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9
10 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
OF THE STATE OF CALIFORNIA

11 In the Matter of:) CRD No. 150823
12 CATAMOUNT STRATEGIC ADVISORS,) CONSENT ORDER
13 LLC,)
14 Respondent.)
15)
16)
17)

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19 Respondent Catamount Strategic Advisors, LLC (“Catamount”) and Complainant the
20 Commissioner of Business Oversight (“Commissioner”) enter into this Consent Order (“Order”)
21 based on the following facts:

22 **RECITALS**

- 23 A. The Commissioner is authorized to administer and enforce the provisions of the California
24 Corporate Securities Law of 1968 (“CSL”) (Corp. Code, § 25000 et seq.) and the regulations
25 promulgated thereunder (Cal. Code Regs., tit. 10, § 250.9 et seq.), which includes the licensure and
26 regulation of investment advisers.
27 B. Respondent Catamount (Central Registration Depository No. 150823) is a California limited
28 liability company with its primary place of business at 101 California Street, Suite 4100, San

1 Francisco, California 94111.

2 C. Cobb H. Sadler (“Sadler”) represents that he is a principal and owner of Catamount and has
3 authority to consent to this Order on its behalf.

4 D. Catamount operated an investment adviser business under a certificate issued by the
5 Department of Business Oversight (“Department”) up until January 1, 2016, when the certificate was
6 summarily revoked for failure to pay renewal fees on time.

7 E. On December 31, 2015, Catamount had insufficient funds in its license renewal account
8 linked to the Investment Adviser Registration Depository (“IARD”), which is the online system used
9 by the Department for investment advisers to apply for and renew their investment adviser
10 certification with the Department. Due to Catamount’s lack of funds, the IARD system automatically
11 changed Catamount’s registration status to “Failure to Renew.”

12 F. On January 29, 2016, Catamount’s investment adviser certificate was revoked by the
13 Department for failure to pay annual renewal fees. Written notices of the Department’s intent to
14 revoke and the subsequent revocation of the certificate were sent by certified mail to Catamount’s
15 registered business address. Catamount did not receive the notices sent by certified mail, as no one
16 was present at its offices to sign for receipt when the postal service repeatedly attempted to deliver
17 them, according to postal records. Both notices were returned to the Department as “undeliverable”
18 by the postal service.

19 G. On April 14, 2016, Catamount filed an application for an investment adviser certificate after
20 becoming aware that its certificate had been revoked. During a review of the filing, the Department
21 discovered that Catamount had been conducting business as an investment adviser subsequent to its
22 license revocation. The Department found that Catamount had collected \$2,969.69 in investment
23 adviser fees for servicing client accounts and had received an additional \$80,541.00 for “research
24 service fees” from one client during the unlicensed time period of January 2016 to May 4, 2016.

25 H. On July 8, 2016, Catamount provided to the Department, at its request, a list of its investors
26 and the amounts each had invested, and also provided information demonstrating that the \$2,969.69
27 in fees received while unlicensed had already been returned to investors. Catamount had not yet
28 returned the “research services fees” totaling \$80,541.00 because it contended that such research

1 services were based on an agreement with the client and were not investment adviser activities and/or
2 were exempt. However, the Department has concluded after its investigation that providing research
3 to a specific client regarding a securities investment for compensation is an investment adviser
4 activity requiring a certificate. Catamount has agreed to refund the \$80,541.00 in fees to the client as
5 part of this Order.

6 I. The Commissioner is of the opinion that, after January 29, 2016, when its license was revoked
7 by the Department for the failure to pay renewal fees, Catamount conducted business as an
8 investment adviser in this state without first applying for and securing from the Commissioner a
9 certificate, then in effect, authorizing it to do so, in violation of Corporations Code section 25230,
10 subdivision (a).

11 J. The Department informed Catamount of its findings and of its intent to bring an
12 administrative enforcement action to require disgorgement of the fees charged to clients after its
13 license had been revoked, in addition to other remedies authorized by the CSL.

