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**STATE OF CALIFORNIA
BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY
DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION**

TO: Joshua Ray Pelfrey dba J. Pelfery Investments
148 West Liberty Road
Gridley, California 95948

**DESIST AND REFRAIN ORDER
(For violations of sections 25210, 25230, 25401, 29520, 29535, and 29536 of the Corporations Code)**

The Commissioner of Financial Protection and Innovation finds that:

- 1. At all relevant times, Joshua Ray Pelfrey (Pefrey) is and was an individual doing business as J. Pelfery Investments (JPI), with his last known address at 148 West Liberty Road, Gridley, California 95948.
- 2. In or around October 2018, Pelfrey contacted at least one investor (Investor) via social media. Pelfrey represented himself as the head of a “Licensed Investment Management firm” called “J. Pelfery Investments.”
- 3. On or around October 14, 2018, Pelfrey entered into a “Capital Market Trading Agreement” (Agreement) with the Investor. Under the terms of the Agreement, the Investor would deposit funds into a brokerage account at “PeakOptions24.com or any other licensed brokerage company.” The Agreement authorized Pelfrey to use the funds to trade in various stocks, foreign currencies, and binary options, on behalf of the Investor. The Agreement entitled Pelfrey to 20% of the profits generated by the investments in the Investor’s account.
- 4. Between November 2018 and December 2018, the Investor transferred a total of \$1,870.00 to Pelfrey to be managed by Pelfrey pursuant to the Agreement.
- 5. Pelfrey purportedly deposited the funds into an account on Harbitrage.com in order to conduct trades. Harbitrage.com was a website holding itself out as an online brokerage for forex, binary options, and stocks. Domain records show that the Harbitrage.com website was registered within the time period between the execution of the Agreement and the transfer of Investor funds to Pelfrey.

1 6. In the months after Pelfrey received the Investor's funds, Pelfrey represented that he
2 was actively trading in the Harbitrage.com account and growing the initial investment.

3 7. The Investor eventually requested to withdraw his funds from the Harbitrage.com
4 account but Pelfrey and Harbitrage.com refused to allow the Investor to withdraw any funds. To date,
5 the Investor has not received a return of his principal nor any return on his investment.

6 8. The foreign currencies sold, or offered to be sold, were commodities within the
7 meaning of Corporations Code section 29504 of the California Commodity Law of 1990 (CCL).

8 9. The contract for the foreign currencies sold or offered to be sold was a commodity
9 contract within the meaning of Corporations Code section 29505.

10 10. Corporations Code section 29535, subdivision (a), prohibits a person from engaging in
11 a trade or business or otherwise acting as a commodity merchant unless the person (1) is registered or
12 temporarily licensed with the Commodity Futures Trading Commission (CFTC) for each activity
13 constituting that person as a commodity merchant and the registration or temporary license shall not
14 have expired, been suspended, or revoked; or (2) is exempt from the registration by virtue of the
15 Commodity Exchange Act (7 U.S.C. § 1 et seq.) or of a CFTC rule.

16 11. At all relevant times, neither Pelfrey nor JPI was registered or temporarily licensed
17 with the CFTC, nor were they exempt from registration by virtue of the Commodity Exchange Act (7
18 U.S.C. § 1 et seq.) or of a CFTC rule.

19 12. The shares of stock that Pelfrey agreed to purchase and sell on behalf of the Investor
20 were securities under Corporations Code section 25019. In agreeing to purchase and sell stocks,
21 Pelfrey acted as a broker-dealer within the meaning of Corporations Code section 25004.

22 13. Neither Pelfrey nor JPI has ever obtained a certificate to act as a broker-dealer under
23 Corporations Code section 25210 and neither is exempt from the licensure requirement set forth in
24 the Corporate Securities Law of 1968 (CSL).

25 14. Pelfrey received investment funds from the Investor for the purpose of managing the
26 Investor's brokerage account. Pelfrey claimed that he would direct the investment of these funds into
27 various assets, including securities. The Agreement authorized Pelfrey to buy and sell securities on
28

1 behalf of the Investor, according to Pelfrey’s investment strategy. As such, Pelfrey provided
2 investment advice to the Investor.

3 15. Neither Pelfrey nor JPI holds a valid investment adviser certificate issued by the
4 Commissioner as required by Corporations Code section 25230, and neither is exempt from the
5 certification requirement set forth in the CSL.

6 16. In connection with the purchase or sale of, the offer to sell, the offer to purchase, the
7 offer to enter into, or the entry into, a commodity, commodity contract, or commodity option, Pelfrey
8 made untrue statements of material fact, or omitted to state a material fact necessary to make the
9 statements made, in the light of the circumstances under which the statements were made, not
10 misleading, in violation of Corporations Code section 29536, subdivision (b). Likewise, Pelfrey
11 offered or sold a security in this state, or bought or offered to buy a security in this state, by means of
12 written or oral communication that included an untrue statement of a material fact or omitted to state
13 a material fact necessary to make the statements made, in the light of the circumstances under which
14 the statements were made, not misleading, in violation of Corporations Code section 25401. The
15 misrepresentations and omissions included, but are not limited to, the following:

- 16 a. Misrepresenting that JPI was a “licensed investment management firm
17 incorporated with the California State Office and registered with the Securities
18 and Exchange Commission.” In reality, at no time was JPI a legal entity
19 incorporated in California. Furthermore, JPI has never held a license or
20 certificate with the Department of Financial Protection and Innovation. In
21 addition, JPI is not registered with the Securities and Exchange Commission.
- 22 b. Misrepresenting that the Investor’s funds would be invested in accordance with
23 the terms of the Agreement and would be kept separate from funds belonging
24 to Pelfrey and JPI. In fact, Pelfrey held the Investor’s funds in a personal
25 account used to pay for Pelfrey’s personal expenses.
- 26 c. Failing to disclose that neither Pelfrey nor JPI was registered with the CFTC.

