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8
9 BEFORE THE DEPARTMENT OF CORPORATIONS
10 OF THE STATE OF CALIFORNIA

11 In the Matter of)
12)
13 THE CALIFORNIA CORPORATIONS)
COMMISSIONER,)
14)
Complainant,)
15 v.)
16)
CORNERSTONE CAPITAL MANAGEMENT,)
17 INC. and LAURA JEAN KENT)
18 Respondents.)

FILE NO. 124366

**STATEMENT OF ISSUES IN SUPPORT OF
NOTICE OF INTENTION TO ISSUE
ORDERS:**

1. **DENYING APPLICATION OF
CORNERSTONE CAPITAL
MANAGEMENT, INC. FOR AN
INVESTMENT ADVISER
CERTIFICATE PURSUANT TO
CORPORATIONS CODE SECTIONS
25232 AND 25256;**
2. **BARRING LAURA JEAN KENT
FROM ANY POSITION OF
EMPLOYMENT, MANAGEMENT
OR CONTROL OF ANY
INVESTMENT ADVISER, BROKER-
DEALER OR COMMODITY
ADVISER PURSUANT TO
CORPORATIONS CODE SECTIONS
25232.1 AND 25256**

1 The California Corporations Commissioner ("Commissioner") of the Department of
2 Corporations ("Department") alleges and charges as follows:

3 **I. JURISDICTION**

4 1. The Commissioner brings this action to deny the application for a certificate of
5 investment adviser to Respondent Cornerstone Capital Management, Inc. ("Cornerstone Capital")
6 pursuant to California Corporations Code ("CC") sections 25232 and 25256 and to bar Respondent
7 Laura Jean Kent ("Laura Kent") from any position of employment, management or control of any
8 investment adviser, broker-dealer or commodity adviser pursuant to CC section 25232.1 and 25256.
9 (Cornerstone Capital and Laura Kent, are at times referred to below as "Respondents").

10 2. The Commissioner is authorized to administer and enforce, and license and regulate
11 investment advisers, under the provisions of the Corporate Securities Law of 1968, CC sections
12 25000 et seq., the California Securities Law, and the regulations thereunder at California Code of
13 Regulations ("C.C.R."), title 10, section 260.000 et seq.

14 **II. SUMMARY OF ACTION**

15 3. In Section 410 of the Dodd-Frank Wall Street Reform and Consumer Protection Act,
16 enacted on July 21, 2010, Congress expanded state authority to register and regulate investment
17 adviser firms with assets under management from \$25 million to \$100 million.

18 4. In an application for investment adviser certification submitted to this Department on
19 May 16, 2012, Laura Kent states on behalf of Cornerstone Capital that her firm provides security
20 portfolio management of \$26,696,539 for private investment funds and individuals, the majority of
21 whom do not have a high net worth (investors most in need of securities law protection). She states
22 that because her firm is no longer eligible to remain registered with the Securities Exchange
23 Commission ("SEC") it seeks investment adviser certification in California.

24 5. It would present an unacceptable risk to the public to allow Cornerstone Capital to be
25 certified as an investment adviser in this State and to allow Laura Kent to have any position of
26 employment, management or control of any investment adviser, broker-dealer, or commodity
27 adviser. In the application which she signed under the penalty of perjury on May 16, 2012, Laura
28 Kent willfully misrepresented and omitted to disclose material facts. Moreover, after the State of

1 Washington alleged she misrepresented herself as a registered SEC investment adviser and sold
2 fictitious securities, Respondents entered into a Consent Order dated September 23, 2004 ordering a
3 cease and desist from violations of registration and anti-fraud provisions of the Washington
4 Securities Act. In addition, on March 20, 2009 Laura Kent and Cornerstone Capital signed a SEC
5 Consent Order that states from 1997 to 2004 the Respondents lost substantial client funds in
6 investment programs promoted by persons eventually convicted of fraud. According to the SEC
7 Consent Order, Kent made numerous misrepresentations and omissions to her clients about the status
8 of these investments and willfully violated the anti-fraud provisions of the Investment Advisers Act.
9 Furthermore, on September 30, 2010 Cornerstone Capital and the Commodity Futures Trading
10 Commission (“CFTC”) entered into a Consent Order revoking CFTC licenses due to the willful
11 violations of the anti-fraud provisions of the Advisers Act found in the SEC Order. Any one of these
12 incidents alone is a sufficient basis to deny this application and bar Laura Kent.

