BEFORE THE
DEPARTMENT OF CORPORATIONS
STATE OF CALIFORNIA

In the Matter of the Desist and Refrain Order Issued Against:	)	
HADI B. LOTFABADI	)	OAH No. L2003040038
Respondent.	)	

DECISION

The attached Proposed Decision of the Administrative Law Judge of the Office of Administrative Hearings, dated July 10, 2003, is hereby adopted by the Department of Corporations as its Decision in the above-entitled matter with the following technical and minor changes pursuant to Government Code Section 11517(c)(2)(C).

(1) In the first sentence of paragraph 1 of Factual Findings, on page 1 of the Proposed Decision, the number "11" is substituted for the number "10."

(2) In the first sentence of paragraph 1 of Factual Findings, on page 1 of the Proposed Decision, the name "Demetrios" is substituted for the name "Demetrious."

This Decision shall become effective on Oct. 1, 2003

IT IS SO ORDERED Oct. 1, 2003

DEMETRIOS A. BOUTRIS
California Corporations Commissioner

BEFORE THE
DEPARTMENT OF CORPORATIONS
STATE OF CALIFORNIA

In the Matter of the Desist & Refrain Order Issued Against: HADI B. LOTFABADI, Respondent.	OAH No. L2003040038

PROPOSED DECISION

This matter was heard by Eric Sawyer, Administrative Law Judge, Office of Administrative Hearings, State of California, in Los Angeles, California, on June 23, 2003.

Marlou de Luna, Staff Counsel, represented Complainant.

No appearance was made by or on behalf of Respondent, despite proper service of the Order and adequate notice of the hearing. The matter therefore proceeded as a default.

Oral and documentary evidence was received and the matter argued. The record was closed and the matter submitted on June 23, 2003.

The below order, AFFIRMING the Desist & Refrain Order previously issued against Respondent, is based on the following Factual Findings and Legal Conclusions:

FACTUAL FINDINGS

1. On March 10, 2002, Demetrious A. Boutris, California Corporations Commissioner ("Petitioner"), in his official capacity as such, issued a Desist and Refrain Order ("D&R Order") against Respondent, pursuant to Corporations Code section 25532.

The Order stated Respondent was acting as an investment adviser without having a license to do so or an exemption from that requirement, and ordered him to immediately desist and refrain from such further conduct.

2. On March 15, 2002, the D&R Order was personally served on Respondent.

3. On a date not established, Respondent submitted a written request for a hearing to challenge the D&R Order. On March 13, 2003, Respondent waived in writing the requirement for the instant hearing to be within 15 business days of the Order's service. He was thereafter given adequate notice of the instant hearing, which proceeded.

4. Respondent is an individual. His last known business address is 902 S. Glendale Ave., Glendale, California 91205. Respondent, at all relevant times, was the Chief Equity Officer of National Enterprise, Inc., also known as Nat'l Ent., Inc., and also known as Nat'l Inv. Ent., Inc. ("National"), a business entity that held itself out to the public as a money management firm that invests money for its clients.

5. In or before August 2000, and continuing through at least January 2002, Respondent conducted business as an unlicensed investment adviser in California, and in so doing, led the public to believe that he was an investment adviser, as established by the following:

A. Respondent solicited clients to invest with National.

B. Respondent provided clients with his business card that contained National's logo and address, and identified Respondent as "chief equity officer."

C. Respondent advised and recommended his clients invest in and purchase certain stocks and initial public offerings ("IPOs") chosen by National. Respondent boasted about the investments' high returns and/or claimed the companies were going public.

D. Respondent signed customer agreements and correspondence on behalf of National, through which Respondent was given full trading authorization in the clients' accounts. In fact, none of the clients could purchase any securities outside those picked by Respondent or another National agent. The customer agreements also specifically provided that "National has full and unfettered right to invest in such financial markets and instruments as National Ent., Inc. deems advisable in its sole discretion."

E. Respondent handled any inquiries or concerns that his clients may have in relation to their investment portfolios.

F. In exchange for the services rendered, his clients were charged two monthly fees: (1) 2% of the value of the client's assets under National's management and (2) 35% of net profits generated for the client. Net profit was defined as gross profit in a given month less brokerage and exchange fees and management fees. Respondent informed at least two clients he solicited that he normally charged a 40% profit fee but, for these specific clients, he would only charge 35%.

6. From August 2000 through at least January 2002, Respondent engaged in the above-described activity with at least two (2) clients he serviced through National, on at least seven different stocks and IPOs.

7. On December 28, 2001, Petitioner issued a Desist and Refrain Order against National and three of its officers (president, chairman, and account manager), for engaging in unlicensed investment adviser activities in violation of Corporations Code section 25230. On January 6, 2002, the Order was served on National and all three individuals.

8. Respondent's above-described clients invested with Respondent and National amounts of $ 12,500.00 and $ 16,500.00, respectively, which amounts were never returned to them, despite Respondent's constant promises to the contrary.

9. Respondent also told both those clients that the federal Securities Exchange Commission was investigating National, and if contacted, to tell investigators that Respondent was not an investment adviser but just an investor. Both clients refused because they believed he was their investment adviser.

10. Respondent acted as an investment adviser within the meaning of Corporations Code section 25009. Yet, at no relevant time, did Respondent possess a certificate to act as an investment adviser, as required by Corporations Code section 25230.

11. Respondent was not exempt from the provisions of Corporations Code section 25230, requiring investment advisers to obtain a certificate.

12. The D&R Order issued to Respondent by Petitioner is necessary and appropriate in the public interest for the protection of investors and is consistent with the purposes fairly intended by the policy and provisions of the Corporate Securities Law of 1968 (Corporations Code sections 25000, et seq.).

LEGAL CONCLUSIONS

1. Respondent acted as an investment adviser within the meaning of Corporations Code section 25009. Factual Findings 1-12.

2. Respondent at no time possessed a certificate from the California Corporations Commissioner, as required by Corporations Code section 25230, to act as an investment adviser. Factual Findings 1-12.

3. Respondent was not exempt from the provisions of Corporations Code section 25230, requiring investment advisers to obtain a certificate from the Commissioner, and therefore violated this statute by acting as an investment adviser without a certificate or exemption from having one. Factual Findings 1-12.

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ORDER

The Desist and Refrain Order issued March 10, 2002, against Respondent HADI B. LOTFABADI by the California Corporations Commissioner is AFFIRMED.

Respondent HADI B. LOTFABADI is ORDERED to DESIST and REFRAIN from further conducting business as an unlicensed investment adviser, unless and until he has been licensed as such or unless exempt.

DATED: July 10, 2003

ERIC SAWYER
Administrative Law Judge
Office of Administrative Hearings