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10 BEFORE THE DEPARTMENT OF CORPORATIONS
11 OF THE STATE OF CALIFORNIA

12 In the Matter of the) OAH CASE NO. N
California Corporations Commissioner,)
13) CRD No. 2462565
Complainant,)
14)
v.) STATEMENT
15) OF ISSUES
William Jay Zubick,)
16)
Respondent,)
17)
For Order Barring From Any Employment,)
18) Management or Control of Any Broker-Dealer
or Investment Adviser.)
19)

20 The California Corporations Commissioner ("Commissioner") alleges, on information and
21 belief, as follows:

22 I

23 **INTRODUCTION AND JURISDICTION**

24
25 1. The Corporate Securities Law of 1968, set forth in Corporations Code section 25000
26 et seq., and California Code of Regulations, title 10, section 260.000 et seq., contain provisions
27 that govern persons who operate in the securities industry. To ensure the protection of the public,
28 the Legislature mandates that persons dealing in securities follow explicit legal requirements.

1 The Commissioner gives effect to these legislative mandates by promulgating comprehensive
2 regulations and by enforcing the Corporate Securities Law (“CSL”).

3 **II**

4 **FACTS**

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6 2. Respondent William Jay Zubick ("Zubick ") was hired as a salesman for a licensed broker-
7 dealer, Linsco/Private Ledger Corp. ("PLC"), during the period January 3, 1997 to December 31,
8 1998. PLC at all times herein was licensed as a broker-dealer with the California Commissioner of
9 Corporations. PLC, as a broker dealer, and Zubick, as a registered representative, are both registered
10 with the National Association of Securities Dealers ("NASD"). Zubick was assigned number as a
11 registered representative by the NASD through its Central Registration Depository (“CRD”).¹

12 3. The Department of Corporations regulates licensed broker-dealers and other persons
13 who work in the securities industry. The Department of Corporations recognizes NASD as "a
14 national securities association" within the meaning of Corporations Code section 25212,
15 subdivision (d).

16 4. During 1995 and 1996 Zubick worked at another broker-dealer firm Merrill Lynch, Pierce,
17 Fenner & Smith. While working for this firm Zubick had customers, one of who complained that
18 Zubick misrepresented the future return on her annuity contract.

19 5. Zubick personally filed for bankruptcy in 1996.

20 6. In October 2000 Zubick was barred from association with any NASD member in any
21 capacity for violations of NASD rules 2110, 3040 and 3050 during 1997 to 1998 when employed
22 with broker-dealer PLC, a NASD member firm. The NASD barred Zubick for effecting
23 approximately 160 transactions in brokerage accounts outside his employer, PLC, without giving
24 notification to and receiving approval from his employer. Zubick also opened a joint brokerage
25 account at another NASD member firm with a customer without approval from his employer, PLC.

26 _____
27 ¹ The CRD is a centralized computer data bank that maintains information concerning the registration,
28 qualification, employment and disciplinary histories of persons employed in the securities industry.
These persons include registered representatives and broker-dealers such as Zubick and PLC,
respectively.

1 7. As a registered representative with NASD member firms, Zubick was required to pass
2 qualifying examinations and to conform to the requirements of the Corporate Securities Law of
3 1968 (California Corporations Code §§ 25000 et seq.), California regulations (Code of Regulations,
4 title 10, §§ 260.000 et seq.), as well as Federal securities law, rules and regulations promulgated by
5 the Securities and Exchange Commission and the NASD. Zubick took and passed at least three
6 examinations and was knowledgeable about the legal requirements governing those who are
7 employed in the securities industry. Zubick knew a license or exemption is required to effect
8 securities transactions as a broker-dealer and engage in investment advisory activities.

9 8. Both before and after he was barred from the securities industry Zubick formed and
10 managed several entities to facilitate his access, control and appropriation of investors' funds.
11 These entities ostensibly include, but are not limited to, the following: Zubick Holdings, Ltd.,
12 Zubick Holdings, LLC, Zubick Capital Partners, L.P., Zubick Capital Partners II, L.P., Sunrise
13 Capital Partners, L.P., and Sunrise Capital Partners LLC. These entities and fictitious business
14 names used by Zubick served as his alter egos.

15 9. From 1999 and continuing thereafter Zubick was engaged in unlicensed activities as a
16 broker-dealer and investment adviser. Zubick used entities such as Zubick Capital Partners, L.P.,
17 Zubick Capital Partners, II, L.P., and Sunrise Capital Partners, L.P., to pool investors' funds and
18 "to engage in securities investment primarily for the shorter term to produce growth of capital."
19 The General Partner or manager of Zubick Capital Partners, L.P., Zubick Capital Partners II, L.P.,
20 and Sunrise Capital Partners, L.P. was Zubick Holdings, Ltd., another limited partnership created,
21 owned and controlled by Zubick. Thus, Zubick or his alter egos directly managed and controlled
22 investors' funds and securities.

23 10. Zubick used deceptive tactics to impress investors and maintain control over investors'
24 funds. Zubick represented himself to be knowledgeable, a qualified professional investor and day
25 trader. To substantiate these claims Zubick or his associates presented false documents including IRS
26 K-1 tax forms and altered brokerage account statements to create the illusion that investors were
27 making money by having Zubick managing their investments. Zubick claimed to have accounts at
28 brokerage firms such as Charles Schwab & Co., A. B. Watley Direct, Inc., and Interactive Brokers.