13 14 **III. STATEMENT OF FACTS**

15 6. On May 16, 2012, Laura Jean Kent on behalf of Cornerstone Capital Management,
16 Inc. filed, and signed under the penalty of perjury, an application for Investment Adviser (“IA”)
17 certificate, using a Uniform Application for Investment Adviser Registration (“Form ADV”).
18 Corporations Code section 25231 and C.C.R. section 260.230 provide that all investment adviser
19 license applications, amendments, and notices to be filed with the Commissioner shall be filed
20 electronically with and transmitted to the web-based Investment Adviser Registration Depository
21 (“IARD”) operated by Financial Industry Regulatory Authority (“FINRA”). C.C.R. section 260.231
22 provides that applications be made by completing Form ADV in accordance with the form
23 instructions and by filing the form with IARD for transmission to the Commissioner. The very
24 beginning of the first page of Form ADV provides: “WARNING: Complete this form truthfully.
25 False statements or omissions may result in denial of your application, revocation, or criminal
26 prosecution.”

1 **A. Applications for Investment Adviser Certificate**

2 7. Cornerstone Capital Management, Inc. was formed by Laura Kent in California in
3 May 1998. Laura Kent is sole owner, employee and principal (listed in the application as President
4 and Chief Compliance Officer) of Cornerstone Capital, located at 709 Paradise Way, Redwood City,
5 California 94062. Laura Kent, age 64, graduated from Michigan State University with a major in
6 Economics, received a Masters in Economics from Wayne State University and obtained a MBA at
7 Stanford. She holds Series 3, 7, 24, 63 and 65 securities licenses. She was a registered
8 representative with broker-dealer Kidder, Peabody & Co from 1983 to 1994. From 1994 until her
9 discharge in 1996 she worked for Investment Architects, Inc., a registered BD and IA out of
10 Petaluma, California. In July 1996 she started Cornerstone Capital.

11 8. The Form ADV application states that Cornerstone Capital provides securities
12 portfolio management to approximately 200 individuals and private investment funds. The
13 application further states that the majority of Cornerstone Capital's clients are individuals who do
14 not have high net worth. Cornerstone Capital and Laura Kent manage 194 accounts and
15 \$26,696,539, all on a non-discretionary basis. Laura Kent receives her compensation by charging a
16 percentage of assets under management.

17 9. The Form ADV application indicates that a private fund Cornerstone Capital advises
18 is Cornerstone Investment Circle, LLC ("Cornerstone Investment"). It was formed by Laura Kent
19 for the purpose of investing clients in alternative private investments, and currently has 78 beneficial
20 owners. In addition to being manager, Laura Kent is a beneficial owner of 3% of Cornerstone
21 Investment. She claims it is exempt from registration under federal Regulation D. She does not
22 state the percentage of her Cornerstone Capital clients who have transferred their assets to, or are
23 also invested in, the Cornerstone Investment fund (one of the funds she questionably controlled as
24 discussed at length in the SEC Consent Order).

25 10. The preamble to Item 8 of Form ADV expressly provides that an affirmative response
26 to the following questions "identifies additional areas in which conflicts of interest may occur
27 between you and your clients," and Laura Kent provides an affirmative response in four areas: 1)
28 that she buys or sells securities for herself that she also recommends to her advisory clients; 2) that

1 she recommends to advisory clients purchases of securities in which she serves as underwriter,
2 general or managing partner; 3) that she has discretionary authority to determine the broker or
3 dealer; and 4) that she recommends brokers or dealers to clients.

