



## IAPD Report

# PAUL JOSHUA MALCOLM

CRD# 5376416

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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

### PAUL JOSHUA MALCOLM (CRD# 5376416)

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 **09/12/2024**.

### CURRENT EMPLOYERS

	Firm	CRD#	Registered Since
IA	MALCOLM CAPITAL MANAGEMENT LLC	CRD# 322512	09/24/2024

### 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
IA	MARATHON INVESTMENT PROGRAMS	111487	SANTA BARBARA, CA	01/03/2013 - 10/19/2022
IA	WESTWARD PROSPECT INC. DBA SEVEN YEARS CAPITAL	158563	SANTA BARBARA, CA	10/18/2011 - 12/31/2018
B	MORGAN STANLEY SMITH BARNEY	149777	SANTA BARBARA, CA	06/01/2009 - 07/01/2011

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
Termination	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: **MALCOLM CAPITAL MANAGEMENT LLC**  
Main Address: SIOUX FALLS, SD  
Firm ID#: 322512

Regulator	Registration	Status	Date
<b>IA</b> South Dakota	Investment Adviser Representative	Approved	09/24/2024

#### Branch Office Locations

**MALCOLM CAPITAL MANAGEMENT LLC**  
Sioux Falls, SD



## 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.

**This individual has passed 0 principal/supervisory exams, 1 general industry/product exam, and 2 state securities law exams.**

#### Principal/Supervisory Exams

Exam	Category	Date
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No information reported.

#### General Industry/Product Exams

Exam	Category	Date
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<b>B</b> General Securities Representative Examination (S7)	Series 7	10/03/2007
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#### State Securities Law Exams

Exam	Category	Date
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<b>IA</b> Uniform Investment Adviser Law Examination (S65)	Series 65	05/06/2022
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<b>IA</b> <b>B</b> Uniform Combined State Law Examination (S66)	Series 66	10/24/2007
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### PROFESSIONAL DESIGNATIONS

This section details that the representative has reported **0** professional designation(s).

No information reported.



### Registration & Employment History

#### PREVIOUSLY REGISTERED WITH THE FOLLOWING FIRMS

This representative held registrations with the following firms:

	Registration Dates	Firm Name	ID#	Branch Location
IA	01/03/2013 - 10/19/2022	MARATHON INVESTMENT PROGRAMS	CRD# 111487	SANTA BARBARA, CA
IA	10/18/2011 - 12/31/2018	WESTWARD PROSPECT INC. DBA SEVEN YEARS CAPITAL	CRD# 158563	SANTA BARBARA, CA
B	06/01/2009 - 07/01/2011	MORGAN STANLEY SMITH BARNEY	CRD# 149777	SANTA BARBARA, CA
IA	06/01/2009 - 07/01/2011	MORGAN STANLEY SMITH BARNEY LLC	CRD# 149777	SANTA BARBARA, CA
IA	10/30/2007 - 06/01/2009	CITIGROUP GLOBAL MARKETS INC.	CRD# 7059	SANTA BARBARA, CA
B	10/04/2007 - 06/01/2009	CITIGROUP GLOBAL MARKETS INC.	CRD# 7059	SANTA BARBARA, CA

#### 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
05/2024 - Present	Ballard Asphalt Paving and Maintenance, Inc.	Administrative Assistant	N	Tea, SD, United States
05/2023 - Present	Malcolm Capital Management LLC	Owner	Y	Sioux Falls, SD, United States
08/2020 - 07/2023	Westward Inc	President	N	Sioux Falls, SD, United States
07/2020 - 07/2023	Marathon Investment Programs	Administrative Assistant	Y	Sioux Falls, SD, United States
06/2020 - 07/2020	Westward Prospect Inc.	CEO	N	Sioux Falls, SD, United States
10/2016 - 06/2020	Westward Prospect Inc.	CEO	N	Santa Barbara, CA, United States
06/2011 - 06/2020	MARATHON INVESTMENT PROGRAMS	Administrative Assistant	Y	Santa Barbara, CA, United States
10/2011 - 01/2019	WESTWARD PROSPECT INC. (formerly WILSHIRE CAPITAL ALLOCATION)	CEO / PORTFOLIO MANAGER	Y	SANTA BARBARA, CA, United States



