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8
9 BEFORE THE DEPARTMENT OF CORPORATIONS
10 OF THE STATE OF CALIFORNIA

10 In the Matter of)	CASE NO.
)	
11 THE CALIFORNIA CORPORATIONS)	
12 COMMISSIONER,)	ACCUSATION; CLAIM FOR ANCILLARY
)	RELIEF AND RECOVERY OF COSTS
13)	
Complainant,)	
14)	
v.)	
)	
15 IKE PETROS IOSSIF, an individual,)	
)	
16)	
Respondent.)	
17)	

18
19 Preston DuFauchard, California Corporations Commissioner (“Commissioner”) of the
20 Department of Corporations (“Department”), acting to protect the public from unlawful and
21 fraudulent investment advisers, alleges and charges as follows:

22 **I. JURISDICTION AND VENUE**

23 1. The Commissioner brings this action pursuant to the provisions of the Corporate
24 Securities Law of 1968 (“CSL”) (California Corporations Code, section 25000 et seq.), sections
25 25232.1 and 25254 and the rules and regulations promulgated thereunder (“CCR”)
26 (California Code of Regulations, title 10, section 250.9 et seq.).

27 2. The Commissioner is authorized to administer and enforce the provisions of the CSL
28 and the CCR.

II. STATEMENT OF FACTS

3. An investment adviser owes a fiduciary duty to his or her clients. A licensed investment adviser must comply with various statutes, rules and regulations in order to maintain his or her license. This fiduciary duty and the statutes, rules and regulations are designed to protect an investment adviser's clients and the investing public.

4. This action is brought in order to bar Respondent Ike Petros Iossif ("IOSSIF") from any position of employment, management or control of any investment adviser, broker-dealer or commodity adviser pursuant to CSL section 25232.1 and for ancillary relief, including restitution, disgorgement and recovery of costs of investigation and attorney's fees pursuant to CSL section 25254.

5. At all relevant times, IOSSIF (CRD # 4993972) was President of and maintained full control over the activities of Aegean Capital Group, Inc., a Delaware Corporation ("AEGEAN").

6. On or about August 7, 2001, AEGEAN became licensed with the Department as an investment adviser (CRD # 134547) pursuant to CSL section 25230. From that time, until AEGEAN surrendered its license on October 26, 2007, AEGEAN conducted business in the State of California as an investment adviser.¹

7. At all relevant times, IOSSIF was the only investment adviser representative and employee of AEGEAN.

8. IOSSIF, in relation to the investment adviser activities of AEGEAN, submitted forms to the Department in which IOSSIF "agree[s] to comply with all provisions, . . . statutes, . . . rules and regulations of" the State of California and represents he "will be familiar with the statutes [and] rules . . . of" this state, and further represents he is "in compliance with the . . . record keeping requirements of" California law.

9. At all relevant times, IOSSIF maintained a Web site at www.aegeancapital.com.

10. In or about August 2005, the Department began an examination of IOSSIF and AEGEAN's investment adviser business, which is discussed more fully below.

¹ The CSL defines an "investment adviser," in relevant part, as "any person who, for compensation, engages in the business of advising others either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing or selling securities, or who, for compensation and as part of a regular business, publishes analyses or reports concerning securities." (Cal. Corp. Code, § 25009, subd. (a).)

1 11. The examination revealed that IOSSIF and AEGEAN have discretionary authority
2 over client funds and securities purchased on behalf of clients.

3 12. The examination revealed that IOSSIF and AEGEAN do not calculate certain
4 financial information, such as “net worth,” in accordance with generally accepted accounting
5 principles (“GAAP”).

6 13. During the examination, IOSSIF admitted that AEGEAN’s books, records and
7 computations of net capital and aggregate indebtedness are only prepared annually by an accountant.

8 14. As an investment adviser, IOSSIF, through AEGEAN, provided two services: (1) a
9 subscription service, whereby IOSSIF recommend to subscriber-clients which securities to purchase
10 and or sell; and (2) direct management of funds and trading of securities, in the form of “stock” and
11 “stock options,”² on behalf of clients.

12 15. On or about December 18, 2001, IOSSIF solicited a client for a loan to fund a
13 television venture. In December 2001, the client agreed and in fact did loan \$25,000.00 to IOSSIF.

14 16. In or about October 2003, IOSSIF changed the terms of the loan and executed a
15 promissory note, with an 8% rate of return per year, in the client’s favor.

