

1 MARY ANN SMITH
Deputy Commissioner
2 MIRANDA LEKANDER
Assistant Chief Counsel
3 JOANNE ROSS (State Bar No. 202338)
Senior Counsel
4 Department of Business Oversight
1515 K Street, Suite 200
5 Sacramento, California 95814
Telephone: (916) 324-9687
6 Facsimile: (916) 445-6985

7
8 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
9 OF THE STATE OF CALIFORNIA

10 In the Matter of:) CRD NO.: 135856
11)
12 THE COMMISSIONER OF BUSINESS) CONSENT ORDER
13 OVERSIGHT,)
14)
15 Complainant,)
16 v.)
17 ARCHIE JOHN LUSE, doing business as)
18 HARBOR ISLAND WEALTH)
MANAGEMENT,)
Respondent.)

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20 Complainant, the Commissioner of Business Oversight (Commissioner) and Respondent,
21 Archie John Luse, doing business as Harbor Island Wealth Management (Luse) (hereinafter, the
22 Parties), enter into this Consent Order based on the following facts:

23 **RECITALS**

24 A. The Commissioner licenses and regulates investment advisers under the Corporate
25 Securities Law of 1968 (CSL) (Corp. Code, § 25000 et seq.).

26 B. To become licensed by the Commissioner as an investment adviser, an individual
27 must submit an application form through the Investment Adviser Registration Depository. On or
28 about January 1, 1997, the Commissioner issued an investment adviser license pursuant to

1 Corporations Code section 25230 to Luse (CRD No. 135856).

2 C. In November 1998 and on or about November 9, 2015, the Commissioner
3 commenced regulatory examinations of Luse. The 2015 examination revealed that Luse violated the
4 CSL and the rules and regulations promulgated thereunder, some of which were repeat violations
5 from the 1998 examination. Luse was found to be violating:

- 6 i. Corporations Code section 25235 and California Code of Regulations, title 10,
7 section 260.235, subdivision (a)(5), by including a statement in his advertisement
8 for investment advisory services that implies that clients' investments are
9 guaranteed to be worth more in the future;
- 10 ii. California Code of Regulations, title 10, section 260.237.2, by not keeping or
11 providing the required records, and/or by not maintaining a minimum net worth of
12 \$10,000;
- 13 iii. Corporations Code section 25238 and California Code of Regulations, title 10,
14 section 260.238, subdivisions (j) and (n), by not disclosing in client contracts that
15 lower fees for comparable services may be available from other sources, and by
16 not obtaining and/or maintaining client contracts in writing that disclose the full
17 terms of the agreement;
- 18 iv. Corporations Code section 25241 and California Code of Regulations, title 10,
19 section 260.241.2, subdivisions (a)(2), (3), and (4) and (d)(2), (3), and (5), by not
20 filing annual reports;
- 21 v. California Code of Regulations, title 10, section 260.241.3, subdivisions (a)(2)
22 and (4), by failing to prepare and maintain a general ledger and related
23 documents, and failing to provide cash and cash equivalent account
24 reconciliations; and,
- 25 vi. California Code of Regulations, title 10, section 260.241.4, subdivisions (a), (d)
26 and (e), by failing to maintain a current investment adviser registration and
27 reporting form, or "ADV," filed on the Investment Adviser Registration
28 Depository, and by failing to file annual updating amendments to his ADV.

1 D. Luse admits to the jurisdiction of the Commissioner and desires to resolve this matter
2 without the necessity of an enforcement action and/or other litigation; and the Commissioner finds
3 that such resolution is in the public interest.

4 NOW, THEREFORE, for good cause and valuable consideration, and the terms and
5 conditions set forth herein, the Parties agree as follows:

6 **TERMS**

7 1. Purpose: The purpose of this Consent Order is to resolve the matter before the
8 Commissioner in a manner that avoids the expense of a hearing and possible further court
9 proceedings.

10 2. Order to Discontinue Violations: Pursuant to Corporations Code section 25249, Luse
11 agrees to discontinue the violations set forth in paragraph C above.

12 3. Surrender of License: Luse agrees that on the Effective Date of this Consent Order, as
13 defined in Paragraph 18 of this Consent Order, his investment adviser license will be deemed
14 surrendered and he will no longer be licensed. Luse agrees to cease engaging in the business of
15 providing investment advisory services on the Effective date of this Consent Order, unless and until
16 he becomes re-licensed by the Commissioner. Luse will inform his clients in writing within one
17 week of the Effective Date of this Consent Order that he is no longer licensed to provide investment
18 advisory services.

19 4. Penalty for Further Investment Adviser Activities: Luse agrees that if the
20 Commissioner hereafter finds, within her sole discretion, that he has engaged in investment adviser
21 activities in violation of this Consent Order, Luse shall pay an administrative penalty of \$5,000
22 (Penalty) to the Commissioner within 10 days of written demand by the Commissioner. The Penalty
23 shall be paid by check made payable to the "Department of Business Oversight," and mailed to the
24 attention of Accounting-Litigation, Department of Business Oversight, 1515 K Street, Suite 200,
25 Sacramento, California 95814. Notice of payment shall be concurrently made to Joanne Ross,
26 Senior Counsel at Department of Business Oversight, 1515 K Street, Suite 200, Sacramento,
27 California 95814.

