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

<p>12 In the Matter of:</p> <p>13 THE COMMISSIONER OF BUSINESS OVERSIGHT,</p> <p>14</p> <p>15 Complainant,</p> <p>16</p> <p>17 v.</p> <p>18 HELIOS QUANTITATIVE RESEARCH, LLC. an entity, and CHRISTOPHER MICHAEL 19 SHUBA, an individual,</p> <p>20 Respondents.</p>	<p>CRD NOS.: 288275, 4031188</p> <p>CONSENT ORDER</p>
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21 The Commissioner of Business Oversight (Commissioner) of the Department of Business  
22 Oversight (Department), Helios Quantitative Research, LLC (Helios), and Christopher Michael  
23 Shuba (Shuba) enter into this Consent Order (Consent Order) with respect to the following facts:

24 **RECITALS**

25  
26 A. The Commissioner has jurisdiction over the licensing and regulation of persons  
27 engaged in the business of investment advising under the Corporate Securities Law of 1968  
28 (Corporations Code section 25000 et seq.).

1           B. At all relevant times, Helios was a California limited liability company with its  
2 principal office and place of business at 4232 Savoie Court, Loomis, California 95650.

3           C. At all relevant times, Christopher Michael Shuba (Shuba) was the Chief Executive  
4 Officer and 90% owner of Helios.

5           D. On or about May 10, 2017, Helios filed an application for an investment adviser  
6 certificate with the Department pursuant to Corporations Code section 25231.

7           E. Helios' application and subsequent discussions with the Department indicated that  
8 from April 1, 2016, through September 6, 2017, Helios provided investment advice to registered  
9 investment advisers using algorithms to determine the advisability of investing in, purchasing or  
10 selling securities. These investment advisers passed that advice on to consumers, disclosing Helios  
11 as the source.

12           F. When the Department inquired about Helios' activities, Helios fully cooperated and  
13 provided information showing it had 12 California investment adviser clients from whom it received  
14 flat fee compensation for their algorithmic advice.

15           G. Helios asserted that, having sought the advice of third-party experts, it believed in  
16 good faith that its operations did not constitute investment adviser activity because its clients were  
17 other investment advisers, and that even if it did, it could rely on an exemption to the certificate  
18 requirement available under Corporations Code section 25202 (the "de minimis exemption") on the  
19 basis that it had no place of business in California because it operated exclusively over the Internet  
20 and did not operate a publicly-facing office.

21           H. After the Department questioned Helios' reliance on the de minimis exemption,  
22 Helios ceased operations on September 7, 2017, and its investment adviser representatives became  
23 investment adviser representatives of an SEC-registered investment adviser firm. Helios states that  
24 its clients were notified of these changes and accepted the transfer of their relationships to the SEC-  
25 registered investment adviser.

26           I. Helios has not held a valid investment adviser certificate issued by the Department at  
27 any time.

28

1 J. Were this matter to proceed, the Commissioner would allege that Helios and its  
2 majority owner, Shuba, were engaged in unlicensed investment adviser activity, in violation of  
3 Corporations Code section 25230, subdivision (a) (the “Charges”), and that the de minimis  
4 exemption was inapplicable because Helios’ principal office was in California. It is the intention and  
5 desire of the Commissioner, Helios, and Shuba (collectively “the Parties”) to resolve this matter  
6 without the necessity of a hearing and/or other litigation.

7 NOW, THEREFORE, for good and valuable consideration, and the terms and conditions set  
8 forth herein, the Parties agree as follows:

9 **TERMS AND CONDITIONS**

10 1. Purpose. This Consent Order resolves the issues before the Commissioner set forth in  
11 paragraphs A – J, above, in a manner that avoids the expense of a hearing and other possible court  
12 proceedings, protects consumers, is in the public interest, and is consistent with the purposes,  
13 policies, and provisions of the Corporate Securities Law of 1968 (CSL).

14 2. Desist and Refrain Order. Pursuant to Corporations Code section 25532, Helios and  
15 Shuba are hereby ordered to desist and refrain from any unlicensed investment adviser activities in  
16 violation of Corporations Code section 25230.

17 3. Order of Administrative Penalties. Helios and Shuba jointly-and-severally agree to  
18 pay to the Commissioner penalties totaling \$12,000.00 pursuant to Corporations Code section  
19 25252, subdivision (b). Such penalties shall be paid by Helios and Shuba within 30 days of the date  
20 of the Consent Order becoming effective. The check shall be made payable to the “Department of  
21 Business Oversight” and transmitted to the attention of: Accounting—Litigation, at the Department  
22 of Business Oversight located at 1515 K Street, Suite 200, Sacramento, California, 95814. Notice of  
23 the payment shall concurrently be sent to the attention of Jeremy F. Koo, Counsel, Enforcement  
24 Division, 1515 K Street, Suite 200, Sacramento, California 95814. In the event the payment due date  
25 falls on a weekend or holiday, the payment shall be due the next business day.