16 17. Although the client received some interest payments on the promissory note, to this
17 date, IOSSIF has failed to return the principal amount of the loan to the client.

18 18. When individuals become IOSSIF’s clients they execute a “Client Agreement.”
19 Client Agreements contain a provision providing that 30-day notice must be given in order for either
20 party to terminate the client/investment adviser relationship.

21 19. Client Agreements also contain a provision providing that IOSSIF will not invest over
22 a specified percentage, ranging from 15% to 35%, of client funds in option trading at any given time.

23 20. However, IOSSIF invested client funds, in option trading, in excess of the
24 percentages specified in Client Agreements. In some cases, IOSSIF invested 99.73% of client funds
25 in option trading at a given time.

26 21. IOSSIF represented to some clients that their funds would be traded in a
27 “conservative way,” using “married puts” to hedge all positions or at a “3:1 reward risk” strategy.

28 _____
² A “stock option” is an “option to buy or sell a specific quantity of stock at a designated price for a specified period regardless of shifts in market value during the period.” (See Black’s Law Dictionary (8th ed. 2007) p.1459, col. 1).

1 22. IOSSIF did not invest funds in a conservative manner as was represented to clients.

2 23. Further, IOSSIF did not invest funds based on a 3:1 reward risk strategy.

3 24. At all relevant times until approximately October 31, 2005, IOSSIF managed client
4 funds and option trading through a service contract with Charles Schwab Institutional, a division of
5 Charles Schwab & Co., Inc. (“Schwab”). This service contract allowed option trading to take place
6 over the Internet.

7 25. Schwab requires all clients applying for option trading accounts to complete an
8 “Option, Margin and Short Account Trading” application (“Option Application”).

9 26. IOSSIF engaged in option trading, on behalf of clients, by way of a master
10 account/client sub-account arrangement through the Schwab service contact. This arrangement is
11 discussed more fully below.

12 27. IOSSIF offered four managed trading programs: (1) Short Term Trades (“Short
13 Term”); (2) Gold & Silver; (3) Retirement; and (4) the Hamzei Options Trading System (“HOTS”).
14 IOSSIF controlled each managed trading program through a master account over the Internet.

15 28. A client would have a client account with Schwab, for each of the four managed
16 trading programs in which a client participated. Client accounts would then be linked to the
17 corresponding master accounts controlled by IOSSIF.

18 29. IOSSIF required clients to provide IOSSIF direct access to client accounts, which
19 allowed IOSSIF to execute trades in client accounts over the Internet.

20 30. IOSSIF would purchase and or sell a block of stocks or options in a master account
21 and then allocate the options to client accounts at the end of the trading day. IOSSIF also
22 occasionally traded options directly from client accounts.

23 31. Both AEGEAN and Liliana Iossif, a relative of IOSSIF, maintained funds in client
24 accounts managed by IOSSIF. The fact that IOSSIF managed client sub-accounts for AEGEAN and
25 Liliana Iossif was disclosed in a public licensing document called a Form ADV, Part II. However,
26 IOSSIF’s Form ADV, Part II also represented that IOSSIF will not execute orders for securities,
27 such as stocks and stock options, “in a fashion either preferential to one account relative to other like
28 accounts managed by Aegean Capital, or otherwise materially adverse to such other accounts.”

1 32. Option trading conducted in the master accounts were not always allocated to client
2 accounts in an equitable manner, as discussed more fully below.

3 33. IOSSIF would “cherry pick” or allocate profitable option trades to the AEGEAN or
4 Liliana Iossif account while less profitable trades, or trades resulting in a loss, were allocated to
5 client accounts.

6 34. Further, IOSSIF did not allocate option trades on a pro-rata basis, given each clients’
7 fractional interest in relation to the total amount of assets under management.

8 35. For example, as of January 1, 2005, six (6) client accounts were linked to the Short
9 Term master account: (1) Client A had \$375,317.63 under management, for 0.890782 of the total
10 assets in the Short Term managed trading program; (2) Client B had \$35,494.63 under management,
11 for 0.084243 of the total assets in the Short Term managed trading program; (3) Client C had
12 \$5,919.53 under management, for 0.014049 of the total assets under management in the Short Term
13 managed trading program; (4) Client D had \$4,206.29 under management, for 0.009983 of the total
14 assets in the Short Term managed trading program; (5) AEGEAN had only \$378.06 under
15 management, for 0.000897 of the total assets in the Short Term managed trading program; and (6)
16 Liliana Iossif had \$19.02 under management, for 0.000045 of the total assets in the Short Term
17 managed trading program.

