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12

13 BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION
14 OF THE STATE OF CALIFORNIA
15

16 In the Matter of:

CRD NOs.: 127564; 846987

17 THE COMMISSIONER OF FINANCIAL
PROTECTION AND INNOVATION,

STATEMENT IN SUPPORT OF ORDER TO
DISCONTINUE VIOLATIONS PURSUANT
TO CORPORATIONS CODE SECTION 25249

18 Complainant,
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20 v.

21 HERMITAGE ADVISORS, LTD. and
22 VLADIMIR BELINSKY,

23 Respondents.
24

25 The Commissioner of Financial Protection and Innovation (Commissioner) alleges and
26 charges as follows:

27 1. At all relevant times, Hermitage Advisors, Ltd. (Hermitage) was and is a licensed
28 California investment adviser, with its principal office located at 250 Monte Vista Ridge Road,

1 Orinda, CA, 94563.

2 2. Hermitage currently holds an investment adviser certificate issued by the
3 Commissioner on July 30, 2003, pursuant to Corporations Code section 25230. Hermitage is
4 assigned Central Registration Depository (CRD) Number 127564.

5 3. Vladimir Belinsky (Belinsky), CRD Number 846987, is 100% owner and investment
6 adviser representative of Hermitage.

7 4. On or about January 31, 2021, after conducting a routine examination of Hermitage
8 under Corporations Code section 25241, the Commissioner sent a regulatory examination report
9 dated January 31, 2021 (Report) by electronic mail to vladimir@hermitageadvisors.com, identifying
10 various violations of laws and regulations. The Commissioner instructed Hermitage to submit a
11 written response no later than 15 days after the Report.

12 5. On or about February 8, 2021, the Department's examiners called Belinsky by
13 telephone to discuss each violation listed in the Report and granted an extension to respond by
14 February 22, 2021. However, on or about May 19, 2021 through July 27, 2021, the examiners sent
15 several letters to Belinsky following up on the response and granted several extension requests to
16 respond. Also, during this period, the examiners had several telephone discussions with Belinsky on
17 how to resolve each deficiency cited in the Report. However, Belinsky failed to provide a response
18 to a majority of the deficiencies by the due dates.

19 6. On or about August 10, 2021, the Department received a response from TDA
20 Compliance on behalf of Hermitage. The letter dated August 10, 2021, showed that Hermitage did
21 not correct most of the violations cited in the 2021 Report. Furthermore, Hermitage did not provide
22 the financial books and records of Hermitage Advisors Private Equity, LLC (the Fund) as of
23 December 31, 2020, as requested by the Commissioner in the report dated January 31, 2021, and in
24 the follow-up letter dated May 19, 2021.

25 7. On or about September 16, 2021, TDA Compliance, on behalf of Hermitage sent the
26 following documents to the Commissioner: copies of the Fund's Balance Sheet, Income Statement,
27 and General Ledger as of December 31, 2020. However, these records were deemed to be inaccurate
28 because the actual dates and amounts of individual debit and credit transactions in the December 31,

1 2020 Union Bank Statement did not coincide with the dates and amounts on the General Ledger.

2 8. As a result, the Commissioner determined that Hermitage and Belinsky failed to
3 maintain current, true, and accurate, books and records in violation of Corporations Code section
4 25241 and California Code of Regulations, title 10, section 260.241.3.

5 9. The examination revealed that Hermitage and Belinsky failed to provide the Fund's
6 beneficial owners their quarterly statements for 2020 and for the first quarter of 2021. As a result,
7 Hermitage and Belinsky violated Corporations Code section 25241, subdivision (a), and California
8 Code of Regulations, title 10, section 260.237, subdivision (a)(5)(A)(1)-(3).

9 10. Corporations Code section 25237 provides:

10 The commissioner shall prescribe rules with respect to investment advisers
11 licensed under this chapter who have custody of their clients' securities or
12 funds or who have any power of attorney from their clients to execute
13 transactions as he or she finds to be necessary or appropriate in the public
14 interest or for the protection of investors. The rules may require a minimum
15 capital for those investment advisers or prescribe a minimum ratio between
16 net capital and aggregate indebtedness or both, and may require a fidelity
17 bond.

18 11. California Code of Regulations, title 10, section 260.237 provides in relevant part:

19 (a) Safekeeping required. It is unlawful and deemed to be a fraudulent,
20 deceptive, or manipulative act, practice or course of business within the
21 meaning of Section 25235 of the Code for an investment adviser licensed or
22 required to be licensed, to have custody of client funds or securities unless:

23 ...

24 (5) Special rule for limited partnerships and limited liability companies. If the
25 investment adviser or a related person is a general partner of a limited
26 partnership (or managing member of a limited liability company, or holds a
27 comparable position for another type of pooled investment vehicle):

28 (A) The adviser sends to all limited partners (or members or other beneficial
owners) at least quarterly, a statement showing:

1. The total amount of all additions to and withdrawals from the fund as a whole
as well as the opening and closing value of the fund at the end of the quarter
based on the custodian's records;

2. A listing of securities positions on the closing date of the statement required
to be disclosed under Generally Accepted Accounting Principles (GAAP) for

1 investment companies that are non-registered investment partnerships, pursuant
2 to Financial Accounting Standards Board (FASB) Accounting Standards
3 Codification 946-210-50-4 through 6.

