BEFORE THE

DEPARTMENT OF BUSINESS OVERSIGHT

STATE OF CALIFORNIA

In the Matter of: THE COMMISSIONER OF BUSINESS OVERSIGHT, Complainant, v. PYRAMID SCREENING TECHNOLOGY, INC.; STEVEN GANESH, Respondents.	Case No. 11235 OAH No. 2018061146

ORDER OF REJECTION OF PROPOSED DECISION

(Govt. Code section 11517(c)(2)(E))

The Commissioner of Business Oversight hereby submits an Order of Rejection of Proposed Decision. The Commissioner rejects the Proposed Decision In the Matter of THE COMMISSIONER OF BUSINESS OVERSIGHT v. PYRAMID SCREENING TECHNOLOGY, INC.; STEVEN GANESH, dated December 13, 2018.

The parties are advised that the Commissioner for the Department of Business Oversight considered, but did not adopt, the Proposed Decision and that the Commissioner will decide the case under the provisions of Government Code section 11517(c)(2)(E). In accordance with Government Code section 11517(c)(2)(E)(ii), each party may submit written arguments to the Commissioner of Business Oversight. Your right to argue on matters that you feel should be argued is not limited, but you are advised that the Commissioner based her rejection of the Proposed Decision on the following:

1. Whether the $48,000 in administrative penalties levied against Respondents in the Commissioner's Notice of Intention to Issue Order Levying Administrative Penalties Pursuant to Corporations Code section 25252 should be affirmed because all investors in the two securities transactions did not meet the conditions of the limited offering exemption in Corporations Code section 25102, subdivision (f). Respondents sold securities in two separate securities transactions. Corporations Code section 25102, subdivision (f), requires all purchasers in a securities transaction to meet the specified conditions in order for the transaction to be exempt as a limited offering.

2. Whether Respondents' contacts with investors Wildhagen or Hicks were sufficient to establish a preexisting personal or business relationship within the meaning of Corporations Code section 25102, subdivision (f)(2), or by reason of their business or financial experience, Wildhagen or Hicks could be reasonably assumed to have the capacity to protect their own interests in connection with the transaction. The preexisting relationship must be of a duration and nature to enable a reasonably prudent purchaser to be aware of the character, business acumen, and general business and financial circumstances of the issuer.

Any written argument that each party may submit must be filed with the Department of Business Oversight on or before April 24, 2019, by mail or facsimile as follows:

Mail

Department of Business Oversight
Attn: Barbara Neal, OAH Coordinator
Law and Policy Division
1515 K Street, Suite 200
Sacramento, California 95814
(916) 323-7015

Facsimile

(916) 324-6437, to the attention of Barbara Neal, OAH Coordinator, Law and Policy Division.

Dated: March 21, 2019

[redacted]

JAN LYNN OWEN
Commissioner of Busines

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PROPOSED DECISION

Administrative Law Judge Juliet E. Cox, State of California, Office of Administrative Hearings, heard this matter on November 13 and 14, 2018, in Oakland, California.

Senior Counsel Timothy L. Le Bas represented complainant Jan Lynn Owen, Commissioner of Business Oversight, State of California.

Respondent Steven Ganesh was present throughout the hearing, representing himself. Respondent Pyramid Screening Technology did not appear.

The matter was submitted for decision on November 14, 2018.

FACTUAL FINDINGS

1. Respondent Pyramid Screening Technology (PST) was a California corporation, formed in 2001. PST represented to potential investors that it operated an Internet-based job placement service, using the business name Bullethire. PST abandoned the Bullethire business in late 2013 or early 2014, and dissolved in March 2014.

2. Respondent Steven Ganesh was PST's chief executive officer. Ganesh made all significant decisions for PST during the events at issue in this matter, and participated personally in each of the transactions complainant Jan Lynn Owen alleges to have been unlawful.

3. Acting in her official capacity as Commissioner of Business Oversight, complainant served Ganesh on May 20, 2018, with notice of her intent to levy a total administrative penalty of $48,000 on him and on PST. Complainant stated her intent to penalize respondents for selling securities after January 7, 2010, that required pre-qualification but that she had not pre-qualified; for continuing to sell securities in an unlawful manner after issuance of an order forbidding further such sales; and for making material misrepresentations while selling securities. Complainant also served Ganesh with an order issued May 9, 2018 (the 2018 Desist and Refrain Order) directing respondents to refrain from further sales of unqualified securities.

4. Ganesh filed a notice of defense and an accompanying letter. These documents requested a hearing with respect both to the order levying administrative penalties and to the order forbidding further sales of unqualified securities. The notice of defense and letter did not identify specifically any ground for defense in this matter.

5. When PST dissolved, Ganesh represented in writing to shareholders that the corporation was insolvent. The evidence did not establish what assets PST had when it dissolved, or how PST disposed of those assets.

2010 Desist and Refrain Order

6. On January 5, 2010, upon consent by persons including Ganesh and PST, the former Commissioner issued an order (the 2010 Order). Ganesh and PST reciived advice from counsel in negotiating the agreement in which they consented to the Commissioner's issuing the 2010 Order.

7. The 2010 Order stated that Ganesh and PST had offered shares in PST to members of the public, including by advertising the availability of such investments on a website. The 2010 Order stated further that these shares were securities that required the Commissioner's qualification before issuance to the public, but that the Commissioner had not qualified the shares for public issuance. The 2010 Order directed Ganesh and PST to refrain from selling shares in PST except in transactions exempt from regulation under the California Corporate Securities Law.