18 36. At 9:54 a.m. on January 21, 2005, IOSSIF ordered the purchase of five (5) Google
19 stock options, in the form of puts, through the Short Term master account. During January 21, 2005,
20 the price of Google stock declined, resulting in the value of the puts almost doubling. Although the
21 AEGEAN account constituted approximately 0.000897 of the total assets under management in the
22 Short Term managed trading program, IOSSIF allocated all five (5) of the Google puts to the
23 AEGEAN account. The allocation of the five (5) Google puts resulted in a gain of \$1,935.98 to
24 IOSSIF. No other clients shared in this gain.

25 37. As a result of the illegal and inequitable allocation of option trades, the AEGEAN and
26 Liliana Iossif accounts made money while client accounts lost money.

27 38. IOSSIF represented to clients that options trading made in the HOTS managed
28 trading program would reflect trading recommendations made on the Hamzei Analytics Web site at

1 www.hamzeianalytics.com.

2 39. From November 2004 to May 2005, IOSSIF recommended the trades published on
3 the Hamzei Analytics Web site.

4 40. Beginning in February 2005, IOSSIF made option trades in the HOTS master account
5 that did not reflect trades recommended on the Hamzei Analytics Web site. Further, IOSSIF
6 allocated option trades to client accounts that did not reflect trades recommended on the Hamzie
7 Analytics Web site.

8 41. For example, under the HOTS managed trading program client accounts should have
9 experienced the same gains and losses. However, a comparison of two client accounts linked to the
10 HOTS master account (both funded with \$50,000.00 in early February 2005) over the same three-
11 month period (February 1, 2005 – May 1, 2005), demonstrates that IOSSIF allocated options to
12 client accounts in different quantities. This resulted in one client account having a balance of
13 \$47,426.21 in May 2005 while another client account had a balance of \$73,749.02 in May 2005.

14 42. As a result of the illegal and non-recommended option trading in the HOTS managed
15 trading program client accounts lost money.

16 43. In or about December 2004, IOSSIF's Web site, www.aegeancapital.com,
17 advertised that for the past two years (2003 – 2004) client accounts managed by IOSSIF averaged a
18 20-30% rate of return.

19 44. The Department's examination revealed that, during the period March 2003 to March
20 2005, the highest return in a client account managed by IOSSIF was in fact only 9%. The account
21 which saw the 9% increase was the AEGEAN account.

22 45. The Schwab service contract allowed clients to review trading data, in their respective
23 accounts, in real time over the Internet.

24 46. Many clients monitored trading activity in their accounts and corresponded with
25 IOSSIF, via telephone, e-mail and letter, on a daily basis regarding trading activity in their respective
26 accounts.

27 47. On several occasions, clients requested that IOSSIF cease trading in their accounts
28 and, in some cases, close their accounts due to the monetary losses taking place.

1 48. Despite repeated requests by clients to cease trading and or close their accounts,
2 IOSSIF continued to trade for days, weeks, and in some cases, months without client authorization.

3 49. For example, one client, who funded an account with approximately \$100,000.00,
4 requested that IOSSIF cease trading in the account when the account balance dropped below
5 \$50,000.00. Despite this request, IOSSIF continued trading in the client's account.

6 50. IOSSIF cited excuses such as personal illness and failure to receive e-mails or
7 telephone calls as reasons for his continued failure to cease trading and close client accounts.

8 51. On several occasions, IOSSIF attempted to persuade and even threatened clients to let
9 him continue trading despite their express wishes for IOSSIF to stop trading.

10 52. On or about October 27, 2005, Schwab notified IOSSIF that, on October 31, 2005,
11 Schwab would terminate the service agreement with IOSSIF. Terminating the service agreement
12 ended IOSSIF's ability to allocate trades from the master accounts over the Internet.

