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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF SAN DIEGO**

11 THE PEOPLE OF THE STATE OF
12 CALIFORNIA, by and through the
13 CALIFORNIA CORPORATIONS
COMMISSIONER,

14 Plaintiff,

15 vs.

16 IKE PETROS IOSSIF, an individual,

17 Defendant.

Case No.: 37-2010-00103815-CU-MC-CTL

**FIRST AMENDED COMPLAINT FOR
PERMANENT INJUNCTION AND
ANCILLARY RELIEF**

**(VIOLATION OF AN ORDER ISSUED BY
THE CALIFORNIA CORPORATIONS
COMMISSIONER)**

Judge: Hon. John S. Meyer

Dept: C-61

Date Action Filed: November 8, 2010

21 Preston DuFauchard, California Corporations Commissioner, acting to protect the public
22 from unlawful and fraudulent investment advisers, brings this action in the public interest, in the
23 name of the People of the State of California. The People of the State of California allege:

24 **VENUE AND JURISDICTION**

25 1. The California Corporations Commissioner (“Commissioner” or “Plaintiff”) brings
26 this action to enjoin the defendant from violating an Order of the Commissioner issued under the
27 Corporate Securities Law of 1968 (California Corporations Code section 25000, et seq.) and to
28 enforce the defendant’s compliance with the terms of the Commissioner’s Order.

1 2. Plaintiff brings this action pursuant to California Corporations Code section 25530, in
2 his capacity as head of the California Department of Corporations.

3 3. The defendant has failed to comply with an Order issued by the Commissioner.
4 Defendant’s failure to comply with the Order took place within San Diego County and other
5 counties in the State of California. Violation of the Order described herein occurred and will
6 continue to occur within San Diego County and throughout the State of California unless enjoined.

7 **DEFENDANT**

8 4. Defendant IKE PETROS IOSSIF (“IOSSIF”) is an individual whose last known
9 address is 10808 Foothill Blvd., # 160-489, Rancho Cucamonga, CA 91730. At all relevant times,
10 IOSSIF was the President of and maintained full control over the activities of Aegean Capital Group,
11 Inc., a Delaware Corporation that conducted business in the State of California as an Investment
12 Adviser licensed by the Commissioner.

13 **STATEMENT OF FACTS**

14 5. Beginning on or about August 7, 2001, IOSSIF was President of and maintained full
15 control over the activities of Aegean Capital Group, Inc.

16 6. At all relevant times, IOSSIF’s company, Aegean Capital Group, Inc., was an
17 Investment Adviser licensed by the Commissioner, pursuant to California Corporations Code section
18 25230.

19 7. On or about August 12, 2009, Plaintiff filed an administrative Accusation against
20 IOSSIF, pursuant to the Commissioner’s authority to regulate the acts and practices of investment
21 advisers. The Accusation was served on IOSSIF.

22 8. In the Accusation, Plaintiff alleged that IOSSIF engaged in numerous violations of
23 the Corporate Securities Law of 1968. Specifically, that IOSSIF:

24 (A) Failed to calculate net worth in accordance with Generally Accepted Accounting
25 Principles (“GAAP”) in violation of California Corporations Code section 25241(a) and Code of
26 Regulations section 260.237.2;

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1 (B) Failed to prepare computations of net capital and aggregate indebtedness at least
2 once per month in violation of California Corporations Code section 25241(a) and Code of
3 Regulations section 260.241.3(j);

4 (C) Placed orders to trade securities in client accounts without authority to do so, and,
5 in some cases, contrary to the expressed instructions of clients, in violation of California
6 Corporations Code section 25238 and Code of Regulations section 260.238(b);

7 (D) Borrowed money from a client in violation of California Corporations Code
8 section 25238 and Code of Regulations section 260.238(f);

9 (E) Published an advertisement containing an untrue statement of material fact, or
10 which is otherwise false or misleading in violation of California Corporations Code section 25235(d)
11 and Code of Regulations section 260.235(a)(5); and

12 (F) Engaged in a practice of trading securities, known as “cherry picking,” which
13 operated as a fraud or deceit upon clients in violation of California Corporations Code section
14 25235(b).