8. For at least two reasons, the 2010 Order would have provided material information to any person considering an investment in PST after January 5, 2010. First, the 2010 Order demonstrates that before January 5, 2010, Ganesh had failed to ensure that PST issued shares only in compliance with the California Corporate Securities Law. Second, the 2010 Order demonstrates that Ganesh actually knew or should have known on and after

January 5, 2010, that PST could not issue securities to the general public, but instead could issue them only in transactions exempt from the California Corporate Securities Law

Share Sales to Rocco DiPaola

9. Before September 2009, Rocco DiPaola never had met Ganesh or any other PST agent, and knew nothing about PST. DiPaola never had worked in the job placement business; had little personal experience investing in individual corporate stocks or in other securities; and was not seeking or receiving advice from an independent financial adviser regarding PST.

10. In September 2009, DiPaola watched a video on the YouTube website describing investment opportunities in PST. To learn more about the opportunities the video described. DiPaola sent email to a contact address in the video. He exchanged email with Ganesh, and spoke to Ganesh at least once by telephone. Ganesh also referred DiPaola to a Bullethire business website.

11. On September 28, 2009, DiPaola paid PST $15,000 in cash for 200,000 shares in PST ($0.075 per share).

12. To memorialize the investment terms, Ganesh presented DiPaola with a standard PST subscription agreement. PST had drafted this standard PST subscription agreement with advice of counsel.

a. The subscription agreement states in paragraph (a) that the purchaser

> either (i) has a preexisting personal or business relationship with [PST] or one or more of its officers, directors or control persons, consisting of personal or business contacts of a nature and duration sufficient to enable the [purchaser], as a reasonably prudent investor, to be aware of the character, business acumen and general business and financial circumstances of the person(s) with whom such relationship exists; or (ii) by reason of his or her business or financial experience . . . he or she is capable of evaluating the risks and merits of an investment in [PST's shares] and of protecting his or her own interests in connection with the investment.

b. The subscription agreement states in paragraph (b) that the purchaser

> has not seen, received, been presented with, or been solicited by any leaflet, public promotional meeting, newspaper or magazine article or advertisement, radio or television advertisement, or any other form of advertising or general solicitation with respect to the sale of [PST] shares.

c. The subscription agreement states in paragraph (c) that the purchaser

> is acquiring and will hold the [PST shares] for investment for his or her account only and not with a view to, or for resale in connection with, any "distribution" thereof within the meaning of the Securities Act of 1933, as amended.

d. The subscription agreement states in paragraph (f) that the purchaser

> is aware that his or her investment in [PST] is a speculative investment that has limited liquidity and is subject to the risk of cmmpleteloss. Purchaser is able, without impairing his or her financial condition, to hold the [PST shares] for an indefinite period and to suffer a complete loss of his or her investment.

13. DiPaola and Ganesh signed a standard PST subscription agreement. DiPaola did not negotiate the subscription agreement's terms with Ganesh or with any other PST agent, and did not modify the terms.

14. Neither Ganesh nor any other PST representative had discussed DiPaola's financial position or investing experience with him before presenting DiPaola with the standard subscription agreement and accepting DiPaola's investment.

15. In light of the matters stated in Findings 9 and 14, the statements described above in Finding 12.a were not true with respect to DiPaola's September 2009 investment. Furthermore, and in light of the matters stated in Findings 10 and 14, Ganesh could not reasonably have believed that these statements were true as to DiPaola in September 2009.

16. In light of the matters stated in Finding 10, the statement described above in Finding 12.b was not true with respect to DiPaola's September 2009 investment. Ganesh knew that this statement in the PST standard subscription agreement was not true as to DiPaola in September 2009.

17. After DiPaola had invested in PST, Ganesh emailed DiPaola a document that DiPaola recalls as a business plan covering about 45 printed pages. DiPaola also recalls having received periodic email and telephone updates from Ganesh about the business, including requests that DiPaola solicit other people to invest in PST.

18. PST never provided a copy to DiPaola of the 2010 Order.

19. On May 6, 2010, DiPaola paid PST $15,000 in cash for 20,000 more shares in PST ($0.75 per share).

20. To memorialize the investment terms, DiPaola and Ganesh signed a second standard PST subscription agreement including the terms described above in Finding 12.

DiPaola did not negotiate the subscription agreement's terms with Ganesh or with any other PST agent, and did not modify the terms.

21. In light of the matters stated in Findings 9, 14, 17, and 18, the statements described above in Finding 12.a remained untrue with respect to DiPaola's May 2010 investment. Furthermore, the matters stated in Finding 17 and 18 did not give Ganesh reason to believe that these statements had become true as to DiPaola between September 2009 and May 2010.

22. In light of the matters stated in Finding 10, the statement described above in Finding 12.b remained untrue with respect to DiPaola's May 2010 investment. Ganesh knew that this statement in the PST standard subscription agreement was not true as to DiPaola in May 2010.

23. DPPaolanever received any dividends from PST, or any share of PST's assets upon its dissolution.

Share Sales to Dave Wildhagen

24. Dave Wildhagen is the president and chief executive officer of Payroll Masters, a payroll service business. He founded this business, which provides payroll processing services for small business clients, about 30 years ago; he has owned and operated it since then.