14 K. Catamount admits to the jurisdiction of the Department and consents to entry of this Order
15 by the Department as settlement of the issues contained in this Order without the need to file an
16 enforcement action for its violations.

17 L. The Commissioner finds that this Order is necessary, in the public interest, for the protection
18 of investors, and consistent with the purposes, policies, and provisions of the CSL.

19 **TERMS**

20 1. Desist and Refrain Order. Pursuant to Corporations Code section 25532, subdivision (b),
21 Catamount agrees to desist and refrain from acting as an investment adviser in the State of California
22 unless and until it has first applied for and then secured from the Commissioner a certificate, then in
23 effect, authorizing it to act as an investment adviser.

24 2. Disgorgement of Fees. Catamount agrees to disgorge all investment adviser fees, including
25 fees for research services it charged its clients during the period of unlicensed activity from January
26 1, 2016 to the date of this Order. Catamount attests that it has already returned all investment adviser
27 management fees charged during this time to the appropriate client accounts in the amount of
28 \$2,969.69. Further, Catamount agrees to disgorge the additional \$80,541.00 in “research service

1 fees” it collected from the affected client(s) within 30 days of the issuance of this Order. Catamount
2 will submit a written report to the Department within 90 days of the issuance of this Order providing
3 a description of the amounts of the refunded fees paid along with proof of the acceptance of the fees
4 by the client or proof that the attempted refund was returned in the mail as undeliverable or that the
5 refund check was not cashed by the client. Any of the excess fees that cannot be returned to the
6 affected client(s) after the 90 days shall be escheated to the state pursuant to the provisions of the
7 California Unclaimed Property Law (Code Civ. Proc., § 1500 et seq.).

8 3. Administrative Penalties. Catamount agrees to pay administrative penalties pursuant to
9 Corporations Code section 25252 in the amount of \$5,000.00, due and payable to the Department
10 within 10 days of execution of this Order. Payment shall be made by check payable to the
11 “Department of Business Oversight,” and mailed to the attention of: Accounting, Department of
12 Business Oversight, 1515 K Street, Suite 200, Sacramento, California 95814.

13 4. Remedy for Breach. In the event Catamount fails to comply with the terms of this Order, it is
14 hereby stipulated and agreed by Catamount that this Order may be converted to an enforceable civil
15 judgment for the entire amount of \$85,451.00 pursuant to the procedure specified by Corporations
16 Code section 25532, subdivision (f). It is further agreed and stipulated that such civil judgment may
17 be entered by the court on an *ex parte* basis without the need of further notice or hearing to
18 Catamount. It is agreed by the Department that any of the fees that have already been disgorged by
19 Catamount or penalties already paid by Catamount will count as and offset and a partial satisfaction
20 of the total amount of the civil judgment entered in any subsequent proceeding to enforce the civil
21 judgment.

22 5. Waiver of Hearing Rights. Catamount has read this Order, is aware of a right to a hearing
23 and appeal in this matter if a formal enforcement action had been commenced to request the
24 relief specified under this Order, and elects to permanently waive any right to a hearing and appeal,
25 including those under Corporations Code sections 25232, 25232.1 and 25233, and to judicial
26 review of this matter pursuant to the Code of Civil Procedure section 1094.5, with respect to the
27 issuance of this Order.

28 6. Future Actions by the Commissioner. The Commissioner reserves the right to bring any

1 future action(s) against Catamount or any of its partners, owners, officers, directors, shareholders,
2 employees, or successors for any and all unknown or future violations of the CSL. This Order
3 shall not serve to exculpate Catamount or any of its partners, owners, officers, directors,
4 shareholders, employees, or successors from liability for any and all unknown or future violations
5 of the CSL.

6 7. Public Record. Catamount hereby acknowledges that this Order is and will be a matter of
7 public record.

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Dated: January 17, 2017

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division

Dated: January 13, 2017

By _____
Cobb H. Sadler
Catamount Strategic Advisors, LLC