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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.

MAGISTER CAPITAL MANAGEMENT
LLC, and CARLOS ZAPATA,

Respondents.

CRD NO.: 281819 and 3052245

1. DESIST AND REFRAIN ORDER;
2. ACCUSATION TO REVOKE MAGISTER
CAPITAL MANAGEMENT LLC'S
INVESTMENT ADVISER CERTIFICATE;
- AND
3. NOTICE OF INTENT TO ISSUE ORDER
LEVYING ADMINISTRATIVE PENALTIES

(Cal. Corp. Code §§ 25232, 25252, and 25532)

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The Commissioner of the Department of Financial Protection and Innovation (Commissioner), acting to protect the public, 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)¹, and the accompanying regulations thereunder², which includes the licensure, examination, and regulation of investment advisers and broker-dealers. Under Financial Code section 326(a), the Commissioner is authorized to administer and enforce the provisions of the CSL and the regulations promulgated thereunder.

2. Magister is, or was, at all relevant times, an investment adviser licensed by the Commissioner since January 30, 2018 (Central Registration Depository No. 281819)³ pursuant to the CSL. Magister Capital Management LLC (Magister) is, or was, at all relevant times, a California limited liability company registered with the California Secretary of State on September 10, 2015. Magister's principal place of business is located at 111 Deerwood Rd., Suite 200, San Ramon, California 94583. According to the California Secretary of State's website, Magister's registration is suspended by the Franchise Tax Board as of November 2, 2020.

3. Carlos Zapata (Zapata) is, or was, at all relevant times, the sole owner, sole officer, and sole employee of Magister. Zapata has been licensed by the Commissioner since January 30, 2018, as an investment adviser representative (CRD No. 3052245).

4. Magister and Zapata are collectively referred to herein as Respondents.

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

¹ See Cal. Corp. Code §§ 25000-25707. Unless stated otherwise, all section references are to the California Corporations Code.

² See Cal. Code Regs. tit. 10, §§ 260.000-260.617. All further references will employ the format of 10 C.C.R. [section #].

³ 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.

6. The Commissioner brings this action seeking the following: (1) desist and refrain order; (2) order to revoke Magister's investment adviser certificate; and (3) order levying administrative penalties.

II.

STATEMENT OF FACTS

7. In or about January 2019, the Commissioner commenced a regulatory examination of the books and records of Respondents (2019 Examination) at Respondents' principal place of business.

8. On or about April 30, 2019, the Commissioner mailed the Respondents a regulatory examination report (RER) listing the deficiencies and requested a response to each deficiency.

9. On or about May 14, 2019, Respondents responded to the Commissioner, but failed to address all deficiencies and failed to provide all records requested.

10. On or about December 3, 2020, the Commissioner emailed the Respondents a follow-up regulatory examination report listing the outstanding deficiencies and requesting a response to each deficiency.

11. On or about December 18, 2020, Respondents responded to the Commissioner, but failed to address all deficiencies and failed to provide all records requested.

12. On or about January 21, 2021, the Commissioner emailed the Respondents a final demand letter listing the outstanding deficiencies and requesting a response to each deficiency.

13. On or about February 17, 2021, Respondents responded to the Commissioner, but they again failed to address all deficiencies and they again failed to provide all records requested.

III.

VIOLATIONS OF THE CSL

A. Respondents Willfully Failed to Comply with Custody Safeguarding Procedures

14. Section 25235 provides, in part, that it is unlawful for an investment adviser to engage in any act, practice, or course of business which is fraudulent, deceptive, or manipulative.

15. 10 C.C.R. 260.237 provides in part, that it is unlawful and deemed to be a fraudulent, deceptive, or manipulative act, practice or course of business within the meaning of Section 25235 of

the Code for an investment adviser to have custody of client funds or securities unless the investment adviser adhere to pertinent safeguarding procedures.

16. Pursuant to 10 C.C.R. 260.237(b)(3), when an investment adviser directly deducts fees from client accounts, that adviser is considered to have custody of those client funds and securities. However, an investment adviser acting in this capacity will be eligible for a waiver of the heightened custody requirements of 10 C.C.R. 260.237(a)(6)-(7), 260.241.2, and 260.237.2 if the adviser adheres to pertinent safeguarding procedures.