13 **III. RESPONDENT IOSSIF SHOULD BE BARRED FROM ANY POSITION OF**
14 **EMPLOYMENT, MANAGEMENT OR CONTROL OF ANY INVESTMENT**
15 **ADVISER, BROKER-DEALER OR COMMODITY ADVISER PURSUANT**
16 **TO CORPORATIONS CODE SECTION 25232.1 FOR ACTS COMMITTED**
17 **AS SPECIFIED UNDER SECTION 25232(e).**

18 53. CSL section 25232.1 provides, in relevant part, that:

19 The commissioner may, after appropriate notice and opportunity for hearing, by order
20 . . . *bar* from any position of employment, management or control of any investment
21 adviser, broker-dealer or commodity adviser, any officer, director, partner, employee
22 of, or person performing similar functions for, an investment adviser, or any other
23 person, if he or she finds that the . . . bar is in the public interest and that the person
24 has committed any act or omission enumerated in subdivision . . . (e) . . . of Section
25 25232.

26 (Cal. Corp. Code, § 25232.1 [emphasis added].)

27 54. CSL section 25232, subdivision (e), enumerates the following act: "(e) Has willfully
28 violated any provision of . . . Title 4 (commencing with Section 25000) . . . or of any rule or
29 regulation under . . . [that Title]."

30 55. CSL section 25241, subdivision (a), provides, in relevant part, that "every investment
31 adviser licensed under Section 25230 shall make and keep accounts, correspondence,

1 memorandums, papers, books, and other records and shall file financial and other reports as the
2 commissioner by rule requires” (Cal. Corp. Code, § 25241, subd. (a).)

3 56. CCR section 260.237.2 provides, in relevant part, that:

4 An investment adviser licensed prior to [March 2, 2003] may comply with either the
5 minimum financial requirements in this section or in Section 260.237.1 until January
6 1, 2005, at which time Section 260.237.1 shall become inoperative and an investment
7 adviser shall comply with the minimum financial requirements in this section.

8 (a) Every investment adviser . . . who has discretionary authority over client funds or
9 securities . . . shall maintain at all times a minimum net worth of \$10,000.

10 . . .
11 (d) For purposes of this rule, the term “net worth” shall mean an excess of assets over
12 liabilities, as determined by generally *accepted accounting principles* [GAAP].

13 (Cal. Code Regs., tit. 10, § 260.237.2 [emphasis added].)

14 57. CCR section 260.241.3 provides, in relevant part, that:

15 (a) Every licensed investment adviser shall make and keep true, accurate and current
16 the following books and records relating to such person’s investment advisory
17 business:

18 . . .
19 (6) All trial balances, financial statements, worksheets that contain computations of
20 minimum financial requirements required under Section 260.237.1 or Section
21 260.237.2, as applicable, of these rules, and internal audit working papers relating to
22 the business of such investment adviser.

23 . . .
24 (j) Any investment adviser who is subject to the minimum financial requirements of
25 Section 260.237.1 or Section 260.237.2, as applicable, shall, in addition to the records
26 otherwise required under this section, maintain a record of the proof of money
27 balances of all ledger accounts in the form of trial balances and a record of the
28 computations of net capitals and aggregate indebtedness . . . The trial balances and
computations shall be prepared currently at least once a *month*.

(Cal. Code Regs., tit. 10, § 260.241.3 [emphasis added].)

58. CSL section 25238 provides that no investment adviser licensed under Chapter 3 of
that law (commencing with section 25230) “shall engage in investment advisory activities, or
attempt to engage in investment advisory activities, in this state in contradiction of such rules as the
commissioner may prescribe designed to promote fair, equitable, and ethical principles.” (Cal. Corp.
Code, § 25238.)

1 59. CCR, section 260.238, states that the following activities do not promote fair,
2 equitable, and ethical principles as those terms are used in CSL section 25238:

3 ...
4 (b) Placing an order to purchase or sell a security for the account of a client without
5 authority to do so.

6 ...
7 (f) Borrowing money or securities from a client unless the client is a broker-dealer, an
8 affiliate of the adviser, or a financial institution engaged in the business of loaning
9 funds or securities.

10 (Cal. Code Regs., tit. 10, § 260.238 subds. (b) and (f).)

11 60. CSL section 25235, which is patterned after section 206 of the Investment Advisers
12 Act of 1940 (15 U.S.C.S., section 80b-6), provides, in relevant part, that:

13 It is unlawful for any investment adviser, directly or indirectly, in this state:

14 ...
15 (b) To engage in any transaction, practice, or course of business which operates or
16 would operate as a fraud or deceit upon any client or prospective client.

