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9  
10 BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION  
11 OF THE STATE OF CALIFORNIA

12 In the Matter of:	)	CRD NO. 3274235
	)	
13 THE COMMISSIONER OF FINANCIAL	)	ACCUSATION TO:
14 PROTECTION AND INNOVATION,	)	
	)	1. SUSPEND MICHAEL MURRAY
15 Complainant,	)	KNITTEL’S INVESTMENT ADVISER
v.	)	CERTIFICATE; AND
	)	
16 MICHAEL MURRAY KNITTEL, an	)	2. LEVY ADMINISTRATIVE
17 individual,	)	PENALTIES.
18 Respondent.	)	
	)	(CORPORATIONS CODE SECTIONS 25212,
	)	25213, 25532, and 25252)
	)	
	)	

21  
22 Clothilde V. Hewlett, Commissioner of the Department of Financial Protection and Innovation  
23 (Commissioner), acting to protect the public, alleges and charges as follows:

24 **I.**

25 **INTRODUCTION**

26 1. The Commissioner brings this action pursuant to Corporations Code section 25213, and  
27 the rules and regulations promulgated thereunder.

28 2. The Commissioner is authorized to administer and enforce the provisions of the

1 Corporate Securities Law of 1968 (CSL) (Cal. Corp. Code §§ 25000-25708).<sup>1</sup>

2 3. Michael Murray Knittel (Knittel) is, and was, at all times herein, an investment adviser  
3 licensed by the Commissioner since July 25, 2011 (Central Registration Depository No. 3274235).<sup>2</sup>

4 4. Knittel is the chief executive officer and agent for service of process for Lagunitas  
5 Asset Management, LLC (LAM) — a California limited liability company with its principal place of  
6 business located at 1264 Hawks Flight Court, Suite 290, El Dorado Hills, California 95762. LAM is,  
7 or was, an investment adviser licensed by the Commissioner since June 19, 2013 (CRD No. 166781).  
8 LAM was registered as an investment adviser by the U.S. Securities and Exchange Commission  
9 (SEC) on or about September 21, 2020, however, LAM's registration with the SEC was terminated on  
10 June 7, 2022.

11 5. Knittel was, at all relevant times, a registered representative of Fortune Financial  
12 Services, Inc. (FFS). FFS is a Pennsylvania corporation incorporated on October 21, 1996, with its  
13 principal place of business located at 3582 Brodhead Road, Suite 202, Monaca, Pennsylvania 15061.  
14 FFS is a broker dealer licensed by the Commissioner since January 3, 2006 (CRD No. 42150). Knittel  
15 operated FFS's branch office located at 1264 Hawks Flight Court, Suite 290, El Dorado Hills,  
16 California 95762. Knittel is currently employed as an investment adviser representative with  
17 Arrowroot Family Office, LLC (CRD No. 168744).

18 6. The Commissioner brings this action seeking to suspend Knittel from any position of  
19 employment, management or control of any broker-dealer or investment adviser pursuant to sections  
20 25213 and 25212, subdivisions (2)(d) and (i), on the grounds that:

- 21 a) the suspension is in the public interest;
- 22 b) Knittel is subject to an order specified in section 25212, subdivision (d),  
23 including an order issued by FINRA suspending Knittel from associating with  
24 a FINRA member; and

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26  
27 <sup>1</sup> All further references are to the Corporations Code unless otherwise indicated.

28 <sup>2</sup> The Central Registration Depository (CRD) is a database maintained by the Financial Industry Regulatory Authority (FINRA) since 2007 for all firms and individuals involved in the U.S. securities industry. It is used to store and maintain information on registered securities and broker firms, as well as individuals who dispense investing and financial advice.

1 c) pursuant to section 25212, subdivision (i), Knittel violated provisions of the  
2 CSL by effecting a transaction in, or inducing or attempting to induce the  
3 purchase or sale of, any security in this state by means of any manipulative,  
4 deceptive or other fraudulent scheme, device, or contrivance, in violation of  
5 section 25216.

## 6 II.

### 7 STATEMENT OF FACTS

#### 8 The Commissioner's Regulatory Examination

9 7. In August 2019, the Commissioner commenced a non-routine regulatory examination  
10 of Knittel's company, LAM (2019 Exam). During the 2019 Exam, the Commissioner's staff asked  
11 Knittel whether he or any representative of LAM was aware of any past or pending arbitration,  
12 complaints, or settlements concerning their investment advisory business. By letter dated August 16,  
13 2019, Knittel stated that neither he nor any representative of LAM had "any past or pending  
14 arbitration, complaints, or settlements that the department is unaware of."

