

1 MARY ANN SMITH
Deputy Commissioner
2 DANIEL P. O'DONNELL
Assistant Chief Counsel
3 KIRK WALLACE (State Bar No. 129953)
Senior Counsel
4 One Sansome Street, Suite 600
San Francisco, CA 94104
5 Telephone: (415) 972-8546
6 Facsimile (415) 972-8550
7 Attorneys for Complainant

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

10 In the Matter of:) CRD No. 120284
11)
12 MICHAEL STARR, doing business as)
STELLAR FINANCIAL PLANNING.) CONSENT ORDER
13)
14 Respondent.)
15 _____)

16 The Commissioner of Business Oversight (Commissioner) and Michael Starr, doing
17 business as Stellar Financial Planning (collectively, the parties), enter this Consent Order with respect
18 to the following facts:

19 **RECITALS**

20
21 A. The Commissioner of the Department of Business Oversight is authorized to administer and
22 enforce the provisions of the Corporate Securities Law of 1968, Corporations Code section 25000 et
23 seq. ("CSL") and the regulations promulgated thereunder at Title 10, California Code of Regulations,
24 which includes the licensure and regulation of investment advisers.

25 B. At all relevant times, Michael Starr, doing business as Stellar Financial Planning ("Stellar")
26 (CRD number 120284) is an individual and sole proprietorship doing business at 45965 Sentinel
27 Place, Fremont, California 94539. Stellar operated an investment adviser business under a certificate
28 issued on December 21, 1995 by the California Department of Business Oversight ("Department").

1 Stellar admits to the jurisdiction of the Department in this matter for the purposes of issuing and
2 enforcing this order.

3 C. Beginning on or about February 1, 2017 the Department initiated a routine examination of
4 Stellar's investment adviser business and books and records (Examination) pursuant to the
5 Department's authority under Corporations Code section 25241. During the examination it was
6 learned that Stellar had been trading securities in his clients' brokerage accounts online using the
7 clients' individual brokerage account passwords and other identifying information. This violated the
8 agreements the clients had entered into with the brokerage and the brokerage's trading rules, which
9 prohibited allowing anyone other than the account holder to trade an individuals' accounts using the
10 account holder's password.

11 D. Further, the Examination found that by having access to the clients' brokerage accounts
12 passwords Stellar had the ability to trade or transfer the clients' assets in those accounts, giving
13 Stellar constructive custody of the client's assets. Investment advisers who have custody of client
14 assets must inform the Department and implement additional safeguards including having annual
15 independent audits performed of the client assets as required by the Corporations Code and California
16 Code and Title 10, California Code of Regulations section 260.237. The Examination found Stellar
17 had failed to implement any of the safeguards required of investment advisers who have custody of
18 client assets.

19 E. By engaging in the above acts, the Examination found that Stellar also violated Corporations
20 Code sections 25250 by engaging in unsafe or injurious practices and 25235 subdivision (d) by
21 engaging in fraudulent, deceptive or manipulative practices as an investment adviser. However, the
22 Examination also found that Stellar's clients had expressly authorized Stellar to trade their brokerage
23 accounts using their passwords in written agreements and there was no evidence that this practice had
24 resulted in the loss or misuse of the client's funds by Stellar. The Department informed Stellar during
25 the Examination that this practice was in violation of Corporations Code sections 25250 and 25235.
26 Stellar agreed to immediately end the practice.

27 F. The Department informed Stellar of its findings and of its intent to bring an administrative
28 enforcement action to order Stellar to desist and refrain from further violations of the CSL and to pay

1 administrative penalties. In response, Stellar indicated its desire to cooperate with the Department to
2 remedy any violations and to consent to the entry of this Order without the need to file an
3 enforcement action or for other litigation for its violations.

4 G. Stellar admits to the jurisdiction of the Department and consents to the entry of this Order by
5 the Department to settle the issues contained in this Order without the need to file an enforcement
6 action for its violations.

