



## IAPD Report

# BARRY EUGENE KOSTER

CRD# 4903981

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Please contact FINRA with any concerns.



## IAPD Information About Representatives

IAPD offers information on all current-and many former representatives. Investors are strongly encouraged to use IAPD to check the background of representatives before deciding to conduct, or continue to conduct, business with them.

### What is included in a IAPD report?

IAPD reports for individual representatives include information such as employment history, professional qualifications, disciplinary actions, criminal convictions, civil judgments and arbitration awards.

It is important to note that the information contained in an IAPD report may include pending actions or allegations that may be contested, unresolved or unproven. In the end, these actions or allegations may be resolved in favor of the representative, or concluded through a negotiated settlement with no admission or finding of wrongdoing.

### Where did this information come from?

The information contained in IAPD comes from the Investment Adviser Registration Depository (IARD) and FINRA's Central Registration Depository, or CRD, (see more on CRD below) and is a combination of:

- information the states require representatives and firms to submit as part of the registration and licensing process, and
- information that state regulators report regarding disciplinary actions or allegations against representatives.

### How current is this information?

Generally, representatives are required to update their professional and disciplinary information in IARD within 30 days.

### Need help interpreting this report?

For help understanding how to read this report, please consult NASAA's IAPD Tips page <http://www.nasaa.org/IAPD/IARReports.cfm>

### What if I want to check the background of an Individual Broker or Brokerage Firm?

To check the background of an Individual Broker or Brokerage firm, you can search for the firm or individual in IAPD. If your search is successful, click on the link provided to view the available licensing and registration information in FINRA's BrokerCheck website.

### Are there other resources I can use to check the background of investment professionals?

It is recommended that you learn as much as possible about an individual representative or Investment Adviser firm before deciding to work with them. Your state securities regulator can help you research individuals and certain firms doing business in your state. The contact information for state securities regulators can be found on the website of the North American Securities Administrators Association <http://www.nasaa.org>



## Report Summary

### BARRY EUGENE KOSTER (CRD# 4903981)

The report summary provides an overview of the representative's professional background and conduct. The information contained in this report has been provided by the representative, investment adviser and/or securities firms, and/or securities regulators as part of the states' investment adviser registration and licensing process. The information contained in this report was last updated by the representative, a previous employing firm, or a securities regulator on **04/23/2015**.

### CURRENT EMPLOYERS

| Firm   | CRD#        | Registered Since |
|--|-------------|------------------|
| <b>IA</b> KORNITZER CAPITAL MANAGEMENT, INC. | CRD# 111087 | 01/25/2005       |

### QUALIFICATIONS

This representative is currently registered in **0** SRO(s) and **1** jurisdiction(s).

Is this representative currently Inactive or Suspended with any regulator? **No**

**Note:** Not all jurisdictions require IAR registration or may have an exemption from registration. Additional information including this individual's qualification examinations and professional designations is available in the Detailed Report.

### REGISTRATION HISTORY

This representative was previously registered with the following firm(s):

| FIRM                     | CRD# | LOCATION | REGISTRATION DATES |
|--------------------------|------|----------|--------------------|
| No information reported. |      |          |                    |

For additional registration and employment history details as reported by the individual, refer to the Registration and Employment History section of the Detailed Report.

### DISCLOSURE INFORMATION

Disclosure events include certain criminal charges and convictions, formal investigations and disciplinary actions initiated by regulators, customer disputes and arbitrations, and financial disclosures such as bankruptcies and unpaid judgments or liens.

Are there events disclosed about this representative? **Yes**

The following types of events are disclosed about this representative:

| Type             | Count |
|------------------|-------|
| Regulatory Event | 1     |



## Qualifications

### REGISTRATIONS

This section provides the SRO, states and U.S. territories in which the representative is currently registered and licensed, the category of each registration, and the date on which the registration becomes effective. This section also provides, for each firm with which the representative is currently employed, the address of each location where the representative works. This individual is currently registered with **1** jurisdiction(s) and **0** SRO(s) through his or her employer(s).

#### Employment 1 of 1

Firm Name: **KORNITZER CAPITAL MANAGEMENT, INC.**  
Main Address: 5420 WEST 61ST PLACE  
MISSION, KS 66205-3084  
Firm ID#: 111087

| Regulator        | Registration                      | Status   | Date       |
|------------------|-----------------------------------|----------|------------|
| <b>IA</b> Kansas | Investment Adviser Representative | Approved | 01/25/2005 |

#### Branch Office Locations

**KORNITZER CAPITAL MANAGEMENT, INC.**  
5420 WEST 61ST PLACE  
MISSION, KS 66205



## Qualifications

### PASSED INDUSTRY EXAMS

This section includes all industry exams that the representative has passed. Under limited circumstances, a representative may attain registration after receiving an exam waiver based on a combination of exams the representative has passed and qualifying work experience. Likewise a new exam requirement may be grandfathered based on a representative's specific qualifying work experience. Exam waivers and grandfathering are not included below.