17 ...
18 (d) To engage in any act, practice, or course of business which is fraudulent,
19 deceptive, or manipulative. The commissioner shall, for the purpose of this
20 subdivision, by rule define and prescribe means reasonably designed to prevent such
21 acts, practices, and courses of business as are fraudulent, deceptive, or manipulative.

22 (Cal. Corp. Code, § 25235.)

23 61. CCR section 260.235 provides, in relevant part, that:

24 (a) It shall constitute a fraudulent, deceptive, or manipulative act, practice or course
25 of business, within the meaning of Section 25235 of the Code, for an investment
26 adviser, directly or indirectly, to publish, circulate or distribute any advertisement:

27 ...
28 (5) which contains any untrue statement of a material fact, or which is otherwise
false or misleading.

(b) For the purposes of this section, the term “advertisement” includes any notice,
circular, letter or other written communication addressed to more than one person . . .

(Cal. Code Regs., tit. 10, § 260.235 subds. (a)(5) and (b).)

62. IOSSIF is subject to being barred from any position of employment, management or
control of any investment adviser, broker-dealer or commodity adviser pursuant to CSL section
25232.1 for acts committed as enumerated in CSL section 25232, subdivision (e), namely for
willfully: (A) failing to calculate net worth in accordance with GAAP; (B) failing to prepare

1 computations of net capital and aggregate indebtedness at least once a month; (C) placing orders to
2 trade options in client accounts without authority to do so; (D) borrowing money from a client; (E)
3 publishing an advertisement containing an untrue statement of a material fact, or which is otherwise
4 false or misleading, naming that from March 2003 to March 2005 client accounts managed by
5 RESPONDENTS had a 20-30% rate of return; and (F) engaging in a practice of trading options
6 which operates as a fraud or deceit upon clients, namely by “cherry picking” profitable option trades
7 and allocating less profitable option trades to client accounts.

8 **A. RESPONDENT IOSSIF WILLFULLY FAILED TO CALCULATE NET**
9 **WORTH IN ACCORDANCE WITH GAAP IN VIOLATION OF**
10 **CORPORATIONS CODE SECTION 25241(a) PURSUANT TO CODE OF**
11 **REGULATIONS SECTION 260.237.2.**

12 63. IOSSIF willfully violated CSL section 25241, subdivision (a), pursuant to CCR
13 section 260.237.2, by failing to calculate net worth in accordance with GAAP.

14 64. On or about August 7, 2001, AEGEAN became an investment adviser licensed under
15 CSL section 25230.

16 65. At all relevant times, IOSSIF was President of and maintained full control over the
17 activities of AEGEAN.

18 66. IOSSIF is the only investment adviser representative and employee of AEGEAN.

19 67. Pursuant to CSL section 25241, subdivision (a), IOSSIF is required to maintain books
20 and records and file reports as specified in the rules and regulations, including CCR section
21 260.237.2, of the Commissioner.

22 68. At all relevant times, IOSSIF had discretionary authority over client funds and
23 securities. At its discretion, IOSSIF could effectuate option trading in client accounts.

24 69. Pursuant to CCR section 260.237.2, IOSSIF was required to maintain a “net worth”
25 of \$10,000.00 and calculate said “net worth” in accordance with GAAP.

26 70. The Department’s examination revealed that from 2001 to 2005, IOSSIF did not
27 calculate “net worth” in accordance with GAAP.

28 71. IOSSIF, on behalf of AEGEAN, has executed and submitted forms to the Department
in which IOSSIF “agree[s] to comply with all provisions . . . statutes, . . . rules and regulations of”

1 the State of California. In these forms IOSSIF affirmatively represents that he “will be familiar with
2 the statutes [and] rules . . . of” this state and further, IOSSIF affirmatively represents that he is “in
3 compliance with the . . . record keeping requirements of” California law.

4 72. IOSSIF is familiar with the books and records requirements of the CSL and rules and
5 regulations thereunder, yet IOSSIF disregarded these requirements by failing to calculate “net
6 worth” in accordance with GAAP.

7 **B. RESPONDENT IOSSIF WILLFULLY FAILED TO COMPUTE NET**
8 **CAPITAL AND AGGREGATE INDEBTEDNESS ON A MONTHLY**
9 **BASIS IN VIOLATION OF CORPORATIONS CODE SECTION**
10 **25241(a) PURSUANT TO CODE OF REGULATIONS SECTION**
11 **260.241.3(j).**

12 73. IOSSIF willfully violated CSL section 25241, subdivision (a), pursuant to CCR
13 section 260.241.3, subdivision (j), by failing to prepare computations of net capital and aggregate
14 indebtedness at least once a month.

