

1 PRESTON DuFAUCHARD
California Corporations Commissioner
2 ALAN S. WEINGER
Deputy Commissioner
3 BLAINE A. NOBLETT (CA BAR NO. 235612)
Corporations Counsel
4 DEPARTMENT OF CORPORATIONS
320 West 4th Street, Suite 750
5 Los Angeles, California 90013-2344
Telephone: (213) 576-1396 Facsimile (213) 576-7181
6

7 Attorneys for Complainant

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

11 In the Matter of the Accusation of
12 THE CALIFORNIA CORPORATIONS
13 COMMISSIONER,
14 Complainant,
15 v.
16 OPTIMVEST, LLC and STEFAN FORKER,
17 as an individual,
18 Respondents.

) FILE NO. 138751

) **ORDERS:**

- 1. **REVOKING THE INVESTMENT ADVISER CERTIFICATE OF OPTIMVEST, LLC**
- 2. **BARRING STEFAN FORKER FROM ANY POSITION OF EMPLOYMENT, MANAGEMENT OR CONTROL OF ANY INVESTMENT ADVISER, BROKER-DEALER OR COMMODITY ADVISER**

) (California Corporations Code Sections 25232
) and 25232.1)
_

21 TO: Stefan Forker
22 Optimvest, LLC
23 3042 Livonia Avenue
24 Unit D-8
Los Angeles, California 90034-3143

25 ///
26 ///
27 ///

1 1. On October 20, 2009, the California Corporations Commissioner ("Commissioner")
2 of the Department of Corporations ("Department") brought an action to revoke the investment
3 adviser certificate issued to Optimvest, LLC ("Optimvest") pursuant to Corporations Code section
4 25232 and to bar Stefan Forker ("Forker") from any position of employment, management or control
5 of any investment adviser, broker-dealer or commodity adviser pursuant to Corporations Code
6 section 25232.1.

7 2. The Commissioner issued an investment adviser certificate to Optimvest on July 12,
8 2006, pursuant to Corporations Code section 25230. Optimvest was an investment adviser business
9 located at 3042 Livonia Avenue, Unit D-8, Los Angeles, California, with a mailing address of Post
10 Office Box 341800, Los Angeles, California. Optimvest is a California limited liability company.

11 3. Forker was Optimvest's president and sole managing member.

12 4. The Commissioner finds that beginning on September 30, 2008, and continuing
13 through at least March 31, 2009, Optimvest, by and through Forker, provided its investment adviser
14 clients with fabricated account statements. The quarterly account statements Optimvest provided to
15 its clients showed false account balances. Through the use of fraudulent account statements sent to
16 the firm's investment adviser clients, Optimvest was able to conceal its trading losses during the
17 period of at least September 30, 2008 through at least March 31, 2009.

18 5. Forker's misstatements and omissions of material facts, and fraudulent actions in
19 regards to the fabricated account statements sent to Optimvest's investment adviser clients were
20 transactions, practices, and a course of business that operated as a fraud and deceit upon Optimvest
21 investment adviser clients and thus, were willful violations of Corporations Code section 25235,
22 subdivision (b). Furthermore, Forker's repetition of these fraudulent statements, transactions,
23 practices and course of business to multiple clients, was the employment of a device, scheme or
24 artifice to defraud Optimvest clients and thus were willful violations of Corporations Code section
25 25235, subdivision (a). Therefore cause exists to revoke Optimvest's investment adviser certificate
26 pursuant to Corporations Code section 25232, subdivision (e).

27 6. The Commissioner further finds that Optimvest, by and through Forker, violated
28 Corporations Code section 25238 and California Code of Regulations, title 10, section 260.238,

1 subdivisions (a), (e), and (o), by making unsuitable trading recommendations to its investment
2 adviser clients, by making excessive trades, in terms of frequency and risk, in the firm's clients'
3 accounts, and by issuing fraudulent account statements to its investment adviser clients. The
4 aforementioned conduct constitutes a failure to promote "fair, equitable or ethical principles," as that
5 phrase is used in section 25238 of the Corporations Code. Therefore cause exists to revoke
6 Optimvest's investment adviser certificate pursuant to Corporations Code section 25232, subdivision
7 (e).

8 7. Finally, the Commissioner finds that Forker, by and through his actions as the
9 president and sole managing member of Optimvest, willfully violated Title 4 of the Corporations
10 Code sections 25235, subdivisions (a) and (b), section 25238, and California Code of Regulations,
11 title 10, section 260.238, subdivisions (a), (e), and (o). Therefore, cause exists under section 25232,
12 subdivision (e), to bar Forker from any position of employment, management, or control of any
13 investment adviser, broker-dealer or commodity adviser pursuant to Corporations Code section
14 25232.1.

15 8. On October 20, 2009, the Department initiated an administrative action to revoke the
16 investment adviser certificate of Optimvest and to bar Forker from any position of employment,
17 management or control of any investment adviser, broker-dealer or commodity adviser. The
18 Department issued and served Optimvest and Forker, at their last known addresses on file with the
19 Department, by certified mail service, return receipt, the following: Notice of Intention to Issue
20 Orders: 1. Revoking Investment Adviser Certificate of Optimvest, LLC, 2. Barring Stefan Forker
21 from Any Position of Employment, Management or Control of Any Investment Adviser, Broker-
22 Dealer or Commodity Adviser; Accusation in Support of Notice of Intention to Issue Orders: 1.
23 Revoking Investment Adviser Certificate of Optimvest, LLC, 2. Barring Stefan Forker from Any
24 Position of Employment, Management or Control of Any Investment Adviser, Broker-Dealer or
25 Commodity Adviser; Statement to Respondents; Government Code sections 11507.5, 11507.6 and
26 11507.7; and a blank form Notice of Defense.

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

9. Optimvest and Forker have not requested a hearing on this matter within the thirty (30) days of service as required and the time to request a hearing has now expired.

GOOD CAUSE APPEARING THEREFOR, IT IS ORDERED that the investment adviser certificate issued to Optimvest, LLC be revoked pursuant to Corporations Code section 25232, subdivision (e), and that Stefan Forker be barred from any position of employment, management or control of any investment adviser, broker-dealer or commodity adviser pursuant to Corporations Code section 25232.1.

Dated: December 2, 2009
Los Angeles, California

PRESTON DuFAUCHARD
California Corporations Commissioner

By: _____
ALAN S. WEINGER
Deputy Commissioner
Enforcement Division