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11 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
12 OF THE STATE OF CALIFORNIA

13 In the Matter of THE COMMISSIONER OF)
14 BUSINESS OVERSIGHT,)

CRD ID: 4138916

15 Complainant,)

16 v.)

17 HANSUELI, OVERTURF a.k.a. HANS)
18 OVERTURF,)

STATEMENT OF ISSUES TO BAR
HANSUELI OVERTURF a.k.a. HANS
OVERTURF, FROM ANY POSITION OF
EMPLOYMENT, MANAGEMENT OR
CONTROL OF ANY BROKER-DEALER OR
INVESTMENT ADVISER

19 Respondent.)
20)
21)

(CORPORATIONS CODE SECTION 25213)

1 Jan Lynn Owen, the Commissioner of Business Oversight (“Commissioner” or
2 “Complainant”), alleges and charges as follows:

3 **I**

4 **Jurisdiction and Venue**

5 1. The Commissioner brings this bar action under the provisions of Corporations Code
6 section 25213, and the rules and regulations promulgated thereunder.

7 2. The Commissioner, as head of the Department of Business Oversight (Department”),
8 is authorized to administer and enforce the provisions of the Corporate Securities Law of 1968 (Corp.
9 Code, § 25000 et seq.) and the regulations promulgated under title 10 of the California Code of
10 Regulations (Cal. Code Regs., tit.10, § 260.000 et seq.).

11 **II**

12 **Statement of Facts**

13 3. Hansueli Overturf, a.k.a. Hans Overturf (“Overturf”) (CRD no. 4138916) is a
14 California resident, and proprietor and president of Overturf Financial Services, Inc., a California
15 corporation. Overturf was also a registered representative employed by various investment related
16 firms, including Raymond James Financial Services, Inc. (“Raymond James”), a licensed broker-
17 dealer.

18 4. Overturf Financial Services, Inc. (“Overturf Financial”) is a California corporation
19 incorporated in February of 2004 with an address listed at 1110 Mar West St., Suite E, Tiburon,
20 California 94920. Overturf Financial is an investment related company.

21 5. In October 2004, Overturf was criminally charged with twelve felony counts including
22 selling unregistered securities, fraud in connection with the offer or sale of securities and other
23 unlawful acts (People of the State of California v. Hans Overturf, et al., Case No. CRF04-9186-4).
24 Overturf settled the matter for approximately \$420,000, and the charges were dismissed in December
25 2006.

26 6. On or about August 11, 2011, the Commissioner issued a Desist and Refrain Order
27 against Overturf for violations of Corporations Code section 25401 (“2011 Order”). Overturf offered
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1 and sold securities by means of written and oral communications which included untrue statements of
2 material fact and which omitted to state material facts necessary in order to make the statements
3 made, in light of the circumstances under which they were made, not misleading, in violation of
4 section 25401 of the Corporations Code.

5 7. On or about August 19, 2011, the Commissioner issued the notice of intention to bar
6 Overturf from any position of employment, management or control of any broker-dealer or
7 investment adviser under Corporations Code section 25213. The notice of intention concerned the
8 offers and sales of securities made by Overturf to his Raymond James clients, without the approval of
9 Raymond James, while he was employed at the firm. Among the misrepresentations Overturf made in
10 connection with those sales was the fact that Overturf had told investors that the investment product
11 was offered by Raymond James when it was not.

12 8. On November 15, 2011, the Commissioner and Overturf entered into a stipulation
13 whereby Overturf agreed to a three-year suspension, beginning on the date that the stipulation was
14 executed by both parties, from any position of employment, management or control of any
15 investment adviser, broker-dealer or commodity adviser (“Stipulation”). The Stipulation prohibited
16 Overturf from engaging in any activities related to any position of employment, management or
17 control of any investment adviser, broker-dealer or commodity adviser. In addition, under the
18 Stipulation, the 2011 Order became a final order. Overturf understood and agreed that the 2011 Order
19 remained in effect and was public, and that he would not make any statement or representation that
20 was inconsistent with the Stipulation. Overturf’s suspension expired on November 15, 2014.

21 9. On December 13, 2011, Overturf signed an Offer of Settlement with the Financial
22 Industry Regulatory Authority, Inc. (FINRA), and effective December 19, 2011. Overturf was
23 suspended by FINRA in all capacities for one year and fined \$10,000.00 for engaging in undisclosed
24 business activities while he was employed at Raymond James as a sales representative (“FINRA
25 Settlement”). FINRA is a non-governmental organization authorized by Congress to regulate all
26 securities firms doing business in the United States.

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1 10. Since at least August of 2014 through early 2015, while Overturf was prohibited from
2 engaging in any activities related to any position of employment, management or control of any
3 investment adviser, broker-dealer or commodity adviser, Overturf acted as an authorized agent of a
4 California resident for the client’s Roth IRA account at Fidelity Brokerage Services, LLC.
5 (“Fidelity”). As an authorized agent, Overturf traded on the client’s account.

6 11. Sometime in November of 2014, a California resident granted Overturf access to
7 accounts the client held at Fidelity: a trust account, a ROTH IRA, and a regular IRA account.
8 Overturf traded on the accounts and received a fee of \$5,465.00.

9 12. Overturf, as an authorized agent for the above described clients, misrepresented or
10 failed to disclose the following material facts:

11 a. the Stipulation that prohibited Overturf from engaging in any activities related
12 to any position of employment, management or control of any investment adviser, broker-dealer or
13 commodity adviser for three years, beginning November 15, 2011 through November 15, 2014;

14 b. the 2011 Order remained in effect and prohibited Overturf from violating the
15 anti-fraud provision of the Corporate Securities Law of 1968; and

16 c. the FINRA Settlement wherein FINRA suspended Overturf in all capacities for
17 one year and fined him \$10,000.00 for engaging in undisclosed business activities while he was
18 employed at Raymond James as a sales representative.