4 11. Item 11 of Form ADV titled "Disclosure Information" requests Cornerstone Capital's
5 disciplinary history. Item 11, Question C asks a number of questions concerning findings or Orders
6 by the SEC or CFTC. Laura Kent discloses a SEC Order dated September 16, 2008 wherein she
7 agreed to return to private placement clients \$320,000 in management fees, a Censure, and a Cease
8 and Desist Order. Of significance, nowhere in this initial application is there a disclosure of the
9 Order revoking licenses by the CFTC dated September 30, 2010.

10 12. Similarly Item 11, Question D of Form ADV, asks if any state regulatory agency has
11 "in the past ten years entered an order against you or any advisory affiliate in connection with an
12 investment-related activity?" In her May 16, 2012 application Ms. Kent stated "No," despite having
13 entered into a Consent Order with the State of Washington on September 23, 2004 wherein Ms.
14 Kent, Cornerstone Capital, and Cornerstone Investment were ordered to cease and desist from
15 violations of registration and anti-fraud provisions of the Washington Securities Act.

16 13. Part 2A of Form ADV requires the Applicant to include a copy of the writing or
17 brochure it intends to send to advisory clients about the firm, including information and disclosures
18 required by law. In Cornerstone Capital's initial response the Commissioner was provided with a
19 "Firm Brochure" dated May 16, 2012. The Brochure inaccurately describes the SEC Consent Order
20 as an allegation on the part of that federal regulator that she knew or should have known the value of
21 certain Cornerstone Private Placement Programs were impaired when she charged asset based
22 management fees at cost which was her policy. More significantly, the Brochure she intended to
23 send to her clients contained no disclosure or reference to the State of Washington Order or the
24 CFTC license revocations. These are material omissions indeed, and particularly troubling when the
25 Brochure describes intended activity that could be in violation of the revocation orders, specifically
26 the Brochure's reference to client assets being "allocated across asset classes such as gold and silver,
27 currencies and commodities indices", found on page 7.

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1 14. In August 2012, Laura Kent was informed by the Department that the Commissioner
2 intended to deny her application for an IA certificate due to the disclosed SEC action, and the
3 undisclosed CFTC license revocations and State of Washington Order. Apparently in an attempt to
4 mitigate damage, Laura Kent filed an Amended Form ADV on September 20, 2012, and an amended
5 Firm Brochure dated September 20, 2012. This time the Amended Form ADV and Amended Firm
6 Brochure refers to the CFTC revocations and Washington State Order (but still the Brochure
7 describes assets being allocated across asset classes such as gold and silver, currencies and
8 commodity indices, despite the CFTC license revocations).

9 **B. Disciplinary History of Investment Adviser Activity and Actions**

10 **Prior Investment Adviser Certificate with the Department of Corporations**

11 15. In May 1999 Cornerstone Capital Management, Inc., through its President and 100%
12 control person Laura Kent, applied for an Investment Adviser (“IA”) Certificate with the California
13 Department of Corporations. On July 20, 1999 the Department approved the application. On
14 September 28, 2006 Cornerstone Capital surrendered its IA Certificate with the Department, and
15 registered with the SEC alleging that with more than \$25 million in assets it was now within SEC
16 jurisdiction.

17 **Washington Cease And Desist Order**

18 16. The State of Washington, Securities Division, issued a Summary Order to Cease and
19 Desist dated October 31, 2000 to Laura Kent, Cornerstone Capital Management, Inc. and
20 Cornerstone Investment Circle, LLC. As described in the Summary Order and in Laura Kent’s
21 Amended Form ADV Brochure, the Washington alleged that in 1998 Laura Kent held herself out to
22 be a SEC registered investment adviser, and offered and sold to Washington residents unregistered
23 interests in Cornerstone Investment Circle, LLC, the proceeds of which were used to purchase
24 fictitious securities. At the time of these offers and sales neither Laura Kent, Cornerstone Capital, or
25 Cornerstone Investment were registered as an investment adviser or a securities salesperson either
26 with the SEC, California, or any state. Without admitting or denying the allegations, Laura Kent
27 agreed to a Consent Order entered on September 23, 2004, pursuant to which Laura Kent,
28

1 Cornerstone Capital and Cornerstone Investment were ordered to cease and desist from violations of
2 the registration and anti-fraud provisions of the Washington Securities Act.