25. Wildhagen never has worked in the job placement business. By January 2010, he did have personal experience investing in individual corporate stocks and in other securities.

26. PST was a Payroll Masters client. In late 2009 or early 2010, Payroll Masters processed a payroll for PST when PST did not have sufficient money on deposit in PST's bank to cover the full amount due to employees, to taxing agencies, and to Payroll Masters. Payroll Masters had advanced funds to the employees and taxing agencies on PST's behalf, leaving PST with a significant debt to Payroll Masters.

27. Wildhagen met Ganesh at least once in PST's office to discuss strategies for addressing the debt described above in Finding 26. Ganesh described PST's business plans to Wildhagen, and showed Wildhagen PST's software.

28. Ganesh did not discuss the 2010 Order with Wildhagen, or give Wildhagen a copy of the 2010 Order.

29. On January 12, 2010, Wildhagen accepted 144,000 shares in PST, for $0.75 per share, as payment of the debt described above in Finding 26.

30. To memorialize the investment terms, Wildhagen and Ganesh signed a PST subscription agreement including the terms described above in Finding 12. In addition, the subscription agreement between PST and Wildhagen stated

> [PST] acknowledges receipt from [Wildhagen], on the Date of Purchase, of consideration with the value of [$108,000], through [Wildhagen's] agreement to convert indebtedness in such amount into the [144,000 PST shares].

31. In light of the matters stated in Findings 24 through 27, the statements described above in Finding 12.a were true with respect to Wildhagen's January 2010 investment.

32. The statements described above in Findings 12.b, 12.c, and 12.d were true with respect to Wildhagen's January 2010 investment.

33. Wildhagen never received any dividends from PST, or any share of PST's assets upon its dissolution.

Loans From Pan American Real Estate 401(k) Plan

34. Barbara Perez answered an employment advertisement by PST, and worked for PST for about ten months. Her role was to make cold telephone calls to potential PST customers, to generate interest that Ganesh could pursue for contracts. She knew no officers, managers, or directors at PST other than Ganesh, and knew nothing about PST's overall financial condition or business prospects.

35. Her husband, Robert Perez, met Ganesh when Robert Perez visited Barbara Perez at work. They had no prior or other relationship. The evidence did not establish precisely when Barbara Perez began working at PST, or when Robert Perez visited her and met Ganesh.

36. Neither Robert Perez nor Barbara Perez ever had worked in the job placement business. They had some personal experience investing in real estate but little personal experience investing in individual corporate stocks or in other securities. They were not seeking or receiving advice from an independent financial adviser regarding PST.

37. Ganesh did not discuss the 2010 Order with either Barbara Perez or Robert Perez, and did not give either of them a copy of the 2010 Order.

38. On January 20, 2010, PST borrowed $105,000 in cash from Robert A. Perez, as trustee for the Pan American Real Estate 401(k) Plan (the Plan). Robert Perez and PST agreed that PST would pay 1 percent interest on these funds ($1,050) each month, and would repay the principal to Robert Perez, for the Plan, within one year.

39. Perez (for the Plan) and Ganesh (for PST) signed a document memorializing this agreement (the January 2010 Perez Note). The January 2010 Perez Note stated the financial terms described above in Finding 38. In addition, the January 2010 Perez Note stated

> The assets of [PST] secure this loan. Lender agrees that all legally obtained liens attachments or other judgements [sic] or assignments of assets shall take precedence, and shall maintain a first claim thereafter. If [PST] is sold, merges with, or is acquired by another company the amount is due in full.

40. On July 25, 2010, PST borrowed an additional $30,000 from Robert Perez, as trustee for the Plan. Robert Perez and PST agreed that PST would pay 1 percent interest on these funds ($300) per month, and would repay the principal to Robert Perez, for the plan, by January 20, 2011. Robert Perez and PST agreed further that PST would use$1,800 of this $30,000 to prepay six months' interest on the July 2010 loan, and $8,400 of this $30,000 to pay two months' past due interest and to prepay six months' upcoming interest on the January 2010 loan. Robert Perez, for the Plan, disbursed the remaining $19,800 to PST.

41. Perez (for the Plan) and Ganesh (for PST) signed a document memorializing this second agreement (the July 2010 Perez Note). The July 2010 Perez Note stated the financial terms described above in Finding 40. In addition, the July 2010 Perez Note stated

> The assets of [PST] secure this loan. Lender agrees that all legally obtained liens attachments or other judgments or assignments of assets shall take precedence, and shall maintain a first claim thereafter. If [PST] is sold, merges with, or is acquired by another company the amount is due in full.

42. Ganesh represented to Barbara Perez and to Robert Perez in 2010 that PST had assets worth $1 million or more. The evidence did not establish whether this estimate or representation were accurate, but did establish that a significant portion of PST's assets in 2010 were intangible assets such as software PST had developed.

43. Ganesh assured Barbara Perez and Robert Perez that because of the promises described in Findings 39 and 41, they could not lose the principal amount of the Plan's loans. They would not have made the loans without this assurance.

44. Ganesh and Robert Perez generally discussed Robert Perez's business and investment experience before Robert Perez loaned the Plan's money to PST. They never discussed Robert and Barbara Perez's financial position, net worth, or specific investment activities.

