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BEFORE THE DEPARTMENT OF CORPORATIONS
OF THE STATE OF CALIFORNIA

In the Matter of the Accusation of THE CALIFORNIA CORPORATIONS COMMISSIONER, Complainant, v. HANSUELI OVERTURF, Respondent.	CASE NO. FILE NO. 45752 ACCUSATION

Preston DuFauchard, the California Corporations Commissioner ("Commissioner") of the Department of Corporations ("Department") alleges and charges as follows:

I. JURISDICTION AND VENUE

1. The Commissioner brings this action pursuant to the provisions of California Corporations Code sections 25212 and 25213 and the rules and regulations promulgated thereunder.

2. The Commissioner is authorized to administer and enforce the provisions of the Corporate Securities Law of 1968, Corporations Code section 25000 et seq. (“Corp. Code”), and the regulations thereunder at California Code of Regulations, title 10, section 260.000 et seq.

II. STATEMENT OF FACTS

3. This action is brought in order to bar respondent Hansueli Overturf (“Overturf”) (CRD # 4138916) from any position of employment, management or control of any investment adviser, broker-dealer or commodity adviser pursuant to Corporations Code section 25213. From

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July of 2003 to December of 2008, Overturf was a registered representative with Raymond James Financial Services, Inc. ("Raymond James"), a licensed broker-dealer. Overturf operated out of an office located at 833 9th Street, Arcata, California 95521.

4. Beginning in or about January 2004, Overturf offered and sold securities in the form of investment contracts to California residents. The purported purpose of the offering was that Overturf would locate houses for investors to purchase, and Overturf would manage the properties for several years, after which he would sell the properties and split the profits with investors. At all relevant times Overturf was a registered representative at Raymond James.

5. In connection with the offer and sale of these securities, Overturf sold the securities to his Raymond James clients, without the approval of Raymond James. Overturf misrepresented to investors that the investment was a product offered by Raymond James, when it was not. Additionally, Overturf misrepresented to investors that he would be able to find other Raymond James clients to purchase the properties, when he knew that Raymond James had instructed him not to conduct real estate business with Raymond James clients.

III. RESPONDENT HANSUELI OVERTURF SHOULD BE BARRED FROM ANY POSITION OF EMPLOYMENT, MANAGEMENT OR CONTROL OF ANY INVESTMENT ADVISER, BROKER-DEALER OR COMMODITY ADVISER

6. Corporations Code section 25213 provides, in pertinent part:

> "The commissioner may, after appropriate notice and opportunity for hearing, by order censure, or suspend for a period not exceeding 12 months or deny or bar from any position of employment, management or control of any broker-dealer . . . or any officer, director, partner, agent, employee of . . .a broker-dealer, or any other person if the commissioner finds that the . . .denial or bar is in the public interest and the person committed any act or omission enumerated in subdivision (a), (e), (f) or (g) of Section 25212 . . ."

7. Corporations Code Section 25212(e) provides, in pertinent part:

> (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)…or of any rule or regulation under any of those statutes…"

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A. <u>Overturf violated Corporations Code section 25401 by making material misrepresentations and omissions of material facts in the sale of a security.</u>

8. Corporations Code section 25401 provides, in pertinent part:

> "It is unlawful for any person to offer or sell a security in this state or buy or offer to buy a security in this state by means of any written or oral communication which includes an untrue statement of a material fact or omits 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."

9. In connection with the offer and/or sale of securities, Overturf misrepresented to investors that the investment was a Raymond James product and that he would be able to find other Raymond James clients to purchase the properties, when he knew that Raymond James had instructed him not to conduct real estate business with Raymond James clients.

10. The above misrepresentations included untrue statements of material facts or omitted to state material facts necessary in order to make the statement made, in the light of the circumstances under which they were made, not misleading.

B. <u>Overturf violated Corporations Code section 25216 by operating a manipulative, deceptive or other fraudulent scheme, device, or contrivance in the sale of a security.</u>

11. Corporations Code section 25216 provides, in pertinent part:

> (a) No broker-dealer or agent shall effect any transaction in, or induce or attempt to induce the purchase or sale of, any security in this state by means of any manipulative, deceptive, or other fraudulent scheme, device, or contrivance. The commissioner shall, for the purposes of this subdivision, by rule define such schemes, devices or contrivances as are manipulative, deceptive, or otherwise fraudulent.

12. California Code of Regulations, Title 10, Section 260.216 states:

> The phrase, "manipulative, deceptive, or other fraudulent scheme, device, or contrivance," as used in subdivision (a) of Section 25216 of the Code is hereby defined to include:
> (a) Any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person; and
> (b) Any untrue statement of a material fact and any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading, if the person making the statement or omission knows or has reasonable grounds to believe that it is untrue or misleading."

13. Overturf sold securities to investors through the use of a fraudulent scheme when he misrepresented to investors that the investment was a Raymond James' product, when he knew it was not a Raymond James product. Further, he misrepresented to investors that he would be able to find other Raymond James clients to purchase the properties, when he knew that Raymond James had instructed him not to conduct real estate business with clients.

14. Hansueli Overturf is subject to being barred from any position of employment, management or control of any investment adviser, broker-dealer or commodity adviser pursuant to Corporations Code section 25213, for acts committed as specified in Corporations Code section 25212(e), specifically for offering and selling securities by means of any written or oral communication which includes an untrue statement of material fact or omits to state a material fact and selling securities through the operation of a fraudulent scheme.

IV. CONCLUSION

WHEREFORE, based upon the foregoing, the Commissioner finds grounds exits and it is in the public interest to bar Hansueli Overturf from any position of employment, management or control of any investment adviser, broker-dealer or commodity adviser pursuant to Corporations Code section 25213 for acts committed as specified in Corporations Code section 25212, subdivision (e).

Dated August 17, 2011

PRESTON DuFAUCHARD
California Corporations Commissioner

By: _____
MARY ANN SMITH
Senior Corporations Counsel
Enforcement Division

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