3 **Securities Exchange Commission Consent Order**

4 17. On September 16, 2008 the SEC instituted administrative and cease and desist
5 proceedings against Respondents Cornerstone Capital Management, Inc. and Laura Kent. In
6 response to those proceedings Cornerstone Capital and Kent offered to accept a Consent Order,
7 resulting in an “Order Making Findings and Imposing Remedial Sanctions and Cease and Desist
8 Order” dated March 20, 2009.

9 18. As indicated in that SEC Order, from 1997 to 2004, Laura Kent and Cornerstone
10 Capital, and through Cornerstone Investment and two other funds she controlled at the time, invested
11 approximately \$15 million of client funds in several fraudulent investment programs, resulting in
12 substantial losses for her clients. The Order states that the promoters of four of these programs were
13 eventually convicted of fraud. Specifically, the Order states that client funds were invested in a
14 Costa Rican Currency Exchange Program and that in 2002 Costa Rican authorities raided the
15 business and found one of the promoters guilty of financial fraud. The SEC Order further states
16 Respondents invested client funds in two programs referred to as the Promissory Note Program and
17 the Precious Metals and Mining Program, and that after the company defaulted on the loans and
18 declared bankruptcy two promoters pled guilty to fraud and were sentenced to 18 months in federal
19 prison on August 14, 2002. In June 2004 Respondents’ clients invested in Cornerstone Investment’s
20 Indemnity Bond Bridge Program, the promoters of which were convicted of fraud in June 2007 and
21 sentenced to lengthy prison terms. In 2003 Respondents’ clients invested in promissory notes
22 relating to a small energy company only to find that the promoters’ contractual statements that a
23 power generator had been installed and was fully operational were false and that that a generator had
24 never been installed or operational. Further, according to the SEC Order, Kent made numerous
25 misrepresentations and omissions to her clients about the status of these investments, including the
26 failure to disclose the promoters’ fraud convictions. In addition, despite knowing that the value of
27 each of these investments were substantially impaired, Kent continued to charge clients, through
28 quarterly statements listing the “market price” and “total market value” of these investments, an

1 assets-under-management fee based on the initial cost of the investments, as if the values remained
2 unchanged, collecting hundreds of thousands of dollars more than she would have had the
3 investments been properly valued.

4 19. The SEC Order states that by failing to properly value impaired investments, and by
5 misrepresenting and failing to disclose material facts about the investments, Laura Kent and
6 Cornerstone Capital willfully violated the anti-fraud provisions of Sections 206(1) and 206(2) of the
7 Investment Advisers Act. Laura Kent and Cornerstone Capital were Ordered to cease and desist
8 from any violations of this anti-fraud provision, were censured, and ordered to pay disgorgement and
9 prejudgment interest of \$415,758 through quarterly payments up through March 2012.

10 **Commodity Futures Trading Commission Revocation of Licenses Order**

11 20. Beginning in 2002, Cornerstone Capital Management, Inc. was registered as a
12 Commodity Trading Advisor (“CTA”) and as Commodity Pool Operator (“CPO”) under the
13 Commodity Exchange Act with the CFTC. On September 30, 2010 the CFTC filed a Notice of
14 Intent to Revoke those registrations. Prior to any adjudication on the merits, on September 30, 2010
15 Cornerstone Capital consented to the entry of the “Opinion and Order Accepting Offer of Settlement
16 of Cornerstone Capital Management, Inc.”