17. During the period of January 1, 2018, through January 31, 2019, Respondents directly deducted fees from client accounts, however, Respondents failed to adhere to the requisite safeguarding procedures, which could have waived the heightened custody requirements of 10 C.C.R. 260.237(a)(6)-(7), 260.241.2, and 260.237.2. Therefore, Respondents were required to comply with the heightened custody requirements of 10 C.C.R. 260.237(a)(6)-(7), 260.241.2, and 260.237.2.

18. Respondents did not adhere to the heightened safeguarding procedures for having custody of client funds and securities, which included having an annual unscheduled examination performed by an independent auditor, during fiscal years 2018 and 2019, in violation of section 25235(d) and 10 C.C.R. 260.237.

19. Respondents' action of having custody of client funds, by directly deducting fees from client accounts, was done with a purpose or willingness to commit the act.

20. Therefore, Respondents willfully violated section 25235(d) and 10 C.C.R. 260.237, by failing to have an annual unscheduled examination performed by an independent auditor.

B. Respondents Willfully Failed to Meet the Minimum Net Worth Requirements

21. Section 25237 provides, in part, 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

22. 10 C.C.R. 260.237.2 provides in part, that every investment adviser who has custody of client funds or securities shall maintain at all times a minimum net worth of \$35,000, and every investment adviser who has discretionary authority over client funds or securities but does not have custody of client funds or securities, shall maintain at all times a minimum net worth of \$10,000.

1 Furthermore, as a condition of the right to continue to transact business in this state, every investment
2 adviser shall, by the close of business on the next business day following the discovery that the
3 investment adviser's net worth is less than the minimum required, notify the Commissioner that the
4 investment adviser's net worth is less than the minimum required.

5 23. During the 2019 Examination, Respondents had custody of client funds and securities
6 and therefore it is required to always maintain a minimum net worth of \$35,000.00. However, due to
7 the Magister's failure to maintain books and records and accounting records, Magister's minimum
8 financial requirement could not be determined during the 2019 Examination. The Department's
9 Examiner calculated the net worth with the information provided and determined that, during the
10 period of January 1, 2018, through at least December 31, 2020, Magister's net worth failed to exceed
11 \$2,889.85, in violation of 10 C.C.R. 260.237.2(a). In addition, pursuant to 10 C.C.R. 260.237.2(j),
12 Magister is deemed to have discovered that its net worth is less than the minimum net worth
13 requirement since at least, January 1, 2018. In addition, Magister failed to notify the Commissioner
14 that its net worth was less than the minimum financial requirement, since at least January 1, 2018, in
15 violation of 10 C.C.R. 260.237.2(c).

16 24. On April 30, 2019, the Commissioner issued a RER, which provided the Respondents
17 with notice of the Respondents' failure to comply with section 25237 and 10 C.C.R. 260.237.2.

18 25. Respondents continued to fail to file to maintain a net worth, not less than the minimum
19 net worth requirement, from April 30, 2019 through February 28, 2025, in violation of section 25237
20 and 10 C.C.R. 260.237.2.

21 26. Respondents' continued failure to maintain a net worth, not less than the minimum net
22 worth requirement, even after the Commissioner provided notice of Respondent's failure, was done
23 with a purpose or willingness to commit the act.

24 27. Therefore, Respondents willfully violated 10 C.C.R. 260.237.2(a)(c), by failing to
25 maintain a net worth, not less than the minimum net worth requirement.

26 28. Furthermore, Respondents do not meet the conditions to transact business in this state,
27 based upon its continued failure to meet the minimum net worth conditions, pursuant to 10 C.C.R.
28 260.237.2(c).

1 **C. Respondents Failed to Disclose Financial Condition to Clients**

2 29. As stated above, section 25235 provides in part, that it is unlawful for an investment
3 adviser to engage in any act, practice, or course of business which is fraudulent, deceptive, or
4 manipulative.

5 30. 10 C.C.R. 260.235.4(a)(1) provides in part, that it shall constitute a fraudulent,
6 deceptive, or manipulative act, practice or course of business within the meaning of Section 25235 of
7 the Code for any investment adviser to fail to disclose to any client all material facts with respect to a
8 financial condition of the adviser that is reasonably likely to impair the ability of the adviser to meet
9 contractual commitments to clients if the adviser has discretionary authority or custody over such
10 client's funds or securities.