45. Because of their experience in real estate investing, Barbara Perez and Robert Perez understood generally how a borrower pledges real property as security for repayment

of a loan. They did not know how a borrower might pledge personal property, including intangible property, as security for repayment of a loan. Despite the representations in the January 2010 Note and the July 2010 Note, as stated in Findings 39 and 41, neither the Perezes nor Ganesh took any steps to perfect any security interest for the Plan in PST's assets.

46. Ganesh knew or should have known from the Plan's name that it could have beneficiaries other than Robert Perez. At the same time, the evidence did not establish that Ganesh knew or should have known who the Plan's beneficiaries actually were.

47. Neither Robert Perez nor the Plan received further payment on either loan after July 25, 2010.

Share Sales to Paul Hicks

48. Paul Hicks is a vice president at Payroll Masters. Hicks has worked at Payroll Masters since 1995.

49. Hicks never has worked in the job placement business. By 2009, he did have personal experience investing in individual corporate stocks and in other securities.

50. In late 2009, Hicks paid PST $9,750 in cash for shares in PST.

51. Ganesh did not discuss the 2010 Order with Hicks, or give Hicks a copy of the 2010 Order.

52. On July 6, 2010, Hicks and his wife, as trustees for their family trust, paid PST $10,500 in cash for 14,000 shares in PST ($0.75 per share).

53. To memorialize the investment terms, Hicks and Ganesh signed a standard PST subscription agreement including the terms described above in Finding 12. Hicks did not negotiate the agreement's terms with Ganesh or with any other PST agent, and did not modify the terms.

54. In light of the matters stated in Findings 26, 48, and 49, the statements described above in Finding 12.a were true with respect to the July 2010 investment by Hicks and his wife.

55. The statements described above in Findings 12.b, 12.c, and 12.d were true with respect to the July 2010 investment by Hicks and his wife.

56. Hicks and his wife never received any dividends from PST, or any share of PST's assets upon its dissolution.

Share Sales to Barbara Perez

57. On July 27, 2010, PST sold 30,000 shares in PST, for $0.75 each, to Barbara Perez. Barbara Perez did not pay PST $22,500 in cash for these shares. Instead, Barbara Perez accepted these shares in exchange for labor she already had provided to PST, and intended to continue providing, during 2010.

58. To memorialize the investment terms, Barbara Perez and Ganesh signed a standard PST subscription agreeee nt including the terms described above in Finding 12. Barbara Perez did not negotiate the agreement's terms with Ganesh or with any other PST agent, and did not modify the terms.

59. In light of the matters stated in Findings 34, 35, and 36, the statements described above in Finding 12.a were not true with respect to Barbara Perez's July 2010 investment. Furthermore, and in light of the matters stated in Findings 34, 36, and 44, Ganesh could not reasonably have believed that these statements were true as to Barbara Perez in July 2010.

60. The statements described above in Finding 12.d were not true with respect to Barbara Perez's July 2010 investment. Furthermore, and in light of the mattess stated in Findings 36, 44, and 57, Ganesh could not reasonably have believed that these statements were true as to Barbara Perez in July 2010.

61. Barbara Perez never received any dividends from PST, or any share of PST's assets upon its dissolution.

Share Sales to David and Kristine Goddard

62. In late 2010, along with 15 or 20 other people, David and Kristine Goddard attended a presentation at PST's office about the opportunity to invest in PST. Ganesh spoke to the attendees, emphasizing PST's potential to deliver eight-fold or greater returns on investment.

63. The Goddards attended this presentation at their daughter's invitation. The Goddards' daughter worked for PST as a receptionist. She spoke highly of Ganesh and of PST's business prospects.

64. Neither David nor Kristine Goddard ever had met Ganesh, or any other PST agent aside from their daughter, before the investment presentation they attended. They had not worked in the job placement business; had little personal experience investing in individual corporate stocks or in other securities; and were not seeking or receiving advice from an independent financial adviser.

65. Either at this event or at a follow-up meeting with Ganesh before purchasing their shares in PST, the Goddards received a three-page document summarizing PST's business prospects and stating that PST "is seeking funds of $1.95M."

66. Ganesh did not discuss the 2010 Order with the Goddards, or give them a copy of the 2010 Order.

67. On December 3, 2010, the Goddards paid PST $30,000 in cash for 40,000 shares in PST ($0.75 per share).

68. To memorialize the investment terms, the Goddards and Ganesh signed a standard PST subscription agreement including the terms described above in Finding 12. The Goddards did not negotiate the agreement's terms with Ganesh or with any other PST agent, and did not modify the terms.

69. Neither Ganesh nor any other PST representative discussed the Goddards' financial position or investing experience with them before presenting them with the standard subscription agreement and accepting their investment.

70. In light of the matters stated in Findings 63 and 64, the statements described above in Finding 12.a were not true with respect to the Goddards' December 2010 investment. Furthermore, and in light of the matters stated in Findings 62 and 69, Ganesh could not reasonably have believed that these statements were true as to the Goddards in December 2010.

71. In light of the matters stated in Findings 62 and 65, the statements described above in Finding 12.b were not true with respect to the Goddards' December 2010 investment. Ganesh knew that these statements were not true as to the Goddards in December 2010.

72. The Goddards never received any dividends from PST, or any share of PST's assets upon its dissolution.

Share Sales to and Loan From Natalie Hermann

73. Ganesh's neighbor introduced him in early 2013 to her friend Natalie Hermann. The neighbor had invested in PST, and introduced Hermann as another potential investor in PST. Hermann did not know Ganesh before his neighbor introduced them.

