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7 Attorneys for Complainant

8 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT  
9 OF THE STATE OF CALIFORNIA

11	In the Matter of	)	CASE NO.
12	THE CALIFORNIA COMMISSIONER OF	)	FILE NO. 124-1442
13	BUSINESS OVERSIGHT,	)	ACCUSATION TO SUSPEND RICHARD H.
14	Complainant,	)	SULLENGER
15	v.	)	(CORPORATIONS CODE SECTION 25213)
16	RICHARD H. SULLENGER,	)	
17	Respondent.	)	
18		)	
19		)	

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21 Jan Lynn Owen, the California Commissioner of Business Oversight ("Commissioner")  
22 alleges and charges as follows:

23 **I. JURISDICTION AND VENUE**

24 1. The Commissioner brings this action pursuant to California Corporations Code  
25 ("CC") section 25213 and the rules and regulations promulgated thereunder.

26 2. The Commissioner is authorized to administer and enforce the provisions of the  
27 Corporate Securities Law of 1968, Corporations Code section 25000 et seq. ("CSL").  
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**II. STATEMENT OF FACTS**

3. This action is brought in order to issue an order suspending Richard H. Sullenger (referenced hereinafter as "Sullenger" or "Respondent") from any position of employment, management or control of any broker-dealer or investment adviser pursuant to Corporations Code section 25213.

4. Between July 2004 and September 30, 2011, Sullenger was a registered representative of ValMark Securities, Inc. ("ValMark").

5. Between 2005 and 2010, Sullenger borrowed approximately \$1 million from ValMark clients. Sullenger used the loan proceeds to meet personal and business financial obligations. Sullenger, however, failed to notify and obtain prior written approval from ValMark of the lending arrangements with his clients in violation of ValMark's policy regarding loans with customers.

6. In September of 2011, Sullenger became registered with Independent Financial Group ("Independent"). One of ValMark's customers from whom Sullenger had borrowed \$545,000 between 2006 and 2007 became a customer of Independent. Sullenger failed to notify Independent of the loan he received from this client in violation of Independent's policy regarding loans with customers.

7. Between 2006 and 2010, in ValMark's Annual Representative Questionnaires, Sullenger reaffirmed his understanding that borrowing money without prior approval was prohibited. Sullenger then misrepresented to ValMark on his annual questionnaires that he had not borrowed money from any customers.

8. Sullenger's conduct while employed by ValMark and Independent constituted violations of FINRA and NASD rules, including FINRA Rules 2010 and 3240. On August 7, 2013, based on these violations, Sullenger signed FINRA's Letter of Acceptance, Waiver, and Consent ("AWC"). On August 22, 2013, FINRA accepted the AWC, which included Sullenger consenting to the imposition of a six month suspension from association in any capacity with any FINRA member firm, effective from September 16, 2013 to March 15, 2014. The AWC is hereto attached as Exhibit 1.

1 **III. RESPONDENT SULLENGER SHOULD BE SUSPENDED FROM ANY POSITION**  
2 **OF EMPLOYMENT, MANAGEMENT OR CONTROL OF ANY BROKER-DEALER OR**  
3 **INVESTMENT ADVISER BECAUSE SULLENGER HAS BEEN SUBJECT TO AN ORDER**  
4 **OF FINRA SUSPENDING HIM FROM ASSOCIATION WITH ANY MEMBER FIRM**

5 9. Corporations Code Section 25213 provides, in pertinent part:

6 The commissioner may, after appropriate notice and opportunity for hearing,  
7 by order censure, or suspend for a period not exceeding 12 months, or deny or  
8 bar from any position of employment, management or control of any broker-  
9 dealer or investment adviser, any officer, director, partner, agent, employee of,  
10 or person performing similar functions for, a broker-dealer, or any other  
11 person, if the commissioner finds that the censure, suspension, denial, or bar is  
12 in the public interest and that the person has committed any act or omission  
enumerated in subdivision (a), (e), (f), or (g) of Section 25212 or has been  
convicted of, or pled nolo contendere to, any offense or been held liable in any  
civil action specified in subdivision (b) of Section 25212, or is enjoined from  
any act, conduct or practice specified in subdivision (c) of Section 25212 or is  
subject to any order specified in subdivision (d) of Section 25212.

13 10. Corporations Code section 25212 provides, in pertinent part:

14 The commissioner may, after appropriate notice and opportunity for hearing,  
15 by order censure, deny a certificate to, suspend for a period not exceeding 12  
16 months or revoke the certificate of, any broker-dealer if the commissioner  
17 finds that the censure, denial, suspension, or revocation is in the public  
18 interest and that the broker-dealer, whether prior or subsequent to becoming a  
19 broker-dealer, or any partner, officer, director, or branch manager of the  
20 broker-dealer, whether prior or subsequent to becoming associated with the  
broker-dealer, or any person directly or indirectly controlling the broker-  
dealer, whether prior or subsequent to becoming such, or any agent employed  
by the broker-dealer while so employed has done any of the following

21 (d) Is or has been subject to ... (2) any order of any national securities  
22 association or national securities exchange (registered under the Securities  
23 Exchange Act of 1934) suspending or expelling that person from membership  
in the association or exchange or from association with any member thereof.

24 11. FINRA Rule 3240 (b)(1) provides that no registered person associated with a FINRA  
25 member firm may engage in borrowing from or lending to clients unless, *inter alia*, that person  
26 notifies their member firm and obtains pre-approval of such arrangements in writing.

27 12. FINRA Rule 2010 states that a member, in the conduct of its business, shall observe  
28 high standards of commercial honor and just and equitable principles of trade.



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FINRA's suspension period and should begin upon issuance of the Commissioner's Order.

Dated: December 2, 2013

JAN LYNN OWEN  
Commissioner of Business Oversight

By: \_\_\_\_\_  
MICHELLE LIPTON  
Sr. Corporations Counsel  
Enforcement Division