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

11 In the Matter of:
12 THE COMMISSIONER OF FINANCIAL
13 PROTECTION AND INNOVATION,
14 Complainant,
15 v.
16 OMNIA CAPITAL MANAGEMENT, INC.
17 F/K/A HW WEALTH MANAGEMENT, INC.,
ALAN T. KNOBLOCH, and CORY P. READER,
18 Respondents.

NOTICE OF INTENT TO ISSUE ORDER
LEVYING ADMINISTRATIVE
PENALTIES AND STATEMENT IN
SUPPORT PURSUANT TO
CORPORATIONS CODE SECTION 25252

19 The Commissioner of Financial Protection and Innovation (Commissioner) is informed and
20 believes, and based upon such information and believe, alleges and charges as follows:

21 **I. STATEMENT OF FACTS**

- 22 1. Omnia Capital Management, Inc. (Omnia), a California corporation, currently holds a
23 valid investment adviser certificate issued by the Commissioner pursuant to Corporations Code
24 section 25230, Central Registration Depository (CRD) Number 151504.
25 2. Alan T. Knobloch (Knobloch) (CRD No. 5274077) is the 100% owner, President, and
26 Chief Compliance Officer of Omnia.
27 3. Cory P. Reader (Reader) (CRD No. 4966365) is the Chief Investment Officer of
28 Omnia.

1 4. Omnia, Knobloch, and Reader are collectively referred to as Respondents.

2 **Violations of Corporations Code Section 25238 (a)**
3 **(Failing to Promote Fair, Equitable and Ethical Principles by Managing Client Accounts in an**
4 **Unsuitable Manner)**

5 5. Knobloch, as sole principal of Omnia, and Reader, as Chief Investment Officer,
6 managed client investment accounts on a discretionary basis through Charles Schwab & Co., Inc. and
7 E*Trade Securities LLC. Clients authorized Respondents to use discretion in purchasing and selling
8 securities on their behalf.

9 6. Respondents did not have a reasonable basis for purchasing speculative, leveraged,
10 derivative-type securities, nor in creating a non-diversified portfolio, for at least four investors.

11 7. Respondents provided prospective clients a “Portfolio Model Allocations” brochure,
12 for clients to choose from three different investment portfolio models. In particular, Omnia disclosed
13 the following about the “Long/Short All-Weather Fund” model:

14 30% Short¹ on the US, 6% each: S&P, Dow, Small Cap, Tech, Financials
15 70% Long in Commodities, Precious Metals, Energy, Agriculture, Grains,
16 etc.
17 Downside sell triggers on long positions
18 Long, Short or Cash
19 All portfolio models may utilize cash or money market funds in the
20 protection mode.

21 8. In addition, Omnia’s disclosure brochure, Form ADV, states, in relevant part:

22 OCM generally seeks investment strategies that *do not involve significant*
23 or *unusual risk* beyond that of the general domestic and/or international
24 equity markets. [Emphasis added.]

25 9. Omnia entered into an investment management contract with at least four investors, of
26 whom selected the “Long/Short All-Weather Fund” model. Omnia disclosed that it would invest the

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¹ Short selling is an investment or trading strategy that speculates on the decline in a stock or other security’s price. It is an advanced strategy that should only be undertaken by experienced traders and investors. (*Short Selling: Definition, Pros, Cons, and Examples*, INVESTOPEDIA, <https://www.investopedia.com/terms/s/shortselling.asp> (last visited May 3, 2023).

1 portfolio in a diversified manner, which would include both long and short positions, and would be well-
 2 diversified, so as to be “All-Weather.”²

3 10. Despite what was included in the contract and Omnia’s “Portfolio Model Allocations”
 4 brochure, Respondents proceeded to invest solely in securities that carried substantial risk and volatility,
 5 resulting in a non-diversified portfolio, 100% comprised of two speculative leveraged derivative-type
 6 securities. The trading practices of Respondents resulted in substantial losses for at least four investors.

7 11. Cory Reader, Chief Investment Officer of Omnia, represented to the Commissioner that
 8 the “Long/Short All-Weather Fund” model was known as the “Go Anywhere Fund,” in that it would
 9 change based on market dynamics and perceived opportunities that became available due to dislocations
 10 in the markets. In fact, Respondents unilaterally gave themselves unlimited discretion to disregard its
 11 clients’ investment objectives, financial situation, and financial needs, or any other client information
 12 known by Respondents.

13 12. To further demonstrate the risk of investments imposed by Respondents, a review of the
 14 Schwab account statements for these investors showed trading in leveraged securities including, but not
 15 limited to, Ultra VIX Short-Term Futures (UVXY) and VIX Short-Term Futures (VXX).

16 13. The prospectus of UVXY, states, in pertinent part:

17 The Ultra Fund uses leverage and is *riskier* than similarly benchmarked
 18 exchange traded funds that do not use leverage. An investor *should only*
 19 *consider* an investment in the Ultra Fund or the Short Fund if he or she
 20 *understands* the consequences of seeking daily investment results and the
 21 impact of compounding on geared fund performance...An investment in a fund
 22 is *speculative* and involves a *high degree* of risk. *None* of the Funds is intended
 23 as a *complete investment program*. [Emphasis added.]