No information reported.

### PROFESSIONAL DESIGNATIONS

This section details that the representative has reported **1** professional designation(s).

Personal Financial Specialist

This representative holds or did hold **1** professional designation(s) that may have been used to qualify as an Investment Advisor representative. Please check with the appropriate designation authority for verification that the designation is still in effect. The contact information for these professional designation authorities can be found on the website for the North American Securities Administrators Association at <http://www.nasaa.org>



## Registration & Employment History

### PREVIOUSLY REGISTERED WITH THE FOLLOWING FIRMS

This representative held registrations with the following firms:

No information reported.

### EMPLOYMENT HISTORY

Below is the representative's employment history for up to the last 10 years.

| Employment Dates  | Employer Name                      | Position                | Investment Related | Employer Location          |
|-------------------|------------------------------------|-------------------------|--------------------|----------------------------|
| 05/2002 - Present | KORNITZER CAPITAL MANAGEMENT, INC. | CHIEF FINANCIAL OFFICER | Y                  | MISSION, KS, United States |

### OTHER BUSINESS ACTIVITIES

This section includes information, if any, as provided by the representative regarding other business activities the representative is currently engaged in either as a proprietor, partner, officer, director, employee, trustee, agent, or otherwise. This section does not include non-investment related activity that is exclusively charitable, civic, religious, or fraternal and is recognized as tax exempt.

BARRY E. KOSTER, CPA, LLC;  
SOLE PROPRIETORSHIP, NON-INVESTMENT RELATED; TAX PREPARATION; STARTED 05/2002; 275 HOURS PER YEAR;  
OTHER THAN WORKING HOURS.



## Disclosure Summary

### Disclosure Information

#### What you should know about reported disclosure events:

##### (1) Certain thresholds must be met before an event is reported to IARD, for example:

- A law enforcement agency must file formal charges before an Investment Adviser Representative is required to report a particular criminal event.;
- A customer dispute must involve allegations that an Investment Adviser Representative engaged in activity that violates certain rules or conduct governing the industry and that the activity resulted in damages of at least \$5,000.

##### (2) Disclosure events in IAPD reports come from different sources:

As mentioned in the "About IAPD" section on page 1 of this report, information contained in IAPD comes from Investment Adviser Representatives, firms and regulators. When more than one of these sources reports information for the same disclosure event, all versions of the event will appear in the IAPD report. The different versions will be separated by a solid line with the reporting source labeled.

##### (3) There are different statuses and dispositions for disclosure events:

- A disclosure event may have a status of *pending*, *on appeal*, or *final*.
  - A "pending" disclosure event involves allegations that have not been proven or formally adjudicated.
  - A disclosure event that is "on appeal" involves allegations that have been adjudicated but are currently being appealed.
  - A "final" disclosure event has been concluded and its resolution is not subject to change.
- A final disclosure event generally has a disposition of *adjudicated*, *settled* or *otherwise resolved*.
  - An "adjudicated" matter includes a disposition by (1) a court of law in a criminal or civil matter, or (2) an administrative panel in an action brought by a regulator that is contested by the party charged with some alleged wrongdoing.
  - A "settled" matter generally represents a disposition wherein the parties involved in a dispute reach an agreement to resolve the matter. Please note that Investment Adviser Representatives and firms may choose to settle customer disputes or regulatory matters for business or other reasons.
  - A "resolved" matter usually includes a disposition wherein no payment is made to the customer or there is no finding of wrongdoing on the part of the Investment Adviser Representative. Such matters generally involve customer disputes.

##### (4) You may wish to contact the Investment Adviser Representatives to obtain further information regarding any of the disclosure events contained in this IAPD report.



## DISCLOSURE EVENT DETAILS

When evaluating this information, please keep in mind that some items may involve pending actions or allegations that may be contested and have not been resolved or proven. The event may, in the end, be withdrawn, dismissed, resolved in favor of the Investment Adviser Representative, or concluded through a negotiated settlement with no admission or finding of wrongdoing.

This report provides the information exactly as it was reported to the Investment Adviser Registration Depository. Some of the specific data fields contained in the report may be blank if the information was not provided.

The following types of events are disclosed about this representative:

| Type             | Count |
|------------------|-------|
| Regulatory Event | 1     |

### Regulatory Event

This disclosure event may include a final, formal proceeding initiated by a regulatory authority (e.g., a state securities agency, a federal regulator such as the Securities and Exchange Commission or the Commodities Futures Trading Commission, or a foreign financial regulatory body) for a violation of investment-related rules or regulations. This disclosure event may also include a revocation or suspension of an Investment Adviser Representative's authority to act as an attorney, accountant or federal contractor.

