

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

4 TO: Bobby Ritter
5 BaySierra Capital Fund, LLC
6 1410 Neotomas Avenue, #106
7 Santa Rosa California 95405

8 **DESIST AND REFRAIN ORDER**

9 **(For violations of sections 25110 and 25401 of the Corporations Code)¹**

10 The Commissioner of Financial Protection and Innovation, head of the Department of
11 Financial Protection and Innovation, finds that:

12 1. BaySierra Capital Fund, LLC (BCF) is, or was, a California limited liability company
13 with a registered place of business located at 1410 Neotomas Avenue, #106, Santa Rosa California.
14 BCF purportedly originates or invests in loans secured by first-priority deeds of trust encumbering
15 primarily California real estate.

16 2. BaySierra Mortgage Fund, LLC (hereafter "Old Fund") is, or was, a California limited
17 liability company with a registered place of business located at 1410 Neotomas Avenue, #106, Santa
18 Rosa California. According to the California Secretary of State records, Old Fund is a private
19 placement mortgage fund that invests in loans secured by first and second deeds of trust on real
20 property.

21 3. BaySierra Financial Fund, Inc. (Manager) is, or was, a California corporation and a
22 mortgage investment management company with a registered place of business located at 1410
23 Neotomas Avenue, #106, Santa Rosa California. BaySierra Financial Fund is, or was, the manager of
24 Old Fund and BCF.

25 4. Bobby Ritter (Ritter) is, or was, the chief executive officer, president, and director of
26 Manager. Ritter is also a "control" person of BCF as that term is defined by Corporations Code
27 section 160.

28 5. Stacey Robles (Robles) is, or was, the chief executive officer, director, and secretary

¹ Unless otherwise noted, all statutory references are to the Corporations Code.

1 of Manager.

2 6. Ritter was the Fund Administrator for Old Fund. In June 2015, Ritter and Robles
3 purchased 100% outstanding shares of Old Fund from Old Fund's former controlling shareholders,
4 J.G. and P.G. Then Ritter and Robles transferred the Old Fund shares that they purchased from J.G.
5 to BCF and shortly thereafter began the dissolution of Old Fund.

6 7. On or about September 29, 2011, BCF filed a limited offering exemption notice under
7 section 25102(f), notice number 421746, for Old Fund and its initial member/investor.

8 8. On or about December 8, 2019, the Commissioner issued a permit qualifying BCF to
9 offer, sell and issue securities in the form of membership interests in BCF pursuant to section 25113
10 (b)(1). The qualification was effective for 12 months from December 8, 2019.

11 9. The permit was issued under a limited offering qualification authorizing the offer and
12 sale of BCF's securities only to:

13 a) Investors with (i) a net worth (exclusive of home, furnishings, and
14 automobiles) of at least \$250,000 and an annual gross income of at least \$65,000; or (ii) a net worth
15 (exclusive of home, furnishings and automobiles) of at least \$500,000; and

16 b) Requiring that the amount of each investor's investment not exceed ten percent
17 (10%) of such an investor's net worth (exclusive of home, furnishings, and automobiles).

18 10. As part of the permit process, BCF submitted an Offering Circular to the
19 Commissioner describing its proposed plan of business and issuance of securities and demonstrating
20 that the proposed plan of business was fair, just and equitable, that BCF did not intend to transact
21 business unfairly and dishonestly, or that the securities proposed to be issued or the method to be
22 used in issuing them would not tend to work a fraud upon the purchaser in violation of section
23 25140(a)(1).

24 11. On February 11, 2020, the Commissioner commenced a regulatory desk examination
25 of BCF (2020 Examination) at its office location at 1410 Neotomas Avenue, Suite 106, Santa Rosa
26 California 95405. The 2020 Examination revealed that during the period October 31, 2013 –
27 November 30, 2019, BCF offered and sold securities in the form of membership interests in BCF to
28 at least 87 investors who made contributions to BCF at least 173 times, raising at least \$168,493.38

1 when BCF did not have an active permit. Of the \$168,493.38 raised, 127 transactions, totaling
2 \$118,447.76, comprised additional investments from investors while 46 transactions, totaling
3 \$50,045.63, derived from investors' reinvested earnings.

4 12. Under Corporations Code section 25017(a), "Sale" or "sell" of securities includes
5 "every contract of sale of, contract to sell, or disposition of, a security or interest in a security for
6 value. "Sale" or "sell" includes any exchange of securities and any change in the rights, preferences,
7 privileges, or restrictions of or on outstanding securities."