27 Based on the foregoing findings, the Commissioner is of the opinion that Joshua Ray Pelfrey,
28 doing business as J. Pelfrey Investments, is subject to the laws regulating broker-dealers under the

1 CSL and effected transactions in, or induced or attempted to induce the purchase or sale of, securities
2 in this state without having first applied for and secured from the Commissioner a certificate, then in
3 effect, authorizing him to act in such capacity, in violation of Corporations Code section 25210,
4 subdivision (a).

5 Pursuant to Corporations Code section 25532, subdivision (b), Joshua Ray Pelfrey, doing
6 business under any name, including as J. Pelfery Investments, is hereby ordered to desist and refrain
7 from acting as a broker-dealer and/or engaging in broker-dealer activities, in violation of Section
8 25210, unless and until certification has been made under said laws or unless exempted.

9 Based on the foregoing, the Commissioner is of the opinion that Joshua Ray Pelfrey, doing
10 business as J. Pelfery Investments, conducted business as an investment adviser in this state without
11 first securing from the Commissioner a certificate, authorizing him to do so, in violation of
12 Corporations Code section 25230.

13 Pursuant to Corporations Code section 25532, subdivision (b), Joshua Ray Pelfrey, doing
14 business under any name, including as J. Pelfery Investments, is hereby ordered to desist and refrain
15 from acting as an investment adviser and/or engaging in investment adviser activities, in violation of
16 Section 25230, unless and until Joshua Ray Pelfrey has first applied for and secured from the
17 Commissioner a certificate, then in effect, authorizing him to act as an investment adviser or unless
18 exempted.

19 Further, based on the foregoing, the Commissioner is of the opinion that Joshua Ray Pelfrey,
20 doing business as J. Pelfery Investments, offered or sold a security in this state, or bought or offered
21 to buy a security in this state, by means of written or oral communication that included an untrue
22 statement of a material fact or omitted to state a material fact necessary to make the statements made,
23 in the light of the circumstances under which the statements were made, not misleading, in violation
24 of Corporations Code section 25401.

25 Pursuant to Corporations Code section 25532, Joshua Ray Pelfrey, doing business under any
26 name, including as J. Pelfery Investments, is hereby ordered to desist and refrain from offering or
27 selling or buying or offering to buy any security in California by means of any written or oral
28 communication which includes an untrue statement of material fact or omits to state a material fact

1 necessary in order to make the statements made, in light of circumstances under which they were
2 made, not misleading.

3 Based on the foregoing findings, the Commissioner is of the opinion that Joshua Ray Pelfrey,
4 doing business as J. Pelfery Investments, sold or purchased or offered to sell or purchase
5 commodities, in the form of foreign currencies, under a commodity contract or under a commodity
6 option, or offered to enter into, or entered into, as seller or purchaser, a commodity contract or
7 commodity option, in the State of California, in violation of Corporations Code section 29520.

8 Pursuant to Corporations Code section 29542, Joshua Ray Pelfrey, doing business under any
9 name, including as J. Pelfery Investments, is hereby ordered to desist and refrain from the further
10 offer or sale of commodities under a commodity contract or commodity option, including, but not
11 limited to, foreign currencies, and to desist and refrain from further offering to enter into, or from
12 entering into, as seller or purchaser, a commodity contract or commodity option, in the State of
13 California, unless and until those activities are not in violation of Corporations Code section 29520.

14 Based on the foregoing findings, the Commissioner is also of the opinion that Joshua Ray
15 Pelfrey, doing business as J. Pelfery Investments, acted as a commodity merchant or broker without
16 being registered or licensed with the CFTC or otherwise exempt, in violation of Corporations Code
17 section 29535.

18 Pursuant to Corporations Code section 29542, Joshua Ray Pelfrey, doing business under any
19 name, including as J. Pelfery Investments, is hereby ordered to desist and refrain from engaging in
20 the trade or business or otherwise acting as a commodity merchant or broker, unless and until those
21 activities are not in violation of Corporations Code section 29535.

22 Based on the foregoing findings, the Commissioner is also of the opinion that, in connection
23 with the purchase or sale of, the offer to sell, the offer to purchase, the offer to enter into, or the entry
24 into, a commodity, commodity contract, or commodity option, Joshua Ray Pelfrey, doing business as
25 J. Pelfery Investments did all of the following: 1) willfully employed a device, scheme, or artifice to
26 defraud; 2) willfully made a false report, entered a false record, made untrue statements of material
27 facts, or omitted to state a material fact necessary in order to make the statements made, in the light
28 of the circumstances under which they were made, not misleading; 3) willfully engaged in a

1 transaction, act, practice, or course of business which operated or would operate as a fraud or deceit
2 upon a person; and 4) willfully misappropriated or converted the funds, security or property of other
3 persons, all in violation of Corporations Code section 29536.

4 Pursuant to Corporations Code section 29542, Joshua Ray Pelfrey, doing business under any
5 name, including as J. Pelfery Investments, is hereby ordered to desist and refrain from purchasing or
6 selling, or offering to purchase or sell a commodity or a commodity contract or commodity option,
7 and from offering to enter into, or entering into, a commodity contract or commodity option, in
8 California in violation of Corporations Code section 29536.

9 This Order is necessary, in the public interest, for the protection of investors, and consistent
10 with the purposes, policies, and provisions of the California Commodity Law of 1990 and the
11 Corporate Securities Law of 1968.

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Dated: February 26, 2021
Sacramento, California

MANUEL P. ALVAREZ
Commissioner of Financial Protection and Innovation



By _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division