15 74. As stated above, as an investment adviser IOSSIF is required to maintain books and
16 records and file reports as specified in the rules and regulations of the Commissioner.

17 75. As stated above, IOSSIF on behalf of AEGEAN is subject to the minimum financial
18 requirements of section 260.237.2 (AEGEAN must maintain a “net worth” of \$10,000.00) due to his
19 discretionary authority over client funds and securities.

20 76. Pursuant to CCR section 260.241.3, subdivision (j), IOSSIF is required to prepare
21 computations of net capital and aggregate indebtedness at least once a month.

22 77. During the Department’s examination, IOSSIF admitted that from 2001 to 2005
23 AEGEAN’s books, records and computations of net capital and aggregate indebtedness were
24 prepared only *annually* by an accountant. IOSSIF therefore does not prepare monthly computations.

25 78. As state above, IOSSIF has executed and submitted forms to the Department in which
26 IOSSIF “agree[s] to comply with all provisions . . . statutes, . . . rules and regulations of” the State of
27 California. In these forms IOSSIF affirmatively represents that he “will be familiar with the statutes
28 [and] rules . . . of” this state and further, IOSSIF affirmatively represents that he is “in compliance
with the . . . record keeping requirements of” California law.

1 79. IOSSIF is familiar with the books and records requirements of the CSL and rules and
2 regulations thereunder, yet IOSSIF disregarded these requirements by failing to prepare
3 computations of net capital and aggregate indebtedness at least once a month.

4 **C. RESPONDENT IOSSIF WILLFULLY TRADED OPTIONS IN CLIENT**
5 **ACCOUNTS WITHOUT AUTHORITY TO DO SO IN VIOLATION OF**
6 **CORPORATIONS CODE SECTION 25238 PURSUANT TO CODE OF**
7 **REGULATIONS SECTION 260.238(b).**

8 80. IOSSIF willfully violated CSL section 25238 and engaged in activities in
9 contradiction of rules designed to promote fair, equitable, and ethical principles, pursuant to CCR
10 section 260.238, subdivision (b), by placing orders, to trade options, in client accounts without
11 authority from clients to do so. IOSSIF did so in two ways: (1) by trading options in client accounts
12 in a manner contrary to explicit agreements between IOSSIF and clients; and (2) by trading options
13 in client accounts after clients expressly requested that IOSSIF cease trading and, in some cases,
14 after clients expressly requested that IOSSIF close out client accounts.

15 **1. Respondent Traded Options Contrary to Explicit Agreements**
16 **with Clients.**

17 81. Clients entered into a Client Agreement with IOSSIF, which contains an explicit
18 provision providing that IOSSIF will not invest over a specified percentage (15% to 35%) of a
19 client's funds in option trading. However, IOSSIF did invest client funds in excess of the
20 percentages specified in client agreements without client authorization.

21 82. IOSSIF prepared or supervised the preparation of Client Agreements, yet IOSSIF
22 disregarded the explicit terms in Client Agreements and traded in excess of the specified percentages
23 and without client authorization; at one point IOSSIF invested 99.73% of a client's funds in options.

24 83. Further, IOSSIF explicitly represented to clients that their funds would be traded in a
25 "conservative way" using "married puts" to hedge all positions or at a "3:1 reward risk strategy."
26 However, IOSSIF did not invest client funds—in a conservative manner or based on a 3:1 reward
27 risk strategy—as was represented.

28 84. IOSSIF knew of client wishes to trade conservatively or based on a 3:1 reward risk
strategy, yet IOSSIF disregarded these wishes.

1 93. IOSSIF knew that the client was not a broker-dealer, an affiliate of the adviser, or a
2 financial institution engaged in the business of loaning funds or securities, yet IOSSIF solicited the
3 loan from the client.

4 94. Although the client received some interest payments, IOSSIF has failed to return the
5 principal amount of the loan to the client.