74. Hermann was a licensed real estate broker. She had not worked in the job placement business; had little personal experience investing in individual corporate stocks or in other securities; and was not seeking or receiving advice from an independent financial adviser.

75. Ganesh did not discuss the 2010 Order with Hermann, or give her a copy of the 2010 Order.

76. On April 12, 2013, Hermann paid $7,500 in cash to PST for 15,000 PST shares ($0.50 per share).

77. To memorialize the investment terms, Hermann and Ganesh signed a standard PST subscription agreement including the terms described above in Finding 12. Hermann did not negotiate the agreement's terms with Ganesh or with any other PST agent, and did not modify the terms.

78. Ganesh's neighbor had described Hermann to Ganesh as wealthy. Neither Ganesh nor any other PST representative had discussed Hermann's financial position or investing experience with her before presenting her with the standard subscription agreement and accepting her investment.

79. In light of the matters stated in Findings 73 and 74, the statements described above in Finding 12.a were not true with respect to Hermann's April 12, 2013, investment. Furthermore, and in light of the matters stated in Findings 73 and 78, Ganesh could not reasonably have believed that these statements were true as to Hermann on April 12, 2010.

80. On April 30, 2013, Hermann paid $3,000 in cash to PST for 6,000 more PST shares ($0.50 per share).

81. To memorialize the investment terms, Hermann and Ganesh signed a second PST subscription agreement including the terms desrribed above in Finding 12. Hermann did not negotiate the agreement's terms with Ganesh or with any other PST agent, and did not modify the terms.

82. The statements described above in Finding 12.a remained untrue with respect to Hermann's April 30, 2013, investment. Furthermore, Ganesh had no reason to believe that these statements had become true as to Hermann between April 12 and April 30, 2013.

83. On July 15, 2013, PST borrowed $10,000 from Hermann. Hermann and PST agreed that PST would repay Hermann, with interest, by paying her $2,000 per month for six months beginning September 15, 2013.

84. Hermann and Ganesh (for PST) signed a document memorializing this agreement (the Hermann Note). The Hermann Note stated the financial terms described above in Finding 83. It also promised Hermann "2,000 fully vested options at the prevailing share price."

85. Hermann received no repayment on her loan.

86. Hermann never received any dividends from PST, or any share of PST's assets upon its dissolution.

Additional Evidence

87. The Commissioner never qualified any PST security for issuance to the public.

88. On January 22, 2010, PST filed a statement with the Department stating that it had issued common stock with a total offering value in California of $108,000 and a total offering value of $1,950,000. This statement claimed the stock offering's exemption from regulation by the Department under Corporations Code section 25102, subdivision (f).

89. On July 26, 2010, PST filed a statement with the Department stating that it had issued common stock with a total offering value in California of $370,000.50 and a total offering value of $400,000.50. This statement claimed the stock offering's exemption from regulation by the Department under Corporations Code section 25102, subdivision (f).

90. On February 18, 2012, PST filed a statement with the Department stating that it had issued common stock beginning July 6, 2010, with a total offering value in California of $93,000 and a total offering value of $100,500. This statement claimed the stock offering's exemption from regulation by the Department under Corporations Code section 25102, subdivision (f).

91. On January 29, 2014, PST filed a statement with the Department stating that it had issued common stock beginning March 28, 2013, with a total offering value in California of $21,000 and a total offering value of $21,000. This statement claimed the stock offering's exemption from regulation by the Department under Corporations Code section 25102, subdivision (f).

92. The evieence did not establish the identities or interests of any PST shareholders or lenders other than the persons described specifically above. PST never had more than 35 shareholders.

LEGAL CONCLUSIONS

1. Each factual finding above reflects a preponderance of the evidence.

2. The matters stated in Finding 2 confirm that Ganesh bears personal responsibility for any actions by PST that violated California laws, regulations, and orders governing security issuance by PST. (Corps. Code, § 25504.)

Sale of Unqualified Securities After January 7, 2010

3. Corporations Code section 25110 generally prohibits sale, in an issuer transaction, of any security that the Commissioner has not qualified for sale. Complainant bears the burden in this matter to show that PST engaged in transactions this statute regulates.

a. Securities, within the meaning of the Corporations Code, include corporate stock. (Corps. Code,§ 25019.) The matters stated in Finding 1 establish that shares in PST wer esecurities.

b. Securities, within the meaning of the Corporations Code, also include "any note" or "evidence of indebtedness." (Corps. Code,§ 25019.) The matters stated in Findings 38, 40, and 83 establish that PST's debts to Robert Perez (for the Plan) and to Hermann were securities.

c. The matters stated in Findings 11, 19, 29, 38, 40, 50, 52, 57, 67, 76, 80, and 83 establish that PST acted as an "issuer" for its shares and its debts. (Corps. Code, § 25010.)

d. The matters stated in Finding 87 establish that the Commissioner never qualified any PST securities for issuance.

