

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

4 TO: Michael Angelo Giannelli dba Giannelli Capital  
5 3147 Loma Vista Road, #37B  
6 Ventura, California 93003

7 **DESIST AND REFRAIN ORDER**  
8 **(For violations of sections 25210, 25216, 25230, and 25235 of the Corporations Code)**

9 The Commissioner of Financial Protection and Innovation (Commissioner) finds that:

10 1. At all relevant times, Michael Angelo Giannelli (Giannelli) is and was an individual  
11 doing business as Giannelli Capital, with a last known address at 3147 Loma Vista Road, #37B,  
12 Ventura, California 93003.

13 2. At all relevant times, Giannelli Capital is and was a business entity of unknown origin  
14 with an associated business address at P.O. Box 2004, Santa Barbara, California 93121. Giannelli  
15 Capital maintained a website ([www.giannellicapital.com](http://www.giannellicapital.com)) and a Twitter profile (@GiannelliCap).  
16 According to the website, Giannelli Capital held itself out as a “private hedge fund founded by  
17 Michael Giannelli.”

18 3. At all relevant times, Giannelli maintained custody of the funds and/or securities of a  
19 California resident (Client) in a brokerage account owned by Giannelli. Giannelli used a debit card  
20 connected to the account to pay for personal expenses, including liquor stores, restaurants, bars,  
21 hotels, and gyms with funds directly from the account. Giannelli used at least some of the Client’s  
22 funds for personal expenses, without the knowledge or consent of the Client. Giannelli never returned  
23 the money to the account and eventually told the Client that he had lost all of her money in the course  
24 of managing her investment portfolio.

25 4. In or around January 2018, Giannelli entered into an investment management  
26 agreement (Agreement) with the Client. Under the terms of the Agreement, Giannelli maintained  
27 custody of the Client’s funds and had full discretion to buy and sell securities with the funds. The  
28 Agreement also stated that Giannelli would distribute dividends to the Client every month.

1           5.       Between January 2018 and March 2018, the Client transferred a total of \$60,000.00 to  
2 Giannelli to be managed by Giannelli pursuant to the Agreement.

3           6.       From March 2018 through September 2018, Giannelli distributed purported dividends  
4 to the Client, in accordance with the terms of the Agreement.

5           7.       While Giannelli was managing the funds, Giannelli used funds from the brokerage  
6 account for personal expenses. In or around December 2018, Giannelli stopped making distributions  
7 and told the Client that he had lost all of the Client’s money.

8           8.       The Financial Industry Regulatory Authority (FINRA) maintains the qualification,  
9 employment, and disclosure histories of registered representatives and principals in its Central  
10 Registration Depository (“CRD”).

11           9.       Giannelli, according to FINRA records, was a broker-dealer agent with an assigned  
12 CRD No. 4211249 who worked at the following licensed broker-dealer firms: Morgan Stanley DW  
13 Inc. (CRD No. 7556), October 25, 2000 – November 15, 2001; American Express Financial Advisors  
14 Inc. (now known as Ameriprise Financial Services, LLC) (CRD No. 6363), April 28, 2003 –  
15 February 18, 2004; IDS Life Insurance Company (CRD No. 6321), April 28, 2003 – February 18,  
16 2004; and FIS Brokerage & Securities Services LLC (CRD No. 104162), May 17, 2004 – April 9,  
17 2007 and July 27, 2007 – July 25, 2008. Giannelli’s CRD record with FINRA shows that from 2008  
18 until today, Giannelli has been employed with multiple companies in the financial services industry  
19 in a variety of different positions. However, Giannelli has not been reported as a broker-dealer agent  
20 with any of these firms, or any other licensed broker-dealer firm since July 25, 2008.

21           10.      Giannelli was a registered investment adviser representative (IAR) at American  
22 Express Financial Advisors, Inc. (now known as Ameriprise Financial Services, LLC) (CRD No.  
23 6363) from March 3, 2003 – February 18, 2004. Giannelli was not a registered IAR after February  
24 18, 2004.

