

CLOTHILDE V. HEWLETT
Commissioner
MARY ANN SMITH
Deputy Commissioner
DANIEL P. O'DONNELL
Assistant Chief Counsel
RYAN CASSIDY (State Bar No. 340274)
Counsel
Department of Financial Protection and Innovation
2101 Arena Boulevard
Sacramento, CA 95834
Telephone: (916) 764-8358
Attorneys for Complainant

BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION
OF THE STATE OF CALIFORNIA

In the Matter of:

THE COMMISSIONER OF FINANCIAL
PROTECTION AND INNOVATION,

Complainant,

v.

PERMANENT VALUE, INC; BRUCE DOOLE;
and BRUCE W AND SUSAN L DOOLE
LIVING TRUST 2000,

Respondents.

NOTICE OF INTENT TO ISSUE ORDER
LEVYING ADMINISTRATIVE
PENALTIES AND STATEMENT IN
SUPPORT PURSUANT TO
CORPORATIONS CODE SECTION 25252

The Commissioner of Financial Protection and Innovation (Commissioner) is informed and believes, and based upon such information and believe, alleges and charges as follows:

I.

INTRODUCTION

1. The Commissioner brings this action pursuant to the provisions of the Corporate Securities Law of 1968 (CSL) (Cal. Corp. Code §§ 25000-25707) (Corp.), and the accompanying regulations in Title 10 of the California Code of Regulations, §§ 260.000-260.617 (CCR), which cover the licensure, examination, and regulation of investment advisers.

2. Permanent Value, Inc. (PVI) is, or was, at all relevant times, an investment adviser licensed by the Commissioner since December 6, 2012, (Central Registration Depository No.

1 118024)¹ pursuant to the Corporate Securities Law of 1968. PVI is, or was, at all relevant times, a
2 Delaware corporation registered with the California Secretary of State on July 28, 1998. PVI's
3 principal place of business is located at 2221 Camino Del Rio South, Suite 308, San Diego,
4 California 92108. According to the California Secretary of State's business search website (available
5 at <https://bizfileonline.sos.ca.gov/search/business>), PVI's registration is forfeited by the Franchise
6 Tax Board as of December 1, 2015. As of June 3, 2022, PVI was providing investment advisory
7 services for 47 clients, with approximately \$25,000,000.00 under management.

8 3. Bruce Doole (Doole) is, or was, at all relevant times, the sole officer and investment
9 adviser representative of PVI. PVI has been licensed by the Commissioner since December 6, 2012,
10 as an investment adviser representative (CRD No. 2322136).

11 4. Bruce W and Susan L Doole Living Trust 2000 (Trust) is the sole owner of PVI.

12 5. PVI, Doole, and Trust are collectively referred to as Respondents.

13 6. A violation is willful if Respondents' failure was done with a purpose or willingness
14 to commit the act, or make the omission referred to. An omission is willful if made with the
15 knowledge of the obligation to act.

16 II.

17 STATEMENT OF FACTS

18 7. On or about January 1, 2012, a California resident filed a civil complaint against PVI
19 and Doole. On November 8, 2012, the parties stipulated that the judgement be ruled in favor of the
20 California resident, against PVI and Doole, totaling \$400,000.00 (2012 Civil Judgement).

21 8. On or about December 6, 2012, the Commissioner issued PVI an investment adviser
22 certificate. Accompanied with the certificate was a reminder of certain rules and regulations,
23 including the following: (1) Filing annual and updating amendments of its Form ADV²; (2)

24
25
26 ¹ The Central Registration Depository (CRD) is a database maintained by the Financial Industry Regulatory Authority (FINRA) since
2007 for all firms and individuals involved in the U.S. securities industry. It is used to store and maintain information on registered
securities and broker firms, as well as individuals who dispense investing and financial advice.

27 ² Form ADV is the uniform form used by investment advisers to register with both the Securities and Exchange Commission (SEC) and
28 state securities authorities. Form ADV requires information about the investment adviser's business, ownership, clients, employees,
business practices, affiliations, and any disciplinary events of the adviser or its employees. Investment advisers are required to update
the Form ADV annually, as well as, whenever certain material changes occur. (See <https://www.sec.gov/about/forms/formadv-instructions.pdf>, pgs. 2 – 4.)

1 Minimum net worth requirements; (3) Annual financial reports; (4) Make and keep true, accurate,
2 and current books, ledgers, and records relating to PVI's investment advisory business.

3 9. On or about May 20, 2019, a California resident filed a statement of claim to initiate
4 arbitration against Doole. On January 21, 2021, the arbitrator rendered a decision in favor of D.F.,
5 against Doole, totaling \$175,000.00 (2019 Arbitration).