4. Despite the general prohibition in Corporations Code section 25110., a person may issue securities that the Commissioner has not qualified if the transactions meet exemption criteria stated in the Corporations Code. (Corps. Code,§§ 25100–25105.) The person asserting the existence of such an exemption bears the burden of proving facts sufficient to support it. (*Id.*, § 25163.)

a. The matters stated in Findings 88 through 91 show that Ganesh asserted in filings with the Department that PST issued securities only in transactions exempt from qualification under Corporations Code section 25102, subdivision (f).

b. The matters stated in Finding 4 identify no other basis on which the transactions at issue in this matter might be exempt from the requirements stated in Corporations Code section 25110.

5. To be exempt from qualification under Corporations Code section 25102, subdivssion(f), a security transaction must meet all criteria stated in subdivisions (f)(1) through (f)(4).

a. Transactions are exempt only if "[s]ales of the security are not made to more than 35 persons." (Corps. Code, § 25102, subd. (f)(1).) The matters stated in Finding 92 do not establish that PST issued securities to more than 35 investors.

b. Transactions are exempt only if all purchasers meet one or the other of two tests: Either the purchaser has "a preexisting personal or business relationship with the offeror or any of its partners, officers, directors or controlling persons," or the purchaser's "business or financial experience" gives him or her "the capacity to protect [his or her] own interests in connection with the transaction." (Corps. Code,§ 25102, subd. (f)(2).)

c. Transactions are exempt only if "[e]ach purchaser represents that the purchaser is purchasing for the purchaser's own account (or a trust account if the purchaser is a trustee) and not with a view to or for sale in connection with any distribution of the security"" (Corps. Code, § 25102, subd. (f)(3).)

d. An "advertisement" under the Corporations Code is "any written or printed communication or any communication by means of recorded telephone messages or spoken on radio, television, or similar communications media, published in connection with the offer or sale of a security." (Corps. Code, § 25002.) Disclosure documents the issuer distributes only to persons the issuer reasonably believes to have an interest in buying the securities, or to persons the issuer reasonably believes to meet the exemption criteria, are not "advertisements," for this purpose. (Cal. Code Regs., tit. 10, § 260.102.12, subd. (j).) Transactions are exempt only if "offer and sale of the security is not accomplished by the publication of any advertisement." (Corps. Code, § 25102, subd. (f)(4).)

6. The Commissioner may issue an order directing any person who has violated Corporations Code section 25110 to desist and refrain from further such violations. (Corps. Code,§ 25532, subds. (a), (d).)

7. The Commissioner also may impose administrative penalties of no more than $1,000 for a first violation and no more than $2,500 for a subsequent violation on any person who willfully violates Corporations Code section 25110. (Corps. Code, § 25252, subd. (a).) The matters stated in Finding 8 establish that any violations of this statute by Ganesh after January 5, 2010. were willful.

SHARE SALE TO WILDHAGEN

8. The matters stated in Finding 29 and in Legal Conclusion 3 establish that PST issued unqualified securities to Wildhagen on January 12, 2010.

9. The matters stated in Findings 31 and 32 and in Legal Conclusions 4 and 5 establish that PST's transaction with Wildhagen on January 12, 2010 was exempt from Corporations Code section 25110.

10. The Commissioner has not established cause for administrative discipline against Ganesh or PST arising from PST's issuance of unqualified securities to Wildhagen on January 12, 2010.

SHARE SALE TO DIPAOLA

11. The matters stated in Finding 19 and in Legal Conclusion 3 establish that PST issued unqualified securities to DiPaola on May 6, 2010.

12. The matters stated in Findings 21 and 22 and in Legal Conclusions 4 and 5 do not establish that PST's transaction with DiPaola on May 6, 2010 was exempt from Corporations Code section 25110.

13. The Commissioner has established cause for issuance of an order directing Ganesh and PST to desist and refrain from offering furthrr securities in violation of Corporations Code section 25110.

14. The Commissioner has established cause for administrative discipline against Ganesh and PST arising from PST's non-exempt issuance of unqualified securities to DiPaola on May 6, 2010. An administrative penalty of $1,000 for this first violation is appropriate.

SHARE SALE TO HICKS

15. The matters stated in Finding 52 and in Legal Conclusion 3 establish that PST issued unqualified securities to Hicks and his wife on July 6, 2010.

16. The matters stated in Findings 54 and 55 and in Legal Conclusions 4 and 5 establish that PST's transaction with Hicks and his wife on July 6, 2010, was exempt from Corporations Code section 25110.

17. The Commissioner has not estabsshed cause for administrative discipline against Ganesh or PST arising from PST's issuance of unqualified securities to Hicks and his wife on July 6, 2010.

LOANS FROM PAN AMERICAN REAL ESTATE 401(K) PLAN

18. The matters stated in Findings 38 through 41 and in Legal Conclusion 3 establish that PST issued unqualified securities to Robert Perez, as trustee for the Plan, on January 20, 2010, and on July 25, 2010.

19. The matters stated in Findings 34 through 37 and 44 through 46 and in Legal Conclusions 4 and 5 do not establish that PST's transactions with Robert Perez on January 20, 2010, and on July 25, 2010, were exempt from Corporations Code section 25110.

20. The Commissioner has established cause for issuance of an order directing Ganesh and PST to desist and refrain from offering further securities in violation of Corporations Code section 25110

21. The Commissioner has established cause for administrative discipline against Ganesh and PST arising from PST's non-exempt issuance of unqualified securities to Robert Perez on January 20, 2010, and on July 25, 2010. An administrative penalty of $2,500 for these violations following the sale to DiPaola is appropriate.