17 21. As provided in the CFTC Order, Section 8a(2)(E) of the Commodity Exchange Act,
18 7 U.S.C. section 12a(2)(E) (20006), gives the CFTC the discretion to revoke the registration of any
19 person who, within ten years of the filing of an application or at any time thereafter, has been found
20 in either a proceeding brought by, or by agreement of settlement with, any Federal Commission or
21 Federal or State agency, or other government body, to have violated certain statutes, rules,
22 regulations or Orders, and specifically provisions of the Investment Advisers Act of 1940, where
23 such violation involves fraud.

24 22. Citing the “Order Making Findings and Imposing Remedial Sanctions and Cease and
25 Desist Order” issued by the SEC on March 20, 2009, and consented to by Cornerstone Capital, that
26 found, among other things, that Cornerstone Capital willfully violated Sections 206(1) and (2) of the
27 Advisor’s Act, the anti-fraud provisions of that Act, the CFTC Order concluded that cause exists for
28 the revocation of Cornerstone Capital’s registrations as a CTA and CPO.

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IV. THE APPLICATION OF CORNERSTONE CAPITAL MANAGEMENT, INC. FOR AN INVESTMENT ADVISER CERTIFICATE SHOULD BE DENIED

23. Corporations Code section 25232 provides, in pertinent part:

“The commissioner may, after appropriate notice and opportunity for hearing, by order censure, deny a certificate to, suspend for a period not exceeding 12 months or revoke the certificate of, an investment adviser, if the commissioner finds that the censure, denial, suspension, or revocation is in the public interest and that the investment adviser, whether prior or subsequent to becoming such, or any partner, officer, or director thereof or any person performing similar functions or any person directly or indirectly controlling the investment adviser, whether prior or subsequent to becoming such, or any employee of the investment adviser while so employed has done any of the following:

(a) Has willfully made or caused to be made in any application for a certificate or any report filed with the commissioner under this division, or in any proceeding before the commissioner, any statement which was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has willfully omitted to state in the application or report any material fact which is required to be stated therein....

(d) Is or has been subject to (1) any order of the Securities and Exchange Commission or the securities administrator of any other state denying or revoking or suspending his or her registration as an investment adviser, or investment adviser representative, or as a broker dealer or agent,...or (3) any other order of the commission or any administrator, association, or exchange referred to in this subdivision which is or has been necessary for the protection of any investor.

(e) Has 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 Title 4 (commencing with Section 25000), including the Franchise Investment Law, Division 5 (commencing with Section 31000), or the California Commodity Law of 1990, Division 4.5 (commencing with Section 29500), or any rule or regulation under any of those statutes, or any order of the commissioner which is or has been necessary for the protection of any investor.

(f) Is or has been subject to (1) any order of the Commodity Futures Trading Commission denying registration to, or revoking or suspending the registration of, that person under the Commodity Exchange Act...(3) or any other order of the commission or any board or exchange referred to in this subdivision which is or has been necessary for the protection of any investor....

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(h) Has violated any provision of this division or the rules thereunder or, in the case of an applicant only, any similar regulatory scheme of the State of California or a foreign jurisdiction.

24. The anti-fraud law in California is very similar to the anti-fraud provisions of the Investment Advisers Act, and indeed Section 206(1) of the Advisers Act is identical to Corporations Code section 25235(a) which provides it is unlawful for any investment adviser, directly or indirectly, “to employ any device, scheme, or artifice to defraud any client or prospective client”.

25. Corporations Code Section 25256 provides as follows:

(a) For any broker-dealer or investment adviser, a disciplinary action taken by the State of California, another state, an agency of the federal government, or another country for an action substantially related to the activity regulated under this division may be grounds for disciplinary action by the commissioner. A certified copy of the record of the disciplinary action taken against the licensee by the State of California, other state, agency of the federal government, or other country shall be conclusive evidence of the events related therein.

