State of California - Department of Business Oversight	1 2 3 4 5 6 7 8 9 10	MARY ANN SMITH Deputy Commissioner DOUGLAS M. GOODING Assistant Chief Counsel EDWARD KELLY SHINNICK (CA Bar No. 96209) Senior Corporations Counsel One Sansome Street, Suite 600 San Francisco, CA 94104 Tel: 415/972-8544 Fax: 415/972-8550 Attorneys for Complainant BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT	
	11	OF THE STATE OF CALIFORNIA	
	12	OF THE STATE	OF CALIFORNIA
	13	In the Matter of the Accusation of	CASE NO.
	14	THE COMMISSIONER OF BUSINESS	
	15	OVERSIGHT,	ACCUSATION IN SUPPORT OF INTENTION TO ISSUE ORDER BARRING
	16	Complainant,	AARON HUGH BRAUN FROM ANY POSITION OF EMPLOYMENT,
	17	v. )	MANAGEMENT OR CONTROL OF ANY
	18	AARON HUGH BRAUN	INVESTMENT ADVISER, BROKER- DEALER OR COMMODITY ADVISER PURSUANT TO CORPORATIONS CODE
	19	Respondent.	SECTION 25232.1
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	23	)	
	24	JAN LYNN OWEN, the California Commissioner of Business Oversight ("Commissioner")	
	25	alleges and charges as follows:	
	26	I. JURISDICTION AND VENUE	
	27	1. The Commissioner brings this action pursuant to Corporations Code section 25232.1,	
	28	and the rules and regulations promulgated thereunder.	
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	ACCUSATION IN SUPPORT OF INTENTION TO ISSUE ORDER BARRING A		
		BRAUN	

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2. The Commissioner is authorized to administer and enforce the provisions of the Corporate Securities Law of 1968, Corporations Code section 25000 et seq., 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 Aaron Hugh Braun ("Braun") from any position of employment, management or control of any investment adviser, broker-dealer or commodity adviser pursuant to Corporations Code section 25232.1.

4. WC Capital Management, LLC ("WC Capital") was a limited liability company formed in California with a business address of 300 Drake Landing Road, Suite 230, Greenbrae, California 94904. On November 9, 2007, WC Capital was certified with the California Department of Corporations (now the Department of Business Oversight and referred to hereafter as "the Department") as an Investment Adviser. Braun was the direct owner and sole managing member of WC Capital. On August 22, 2011 the Commissioner revoked WC Capital's Investment Adviser certification, for failure to update the brochure. The brochure is the Investment Adviser's primary disclosure document, and an Investment Adviser is required to deliver annually to clients a summary of all material changes to the brochure.

5. According to WC Capital's most recent Form ADV dated November 25, 2011, it had \$8,845,000.00 in funds under management in two accounts. It provided advisory services including portfolio management for businesses or institutional clients, and had discretionary control over purchasing and selling securities in pooled investment vehicles (e.g. hedge funds), at times as a general partner in partnership with advisory clients. WC Capital received compensation calculated on the basis of a percentage of assets under management and performance-based fees.

On December 28, 2011, Plaintiff Scott Delman ("Delman") filed a Complaint, Civil
Case No. CIV 1106302, in the Superior Court of the State of California, County of Marin, against
Braun, WC Capital, and Willow Creek Capital Partners, L.P., that included causes of action for
breach of fiduciary duty and "intentional misrepresentation/fraud". The complaint alleged that
Braun, as investment promoter and fund manager, took \$250,000 from Delman in August of 2008,
under the auspices that Braun would invest the money conservatively and return it to Delman upon

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Delman's request. According to the complaint, contrary to the agreement and without Delman's knowledge, Braun used Delman's funds to borrow huge sums of money in loaned securities from UBS, so that Braun could engage in highly aggressive and increasingly risky short-selling strategies. The complaint further alleges that not long after Braun had accepted \$30 million in non-cash assets from an undisclosed affiliated investor, UBS informed Braun that his mix of assets had become too risky, was over-leveraged, and demanded that he post more collateral. Delman's complaint further alleges that Braun did not disclose these developments to Delman or other investors knowing that the disclosure would cause investors to exit the Partnership and deprive Braun of management fees.

7. Delman's complaint reads as follows: "By November 2011, after months of laborious and expensive effort by Mr. Delman aimed at obtaining credible information about the status of his funds....Delman was on the verge of filing a lawsuit seeking return of his investment plus punitive damages and legal fees. Mr. Delman presented to Braun a draft complaint substantially identical to the one before the Court (with the exception of all post-November 2011 events). Braun, in an effort to avoid facing Mr. Delman's complaint, executed a written agreement promising that, if the \$263,000 did not arrive on or before December 19, 2011, Braun would pay Delman \$750,000 pursuant to a stipulated judgment as a remedy for Mr. Delman's claim of intentional misrepresentation. Braun failed to pay the \$263,000 as agreed." (Complaint, p. 2, para. 2)

8. Shortly after Delman filed the Complaint, a judgment was filed in that same action on March 29, 2012, that reads "Judgment is entered in favor of Plaintiff's (Delman's) cause of action for intentional misrepresentation in the amount of \$750,000."

## III. AARON BRAUN SHOULD BE BARRED FROM ANY POSITION OF EMPLOYMENT, MANAGEMENT OR CONTROL OF ANY INVESTMENT ADVISER, BROKER-DEALER OR COMMODITY ADVISER PURSUANT TO CORPORATIONS CODE SECTION 25232.1 FOR ACTS COMMITED AS SPECIFIED UNDER CORPORATIONS CODE SECTION 25232, SUBDIVISION (b)(2)

9. Corporations Code Section 25232.1 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 bar from any position of employment, management or control of any investment adviser, broker-dealer or commodity adviser, any officer, director, partner, employee of, or person performing similar functions

ACCUSATION IN SUPPORT OF INTENTION TO ISSUE ORDER BARRING AARON HUGH BRAUN

for, an investment adviser, or any other person, if he or she finds that the censure, suspension or bar is in the public interest and that the person...has been convicted of any offense or held liable in any action specified in subdivision (b) of Section 25232...."

10. 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, or 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:...

(b) Has been either (1) convicted of or has pled nolo contendere to any felonv or misdemeanor, or (2) held liable in a civil action by final judgment of a court based upon conduct showing moral turpitude, and the commissioner finds that the felony, misdemeanor or civil action (A) involved the purchase or sale of any security, (B) arose out of the conduct of the business of a broker-dealer or investment adviser, (C) involved theft, or (D) involved the violation of Section 1341, 1342, or1343 of Title 18 of the United States Code.

## **IV. CONCLUSION**

Based on the foregoing, the Commissioner of Business Oversight finds that grounds exist and

that it is in the public interest to bar Aaron H. Braun from any position of employment, management

or control of any investment adviser, broker-dealer or commodity adviser pursuant to Corporations

Code section 25232.1, for acts committed as specified in Corporations Code section 25232

subdivision (b)(2), as described above. The Commissioner hereby notifies Aaron H. Braun of its

intention to make such Order final.

Dated: January 21, 2015 San Francisco, California JAN LYNN OWEN Commissioner of Business Oversight

By: EDWARD KELLY SHINNICK Senior Enforcement Counsel

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