SHARE SALE TO BARBARA PEREZ

22. The matters stated in Findings 34 and 57 and in Legal Conclusion 3 establish that PST issued unqualified securities to Barbara Perez on July 27, 2010.

23. The matters stated in Findings 59 and 60 and in Legal Conclusions 4 and 5 do not establish that PST's transaction with Barbara Perez on July 27, 2010, was exempt from Corporations Code section 25110.

24. The Commissioner has established cause for issuance of an order directing Ganesh and PST to desist and refrain from offering further securities in violation of Corporations Code section 25110.

25. The Commissioner has established cause for administrative discipline against Ganesh and PST arising from PST's non-exempt issuance of unqualified securities to Barbara Perez on July 27, 2010. An administrative penalty of $2,500 for this violation following the sale to DiPaola and the loan from Robert Perez is appropriate.

SHARE SALE TO THE GODDARDS

26. The matters stated in Finding 67 and in Legal Conclusion 3 establish that PST issued unqualified securities to the Goddards on December 3, 2010.

27. The matters stated in Findings 70 and 71 and in Legal Conclusions 4 and 5 do not establish that PST's transaction with the Goddards on December 3, 2010, was exempt from Corporations Code section 25110.

28. The Commissioner has established cause for issuance of an order directing Ganesh and PST to desist and refrain from offering further securities in violation of Corporations Code section 25110.

29 The Commissioner has established cause for administrative discipline against Ganesh and PST arising from PST's non-exempt issuance of unqualified securities to the Goddards on December 3, 2010. An administrative penalty of $2,500 for this violation following the sale to DiPaola, the loan from Robert Perez, and the sale to Barbara Perez is appropriate.

Share Sale to and Loans From Hermann

30. The matters stated in Findings 76, 80, and 83 and in Legal Conclusion 3 establish that PST issued unqualified securities to Hermann on April 12, 2013, April 30, 2013, and on July 15, 2013.

31. The matters stated in Findings 74, 78, 79, and 82 and in Legal Conclusions 4 and 5 do not establish that PST's transactions with Hermann on April 12, 2013, April 30, 2013, and on July 15, 2013, were exempt from Corporations Code section 25110.

32. The Commissioner has established cause for issuance of an order directing Ganesh and PST to desist and refrain from offering further securities in violation of Corporations Code section 25110.

33. The Commissioner has established cause for adiinistrative discipline against Ganesh and PST arising from PST's non-exempt issuance of unqualified securities to Hermann on April 12, 2013, April 30, 2013, and on July 15, 2013. An administrative penalty of $2,500 for these violations following the sale to DiPaola, the loan from Robert Perez, the sale to Barbara Perez, and the sale to the Goddards is appropriate.

Material Misrepresentations in Securities Issuance

34. A person may not sell or offer to sell securities using any communication "that includes an untrue statement of a material fact or omits to state a material fact necessary to make the statements made, in the light of the circumstances under which the statements were made, not misleading." (Corps. Code,§ 25401.)

35. The Commissioner may issue an order directing any person who has violated Corporations Code section 25401 to desist and refrain from further such violations. (Corps. Code.,§ 25532, subd. (c).)

36. Tee Commissioner also may impose administrative penalties of no more than $1,000 for a first violation and no more than $2,500 for a subsequent violation on any person who willfully violates Corporations Code section 25401. (Corps. Code, § 25252, subd. (a).) The matters stated in Finding 8 establish that any violations of this statute by Ganesh after January 5, 2010, were willful.

Share Sale to Wildhagen

37. The matters stated in Findings 28 and 29 constitute cause for issuance of an order directing Ganesh and PST to desist and refrain from making further material misrepresentations in connection with offers of securities.

38. The matters stated in Findings 28 and 29 constitute cause for administrative discipline against Ganesh and PST arising from PST's issuance of securities to Wildhagen on January 12, 2010. An administrative penalty of $1,000 for this first violation is appropriate.

SHARE SALE TO DIPAOLA

39. The matters stated in Findings 18 and 19 constitute cause for issuance of an order directing Ganesh and PST to desist and refrain from making further material misrepresentations in connection with offers of securities.

40. The matters stated in Findings 18 and 19 constitute cause for administrative discipline againtt Ganesh and PST arising from PST's issuance of securities to DiPaola on May 6, 2010. An administrative penalty of $2,500 for this violation following the sale to Wildhagen is appropriate.

SHARE SALE TO HICKS

41. The matters stated in Findings 51 and 52 constitute cause for issuance of an order directing Ganesh and PST to desist and refrain from making further material misrepresentations in connection with offers of securities.

42. The matters stated in Findings 51 and 52 constitute cause for administrative discipline against Ganesh and PST arising from PST's issuance of securities to Hicks and his wife on July 6, 2010. An administrative penalty of $2,500 for this violation following the sales to Wildhagen and DiPaola is appropriate.

LOANS FROM PAN AMERICAN REAL ESTATE 401(K) PLAN

43. The matters stated in Findings 37, 39, 41, 42, 43, and 45 constitute cause for issuance of an order directing Ganesh and PST to desist and refrain from making further material misrepresentations in connection with offers of securities.

44. The matters stated in Findings 37, 39, 41, 42, 43, and 45 constitute cause for administrative discipline against Ganesh and PST arising from PST's issuance of securities to Robert Perez, as trustee for the Plan, on January 20, 2010, and on July 25, 2010. An administrative penalty of $2,500 for this violation following the sales to Wildhagen, DiPaola, and Hicks is appropriate.

