>Civil Action No.: 4:11-cv-2830</b>
<b>J. DAVID GROUP OF COMPANIES, INC.</b>	§	<b>ECF</b>
<b>J. DAVID FINANCIAL GROUP, L.P.;</b>	§	
<b>SELECT ASSET MANAGEMENT, LLC;</b>	§	
<b>SELECT CAPITAL MANAGEMENT, LLC</b>	§	
<b>SELECT ASSET FUND I, LLC; and</b>	§	
<b>SELECT ASSET PRIME INDEX FUND, LLC,</b>	§	
	§	
<b>Defendants.</b>	§	
	§	

**AGREED ORDER OF PRELIMINARY INJUNCTION AS TO  
DEFENDANTS J. DAVID GROUP OF COMPANIES, INC.;  
J. DAVID FINANCIAL GROUP, L.P.; SELECT ASSET FUND I, LLC; AND  
SELECT ASSET PRIME INDEX FUND, LLC**

This matter came before me, the undersigned United States District Judge, on the unopposed motion of Plaintiff Securities and Exchange Commission (“Commission”) for issuance of a preliminary injunctions against Defendant J. David Group of Companies, Inc.; Defendant J. David Financial Group, L.P.; Defendant Select Asset Fund I, LLC; and Defendant Select Asset Prime Index Fund, LLC (collectively “Defendants”). Defendants have agreed to the entry of this Agreed Order of Preliminary Injunction (“Order”), without admitting or denying the allegations contained in the Complaint in this case; have agreed that this Court has jurisdiction over Defendant and over the subject matter of this action; and have agreed to waive a hearing and the entry of findings of fact and conclusions of law. Based on the pleadings and documents filed in this case and the agreement of the parties, **IT IS THEREFORE ORDERED:**

**I.**

Defendants and Defendants' agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are restrained and enjoined from violating Section 17(a) of the Securities Act of 1933 [15 U.S.C. § 77q(a)] in the offer or sale of any security by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to obtain money or property by means of any untrue statement of a material fact or any omission of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or
- (c) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

**II.**

Defendants and Defendants' agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of 1934 [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5], by using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

- (a) to employ any device, scheme, or artifice to defraud;

- (b) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or
- (c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

This Order will remain in effect throughout the pendency of this case or until otherwise ordered by the Court.

Dated: \_\_\_\_\_ 2011

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UNITED STATES DISTRICT JUDGE

Approved as to form, entry requested:

**s/Steven A. Harr**

Steven A. Harr, Receiver

On Behalf of Defendant

**IN THE UNITED STATES DISTRICT COURT  
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<b>J. DAVID GROUP OF COMPANIES, INC.</b>	§	<b>ECF</b>
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<b>Defendants.</b>	§	
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**AGREED ORDER OF PRELIMINARY INJUNCTION AS TO  
DEFENDANT SELECT ASSET MANAGEMENT, LLC**

This matter came before me, the undersigned United States District Judge, on the unopposed motion of Plaintiff Securities and Exchange Commission (“Commission”) for issuance of a preliminary injunction against s (“Defendant”). Defendant has agreed to the entry of this Agreed Order of Preliminary Injunction (“Order”), without admitting or denying the allegations contained in the Complaint in this case; has agreed that this Court has jurisdiction over Defendant and over the subject matter of this action; and has agreed to waive a hearing and the entry of findings of fact and conclusions of law. Based on the pleadings and documents filed in this case and the agreement of the parties, **IT IS THEREFORE ORDERED:**

**I.**

Defendant and Defendant’s agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or

otherwise, are restrained and enjoined from violating Section 17(a) of the Securities Act of 1933 (the “Securities Act”) [15 U.S.C. § 77q(a)] in the offer or sale of any security by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to obtain money or property by means of any untrue statement of a material fact or any omission of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or
- (c) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

## II.

Defendant and Defendant’s agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are restrained and enjoined from aiding and abetting violations of Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)] by knowingly providing substantial assistance to any person who, in the offer or sale of any security by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly:

- (a) employs any device, scheme, or artifice to defraud;
- (b) obtains money or property by means of any untrue statement of a material fact or any omission of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or
- (a) engages in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

### III.

Defendant and Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or
- (c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

### IV.

Defendant and Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise are restrained and enjoined from aiding and abetting violations of Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5] by knowingly providing substantial assistance to any person who, by using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

- (a) employs any device, scheme, or artifice to defraud;



- (b) makes any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or
- (c) engages in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

**V.**

Defendant and Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise are restrained and enjoined from, directly or indirectly, controlling any person who violates Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5], by using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or
- (c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person;

unless Defendant acts in good faith and does not directly or indirectly induce the act or acts constituting the violation.

**VI.**

Defendant and Defendant's agents, servants, employees, attorneys, and all persons in active

concert or participation with them who receive actual notice of this Judgment by personal service or otherwise are restrained and enjoined from and violating Sections 206(1) and 206(2) of the Investment Advisers [15 U.S.C. § 80b-6(1) and (2)] by using the mails or any means or instrumentality of interstate commerce, directly or indirectly:

- (1) to employ any device, scheme, or artifice to defraud any client or prospective client;
- or
- (2) to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client.

This Order will remain in effect throughout the pendency of this case or until otherwise ordered by the Court.

Dated: \_\_\_\_\_ 2011

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UNITED STATES DISTRICT JUDGE

Approved as to form, entry requested:

**s/Steven A. Harr**

Steven A. Harr, Receiver

On Behalf of Defendant