6 10. In or about May 2022 until April 28, 2023, the Commissioner conducted a regulatory
7 examination of the books and records of Respondents (2022 Examination).

8 **Violations of Violations of Corp. 25404 (a) and (b)**
9 **(Making False Statements to the Commissioner)**

10 11. Corp. 25404 (a) prohibits investment advisers from knowingly making a false entry
11 in any record or document, with the intent to impede, obstruct, or influence the administration or
12 enforcement of this division. In addition, Corp. 25404 (b) prohibits investment advisers from
13 knowingly making an untrue statement to the commissioner during the course of licensing, with the
14 intent to impede, obstruct, or influence the administration or enforcement of any provision of this
15 division.

16 12. On or about January 1, 2012, a California resident initiated civil litigation by filing a
17 civil complaint against PVI and Doole.

18 13. On October 3, 2012, Respondents filed an application with the Commissioner for an
19 investment adviser license. Respondents submitted a Doole's Form U4 and PVI's Form ADV.
20 However, Respondents answered "No" to disclosure questions related to pending civil litigation, on
21 Doole's Form U4 and PIV's Form ADV, in violation of Corp. 25404 (b). In submitting Form U4
22 and Form ADV, Doole attested and certified, under the penalty of perjury, that the answers were true
23 and correct.

24 14. Respondents continued to file Part 1 of PVI's Form ADV on an annual basis, for
25 fiscal years 2012 through 2021, by answering "No" to disclosure questions related to civil
26 judgments, on PIV's Form ADV, in violation of Corp. 25404 (a). In submitting PIV's Form ADV,
27 Doole attested and certified, under the penalty of perjury, that the answers were true and correct.

28 ///

15. Respondents' action of withholding information from the Commissioner, relating to current pending civil litigation, and answering "No" on multiple different forms, attesting under the penalty of perjury, was done with a purpose or willingness to commit the act.

Violations of Violations of Corp. 25238 and CCR 260.238(o)
(Failure to Adhere to Fair, Equitable, and Ethical Principles, including omitting a statement of material fact, during the solicitation of advisory clients)

16. Corp. 25238 prohibits a licensed investment adviser from engaging in investment advisory activities in this state in contradiction of rules prescribed by the Commissioner designed to promote fair, equitable and ethical principles. In addition, CCR 260.238(o) prohibits an investment adviser from omitting a statement of material fact, during the solicitation of advisory clients.

17. From January 1, 2012, to June 9, 2022, Respondents failed to disclose the 2012 Civil Judgement, to its prospective clients. From May 20, 2019, to June 9, 2022, Respondents failed to disclose the 2019 Arbitration, to its prospective clients. On June 9, 2022, only after the Commissioner told the Respondents to amend Part 2 of PVI's Form ADV, Respondents began disclosing the 2012 Civil Judgement and the 2019 Arbitration.

18. Respondents' action of withholding information from prospective clients, relating to past civil litigation and arbitration awards, in addition to telling prospective clients, in Part 2 of PVI's Form ADV, that the Respondents have no legal events to disclose, was done with a purpose or willingness to commit the act.

Violations of Corp. 25237 and CCR 260.237.2
(Minimum Capital Requirement for Investment Advisers that have Custody or Discretionary Authority over Client Funds or Securities)

19. Corp. 25237 requires that licensed investment advisers who have custody of client securities or funds or discretionary authority (power of attorney to execute transactions) over client funds or securities, shall be subject to a minimum capital requirement. In addition, CCR 260.237.2 requires every investment adviser who has discretionary authority of client funds or securities to maintain at all times a minimum net worth of \$10,000.00. Furthermore, as a condition of the right to continue to transact business in this state, every investment adviser must, by the close of business on

the next business day following the discovery that the investment adviser's net worth is less than the minimum required, notify the Commissioner that the investment adviser's net worth is less than the minimum required.

20. From at least January 1, 2019, to April 30, 2022, Respondents had discretionary authority over client funds or securities but did not have custody of client funds or securities, therefore PVI is required to always maintain a minimum net worth of \$10,000.00. During the period of January 1, 2019, through at least April 30, 2022, PVI's net worth failed to exceed a net deficit of \$72,314.57, in violation of CCR 260.237.2 (a). In addition, pursuant to CCR 260.237.2 (j), PVI is deemed to have discovered that its net worth is less than the minimum net worth requirement since at least, January 1, 2019. In addition, PVI failed to notify the Commissioner that its net worth was less than the minimum financial requirement, since at least January 1, 2019, in violation of CCR 260.237.2 (c).