25           11.      The Commissioner has jurisdiction over the licensing and regulation of broker-dealers  
26 and investment advisers in California under the Corporate Securities Law of 1968 (CSL) (Corp.  
27 Code, § 25000 et seq.).  
28

1           12. Corporations Code section 25004, subdivision (a), defines “broker-dealer” as any  
2 person engaged in the business of effecting transactions in securities in California for the account of  
3 others or for that person’s own account.

4           13. Corporations Code section 25210, subdivision (a), prohibits a broker-dealer from  
5 effecting any transaction in, or inducing or attempting to induce the purchase or sale of, any security  
6 in California unless the broker-dealer has first applied for and secured from the commissioner a  
7 certificate, then in effect, authorizing that person to act in that capacity.

8           14. At all relevant times, neither Giannelli nor Giannelli Capital had a certificate issued by  
9 the Commissioner authorizing them to engage in the business of a broker-dealer in California.  
10 Giannelli and Giannelli Capital were not exempt from the certification requirement.

11           15. Under Corporations Code section 25216, subdivision (a), it is unlawful for a broker-  
12 dealer or agent to effect any transaction in, or induce or attempt to induce the purchase or sale of, any  
13 security in this state by means of any manipulative, deceptive or other fraudulent scheme, device, or  
14 contrivance.

15           16. California Code of Regulations, title 10, section 260.216 defines “manipulative,  
16 deceptive or other fraudulent scheme, device, or contrivance” to include any act, practice, or course  
17 of business which operates or would operate as a fraud or deceit upon any person, and any untrue  
18 statement of a material fact and any omission to state a material fact necessary in order to make the  
19 statements made, in the light of the circumstances under which they are made, not misleading, if the  
20 person making the statement or omission knows or has reasonable grounds to believe that it is untrue  
21 or misleading.

22           17. Giannelli had custody of the Client’s funds and securities and had discretionary  
23 authority to buy and sell securities on behalf of the Client. Without the Client’s knowledge or  
24 consent, Giannelli used at least some of the Client’s funds for Giannelli’s personal expenses.  
25 Furthermore, the Agreement did not disclose the details of Giannelli’s compensation for managing  
26 the Client’s portfolio, or that Giannelli would be paid at all. In addition, the Agreement listed  
27 Giannelli’s CRD number but omitted the fact that Giannelli was no longer a licensed broker-dealer  
28 agent and was no longer a registered IAR. These acts, practices, or courses of business operated or

1 would operate as a fraud or deceit and included an untrue statement of a material fact and an  
2 omission to state a material fact necessary in order to make the statements made, in the light of the  
3 circumstances under which they are made, not misleading, and Giannelli knew or had reasonable  
4 grounds to believe that it was untrue or misleading. As such, Giannelli effected a transaction in, and  
5 induced or attempted to induce the purchase or sale of, a security in this state by means of a  
6 manipulative, deceptive or other fraudulent scheme, device, or contrivance.

7 18. Corporations Code section 25009, subdivision (a), defines an “investment adviser” as  
8 any person who, for compensation, engages in the business of advising others, either directly or  
9 through publications or writings, as to the value of securities or as to the advisability of investing in,  
10 purchasing or selling securities, or who, for compensation and as a part of a regular business,  
11 publishes analyses or reports concerning securities.

12 19. Corporations Code section 25230 prohibits any investment adviser from conducting  
13 business as an investment adviser in California unless the investment adviser has first applied for and  
14 secured from the commissioner a certificate, then in effect, authorizing the investment adviser to do  
15 so or unless the investment adviser is exempt.

16 20. At all relevant times, neither Giannelli nor Giannelli Capital held a certificate issued  
17 by the Commissioner authorizing them to conduct business as an investment adviser in California.  
18 Giannelli and Giannelli Capital were not exempt from the certification requirement.

19 21. Under section 25235, subdivision (b) of the Corporations Code, it is unlawful for any  
20 investment adviser, directly or indirectly, in California to engage in any transaction, practice, or  
21 course of business which operates or would operate as a fraud or deceit upon any client or  
22 prospective client.