SHARE SALE TO BARBARA PEREZ

45. The matters stated in Findings 37 and 57 constitute cause for issuance of an order directing Ganesh and PST to desist and refrain from making further material misrepresentations in connection with offers of securities.

46. The matters stated in Findings 37 and 57 constitute cause for administrative discipline against Ganesh and PST arising from PST's issuance of securities to Barbara Perez on July 27, 2010. An administrative penalty of $2.500 for this violation following the sales to Wildhagen, DiPaola, and Hicks and the loan from Robert Perez is appropriate.

SHARE SALE TO THE GODDARDS

47. The matters stated in Findings 66 and 67 constitute cause for issuance of an order directing Ganesh and PST to desist and refrain from making further matrrial misrepresentations in connection with offers of securities.

48. The matters stated in Findings 66 and 67 constitute cause for administrative discipline against Ganesh and PST arising from PST's issuance of securities to the Goddards on December 3, 2010. An administrative penalty of $2,500 for this violation following the sales to Wildhagen, DiPaola, Hicks, and Barbara Perez and the loan from Robert Perez is appropriate.

SHARE SALE TO AND LOANS FROM HERMANN

49. The matters stated in Findings 75, 76, 80, and 83 constitute cause for issuance of an order directing Ganesh and PST to desist and refrain from making further material misrepresentations in connection with offers of securities.

50. The matters stated in Findings 75, 76, 80, and 83 constitute cauee for administrative discipline against Ganesh and PST arising from PST's issuance of securities to Hermann on April 12, 2013, April 30, 2013, and July 15, 2013. An administrative penalty of $2,500 for this violation following the sales to Wildhagen, DiPaola, Hicks, Barbara Perez, and the Goddards and the loan from Robert Perez is appropriate.

Violation of a Prior Order of the Commissioner

51. The Commissioner also may impose administrative penalties of no more than $1,000 for a first violation and no more than $2,500 for a subsequent violation on any person who willfully violates the Commissioner's lawful orders. (Corps. Code, § 25252, subd. (a).) The matters stated in Finding 8 establish that any violations of this statute by Ganesh after January 5, 2010, were willful.

SHARE SALE TO WILDHAGEN

52. The matters stated in Legal Conclusions 8 and 9 do not constitute cause for administrative discipline against Ganesh or PST for violating the 2010 Order by issuing unqualified securities to Wildhagen on January 12, 2010.

Share Sale to DiPaola

53. The matters stated in Legal Conclusions 11 and 12 constitute cause for administrative discipline against Ganesh and PST for violating the 2010 Order by issuing unqualified securities to DiPaola on May 6, 2010. An administrative penalty of $1,000 for this first violation is appropriate.

Share Sale to Hicks

54. The matters stated in Legal Conclusions 15 and 16 do not constitute cause for administrative discipline against Ganesh or PST for violating the 2010 Order by issuing unqualified securities to Hicks and his wife on July 6, 2010.

Loans From Pan American Real Estate 401(k) Plan

55. The matters stated in Legal Conclusions 18 and 19 constitute cause for administrative discipline against Ganesh and PST for violating the 2010 Order by issuing unqualified securities to Robert Perez on January 20, 2010, and on July 25, 2010. An administrative penalty of $2,500 for these violations following the sale to DiPaola is appropriate.

Share Sale to Barbara Perez

56. The matters stated in Legal Conclusions 22 and 23 constitute cause for administrative discipline against Ganesh and PST for violating the 2010 Order by issuing unqualified securities to Barbara Perez on July 27, 2010. An administrative penalty of $2,500 for this violation following the sale to DiPaola and the loan from Robert Perez is appropriate.

Share Sale to the Goddards

57. The matters stated in Legal Conclusions 26 and 27 constitute cause for administrative discipline against Ganesh and PST for violating the 2010 Order by issuing unqualified securities to the Goddards on December 3, 2010. An administrative penalty of $2,500 for this violation following the sale to DiPaola, the loan from Robert Perez, and the sale to Barbara Perez is appropriate.

Share Sale to and Loans From Hermann

58. The matters stated in Legal Conclusions 30 and 31 constitute cause for administrative discipline against Ganesh and PST for violating the 2010 Order by issuing unqualified securities to Hermann on April 12, 2013, April 30, 2013, and July 15, 2013. An administrative penalty of $2,500 for these violations following the sale to DiPaola, the loan from Robert Perez, the sale to Barbara Perez, and the sale to the Goddards is appropriate.

ORDER

1. The Commissioner's 2018 Desist and Refrain Order, issued May 9, 2018, is affirmed.

2. The Commissioner's administrative penalties for the violations stated in her Notice of Intention to Issue Order Levying Administrative Penalties Pursuant to Corporations Code section 25252, served May 20, 2018, are modified to total $38,000, in accordance with Legal Conclusions 14, 21, 25, 29, 33, 38, 40, 42, 44, 46, 48, 50, 53, 55, 56, 57, and 58. As modified, these administrative penalties are affirmed. Ganesh and PST are jointly and severally liable for these administrative penalties.

DATED: December 13, 2018

[redacted]
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JULIET E. COX
Administrative Law Judge
Office of Administrative Hearings