

BEFORE THE
DEPARTMENT OF CORPORATIONS
STATE OF CALIFORNIA

In the Matter of the Accusation of:

MICHAEL J. BOSCHETTI
4478 Lakeview Drive
Vacaville, CA 95688

Respondent.

OAH No. N2003080285

PROPOSED ORDER OF DISMISSAL

Administrative Law Judge Diane Schneider, State of California, Office of Administrative Hearings, heard this matter in Oakland, California on February 25, 2003.

Corporations Counsel Donald A. Newbold represented complainant, California Corporations Commissioner, Demetrios A. Boutris (complainant).

Respondent, Michael J. Boschetti (respondent), appeared and was represented by John Preston, Attorney at Law, 1060 Clarendon Crescent, Oakland, California, 94610.

On November 21, 2003, Corporations Counsel Donald A. Newbold (Newbold) submitted a three page fax transmittal, marked for identification as complainant's Exhibit 44. On November 24 2003, Newbold submitted an additional three page fax transmittal, marked for identification as complainant's Exhibit 45.

FACTUAL FINDINGS

1. On December 24, 2002 complainant issued a Desist and Refrain Order to respondent. Respondent appealed.
2. On October 22, 2003, hearing commenced on respondent's appeal from the Desist and Refrain Order.
3. At the hearing on October 22, 2003, no evidence was presented to support the Desist and Refrain Order.

4. At the hearing on October 22, 2003, Complainant made a motion to dissolve the Desist and Refrain Order.

LEGAL CONCLUSIONS

1. Based upon Factual Findings 3 and 4, cause does not exist for the Desist and Refrain Order on December 24, 2002.

ORDER

The Desist and Refrain Order issued to respondent on December 24, 2002 is hereby dissolved.

DATED: 12/18/03

DIANE SCHNEIDER
Administrative Law Judge
Office of Administrative Hearings

1 PROOF OF SERVICE BY MAIL

2
3 Re: In the Matter of the Accusation of Michael J. Boschetti
(OAH No. N2003080285)

4 I, Kathryn C. Chaney, declare as follows:

5 I am employed in the County of Sacramento, California. I am over the age of eighteen
6 years and not a party to the within entitled action; my business address is 1515 K Street, Suite
7 200, Sacramento, California 95814. On February 27, 2004 following ordinary business
8 practices, I placed for collection and mailing at the offices of the State of California, Department
9 of Corporations, located at 1515 K Street, Suite 200, Sacramento, CA 95814:

- 10
11 (1) Order of Dismissal
12 (2) Proposed Order of Dismissal

13 in a sealed envelope, with postage fully prepaid (certified mail, return receipt requested),
14 addressed as follows:

15 John S. Preston
16 Attorney at Law
17 1060 Clarendon Crescent
18 Oakland, CA 94610

Donald Newbold
Corporations Counsel
Department of Corporations
1515 K Street, Suite 200
Sacramento, CA 95814

(Cert Mail # 7001 2510 0008 1581 6395
and Regular Mail)

(Regular Mail)

19 Michael J. Boschetti
20 4478 Lakeview Drive
21 Vacaville, CA 95688

Office of Administrative Hearings
1515 Clay Street, Suite 206
Oakland, CA 94612

22 (Cert. Mail # 7001 2510 0008 1581 6388
23 and Regular Mail)

(Regular Mail)

24 I declare under penalty of perjury that the foregoing is true and correct and that this
25 declaration was executed February 27, 2004, at Sacramento, California.

26
27 Kathryn C. Chaney
28 (Type or print name)

(Signature)

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

TO: MICHAEL J. BOSCHETTI
4478 Lakeview Dr.
Vacaville, CA 95688

DESIST AND REFRAIN ORDER

(For violations of sections 25210 and 25401 of the Corporations Code)

The California Corporations Commissioner finds that:

1. Michael J. Boschetti possessing no certificate as a broker-dealer or agent offered and sold to a resident of California a security in the form of a viatical issued by The Alpha Capital Group, LLC by means of an oral communication containing false statements.

2. Beginning in or about November 1998, Michael J. Boschetti offered and sold a security in the form of a viatical issued by The Alpha Capital Group, LLC. There was at least one sale of a viatical by Michael J. Boschetti for \$200,000, which occurred on November 25, 1998.

3. Michael J. Boschetti told an investor that he would receive a 50% return on his money in two years and a 100% return on his money if he waited until the viator's (insured's) demise. In addition, Michael J. Boschetti told an investor that there was no risk except for time, since there was a possibility that the viator would live longer than estimated. In fact, the investor did not receive this return on his investment and the principal invested is at risk.

Based upon the foregoing findings, the California Corporations Commissioner is of the opinion that Michael J. Boschetti has effected a transaction in a security as a broker-dealer without first having applied for and secured from the Commissioner a certificate, then in effect, authorizing him to act in that capacity, in violation of section 25210 of the Corporate Securities Law of 1968. Pursuant to Section 25532 of the Corporate Securities

1 Law of 1968, Michael J. Boschetti is hereby ordered to **DESIST and REFRAIN** from
2 effecting any transaction in, or inducing or attempting to induce the purchase or sale of, any
3 security in this state, unless and until he has applied for and secured from the
4 Commissioner a certificate, then in effect, authorizing him to act in that capacity.

5 Further, Michael J. Boschettie offered and sold the security of The Alpha Capital
6 Group, LLC in this State by means of written or oral communications which included untrue
7 statements of a material fact or omitted to state a material fact necessary in order to make
8 the statements made, in light of the circumstances under which they were made, not
9 misleading, in violation of section 25401 of the Corporate Securities Law of 1968. Pursuant
10 to Section 25532 of the Corporate Securities Law of 1968, Michael J. Boschetti is hereby
11 ordered to **DESIST and REFRAIN** from offering and selling any security in the State of
12 California, including but not limited to, by means of any written or oral communication which
13 includes an untrue statement of a material fact or omits to state a material fact necessary in
14 order to make the statements made, in light of the circumstances under which they were
15 made not misleading.

16 This Order is necessary, in the public interest, for the protection of investors and
17 consistent with the purposes, policies, and provisions of the Corporate Securities Law of
18 1968.

19
20 Dated: December 24, 2002
21 Sacramento, California

22
23 DEMETRIOS A. BOUTRIS
24 California Corporations Commissioner

25
26 By _____
27 VIRGINIA JO DUNLAP
28 Supervising Counsel
Enforcement and Legal Services