

1 MARY ANN SMITH
Deputy Commissioner
2 DANIEL P. O'DONNELL
Assistant Chief Counsel
3 WILLIAM HORSEY (State Bar No. 136087)
Senior Counsel
4 Department of Business Oversight
One Sansome Street, Suite 600
5 San Francisco, California 94104-4448
Telephone: (415) 972-8544
6 Facsimile: (415) 972-8500

7 Attorneys for the Complainant

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

11 In the Matter of:) CRD NO.: 1193367
)
12 THE COMMISSIONER OF BUSINESS) **CONSENT ORDER**
OVERSIGHT,)
13)
14 Complainant,)
)
15 v.)
)
16 HAROLD F. COUGLAR,)
)
17 Respondent.)
18)

19 This Consent Order (Order) is entered between the Commissioner of Business Oversight
20 (Commissioner) and Harold F. Couglar (Couglar) and is made with respect to the following
21 facts:

22 **I.**
RECITALS

23 A. The Commissioner has jurisdiction over the licensing and regulation of persons and
24 entities engaged as brokers, dealers, investment advisers and investment adviser representatives
25 lending and/or servicing residential mortgage loans pursuant to the Corporate Securities Law of
26 1968 (CSL) (Corp. Code, §25000 et seq.).

27 B. Couglar was employed as an Investment Adviser Representative at CS Planning
28 Corp (CS). Couglar began working with CS in December 2016.

1 C. Prior to joining CS, Couglar had been employed with Linsco/Private Ledger
2 Corp (“LPL”) from September 2, 1983 through October 31, 2003, with CBIZ Financial
3 Solutions, Inc. (“CBIZ”) from June 29, 2005 through March 29, 2012 and with Montage
4 Securities LLC/Mariner Wealth Advisers, LLC from March 28, 2012 through December 13,
5 2016. These companies are hereafter referred to as “Employer Firms.”

6 D. Prior to his employment at CS, Couglar failed to notify Employer Firms that he
7 was engaged in tax preparation services for compensation which constitutes a business activity
8 outside the scope of his relationship with the firm. The tax preparation services constitute a
9 violation of FINRA Rules 3270 and 2010.

10 E. In addition, from May 1996 through October 2003, and June 2005 through
11 December 2016, Couglar effected orders for the purchase and sale of securities in 87 accounts (the
12 “Outside Accounts”) without (1) notifying the Employer Firms about the Outside Accounts and
13 trading activity and (2) without notifying the executing members at which the Outside Accounts
14 were held of his association with the employer firm. These actions constituted violations of NASD
15 Rule 3050(c), NASD Rule 2110 and FINRA Rule 2010.

16 E. On May 21, 2018, Couglar entered into a Financial Industry Regulatory Authority
17 Letter of Acceptance, Waiver and Consent in which Couglar agreed to a bar from associating with
18 any FINRA member in any capacity.

19 F. On April 17, 2019, Couglar entered into an Order to Cease and Desist and Order
20 Denying Use of Exemptions, Order to Refrain from License Applications and Consent to the Entry
21 of the Order with the State of Oregon Department of Consumer and Business Services, Division of
22 Financial Regulation. This Order was based on the Letter of Acceptance, Waiver and Consent that
23 Couglar agreed to with FINRA and the underlying facts contained therein.

24 G. It is the intention and desire of the parties to resolve this matter without the necessity
25 of a hearing and/or other litigation.

26 H. The Commissioner finds that this action is appropriate, in the public interest, and
27 consistent with the purposes fairly intended by the policy and provisions of this law.
28

1 NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions set
2 forth herein, the parties agree as follows:

3 **II.**

4 **TERMS AND CONDITIONS**

5 1. Purpose. The purpose of this Order is to resolve the DBO's Enforcement Action in a
6 manner that avoids the expense of court proceedings, is in the public interest, protects consumers,
7 and is consistent with the purposes, policies, and provisions of the CSL.

8 2. No Admission of Liability: Without admitting or denying the factual matters and
9 alleged violations set forth herein, Couglar wishes to address the concerns of the Department by
10 agreeing to the terms and conditions of this Settlement Agreement.

11 3. Finality of Order. Couglar hereby agrees to comply with the Commissioner's Order
12 and, further, stipulates that this Order is hereby deemed a final and enforceable order issued
13 pursuant to the Commissioner's authority under California Corporations Code sections 25232 and
14 25232.1.

15 4. Suspension of Investment Adviser Representative Registration: The Commissioner
16 will issue a Suspension of the Investment Adviser Representative Registration and further agrees
17 that any further reinstatement of any License or Registration will be dependent on an FINRA lifting
18 their order barring him from associating with any FINRA Member in any capacity. The Suspension
19 shall take on February 28, 2020.

20 5. Filing of a U5: Couglar further agrees to request that his former firm CS file a U5
21 reflecting this Consent Order.

22 6. Conditions Related to Suspension: Couglar further agrees to accept no new clients
23 and to make no changes to existing fee structures for any clients.

24 7. Waiver of Hearing Rights. Couglar acknowledges that the Commissioner is ready,
25 willing, and able to proceed with the filing of an administrative enforcement action on the charges
26 contained in this Order, and Couglar hereby waives the right to a hearing and to any
27 reconsideration, appeal, or other right to review which may be afforded pursuant to the CSL.