7 H. The Commissioner finds that this Order is necessary, in the public interest, for the protection
8 of investors, and consistent with the purposes, policies, and provisions of the CSL.

9 **TERMS AND CONDITIONS**

10 1. Desist and Refrain Order. Pursuant to Corporation Code sections 25250, 25249 and 25235
11 Stellar is hereby ordered to desist and refrain from engaging in unsafe, injurious and deceptive
12 business practices, including but not limited to trading clients' brokerage accounts by using the
13 clients' passwords and having custody of client assets without complying with the requirements
14 specified in Title 10, of the California Code of Regulations section 260.237.

15 2. Administrative Penalties. Pursuant to Corporation Code section 25252 Stellar agrees to pay
16 administrative penalties in an amount of \$2,000.00 due and payable to the DBO on or before January
17 31, 2019. It shall be paid by check made payable to the Department of Business Oversight, and
18 mailed to the attention of: Accounting, Department of Business Oversight, 1515 K Street, Suite 200,
19 Sacramento, California 95814. The notice of payment shall be made to Kirk Wallace at Department
20 of Business Oversight, One Sansome Street, Suite 600, San Francisco, California 94104.

21 3. Remedy for Breach. In the event Stellar fails to comply with the terms of this Order regarding
22 payment of the penalties specified in paragraph 2, it is hereby stipulated and agreed by Stellar that
23 this Order may be converted to an enforceable civil judgment for the entire amount of \$2,000.00
24 pursuant to the procedure specified by CSL section 25532 subdivision (f). It is further agreed and
25 stipulated that such civil judgment may be entered by the court on an ex parte basis without the need
26 of further notice or hearing to Stellar. It is agreed by the Department that any of the penalties already
27 paid by Stellar will count as an offset and a partial satisfaction of the total amount of the civil
28 judgment entered in any subsequent proceeding to enforce the civil judgment.

1 4. Waiver of Hearing Rights. Stellar acknowledges that the Commissioner is ready, willing, and
2 able to proceed with the filing of an administrative enforcement action on the charges contained in
3 this Consent Order, and Stellar hereby waives the right to a hearing, and to any reconsideration,
4 appeal, or other right to review which may be afforded pursuant to the CSL. Stellar further expressly
5 waives any requirement for the filing of an Accusation that may be afforded by Government Code
6 section 11415.60 (b); the California Administrative Procedure Act, the California Code of Civil
7 Procedure, or any other provision of law; and by waiving such rights, Stellar effectively consents to
8 this Consent Order becoming final.

9 5. Future Actions by the Commissioner. The Commissioner reserves the right to bring any
10 future action(s) against Stellar or any of its partners, owners, officers, directors, shareholders,
11 employees, or successors for any and all unknown or future violations of the Corporations Code. This
12 Order shall not serve to exculpate Stellar or any of its partners, owners, officers, directors,
13 shareholders, employees, or successors from liability for any and all unknown or future violations of
14 the CSL.

15 6. Full and Final Settlement. The Parties hereby acknowledge and agree that this Consent Order
16 is intended to constitute a full, final, and complete resolution of the violations described herein and
17 that no further proceedings or actions will be brought by the Commissioner in connection with these
18 matters either under the CSL, or any other provision of law, excepting therefrom any proceeding to
19 enforce compliance with the terms of this Consent Order, or a proceeding or action based upon
20 discovery of new and further violations of the CSL which do not form the basis for this Consent
21 Order or which Stellar knowingly concealed from the Commissioner.

22 7. Authority to Execute. Each signatory hereto covenants that he or she possesses all necessary
23 capacity and authority to sign and enter this Order.

24 8. Effective Date. This Order shall not become effective until signed by all parties and
25 delivered by the Commissioner's counsel by email to Michael Starr at the email address
26 stellarfp@comcast.net.

27 9. Public Record. Stellar hereby acknowledges that this Order is and will be a matter of public
28 record.

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Dated: January 14, 2019

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division

Dated: December 29, 2018

By _____
MICHAEL STARR d.b.a.
Stellar Financial Planning