11 31. During the 2019 Examination, Magister was deficient of its minimum financial
12 requirement and has not met the conditions to transact business in this state, from at least January 1,
13 2018 through December 31, 2020. However, Magister never disclosed to its clients, that its financial
14 condition is likely to impair its ability to meet its contractual commitments, in violation of section
15 25235 and 10 C.C.R. 260.235.4(a)(1).

16 32. Therefore, Respondents failed to disclose that its financial condition is likely to impair
17 its ability to meet its contractual commitments to its clients, in violation of section 25235 and 10
18 C.C.R. 260.235.4(a)(1).

19 **D. Respondents Willfully Failed to File Annual Report**

20 33. As stated above, section 25241 provides, in part, that an investment adviser shall file
21 reports as the Commissioner by regulation requires.

22 34. 10 C.C.R. 260.241.2 provides in part, that every licensed investment adviser subject to
23 the provisions of Section 260.237.2 of these rules, shall file an annual financial report, prepared in
24 accordance with generally accepted accounting principles and shall be audited by either an
25 independent certified public accountant however, the financial statements need not be audited if the
26 investment adviser only has discretionary authority over client funds or securities. The report shall be
27 filed not more than 90 days after the investment adviser or broker- dealer's fiscal year end.

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35. Respondents are required to file an annual financial report no more than 90 days after the investment adviser's fiscal year end. Further, because Magister has custody of client funds and securities, Magister is required to file annual financial reports that are prepared in accordance with GAAP and audited by an independent certified public accountant.

36. Respondents failed to file its annual financial reports for fiscal years 2016 and 2017, let alone audited financial reports, in violation of section 25241 and 10 C.C.R. 260.241.2(a)(3)-(4).

37. Respondents provided the financial reports for fiscal years 2018. However, the reports were both inaccurate and were not audited financial reports, in violation of section 25241 and 10 C.C.R. 260.241.2(a)(3).

38. On April 30, 2019, the Commissioner issued a RER, which provided the Respondents with notice of the Respondents' failure to comply with section 25241 and 10 C.C.R. 260.241.2(a)(3)-(4).

39. Respondents provided the financial reports for fiscal years 2019. However, the reports were both inaccurate and were not audited financial reports, in violation of section 25241 and 10 C.C.R. 260.241.2(a)(3).

40. Respondents continued to fail to provide audited financial reports, for fiscal years 2018 through 2024, or even unaudited financial reports, prepared in accordance with generally accepted accounting principles, in violation of section 25241 and 10 C.C.R. 260.241.2(a)(3)-(4).

41. Respondents' continued failure to adhere to the requisite annual reporting requirements, for fiscal years 2018 through 2024, was done with a purpose or willingness to commit the act.

42. Therefore, Respondents willfully failed to adhere to the requisite annual reporting requirements, in violation of 10 C.C.R. 260.241.2(a)(3)-(4).

E. Respondents Willfully Entering into an Investment Advisory Contract, not in Writing

43. Section 25238 provides in part, that a licensed investment adviser is prohibited from engaging in investment advisory activities, in this state in contradiction of such rules, designed to promote fair, equitable and ethical principles.

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1 44. 10 C.C.R. 260.238(n) provides in part, that entering into an investment advisory
2 contract, not in writing does not promote fair, equitable or ethical principles, as that phrase is used in
3 Section 25238 of the Code.

4 45. During the 2019 Examination, Respondents failed to enter into an asset management
5 contract, in written form, for four of the ten sampled clients, in violation of section 25238 and 10
6 C.C.R. 260.238(n):

- 7 a. A. A.
8 b. Ab. A.
9 c. G. H.
 d. J. N.

10 46. Respondents' action of providing investment advisory services, but failing to enter into
11 a contract in written form, was done with a purpose or willingness to commit the act.

12 47. Therefore, Respondents willfully failed to adhere to the requisite client contracting
13 requirements, in violation of section 25238 and 10 C.C.R. 260.238(n).

14 **F. Respondents Willfully Charging Fees Not Disclosed in Agreement**

15 48. As stated above, section 25238 provides in part, that a licensed investment adviser is
16 prohibited from engaging in investment advisory activities, in this state in contradiction of such rules,
17 designed to promote fair, equitable and ethical principles.

18 49. 10 C.C.R. 260.238(h) provides in part that misrepresenting the fees to be charged does
19 not promote fair, equitable or ethical principles, as that phrase is used in Section 25238 of the Code.

