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

10 In the Matter of:) CRD NO: 4875386
11 THE COMMISSIONER OF BUSINESS)
12 OVERSIGHT,) ACCUSATION IN SUPPORT OF NOTICE
13 Complainant,) OF INTENTION TO ISSUE AN ORDER
14 v.) BARRING CHARLES ACHESON
15 CHARLES ACHESON LAVERTY, an) LAVERTY FROM ANY POSITION OF
16 individual) EMPLOYMENT, MANAGMENT OR
17 Respondent.) CONTROL OF ANY INVESTMENT
) ADVISER, BROKER-DEALER OR
) COMMODITY ADVISER
) (Corporations Code § 25232.1)

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19 Jan Lynn Owen in her capacity as the Commissioner ("Commissioner") of the California
20 Department of Business Oversight ("Department"), alleges and charges as follows:

21 **I. INTRODUCTION**

22 1. This action is brought to bar respondent Charles Acheson Laverty ("Laverty" or
23 "Respondent"), CRD# 4875386, from any position of employment, management, or control of any
24 investment adviser, broker-dealer, or commodity adviser pursuant to Corporations Code section
25 25232.1.¹

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28 ¹ All code references are to the California Corporations Code unless otherwise indicated.

1 2. Section 25600 authorizes the Commissioner to administer and enforce the provisions of the
2 Corporate Securities Law of 1968 (Corp. Code § 25000 *et seq.*) and the regulations promulgated
3 thereunder (Cal. Code Regs., tit. 10, § 260.000 *et seq.*).

4 II. STATEMENT OF FACTS

5 3. On or about December 9, 2015, the Financial Industry Regulatory Authority (“FINRA”)
6 suspended Respondent Charles Acheson Laverty for 18 months from association with any FINRA
7 member and fined him \$5,000.00 pursuant to FINRA’s acceptance of a Letter of Acceptance,
8 Waiver and Consent (AWC), signed by Respondent.

9 4. In the FINRA action, Respondent accepted and consented to the entry of the following facts:

10 a. During 2009 and 2010, Respondent accepted three loans totaling \$585,000 from his
11 customers HG and AG. On October 21, 2009 and April 15, 2010, while registered with
12 Oppenheimer, Respondent borrowed \$85,000 and \$365,000, respectively, from HG and AG. On or
13 about December 8, 2010, while registered with UBS, Respondent borrowed another \$135,000 from
14 them. Respondent signed agreements promising to repay each of the three loans by June 30, 2011,
15 and each loan agreement provided for interest to accrue at the rate of 10% a year. (At the time of the
16 AWC, Respondent had failed to repay the loans, despite repeated promises to do so.)

17 b. From January 29, 2010, to April 5, 2013, while registered with Oppenheimer or UBS,
18 Respondent borrowed a total of around \$620,000 from his customers, EL and LL. EL and LL loaned
19 Respondent \$140,000 on January 29, 2010, which he promised to, but did not, repay. Respondent
20 borrowed another \$300,000 on July 26, 2010, which he promised to, but did not, repay on August
21 31, 2010. On March 1, 2011, Respondent borrowed \$81,000 and on April 15, 2013, he borrowed
22 \$100,000 from EL and LL. Interest on all the loans accrued at 10% per year. (At the time of the
23 AWC, Respondent had failed to repay the loans, despite repeated promises to do so.)

24 c. In the Fall of 2013, while registered with Oppenheimer, Respondent borrowed a total
25 of \$32,500 from another customer, JA, in order to make payments on a judgment obtained against
26 him by a third party. On October 12, 2013, Respondent borrowed \$15,000 from JA, which was
27 repaid on October 16, 2013. Respondent borrowed another \$17,500 from JA on November 21,
28 2013, and repaid it on December 5, 2013.

1 d. During the periods when Respondent accepted the loans discussed above, he was
2 registered with Oppenheimer and UBS. Both firms had written policies prohibiting registered
3 representatives from borrowing money from any customer. The policy only excepted loans from
4 immediate family members, if and only if, the representative received advance approval from both a
5 branch manager and the legal or compliance group.

6 e. None of the customers from whom Respondent borrowed money were his immediate
7 family members. Moreover, Respondent never notified Oppenheimer or UBS of the loans or sought
8 prior approval.

9 f. By borrowing money from customers against the policies of his firms, Respondent
10 violated NASD Rule 2370 and FINRA Rules 3240 and 2010.

11 g. On August 31, 2012, Oppenheimer filed an amendment to Respondent's Form U4,
12 reporting that it had received an earnings' withholding order in connection with a \$439,175.15
13 judgment entered against Respondent on May 20, 2010. At the time, the remaining balance on the
14 judgment was \$87,199.98.

15 h. On January 10, 2014, Oppenheimer amended Respondent's Form U4 reporting a
16 second unsatisfied judgment entered against Respondent on October 19, 2012. At the time, the
17 remaining balance was \$59,600.87.

18 i. By failing to amend his U4, himself, Respondent violated Article V, Section 2(c) of
19 the FINRA By-Laws and FINRA Rules 1122 and 2010.

