

MARY ANN SMITH
Deputy Commissioner
SEAN M. ROONEY
Assistant Chief Counsel
AFSANEH EGHBALDARI (State Bar No. 250107)
Counsel
Department of Business Oversight
1350 Front Street, Room 2034
San Diego, California 92101
Telephone: (619) 645-3166
Facsimile: (619) 525-4045

Attorneys for Complainant

BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
OF THE STATE OF CALIFORNIA

In the Matter of:)	CRD NO.: 132777
THE COMMISSIONER OF BUSINESS OVERSIGHT,)	
Complainant,)	CONSENT ORDER
v.)	
SECURE RETIREMENT FINANCIAL & INSURANCE SERVICES CORP.,)	
Respondent.)	

This Consent Order is entered into between the Commissioner of Business Oversight (Commissioner) and Secure Retirement Financial & Insurance Services Corp. (Secure Retirement) (collectively the Parties) and is made with respect to the following facts:

I.

Recitals

A. The Commissioner is the head of the Department of Business Oversight (Department) and is responsible for the licensing and regulation of any person engaged in the business of investment advising under the Corporate Securities Law of 1968 (CSL) (Corporations Code section 25000 et seq.).

///

1 B. Secure Retirement holds an investment adviser certificate, CRD No. 132777, issued
2 by the Commissioner on January 27, 2005, and has its place of business at 18 Crow Canyon Court,
3 Suite 325, San Ramon, California 94583.

4 C. Richard R. Morey (Morey) is the President and Chief Compliance Officer of Secure
5 Retirement, and as such, is authorized to enter into this Consent Order on behalf of Secure
6 Retirement.

7 D. In November of 2018, the Department commenced an examination of Secure
8 Retirement, which revealed multiple violations of the CSL.

9 E. Corporations Code section 25238 states that no investment adviser licensed, and no
10 natural person associated with the investment adviser shall engage in investment advisory
11 activities, or attempt to engage in investment advisory activities, in this state in contradiction of
12 such rules as the Commissioner may prescribe designed to promote fair, equitable and ethical
13 principles.

14 F. The 2018 examination revealed that Secure Retirement engaged in investment
15 advisory activities in contradiction of the rules designed to promote fair, equitable and ethical
16 principles, in violation of California Code of Regulations, title 10, (CCR) section 260.238, set forth
17 herein.

18 G. Secure Retirement released a client’s funds without authorization or proper consent
19 from the account holder, in violation of CCR section 260.238, subdivision (o).

20 H. Secure Retirement was granted disbursement authorization to remit checks, wire
21 funds and otherwise make disbursements of funds held by a client (Client 1) in a Charles Schwab
22 brokerage account (Schwab Account).

23 I. In July of 2009, December of 2011 and March of 2014, Secure Retirement took
24 disbursement instructions from Client 1’s spouse, who was not an authorized account holder on the
25 Schwab Account.

26 J. In December of 2011, Secure Retirement approved and released \$5,000.00 to Client
27 1’s spouse without her permission. In March of 2014, Secure Retirement approved and released
28 \$25,000.00 to Client 1’s spouse without her permission.

1 K. Client 1 further alleged that Secure Retirement released an additional \$250,000.00 of
2 her funds from her individual Schwab Account to her ex-husband without her knowledge.

3 L. Secure Retirement also loaned money to a client in violation of CCR section 260.238,
4 subdivision (g).

5 M. In July of 2016, Morey purchased \$40,000.00 shares of stocks in a private offering on
6 behalf of a client (Client 2) of Secure Retirement, who was unable to purchase the shares at the time
7 of the private offering. Morey later sold the stocks to Client 2 once the stocks became publicly
8 traded.

9 N. The 2018 examination also revealed repeat violations of books and records that were
10 noted during a routine examination in 2017.

11 O. Secure Retirement failed to maintain current client suitability records, including client
12 objectives, risk tolerance and financial information, in violation of CCR section 260.238, subdivision
13 (a).

14 P. Secure Retirement also failed to establish an unearned income account on its financial
15 records in violation of CCR section 260.241.3.

16 Q. Based upon the foregoing, the Commissioner finds that Secure Retirement engaged
17 in investment advisory activities in contradiction of the rules designed to promote fair, equitable
18 and ethical principles, in violation of Corporations Code section 25238 and CCR section 260.238,
19 and failed to properly maintain its books and records in violation of CCR section 260.241.3.