15 9. On or about September 10, 2008, IOSSIF filed a Notice of Defense, requesting an
16 administrative hearing to challenge the allegations set forth in the Accusation.

17 10. On or about April 20, 2009, a Notice of Hearing, setting forth the date, time and place
18 of the hearing, was served on IOSSIF.

19 11. Plaintiff and IOSSIF engaged in discovery before the administrative hearing.

20 12. On or about September 15, 2009, the administrative hearing, requested by IOSSIF,
21 was held at the Office of Administrative Hearings and presided over by an Administrative Law
22 Judge. IOSSIF did not appear at the administrative hearing.

23 13. At the administrative hearing, Plaintiff introduced documentary and testimonial
24 evidence into the record.

25 14. On or about December 14, 2009, the Administrative Law Judge issued a proposed
26 Decision pursuant to the provisions of the California Administrative Procedures Act.

27 15. On or about March 22, 2010, the Commissioner issued an Order adopting the
28 proposed Decision. The Order specifies that the Decision shall become effective on March 23, 2010.

1 16. The Decision and Order made findings of fact and conclusions of law. The Decision
2 and Order found that Plaintiff proved the allegations set forth in the Accusation.

3 17. The Decision and Order required that, within 90 days of the effective date of the
4 Decision and Order, IOSSIF shall:

- 5 (A) Disgorge \$10,732.53 in investment advisory fees paid to him by clients;
- 6 (B) Make payment of restitution totaling \$1,717,190.20 to clients;
- 7 (C) Repay the loan in the amount of \$25,000.00 to his client; and
- 8 (D) Reimburse Plaintiff \$153,919.99 for investigative costs and attorneys' fees.

9 18. The Decision and Order were served on IOSSIF.

10 19. IOSSIF failed to seek reconsideration of the Decision and Order, file a writ of
11 mandate or otherwise appeal the Decision and Order. The Decision and Order is now final.

12 20. As of today's date, over 200 days from the effective date of the Decision and Order,
13 IOSSIF has failed to make any of the payments ordered by the Commissioner. Furthermore, IOSSIF
14 has failed to contact Plaintiff to request more time to comply with the Decision and Order. IOSSIF is
15 in violation of the Commissioner's Order.

16 **FIRST CAUSE OF ACTION**

17 **VIOLATION OF AN ORDER ISSUED BY**

18 **THE CALIFORNIA CORPORATIONS COMMISSIONER**

19 **(AGAINST DEFENDANT IKE PETROS IOSSIF)**

20 21. Plaintiff incorporates by reference paragraphs 1 through 20 of this Complaint as
21 though fully set forth herein.

22 22. California Corporations Code section 25530, in pertinent part, provides:

- 23 (a) Whenever it appears to the commissioner that any person has engaged or is about
- 24 to engage in any act or practice constituting a violation of any provision of this
- 25 division or any rule or order hereunder, the commissioner may in the commissioner's
- 26 discretion bring an action in the name of the people of the State of California in the
- 27 superior court to enjoin the acts or practices or to enforce compliance with this law or
- any rule or order hereunder. Upon a proper showing, a permanent . . . injunction . . .
- shall be granted . . . or any other ancillary relief may be granted as appropriate.

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1 (b) If the commissioner determines it is in the public interest, the commissioner may
2 include in any action authorized by subdivision (a) a claim for ancillary relief,
3 including but not limited to, a claim for restitution or disgorgement or damages on
4 behalf of the persons injured by the act or practice constituting the subject matter of
5 the action, and the court shall have jurisdiction to award additional relief.