28 Couglar further expressly waives any requirement for the hearing on the Accusation in Support of

1 Orders (1) Revoking Investment Adviser Representative Registration of Harold Francis Couglar
2 Pursuant to Corporations Code 25232 and (2) Barring Harold Francis Couglar from any position of
3 Employment, Management or Control of any Investment Adviser, Broker-Dealer or Commodity
4 Adviser Pursuant to Corporations Code Section 25232.1 that may be afforded by Government Code
5 section 11415.60(b), the California Administrative Practice Act, the California Code of Civil
6 Procedure, or any other provision of law; and by waiving such rights, Couglar effectively consents
7 to this Order becoming final.

8 8. Information Willfully Withheld or Misrepresented. This Consent Order may be
9 revoked, and the Commissioner may pursue any and all remedies available under law against
10 Couglar if the Commissioner discovers that Couglar knowingly or willfully withheld or
11 misrepresented information used for and relied upon in this Consent Order.

12 9. Assisting Other Agencies. Nothing in this Consent Order limits the
13 Commissioner's ability to assist any other government agency (city, county, state, or federal)
14 with any prosecution, administrative, civil or criminal brought by that agency against Couglar or
15 any other person based upon any of the activities alleged in this matter or otherwise.

16 10. Independent Legal Advice. Each of the parties represents, warrants, and agrees
17 that it has received independent advice from its attorney(s) and/or representatives with respect to
18 the advisability of executing this Consent Order.

19 20 11. Failure to Comply with Consent Order. Couglar agrees that if he fails to comply
21 with the terms of this Consent Order, the Commissioner may, in addition to all other available
22 remedies it may invoke under the CSL, summarily revoke the Registration of Couglar. Couglar
23 waives any notice and hearing rights to contest such summary suspensions which may be
24 afforded under the CSL, the California Administrative Procedure Act, the California Code of
25 Civil Procedure, or any other provision of law in connection therewith.

26 12. Headings. The headings to the paragraphs of this Consent Order are inserted for
27 convenience only and will not be deemed a part hereof or affect the construction or interpretation
28 of the provisions hereof.

1 13. Waiver, Amendments, and Modifications. No waiver, amendment, or modification
2 of this Consent Order will be valid or binding unless it is in writing and signed by each of the
3 parties. The waiver of any provision of this Consent Order will not be deemed a waiver of any other
4 provision. No waiver by either party of any breach of, or of compliance with, any condition or
5 provision of this Agreement by the other party will be considered a waiver of any other condition or
6 provision or of the same condition or provision at another time.

7 14. Governing Law. This Consent Order will be governed by and construed in
8 accordance with California law. Each of the parties hereto consents to the jurisdiction of such
9 court, and hereby irrevocably waives, to the fullest extent permitted by law, the defense of an
10 inconvenient forum to the maintenance of such action or proceeding in such court.

11 15. Counterparts. This Consent Order may be executed in one or more separate
12 counterparts, each of which when so executed, shall be deemed an original. Such counterparts
13 shall together constitute a single document.

14 16. Voluntary Agreement. Couglar enters into this Consent Order voluntarily and
15 without coercion and acknowledges that no promises, threats or assurances have been made by
16 the Commissioner or any officer, or agent thereof, about this Consent Order. The parties each
17 represent and acknowledge that they are executing this Consent Order completely voluntarily
18 and without any duress or undue influence of any kind from any source.

19 17. Effect Upon Future Proceedings. If Couglar applies for any license, permit or
20 qualification under the Commissioner's current or future jurisdiction, or are the subject of any
21 future action by the Commissioner to enforce this Consent Order, then the subject matter hereof
22 shall be admitted for the purpose of such applications or enforcement proceedings.

23 18. Notice. Any notice required under this Consent Order shall be provided to each
24 party at the following addresses:

25 To: Harold Francis Couglar, by and through his counsel Sylvia Scott, Scott &
26 Allayee, 11500 W. Olympic Blvd., Suite 400, Los Angeles, CA 90064,
27 ss@scottallayee.com
28

To the Commissioner: William Horsey, Senior Enforcement Counsel, Department of Business Oversight, One Sansome Street, Suite 600, San Francisco, CA 94104, William.Horsey@dbo.ca.gov.

19. Signatures. A fax or electronic mail signature shall be deemed the same as an original signature.

20. Public Record. Respondent acknowledges that this Order is a public record.

21. Effective Date. This Consent Order shall not become effective until signed by all parties and delivered by the Commissioner’s counsel by email to Couglar’s counsel Sylvia Scott Scott & Allayee, 11500 W. Olympic Blvd., Suite 400, Los Angeles, CA 90064, ss@scottallayee.com.

22. Authority to Execute. Each signatory hereto covenants that they possess the necessary capacity and authority to sign and enter into this Order.

Dated: 12/10/19 MANUEL P. ALVAREZ
Commissioner of Business Oversight

By _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division

Dated: 12/9/19

By _____
Respondent HAROLD FRANCIS COUGLAR

Dated: 12/9/19

By _____
Sylvia Scott, Esq.
Respondent HAROLD FRANCIS COUGLAR