1 11. The investors entrusted approximately \$14 million to Zubick in some cases the funds were
2 intended to fund college tuition or set aside to cover living expenses after an investor's retirement.

3 12. Investors were led to believe the securities Zubick purchased on their behalf were to be
4 held in accounts at the investment firm of A. B. Watley Direct, Inc., or other firms including, but not
5 limited to, Charles Schwab & Co. and Interactive Brokers. In fact, investors' funds were used to
6 support a lavish lifestyle for Zubick and his family including the purchase of a 2006 Ferrari, a
7 membership at the Tehama Golf Club, a time-share for jet travel, real estate in California and Coeur
8 d'Alene, Idaho, private schools for Zubick's children, a large boat and jewelry.

9 13. On September 19, 2000, the NASD entered a final order against Respondent Zubick.
10 The NASD's action against Zubick resulted in him being barred from association with any member of
11 the NASD in any capacity.

12 14. Zubick never informed his clients that NASD had barred him.

13 15. Zubick failed to disclose the true nature of the NASD disciplinary action taken him and
14 that he and/or his alter egos and their activities violated the Corporate Securities Law and California
15 laws and regulations as well as SEC and NASD rules and requirements.

16 16. Zubick misrepresented to investors the location and the amount of their investment funds
17 and failed to disclose his misappropriation of investors' funds for the benefit of himself and his family.
18 Zubick also failed to disclose to investors that he personally filed for bankruptcy in 1996.

19 17. On March 30, 2007, the Commissioner issued a Desist and Refrain Order to Zubick for
20 violations of California Corporations Code sections 25110, 25210, 25230 and 25401.

21 **III**

22 **THE ORDERS AGAINST ZUBICK CONSTITUTES**
23 **GROUND FOR BARRING HIM**
24 **PURSUANT TO CORPORATIONS CODE SECTION 25213**

25 18. Corporations Code section 25212 provides, in pertinent part:

26 The commissioner may, after appropriate notice and opportunity for hearing, by
27 order censure, deny a certificate to, suspend for a period not exceeding 12
28 months or revoke the certificate of, any broker-dealer if the commissioner finds
that the censure, denial, suspension, or revocation is in the public interest and
that the broker-dealer . . . or any partner, officer, . . . director, or branch manager
of the broker-dealer, or any person directly or indirectly controlling the broker-

1 dealer, whether prior or subsequent to becoming [such,] . . . or any agent
2 employed by the broker-dealer while so . . . employed has done any of the
3 following:

* * *

4 (d) Is or has been subject to (1) any order of the Securities and Exchange
5 Commission or the securities administrator of any other state denying
6 registration to, or revoking or suspending the registration of the person as a
7 broker, dealer, agent or investment adviser, . . . or (3) any other order of the
8 commission or any administrator, association, or exchange referred to in this
9 subdivision which is or has been necessary for the protection of any
10 investor.

11 19. Corporations Code section 25213 provides that:

12 The commissioner may, after appropriate notice and opportunity for hearing,
13 by order or censure, or suspend for a period not exceeding 12 months, or deny
14 or bar from any position of employment, management or control of any
15 broker-dealer or investment adviser, any officer, director, partner, agent,
16 employee of, or person performing similar functions for, a broker-dealer, if
17 the commissioner finds that such censure, suspension or bar is in the public
18 interest and that such person has committed any act or omission enumerated in
19 subdivision (a) . . . of Section 25212 . . . or is subject to any order specified
20 in subdivision (d) of Section 25212.

21 20. Corporations Code section 25215 provides that:

22 No order may be entered under Section 25212, 25213, or 25213.3, or
23 25252 except after notice to any person affected thereby (and, in the case
24 of an agent, to his employer or prospective employer if known to the
25 commissioner) of the intention of the commissioner to enter such order
26 and of the reasons therefore and that upon receipt of a request the matter
27 will be set down for hearing to commence within 15 business days after
28 such receipt unless the person affected consents to a later date. If no
hearing is requested within 30 days after the mailing of the notice and
none is ordered by the commissioner, the order may be entered without a
hearing to remain in effect until it is modified or vacated by the
commissioner. In the case of an original application for a certificate, that
hearing shall be set down to commence within 15 business days after
receipt of a written request by the applicant made 30 days or more after
the filing of the application, even though no notice by the commissioner
has been given, unless the applicant consents to a later date. If a hearing
is requested or ordered, it shall be held in accordance with the provisions
of the Administrative Procedure Act, (Chapter 5 (commencing with
Section 11500) of Part 1 of Division 3 of Title 2 of the Government
Code), and the commissioner shall have all of the powers granted
thereunder.

21. The order of the NASD and the order of the Commissioner against Zubick are within

1 the provisions of Corporations Code Section 25212 (d) and provides grounds to bar Zubick pursuant
2 to Corporations Code section 25213.

3 **PRAYER**

4 **WHEREFORE**, based on the foregoing, the Commissioner finds it in the public interest and
5 prays that William Jay Zubick be barred pursuant to Corporations Code section 25213.

6 Dated: April 12, 2007
7 San Francisco, California

8 PRESTON DuFAUCHARD
9 California Corporations Commissioner

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11 By _____
12 Joan E. Kerst
13 Senior Corporations Counsel
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