26 4. Withdrawal of Application. The Parties stipulate to the Commissioner accepting  
27 Helios’ withdrawal of its investment adviser application upon payment of the administrative  
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1 penalties set forth in Paragraph 3. Should Helios wish to engage in investment adviser activity in the  
2 future, it will submit a new application for an investment adviser certificate with the Department.

3           5. Waiver of Hearing Rights: Helios and Shuba acknowledge the Commissioner is  
4 ready, willing, able to proceed with the filing of an administrative enforcement action based on the  
5 Charges. For the purposes of resolving the Charges without the expense and uncertainty of further  
6 proceedings, Respondents, while making no personal admissions, agree that at a hearing, the  
7 Commissioner could establish a prima facie factual basis for each of the findings contained in the  
8 Charges and that those findings constitute cause for this action. Respondents further agree this estops  
9 any future denial that cause exists for this action in any future proceedings before the parties herein  
10 and hereby gives up the right to contest that cause for discipline exists based upon these findings.  
11 Helios and Shuba agree to waive the right to any hearings, and to any reconsideration, appeal, or  
12 other right to review which may be afforded pursuant to the CSL, the California Administrative  
13 Procedure Act, the California Code of Civil Procedure, or any other provision of law. These include  
14 those rights under Corporations Code section 25232, 25232.1, and 25233, and to judicial review of  
15 this matter pursuant to Code of Civil Procedure section 1094.5 with respect to the issuance of this  
16 Consent Order and the desist and refrain order contained herein. Helios and Shuba further expressly  
17 waive any requirement for the filing of an Accusation pursuant to Government Code section  
18 11415.60, subdivision (b). By waiving such rights, Helios and Shuba effectively consent to this  
19 Consent Order, including but not limited to the order to desist and refrain and the order for penalties,  
20 becoming final.

21           6. Full and Final Settlement. The Parties hereby acknowledge and agree that this  
22 Consent Order is intended to constitute a full, final, and complete resolution of the violations  
23 described herein, and that no further proceedings or actions will be brought by the Commissioner in  
24 connection with these matters, excepting therefrom any proceeding to enforce compliance with the  
25 terms of this Consent Order.

26           7. Failure to Comply with Consent Order. Helios and Shuba agree that if either fails to  
27 comply with the terms of this Consent Order, the Commissioner may invoke any remedy available  
28 under the CSL until Helios and Shuba comply. Helios and Shuba further agree that failure to timely

1 pay the penalties in this Consent Order shall be a breach of this Consent Order and shall be cause for  
2 the Commissioner to enter an order denying the application of Helios for an investment adviser  
3 certificate on the basis of Corporations Code section 25232, subdivision (h), for violation of  
4 Corporations Code section 25230, subdivision (a). Helios and Shuba agree that in such an order  
5 denying the application, the Commissioner shall have cause to find that Shuba was the cause of an  
6 investment-related business having its authorization to do business denied.

7 The Parties additionally acknowledge that in the event of failure to timely pay the penalties  
8 in this order, the Commissioner may apply for and obtain a judgment and injunctive orders against  
9 Helios and Shuba in the manner provided by Corporations Code section 25252, subdivision (e). A  
10 certified copy of this Consent Order shall constitute a final decision of the Commissioner brought  
11 under the CSL.

12 8. Information Willfully Withheld or Misrepresented. This Consent Order may be  
13 rescinded and the Commissioner may pursue any and all remedies available under law against Helios  
14 and Shuba if the Commissioner discovers that Helios or Shuba knowingly or willfully withheld or  
15 misrepresented information used for and relied upon in this Consent Order.

16 9. Future Actions by Commissioner. If Helios or Shuba fail to comply with any terms of  
17 the Consent Order, the Commissioner may institute proceedings for any and all violations otherwise  
18 resolved under this Consent Order. The Commissioner reserves the right to bring any future actions  
19 against Helios, Shuba, or any of Helios' partners, owners, officers, shareholders, directors,  
20 employees or successors for any and all unknown violations of the CSL.

21 10. Assisting Other Agencies. Nothing in this Consent Order limits the Commissioner's  
22 ability to assist any other government agency (city, county, state, or federal) with any prosecution,  
23 administrative, civil or criminal, brought by that agency against Helios, Shuba, or any other person  
24 based upon any of the activities alleged in this matter or otherwise.

25 11. Headings. The headings to the paragraphs of this Consent Order are inserted for  
26 convenience only and will not be deemed a part hereof or affect the construction or interpretation of  
27 the provisions hereof.  
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1           12. Binding. This Consent Order is binding on all heirs, assigns, and/or successors in  
2 interest.

3           13. Reliance. Each of the parties represents, warrants, and agrees that in executing this  
4 Consent Order it has relied solely on the statements set forth herein and the advice of its own  
5 counsel. Each of the parties further represents, warrants, and agrees that in executing this Consent  
6 Order it has placed no reliance on any statement, representation, or promise of any other party, or  
7 any other person or entity not expressly set forth herein, or upon the failure of any party or any other  
8 person or entity to make any statement, representation or disclosure of anything whatsoever. The  
9 parties have included this clause to preclude any claim that any party was in any way fraudulently  
10 induced to execute this Consent Order.