19 13. Overturf and Overturf Financial Services, Inc. conducted business as broker-dealers
20 by engaging in the business of effecting transactions in securities in this state for the account of
21 others. Under Corporations Code section 25210, Overturf and Overturf Financial Services, Inc. were
22 required to obtain a certificate from the Commissioner to conduct business as broker-dealers in the
23 State of California.

24 14. The Commissioner has no record of having received an application from, or having
25 granted a broker-dealer certificate to Overturf or Overturf Financial Services, Inc.

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1 III
2 **Overturf Should be Barred from Any Position of**
3 **Employment, Management or Control of Any Broker-Dealer**

4 15. Corporations Code section 25213 provides:

5 The commissioner may, after appropriate notice and opportunity for
6 hearing, by order censure, or suspend for a period not exceeding 12
7 months, or deny or bar from any position of employment, management
8 or control of any broker-dealer or investment adviser, any officer,
9 director, partner, agent, employee of, or person performing similar
10 functions for, a broker-dealer, or any other person, if the commissioner
11 finds that the censure, suspension, denial, or bar is in the public interest
12 and that the person has committed any act or omission enumerated in
13 subdivision (a), (e), (f), or (g) of Section 25212 or has been convicted
14 of, or pled nolo contendere to, any offense or been held liable in any
15 civil action specified in subdivision (b) of Section 25212, or is enjoined
16 from any act, conduct or practice specified in subdivision (c) of Section
17 25212 or is subject to any order specified in subdivision (d) of Section
18 25212.

13 16. Corporations Code section 25212, in relevant part, provides:

14 (d) Is or has been subject to . . . (2) any order of any national securities
15 association or national securities exchange (registered under the
16 Securities Exchange Act of 1934) suspending or expelling that person
17 from membership in the association or exchange or from association
18 with any member thereof, or (3) any other order of the commission or
19 any administrator, association, or exchange referred to in this
20 subdivision which is or has been necessary for the protection of any
21 investor.

19 17. As discussed in paragraph 6. above, Overturf offered and sold securities by means of
20 written and oral communications, which included untrue statements of material fact and which
21 omitted to state material facts necessary in order to make the statements made, in light of the
22 circumstances under which they were made, not misleading, in violation of section 25401 of the
23 Corporations Code. Accordingly, on or about August 2011, the 2011 Order was issued.

24 18. As discussed in paragraph 7. above, Overturf offered and sold securities to his
25 Raymond James clients, without the approval of Raymond James, while he was employed at the firm.
26 In connection with those sales, Overturf told investors that the investment product was offered by
27 Raymond James when it was not. Subsequently, the Commissioner issued the notice of intention to
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1 bar Overturf from any position of employment, management or control of any broker-dealer or
2 investment adviser under section 25213 of the Corporations Code.

3 19. As discussed in paragraph 8. above, Overturf entered into a stipulation that prohibited
4 him from engaging in any activities related to any position of employment, management or control of
5 any investment adviser, broker-dealer or commodity adviser from November 15, 2011 through
6 November 15, 2014. Overturf also stipulated that the 2011 Order would become a final order, that it
7 remained in effect and was public, and that he would not make any statement or representation that
8 was inconsistent with the stipulation.

9 20. On December 13, 2011, Overturf signed an Offer of Settlement with FINRA and
10 effective December 19, 2011. FINRA suspended Overturf in all capacities for one year and assessed
11 him a fine of \$10,000.00 for engaging in undisclosed business activities while he was employed at
12 Raymond James as a sales representative. Records show that Overturf has not paid the fine.

13 21. Since at least August of 2014 through early 2015, while Overturf was prohibited from
14 engaging in any activities related to any position of employment, management or control of any
15 investment adviser, broker-dealer or commodity adviser, Overturf acted as an authorized agent of a
16 California resident for the client's Roth IRA account at Fidelity Brokerage Services, LLC.
17 ("Fidelity"). As an authorized agent, Overturf traded on the client's account.

18 22. Sometime in November of 2014, a California resident granted Overturf access to
19 accounts the client held at Fidelity: a trust account, a ROTH IRA, and a regular IRA account.
20 Overturf traded on the accounts and received a fee of \$5,465.00.

21 23. Overturf, as an authorized agent for the above described clients, misrepresented or
22 failed to disclose the following material facts:

23 a. the Stipulation that prohibited Overturf from engaging in any activities related
24 to any position of employment, management or control of any investment adviser, broker-dealer or
25 commodity adviser for three years, beginning November 15, 2011 through November 15, 2014;

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b. the 2011 Order remained in effect and prohibited Overturf from violating the anti-fraud provision of the Corporate Securities Law of 1968; and

c. the FINRA Settlement wherein FINRA suspended Overturf in all capacities for one year and fined him \$10,000.00 for engaging in undisclosed business activities while he was employed at Raymond James as a sales representative.

IV

Conclusion

Overturf’s violation of the Stipulation, his broker-dealer activities in violation of Corporations Code sections 25210 and 25216, and FINRA’s one-year suspension and assessment of fines gives the Commissioner cause to bar Overturf from any position of employment, management or control of any broker-dealer or investment adviser.

WHEREFORE, based on the foregoing, the Commissioner finds it is in the public interest to bar Overturf from any position of employment, management or control of any broker-dealer or investment adviser under Corporations Code section 25213.

Dated: August 31, 2016

JAN LYNN OWEN
Commissioner of Business Oversight

By: _____
MARLOU de LUNA
Senior Counsel
Enforcement Division