

1 MARY ANN SMITH
Deputy Commissioner
2 DOUGLAS M. GOODING (83518)
Senior Corporations Counsel
3 One Sansome St., Suite 600
4 San Francisco, CA 94104
Tel: 415/972-8548
5 Fax: 415/972-8550
6 Attorneys for Complainant

7
8 BEFORE THE DEPARTMENT OF CORPORATIONS
9 OF THE STATE OF CALIFORNIA

10
11 In the Matter of) CASE NO.
12 THE CALIFORNIA CORPORATIONS)
COMMISSIONER,) ACCUSATION
13)
14 Complainant,)
15 v.)
16 RAFAEL RAMON SANCHEZ)
17 Respondent.)
18)
19)
20)
21)
22)
23)
24)
25)
26)

1 Jan Lynn Owen, the California Corporations Commissioner (“Commissioner”) of the
2 Department of Corporations (“Department”) alleges and charges as follows:

3 **I. JURISDICTION AND VENUE**

4 1. The Commissioner brings this action pursuant to the provisions of California Corporations
5 Code sections 25232 and 25232.1 and the rules and regulations promulgated thereunder.

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

9 **II. STATEMENT OF FACTS**

10 3. This action is brought to bar Respondent Rafael Ramon Sanchez (“Sanchez”),
11 CRD#1257900, from any position of employment, management or control of any investment adviser,
12 broker-dealer or commodity adviser pursuant to Corporations Code section 25232.1. At relevant
13 times, Sanchez was an investment adviser representative employed by MAM Wealth Management,
14 LLC (“MAM”), an investment adviser registered in California with its principal place of business in
15 Sherman Oaks, California.

16 4. Sanchez was a defendant in an action brought by the U. S. Securities and Exchange
17 Commission (“SEC”) in the United States District Court, Central District of California, Case Number
18 CV 11-2934 SJO. The complaint in that case alleged that defendants, including Sanchez, formed
19 MAM Wealth Real Estate Fund (“Fund”) to raise capital to invest in real estate opportunities in North
20 America, but that, contrary to representations and disclosures, the Fund made highly risky and
21 speculative investments. The complaint also alleged that defendants, including Sanchez, raised
22 approximately \$10.3 million for the Fund from MAM clients by means of fraudulent
23 misrepresentations and omissions. The complaint further alleges that Sanchez breached his fiduciary
24 duty to MAM clients by advising them to invest in unsuitable investments and by selling to non-
25 accredited investors, and by using his discretionary authority over clients’ accounts to invest their
26 money in the Fund.

27 5. The complaint alleged violations of the anti-fraud provisions of Section 17(a) of the
28 Securities Act of 1033 (“Securities Act”), 15 U.S.C. § 77q(a), and Section 10(b) of the Securities

1 Exchange Act of 1934 (“Exchange Act”), 15 U.S.C. § 78j(b) and Rule 10b-5 thereunder, 17 C.F.R. §
2 240.10b-5. The complaint also alleges that Sanchez aided and abetted MAM’s violations of the anti-
3 fraud provisions of Sections 206(1) and 206(2) of the Investment Advisers Act of 1940 (“Advisers
4 Act”), 15 U.S.C. §§ 80b-6(1) and 80b-6(2). The complaint sought a permanent injunction prohibiting
5 such violations, disgorgement of the defendants’ ill-gotten gains, prejudgment interest, and civil
6 penalties.

7 6. On or about January 14, 2012, Sanchez consented to the entry of a Judgment of Permanent
8 Injunction and Other Relief, which consent document was filed on or about January 20, 2012. A
9 Judgment of Permanent Injunction and Other Relief as to Defendant Rafael Sanchez was filed in the
10 SEC action on or about February 1, 2012. This judgment enjoined Sanchez from violating the
11 aforementioned anti-fraud provisions of the Securities Act, the Exchange Act, and the Advisers Act;
12 the judgment also ordered Sanchez to pay disgorgement and civil penalties in amounts to be
13 determined at a later time upon motion of the SEC.

14 7. On or about July 2, 2012, the District Court filed, *nunc pro tunc*, a Corrected Final
15 Judgment as to Defendant Rafael Sanchez. This final judgment reiterated the previous injunctions
16 described above, and held Sanchez liable to disgorge the amount of \$9,901,536, representing ill-
17 gotten gains as a result of the conduct alleged in the complaint, plus prejudgment interest in the
18 amount of \$1,110,418.15, for a total disgorgement judgment of \$11,011,954.15. This judgment
19 further ordered Sanchez to pay a civil penalty in the amount of \$398,321 pursuant to Section 20(d) of
20 the Securities Act, 15 U.S.C. § 77t(d), Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3),
21 and Section 209(e)(1) of the Advisers Act, 15 U.S.C. §80b-9(e)(1).

22 8. On or about March 2, 2012, Sanchez submitted a Letter of Acceptance, Waiver and
23 Consent (“AWC”) to the Financial Industry Regulatory Authority (“FINRA”) that included a bar
24 from association with any member of FINRA in any capacity. In the AWC, Sanchez accepted and
25 consented to the following findings:

26 a) Sanchez opened and transferred funds to customer accounts that Sanchez solely
27 controlled, without permission or authority;

28

1 b) Sanchez engaged in unethical conduct by securing loans from two customers to
2 businesses in which Sanchez held a personal interest;

3 c) Sanchez engaged in unethical conduct in connection with customer agreements with
4 Trust Services;

5 d) Sanchez failed to disclose bankruptcy filings and an IRS tax lien on Forms U4;

6 e) Sanchez failed to disclose an outside business activity.

7 9. The AWC found that Sanchez' actions constituted violations of FINRA Rules 2010 and
8 1122 and NASD Rule 3030 and IM-1000-1 and Article V, Section 2 of the FINRA By-Laws.

