

1 STATE OF CALIFORNIA  
2 BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY  
3 DEPARTMENT OF BUSINESS OVERSIGHT

4 TO: JCB Capital Performance  
5 James C. Brandon  
6 1839 Ygnacio Valley Road, #123  
7 Walnut Creek, California 94598

8 **DESIST AND REFRAIN ORDER**  
9 **(For violations of section 25230 of the Corporations Code)**

10 The Commissioner of the Department of Business Oversight (Commissioner), finds that:

11 1. JCB Capital Performance (JCB) is a business organization of unknown form. JCB has  
12 a mailing address at 1839 Ygnacio Valley Road, #123, Walnut Creek, California 94598. JCB has a  
13 phone number of (415) 685-4656, web page address at JCB Capital.com, and email address at  
14 service@jbcapital.com. At all relevant times, James C. Brandon (Brandon) is the principal and  
15 operator of JCB. Brandon conducts business at 1839 Ygnacio Valley Road, #123, Walnut Creek,  
16 California 94598. Brandon maintains a public profile on LinkedIn.com at which describes Brandon  
17 as offering “Wealth Management services: Wealth management, Portfolio manager, Financial  
18 management, Asset planner / Risk manager - Insurance adviser & Annuity planner, Strategic Tax  
19 strategy, Education planning adviser, Retirement consultant planner, Wealth manager, Asset  
20 management, Portfolio manager, Estate planning and Wealth manager.”

21 2. JCB’s website states that it offers wealth management services, with its Home Page  
22 touting, “Financial Planner – Investment Advisor.” Under the heading “Aggressive,” JCB’s website  
23 states: “Recommended investments may be Individual stocks and bonds, Indexes, ETFs,  
24 Open/Closed-end mutual funds depending on the needs of each Client.” Moreover, on JCB’s website  
25 under a link called “Team,” a picture of James C. Brandon appears with the words, “JCB Capital  
26  
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1 Performance provides Financial Planning, Risk Management, and Asset Management services. . . .  
2 Portfolios are customized using Modern Portfolio Theory (MPT).”

3 3. Further, JCB’s website states as follows:  
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5 “Portfolio is constrained by certain parameters:

- 6 a. Up to 100% U.S. Equity Investments
- 7 b. Up to 75% U.S. Gov’t Fixed Income or Money market
- 8 c. Up to 75% Large Cap Investments
- 9 d. Up to 55% Non-U.S. Equity & Fixed Income
- 10 e. Up to 40% Mid Cap Investments
- 11 f. Up to 35% Non-U.S. Region Equity & Fixed Income
- 12 g. Up to 35% Natural Resources
- 13 h. Up to 30% Small Cap Investments
- 14 i. Up to 30% Corporate Debt
- 15 j. Up to 25% Industry Sector Investments
- 16 k. Up to 20% Hedge Funds
- 17 l. Up to 15% Micro Cap Investments
- 18 m. Up to 10% Non-U.S. Country Equity & Fixed Income
- 19 n. Up to 10% Private Equity
- 20 o. Up to 5% Derivatives

21 **Targeted returns 15-25%<sup>1</sup>”**

22 4. The fees listed on JCB website discloses an application fee for portfolio management  
23 consultation for \$1,000.00. Hourly consultation fees are billed at \$150.00 to \$300.00 per hour based  
24 on complexity.

25 5. Neither Brandon nor JCB holds a certificate or license from the Commissioner to  
26 conduct business as an investment adviser in California.

27 6. At all relevant times herein, Brandon and JCB have offered to conduct business in  
28 California.

7. At all relevant times herein, the United States Securities and Exchange Commission  
has not issued an investment adviser certificate to either Brandon or JCB.

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<sup>1</sup> Highlighting in the original text

1           8.       The Commissioner is authorized to administer and enforce the provisions of the  
2 Corporate Securities Law of 1968, Corporations Code sections 25000 et seq. (CSL) and the  
3 regulations thereunder at Title 10, California Code of Regulations (CCR).

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5           California Corporations Code section 25009, subdivision (a) provides in pertinent part:

6                   ‘Investment adviser’ means any person who, for compensation, engages in  
7 the business of advising others, either directly or through publications or  
8 writings, as to the value of securities or as to the advisability of investing  
9 in, purchasing or selling securities . . .

10           California Corporations Code section 25230, subdivision (a) provides:

11                   It is unlawful for any investment adviser to conduct business as an  
12 investment adviser in this state unless the investment adviser has first  
13 applied for and secured from the commissioner a certificate, then in effect,  
14 authorizing the investment adviser to do so or unless the investment  
15 adviser is exempted by the provisions of Chapter 1 (commencing with  
16 Section 25200) of this part or unless the investment adviser is subject to  
17 Section 25230.1.

18           California Corporations Code section 25202, subdivision (a) provides:

19                   An investment adviser shall not be subject to Section 25230 if (1) the  
20 investment adviser does not have a place of business in this state and (2)  
21 during the preceding 12-month period has had fewer than six clients who  
22 are residents of this state.

23           California Corporations Code section 25230.1 states in pertinent part:

24                   (a) A person that is registered under Section 203 of the Investment  
25 Advisers Act of 1940 as an investment adviser is not subject to the  
26 requirement of obtaining a certificate under Section 25230, but may not  
27 conduct business in this state unless the person has fewer than six clients  
28 as specified in Section 25202 or unless the person first complies with  
subdivision (b). An investment adviser representative that has a place of  
business in this state may be required to obtain a certificate pursuant to  
Section 25231.

(b) A person subject to subdivision (a) shall:

(1) File with the commissioner an annual notice, consisting of those  
documents filed with the Securities and Exchange Commission pursuant  
to the securities laws that the commissioner by rule or order deems

1 appropriate or, in lieu thereof, a form prescribed by the commissioner, and  
2 a consent to service of process under Section 25240 . . .

3 California Corporations Code section 25532, subdivision (b) states:

4 If, in the opinion of the commissioner, a person has been or is acting as a  
5 broker-dealer or investment adviser, or has been or is engaging in broker-  
6 dealer or investment adviser activities, in violation of Section 25210,  
7 25230, or 25230.1, the commissioner may order that person to desist and  
8 refrain from the activity until the person has been appropriately licensed or  
9 the required filing has been made under this law.

10 9. The foregoing facts establish that Brandon and JCB have offered to conducted  
11 business as an investment adviser in this state without first securing from the Commissioner a  
12 certificate, then in effect, authorizing them do so or unless they are exempt, in violation of  
13 Corporations Code section 25230. Moreover, neither Brandon nor JCB are exempt from  
14 Corporations Code section 25230.

15 Based upon the foregoing findings, the Commissioner is of the opinion that James C. Brandon  
16 and JCB Capital Performance conducted business or offered to conduct business as an investment  
17 advisor in this state without first securing from the Commissioner a certificate, authorizing them to  
18 do so, in violation of section 25230 of the CSL.

19 Pursuant to California Corporations Code section 25532, James C. Brandon and JCB Capital  
20 Performance are hereby ordered to desist and refrain from acting or offering to act as an investment  
21 adviser in the State of California unless and until they have first applied for and secured from the  
22 Commissioner a certificate authorizing them to act as an investment adviser, or unless exempt.

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1           This Order is necessary, in the public interest, for the protection of investors, and consistent  
2 with the purposes, policies, and provisions of the Corporate Securities Law of 1968.  
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4 Dated: December 12, 2018  
5 San Francisco, California

JAN LYNN OWEN  
Commissioner of Business Oversight

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7 By \_\_\_\_\_  
8 Mary Ann Smith  
9 Deputy Commissioner  
10 Enforcement Division  
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