11           14. Waiver, Amendments, and Modifications. No waiver, amendment, or modification of  
12 this Consent Order will be valid or binding unless it is in writing and signed by each of the Parties.  
13 The waiver of any provision of this Consent Order will not be deemed a waiver of any other  
14 provision.

15           15. Third Party Actions. It is the intent and understanding between the parties that this  
16 Consent Order does not create any private rights or remedies against Helios or Shuba or create any  
17 liability for Helios or Shuba or limits defenses of Helios or Shuba against any person or entity not a  
18 party to this Consent Order.

19           16. Full Integration. This Consent Order is the final written expression and the complete  
20 and exclusive statement of all the agreements, conditions, promises, representations, and covenant  
21 between the parties with respect to the subject matter hereof, and supersedes all prior or  
22 contemporaneous agreements, negotiations, representations, understandings, and discussions  
23 between and among the parties, their respective representatives, and any other person or entity, with  
24 respect to the subject matter covered hereby.

25           17. Governing Law. This Consent Order will be governed by and construed in  
26 accordance with California law. Each of the parties hereto consents to the jurisdiction of the Superior  
27 Court of California, County of Sacramento, and hereby irrevocably waives, to the fullest extent  
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1 permitted by law, the defense of an inconvenient forum to the maintenance of such action or  
2 proceeding in such court.

3 18. Effect Upon Future Proceedings. If Respondents apply for any license, permit or  
4 qualification under the Commissioner's current or future jurisdiction, or are the subject of any future  
5 action by the Commissioner to enforce this Consent Order, then the subject matter hereof shall be  
6 admitted for the purpose of such application(s) or enforcement proceedings(s).

7 19. Voluntary Agreement. Helios and Shuba enter into this Consent Order voluntarily and  
8 without coercion and acknowledges that no promises, threats or assurances have been made by the  
9 Commissioner or any officer, or agent thereof, about this Consent Order. The Parties each represent  
10 and acknowledge that he, she, or it is executing this Agreement completely voluntarily and without  
11 any duress or undue influence of any kind from any source.

12 20. Notice. Any notice required under this Consent Order shall be provided to each party  
13 at the following addresses:

14 To Helios and Shuba: Samuel A. Josephs, Attorneys for Helios Quantitative Research LLC  
15 and Christopher Michael Shuba, Spertus Landes & Umhofer, LLP, 617 West 7th Street, Suite 200,  
16 Los Angeles, California 90017, [sjosephs@spertuslaw.com](mailto:sjosephs@spertuslaw.com).

17 To the Commissioner: Jeremy F. Koo, Counsel, Department of Business Oversight, 1515 K  
18 Street Suite 200, Sacramento, California 95814, [Jeremy.Koo@dbo.ca.gov](mailto:Jeremy.Koo@dbo.ca.gov).

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

21 22. Public Record. Helios and Shuba hereby acknowledge that this Consent Order is and  
22 will be a matter of public record.

23 23. Effective Date. This Consent Order shall become final and effective when signed by  
24 all parties and delivered by the Commissioner's agent via e-mail to Samuel A. Josephs at  
25 [sjosephs@spertuslaw.com](mailto:sjosephs@spertuslaw.com).

26 24. Authority to Sign. Each signatory hereto covenants that he/she possesses all necessary  
27 capacity and authority to sign and enter into this Consent Order and undertake the obligations set  
28 forth herein.

1           25. Counterparts. This Consent Order may be executed in one or more separate  
2 counterparts, each of which when, so executed, shall be deemed an original. Such counterparts shall  
3 together constitute a single document.  
4

5 IN WITNESS WHEREOF, the Parties hereto have approved and executed this Consent Order on the  
6 dates set forth opposite their respective signatures.  
7

8 Dated: April 27, 2020

MANUEL P. ALVAREZ  
Commissioner of Business Oversight

9  
10  
11 By \_\_\_\_\_  
12 MARY ANN SMITH  
13 Deputy Commissioner  
Enforcement Division

14 Dated: April 24, 2020

HELIOS QUANTITATIVE RESEARCH, LLC

15  
16  
17 By \_\_\_\_\_  
18 CHRISTOPHER MICHAEL SHUBA  
19 Chief Executive Officer

20 Dated: April 24, 2020

CHRISTOPHER MICHAEL SHUBA

21  
22  
23 \_\_\_\_\_  
24 CHRISTOPHER MICHAEL SHUBA  
For himself, individually

25 Approved as to Form and Content

26 Dated: April 24, 2020

By \_\_\_\_\_  
27 SAMUEL A. JOSEPHS  
Attorney on Behalf of  
28 Helios Quantitative Research, LLC and  
Christopher Michael Shuba