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

12 In the Matter of:

13 THE COMMISSIONER OF FINANCIAL
14 PROTECTION AND INNOVATION ,

15 Complainant,

16 v.

17 ALFRED KAI KWONG CHAN,

18 Respondent.

CRD NO.: 4473594

ACCUSATION IN SUPPORT OF ORDER TO
BAR ALFRED KAI KWONG CHAN FROM
ANY POSITION OF EMPLOYMENT,
MANAGEMENT OR CONTROL OF ANY
INVESTMENT ADVISER, BROKER-DEALER
OR COMMODITY ADVISER

(Cal. Corp. Code § 25232.1)

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

22 **I.**

23 **Jurisdiction and Venue**

24 1. The Commissioner is authorized to administer and enforce the provisions of the
25 Corporate Securities Law of 1968 (Cal. Corp. Code §§ 25000-25707) (CSL) and the regulations
26 promulgated thereunder at title 10 of the California Code of Regulations, which includes the
27 licensure, examination, and regulation of investment advisers.

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1 9. Chan, by and through Focal Point, offered and sold these securities to members of
2 the public, including to investment advisory clients.

3 10. In connection with the offers and sales of securities, Chan made the following
4 misrepresentations, and employed a device, scheme, or artifice to defraud investment advisory
5 clients, engaged in a transaction, practice, or course of business which operates as a fraud or deceit
6 upon clients, or engaged in an act, practice, or course of business which is fraudulent, deceptive, or
7 manipulative, in violation of sections 25401 and 25235 of the CSL:

- 8 a. Client and investor funds would be invested in GPB Income Investment.
9 Contrary to this representation, client and investor funds were never invested
10 in GPB Income Investment.
- 11 b. The pooled investment funds for 707 Washington Development project
12 would be used to own, develop, manage, operate, mortgage, lease or sell real
13 property located at 707 Washington Street, Oakland, California. Contrary to
14 this representation, the investor funds were not used to own, develop,
15 manage, operate, mortgage, lease or sell real property located at 707
16 Washington Street, Oakland, California.
- 17 c. The pooled investment funds for 300 & 350 Octavia, LLC project would be
18 used to own, develop, manage, operate, mortgage, lease or sell real properties
19 located at 300 Octavia Street, San Francisco, California and 350 Octavia
20 Street, San Francisco, California. Contrary to this representation, investor
21 funds were not used to own, develop, manage, operate, mortgage, lease or
22 sell real properties located at 300 Octavia Street, San Francisco, California
23 and 350 Octavia Street, San Francisco, California.

24 11. Beginning in 2020, clients and investors' attempts to contact Chan and Focal Point
25 were unsuccessful.

26 12. On October 20, 2020, the Commissioner issued a Desist and Refrain Order against
27 Chan and Focal Point for violating section 25235 of the CSL by employing a device, scheme, or
28 artifice to defraud investment advisory clients, engaging in a transaction, practice, or course of

1 business which operates as a fraud or deceit upon clients, or engaging in an act, practice, or course
2 of business which is fraudulent, deceptive, or manipulative; and for violating section 25401 of the
3 CSL by making material misrepresentations in connection to the offer or sale of securities.

4 **III.**

5 **Violations of the CSL**

6 13. Corporations Code section 25401 states that “[i]t is unlawful for any person to offer
7 or sell a security in this state, or to buy or offer to buy a security in this state, by means of any
8 written or oral communication that includes an untrue statement of a material fact or omits to state a
9 material fact necessary to make the statements made, in the light of the circumstances under which
10 the statements were made, not misleading.”

11 14. Corporations Code section 25235, provides, in part, that “[i]t is unlawful for any
12 investment adviser ... (a) [t]o employ any device, scheme, or artifice to defraud any client or
13 prospective client; (b) to engage in any transaction, practice, or course of business which operates or
14 would operate as a fraud or deceit upon any client or prospective client, ... [or] (d) to engage in any
15 act, practice, or course of business which is fraudulent, deceptive, or manipulative....”

16 15. Corporations Code section 25238 provides, in part, that no licensed investment
17 adviser “shall engage in investment advisory activities ... in this state in contradiction of such rules
18 as the commissioner may prescribe designed to promote fair, equitable and ethical principles.”

19 16. California Code of Regulations, title 10, section 260.238 provides a list of activities
20 that “do not promote ‘fair, equitable or ethical principles,’ as that phrase is used in Section 25238 of
21 the [Corporations] Code.” Among such prohibited activities, in the solicitation of advisory clients,
22 subdivision (o) includes “making any untrue statement of a material fact or omitting a statement of
23 material fact necessary in order to make the statements made, in light of the circumstances under
24 which they are made, not misleading.”