## Registration & Employment History



### 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.

Paul Malcolm works as an administrative assistant Monday, Wednesday, and Friday from around 8:30am to 4:45pm for Ballard Asphalt Paving & Maintenance Inc. During securities trading hours, Paul Malcolm devotes around 18.5 hours to Ballard Asphalt over the course of a week. Paul Malcolm can start work for Ballard Asphalt as late as 9am leaving him time to enter trades for clients on Monday, Wednesday, and Friday in the mornings. Ballard Asphalt Paving & Maintenance does asphalt paving and maintenance. Ballard Asphalt is not an investment related business. Paul Malcolm does clerical work and assists with bidding for future jobs. Paul Malcolm is an employee of Ballard Asphalt. Ballard Asphalt is located at 27136 470th Avenue Tea, SD 57064. Paul Malcolm started working for Ballard Asphalt on 5/9/24. Paul Malcolm devotes approximately 92 hours per month to Ballard Asphalt.



## 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
Termination	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>	South Dakota
<b>Sanction(s) Sought:</b>	Denial
<b>Date Initiated:</b>	11/21/2023
<b>Docket/Case Number:</b>	1019011
<b>URL for Regulatory Action:</b>	<a href="https://dlr.sd.gov/securities/admin_actions.aspx">https://dlr.sd.gov/securities/admin_actions.aspx</a>
<b>Employing firm when activity occurred which led to the regulatory action:</b>	Malcolm Capital Management

**Product Type:** No Product

**Allegations:** Allegation 17 of the order states: Paul Malcolm violated the following subdivisions of SDCL 47-31B-412(d) because he:

- (1) Has filed an application for registration in this state under this chapter or the predecessor act within the previous ten years, which, as of the effective date of registration or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained a statement that, in light of the circumstances under which it was made, was false or misleading with respect to a material fact:
- (2) Willfully violated or willfully failed to comply with this chapter or the predecessor act or a rule adopted or order issued under this chapter or the predecessor act within the previous ten years:
- (8) Refuses to allow or otherwise impedes the director from conducting an audit or inspection under 47-31B-411(d)...; and
- (13) Has engaged in dishonest or unethical practices in the securities,



commodities, investment, franchise, banking, finance, or insurance business within the previous ten years:

**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?** Yes

**Resolution Date:** 11/21/2023

**Sanctions Ordered:** Denial

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**Reporting Source:** Individual

**Regulatory Action Initiated By:** South Dakota Division of Insurance

**Sanction(s) Sought:** Denial

**Date Initiated:** 11/21/2023

**Docket/Case Number:** File # 1019011

**Employing firm when activity occurred which led to the regulatory action:** Marathon Investment Programs ( CRD # 111487 ) and Malcolm Capital Management LLC ( CRD # 322512 )

**Product Type:** Equity Listed (Common & Preferred Stock)  
Mutual Fund

**Allegations:** Paul Malcolm's registration application was initially rejected for insufficient funds because his account did not have at least \$50 dollars available in violation of ARSD 20:08:05:15.  
The South Dakota Division of Insurance notified Paul Malcolm that his activity with Westward Inc. (his corporation) was trading in securities without proper registration in violation of SDCL 47-31B-401.  
The South Dakota Division of Insurance says Paul Malcolm's updates to his application and statements and answers provided to the Division were vague and contradictory to his original filing, in violation of SDCL 47-31B-505.  
The denial letter says:  
"15) After review, pursuant to SDCL 47-31B-412(a), the Director may deny the registration of any applicant if the agent has willfully failed to comply with any provision of SDCL Chapter 47-31B or any rule or order under SDCL Chapter 47-31B;  
16) The Director has reasonable grounds pursuant to SDCL 47-31B-412(a) to deny PAUL MALCOLM's registration application based on the above stated violations;"  
The letter goes on to list 4 subdivisions of SDCL 47-31B-412(d) that Director says Paul violated. Those subdivisions are as follows:  
"(1) Has filed an application for registration in this state under this chapter or the predecessor act within the previous ten years, which, as of the effective date of registration or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained a statement that, in light of the circumstances under which it was made, was false or misleading with respect to a material fact;  
(2) Willfully violated or willfully failed to comply with this chapter or the predecessor



act or a rule adopted or order issued under this chapter or the predecessor act within the previous ten years;  
 (8) Refuses to allow or otherwise impedes the director from conducting an audit or inspection under 47-31B-411(d)...; and  
 (13) Has engaged in dishonest or unethical practices in the securities, commodities, investment, franchise, banking, finance, or insurance business within the previous ten years;"