#### Disclosure 1 of 1

|  |  |
|--|--|
| <b>Reporting Source:</b>               | Regulator  |
| <b>Regulatory Action Initiated By:</b> | UNITED STATES SECURITIES AND EXCHANGE COMMISSION |
| <b>Sanction(s) Sought:</b>             | Cease and Desist                                 |
| <b>Date Initiated:</b>                 | 04/21/2015                                       |
| <b>Docket/Case Number:</b>             | 3-16503  |

**Employing firm when activity occurred which led to the regulatory action:** KORNITZER CAPITAL MANAGEMENT, INC.

**Product Type:** No Product

**Allegations:** INVESTMENT COMPANY RELEASE 40-31560, APRIL 21, 2015: THE SEC DEEMS IT APPROPRIATE THAT CEASE-AND-DESIST PROCEEDINGS BE, AND HEREBY ARE, INSTITUTED PURSUANT TO SECTION 9(F) OF THE INVESTMENT COMPANY ACT OF 1940 AGAINST BARRY E. KOSTER. IN ANTICIPATION OF THE INSTITUTION OF THESE PROCEEDINGS, RESPONDENT HAS SUBMITTED AN OFFER OF SETTLEMENT 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 HIM AND THE SUBJECT MATTER OF THESE PROCEEDINGS, WHICH ARE ADMITTED, RESPONDENT CONSENTS TO THE ENTRY OF THIS ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTION 9(F) OF THE INVESTMENT COMPANY ACT OF 1940, MAKING FINDINGS, AND IMPOSING REMEDIAL SANCTIONS AND A CEASE-AND-DESIST ORDER. ON THE BASIS OF THIS ORDER AND RESPONDENT'S OFFER, THE COMMISSION FINDS



THAT THIS PROCEEDING RELATES TO CERTAIN INACCURATE AND INCOMPLETE INFORMATION FURNISHED BY A REGISTERED INVESTMENT ADVISER AND ITS CHIEF FINANCIAL OFFICER AND CHIEF COMPLIANCE OFFICER, BARRY E. KOSTER, IN CONNECTION WITH THE PROCESS UNDER SECTION 15(C) OF THE INVESTMENT COMPANY ACT BY WHICH THE INVESTMENT ADVISER OBTAINED THE RENEWAL OF ITS ADVISORY CONTRACTS WITH TEN SEPARATE SERIES OF AN OPEN-END INVESTMENT COMPANY (THE FUNDS), ALL OF WHICH SHARE A COMMON BOARD OF TRUSTEES (THE BOARD). EACH YEAR FROM 2010 THROUGH 2013, THE BOARD REQUESTED AN ANALYSIS OF THE INVESTMENT ADVISER'S PROFITABILITY IN MANAGING THE FUNDS, INCLUDING AN EXPLANATION OF ITS METHODOLOGY FOR ALLOCATING ITS EXPENSES, FOR PURPOSES OF THIS ANALYSIS, AMONG THE FUNDS AND ITS OTHER CLIENTS. SUCH INFORMATION WAS REASONABLY NECESSARY FOR THE BOARD'S EVALUATION OF THE INVESTMENT ADVISER'S ADVISORY CONTRACTS WITH THE FUNDS. KOSTER, ACTING ON BEHALF OF THE INVESTMENT ADVISER, PREPARED AND PROVIDED TO THE BOARD THE REQUESTED ANALYSIS AND EXPLANATION OF ITS EXPENSE ALLOCATION METHODOLOGY, WHICH SPECIFICALLY REPRESENTED THAT IT ALLOCATED ALL EMPLOYEE COMPENSATION EXPENSES TO THE FUNDS "BASED ON ESTIMATED LABOR HOURS." IN FACT, IN EACH YEAR, KOSTER ADJUSTED THE ALLOCATION OF THE COMPENSATION OF THE INVESTMENT ADVISER'S CHIEF EXECUTIVE OFFICER TO THE FUNDS IN A MANNER DESIGNED, IN PART, TO ACHIEVE CONSISTENCY OF ITS REPORTED PROFITABILITY IN MANAGING THE FUNDS YEAR OVER YEAR. KOSTER DID NOT DISCLOSE THIS INFORMATION TO THE BOARD. AS A RESULT, THE INVESTMENT ADVISER FAILED TO FURNISH INFORMATION THAT WAS REASONABLY NECESSARY FOR THE BOARD TO EVALUATE THE TERMS OF ITS ADVISORY CONTRACTS IN VIOLATION OF SECTION 15(C) OF THE INVESTMENT COMPANY ACT. AS A RESULT OF THIS CONDUCT, KOSTER CAUSED THE INVESTMENT ADVISER'S VIOLATIONS OF SECTION 15(C) OF THE INVESTMENT COMPANY ACT.