25 17. Pursuant to Corporations Code section 25403, subdivision (a), “every person who
26 with knowledge directly or indirectly controls and induces any person to violate any provision of
27 this division or any rule or order thereunder shall be deemed to be in violation of that provision,
28 rule, or order to the same extent as the controlled and induced person.”

1 18. Pursuant to Corporations Code section 25403, subdivision (c), makes it unlawful for
2 “any person directly or indirectly to do any act or thing which would be unlawful for that person to
3 do under any provision of this division or any rule or order thereunder through or by any other
4 person.”

5 19. From 2018 to 2019, Chan, by and through Focal Point, recommended pooled
6 investment vehicles and offered and sold securities in the form of pooled investment vehicles,
7 including GPB Income Investment, 707 Washington Development project and 300 & 350 Octavia,
8 LLC project.

9 20. Investment adviser representatives owe a fiduciary duty to clients. Investment
10 adviser representatives should continuously occupy an impartial and disinterested position and
11 should scrupulously avoid any act that subjects his position to challenge in this respect. Chan
12 violated this fiduciary duty to clients by making misrepresentations in violations of the CSL.

13 21. As stated in paragraphs 3-11 herein, in connection to the offer and sale of the above
14 securities and the recommendation of these investment vehicles, Chan, by and through Focal Point,
15 made material misrepresentations and employed a device, scheme, or artifice to defraud investment
16 advisory clients; engaged in a transaction, practice, or course of business which operates as a fraud
17 or deceit upon clients; or engaged in an act, practice, or course of business which is fraudulent,
18 deceptive, or manipulative.

19 22. Therefore, Chan, by and through Focal Point, violated Corporations Code sections
20 25401, 25235, and 25238, and California Code of Regulations, title 10, section 260.238, subdivision
21 (o).

22 23. Corporations Code section 25232, subdivision (d)(3) provides, in pertinent part, the
23 person is subject to “any other order of the commission or any administrator, association, or
24 exchange referred to in this subdivision which is or has been necessary for the protection of any
25 investor.”

26 24. As stated in paragraph 12 herein, Chan is the subject to the Commissioner’s 2020
27 Desist and Refrain Order for violating the CSL.

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IV.

Grounds to Bar Chan

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3 25. Corporations Code section 25232.1 provides, in pertinent part, that “the
4 Commissioner may, after appropriate notice and opportunity for hearing, by order ... bar from any
5 position of employment, management or control of any investment adviser representative, if she
6 finds that the bar is in the public interest, and the person has committed any act or omission
7 enumerated in subdivision (a), (e), (f), or (g) of Section 25232 ... or is enjoined from any act,
8 conduct or practice specified in subdivision (c) of Section 25232 or is subject to any order specified
9 in subdivision (d) of Section 25232.”

10 26. Corporations Code section 25232 allows the Commissioner to issue an order to bar
11 where, in pertinent part, the person “(e) has willfully violated any provision of...Title 4
12 (commencing with Section 25000).”

13 27. As stated in paragraphs 3-11 herein, in connection to the offer and sale of the above
14 securities and recommending these investment vehicles, Chan, by and through Focal Point, made
15 material misrepresentations and employed a device, scheme, or artifice to defraud investment
16 advisory clients; engaged in a transaction, practice, or course of business which operates as a fraud
17 or deceit upon clients; or engaged in an act, practice, or course of business which is fraudulent,
18 deceptive, or manipulative, in violation of Corporations Code sections 25401, 25235, and 25238
19 and California Code of Regulations, title 10, section 260.238, subdivision (o).

20 28. As stated in paragraph 12 herein, Chan is subject to the Commissioner’s October
21 2020 Desist and Refrain Order in violation of Corporations Code section 25232, subdivision (d)(3).

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V.

Conclusion

Based on the foregoing, the Commissioner finds that grounds exist, and that it is in the public interest to enter an order to bar Alfred Kai Kwang Chan from any position of employment, management, or control of any investment adviser, broker-dealer, or commodity adviser pursuant to Corporations Code section 25232.1. The Commissioner hereby notifies Alfred Kai Kwang Chan of her intention to make such orders final.

DATED: August 27, 2024
San Diego, California

CLOTHILDE V. HEWLETT
Commissioner of Financial Protection and Innovation

By: _____
AFSANEH EGHBALDARI
Senior Counsel
Enforcement Division