15 8. In about September 2020, the Commissioner received information from FINRA which  
16 appeared to show that Knittel may be engaged in investment adviser or broker dealer activities in  
17 violation of the CSL.

18 9. On December 17, 2020, the Commissioner commenced a non-routine examination of  
19 FFS's broker-dealer branch office operated by Knittel (2020 Exam). The 2020 Exam revealed that in  
20 about June 2018, Knittel pitched four potential California investors to invest in a real estate investment  
21 opportunity offered by a private California limited liability company, S. R. LLC, which according to  
22 Knittel involved the purchase of a distressed property located in Loomis, California that S.R. LLC  
23 purportedly planned to rehabilitate and sell for profit.

24 10. In about June 2018, Knittel sent an email to potential investors stating that he was part  
25 of a "crazy amazing deal" that he wanted to share. In July 2018, Knittel sent an email to investors  
26 introducing them to a third party whom he described as "the Wizard beyond Oz," who would "cover  
27 any overruns on costs." Along with his July 2018 email, Knittel provided investors with projected  
28 earnings or profits on the investment opportunity and offered to further discuss the offer with

1 investors. Knittel’s July 2018 e-mail contained disclosure language under Knittel’s signature block  
2 that suggested the securities were offered through FFS. The disclosure language states as follows:

3 Securities offered through Fortune Financial Services Inc., member  
4 FINRA/SIPC. Advisory services offered through Lagunitas Asset  
5 Management (LAM), California Registered Investment Advisor.  
6 Fortune Financial Services Inc. and LAM are unaffiliated entities....”

6 11. The 2020 Exam disclosed that on or about August 6, 2018, the investors executed a  
7 Subscription Agreement, along with a promissory note (Agreement), in which they invested a total of  
8 \$245,000 described as a “Loan” with “Profits Participation, Secured by Deed of Trust” to be repaid by  
9 S.R. LLC under the terms of the promissory note. On August 13, 2018, Knittel received \$10,000 from  
10 S.R. LLC.

11 12. On June 9, 2021, the Commissioner’s staff held a telephone conference with Knittel  
12 during which Knittel denied any knowledge of S. R. LLC, claiming that he was unaware he received  
13 \$10,000 from S.R. LLC. Knittel further stated that he returned the \$10,000 he received from S.R. LLC  
14 to investors by wire transfer.

15 13. When the Commissioner’s staff referenced above asked Knittel why he returned the  
16 \$10,000 he received from S.R. LLC to investors rather than to S.R. LLC, Knittel claimed he was  
17 “feeling bad” for the investors and that he “had mistakenly thought the money came from another  
18 individual in connection with an unrelated joint venture capital project that never took off.”

19 14. The Commissioner finds that Knittel brokered a private securities transaction with  
20 investors for compensation totaling \$10,000 in what is commonly referred to in the broker dealer  
21 industry as “selling away” securities. Selling away occurs when a broker solicits a client to purchase  
22 securities not held or offered by the executing brokerage firm.

23 15. The 2020 Exam also revealed that FFS did not consent to Knittel’s solicitations or offer  
24 or sale of securities. Indeed, FFS’s Supervisory Procedures Manual prohibits Knittel from soliciting  
25 private securities, including any securities transactions, and accepting any compensation from any  
26 person or entity other than the employing broker-dealer firm.

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1           16.     Further, the Commissioner finds that the disclosure contained in Knittel’s email of July  
2 2018 to investors was misleading by stating that “Securities offered through Fortune Services Inc.,  
3 member FINRA/SIPC” when in fact, the securities were unauthorized by FFS.

4 FINRA’s Order

5           17.     On or about January 28, 2022, Knittel executed a Letter of Acceptance, Waiver, and  
6 Consent Order issued by FINRA dated January 28, 2022 (AWC), suspending Knittel from associating  
7 with any FINRA member for four months from February 7, 2022 through June 6, 2022.

8           18.     According to the AWC, FINRA determined that Knittel engaged in a private securities  
9 transaction involving a \$245,000 investment, without prior written notice from FFS. As stated in the  
10 AWC, Knittel recommended that investors invest in a promissory note issued by S.R. LLC to fund the  
11 renovation of a residential property and to pay for legal fees associated with renegotiating an existing  
12 lien on the property.

