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

10	In the Matter of:	)	CRD NO.s: 156868 & 1206887
11	THE COMMISSIONER OF BUSINESS	)	STATEMENT OF ISSUES AND
12	OVERSIGHT,	)	ACCUSATION IN SUPPORT OF NOTICE
13	Complainant,	)	OF INTENTION TO ISSUE ORDERS:
14	v.	)	1. DENYING THE INVESTMENT
15	SAVING2RETIRE, LLC and MARIAN P.	)	ADVISER CERTIFICATE
16	YOUNG, an individual,	)	APPLICATION OF
17	Respondents.	)	SAVING2RETIRE, LLC
18		)	2. BARRING MARIAN P. YOUNG
19		)	FROM ANY POSITION OF
20		)	EMPLOYMENT, MANAGEMENT
		)	OR CONTROL OF ANY
		)	INVESTMENT ADVISER, BROKER-
		)	DEALER OR COMMODITY
		)	ADVISER
		)	(Corporations Code §§ 25232 & 25232.1)

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

23 **I. INTRODUCTION**

24 1. This action is brought to deny the investment adviser application of respondent
25 Saving2Retire, LLC ("Saving"), CRD#156868, pursuant to Corporations Code section 25232 and to
26 bar respondent Marian P. Young ("Young"), CRD#1206887, from any position of employment,
27 management, or control of any investment adviser, broker-dealer, or commodity adviser pursuant to

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1 Corporations Code section 25232.1.¹

2 2. Corporations Code section 25600 authorizes the Commissioner to administer and enforce the
3 provisions of the Corporate Securities Law of 1968 (Corp. Code § 25000 *et seq.*) and the regulations
4 promulgated thereunder (Cal. Code Regs., tit. 10, § 260.000 *et seq.*).

5 **II. STATEMENT OF FACTS**

6 3. On or about January 2, 2015, respondent Saving electronically filed an application on the
7 Form ADV for investment adviser registration in the State of California.² According to the
8 application, respondent Young is the sole owner of respondent Saving. (Young and Saving may be
9 referred to collectively as “respondents”.)

10 4. An initial review of the Investment Adviser Registration Depository (“IARD”) system
11 indicated Young previously owned a California registered investment adviser, Young Capital
12 Growth Company, LLC ,(CRD#135080), from January 1, 2003 to December 31, 2012. That firm’s
13 registration was revoked for failure to pay its renewal fee for 2013.

14 5. Young registered Saving with the Securities Exchange Commission (“SEC”) from April 8,
15 2011 to the present, overlapping to some extent, with Young Capital Growth’s state registration.
16 The respondents’ January 2, 2015, application on Form ADV is an attempt by Young and Saving to
17 transition from SEC registration to state registration.

18 6. Further review of respondents’ January 2, 2015, application revealed deficiency items. On
19 January 17, 2015, the Commissioner sent a deficiency email to respondents outlining over 30 areas
20 needing clarification and requiring respondents to provide adequate responses.

21 7. On January 27, 2015, respondents emailed the Commissioner requesting an extension of time
22 within which to respond. Young represented that Saving had only eight clients and asked whether
23 any exemptions to registration were available to advisers with such a small client base.

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25 ¹ All code references are to the California Corporations Code unless otherwise indicated.

26 ² The investment adviser application in issue is a “Form ADV (Paper Version) Uniform Application
27 for Investment Adviser Registration” promulgated by the Securities Exchange Commission (“SEC”)
28 pursuant to 17 Code of Federal Regulations 279.1 as amended by the SEC Release No. IA-1916, 34-
43758 (*see* Cal. Code Regs., tit. 10, § 260.231.2).

1 8. In the latter half of January, 2015, the Commissioner learned that the Securities and
2 Exchange Commission (“SEC”) was in the process of conducting a limited scope examination of
3 Saving under section 204 of the Investment Advisors Act of 1940. However, Young failed to
4 cooperate with the SEC. She refused to provide documents requested by the SEC as part of their
5 examination. In a January 12, 2015 letter, Young responded to a January 5, 2015 letter from the
6 SEC to Young in which the SEC noted Young’s continued refusal to provide the requested
7 documents could result in a referral to the SEC’s enforcement division and a request to the
8 Commission authorizing an action for violations of the federal securities laws. In her response letter,
9 Young told the SEC that she wanted to withdraw from SEC registration and asked to do so without
10 penalty. The Commissioner is informed and believes that Young never produced the requested
11 documents to the SEC.