8 13. The Commissioner finds that the earned profits that investors reinvested in BCF
9 constitute new sales of securities which require qualification unless exempt, pursuant to section
10 25017(a) and the California Code of Regulations, title 10, section 260.017(b).

11 14. The purported purpose of the investments was to raise capital from investors that
12 would advance BCF's business of investing in loans secured by first and second deeds of trust on real
13 property.

14 15. These securities were offered or sold in this state in issuer transactions. The
15 Department of Financial Protection and Innovation did not issue a permit or other form of
16 qualification authorizing any person to offer or sell the above-described securities, in this state and
17 the securities were not exempt.

18 16. In connection with the offer or sale of these securities, Ritter and BCF, made the
19 following untrue statements of material facts or omitted to state material facts as follows:

- 20 a) Ritter and BCF failed to provide the Subscription Agreement, Operating
21 Agreement, and distribution option agreement to the investors.
- 22 b) Ritter and BCF allowed investments that exceeded 10% of members' net worth
23 contrary to the terms of the offering circular submitted to the Commissioner.
- 24 c) Ritter and BCF understated the amount of investors' reinvested earnings in at
25 least 4,312 transactions.
- 26 d) Ritter and BCF made misleading statements in violation of section 25166,
27 including (i) making untrue statements of material facts on the Offering Circular, Operating
28 Agreement, and/or Facing Page filed with the Commissioner; (ii) stating an inaccurate amount of

1 contribution made by Old Fund on the Facing Page; (iii) failing to disclose the proper amounts of
2 income and management fees on investor statements; (iv) failing to apply investors' elected
3 distribution options, including allowing an investor to verbally elect reinvesting income; (v) failing to
4 apply investors' rollover subscription election; (vi) allowing investors to withdraw all or a portion of
5 their investment within 12 months of purchasing membership interests; and (vii) failing to comply
6 with either the presumptive suitability standard or suitability standard approved by the Commissioner
7 in violation of California Code of Regulations, title 10, section 260.140.01(a).

8 17. Corporations Code section 25532, in pertinent part, states:

9 (a) If, in the opinion of the commissioner, (1) the sale of a security
10 is subject to qualification under this law and it is being or has been
11 offered or sold without first being qualified, the commissioner may
12 order the issuer or offeror of the security to desist and refrain from the
13 further offer or sale of the security until qualification has been made
14 under this law

15 (c) If, in the opinion of the commissioner, a person has violated or is
16 violating Section 25401, the commissioner may order that person to
17 desist and refrain from the violation.

18 18. Based on the foregoing findings of fact as set forth fully above in paragraphs 1 – 16,
19 the Commissioner is of the opinion that the earned profits or stock dividends investors reinvested in
20 BCF are securities subject to qualification under the Corporate Securities Law (CSL) and are being or
21 have been offered and sold without being qualified, in violation of Corporations Code section 25110.

22 19. Further, the Commissioner is of the opinion that the securities offered by Ritter and
23 BCF were offered in this state by means of written or oral communications that included untrue
24 statements of material fact or omitted to state material facts necessary in order to make the statements
25 made, in the light of the circumstances under which they were made, not misleading, in violation of
26 section 25401 of the CSL.

27 IT IS HEREBY ORDERED EFFECTIVE IMMEDIATELY THAT:

28 A) Pursuant to Corporations Code section 25532, Bobby Ritter and BaySierra Capital
Fund, LLC desist and refrain from the further offer or sale in the State of California of securities,

1 including but not limited to, the reinvested stock dividends of BCF as stated above, unless and until
2 qualification has been made under this law or unless exempt.

3 B) Pursuant to Corporations Code section 25532, Bobby Ritter and BaySierra Capital
4 Fund, LLC desist and refrain from offering or selling or buying or offering to buy any security in the
5 State of California, including but not limited to, stock dividends in BCF, by means of any written or
6 oral communication which includes an untrue statement of a material fact or omits to state a material
7 fact necessary in order to make the statements made, in the light of the circumstances under which
8 they were made, not misleading.

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 Corporate Securities Law of 1968.

11 Dated: November 21, 2023
12 Sacramento, California

CLOTHILDE V. HEWLETT
Commissioner of Financial Protection and Innovation



13
14 By _____
15 MARY ANN SMITH
16 Deputy Commissioner
17 Enforcement Division
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