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October 13, 2004

Mr. Daniel Saur
D. R. Saur Financial, Inc.
12700 Preston Road
Suite 147
Dallas, Texas 75230

RE: D. R. Saur Financial, Inc.

Dear Mr. Saur:

This is in response to your letter dated September 13, 2004, and received by this Agency on September 14, 2004.

Your letter was submitted on behalf of your company, D. R. Saur Financial, Inc (the "Company"), and describes a proposed referral system whereby a bank or credit union will refer their clients to the Company for a percentage of any management fees generated from services to the client. The Company is an investment adviser registered with the Texas Securities Commissioner.

Your letter states that if the described relationship(s) are established, the Company will amend its Form ADV to show that such a relationship exists, the nature of the relationship and the percentage of the management fee that will go to the referring institution. At the time of the referral, the prospective client will be provided with a copy of the Company's Form ADV, Part II, or with a notice that states that any revenues that result to the Company from the service it provides to a referred client will be shared with the referring institution.

You stated in your letter that it is your understanding that the bank or credit union does not need to make a notice filing and is not required to be a registered solicitor in order to legally share in these fees since they are excluded from the definition of "investment adviser" in the Texas Administrative Code.

We agree in part. The term "investment adviser" is defined in Section 4. N of the Texas Securities Act (the "Act") to include:

... a person who, for compensation, engages in the business of advising another, either directly or through publications or writings, with respect the value of securities

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or to the advisability of investing in, purchasing, or selling securities or a person who, for compensation and as a part of a regular business, issues or adopts analyses or a report concerning securities, as may be further defined by Board rule. *The term does not include ...a bank or bank holding company, as defined by the Bank Holding Company Act of 1956 (U.S.C. Section 1841 et seq.), as amended, that is not an investment company; ...* (Emphasis added.)

Because a "solicitor" for an investment adviser is a type of "investment adviser representative," the exclusion from the definition of "investment adviser" for a bank would apply to a bank acting as an investment adviser representative as well. However, a "credit union" is not a "bank" for purposes of the definition in Section 4.P of the Act; therefore, the exclusion in Section 4.P would not be available for a credit union. Nonetheless, the staff of the State Securities Board will recommend no action to require registration of a credit union that refers its clients to the Company and participates in a fee sharing arrangement with the Company as described above.

Please note that this Agency has not made an independent investigation of the facts, but has relied solely on the information you have provided. If this information is incorrect or changes, the staff would reconsider the matter and the no-action position stated above would be void.

I trust this letter answers your inquiry. Please feel free to write us if you need further information.

Very truly yours,

DENISE VOIGT CRAWFORD
Securities Commissioner

David Weaver
General Counsel

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