23 22. Giannelli had custody of the Client’s funds and securities and had discretionary  
24 authority to buy and sell securities on behalf of the Client. Without the Client’s knowledge or  
25 consent, Giannelli used at least some of the Client’s funds for Giannelli’s personal expenses.  
26 Furthermore, the Agreement did not disclose the details of Giannelli’s compensation for managing  
27 the Client’s portfolio, or that Giannelli would be paid at all. In addition, the Agreement listed  
28 Giannelli’s CRD number but omitted the fact that Giannelli was no longer a licensed broker-dealer

1 agent and was no longer a registered IAR. As such, Giannelli engaged in a transaction, practice, or  
2 course of business which operated or would operate as a fraud or deceit upon a client or prospective  
3 client.

4 Based on the foregoing, the Commissioner is of the opinion that Michael Angelo Giannelli,  
5 doing business as Giannelli Capital, is subject to the laws regulating broker-dealers under the CSL  
6 and effected transactions in, or induced or attempted to induce the purchase or sale of, securities in  
7 California without having first applied for and secured from the Commissioner a certificate, then in  
8 effect, authorizing him to act in such capacity, in violation of Corporations Code section 25210,  
9 subdivision (a).

10 Pursuant to Corporations Code section 25532, subdivision (b), Michael Angelo Giannelli,  
11 doing business under any name, including as Giannelli Capital, is hereby ordered to desist and refrain  
12 from acting as a broker-dealer and/or engaging in broker-dealer activities, unless and until he has  
13 been appropriately licensed under the CSL or unless exempt.

14 Based on the foregoing, the Commissioner is of the opinion that Michael Angelo Giannelli,  
15 doing business as Giannelli Capital, conducted business as a broker-dealer and effected a transaction  
16 in, or induced or attempted to induce the purchase or sale of, a security in California by means of a  
17 manipulative, deceptive or other fraudulent scheme, device, or contrivance, in violation of  
18 Corporations Code section 25216, subdivision (a).

19 Pursuant to Corporations Code section 25532, subdivision (d), Michael Angelo Giannelli,  
20 doing business under any name, including as Giannelli Capital, is hereby ordered to desist and refrain  
21 from effecting any transaction in, or inducing or attempting to induce the purchase or sale of, any  
22 security in California by means of any manipulative, deceptive or other fraudulent scheme, device, or  
23 contrivance.

24 Based on the foregoing, the Commissioner is of the opinion that Michael Angelo Giannelli,  
25 doing business as Giannelli Capital, conducted business as an investment adviser in California  
26 without first securing from the Commissioner a certificate, authorizing him to do so, in violation of  
27 Corporations Code section 25230, subdivision (a).

28 Pursuant to Corporations Code section 25532, subdivision (b), Michael Angelo Giannelli,

1 doing business under any name, including as Giannelli Capital, is hereby ordered to desist and refrain  
2 from acting as an investment adviser and/or engaging in investment adviser activities, unless and  
3 until he has been appropriately licensed under the CSL or unless exempt.

4 Based on the foregoing, the Commissioner is of the opinion that Michael Angelo Giannelli,  
5 doing business as Giannelli Capital, conducted business as an investment adviser in California and  
6 directly or indirectly engaged in a transaction, practice, or course of business which operated or  
7 would operate as a fraud or deceit upon a client or prospective client, in violation of Corporations  
8 Code section 25235, subdivision (b).

9 Pursuant to Corporations Code section 25532, subdivision (d), Michael Angelo Giannelli,  
10 doing business under any name, including as Giannelli Capital, is hereby ordered to desist and refrain  
11 from directly or indirectly engaging in any transaction, practice, or course of business which operates  
12 or would operate as a fraud or deceit upon any client or prospective client.

13 This Order is necessary, in the public interest, for the protection of investors, and consistent  
14 with the purposes and provisions of the Corporate Securities Law of 1968.

15  
16 Dated: May 3, 2021  
17 Sacramento, California

MANUEL P. ALVAREZ  
Commissioner of Financial Protection and Innovation



18  
19 By \_\_\_\_\_  
20 MARY ANN SMITH  
21 Deputy Commissioner  
22 Enforcement Division  
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