20 50. During the 2019 Examination, Respondents disclosed in Magister's asset management
21 agreement and its disclosure brochure, Form ADV, that fees are billed on a pro-rata basis monthly in
22 advance based on the value of the accounts on the last day of the previous month. However, during the
23 2019 Examination, the value of the account used in the fee calculation is not based on the value of the
24 account on the last day of the previous month, but rather charged two to four days before the end of
25 the month. Respondents charged asset management fees inconsistent with its clients' executed asset
26 management agreement and its disclosure brochure, Form ADV, in violation of section 25238 and 10
27 C.C.R. 260.238(h).

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51. Respondents' action of directly deducting fees from client accounts, two to four days before the end of the month, was done with a purpose or willingness to commit the act.

52. Therefore, Respondents willfully failed to charge its fees in accordance with its contracts and disclosures made to clients, in violation of section 25238 and 10 C.C.R. 260.238(h).

G. Respondents Willfully Failed to Maintain Books and Records

53. Section 25241 provides, in part, that an investment adviser make and maintain books and records, as the Commissioner by regulation requires.

54. 10 C.C.R. 260.241.3(a)-(b),(j). provides in part, that an investment adviser shall make and keep true, accurate and current the books and records relating to such person's investment advisory business, including, but not limited to cash receipts and disbursements journals, general ledgers, balance sheet, income statement, cash reconciliations, trial balances, worksheets that contain computations of minimum financial requirements, originals of all written communications between the client and investment adviser relating to any recommendation made or proposed to be made, and all written agreements entered into by the investment adviser with any client.

55. During the 2019 Examination, the Respondents:

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

requirement calculations.

56. During the 2019 Examination, Respondents failed to maintain any communications or memoranda relating to any recommendation made or proposed to be made, with the following clients:

- a. R. T.
- b. H. D.

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57. During the 2019 Examination, Respondents failed to maintain written agreements with the following clients:

- a. A. A.
- b. Ab. A
- c. G. H.
- d. J. N.

58. Respondents' action of providing investment advisory services, but failing to prepare and maintain the aforementioned books and records, was done with a purpose or willingness to commit the act.

59. Therefore, Respondents willfully violated section 25241 and 10 C.C.R. 260.241.3(a)(1)(2)(4)(5)(6)(7)(10), by failing to prepare and maintain required financial and client books and records.

H. Respondents Failed to File Form ADV Updating Amendments

60. Section 25241 provides, in part, that an investment adviser shall file reports as the Commissioner by regulation requires.

61. 10 C.C.R. 260.241.4(d) provides, in part, that an investment adviser shall promptly file an amendment, upon any change in the information contained in its Form ADV.

62. Form ADV is the uniform form used by investment advisers to register with both the Securities and Exchange Commission (SEC) and 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.)

63. At all relevant times, Respondents managed non-discretionary portfolios. From February 1, 2018, until February 4, 2021, Respondents failed to disclose Magister's total assets under non-discretionary management, in violation of section 25241 and 10 C.C.R. 260.241.4 (d).

64. From February 1, 2018, until February 4, 2021, Magister disclosed that Carlos Zapata is a licensed insurance agent with the state of California. However, Carlos Zapata has not held an active
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1 insurance license since January 31, 2018. Failure to update Zapata's insurance license status on
2 Respondent's Form ADV was a violation of section 25241 and 10 C.C.R. 260.241.4(d).

3 65. Therefore, Respondents violated section 25241 and 10 C.C.R. 260.241.4(d), by failing
4 to keep information in its Form ADV updated.

5 **I. Respondents Willfully Failed to Timely File an Annual Amendment to Form ADV**

6 66. As stated above, section 25241 provides, in part, that an investment adviser shall file
7 reports as the Commissioner by regulation requires.

8 67. 10 C.C.R. 260.241.4(e) provides, in part, that an investment adviser shall file an annual
9 updating amendment to its Form ADV, within ninety days of the end of the investment adviser's fiscal
10 year.

11 68. The fiscal year end for Magister's investment adviser business is December 31.

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

14 70. Respondents failed to file an annual updating amendment to its Form ADV, by March
15 31 of each respective year, for fiscal year 2018, in violation of section 25241 and 10 C.C.R.
16 260.241.4(e).

17 71. On April 30, 2019, the Commissioner issued a RER, which provided the Respondents
18 with notice of the Respondents' failure to comply with section 25241 and 10 C.C.R. 260.241.4(e).