6 **E. RESPONDENT IOSSIF WILLFULLY PUBLISHED AN**
7 **ADVERTISEMENT CONTAINING AN UNTRUE STATEMENT OF A**
8 **MATERIAL FACT, OR WHICH IS OTHERWISE FALSE OR**
9 **MISLEADING IN VIOLATION OF CORPORATIONS CODE**
10 **SECTION 25235(d) PURSUANT TO CODE OF REGULATIONS**
11 **SECTION 260.235(a)(5).**

12 95. IOSSIF willfully violated CSL section 25235, subdivision (d), pursuant to CCR
13 section 260.235, subdivision (a)(5), by publishing an advertisement which contained an untrue
14 statement of a material fact, or which is otherwise false or misleading.

15 96. In or about April 2005, IOSSIF's Web site advertised that for the past two (2) years
16 (2003 – 2004) client accounts managed by IOSSIF averaged a 20-30% rate of return.

17 97. The Department's examination revealed that during the period of March 2003 to
18 March 2005, the highest return in a client account, managed by IOSSIF, is only 9%.

19 98. The advertisement, quoting a 20-30% rate of return, was untrue and otherwise false or
20 misleading to potential clients that visited IOSSIF's Web site.

21 99. IOSSIF intentionally published the advertisement on the Web site with knowledge or
22 consciousness that it contained an untrue statement, or was otherwise false or misleading.

23 **F. RESPONDENT IOSSIF WILLFULLY ENGAGED IN A PRACTICE OF**
24 **TRADING OPTIONS WHICH OPERATES AS A FRAUD OR DECEIT**
25 **UPON CLIENTS IN VIOLATION OF CORPORATIONS CODE**
26 **SECTION 25235(b).**

27 100. IOSSIF willfully violated CSL section 25235, subdivision (b), by engaging in a
28 practice of trading options, which operates as a fraud or deceit upon clients. IOSSIF did so by
engaging in a fraudulent trade allocation scheme known as "cherry picking."

101. As stated above, IOSSIF managed client funds and securities through a master
account and client sub-account arrangement under the Schwab service contract.

1 102. IOSSIF would purchase and or sell a block of options in a master account and then
2 allocate the options to client accounts at the end of the trading day.

3 103. Both AEGEAN and Liliana Iossif, a relative of IOSSIF, maintained funds in accounts
4 linked to one of the master accounts controlled by IOSSIF.

5 104. Trading conducted in the master accounts were not always allocated to client
6 accounts in an equitable manner. IOSSIF intentionally cherry picked profitable trades for the
7 accounts of Liliana Iossif or AEGEAN while less profitable trades, or trades resulting in a loss, were
8 allocated to client accounts.

9 105. IOSSIF has submitted Forms ADV, Part II to the Department which represented that
10 IOSSIF would not execute orders for securities “in a fashion either preferential to one account
11 relative to other like accounts managed by Aegean Capital, or otherwise materially adverse to such
12 other accounts,” yet IOSSIF intentionally favored accounts, such as the AEGEAN and Liliana Iossif
13 accounts, over client accounts.

14 106. As a result of cherry picking, clients lost money.

15 107. Based on the foregoing, IOSSIF should be barred from any position of employment,
16 management or control of any investment adviser, broker-dealer or commodity adviser pursuant to
17 CSL section 25232.1 for acts committed as specified in CSL section 25232, subdivision (e).

18 **V. RESPONDENT IOSSIF’S CLIENTS ARE ENTITLED TO ANCILLARY**
19 **RELIEF, IN THE FORM OF RESTITUTION, DISGORGEMENT AND**
20 **REPAYMENT OF A LOAN GIVEN TO RESPONDENT AND THE**
21 **DEPARTMENT IS ENTITLED TO RECOVERY OF COSTS OF**
22 **INVESTIGATION AND ATTORNEY’S FEES PURSUANT TO**
23 **CORPORATIONS CODE SECTION 25254**

24 108. CSL section 25254 provides that:

25 (a) If the commissioner determines it is in the public interest, the commissioner may
26 include in any administrative action brought under this part [Part 3 (commencing with
27 CSL section 25200)] a claim for ancillary relief, including, *but not limited to*, a claim
28 for restitution or disgorgement or damages on behalf of the persons injured by the act
or practice constituting the subject matter of the action, and the administrative law
judge shall have jurisdiction to award additional relief.

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(b) In an administrative action brought under this part, the commissioner is entitled to recover costs, which in the discretion of the administrative law judge may include an amount representing reasonable attorney’s fees and investigative expenses for the service rendered, for deposit into the State Corporations Fund for the use of the Department of Corporations.

(Cal. Corp. Code, § 25254.)

