2. The Commissioner is authorized to administer and enforce the provisions of the Corporate Securities Law of 1968, Corporations Code section 25000 et seq., and the regulations thereunder at California Code of Regulations, title 10, section 260.000 et seq.

# II. STATEMENT OF FACTS

- 3. This action is brought in order to bar Respondent Alberto Neira ("Neira") from any position of employment, management or control of any broker-dealer or investment adviser pursuant to Corporations Code section 25213.
- 4. Beginning in February 2002 until his termination in January 2011, Neira was a registered representative associated with broker-dealer LPL Financial, LLC ("LPL") at a branch office located at 2677 North Main Street, Suite 320, Santa Ana, California. LPL has its headquarters in Boston, Massachusetts, and is a member of Financial Industry Regulatory Authority ("FINRA"). FINRA is a national self-regulatory membership association of broker-dealers, authorized by the 1938 Maloney Act amendments to the Securities Exchange Act of 1934 to supervise the conduct of its members subject to the oversight of the United States Securities and Exchange Commission.
- 5. Effective December 4, 2012, FINRA barred Neira from the securities industry and from associating with any FINRA member in any capacity. A FINRA Letter of Acceptance, Waiver and Consent ("AWC"), signed by Neira on November 12, 2012, includes FINRA findings of law and fact.
- 6. FINRA found, as stated in the AWC, that Silver Oak Leasing, Inc. ("Silver Oak"), incorporated in California in 2006, was purportedly involved in providing automobile financing and leasing services. Neira disclosed to his employing broker-dealer firm LPL, that he had only a passive investment in Silver Oak. He did not disclose to LPL that he was a director of Silver Oak, a Secretary of the Board, owned 55% of Silver Oak's common stock by 2009, and received salary and other compensation from Silver Oak of approximately \$185,000 in 2009 and over \$250,000 in 2010.
- 7. FINRA further found that between July 1, 2008 and January 18, 2011, Neira recommended investments in Silver Oak to LPL customers, specifically stock and promissory notes that investors understood were to be used for the general use of Silver Oak's business enterprise.

  These recommendations resulted in at least 14 LPL customers investing over \$2 million in Silver

Oak. Neira conducted these investments privately, not through his employing firm, and without disclosing these securities transactions to his employing firm.

- 8. Neira's failure to disclose to LPL the true extent of his involvement with Silver Oak and the Silver Oak securities transactions he recommended to at least 14 LPL customers, resulting in investments of more than \$2 million, among other things, were found to be violations of FINRA rules.
- 9. In the FINRA AWC, Neira consented to a bar from the securities industry, a bar from associating with any FINRA member in any capacity, including clerical or ministerial functions, and to the AWC becoming a part of his permanent disciplinary record that could be considered in any future actions brought by FINRA or any other regulator.

# III. ALBERTO NEIRA SHOULD BE BARRED FROM ANY POSITION OF EMPLOYMENT, MANAGEMENT OR CONTROL OF ANY BROKER-DEALER OR INVESTMENT ADVISER PURSUANT TO CORPORATIONS CODE SECTION 25213 FOR ACTS COMMITED AS SPECIFIED UNDER CORPORATIONS CODE SECTION 25212, SUBDIVISION (d)(2)

# 10. Corporations Code Section 25213 provides, in pertinent part:

"The commissioner may, after appropriate notice and opportunity for hearing, by order censure, or suspend for a period not exceeding 12 months, or bar from any position of employment, management or control of any broker-dealer or investment adviser, any officer, director, partner, agent, employee of, or person performing similar functions for, a broker-dealer, or any other person, if the commissioner finds that the censure, suspension, denial or bar is in the public interest and that the person...is subject to any order specified in subdivision (d) of Section 25212."

### 11. Corporations Code Section 25212 provides, in pertinent part:

"The commissioner may, after appropriate notice and opportunity for hearing, by order censure, deny a certificate to, suspend for a period not exceeding 12 months or revoke the certificate of, any broker-dealer if the commissioner finds that the censure, denial, suspension, or revocation is in the public interest and that the broker-dealer, whether prior or subsequent to becoming a broker-dealer, or any partner, officer, director, or branch manager of the broker-dealer, whether prior or subsequent to becoming associated with the broker-dealer, or any person directly or indirectly controlling the broker dealer, whether prior or subsequent to becoming such, or any agent employed by the broker-dealer while so employed has done any of the following: . . .

(d) Is or has been subject to...(2) any order of any national securities association or national securities exchange (registered under the Securities Exchange Act of 1934) suspending or expelling that person from membership in the association or exchange or from association with any member thereof...."

### IV. CONCLUSION

Based on the foregoing, the Commissioner of Business Oversight finds that grounds exist and that it is in the public interest to bar Alberto Neira from any position of employment, management or control of any broker-dealer or investment adviser pursuant to Corporations Code section 25213 for acts committed as specified in Corporations Code section 25212 subdivision (d)(2), as described above. The Commissioner hereby notifies Alberto Neira of its intention to make such Order final.

Dated: February 19, 2015 JAN LYNN OWEN
San Francisco, California Commissioner of Business Oversight

By: \_\_\_\_\_EDWARD KELLY SHINNICK
Senior Corporations Counsel