24 14. The prospectus of VXX, states, in pertinent part:

25 The ETNs are unsecured promises of Barclays Bank PLC and are not secured
 26 debt. The ETNs are riskier than ordinary unsecured debt securities. An
 27 investment in the ETNs involves significant risks, including possible loss of
 28 principal and may not be suitable for all investors.

² An all weather fund is a fund that tends to perform reasonably well during both favorable and unfavorable economic and market conditions. (*All Weather Fund*, INVESTOPEDIA, <https://www.investopedia.com/terms/a/allweatherfund.asp> (last visited May 3, 2023).

1 15. At least four investors of the “Long/Short All-Weather Fund” model indicated to
2 Respondents that they did not have any experience with Exchange Traded Funds (ETF), Options, or
3 “Other” securities. However, Respondents proceeded to purchase speculative leveraged derivative-type
4 ETFs, including UVXY and VXX, without disclosing the risks and volatility of such securities.

5 16. Given the substantial losses to the accounts of at least four investors, given the substantial
6 degree of risk and volatility of these investments, and the Respondents disregarding its client’s stated
7 investment objectives, financial situation, and financial needs, Respondents did not have a reasonable
8 basis to continue trading in these investments on behalf of their clients. Accordingly, Respondents
9 violated Corporations Code section 25238 and CCR, title 10, section 260.238 (a).

10 17. Corporations Code section 25238 prohibits an investment adviser from engaging in
11 fraudulent, deceptive, or manipulative practices, including the managing client accounts in an
12 unsuitable manner, inconsistent with a client’s investment objectives, financial situation, and
13 financial needs.

14 **Violations of Corporations Code Section 25238 (h)**

15 **(Failing to Promote Fair, Equitable and Ethical Principles by Misrepresenting the Nature of**
16 **Services)**

17 18. At least four investors selected the “Long/Short All-Weather Fund” model.

18 19. Respondents did not follow its own stated investment strategy. Furthermore,
19 Respondents solely invested in speculative leveraged derivative-type securities, in contradiction to
20 what was disclosed in the “Portfolio Model Allocations” brochure.

21 20. Respondents misrepresented to at least four investors, that the Respondents would
22 manage the “Long/Short All-Weather Fund” model to be “All-Weather”. In fact, Respondents
23 proceeded to create a non-diversified portfolio, 100% comprised of two speculative leveraged
24 derivative-type ETFs, UVXY and VXX.

25 21. Respondents misrepresented to at least four investors that when the “All-Weather
26 Fund” model was in protection mode, there would be a reduction of risk and volatility. In fact,
27 Respondents continued to invest solely in securities with substantial risk and volatility, resulting in a

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1 non-diversified portfolio, 100% comprised of two speculative leveraged derivative-type ETFs,
2 UVXY and VXX.

3 22. Respondents misrepresented how it would manage the “Long/Short All-Weather
4 Fund” model and how it would manage the model in protection mode. Accordingly, Respondents
5 violated Corporations Code section 26238 and CCR, title 10, section 260.238 (h).

6 23. Corporations Code section 25238 prohibits an investment adviser from engaging in
7 fraudulent, deceptive, or manipulative practices, including misrepresenting the nature of the
8 Respondent’s investment advisory services.

9 **Violations of Corporations Code Section 25238 (h)**
10 **(Failing to Promote Fair, Equitable and Ethical Principles by Omitting to Disclose Material**
11 **Risks and Volatility)**

- 12 24. Respondents failed to disclose the following:
- 13 a. Risks and Volatility associated with Short Indices
 - 14 b. Risks and Volatility associated with Short Selling
 - 15 c. Risks and Volatility associated with ETFs
 - 16 d. Risks and Volatility associated with speculative leveraged derivative-type securities
 - 17 e. Risks and Volatility associated with UVXY
 - 18 f. Risks and Volatility associated with VXX
 - 19 g. Risks and Volatility associated with “Long/Short All-Weather Fund” model
 - 20 h. Risks and Volatility associated with client portfolios being 100% comprised of speculative leveraged derivative-type securities
 - 21 i. Risks and Volatility associated with having a non-diversified portfolio

22 25. At least four investors, indicated to the Respondents that they did not have any
23 experience with ETFs, Options, or “Other” securities. However, Respondents proceeded to purchase
24 speculative leveraged derivative-type ETFs, including UVXY and VXX, without disclosing the risks and
25 volatility associated with such securities.

26 26. Respondents failed to disclose to at least four investors any risks associated with the
27 “Long/Short All-Weather Fund” model. However, Respondents proceeded to offer the “Long/Short
28 All-Weather Fund” model to prospective clients and proceeded to manage client accounts using the
“Long/Short All-Weather Fund” model.

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1 27. Respondents failed to disclose to at least four investors that it was switching from a
2 diversified “Long/Short All-Weather Fund” model to a non-diversified portfolio, 100% comprised of
3 two speculative leveraged derivative-type ETFs, UVXY and VXX. Furthermore, Respondents failed
4 to disclose the severe risks and volatility associated with a non-diversified portfolio, being 100%
5 comprised of two speculative leveraged derivative-type ETFs.