19 72. Respondents continued to fail to file an annual updating amendment to its Form ADV,
20 by March 31 of each respective year, for fiscal years 2020 through 2024, in violation of section 25241
21 and 10 C.C.R. 260.241.4(e).

22 73. Respondents' continued failure to timely file annual updating amendments to Form
23 ADV, even after the Commissioner provided notice of Respondent's failure, was done with a purpose
24 or willingness to commit the act.

25 74. Therefore, Respondents willfully violated section 25241 and 10 C.C.R. 260.241.4(e),
26 by failing to timely file an annual updating amendment to its Form ADV.

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IV.

DESIST AND RERAIN ORDER

75. Based on the foregoing findings, the Commissioner is of the opinion that the respondents violated the following: section 25235(d); section 25238; section 25241(a); 10 C.C.R. 260.235.4(a)(1); 10 C.C.R. 260.237; 10 C.C.R. 260.237.2(a) and (c); 10 C.C.R. 260.241.2(a)(3)-(4); 10 C.C.R. 260.238(h)(n); 10 C.C.R. 260.241.3(a)(1)-(2),(4)-(7),(10), and (j); and 10 C.C.R. 260.241.4(a)(e).

76. Pursuant to section 25532, Magister Capital Management LLC and Carlos Zapata are hereby ordered to desist and refrain from violating the following: section 25235(d); section 25238; section 25241(a); 10 C.C.R. 260.235.4(a)(1); 10 C.C.R. 260.237; 10 C.C.R. 260.237.2(a) and (c); 10 C.C.R. 260.241.2(a)(3)-(4); 10 C.C.R. 260.238(h)(n); 10 C.C.R. 260.241.3(a)(1)-(2),(4)-(7),(10), and (j); and 10 C.C.R. 260.241.4(a)(e).

V.

ACCUSATION TO REVOKE MAGISTER CAPITAL MANAGEMENT LLC'S**INVESTMENT ADVISER CERTIFICATE**

77. Section 25232 provides in pertinent part:

The commissioner may, after appropriate notice and opportunity for hearing, by order ... revoke the certificate of, an investment adviser, if the commissioner finds that the ... 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 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...report* any material fact which is required to be stated therein. [Emphasis added.]

...

- (e) Has *willfully violated . . . Title 4* (commencing with Section 25000)...
[Emphasis added.]
- ...
- (h) *Has violated any provision of this division or the rules thereunder....*
[Emphasis added.]

78. As alleged in paragraph 39 and 41, Respondents willfully filed its 2018 and 2019 annual financial reports, prepared in an inaccurate manner and not prepared in accordance with generally accepted accounting principles, in violation of section 25241 and 10 C.C.R. 260.241.2(a)(3)-(4). By filing inaccurate financial reports, Respondents have willfully made in a report to the Commissioner, a statement which was at the time and in the light of the circumstances under which it was made false or misleading, or willfully omitted to state in the application or report any material fact which is required to be stated therein, thus, warranting the revocation of Magister's investment adviser certificates pursuant to section 25232(a).

79. As alleged in paragraphs 20, 27, 42, 47, 52, 59, and 74 herein, Respondents willfully violated several provisions of the CSL, thus warranting the revocation of Magister's investment adviser certificates pursuant to section 25232(e).

80. As alleged in paragraphs 20, 27, 32, 42, 47, 52, 59, 65, and 74 herein, Respondents violated several provisions of the CSL, thus warranting the revocation of Magister's investment adviser certificates pursuant to section 25232(h).

VI.

NOTICE OF INTENT TO ISSUE ORDER LEVYING ADMINISTRATIVE PENALTIES

81. The Commissioner re-alleges and incorporates by reference paragraphs 1 to 74, as though fully set forth herein.

82. Section 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.

83. Based on the foregoing findings, the Commissioner finds that Respondents willfully violated sections 25235, 25238 and 25241 and the regulations promulgated in 10 C.C.R. 260.235.4, 10
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C.C.R. 260.237, 10 C.C.R. 260.237.2, 10 C.C.R. 260.238, 10 C.C.R. 260.241.2, 10 C.C.R. 260.241.3, and 10 C.C.R. 260.241.4.