12 9. On March 25, 2015, the Commissioner sent Young and Saving a deficiency follow-up email.
13 The Commissioner noted that she was aware of the SEC examination and, again, requested
14 clarification on at least 20 remaining areas, still pending from the initial January 17, 2015, deficiency
15 email. This follow-up email noted that if responses were not forthcoming by April 4, 2015,
16 respondents’ application would be abandoned.

17 10. Young and Saving failed to respond to the follow-up email and the Commissioner sent a
18 Notice of Abandon email to respondents on April 7, 2015.

19 11. On April 8, 2015, Young called the Department and spoke with a Supervisor in the
20 Department’s Broker Dealer/Investment Adviser Division. Subsequently, the Department made
21 multiple attempts to follow-up with Young: April 10, April 14, and April 20, 2015. Eventually,
22 respondents were granted a further extension to May 17, 2015, to respond to the deficiency e-mail(s)
23 in full.

24 12. On May 20, 2015, after the expiration of the extension, Mr. David Millar, a consultant with
25 Integrity Compliance Consulting, Inc., contacted the Department asking for a further extension until
26 May 26, 2015, to submit respondents’ response.

27 13. Although partial responses were provided on May 26, 2015, Young and Saving have, to date,
28 still failed to provide complete and accurate responses to the deficiency emails.

1 14. In addition, Saving made material misrepresentations in its form ADV filings. On January
2 27, 2015, as noted above, in its request for an extension, Saving claimed to have eight clients,
3 however, the initial January 2, 2015, Form ADV filing indicated 10 clients with \$4.2 million in
4 assets under management. Later, after being asked for a detailed list of its clients, Saving
5 represented that it had 10 clients with \$2.4 million in assets.

6 15. Young made further misrepresentations on the Form ADV. She represented herself to be
7 both a Certified Financial Planner (CFPC) and a Certified Investment Manager Consultant
8 (“CIMC”). However, her certification status on the CFP Board shows “Not Certified” and her name
9 was not searchable on the CIMC website. When pressed for further clarification, she removed all
10 references to her professional designations. Material misrepresentations in Form ADV filings
11 violate California law. (See, Corp. Code sec. 25232, subd. (a); Cal. Code Regs., tit. 10, sec.
12 260.238, subd. (h).)

13 16. Savings and Young also violated California law by failing to make and keep true, accurate
14 and current copies of books and records. Savings has variously represented that it has 8, 10, or 13
15 clients with amounts under management varying from \$4-5 million to \$2.4 million. Moreover, when
16 asked for a detailed list of these clients, respondents provided a list identifying them only as Clients
17 A through H. This failure to provide necessary information not only indicates a lack of honesty and
18 forthrightness, but also inadequate recordkeeping in violation of California Code of Regulations,
19 Title 10, section 260.241.3.

20 17. Savings and Young also violated California law by having testimonials on Savings’ website
21 and available on YouTube. (See, e.g., Corporations Code section 25235; and, Cal. Code Regs, tit.
22 10, sec. 260.235.)

23 18. Finally, the Commissioner is informed and believes that Young has represented to the SEC
24 that Saving is now registered with the Department and, consequently, respondents have refused to
25 comply with further requests by the SEC in its ongoing exam of Saving. However, at this point in
26 time, Saving is currently registered with the SEC and the Department intends to deny Saving’s
27 pending application.

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1 **III. FIRST CAUSE FOR DENIAL OF APPLICATION: RESPONDENTS MADE**
2 **MATERIAL MISREPRESENTATIONS IN THEIR FORM ADV APPLICATION WITHIN**
3 **THE MEANING OF CORPORATIONS CODE SECTION 25232, SUBDIVISION (a)**

4 19. Corporations Code section 25232, subdivision (a) authorizes the Commissioner to deny an
5 application for investment adviser registration when it is in the public interest and where the
6 applicant:

7 . . . (a) Has willfully made or caused to be made in any application for a
8 certificate . . . any statement which was at the time and in the light of the
9 circumstances under which it was made false or misleading with respect to
10 any material fact, or has willfully omitted to state in the application or
11 report any material fact which is required to be stated therein.