28 5. Remedy for Breach: In the event Luse fails to comply with the terms of this Consent

1 Order with regard to any terms in this Consent Order, it is hereby agreed by Luse that this Consent
2 Order, including the Penalty stipulated in Paragraph 4, shall be deemed a final and enforceable order
3 pursuant to the procedure specified by Corporations Code section 25532, subdivision (f). It is
4 further agreed and stipulated that any civil judgment may be entered by the court on an ex parte basis
5 without the need of further notice or hearing to Luse.

6 6. Waiver of Hearing Rights: Luse acknowledges that the Commissioner is ready,
7 willing and able to proceed with the filing of an enforcement action on the charges contained in this
8 Consent Order, and Luse hereby waives the right to a hearing, and to any reconsideration, appeal, or
9 other right to review which may be afforded pursuant to the CSL. Luse further expressly waives any
10 requirement for the filing of an Accusation or other action that may be afforded by Government
11 Code section 11415.60, subdivision (b), the California Administrative Procedure Act, the California
12 Code of Civil Procedure, or any other provision of law, and by waiving such rights, Luse effectively
13 consents to this Consent Order becoming final.

14 7. Future Actions by the Commissioner: The Commissioner reserves the right to bring
15 any future action(s) against Luse for any and all unknown or future violations of the CSL. This
16 Consent Order shall not serve to exculpate Luse from liability for any and all unknown or future
17 violations of CSL.

18 8. Independent Legal Advice: Each of the Parties represents, warrants, and agrees that it
19 has received or been advised to seek independent legal advice from its attorneys with respect to the
20 advisability of executing this Consent Order.

21 9. No Other Representation: Each of the Parties represents, warrants, and agrees that in
22 executing this Consent Order, it has relied solely on the statements set forth herein and the advice of
23 its own counsel. Each of the Parties further represents, warrants, and agrees that in executing this
24 Consent Order, it has placed no reliance on any statement, representation, or promise of any other
25 party, or any other person or entity not expressly set forth herein, or upon the failure of any party or
26 any other person or entity to make any statement, representation or disclosure of anything
27 whatsoever. The Parties have included this clause: (1) to preclude any claim that any party was in
28 any way fraudulently induced to execute this Consent Order; and (2) to preclude the introduction of

1 parol evidence to vary, interpret, supplement, or contradict the terms of this Consent Order.

2 10. Modifications and Qualified Integration: No amendment, change or modification of
3 this Consent Order shall be valid or binding to any extent unless it is in writing and signed by all
4 parties affected by it.

5 11. Full Integration: This Consent Order is the final written expression and the complete
6 and exclusive statement of all the agreements, conditions, promises, representations, and covenants
7 between the Parties with respect to the subject matter hereof, and supersedes all discussions between
8 and among the Parties, their respective representatives, and any other person or entity, with respect
9 to the subject matter covered hereby.

10 12. No Presumption From Drafting: In that the Parties have had the opportunity to draft,
11 review and edit the language of this Consent Order, no presumption for or against any party arising
12 out of drafting all or any part of this Consent Order will be applied in any action relating to,
13 connected to, or involving this Consent Order. Accordingly, the Parties waive the benefit of Civil
14 Code section 1654 and any successor or amended statute, providing that in cases of uncertainty,
15 language of a contract should be interpreted most strongly against the party who caused the
16 uncertainty to exist.

17 13. Counterparts: This Consent Order may be executed in any number of counter-parts
18 by the Parties, and when each party has signed and delivered at least one such counterpart to the
19 other party, each counterpart shall be deemed an original and taken together shall constitute one and
20 the same Consent Order. A fax signature shall be deemed the same as an original signature.

21 14. Terms, Headings and Governing Law: All terms used, but not defined herein, shall
22 have the meaning assigned to them by the CSL. The headings to the paragraphs of this Consent
23 Order are inserted for convenience only and will not be deemed a part hereof or affect the
24 construction or interpretation of the provisions hereof. This Consent Order shall be construed and
25 enforced in accordance with, and governed by, the laws of the State of California.

26 15. Authority for Consent Order: Each signatory hereto covenants that he/she possesses
27 all necessary capacity and authority to sign and enter into this Consent Order. Each party warrants
28 and represents that such party is fully entitled and duly authorized to enter into and deliver this

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Consent Order. In particular, and without limiting the generality of the foregoing, each party warrants and represents that it is fully entitled to enter into the covenants, and undertake the obligations set forth herein.

16. Public Record: Luse hereby acknowledges that this Consent Order will be a matter of public record. Luse further understands and agrees to not make any statement or representation that is inconsistent with this Consent Order.

17. Voluntary Agreement: The Parties each represent and acknowledge that he, she or it is executing this Consent Order completely voluntarily and without any duress or undue influence of any kind from any source.

18. Effective Date: This Consent Order shall not become effective until signed by all parties and electronically emailed to A. John Luse at john.luse.ria@gmail.com.

Dated: October 11, 2017

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division

Dated: October 11, 2017

By _____
A. JOHN LUSE
in his individual capacity and on behalf of
HARBOR ISLAND WEALTH MANAGEMENT