21. Respondents' failure to maintain a net worth, not less than the minimum net worth requirement, after the Commissioner provided notice in 2012, was done with a purpose or willingness to commit the act.

22. Therefore, Respondents willfully violated CCR 260.237.2 (a), by failing to maintain the minimum required net worth.

23. Furthermore, PVI does not meet the conditions to transact business in this state, based upon its continued failure to meet the minimum net worth conditions, pursuant to CCR 260.237.2 (c).

**Violations of Corp. 25235(d) and CCR 260.235.4
(Fraudulent, Deceptive, or Manipulative Practices, including Failure to Disclose the Investment
Adviser's Financial Condition to Clients)**

24. Corp. 25235 prohibits an investment adviser from engaging in any act, practice, or course of business that is fraudulent, deceptive, or manipulative. In addition, CCR 260.235.4 requires an investment adviser to disclose to any client all material facts with respect to a financial condition of the adviser that is reasonably likely to impair the ability of the adviser to meet contractual commitments to clients if the adviser has discretionary authority or custody over such client's funds or securities.

1 ///

2 25. During the 2022 Examination, the Commissioner determined PVI was not compliant
3 with the minimum net worth requirement and has not met the conditions to transact business in this
4 state, from at least January 1, 2019, through November 30, 2023. As a result, PVI was required to
5 disclose to its clients that its financial condition was likely to impair its ability to meet its contractual
6 commitments. By failing to do so, it violated Corp. 25235 and CCR 260.235.4(a)(1). However, PVI
7 failed to disclose that its financial condition was likely to impair its ability to meet its contractual
8 commitments, to at least 47 clients.

9 26. Respondents' failure to disclose to its clients of its failure maintain the minimum
10 financial requirement and its inability to meet the conditions to transact business in this state, after the
11 Commissioner provided notice in 2012, was done with a purpose or willingness to commit the act.

12 **Violations of Violations of Corp. 25241 and CCR 260.241.2**

13 **(Failure to File Reports, including Annual Financial Reports)**

14 27. Corp. 25241 requires investment advisers to file reports to the Commissioner
15 required by regulation. In addition, CCR 260.241.2 requires every licensed investment adviser,
16 subject to the provisions of CCR 260.237.2, to file an annual financial report, prepared in
17 accordance with generally accepted accounting principles (GAAP) and audited by an independent
18 certified public accountant; however, the financial statements need not be audited if the investment
19 adviser has not held or accepted custody of client funds or securities for that reporting period. The
20 report is required to be filed not more than 90 days after the investment adviser or broker- dealer's
21 fiscal year end.

22 28. From at least December 6, 2012, through December 31, 2022, PVI was required to
23 file annual financial reports, prepared in accordance with GAAP, due to PVI having discretionary
24 authority over client funds and securities.

25 29. Respondents failed to file PVI's annual financial reports for fiscal years 2012 through
26 2022, within 90 days after PVI's fiscal year end, in violation of Corp. 25241 and CCR 260.241.2
27 (a)(3)-(4).
28

30. On or about July 17, 2023, PVI provided its financial reports for fiscal years 2019 through 2021 but failed to provide the annual financial report for fiscal year 2022.

31. Respondents' continued failure to adhere to the requisite annual reporting requirements, for fiscal years 2012 through 2022, after the Commissioner provided notice in 2012 of the requirement, was done with a purpose or willingness to commit the act.

Violations of Violations of Corp. 25241 and CCR 260.241.3 (a)
(Failure to Maintain Books and Records)

32. Corp. 25241 requires investment advisers to file make and keep true and accurate books and records, required by regulation. In addition, CCR 260.241.3 requires every licensed investment adviser to make and keep true and accurate financial and client books and records.

33. During the 2022 Examination, the Respondents:

- a. Failed to prepare and maintain cash receipts and disbursement journals;
- b. Failed to prepare and maintain a general ledger;
- c. Failed to prepare and maintain a true and accurate balance sheet;
- d. Failed to prepare and maintain a true and accurate income statement;
- e. Failed to prepare and maintain true and accurate cash reconciliations;
- f. Failed to prepare and maintain trial balances; and
- g. Failed to prepare and maintain true and accurate monthly minimum financial requirement calculations.

34. During the 2022 Examination, Respondents failed to maintain copies of account statements for the following clients:

- a. B. G.
- b. J. G.
- c. K. H.
- d. S. S.
- e. M. S.

35. During the 2022 Examination, Respondents failed to maintain brokerage account applications including any powers of attorney for authorization to trade on behalf of the client, for nine of the 11 clients sampled:

- a. B. G.
- b. C. C.