13           19.     Under the terms of the promissory note, the investors were promised repayment of their  
14 principal and a share of profits upon the sale of the property. Knittel introduced the investors to an  
15 owner of the S.R. LLC and provided the investors with information and documents about the  
16 investment, including a draft subscription agreement after which he received \$10,000 from S.R. LLC.  
17 Shortly after investing, the investors expressed concern to Knittel about S.R. LLC and their  
18 investments following which Knittel returned to the investors the \$10,000 that he had previously  
19 received from the S.R. LLC.

20           20.     The AWC further noted that in about June 2020, the investors filed a Complaint against  
21 Knittel and other individuals and entities, in the Superior Court of California, County of Placer for,  
22 among other claims, conversion, fraudulent misrepresentation, breach of contract and promissory note  
23 fraud.

24           21.     Pursuant to the AWC, Knittel was ordered to pay \$10,000 in fines and was suspended  
25 from associating with any FINRA member for four months from February 7, 2022 to June 6, 2022.

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III.

**RESPONDENT KNITTEL SHOULD BE SUSPENDED FROM ANY POSITION OF EMPLOYMENT, MANAGEMENT OR CONTROL OF ANY BROKER-DEALER OR INVESTMENT ADVISER**

22. FINRA’s Rule 3280 prohibits an associated person from selling any security "away" from the member firm unless the firm has authorized the associated person to make the sale. Rule 3280 further requires that:

[p]rior to participating in any private securities transaction, an associated person shall provide written notice to the member with whom he is associated describing in detail the proposed transaction and the person’s proposed role therein and stating whether he has received or may receive selling compensation in connection with the transaction.” A violation of FINRA Rule 3280 is also a violation of FINRA Rule 2010, which provides that representatives of member firms “shall observe high standards of commercial honor and just and equitable principles of trade.

23. Section 25213 provides, in pertinent part:

The commissioner may, after appropriate notice and opportunity for hearing, by order censure, or suspend for a period not exceeding 12 months, or deny or bar from any position of employment, management or control of any broker-dealer or investment adviser, any officer, director, partner, agent, employee of, or person performing similar functions for, a broker-dealer, or any other person, if the commissioner finds that the censure, suspension, denial, or bar is in the public interest and that the person has committed any act or omission enumerated in subdivision (a), (e), (f), or (g) of Section 25212 or has been convicted of, or pled nolo contendere to, any offense or been held liable in any civil action specified in subdivision (b) of Section 25212, or is enjoined from any act, conduct or practice specified in subdivision (c) of Section 25212 or is subject to any order specified in subdivision (d) of Section 25212.

24. Section 25212 provides, in pertinent part:

The commissioner may, after appropriate notice and opportunity for hearing, by order censure, deny a certificate to, suspend for a period not exceeding 12 months or revoke the certificate of, any broker-dealer if the commissioner finds that the censure, denial, suspension, or revocation is in the public interest and that the broker-dealer, whether prior or subsequent to becoming a broker-dealer, or any partner, officer, director, or branch manager of the broker-dealer, whether prior or subsequent to becoming associated with the broker-dealer, or any person directly or indirectly controlling the broker-dealer, whether prior or subsequent to becoming such, or any agent employed by the broker-dealer while so employed has done any of the following:

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(d) Is or has been subject to ... (2) any order of any national securities association or national securities exchange (registered under the Securities Exchange Act of 1934) suspending or expelling that person from membership in the association or exchange or from association with any member thereof....

(i) Has violated any provision of this division or the rules thereunder or, in the case of an applicant only, any similar regulatory scheme of the State of California or a foreign jurisdiction.

25. As alleged in paragraph 17 above, on January 28, 2022, Knittel executed FINRA’s AWC, consenting to a four-month suspension from association with any FINRA member firm in any capacity, from February 7, 2022 through June 6, 2022. FINRA’s suspension falls under section 25212, subdivision (d), because FINRA, as a national securities regulatory organization, suspended Knittel for his violations of FINRA rules.

26. Section 25216 provides in pertinent part:

(a) No broker-dealer or agent shall effect any transaction in, or induce or attempt to induce the purchase or sale of, any security in this state by means of any manipulative, deceptive or other fraudulent scheme, device, or contrivance. The commissioner shall, for the purposes of this subdivision, by rule define such schemes, devices or contrivances as are manipulative, deceptive, or otherwise fraudulent....