9 10. Pursuant to FINRA Rule 8313(e), the bar became effective when accepted by FINRA on
10 or about March 9, 2012.

11
12 **III. RESPONDENT SANCHEZ SHOULD BE BARRED FROM ANY POSITION OF**
13 **EMPLOYMENT, MANAGEMENT OR CONTROL OF ANY INVESTMENT ADVISER,**
14 **BROKER-DEALER OR COMMODITY ADVISER PURSUANT TO CORPORATIONS**
15 **CORPORATIONS CODE SECTION 25232.1 FOR ACTS COMMITTED AS SPECIFIED UNDER**
16 **CORPORATIONS CODE SECTION 25232, SUBDIVISIONS (b), (c) and (d).**

17 11. Corporations Code Section 25232.1 provides, in pertinent part:

18 The commissioner may, after appropriate notice and opportunity for hearing, by order
19 censure, or suspend for a period not exceeding 12 months, or bar from any position of
20 employment, management or control of any investment adviser, broker-dealer or
21 commodity adviser, any officer, director, partner, employee of, or person performing
22 similar functions for, an investment adviser, or any other person, if he or she finds that
23 the censure, suspension or bar is in the public interest and that the person has
24 committed any act or omission enumerated in subdivision (a), (e), (f), or (g) of Section
25 25232 or has been convicted of any offense or held liable in any civil action specified
26 in subdivision (b) of Section 25232 or is enjoined from any act, conduct or practice
27 specified in subdivision (c) of Section 25232 or is subject to any order specified in
28 subdivision (d) of Section 25232.

12. Corporations Code Section 25232, and in particular subdivisions (b), (c) and (d), provide
in pertinent parts as follows:

The commissioner may, after appropriate notice and opportunity for hearing, by order
censure, deny a certificate to, or suspend for a period not exceeding 12 months or
revoke the certificate of, an investment adviser, if the commissioner finds that the

1 censure, denial, suspension, or revocation is in the public interest and that the
2 investment adviser, whether prior or subsequent to becoming such, or any partner,
3 officer or director thereof or any person performing similar functions or any person
4 directly or indirectly controlling the investment adviser, whether prior or subsequent
5 to becoming such, or any employee of the investment adviser while so employed has
6 done any of the following:

7
8 (b)Has been either (1) convicted of or has pled nolo contendere to any felony or
9 misdemeanor, or (2) held liable in a civil action by final judgment of a court based
10 upon conduct showing moral turpitude, and the commissioner finds that the felony,
11 misdemeanor or civil action (A) involved the purchase or sale of any security, (B)
12 arose out of the conduct of the business of a broker-dealer or investment adviser, (C)
13 involved theft, or (D) involved the violation of Section 1341, 1342, or 1343 of Title 18
14 of the United States Code.

15
16 (c)Is permanently or temporarily enjoined by order, judgment, or decree of any court
17 of competent jurisdiction from acting as an investment adviser, underwriter or broker-
18 dealer or as an affiliated person or employee of any investment company, bank, or
19 insurance company, or from engaging in or continuing any conduct or practice in
20 connection with that activity, or in connection with the purchase or sale of any
21 security.

22
23 (d)Is or has been subject to (1) any order of the Securities and Exchange Commission
24 or the securities administrator of any other state denying or revoking or suspending his
25 or her registration as an investment adviser, or investment adviser representative, or as
26 a broker or dealer or agent, (2) any order of any national securities association or
27 national securities exchange (registered under the Securities Exchange Act of 1934)
28 suspending or expelling him or her from membership in that association or exchange
 or from association with any member thereof, 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....

21 13. Subdivision (b) of Section 25232 applies to Sanchez. As previously described in
22 Paragraph 7, he has been held liable in the SEC’s civil action to pay disgorgement “...representing
23 ill-gotten gains as a result of the conduct alleged in the Complaint...,” according to the Corrected
24 Final Judgment. Sanchez is subject to discipline, and should be barred on this basis under Section
25 25232.1.

26 14. Subdivision (c) of Section 25232 also applies to Sanchez. The Judgment of Permanent
27 Injunction and Other Relief, referred to in Paragraph 6, is a judgment of a court of competent
28 jurisdiction that enjoins Sanchez from certain conduct and practices in connection with his activities

1 as an investment adviser. He is therefore subject to discipline, and should be barred on this basis
2 under Section 25232.1.

3 15. Subdivision (d) of Section 25232 also applies to Sanchez. As demonstrated by the Letter
4 of Acceptance, Waiver and Consent submitted to the Financial Industry Regulatory Authority
5 (“FINRA”) on or about March 2, 2012 and described in Paragraph 8, Sanchez consented to a bar
6 from association with any member of FINRA in any capacity. He is therefore subject to discipline,
7 and should be barred on this basis under Section 25232.1.

8 **IV. RELIEF REQUESTED**

9 WHEREFORE, based on the foregoing, the Commissioner finds that it is in the public interest
10 to bar RAFAEL RAMON SANCHEZ (CRD#1257900) from any position of employment,
11 management or control of any investment adviser, broker-dealer or commodity adviser pursuant to
12 Corporations Code section 25232.1, for having been held liable in a civil action as specified in
13 subdivision (b) of Section 25232; for having been enjoined from an act, conduct or practice specified
14 in subdivision (c) of Section 25232; and for having been subject to an order specified in subdivision
15 (d) of Section 25232.

16 Dated: December 12, 2012
17 San Francisco, California

JAN LYNN OWEN
California Corporations Commissioner

18
19 By: _____
20 DOUGLAS M. GOODING
21 Senior Corporations Counsel
22 Enforcement Division
23
24
25
26
27
28