(b) Nothing in this section precludes the commissioner from applying a specific statutory provision in this division providing for discipline against a broker-dealer or investment adviser, as a result of disciplinary action taken against a broker-dealer or an investment adviser. by the State of California, another state, an agency of the federal government, or another country.”

26. Several provisions of Corporations Code section 25232 apply to Laura Kent and Cornerstone Capital any one of which alone gives the Commissioner the discretion to deny her application for an Investment Adviser Certificate. Laura Kent willfully omitted to disclose in the initial application the CFTC license Revocations and Washington Consent Order. The SEC Commissioner and the State of Washington issued Orders for violations of anti-fraud statutes and other securities related law that were necessary for the protection of investors. The SEC found Cornerstone and Kent to have willfully violated provisions of the Investment Advisors Act of 1940. The CFTC issued an Order revoking her registration based on the SEC finding of anti-fraud violations. The anti-fraud statutes she was found to have violated were similar to the anti-fraud statutes under the California Securities Law, and specifically Corporations Code section 25235(a). An Investment Adviser has a fiduciary duty to her clients. Clearly it is in the public interest of the

1 people of the State of California to deny the application of Cornerstone Capital Management, Inc.
2 for an investment adviser certificate.

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4 **V. RESPONDENT LAURA KENT SHOULD BE BARRED FROM ANY**
5 **POSITION OF EMPLOYMENT, MANAGEMENT OR CONTROL OF ANY**
6 **INVESTMENT ADVISER, BROKER-DEALER OR COMMODITY ADVISER**

7 27. Corporations Code Section 25232.1 provides, in pertinent part:

8 “The commissioner may, after appropriate notice and opportunity for hearing, by
9 order censure, or suspend for a period not exceeding 12 months, or bar from any
10 position of employment, management or control of any investment adviser, broker-
11 dealer or commodity adviser, any officer, director, partner, employee of, or person
12 performing similar functions for, an investment adviser, or any other person, if he or
13 she finds that the censure, suspension or bar is in the public interest and that the
14 person has committed any act or omission enumerated in subdivision (a), (e), (f) or
15 (g) of Section 25232...or is subject to any order specified in subdivision (d) of
16 Section 25232.”

17 28. Subparts (a), (d), (e), and (f) of Corporations Code section 25232 apply to Laura Kent
18 and Cornerstone Capital, any one of which alone provides the Commissioner under CC section
19 25232.1 the discretion to bar Laura Kent from future positions of investment adviser, broker-dealer
20 or commodities trader, when that bar is in the public interest. Laura Kent willfully omitted to
21 disclose the CFTC Revocation Order and Washington Consent Order in the May 16, 2012 Form
22 ADV application that she signed under the penalty of perjury. Both the SEC and the State of
23 Washington issued Orders for violations of anti-fraud statutes that were necessary for the protection
24 of investors. In the process of losing substantial client funds investing in several fraudulent
25 investment programs, the SEC Order provides that Cornerstone and Kent willfully violated
26 provisions of the Investment Advisors Act. The CFTC issued an Order revoking registrations based
27 on the anti-fraud violations found in the SEC Order. Clearly it is in the public interest of the people
28 of the State of California to bar Laura Kent from any position of employment, management or
control of any investment adviser, broker-dealer or commodity adviser.

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VI. CONCLUSION

Based upon the foregoing, the Commissioner finds that grounds exist and that it is in the public interest to deny the application of Cornerstone Capital Management, Inc. for an investment adviser certificate pursuant to Corporations Code sections 25232 and 25256, and to bar Laura Jean Kent from any position of employment, management or control of any investment adviser, broker-dealer or commodity adviser pursuant to Corporations Code sections 25232.1 and 25256. The Commissioner hereby notifies Cornerstone Capital Management, Inc. and Laura Jean Kent of its intention to make such Orders final.

Dated: November 29, 2012

JAN LYNN OWEN
California Corporations Commissioner

By: _____
EDWARD KELLY SHINNICK
Corporations Counsel