1	CLOTHILDE V. HEWLETT		
	Commissioner		
2	MARY ANN SMITH		
3	Deputy Commissioner		
4	DANIEL P. O'DONNELL		
4	Assistant Chief Counsel		
5	RYAN M. CASSIDY (State Bar No. 340274) Counsel		
6	Department of Financial Protection and Innovation 2101 Arena Boulevard		
7	Sacramento, CA 95834		
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	Attorneys for Complainant		
9	BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION		
10	OF THE STATE OF CALIFORNIA		
11	In the Matter of:		
12	in the Matter of.	DESIST AND REFRAIN ORDER	
	THE COMMISSIONER OF FINANCIAL		
13	PROTECTION AND INNOVATION,	AND	
14	Complainant,	CLAIM FOR ANCILLARY RELIEF	
15	v.		
16	ANDREW L. PENN, and DARCI PENN,	(Cal. Corp. Code § 25532)	
17	Respondents.		
18			
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.		
22	INTRODUCTION		
23	1. The Commissioner brings this action pursuant to the provisions of the Corporate		
24	Securities Law of 1968 (Cal. Corp. Code §§ 25000-25707) (CSL), and the accompanying regulations		
25	in Title 10 of the California Code of Regulations §§ 260.000-260.617 (CCR), which covers the offer		
26	and sale of securities.		
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2. At all	relevant times herein, Andrew L. Penn, is and was a California resident, located		
at 26608 Sunflower	Court, Calabasas, California 91302, conducting business by telephone at (818)		
427-5634 and by email at Andrewdarci@gmail.com.			
3. At all	relevant times, Darci Penn, is and was a California resident, located at 26608		
Sunflower Court, Calabasas, California 91302. At all relevant times, Darci Penn was the spouse of			
Andrew L. Penn.			
4. Andro	ew Lorin Penn and Darci Penn are collectively referred to as Respondents.		
II.			

FACTUAL BACKGROUND

- 5. Beginning in or about November 2019, Andrew L. Penn offered and/or sold securities, in the form of Private Investment Agreements - investment contracts - in California through telephone calls and email correspondence.
- 6. The securities were offered or sold in this state in issuer transactions. The Department of Financial Protection and Innovation has not issued a permit or other form of qualification authorizing any person to offer or sell the above-described securities, in this state.
- 7. Andrew L. Penn provided investors with a "Private Investment Agreement" that indicated that he would use the proceeds from the sales of these securities to acquire, hold, and sell artworks.
- 8. Darci Penn substantially assisted Andrew L. Penn by soliciting prospective investors through telephone calls and in-person conversations to invest in these securities.
- 9. Andrew L. Penn sold these securities to at least six investors, residing in California and elsewhere, in at least 12 separate transactions, raising at least \$622,275.00.
- 10. In connection with the offers and sales of these securities, Andrew L. Penn and Darci Penn made, or caused to be made, misrepresentations of material fact to investors and potential investors, including that:
- The investment was "Fully Guaranteed" with a "guaranteed return" of "40% over a term of 19 months" or "guaranteed return of 22.8% - term ending the end of February 2023;
 - b. The investor would receive semi-annual payments;

- c. The investment had "Zero Risk; and
- d. The client had sole discretion "to determine how the proceeds are allocated," at the end of the contracted term.
- 11. In fact, none of these statements were true. At least five of the investors never received any payments. One investor did receive a portion of the original deposit after asking for a refund, but received no profits. At least six investors have made multiple requests for a refund from the Penn's but have been unsuccessful.
- 12. Pursuant to Corporations Code section 25403, any person who controls or induces another person to violate a provision of the Corporate Securities Law of 1968, or any person who provides substantial assistance to another person in violation of the Corporate Securities Law of 1968, shall be liable for the violations.

III.

DESIST AND REFRAIN ORDER

A. Corporations Code section 25110

- 13. Based on the foregoing findings, the Commissioner is of the opinion that the securities, in the form of investment contracts, offered and sold by Respondents, are securities, subject to qualification under the California Corporate Securities Law of 1968 and are being or have been offered or sold without being qualified, in violation of Corporations Code section 25110.
- 14. Pursuant to Corporations Code section 25532, Andrew L. Penn and Darci Penn are hereby ordered to desist and refrain from the further offer or sale in the State of California of securities in the form of investment contracts, unless and until qualification has been made under said law or unless exempt. The sale of such securities is subject to qualification under said law and such securities are being or have been offered for sale without first being so qualified.

B. Corporations Code section 25401

15. Further, the Commissioner is of the opinion that the securities issued by Respondents, were offered and sold in this state by means of written or oral communications which included untrue statements of material fact or omitted to state material facts necessary in order to make the statements

made, in the light of the circumstances under which they were made, not misleading, in violation of Corporations Code section 25401.

16. Pursuant to Corporations Code section 25532 of the Corporate Securities Law of 1968, Andrew L. Penn and Darci Penn are hereby ordered to desist and refrain from offering or selling or buying or offering to buy any security in the State of California, including but not limited to investment contracts, by means of any written or oral communication which includes an untrue statement of a material fact or omits to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.

IV.

CLAIM FOR ANCILLARY RELIEF IN THE FORM OF RESITUTION

- 17. Complainant re-alleges and reincorporates by reference, as set forth fully above in paragraphs 1 to 16.
- 18. Corporations Code section 25532 (e) authorizes the Commissioner to seek ancillary relief on behalf of any person injured by violations of any provision of the Corporations Code and any rules promulgated thereunder.
- 19. Based on the foregoing findings, the Commissioner finds that Respondents offered and sold unqualified, nonexempt securities in California, in the amount of at least \$622,275.00, and made numerous material misrepresentations and omissions of fact, to at least five investors, in violation of Corporations Code sections 25110 and 25401.

WHEREFORE, IT IS PRAYED, for an order of ancillary relief pursuant to Corporation Code section 25532, individually, jointly and severally against Andrew L. Penn and Darci Penn as follows:

A) Full Restitution, consisting of Investors' investment principal in the amount of \$622,275.00, and interest accumulated on the investment principal or according to proof.

V.

CONCLUSION

Based upon the foregoing, the Commissioner finds that grounds exist, and that it is in the public interest, to issue the following orders: (1) desist and refrain order against Andrew L. Penn and Darci Penn; (2) claim for ancillary relief against Andrew L. Penn and Darci Penn, in the form of

restitution, totaling \$622,275.00. The Commissioner hereby notifies Andrew L. Penn and Darci Penn of her intention to make such orders final.

These Orders are necessary, in the public interest, for the protection of investors, and consistent with the purposes, policies, and provisions of the CSL.

By:

DATED: June 11, 2024 Sacramento, California

CLOTHILDE V. HEWLETT Commissioner of Financial Protection and Innovation



MARY ANN SMITH **Deputy Commissioner Enforcement Division**