4 3. A listing of all additions to and withdrawals from the fund by the investor,
5 the total value of the investor's interest in the fund at the end of the quarter.

6 12. Corporations Code section 25241 provides:

7 (a) Every broker dealer and every investment adviser licensed under Section
8 25230 shall make and keep accounts, correspondence, memorandums, papers,
9 books, and other records and shall file financial and other reports as the
10 commissioner by rule requires . . . subject to the limitations of Section 15(h) of
11 the Securities Exchange Act of 1934 with respect to broker-dealers and Section
12 222 of the Investment Advisers Act of 1940 with respect to investment advisers.

13 13. California Code of Regulations, title 10, section 260.241.3, provides in relevant part:

14 (a) Every licensed investment adviser shall make and keep true, accurate and
15 current the following books and records relating to such person's investment
16 advisory business:

17 (1) A journal or journals, including cash receipts and disbursements records,
18 and any other records of original entry forming the basis of entries in any ledger.

19 (2) General and auxiliary ledgers (or other comparable records) reflecting asset,
20 liability, reserve, capital, income and expense accounts.

21 . . .

22 (4) All check books, bank statements, cancelled checks and cash reconciliations
23 of the investment adviser.

24 (5) All bills or statements (or copies thereof), paid or unpaid, relating to the
25 business of the investment adviser as such.

26 (6) All trial balances, financial statements, worksheets that contain
27 computations of minimum financial requirements required under Section
28 260.237.2, of these rules, and internal audit working papers relating to the
business of such investment adviser.

14. Corporations Code section 25249 provides:

If, after examination or investigation, the commissioner has reasonable grounds
to believe that any broker-dealer or investment adviser has violated any law or
rule binding upon it, the commissioner shall, by written order addressed to the
broker-dealer or investment adviser, direct the discontinuance of the violation.
The order shall be effective immediately, but shall not become final except in

1 accordance with the provisions of Section 25251.

2 15. Corporations Code section 25251 provides:

3 (a) No order issued pursuant to Section 25249 or 25250 may become final
4 except after notice to the affected broker-dealer or investment adviser of the
5 commissioner's intention to make the order final and of the reasons for the
6 finding. The commissioner shall also notify the broker-dealer or investment
7 adviser that upon receiving a request the matter shall be set for hearing to
8 commence within 15 business days after receipt of the request. The broker-
9 dealer or investment adviser may consent to have the hearing commence at a
10 later date. If no hearing is requested within 30 days after the mailing or service
11 of the required notice, and none is ordered by the commissioner, the order may
12 become final without a hearing and the broker-dealer or investment adviser
13 shall immediately discontinue practices named in the order. If a hearing is
14 requested or ordered, it shall be held in accordance with the provisions of the
15 Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of
16 Part 1 of Division 3 of Title 2 of the Government Code), and the commissioner
17 shall have all of the powers granted under that act. If, upon the conclusion of
18 the hearing, it appears to the commissioner that the broker-dealer or investment
19 adviser is conducting business in an unsafe and injurious manner or is violating
20 any law of this state, or any rule binding upon it, the commissioner shall make
21 the order of discontinuance final and the broker-dealer or investment adviser
22 shall immediately discontinue the practices named in the order.

23 (b) The broker-dealer or investment adviser may within 10 days after an order
24 is made final commence an action to restrain enforcement of that order. If the
25 enforcement of that order is not enjoined within 10 days by the court in which
26 the action is brought, the broker-dealer or investment adviser shall comply with
27 the order.

28 16. By reason of the foregoing, Hermitage Advisors Ltd. and Vladimir Belinsky violated
Corporations Code section 25241, subdivision (a), and California Code of Regulations, title 10,
section 260.241.3, subdivision (a), and section 260.237, subdivision (a)(5)(A)(1)-(3). Pursuant to
Corporations Code section 25249, the Commissioner orders Hermitage Advisors, Ltd. and Vladimir
Belinsky to discontinue violating Corporations Code section 25241, subdivision (a), and California
Code of Regulations, title 10, section 260.241.3, subdivision (a), and section 260.237, subdivision
(a)(5)(A)(1)-(3).

WHEREFORE, good cause showing, and pursuant to Corporations Code section 25251, the
Commissioner finds this action is appropriate, in the public interest, for the protection of investors,

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and consistent with the purposes fairly intended by the policies and procedures of the Corporate Securities Law of 1968.

Dated: February 17, 2022

CLOTHILDE V. HEWLETT
Commissioner of Financial Protection and Innovation



By: _____

BALBIRO KAZLA
Deputy Commissioner
Broker-Dealer Investment Adviser Division