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8
9 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
10 OF THE STATE OF CALIFORNIA

11 In the Matter of:)
)
12 THE COMMISSIONER OF BUSINESS)
OVERSIGHT,) STATEMENT IN SUPPORT OF ORDER
13) LEVYING ADMINISTRATIVE PENALTIES
14 Complainant,) PURSUANT TO CORPORATIONS CODE
v.) SECTION 25252
15)
16 Joseph P. Guinan and Power of the Prayers,)
LLC,)
17)
18 Respondents.)

19 Jan Lynn Owen, the Commissioner ("Commissioner") of the Department of Business
20 Oversight ("DBO"), collectively ("Complainant"), alleges and charges as follows:

21 I.
22 Statement of Facts

23 1. At all relevant times herein, Joseph P. Guinan (Guinan) was a principal of the Power
24 of the Prayers, LLC (Power), a New Mexico limited liability company, with a principal place of
25 business at 4014 Central Avenue Southeast, Suite 1, Albuquerque, New Mexico 87108-1159.

26 A. Violation of Corporations Code Section 25110
27 (Unqualified Offer of Securities)

28 2. On or about October 15, 2016, Guinan and Power, by way of an issuer transaction,

1 offered to J.J. (Investor), a California resident, securities in the form of an interest in their proposed
2 film project, “Power of the Prayers.” The purpose of the offering was to seek funding for the film
3 project and generate revenue through distribution and profits resulting from the marketing of that
4 film.

5 3. Guinan and Power offered the Investor three ways to be a partner:

- 6 i. Partners would get 45 points of the Power profits if they invested \$1.6 million.
- 7 ii. Partners would get 20 points of the Power profits if they invested \$800,000.00.
- 8 iii. Partners would get 1 point of the Power profits if they invested \$45,000.00.

9 Guinan and Power sent Investor a “Deal Memo” to this effect.

10 4. The investments offered by Guinan and Power are securities subject to qualification
11 under the Corporate Securities Law of 1968 (CSL) (Corp. Code, § 25000 et seq.).

12 5. Corporations Code section 25110 prohibits the offer and/or sale of non-qualified or
13 non-exempt securities in this state.

14 B. Violation of Corporations Code Section 25401
15 (Omission of a Material Fact)

16 6. In connection with the offer of these securities, Guinan and Power made or caused
17 to be made, misrepresentations of material facts, or omitted to state material facts, necessary in
18 order to make the statements made, in the light of the circumstances under which they were made,
19 not misleading.

20 i. Omission of 2012 Desist and Refrain Order (“2012 Order”)

21 Guinan and Power omitted to inform the Investor that the Commissioner issued the
22 2012 Order against Guinan and his company, White Buffalo New Media (Buffalo), on April 23,
23 2012, prohibiting them from offering or selling securities in the State of California unless and until
24 qualification had been made under this law or unless exempt. On July 5, 2012, Guinan was
25 personally served as an individual and as principal of Buffalo.

26 ii. Omission of 2013 Desist and Refrain Order (“2013 Order”)

27 Guinan and Power omitted to inform the Investor that the Commissioner issued the
28 2013 Order against Guinan and his companies, Ghost Aliens, LLC (Ghost) and A1UC, LLC

1 (A1UC), on June 28, 2013, prohibiting them from offering or selling securities in the State of
2 California unless and until qualification had been made under this law or unless exempt. Guinan,
3 Ghost, and A1UC were served in accordance with section 25550 of the Corporations Code on
4 September 18, 2013.

5 iii. Omission of 2013 Order Levying Administration Penalties Pursuant to Corporations
6 Code section 25252 (“2013 Penalty Order”)

7 Guinan and Power failed to disclose to the Investor that the Commissioner issued the
8 2013 Penalty Order against Guinan and his companies, Ghost and A1UC, on November 27, 2013,
9 ordering total amount \$3,000.00 in penalties, for violating the 2012 Order by offering securities in
10 California without first having a qualification or an exemption. Guinan, Ghost, and A1UC were
11 served in accordance with Corporations Code section 25550 on December 4, 2013.

12 7. Corporations Code section 25401 prohibits the offer and/or sale of securities in this
13 state by means of written or oral communications that include untrue statements of material facts or
14 omit material facts necessary in order to make the statements made, in the light of the circumstances
15 under which they were made, not misleading. Guinan’s omissions of the 2012 Order, the 2013
16 Order, and the 2013 Penalty Order constitute omissions of material facts during the offer and/or sale
17 of securities in this state.

18 C. Violation of 2012 Order

19 8. On April 23, 2012, the Commissioner issued the 2012 Order against Guinan and
20 Buffalo as a result of the offer of unqualified, nonexempt securities in the form of interests or
21 “Points” in limited liability partnerships involved in the development of various film production
22 projects in violation of Corporations Code section 25110.

23 9. The 2012 Order prohibits Guinan, Ghost, and A1UC from further offering or selling
24 securities in the State of California unless and until qualification has been made under this law or
25 unless exempt.

26 10. The 2012 Order was personally served on Guinan on July 5, 2012.

27 11. Guinan had 30 days to request a hearing to challenge the 2012 Order and he did not.
28 Consequently, the 2012 Order became a final order under Corporations Code section 25532,

1 subdivision (f).