12 20. In respondents' January 2, 2015, Form ADV application for registration as an Investment
13 Adviser, respondents represented that Saving had 10 clients with \$4.2 million dollars under
14 management.

15 21. However, at various times during the process, Young has represented that Saving had
16 anywhere from 8 to 13 clients.

17 22. On May 26, 2015, after being pressed by the Department for a detailed list of clients,
18 respondent claimed 10 clients, but only \$2.4 million under management.

19 23. Young made further misrepresentations on the Form ADV. She represented herself to be
20 both a Certified Financial Planner (CFPC) and a Certified Investment Manager Consultant
21 ("CIMC"). However, her certification status on the CFP Board shows "Not Certified" and her name
22 was not searchable on the CIMC website. When pressed for further clarification, she removed all
23 references to her professional designations. These misrepresentations also constitute violations of
24 the aforementioned federal and State laws.

25 24. Additionally, when asked for a detailed list of clients, Respondent simply provided a list
26 detailing 10 clients identified only as Clients A through H. Respondent failed to identify the clients
27 by name, address, phone number or provide any relevant identifying information.

28 25. Based on the foregoing, the Commissioner finds that respondents Saving and Young made
 material misrepresentations and/or failed to disclose required material facts in an application filed

1 with the Commissioner within the meaning of Corporations Code section 25232, subdivision (a), and
2 it is in the public interest to deny respondent Saving’s application for an investment adviser
3 certificate.

4 **IV. RESPONDENT YOUNG SHOULD BE BARRED FROM ANY POSITION**
5 **OF EMPLOYMENT, MANAGEMENT, OR CONTROL OF ANY INVESTMENT**
6 **ADVISER, BROKER-DEALER, OR COMMODITY ADVISER PURSUANT TO**
7 **CORPORATIONS CODE SECTION 25232.1.**

8 26. Corporations Code Section 25232.1 provides in relevant part:

9 The commissioner may, after appropriate notice and opportunity for
10 hearing, by order censure, or suspend for a period not exceeding 12
11 months, or bar from any position of employment, management or control
12 of any investment adviser, broker-dealer or commodity adviser, any
13 officer, director, partner, employee of, or person performing similar
14 functions for, an investment adviser, or any other person, if he or she finds
15 that the censure, suspension or bar is in the public interest and that the
16 person has committed any act or omission enumerated in subdivision (a),
17 (e), (f), or (g) of Section 25232 . . .

18 27. The Commissioner finds that respondent Young “committed an act or omission enumerated
19 in subdivision (a) . . . of [s]ection 25232” (see, *infra*) when she willfully made false and misleading
20 statements and/or omitted to state material facts. These violations of section 25232, subdivision (a)
21 are set out in the preceding section and include failing to identify the number and identity of her
22 clients, failing to disclose or being unaware of the amount of assets under management, and
23 misrepresenting herself as a Certified Financial Planner and a Certified Investment Manager
24 Consultant.

25 28. Further, the Commissioner finds that respondent Young “committed an act . . . enumerated in
26 subdivision . . . (e) . . . of [s]ection 25232” (see, *infra*) by failing to keep true, accurate and current
27 copies of her records and by including testimonials in her advertising both on her website and on
28 YouTube.

29 Finally, Young’s lack of timely cooperation, recalcitrance to provide relevant information,
30 omission of material facts, and outright misrepresentations to both the Department and to the SEC
31 reflect poorly on her honesty and integrity in an industry that demands both from its participants.

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30. Based on the foregoing, the Commissioner finds it is in the public interest to bar respondent Young from any position of employment, management, or control of any investment adviser, broker-dealer, or commodity adviser pursuant to Corporations Code section 25232.1.

VII. RELIEF REQUESTED

WHEREFORE, IT IS PRAYED that: (1) the investment adviser application of respondent Saving2Retire, LLC be denied pursuant to Corporations Code section 25232, subdivisions (a) and (d)(2); and, (2) respondent Young be barred from any position of employment, management, or control of any investment adviser, broker-dealer, or commodity adviser pursuant to Corporations Code section 25232.1.

Dated: November 23, 2015

JAN LYNN OWEN
Commissioner OF Business Oversight

By: _____
ERIK BRUNKAL
Senior Counsel
Enforcement Division