20 5. Further, in the AWC, respondent Laverty consented to the imposition of sanctions, barring
21 him from associating with any FINRA member in any capacity for a period of 18 months, a fine of
22 \$5,000.00 and, *inter alia*, waived his right to appeal.

23 6. In addition to the above, the Commissioner finds that Laverty has had the following
24 judgments and liens filed against him:

25 a. A judgment confirming an arbitration award entered by the Superior Court of
26 California, County of Los Angeles, on May 20, 2010, in case number BS124344, in favor of Morgan
27 Stanley Smith Barney, LLC against Charles A. Laverty in the amount of \$493,175.15.

28 b. A judgment entered by the Circuit Court for the County of Arlington, State of

1 Virginia, on November 4, 2011, in case number CL-11-0855, in favor of Philip D. Green against
2 Charles A. Laverty in the amount of \$185,912.89.

3 c. Two separate confessions of judgment executed by Charles A. Laverty in favor of
4 Oppenheimer & Co. Inc. filed on April 7, 2014, in the Superior Court of California, County of
5 Orange in case number 30-2014-00716277-CU-EN-CJC in the amounts of \$250,772.65 and
6 \$109,049.44.

7 d. A federal tax lien filed by the Internal Revenue Service on February 26, 2015 in the
8 Orange County Recorder’s Office against Charles A. and Babette L. Laverty in the amount of
9 \$63,410.90.

10 e. An abstract of judgment entered by the Superior Court of California, County of
11 Orange, on July 23, 2015, in case number 30-2014-007444481-CU-EN-CJC, in favor of UBS
12 Financial Services, Inc. against Charles A. Laverty in the amount of \$1,497,809.88.

13 7. With regard to the foregoing judgments and liens, identified in paragraph 6, above, Laverty
14 failed to update his U-4 with information regarding any of these judgments and liens as required by
15 California Code of Regulations, title 10, sections 260.235.4 and 260236.1.

16 **III. RESPONDENT LAVERTY SHOULD BE BARRED FROM ANY POSITION**
17 **OF EMPLOYMENT, MANAGEMENT, OR CONTROL OF ANY INVESTMENT**
18 **ADVISER, BROKER-DEALER, OR COMMODITY ADVISER PURSUANT TO**
19 **CORPORATIONS CODE SECTION 25232.1.**

20 8. Corporations Code Section 25232.1 provides in relevant part:

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

9. The Commissioner finds that Respondent “committed an act or omission enumerated in
subdivision (a) . . . of [s]ection 25232” when he failed to update his Form U4, himself, on multiple
occasions. Section 25232, subsection (a), prohibits the omission of material facts in any report filed

1 with the Commissioner. California Code of Regulations, title 10, sections 260.235.4 and 260236.1
2 describe the content, method, and time limits for disclosing material facts. Those regulations
3 required Laverty to update his U-4 within 30 days to reflect the FINRA action and all the judgments
4 and liens described in paragraph 6, above. The Commissioner relies on the accuracy of the Form U4
5 on file with FINRA for each registered representative in the State of California. By failing to update
6 his U4 with the facts and circumstances regarding the FINRA's disciplinary action as well as the
7 facts and circumstances of all of the judgments and liens described in paragraph 6, above,
8 Respondent repeatedly violated California's reporting regulations providing multiple bases for a
9 permanent bar under section 25232, subdivision (a).

10 10. Further, the Commissioner finds that Respondent is subject to "an order specified in
11 subdivision (d) of [s]ection 25232" by virtue of the December 2015 order issued by FINRA
12 suspending him from any association with any FINRA member for 18 months.

13 11. In addition, the Commissioner finds that Respondent committed an act or omission
14 enumerated in subdivision (e) of section 25232 by borrowing money from his clients. Section
15 25232, subdivision (e) incorporates any and all violations of the Corporate Securities Law of 1968
16 and all rules and regulations promulgated under those statutes necessary for the protection of any
17 investor. Section 25238 prohibits investment advisers or persons associated with investment
18 advisers from engaging in activities in contradiction of rules prescribed by the Commissioner
19 designed to promote fair, equitable, and ethical practices. California Code of Regulations, title 10,
20 section 260.238 defines activities which do not promote fair, equitable, and ethical practices.
21 Subdivision (f) of the Rule specifically prohibits an investment adviser from borrowing money from
22 a client.

23 12. Based on the foregoing, the Commissioner finds it is in the public interest to bar respondent
24 Laverty from any position of employment, management, or control of any investment adviser,
25 broker-dealer, or commodity adviser pursuant to Corporations Code section 25232.1.

26 **IV. RELIEF REQUESTED**

27 WHEREFORE, IT IS PRAYED Respondent Charles Acheson Laverty be barred from any
28 position of employment, management, or control of any investment adviser, broker-dealer, or

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commodity adviser pursuant to Corporations Code section 25232.1.

Dated: December 12, 2016

JAN LYNN OWEN
Commissioner OF Business Oversight

By: _____
ERIK BRUNKAL
Senior Counsel
Enforcement Division