20 NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions set
21 forth herein, the Parties agree as follows:

22 **II.**

23 **Terms and Conditions**

24 1. Purpose. This Consent Order resolves the issues before the Commissioner set forth
25 in paragraphs A through Q above in a manner that avoids the expense of a hearing and other
26 possible court proceedings, protects consumers, is in the public interest, and is consistent with the
27 purposes, policies, and provisions of the CSL.

28 2. Final Order to Discontinue Violations. Pursuant to Corporations Code section

1 25250, Secure Retirement Financial & Insurance Services Corp. is hereby ordered to immediately
2 discontinue violations of Corporations Code section 25238 and CCR sections 260.238 and
3 260.241.3, set forth herein. This Order to Discontinue Violations is final and effective from the
4 Effective Date of this Consent Order, as defined in paragraph 23 (Effective Date).

5 3. Penalties. Pursuant to Corporations Code section 25252, Secure Retirement Financial
6 & Insurance Services Corp. is hereby ordered to pay administrative penalties in the total amount of
7 \$45,000.00 for violations of Corporations Code section 25238 and CCR sections 260.238 and
8 260.241.3. The above penalty shall be paid in three installment payments over a 6-month period, and
9 shall be due on the following dates:

- 10 i. \$15,000.00 is due on July 1, 2020;
- 11 ii. \$15,000.00 is due on October 1, 2020; and
- 12 iii. \$15,000.00 is due on December 1, 2020.

13 The installment payments shall be made in the form of a cashier’s check or Automated Clearing
14 House deposit to the “Department of Business Oversight,” and transmitted to the attention of:
15 Accounting - Litigation, at the Department of Business Oversight, located at 1515 K Street, Suite
16 200, Sacramento, California 95814. Notice of payment shall be sent concurrently to Afsaneh
17 Eghbaldari, Counsel, Enforcement Division, by email at: affi.eghbaldari@dbo.ca.gov. In the event
18 any payment due date falls on a weekend or holiday, the payment shall be due the next business day.

19 4. Policies and Procedures. Secure Retirement represents that it has established policies
20 titled Client Suitability and Identity Theft and Client Disbursement Requests to ensure compliance
21 with Corporations Code section 25238 and CCR sections 260.238 and 260.241.3. Secure Retirement
22 agrees to immediately implement, and regularly and routinely administer these policies.

23 5. Waiver of Hearing Rights. Secure Retirement acknowledges the Commissioner is
24 ready, willing, and able to proceed with the filing of an administrative enforcement action on the
25 charges contained in this Consent Order. Secure Retirement hereby waives the right to any hearings,
26 and to any reconsideration, appeal, or other right to review which may be afforded pursuant to the
27 CSL, the California Administrative Procedure Act, the California Code of Civil Procedure, or any
28 other provision of law. Secure Retirement further expressly waives any requirement for the filing of

1 an Accusation pursuant to Government Code section 11415.60, subdivision (b). By waiving such
2 rights, Secure Retirement effectively consents to this Consent Order and the Order to Discontinue
3 Violations becoming final.

4 6. Full and Final Settlement. The Parties hereby acknowledge and agree that this
5 Consent Order is intended to constitute a full, final, and complete resolution of the violations
6 described herein, and that no further proceedings or actions will be brought by the Commissioner in
7 connection with these matters under the CSL or any other provision of law, excepting therefrom
8 any proceeding to enforce compliance with the terms of this Consent Order.

9 7. Failure to Comply with Consent Order. Secure Retirement agrees that if it fails to
10 comply with any terms of this Consent Order or this Order to Discontinue Violations, the
11 Commissioner may, summarily suspend or revoke the investment adviser certificate of Secure
12 Retirement, in addition to all other available remedies it may invoke under the CSL. Secure
13 Retirement waives any notice and hearing rights to contest such summary suspensions or revocation
14 which may be afforded under the CSL, the California Administrative Procedure Act, the California
15 Code of Civil Procedure, or any other provision of law in connection therewith.

16 8. Information Willfully Withheld or Misrepresented. This Consent Order may be
17 revoked, and the Commissioner may pursue any and all remedies available under law against
18 Secure Retirement if the Commissioner discovers that Secure Retirement knowingly or willfully
19 withheld information used for and relied upon by the Commissioner in entering into this Consent
20 Order.

21 9. Future Actions by Commissioner. If Secure Retirement fails to comply with any
22 terms of this Consent Order or Order to Discontinue Violations, the Commissioner may institute
23 proceedings for any and all violations otherwise resolved under this Consent Order. The
24 Commissioner reserves the right to bring any future actions against Secure Retirement, or any of its
25 partners, owners, officers, shareholders, directors, employees, or successors for any and all
26 unknown violations of the CSL.