27. California Code of Regulations, title 10, section 260.216 provides in pertinent part:

The phrase “manipulative, deceptive, or other fraudulent scheme, device, or contrivance,” as used in subdivision (a) of Section 25216 of the Code is hereby defined to include:

(a) Any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person; and

(b) Any untrue statement of a material fact and any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, if the person making the statement or omission knows or has reasonable grounds to believe that it is untrue or misleading.

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1 28. As alleged in paragraphs 14-16 above, Knittel engaged in selling away securities  
2 without authorization and as such, effected transactions in, or induced or attempted to induce the  
3 purchase or sale of securities in the form of promissory notes issued by S.R. LLC in this state by  
4 means of any manipulative, deceptive or other fraudulent scheme, device, or contrivance, or by means  
5 of untrue statement of material facts, in violation of section 25216. Knittel’s actions include but are  
6 not limited to:

- 7 a) failing to inform investors that he was not authorized by FFS to sell away the
- 8 securities.
- 9 b) representing to investors that securities were sold by FFS, when in fact the
- 10 securities were not sold through FFS.

11 29. Therefore, pursuant to section 25212, subdivision (i), Knittel should be suspended from  
12 engaging in business as an investment adviser or representative or in any capacity for violating  
13 provisions of the CSL.

14 **IV.**

15 **ORDER LEVYING ADMINISTRATIVE PENALTIES**

16 30. Corporations Code section 25252 provides in pertinent part:

17 The commissioner may, after appropriate notice and opportunity  
18 for hearing, by orders, levy administrative penalties as follows: . . .  
19 (b) Any broker-dealer or investment adviser that willfully violates  
20 any provision of this division to which it is subject, or that  
21 willfully violates any rule or order adopted or issued pursuant to  
22 this division and to which it is subject, is liable for administrative  
23 penalties of not more than five thousand dollars (\$5,000) for the  
24 first violation, not more than ten thousand dollars (\$10,000) for the  
25 second violation, and not more than fifteen thousand dollars  
26 (\$15,000) for each subsequent violation . . . .

27 31. Pursuant to section 25252, the Commissioner finds good cause to levy administrative  
28 penalties against Knittel in the amount of \$5,000, for selling away securities and thus effecting  
29 transactions in, or inducing or attempting to induce the purchase or sale of securities, in violation of  
30 section 25216.

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V.

**PUBLIC INTEREST**

Based on the foregoing, the Commissioner has deemed it in the public interest to suspend the investment adviser certificate of Knittel. California Code of Regulations, title 10, section 260.216, states that “Each broker-dealer and each agent employed by such a broker-dealer shall observe high standards of commercial honor and just and equitable principles of trade in the conduct of such person’s business.”

Investment advisers must adhere to all applicable laws and regulations, including the written policies and procedures of the registered representative’s brokerage firm concerning engaging in outside business activities. Typically, brokerage firms maintain lists of approved products that have undergone due diligence screenings and confirmed to be safe to offer to clients of the brokerage firm. When a broker sells away from the firm's list of approved products, they run the risk of selling a product for which due diligence has not been completed.

By selling away securities without authorization and fraudulently effecting transactions in the purchase or sale of securities Knittel has failed to observe high standards of commercial integrity and just and equitable principles of trade in the conduct of his investment advisory business, in violation of the CSL.

For these reasons, it is therefore in the public interest to suspend Knittel from any position of employment, management or control of any broker-dealer or investment adviser for at least six months.

VI.

**RELIEF REQUESTED**

WHEREFORE, IT IS PRAYED that pursuant to section 25213, Michael Murray Knittel be suspended from any position of employment, management or control of any broker-dealer or investment adviser for at least six months. This suspension should be issued irrespective of FINRA’s suspension period and should begin upon issuance of the Commissioner’s final order.

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WHEREFORE, IT IS FURTHER PRAYED that Michael Murray Knittel pay administrative penalties to the Commissioner in the amount of at least \$5,000, or according to proof under Corporations Code section 25252.

Dated: January 19, 2023

CLOTHILDE V. HEWLETT  
Commissioner of Financial Protection and Innovation

By \_\_\_\_\_  
UCHE L. ENENWALI  
Senior Counsel  
Enforcement Division