109. The Commissioner brings the instant administrative action, in relevant part, pursuant to CSL, Part 3, section 25232.1, based on IOSSIF’s violations of:

- (a) CSL section 25238 pursuant to CCR section 260.238, subdivision (b), by placing orders to trade options in client accounts without authority to do so;
- (b) CSL section 25238, pursuant to CCR section 260.238, subdivision (f), by borrowing money from a client, when the client was not a broker-dealer, an affiliate of AEGEAN or a financial institution engaged in the business of loaning funds or securities; and
- (c) CSL section 25235, subdivision (b), by engaging in a practice of trading options which operated as a fraud or deceit upon clients, by utilizing a fraudulent trade allocation scheme known as “cherry-picking.”

110. IOSSIF’s clients are entitled to restitution of their capital investment and interest thereon, due to the fact that IOSSIF: placed orders to trade options in client accounts without authority to do so; and engaged in the practice of trading options which operates as a fraud or deceit upon clients, by utilizing a fraudulent trade allocation scheme known as “cherry-picking.”

111. The investment advisory fees paid to IOSSIF by clients should be disgorged due to the violations listed in paragraph 110, above.

112. IOSSIF must and should be ordered to repay the loan given to him by a client.

113. The Department is entitled to recover the costs of investigation and reasonable attorney’s fees in relation to the instant action against IOSSIF.

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VI. PUBLIC INTEREST

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2 114. Based on the foregoing, the Commissioner has deemed it in the public interest to bar
3 IOSSIF from any position of employment, management or control of any investment adviser,
4 broker-dealer or commodity adviser and to include a claim for ancillary relief and recovery of costs
5 in this administrative action. The Commissioner prays for this relief because of IOSSIF's flagrant
6 disregard for the fiduciary duty owed to clients and the statutes, rules and regulations discussed
7 above.

8 115. An investment adviser owes a fiduciary duty to his clients. An investment adviser
9 should continuously occupy an impartial and disinterested position and should scrupulously avoid
10 any act that subjects his position to challenge in this respect. (*SEC v. Capital Gains Research*
11 *Bureau, Inc. et al.* (1963) 375 U.S. 180 at pp. 188-191.) IOSSIF violated the fiduciary duty owed to
12 clients. Further, IOSSIF profited from his violations.

13 116. A licensed investment adviser must comply with various statutes, rules and
14 regulations in order to maintain his or her license. The purpose of these statutes, rules and
15 regulations is to protect an investment adviser's clients and the investing public. IOSSIF violated
16 numerous statutes, rules and regulations designed to protect clients and the investing public. For
17 these reasons, it is therefore in the public interest to bar IOSSIF from any position in the securities
18 industry, to include a claim of ancillary relief and recovery of costs in this administrative action.

VII. RELIEF REQUESTED

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20 WHEREFORE, based upon the foregoing, the Commissioner finds it is in the public interest
21 to bar Respondent Ike Petros Iossif from any position of employment, management or control of any
22 investment adviser, broker-dealer or commodity adviser pursuant to CSL section 25232.1 for acts
23 committed as specified in CSL section 25232, subdivision (e), to award ancillary relief, in the form
24 of restitution, disgorgement, repayment of a loan and recovery of the Department's costs for
25 investigation and reasonable attorney's fees.

26 WHEREFORE, IT IS PRAYED that Respondent Ike Petros Iossif be barred from any
27 position of employment, management or control of any investment adviser, broker-dealer or
28 commodity adviser pursuant to CSL section 23232.1 for acts committed as specified in CSL section

1 25232, subdivision (e).

2 WHEREFORE, IT IS FURTHER PRAYED that Respondent Ike Petros Iossif be ordered to:
3 (1) make restitution to clients for the loss of their capital investment in an amount of not less than
4 \$1,717,190.15, or in accordance with proof, and interest, according to proof; (2) disgorge all
5 investment advisory fees in an amount of not less than \$10,732.53, or in accordance with proof;
6 (3) repay the loan given by a client in an amount of not less than \$ 25,000.00, or in accordance with
7 proof; and (4) pay to the Department the costs for investigation and reasonable attorney’s fees in an
8 amount of not less than \$105,390.00, or in accordance with proof.

9 Dated: August 12, 2008

10 PRESTON DuFAUCHARD
11 California Corporations Commissioner

12 By: _____
13 ALEX CALERO
14 Corporations Counsel
15 Attorney for Complainant

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