|   |   |
|---|---|
| <b>Current Status:</b>  | Final   |
| <b>Resolution:</b>  | Order   |
| <b>Does the order constitute a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct?</b> | No  |
| <b>Resolution Date:</b>   | 04/21/2015  |
| <b>Sanctions Ordered:</b>   | Cease and Desist<br>Civil and Administrative Penalty(ies)/Fine(s) |
| <b>If the regulator is the SEC, CFTC, or an SRO, did the action result in a finding of a willful violation or failure to supervise?</b>                     | No  |



**(1) willfully violated any provision of the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Commodity Exchange Act, or any rule or regulation under any of such Acts, or any of the rules of the Municipal Securities Rulemaking Board, or to have been unable to comply with any provision of such Act, rule or regulation?**

**(2) willfully aided, abetted, counseled, commanded, induced, or procured the violation by any person of any provision of the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Commodity Exchange Act, or any rule or regulation under any of such Acts, or any of the rules of the Municipal Securities Rulemaking Board? or**

**(3) failed reasonably to supervise another person subject to your supervision, with a view to preventing the violation by such person of any provision of the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Commodity Exchange Act, or any rule or regulation under any such Acts, or any of the rules of the Municipal Securities Rulemaking Board?**

**Monetary Sanction 1 of 1**

**Monetary Related Sanction:** Civil and Administrative Penalty(ies)/Fine(s)

**Total Amount:** \$25,000.00



**Portion Levied against individual:** \$25,000.00

**Payment Plan:**

**Is Payment Plan Current:**

**Date Paid by individual:**

**Was any portion of penalty waived?** No

**Amount Waived:**

**Regulator Statement**

IN VIEW OF THE FOREGOING, THE COMMISSION DEEMS IT APPROPRIATE TO IMPOSE THE SANCTIONS AGREED TO IN RESPONDENT'S OFFER. ACCORDINGLY, PURSUANT TO SECTION 9(F) OF THE INVESTMENT COMPANY ACT, IT IS HEREBY ORDERED THAT KOSTER CEASE AND DESIST FROM COMMITTING OR CAUSING ANY VIOLATIONS AND ANY FUTURE VIOLATIONS OF SECTION 15(C) OF THE INVESTMENT COMPANY ACT AND SHALL, WITHIN 10 DAYS OF THE ENTRY OF THIS ORDER, PAY A CIVIL MONEY PENALTY IN THE AMOUNT OF \$25,000 TO THE SEC.

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**Reporting Source:** Individual

**Regulatory Action Initiated By:** UNITED STATES SECURITIES AND EXCHANGE COMMISSION

**Sanction(s) Sought:** Cease and Desist  
Civil and Administrative Penalty(ies)/Fine(s)

**Date Initiated:** 08/27/2014

**Docket/Case Number:** 3-16503

**Employing firm when activity occurred which led to the regulatory action:** KORNITZER CAPITAL MANAGEMENT, INC.

**Product Type:** Mutual Fund

**Allegations:** PROCEEDING RELATED TO CERTAIN ALLEGED VIOLATIONS OF SECTION 15(C) OF THE INVESTMENT COMPANY ACT ARISING FROM THE ADVISER'S FAILURE TO FURNISH THE FUNDS' BOARD WITH COMPLETE AND ACCURATE INFORMATION CONCERNING THE ALLOCATION OF CEO COMPENSATION EXPENSE IN THE ADVISER'S PROFITABILITY ANALYSIS THAT WAS REASONABLY NECESSARY FOR THE BOARD TO EVALUATE THE TERMS OF THE ADVISER'S CONTRACTS.

**Current Status:** Final

**Resolution:** Order

**Does the order constitute a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct?** No

**Resolution Date:** 04/21/2015

**Sanctions Ordered:** Cease and Desist  
Civil and Administrative Penalty(ies)/Fine(s)



**Monetary Sanction 1 of 1**

**Monetary Related Sanction:** Civil and Administrative Penalty(ies)/Fine(s)

**Total Amount:** \$75,000.00

**Portion Levied against individual:** \$25,000.00

**Payment Plan:** PAYABLE WITHIN 10 DAYS OF ORDER ISSUANCE.

**Is Payment Plan Current:** Yes

**Date Paid by individual:** 04/22/2015

**Was any portion of penalty waived?** No

**Amount Waived:**

**Broker Statement**

ADVISER AND THE FORMER CCO, WITHOUT ADMITTING OR DENYING THE ALLEGATIONS, AGREED TO THE ENTRY BY THE SEC OF A CEASE AND DESIST ORDER AGAINST COMMITTING OR CAUSING FUTURE VIOLATIONS OF SECTION 15(C) OF THE INVESTMENT COMPANY ACT AND REQUIRING PAYMENT OF CIVIL MONEY PENALTIES OF \$50,000 AND \$25,000, RESPECTIVELY, TO THE SEC.



## End of Report

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