State of California - Department of Corporations

STATE OF CALIFORNIA
BUSINESS, TRANSPORTATION AND HOUSING AGENCY
DEPARTMENT OF CORPORATIONS

TO: Pacific Equity and Capital, Inc.
Pacific Equity and Capital
Pacific Equity and Capital Fund, LLC
PEAC
1299 Fourth Street, Suite 500
San Rafael, CA 94901

Vincent Tomera
10 S. Knoll Road, Suite 4
Mill Valley, CA 94941

DESIST AND REFRAIN ORDER
(For violations of sections 25110, 25210, 25230 and 25401 of the California Corporations Code)

The California Corporations Commissioner finds that:

1. Pacific Equity and Capital, Inc., Pacific Equity and Capital, Pacific Equity and Capital Fund, LLC and PEAC ("PEAC") are businesses located in Northern California whose names were used interchangeably. At no time was PEAC licensed as either a securities broker or investment adviser by the Department of Corporations or the Securities and Exchange Commission.

2. During relevant times Victor Tomera ("Tomera") owned, managed or controlled PEAC, which, in concert and in participation with others, violated the Corporate Securities Law ("CSL") in California.

3. On February 2, 1987, the California Department of Real Estate ("DRE") revoked Tomera's real estate license. At no time was Tomera licensed as either a securities broker or investment adviser by the Department of Corporations or the Securities and Exchange Commission.

4. PEAC represented itself to California residents as a "privately-owned real estate services company that specializes in facilitating clients in areas including financing, investment, acquisition, divestiture and management." PEAC states that it originates loans secured by real estate to individuals and businesses, and packages these loans as trust deed investment opportunities for a growing list of investor clients. PEAC states it provides asset management services for its clients.

5. PEAC assured investors its trust deed investments were an excellent way for investors to obtain a substantial profit and greatly increase cash flow with minimal risk. PEAC stated its minimum investment is $50,000. In exchange for their funds investors were promised that the trust deeds typically yield between 10% and 14% annual interest.

6. At all relevant times PEAC represented itself to be experienced with investments and investment opportunities and sought funds directly from investors, including some unsophisticated and unaccredited individuals. The securities offered varied over time but primarily consisted of the following: fractionalized trust deeds, evidences of indebtedness, certificates of interests and investment contracts. These securities offered or sold were neither registered with the SEC nor qualified with the Department of Corporations.

7. PEAC and Tomera failed to disclose to investors that Tomera's real estate license had been revoked and DRE denied reinstatement of his license. Tomera failed to disclose that Pacific Equity and Capital, Inc. was not in good standing with the California Secretary of State's Office and that after it was suspended by the Secretary of State, Tomera filed a fictitious business name to enable him to continue doing business as Pacific Equity and Capital. By failing to disclose the fact the California Franchise Tax Board and Secretary of State had suspended Pacific Equity and Capital, Inc. from doing business and by obtaining the fictitious business name, Pacific Equity and Capital, Tomera was able to continue to do business notwithstanding the suspensions and unpaid taxes to the State of California.

8. PEAC routinely engaged in the business of effecting transactions in securities for the accounts of others or its accounts without a certificate to do so. PEAC violated Corporations Code section 25210 by conducting business as a broker-dealer in California without having first obtained a certificate from the Commissioner. Corporations Code section 25210 prohibits a broker-dealer from effecting any transaction in, or inducing or attempting to induce the purchase or sale of any security unless the Commissioner authorized the person to act as a broker-dealer.

9. PEAC advised investors to sell their publicly traded stock or rollover retirement funds to invest in PEAC. PEAC obtained compensation from the funds invested with commissions, points and/or advisory fees. PEAC provided advice to others but lacked the requisite investment adviser

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certificate. Corporations Code section 25230 prohibits an investment adviser from conducting business as an investment adviser in this state unless the investment adviser has first applied for and secured a certificate from the California Corporations Commissioner.

10. PEAC and Tomera failed to comply with CSL qualification provisions when they offered and sold securities in violation of Corporations Code section 25110.

11. PEAC and Tomera made misrepresentations or omissions of material facts that violated Corporations Code section 25401.

Based upon the foregoing findings, the California Corporations Commissioner is of the opinion that the activities of Pacific Equity and Capital, Inc., Pacific Equity and Capital, Pacific Equity and Capital Fund, LLC, PEAC and Vincent Tomera involve offers or sales of securities in California that are subject to qualification under the CSL, without such offers or sales first being qualified or exempt, in violation of Corporations Code section 25110.

The California Corporations Commissioner is also of the opinion that such offers and sales of securities in this state were made by means of written or oral communications which included an untrue statement of a material fact or omitted 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, in violation of Corporations Code section 25401.

Further, the California Corporations Commissioner is of the opinion that Pacific Equity and Capital, Inc., Pacific Equity and Capital, Pacific Equity and Capital Fund, LLC, PEAC and Vincent Tomera conducted business as a broker-dealer and an investment adviser in California without having first obtained a certificate from the Commissioner authorizing such activities, in violation of sections 25210 and 25230 of the Corporations Code.

Pursuant to Corporations Code section 25532 Pacific Equity and Capital, Inc., Pacific Equity and Capital, Pacific Equity and Capital Fund, LLC, PEAC and Vincent Tomera are hereby ordered to:

> (1) Desist and refrain from the further offer or sale of securities including, but not limited to, fractionalized trust deeds, evidences of indebtedness, certificates of interests and investment contracts, unless and until the offers and sales have been duly qualified under the Corporate Securities Law or unless exempt;

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(2) Desist and refrain from offering or selling or buying or offering to buy any security in the State of California 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;

(3) Desist and refrain from conducting business as a broker-dealer in the State of California, unless and until granted a certificate by the California Corporations Commissioner under said law or unless exempt; and,

(4) Desist and refrain from conducting business as an investment adviser in the State of California, unless and until granted a certificate by the California Corporations Commissioner under said law or unless exempt.

This Order is necessary, in the public interest, for the protection of investors and consistent with the purposes, policies and provisions of the Corporate Securities Law of 1968.

Dated: May 27, 2011
Los Angeles, California

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
ALAN S. WEINGER
Deputy Commissioner
Enforcement Division

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