6 (c) In any case in which a defendant is ordered by the court to pay restitution to a
7 victim, the court may in its order require the payment as a money judgment, which
8 shall be enforceable by a victim as if the restitution order were a separate civil
9 judgment, and enforceable in the same manner as is provided for the enforcement of
10 any other money judgment. Any order issued under this subdivision shall contain
11 provisions that are designed to achieve a fair and orderly satisfaction of the judgment.

12 (California Corporations Code § 25530.)

13 23. Plaintiff filed an Accusation against IOSSIF for alleged violations of the
14 Corporate Securities Law of 1968 and the rules and regulations thereunder.

15 24. After appropriate notice and opportunity to be heard, the Administrative Law
16 Judge issued a proposed Decision, containing findings of fact and conclusions of law as to
17 the allegations against IOSSIF as set forth in the Accusation.

18 25. The Commissioner issued an Order adopting the proposed Decision.

19 26. The Decision and Order required IOSSIF to make payments of disgorgement
20 and restitution to clients and to repay a loan given to IOSSIF by a client. The Decision and
21 Order also required IOSSIF to pay to Plaintiff certain costs and fees.

22 27. To this date, IOSSIF has not made any such payments. As such, IOSSIF is in
23 violation of the Decision and Order issued by the Commissioner.

24 28. Section 25530(a) of the California Corporations Code provides that when it
25 appears that any person has engaged in a violation of any Order issued under the Corporate
26 Securities Law of 1968 that the Commissioner may bring an action in the name of the
27 People, in the Superior Court, to enjoin violation of and enforce compliance with the Order.

28 29. The Commissioner seeks an injunction requiring IOSSIF to comply with the
Order. Unless enjoined by this Court, IOSSIF will continue to violate the Order.

30. Section 25530(b) of the California Corporations Code provides that the
Commissioner may include in an action authorized by subdivision (a) a claim for ancillary

1 relief, including but not limited to, a claim for restitution or disgorgement or damages and the
2 court shall have jurisdiction to award the additional relief.

3 31. The Commissioner seeks ancillary relief, in the form of disgorgement, restitution,
4 repayment of a loan to a client and reimbursement of investigative costs and attorneys' fees, to effect
5 the terms of the Order. Ancillary relief is necessary, in the public interest and is consistent with the
6 purposes, policies and provisions of the Corporate Securities Law of 1968.

7 **PRAYER**

8 WHEREFORE, Plaintiff prays for a final judgment against defendant IOSSIF as follows:

9 **I. INJUNCTIVE RELIEF**

10 For a Permanent Injunction, pursuant to California Corporations Code section 25530:

- 11 1. Enjoining and restraining IOSSIF from violating the Order of the Commissioner; and
- 12 2. Compelling IOSSIF to comply with the terms of the Commissioner's Order.

13 **II. ANCILLARY RELIEF**

14 For Ancillary Relief, pursuant to California Corporations Code section 25530, in accordance
15 with the terms of the Order of the Commissioner, requiring IOSSIF to:

- 16 1. Disgorge \$10,732.53 in investment advisory fees paid to him by clients;
- 17 2. Make payment of restitution totaling \$1,717,190.20 to clients;
- 18 3. Repay the loan in the amount of \$25,000.00 to his client; and
- 19 4. Reimburse Plaintiff \$153,919.99 for investigative costs and attorneys' fees.

20 **III. THIS COURT TO RETAIN JURISDICTION**

21 For an Order that this Court shall retain jurisdiction of this action in order to implement and
22 carry out the terms of all orders and decrees that may be entered herein or to entertain any suitable
23 application or motion by Plaintiff for additional relief within the jurisdiction of this Court.

24 **IV. OTHER RELIEF**

25 For such other and further relief as this Court may deem necessary and proper.

26 Dated: December 13, 2010

PRESTON DuFAUCHARD
California Corporations Commissioner

27 By: _____
28 ALEX CALERO
Corporations Counsel
Attorney for the People of California