The denial letter for Paul's U4 then goes on to reference violations related to Malcolm Capital Management LLC's ADV approval process.  
 Here are the alleged violations on Paul's U4 relating to his ADV approval:  
 "3. The Agreement that PAUL MALCOLM intends to use includes the following statement, 'Malcolm... makes no guarantees of its ability to preserve capital for clients by timely selling positions.' PAUL MALCOLM may not waive its fiduciary duty to a client and to lead a client to believe that it can, would fall under the category of fraudulent, deceptive, manipulative, or unethical practice, under ARSD 20:08:05:28 (20).  
 4. PAUL MALCOLM has made the following statement regarding suitability, 'One can have reasonable grounds to believe a recommendation is suitable and yet still fail to make a suitable recommendation.' This is incorrect, under South Dakota law. Any recommendation outside of a suitable one is in violation of state and federal rules. ARSD 20:08:05:28."

**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?** Yes

**Resolution Date:** 11/21/2023

**Sanctions Ordered:** Denial

**Broker Statement**

I believe the allegations by the SD Division of Insurance (the Division) that I violated SD Codified Law 47-31B-412(d) (1), (2), (8), and (13) are either completely false or at best petty. On the public disclosure the Division does not state how I violated any of these laws except to say that I did exactly what the laws referenced say. The U4 denial letter I received from the Director does, however, go beyond just stating laws and actually describes three alleged violations particular to me. It is still nonetheless hard to see how these three other violations relate to the more serious violations of SDCL 47-31B-412(d) (1), (2), (8), and (13). The three other violations are as follows: insufficient funds in my FINRA account to cover the \$50 filing fee, transacting in securities without proper registration, and vague & contradictory in my responses to the Division. I will try to explain these three violations in more detail below starting with the insufficient funds violation. On 6-28-23 the Division notified me of the insufficient funds in my FINRA account to cover the \$50 filing fee. The following day I wired \$100 to my FINRA account to cover the fee. I can assume the Division is trying to connect the momentary insufficient funds with an incomplete application. However, 5 months later my denial letter (dated 11-21-2023) actually said my application was deemed complete and yet simultaneously denied my application. I am not certain of the legal grounds for denying a currently "complete" application because it was temporarily incomplete 5 months ago but either way it seems petty. Regarding the allegation of transacting in securities without proper registration, this was related to part time work I did as an administrative assistant for another investment advisory firm. One of the administrative duties I had was to help the



advisor with adjusting mutual fund allocations for his clients. This involved me assisting the advisor with entering trades. On 7-6-23 the Division said it believed I was executing trades for the accounts of others without the benefit of registration and asked me to cease all trading. The same day I emailed the Division saying that I had ceased trading for this other investment advisory firm and the following day the Assistant Director acknowledged that I had ceased trading. Then unexpectedly the denial letter I received from the Director takes a quote out of context (from the same email where I had said I ceased trading) to brazenly suggest I may have actually been indicating I was still trading. The Director then uses this false narrative in his denial letter to suggest I was willfully failing to comply which if true would have been a violation of SDCL 47-31B-412(d) (2). As it concerns the allegation of vague and contradictory, the denial letter does not elaborate with any specific example. The denial letter does, however, say this was in violation of SDCL 47-31B-505, a law about misleading filings. In a previous email exchange on 7-10-23 the Division cited the same law, SDCL 47-31B-505. At the time I asked the Division why I was sent this law and the only specific example the Division provided was my failure to provide a signed Interactive Brokers' custodial agreement. This example provided by the Division was seemingly irrelevant to my U4 being approved as SD law and the custodial agreement clearly show that it should not be signed until one is registered.