- c. D. C.
- d. T. & D. N
- e. J. G. and K. H.
- f. R. & L. R.
- g. M. & S. S.
- h. W. & M. D.

36. During the 2022 Examination, Respondents failed to maintain trust documents for four of the six trust clients sampled:

- a. S. M.
- b. S. M.
- c. M & S. S.
- d. W. D.

37. Respondents' failure to make and keep true and accurate books and records, after the Commissioner provided notice in 2012 of the requirement, and continued to fail to maintain such books and records for 14 months after the Commissioner commenced the examination, was done with a purpose or willingness to commit the act.

Violations of Corp. CCR 260.236.1

(Failure to File Updating Amendments on Investment Adviser Representative's Form U4)

38. CCR 260.236.1 requires that licensed investment advisers promptly file an amendment, upon any change in the information contained in its investment adviser representatives' (IAR) Form U4³.

39. Respondents failed to amend Doole's Form U4 to include the 2012 Civil Judgement and 2019 Arbitration, until after the Commissioner requested that the Respondents amend Doole's Form U4. Respondents amended Doole's Form U4 on June 9, 2022.

40. Respondents' action of failing to disclose both a civil judgement and arbitration judgement, was done with a purpose or willingness to commit the act.

///

///

///

³ Form U4 is the uniform form used by investment advisers to register its IARs, with both the Securities and Exchange Commission (SEC) and state securities authorities. Form U4 requires information about the IAR's personal information, employment history, outside business activity, and any disciplinary events of the IAR. Investment advisers are required to update the Form U4, whenever certain material changes occur. (<https://www.finra.org/sites/default/files/AppSupportDoc/p015111.pdf>)

Violations of Violations of Corp. 25241 and CCR 260.241.4(d)**(Failure to File Reports, including Amendments to its Form ADV)**

41. Corp. 25241 requires investment advisers to file reports as the Commissioner by regulation requires. In addition, CCR 260.241.4 (d) requires a licensed investment adviser to promptly file an amendment, upon any change in the information contained in its Form ADV.

42. During the 2022 Examination, the Commissioner received the most current copy of PVI's Form ADV, dated March 21, 2022. However, Respondents failed to disclose the following on PVI's Form ADV:

- a. The 2012 Civil Judgement;
- b. That Respondents provided a service of selection of third-party advisers;
- c. That Respondents' total regulatory assets under management, were managed on a non-discretionary basis ; and
- d. That Respondents' regulatory assets under management were held by Charles Schwab & Co. Inc.

43. As of November 30, 2023, Respondents continue to fail to disclose the 2012 Civil Judgement on PVI's Form ADV.

44. Respondents' failure to timely file updating amendments to Form ADV, after the Commissioner provided notice in 2012 of the requirement, was done with a purpose or willingness to commit the act.

Violations of Violations of Corp. 25241 and CCR 260.241.4(e)**(Failure to File Reports, including Annual Amendments to its Form ADV)**

45. Corp. 25241 requires investment advisers to file reports as the Commissioner by regulation requires. In addition, CCR 260.241.4 (e) requires a licensed investment adviser to file an annual updating amendment to its Form ADV, within ninety days of the end of the investment adviser's fiscal year.

46. The fiscal year end for PVI's investment adviser business is December 31.

47. To be timely, licensees are required to file an annual updating amendment, within 90 days of its fiscal year end.

49. Respondents failed to file an annual updating amendment to Part 2 of PVI's Form ADV, for fiscal years 2012 through 2021, in violation of Corp. 25241 and CCR 260.241.4 (e).

50. Respondents' failure to timely file annual updating amendments to Form ADV, after the Commissioner provided notice in 2012 of the requirement, was done with a purpose or willingness to commit the act.

III.

NOTICE OF INTENT TO ISSUE ORDER LEVYING ADMINISTRATIVE PENALTIES

51. The Commissioner re-alleges and incorporates by reference paragraphs 1 to 53 of this Statement in Support, also contained in the Commissioner's Accusation, as though fully set forth herein.

52. Corp. 25252(b) authorizes the Commissioner to issue an order levying administrative penalties against any person for willful violations of any provision of CSL and any rules promulgated thereunder.

53. Based on the foregoing findings, the Commissioner finds that Respondents willfully violated Corp. 25235, 25238, 25241, and 25404, and the regulations promulgated in CCR 260.235.4, 260.236.1, 260.237.2, 260.238, 260.241.2, 260.241.3, and 260.241.4.