2 12. Guinan, Ghost, and A1UC violated the 2012 Order by offering securities to a non-
3 accredited investor on or around December 2, 2012 (only five months after the 2012 Order was
4 served on Guinan). Guinan and Power also violated the 2012 Order on or around October 15, 2016,
5 by offering securities to the Investor. These securities were not qualified or exempt from
6 qualification.

7 D. Violation of 2013 Order

8 13. On June 28, 2013 the Commissioner issued the 2013 Order against Guinan, Ghost,
9 and A1UC as a result of the offer of unqualified, nonexempt securities in the form of interests or
10 “Points” in limited liability partnerships involved in the development of various film production
11 projects, in violation of Corporations Code section 25110.

12 14. The 2013 Order prohibits Guinan, Ghost, and A1UC from further offering or selling
13 securities in the State of California unless and until qualification has been made under this law or
14 unless exempt.

15 15. Guinan, Ghost, and A1UC were served in accordance with section 25550 of the
16 Corporations Code on September 18, 2013.

17 16. Guinan had 30 days to request a hearing to challenge the 2013 Order and he did not.
18 Consequently, the 2013 Order became a final order pursuant to Corporations Code section 25532,
19 subdivision (f).

20 17. Guinan and Power violated the 2013 Order on or around October 15, 2016, by
21 offering securities to the Investor. These securities were not qualified or exempt from qualification.

22 E. Violation of 2013 Penalty Order

23 18. On November 27, 2013, the Commissioner issued the 2013 Penalty Order for a total
24 amount of \$3,000.00 against Guinan, Ghost, and A1UC as a result of willful violations of the 2012
25 Order by offering securities that were not qualified or exempt to investors in this state, and by
26 omitting material information in association with that offer.

27 19. The 2013 Penalty Order is a final order of the Commissioner, pursuant to section
28 25252 of the Corporations Code. Guinan, Ghost, and A1UC were served in accordance with section

1 25550 of the Corporations Code on December 4, 2013.

2 20. Guinan, Ghost, and A1UC violated the 2013 Penalty Order by never making any
3 payments of penalties to the DBO.

4 II.
5 Order Levying Administrative Penalties
6 (For violations of Corporations Code sections 25110 and 25401, and
7 the 2012 Order, 2013 Order, and 2013 Penalty Order)

8 21. Corporations Code section 25252 authorizes the Commissioner to issue an order
9 levying administrative penalties against any person for willful violations of any provision of the
10 Corporations Code, and any rules promulgated thereunder or orders issued thereunder.

11 Specifically, Corporations Code section 25252 provides, in relevant part:

12 The commissioner may, after appropriate notice and opportunity
13 for hearing, by orders, levy administrative penalties as follows:

14 (a) Any person subject to this division, other than a broker-dealer
15 or investment adviser, who willfully violates any provision of this
16 division, or who willfully violates any rule or order adopted or
17 issued pursuant to this division, is liable for administrative
18 penalties of not more than one thousand dollars (\$1,000) for the
19 first violation, and not more than two thousand five hundred
20 dollars (\$2,500) for each subsequent violation.

21 22. Based on the foregoing findings, as set forth fully above, Guinan and Power willfully
22 violated the following:

23 i. Corporations Code section 25110 by offering securities that are not qualified
24 or exempt to the Investor in California;

25 ii. Corporations Code section 25401 by omitting the material fact of the 2012
26 Order in association with the offer of securities to the Investor in California;

27 iii. Corporations Code section 25401 by omitting the material fact of the 2013
28 Order in association with the offer of securities to the Investor in California;

iv. Corporations Code section 25401 by omitting the material fact of the 2013
Penalty Order in association with the offer of securities to the Investor in California;

v. the 2012 Order as a result of offering and/or selling securities that are not

1 qualified or exempt to the Investor in California;

2 vi. the 2013 Order as a result of offering and/or selling securities that are not
3 qualified or exempt to the Investor in California; and

4 vii. the 2013 Penalty Order by not paying the penalties ordered.

5 WHEREFORE, good cause showing, and pursuant to Corporations Code section 25252, the
6 Commissioner prays for an order levying administrative penalties against Guinan and Power, jointly
7 and severally, for a total of \$16,000.00 as follows:

8 i. Pursuant to Corporations Code section 25252, administrative penalties of
9 \$1,000.00 for the violation of Corporations Code section 25110;

10 ii. Pursuant to Corporations Code section 25252, administrative penalties of
11 \$2,500.00 for the violation of omitting the material fact of the 2012 Order in association with the
12 offer of securities to the Investor in California;

13 iii. Pursuant to Corporations Code section 25252, administrative penalties of
14 \$2,500.00 for the violation of omitting the material fact of the 2013 Order in association with the
15 offer of securities to the Investor in California;

16 iv. Pursuant to Corporations Code section 25252, administrative penalties of
17 \$2,500.00 for the violation of omitting the material fact of the 2013 Penalty Order in association
18 with the offer of securities to the Investor in California;

19 v. Pursuant to Corporations Code section 25252, administrative penalties of
20 \$2,500.00 for the violation of the 2012 Order;

21 vi. Pursuant to Corporations Code section 25252, administrative penalties of
22 \$2,500.00 for the violation of the 2013 Order; and

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vii. Pursuant to Corporations Code section 25252, administrative penalties of \$2,500.00 for the violation of the 2013 Penalty Order.

Dated: May 23, 2017

JAN LYNN OWEN
Commissioner of Business Oversight

By: _____
JOANNE ROSS
Senior Counsel
Enforcement Division