I believe the SD Division did not have strong legal grounds to deny my registration based on the honest mistakes I made so the Division falsely accused me. As to why they may have been motivated to punish me see my ADV Part 2A. I would have loved to have the opportunity to defend my integrity in court but the Director said I could be subject to a \$10,000 fine for each alleged violation. My wife had already been through enough before this because of the Division and I could not risk devastating her with a staggering amount of fines.



## Termination

This disclosure event involves a situation where the Investment Adviser Representative voluntarily resigned, was discharged or was permitted to resign after allegations were made that accused the Investment Adviser Representative of violating investment-related statutes, regulations, rules or industry standards of conduct; fraud or the wrongful taking of property; or failure to supervise in connection with investment-related statutes, regulations, rules or industry standards of conduct.

### Disclosure 1 of 1

**Reporting Source:** Individual  
**Firm Name:** Marathon Investment Programs  
**Termination Type:** Voluntary Resignation  
**Termination Date:** 07/27/2023  
**Allegations:** On 7/6/2023 one of the regulators in South Dakota wrote to me saying, "The Division believes that Paul Malcolm through Westward Inc. is executing trades for the account of others without the benefit of registration in violation of SDCL 47-31B-401."  
**Product Type:** No Product

### Broker Statement

I was an administrative assistant for Marathon Investment Programs from 2011 to 2023. I started working with Marathon in 2011 as an independent contractor but in 2016 the CEO of Marathon Investment Programs asked me to set up a corporation for him to pay for the work I did at Marathon. I agreed to set up a corporation because I did not think it was wrong for me to do so. I figured the CEO was trying to avoid paying employment taxes by not paying me as a W2 employee, but from my perspective the legality of what he was doing was his responsibility. I didn't think what I was doing was wrong because I was still going to be paying my taxes after I set up the corporation. After I set up the corporation I became a W2 employee of that corporation. The Marathon CEO then paid my corporation and my corporation paid me as a W2 employee. While from a tax perspective I was not technically an employee of Marathon, I was however for all practical purposes actually an employee of Marathon. Even the U4 the CEO filed for me with Marathon showed me as an employee.

One of the many administrative duties I did for Marathon was to help the CEO with adjusting mutual fund allocations for his clients. All these trades were done under Marathon Investment Programs and no trading was ever done under my corporation, Westward Inc. Additionally almost all trades (if not all trades) I assisted the CEO with should show as being done by the CEO as I would enter trades using the same login credentials the CEO used. I made no trading decisions for Marathon myself but just assisted the CEO from an administrative perspective in entering trades on his behalf. I assisted the CEO of Marathon in many other ways beyond trading.

Fast forward to 2023, the CEO of Marathon is in the process of retiring and I am planning to start my own investment advisory firm. In the process of me trying to get registered with my new investment advisory firm, Malcolm Capital Management LLC, the South Dakota regulator alleged I was running a broker-dealer without the proper registration through Westward Inc, the corporation Marathon paid for the work I did for Marathon. This broker-dealer allegation was based on the work I did assisting Marathon with trading. The allegation seemed like quite a stretch to me but I nonetheless ceased assisting the Marathon CEO with adjusting mutual fund allocations as soon as I was asked to. The Assistant Director then explicitly told me over the phone I would be approved now that I had ceased trading. Instead of being approved I actually received emailed threats of regulatory consequences. The only way I could make sense of this contradiction in the Division's communication was to conclude the Assistant Director was not actually in charge and someone behind the scene was overriding what the Assistant Director had said. Reviewing a past email from the Assistant Director, I



noticed it said, "...your U-4 application will be approved once the outside business activity of Westward has been removed". I figured the SD Division of Insurance may be more likely to follow through on their word written in an email as the Assistant Director was clearly not willing to follow through on his word over the phone. So I quit working for Marathon (and as a consequence quit working for my corporation, Westward) so I could remove the outside business activity of Westward from my U4. I did this in hopes of avoiding regulatory consequences and getting my U4 approved with Malcolm Capital.

After voluntarily resigning from Marathon Investment Programs I updated my U4 accordingly and resubmitted it. In the process of re-filing my U4 I saw the question that said, "Have you ever voluntarily resigned... after allegations were made that accused you of... violating investment-related statutes, regulations, [or] rules...?" I felt this question may apply to me so I answered it affirmatively and hence this disclosure on my U4.

Despite all this Division denied my U4 application.



## End of Report

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