6 28. Respondents failed to disclose to at least four investors that it would unilaterally give
7 themselves unlimited discretion, disregarding its client’s investment objectives, financial situation
8 and needs, or any other client information known or acquired by Respondents.

9 29. Respondents failed to disclose to at least four investors multiple statements of material
10 fact, including being subject to a severe degree of risk and volatility. Accordingly, Respondents
11 violated Corporations Code section 26238 and CCR, title 10, section 260.238 (o).

12 30. Corporations Code section 25238 prohibits an investment adviser from engaging in
13 fraudulent, deceptive, or manipulative practices by omitting statements of material fact, including but
14 limited to being subject to a severe degree of risk and volatility.

15 **Violations of Corporations Code Section 25241**

16 **(Books and Records)**

17 31. On or about March 2022, the Commissioner commenced an examination of
18 Respondents. During the examination, the Commissioner requested copies of records including
19 investment management contracts. For one investor, C.C., Reader indicated that the client verbally
20 requested to change his portfolio model to the “Long/Short All-Weather Fund” model. However,
21 Omnia failed to maintain documentation, outlining the changes from the client original portfolio
22 model section to the “Long/Short All-Weather Fund” model.

23 32. Consequently, Respondents violated Corporations Code section 25241 and CCR, title
24 10, section 260.241.3 (a)(10) by failing to maintain and provide requisite books and records relating
25 to their business.

26 33. Corporations Code section 25241 requires an investment adviser to maintain specific
27 books and records relating to its investment advisory business, including, but not limited to, written
28 agreements or contracts.

II. NOTICE OF INTENT TO ISSUE ORDER LEVYING ADMINISTRATIVE PENALTIES

34. The Commissioner re-alleges and incorporates by reference paragraphs 1 to 33 of this Statement in Support, also contained in the Commissioner’s Accusation, as though fully set forth herein.

35. Corporations Code section 25252 authorizes the Commissioner to issue an order levying administrative penalties against any person for willful violations of any provision of CSL and any rules promulgated thereunder.

36. Based on the foregoing findings, the Commissioner finds that Respondents willfully violated Corporations Code sections 25238 and 25241.

37. Pursuant to California Corporations Code section 25252(b), the Commissioner hereby provides notice of intent to levy administrative penalties against Omnia Capital Management, Inc. Alan T. Knobloch, and Cory P. Reader for the statutory amount of not more than five thousand dollars (\$5,000.00) for the first violation, not more than ten thousand dollars (\$10,000.00) for the second violation, and not more than fifteen thousand dollars (\$15,000.00) for each subsequent violation, or according to proof, for Respondents willful violations of Corporation Code sections 25238 and 25241.

WHEREFORE, good cause showing, and pursuant to Corporations Code section 25252, the Commissioner prays for an order levying administrative penalties, individually, jointly and severally, against Respondents, as follows:

a. That pursuant to Corporations Code section 25252, the Commissioner levy administrative penalties of \$1,000.00 for the first violation of Corporations Code section 25238 and \$10,000.00 for the second violation, and \$15,000.00, for each subsequent violation, as listed below, for a total amount of \$765,000.00 or according to proof:

- i. First violation: \$5,000.00 for the first violation in paragraph 16; and
- ii. Second violation: \$10,000.00 for the second violation in paragraph 16;
- iii. Additional violations:

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- A. \$15,000.00 for the violation in paragraph 16, made to two additional customers;
- B. \$15,000.00 for the violation in paragraph 19, made to four customers;
- C. \$15,000.00 for the violation in paragraph 20, made to four customers;
- D. \$15,000.00 for the violation in paragraph 21, made to four customers;
- E. \$15,000.00 for the violation in paragraph 24a, made to four customers;
- F. \$15,000.00 for the violation in paragraph 24b, made to four customers;
- G. \$15,000.00 for the violation in paragraph 24c, made to four customers;
- H. \$15,000.00 for the violation in paragraph 24d, made to four customers;
- I. \$15,000.00 for the violation in paragraph 24e, made to four customers;
- J. \$15,000.00 for the violation in paragraph 24f, made to four customers;
- K. \$15,000.00 for the violation in paragraph 24g, made to four customers;
- L. \$15,000.00 for the violation in paragraph 24h, made to four customers;
- and
- M. \$15,000.00 for the violation in paragraph 24i, made to four customers.

b. That pursuant to Corporations Code section 25252, the Commissioner levy administrative penalties of \$15,000.00 for each violation of Corporations Code section 25241, as listed below, for a total amount of \$15,000.00, or according to proof:

- i. Additional violations:
 - A. \$15,000.00 for the failure to maintain books and records for one customer.

The total amount of administrative penalties for violations of CSL sections 25238 and 25241 is \$780,000.00, or according to proof.

Dated: May 4, 2023
Sacramento, California

CLOTHILDE V. HEWLETT
Commissioner of Financial Protection and Innovation

By _____
RYAN M. CASSIDY
Counsel
Enforcement Division

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