84. Pursuant to section 25252(b), the Commissioner hereby provides notice of intent to levy administrative penalties against Magister Capital Management, LLC and Carlos Zapata 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 sections 25235, 25237, 25238 and 25241 and the regulations promulgated in 10 C.C.R. 260.235.4, 10 C.C.R. 260.237, 10 C.C.R. 260.237.2, 10 C.C.R. 260.238, 10 C.C.R. 260.241.2, 10 C.C.R. 260.241.3, and 10 C.C.R. 260.241.4.

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

a. That pursuant to section 25252 (b), the Commissioner levy administrative penalties of \$5,000.00 for the first violation of section 25235 and the regulations promulgated in California Code of Regulations, Title 10, \$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 17 for fiscal years 2018 (Custody Paragraph);
- ii. Second violation: \$10,000.00 for the second violation in paragraph 17 for fiscal years 2019 (Custody Paragraph);
- iii. Additional violations:

A. \$15,000.00 each, for the omission in paragraph 31, not made to nine customers; and

b. That pursuant to section 25252 (b), the Commissioner levy administrative penalties of \$15,000.00 for each violation of section 25237 and the regulations promulgated in California Code of Regulations, Title 10, as listed below, for a total amount of \$1,050,000.00, or according to proof:

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i. Additional violations:

A. \$15,000.00 each, for the violations in paragraph 25, for a period of 70 months;

c. That pursuant to section 25252 (b), the Commissioner levy administrative penalties of \$15,000.00 for each violation of section 25238, and the regulations promulgated in California Code of Regulations, Title 10, as listed below, for a total amount of \$195,000.00, or according to proof:

i. Additional violations:

A. \$15,000.00 each, for the violations in paragraph 44, with nine California clients; and

B. \$15,000.00 each, for the violations in paragraph 49, with four California clients.

d. That pursuant to section 25252, the Commissioner levy administrative penalties of \$15,000.00 for each violation of section 25241, and the regulations promulgated in California Code of Regulations, Title 10, as listed below, for a total amount of \$345,000.00, or according to proof:

i. Additional violations:

A. \$15,000.00 each, for the violations in paragraph 40, for fiscal years 2018 through 2024;

B. \$15,0000 for the violation in paragraph 54a;

C. \$15,0000 for the violation in paragraph 54b;

D. \$15,0000 for the violation in paragraph 54c;

E. \$15,0000 for the violation in paragraph 54d;

F. \$15,0000 for the violation in paragraph 54e;

G. \$15,0000 for the violation in paragraph 54f;

H. \$15,0000 for the violation in paragraph 54g;

I. \$15,000.00 each, for the violations in paragraph 55, with two California clients;

J. \$15,000.00 each, for the violations in paragraph 56, with four California clients; and

K. \$15,000.00 each, for the violations in paragraph 71, for fiscal years 2020 through 2024.

The total amount of administrative penalties for violations of sections 25235, 25237, 25238 and 25241 is \$1,740,000.00, or according to proof.

VII.

CONCLUSION

85. Based on the foregoing, the Commissioner finds that grounds exist, and that it in the public interest to enter orders: (1) desist and refrain order against Magister Capital Management LLC and Carlos Zapata, pursuant to section 25532; (2) revoking the investment adviser certificate of Magister Capital Management LLC, pursuant to section 25232; and (3) levy administrative penalties against Magister Capital Management LLC and Carlos Zapata. The Commissioner hereby notifies Magister Capital Management LLC and Carlos Zapata of his intention to make such orders final.

86. These Orders are necessary, in the public interest, for the protection of investors, and consistent with the purposes, policies, and provisions of the CSL.

PRAYER

WHEREFORE, good cause showing, the Commissioner prays for relief, as follows:

1. For an order, pursuant to section 25232, revoking the investment adviser certificate of Magister Capital Management LLC and prohibiting Carlos Zapata from accepting new investment adviser business or making any additional investment of client funds, but permitting him to continue servicing existing Magister client accounts in order to allow a winding down and liquidation of the Magister Capital Management LLC, and to return the funds to each of the investors as soon as practically feasible.

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2. For an order, pursuant to section 25252, levying administrative penalties against Magister Capital Management LLC and Carlos Zapata, totaling \$1,740,000.00, or according to proof.

Dated: March 18, 2025

KHALIL MOHSENI

Commissioner of Financial Protection and Innovation



By:

MARY ANN SMITH
Deputy Commissioner
Enforcement Division