54. Pursuant to Corp. 25252(b), the Commissioner hereby provides notice of intent to levy administrative penalties against Permanent Value Inc., Bruce Doole, and Bruce W and Susan L Doole Living Trust 2000 for the statutory amount of not more than five thousand dollars (\$5,000.00) for the first violation, not more than ten thousand dollars (\$10,000.00) for the second violation, and not more than fifteen thousand dollars (\$15,000.00) for each subsequent violation, or according to proof, for Respondents willful violations of Corp. 25235, 25238, 25241, and 25404, and the regulations promulgated in CCR 260.235.4, 260.236.1, 260.237.2, 260.238, 260.241.2, 260.241.3, and 260.241.4.

///

///

WHEREFORE, good cause showing, and pursuant to Corp. 25252(b), the Commissioner prays for an order levying administrative penalties, individually, jointly and severally, against Respondents, as follows:

a. That pursuant to Corp. 25252 (b), the Commissioner levy administrative penalties of \$5,000.00 for the first violation of Corp. 25404 and the regulations promulgated in the CCR, \$10,000.00 for the second violation, and \$15,000.00, for each subsequent violation as listed below, for a total amount of \$150,000.00, or according to proof:

- i. First violation: \$5,000.00 for the first violation in paragraph 13, made in its investment adviser application with the Commissioner; and
- ii. Second violation: \$10,000.00 for the second violation in paragraph 14, made in its annual Form ADV for fiscal year 2012; and
- iii. Additional violations:
 - A. \$15,000.00 each, for the violation in paragraph 14, made in its annual Form ADV for fiscal years 2013 through 2021;

b. That pursuant to Corp. 25252(b), the Commissioner levy administrative penalties of \$15,000.00 for each violation of Corp. 25238, and the regulations promulgated in the CCR, as listed below, for a total amount of \$330,000.00, or according to proof:

- i. \$15,000.00 each, for the violations in paragraph 17, with 22 clients.

c. That pursuant to Corp. 25252(b), the Commissioner levy administrative penalties of \$15,000.00 for each violation of CCR 260.237.2, as listed below, for a total amount of \$600,000.00, or according to proof:

- i. \$15,000.00 each, for the violations in paragraph 20, for a period of 40 months.

d. That pursuant to Corp. 25252(b), the Commissioner levy administrative penalties of \$15,000.00 for each violation of Corp. 25235, as listed below, for a total amount of \$705,000.00 or according to proof:

- i. \$15,000.00 each, for the violation in paragraph 25, made to 47 clients.

///

e. That pursuant to Corp. 25252, the Commissioner levy administrative penalties of \$15,000.00 for each violation of Corp. 25241, and the regulations promulgated in the CCR, as listed below, for a total amount of \$735,000.00, or according to proof:

i. Additional violations:

- A. \$15,000.00 each, for the violations in paragraph 31, for fiscal years 2012 through 2022;
- B. \$15,000.00 each, for the violation in paragraph 33(a), for the 2022 Examination;
- C. \$15,000.00 each, for the violation in paragraph 33(b), for the 2022 Examination;
- D. \$15,000.00 each, for the violation in paragraph 33(c), for the 2022 Examination;
- E. \$15,000.00 each, for the violation in paragraph 33(d), for the 2022 Examination;
- F. \$15,000.00 each, for the violation in paragraph 33(e), for the 2022 Examination;
- G. \$15,000.00 each, for the violation in paragraph 33(f), for the 2022 Examination;
- H. \$15,000.00 each, for the violation in paragraph 33(g), for the 2022 Examination;
- I. \$15,000.00 each, for the violations in paragraph 34, with 5 clients;
- J. \$15,000.00 each, for the violations in paragraph 35, with 8 clients;
- K. \$15,000.00 each, for the violations in paragraph 36, with 4 clients;
- L. \$15,000.00 each, for the violations in paragraph 45, for fiscal years 2012 through 2021; and
- M. \$15,000.00 each, for the violations in paragraph 48, regarding 4 material events.

///

f. That pursuant to Corp. 25252(b), the Commissioner levy administrative penalties of \$15,000.00 for each violation of CCR 260.236.1, as listed below, for a total amount of \$30,000.00, or according to proof:

i. \$15,000.00 each, for the violations in paragraph 39, regarding two events.

The total amount of administrative penalties is \$2,550,000.00, for willful violations of Corp. 25235, 25238, 25241, and 25404, and the regulations promulgated in CCR 260.235.4, 260.236.1, 260.237.2, 260.238, 260.241.2, 260.241.3, and 260.241.4, or according to proof.

Dated: April 5, 2024
Sacramento, California

CLOTHILDE V. HEWLETT
Commissioner of Financial Protection and Innovation

By RYAN M. CASSIDY
Counsel
Enforcement Division