27 10. Assisting Other Agencies. Nothing in this Consent Order limits the Commissioner’s
28 ability to assist any other government agency (city, county, state, or federal) with any prosecution,

1 administrative, civil or criminal brought by that agency against Secure Retirement or any other
2 person based upon any of the activities alleged in this matter or otherwise.

3 11. Headings. The headings to the paragraphs of this Consent Order are inserted for
4 convenience only and will not be deemed a part hereof or affect the construction or interpretation of
5 the provisions hereof.

6 12. Binding. This Consent Order is binding on all heirs, assigns, and/or successors in
7 interest.

8 13. Reliance. Each of the Parties represents, warrants, and agrees that in executing this
9 Consent Order it has relied solely on the statements set forth herein and the advice of its own
10 counsel. Each of the Parties further represents, warrants, and agrees that in executing this Consent
11 Order it has placed no reliance on any statement, representation, or promise of any other party, or
12 any other person or entity not expressly set forth herein, or upon the failure of any party or any
13 other person or entity to make any statement, representation or disclosure of anything whatsoever.
14 The Parties have included this clause: (1) to preclude any claim that any party was in any way
15 fraudulently induced to execute this Consent Order; and (2) to preclude the introduction of parol
16 evidence to vary, interpret, supplement, or contradict the terms of this Consent Order.

17 14. Waiver, Amendments, and Modifications. No waiver, amendment, or modification
18 of this Consent Order will be valid or binding unless it is in writing and signed by each of the
19 Parties. The waiver of any provision of this Consent Order will not be deemed a waiver of any
20 other provision. No waiver by either party of any breach of, or of compliance with, any condition
21 or provision of this Consent Order by the other party will be considered a waiver of any other
22 condition or provision or of the same condition or provision at another time.

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

1 16. Governing Law. This Consent Order will be governed by and construed in
2 accordance with California law. Each of the Parties hereto consents to the jurisdiction of such court,
3 and hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient
4 forum to the maintenance of such action or proceeding in such court.

5 17. Counterparts. This Consent Order may be executed in one or more separate
6 counterparts, each of which when so executed, shall be deemed an original. Such counterparts shall
7 together constitute a single document.

8 18. Effect Upon Future Applications and Proceedings. If Secure Retirement applies for
9 any license, registration, permit, or qualification under the Commissioner’s current or future
10 jurisdiction, or is the subject of any future action by the Commissioner to enforce this Consent
11 Order, then the subject matter hereof shall be admitted for the purpose of such application(s) or
12 enforcement proceeding(s).

13 19. Voluntary Agreement. Secure Retirement enters into this Consent Order voluntarily
14 and without coercion and acknowledges that no promises, threats, or assurances have been made by
15 the Commissioner or any officer, or agent thereof, about this Consent Order. The Parties each
16 represent and acknowledge that he, she, or it is executing this Consent Order completely voluntarily
17 and without any duress or undue influence of any kind from any source.

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

20 To Secure Retirement: Secure Retirement Financial & Insurance Services Corp.
21 Richard R. Morey, President
22 18 Crow Canyon Court, Suite 325
 San Ramon, California 94583

23 To the Commissioner: Afsaneh Eghbaldari, Counsel
24 Department of Business Oversight
25 1350 Front Street, #2034
26 San Diego, California 92101
 affi.eghbaldari@dbo.ca.gov

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

1 22. Public Record. Secure Retirement hereby acknowledges that this Consent Order is
2 and will be a matter of public record.

3 23. Effective Date. This Consent Order shall become final and effective when signed by
4 all Parties and delivered by the Commissioner’s agent via e-mail to Secure Retirement’s counsel,
5 Catherine DeBono Holmes at CJD@JMBM.com.

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

9 Dated: June 19, 2020

MANUEL P. ALVAREZ
Commissioner of Business Oversight

11 By: _____
12 MARY ANN SMITH
13 Deputy Commissioner

15 Dated: June 18, 2020

SECURE RETIREMENT FINANCIAL &
INSURANCE SERVICES CORP.

17 By: _____
18 RICHARD R. MOREY
19 President

20 APPROVED AS TO FORM:
21

22 _____
23 Catherine DeBono Holmes, Esq.
24 Jeffer, Mangels, Butler & Mitchell LLP | JMBM
25 Counsel for Secure Retirement Financial & Insurance Services Corp.
26
27
28