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

12 In the Matter of:) CRD NOs.: 205516 and 848580
)
13 THE COMMISSIONER OF BUSINESS)
14 OVERSIGHT,) STATEMENT OF ISSUES IN SUPPORT OF
) NOTICE OF INTENTION TO ISSUE
15 Complainant,) ORDERS:
)
16 v.) 1. DENYING THE INVESTMENT
) ADVISER APPLICATION OF TWO
17 TWO LAKES CAPITAL ADVISORS, LLC;) LAKES CAPITAL ADVISORS, LLC
18 ROBERT ALLEN BERLACHER, as an)
19 individual,) 2. BARRING ROBERT ALLEN
) BERLACHER FROM ANY POSITION
20 Respondents.) OF EMPLOYMENT, MANAGEMENT,
) OR CONTROL OF ANY
21) INVESTMENT ADVISER OR
22) BROKER-DEALER
)
) (Corp. Code, §§ 25232 and 25232.1)
23)
24)
25)
26)

27 Jan Lynn Owen, the Commissioner of Business Oversight of the State of California
28 (Commissioner), alleges and charges as follows:

I.
Jurisdiction and Venue

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3 1. The Commissioner is authorized to administer and enforce the provisions of the
4 California Corporate Securities Law (CSL) of 1968 (Corp. Code, § 25000 et seq.) and the
5 regulations promulgated under (Cal. Code of Regs., tit. 10, § 260.000 et seq.).

6 2. This action is brought to deny the investment adviser application¹ of Two Lakes
7 Capital Advisors, LLC (Two Lakes), under Corporations Code section 25232, subdivision (b) and to
8 bar Robert Allen Berlacher (Berlacher) from any position of employment, management, or control of
9 any investment adviser or broker-dealer under Corporations Code section 25232.1.

II.
Statement of Facts

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11
12 3. Two Lakes is a limited liability company registered with the State of Illinois and is
13 located at 100 East Huron Street, Suite 4803, Chicago, Illinois 60611. At all relevant times, Two
14 Lakes is an Investment Adviser Representative, Central Registration Depository² (CRD) No.
15 205516.

16 4. At all relevant times, Berlacher is an Investment Adviser Representative, CRD No.
17 848580. Berlacher is the managing member and principal owner of Two Lakes.

18 5. On March 21, 2016, Two Lakes filed an application for an investment adviser
19 certificate with the Department of Business Oversight (Department). The application lists
20 Respondent Berlacher as the managing member, control person, and 75% or more principal owner of
21 Two Lakes. A review of Berlacher's CRD system (CRD No. 848580) disclosed a civil judicial
22 action filed by the United States Securities and Exchange Commission (SEC) against Berlacher on

23
24 ¹ The investment adviser application in issue is a "Form ADV Uniform Application for Investment Adviser Registration"
25 promulgated by the Securities Exchange Commission (SEC) pursuant to 17 Code of Federal Regulations 279.1 as
26 amended by the SEC Release No. 1A-1916, 34-43758. (*See* Corp. Code § 260.231.2) All registered investment advisers
27 with less than \$100 million in client assets must register with the securities regulator in the state of the adviser's
28 principal place of business, here, in this instance, the State of California.

² Central Registration Depository (CRD) is a licensing and registration system for the U.S. securities industry and
regulators. CRD system contains the registration records, qualification, employment and disclosure histories of active
registered individuals. CRD system facilitates the processing and payment of registration-related fees such as form
filings, fingerprint submissions, qualification exams and continuing education sessions.

1 or around September 13, 2007.

2 6. The Department’s review of the SEC’s Form U-6 filed with CRD indicates that on
3 September 13, 2010 the United States District Court for the Eastern District of Pennsylvania
4 (District Court) found Berlacher, along with several of his investment advisory entities and hedge
5 funds that he managed, had violated Section 10(b) and Rule 10b-5 of the Securities Exchange Act of
6 1934 (Exchange Act). Furthermore, the District Court ordered Berlacher to disgorge \$352,363.68 in
7 fees collected.

8 7. On or about September 19, 2016, the Department notified Two Lakes via email
9 regarding the final order rendered in *SEC v. Berlacher, et al.* (2010) WL 356670 [Fed. Sec. L. Rep. p
10 95, 943, EDPA, September 13, 2010] (Final Order). The Department requested that Two Lakes : (1)
11 provide a copy of the Final Order; (2) update Berlacher’s Form U4 Disclosure to reflect the SEC’s
12 civil action against Berlacher; (3) advise whether the entire amount of \$352,363.68 was levied
13 against Berlacher; and (4) provide evidence of disgorgement payment.

14 8. On or about September 27, 2016, Two Lakes responded to the Department’s inquiry
15 confirming that the order of disgorgement was paid. In the same response, Two Lakes and Berlacher
16 attached a copy of the Final Order.

17 **III.**
18 **Two Lakes’ Investment Adviser Application Should be Denied**
19 **Under Corporations Code Section 25232, Subdivision (b)**

20 9. Paragraphs 1 through 8 are hereby realleged and incorporated herein by reference as
21 if set forth in their entirety.

22 10. Corporations Code section 25232 provides, in pertinent part:

23 The commissioner may, after appropriate notice and opportunity for
24 hearing, by order censure, deny a certificate to, or suspend for a period
25 not exceeding 12 months or revoke the certificate of, an investment
26 adviser, if the commissioner finds that the censure, denial, suspension,
27 or revocation is in the public interest and that the investment adviser,
28 *whether prior or subsequent to becoming such, or any partner, officer
or director thereof or any person performing similar functions or any
person directly or indirectly controlling the investment adviser,*

