STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
DIVISION OF FINANCIAL REGULATION

In the Matter of:	Case No. S-23-0039
MY PRIVATE BULLION; and ALEX VIERA aka Alejandro F Mora Viera aka Alejandro Mora Viera aka Alejandro Fabian Mora Viera aka Alex Ramos,	FINAL ORDER TO CEASE AND DESIST AND FINAL ORDER DENYING THE USE OF EXEMPTIONS AND ASSESSING CIVIL PENALTIES, ENTERED BY DEFAULT
Respondents.	**AS AGAINST ALEX VIERA ONLY**

The Division of Financial Regulation (the "Division"), acting on behalf of the Director of the Department of Consumer and Business Services for the State of Oregon (the "Director"), conducted an investigation of My Private Bullion ("MPB") and Alex Viera aka Alejandro F Mora Viera aka Alejandro Mora Viera aka Alejandro Fabian Mora Viera aka Alex Ramos ("Viera") (collectively, "Respondents"). The Division determined that Respondents violated provisions of Oregon Revised Statutes ("ORS") 59.005 to 59.451, 59.991 and 59.995 and Oregon Administrative Rules ("OAR") chapter 441 (collectively, the "Oregon Securities Law"), and also violated provisions of ORS 645.005 to 645.990 and OAR 441-300 (collectively, the "Oregon Commodity Transactions Law").

On November 7, 2023, December 7, 2023, and April 2, 2024, the Director issued and served on Viera an Order to Cease and Desist, Proposed Order Denying the Use of Exemptions and Assessing Civil Penalties, and Notice of Right to an Administrative Hearing (the "Notice Order"). The Notice Order offered Viera an opportunity for a hearing if requested within 20 days of service of the Notice Order. The Notice Order further informed Viera that if a hearing was not conducted because Viera did not timely request a hearing or otherwise defaulted, then the designated portion of the Division's file

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and all materials submitted by Viera in the case would automatically become part of the contested case record for the purpose of proving a prima facie case.

FINDINGS OF FACT

The Director FINDS that:

1. MPB, which was occasionally shortened to simply "Private Bullion," at the time of the transactions described herein, was an unregistered alter ego used by Viera. On January 5, 2021, well after the transactions described herein were already consummated, Viera registered "My Private Bullion" as a fictitious name with the Office of the Florida Secretary of State.

2. MPB held itself out as a precious metals management service, offering an assortment of precious metals for sale and advising potential customers to invest in a self-directed individual retirement account ("SDIRA") to manage their precious metals assets, which were sold by MPB and held in a third party depository.

3. Though not registered to conduct business in the state of Oregon, MPB consistently maintained an address as its principal place of business located at 320 Central Ave., # 303, Sarasota, FL 34236. MPB also listed this address as its mailing address on its 2021 fictitious name registration with the Florida Secretary of State..

4. From at least January 9, 2012 through at least August 20, 2022 MPB maintained a website located at the URL https://myprivatebullion.com, which it used to promote and sell its precious metals and SDIRA services. MPB also maintained social media accounts located on Instagram at https://www.instagram.com/_myprivatebullion/?hl=en and on Facebook at https://www.facebook.com/myprivatebullion to promote its precious metals and SDIRA services.

5. On information and belief, Viera currently resides at 63 Weymouth Ln, Palm Coast, FL 32164.

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6. Sometime in approximately 2012 or early 2013, Tom Kelly ("Kelly"), an employee from MPB whose title was "MPB's sales manager and retirement plan specialist,"[1] contacted an Oregon resident ("JL") to solicit him to invest in a SDIRA for precious metals. Over the course of their conversations, Kelly told JL that the precious metals would appreciate in value, that precious metals were a safe investment, and that precious metals were a better investment than stocks. Kelly represented to JL that these precious metals were investment coins with a good track record of increasing year over year. Kelly stated to JL that retirement accounts with precious metals were no different than stocks in a traditional individual retirement account. Through JL's reliance upon Kelly's representations and statements, in late 2013 Kelly convinced JL to proceed with the investment into gold and silver coins and use of MPB's services.

7. On or about November 8, 2013, JL submitted an application to open a SDIRA with The Entrust Group, Inc., a Tennessee corporation ("Entrust"), for the purpose of purchasing precious metals to be purchased from MPB and to administer the interest in those metals, which were to be physically held in a depository. Entrust opened a SDIRA on JL's behalf promptly thereafter. On November 20, 2013, JL deposited $19,483.00 (the "Deposit") in the Entrust SDIRA. $4,455.00 of the Deposit was to be used to purchase 135 Silver Canadian Maple Leaf 25th Anniversary coins (the "Silver Coins") from MPB. The remaining $15,028.00 of the deposit was to be used to purchase seven Canadian Maple Leaf gold coins and one Year of the Horse Lunar Series gold coin from MPB (collectively, the "Gold Coins").

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[1] My Private Bullion, *Press Release* (Jan. 30, 2014), *available at*: https://www.prweb.com/releases/my_private_bullion_announcing_new_options_for_self_employed_and_other_401_k_account_holders/prweb11530873.htm (last visited October 19, 2023).

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8. On or about December 10, 2013, Entrust remitted the Deposit to MPB, ostensibly in exchange for the 135 Silver Coins and eight Gold Coins that JL had ordered, all of which were to be physically housed in a precious metals depository referred to as "Delaware Depository" or sometimes "DDSC" (the "Depository").

9. In November 2015, Entrust notified JL that it had performed an internal audit and discovered that, although the 135 Silver Coins had been timely delivered to the Depository, MPB had not, in fact, delivered the eight gold coins to the Depository as it had agreed to do.

10. Viera, on behalf of MPB, has repeatedly stated that the eight Gold Coins were shipped to the Depository and that he has documentation to prove it. However, such documentation was never provided to Entrust, JL, or the Division. The eight Gold Coins still have not been delivered to the Depository, Entrust, or JL, and Viera and MPB have refused to reimburse JL for the Gold Coins that were never tendered.

11. Sometime between August 20, 2022 and September 6, 2022 MPB's website became inactive, and its Facebook page, which appears to be a source of marketing for MPB, has not been updated since June 11, 2021. MPB's Instagram account has not been updated since February 28, 2020; though MPB appears to have used this account only minimally.

12. The Division issued a subpoena to Respondents on January 11, 2023 to request documents, disclosures, and explanations related to its transaction with JL. Respondents have not responded to the subpoena or provided any documents, disclosures, or explanations to the Division.

13. At no time has MPB, Viera, or any known employees of MPB held an Oregon broker-dealer license. Neither MPB nor Viera has registered any securities with the Division and/or any federal agency.

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CONCLUSIONS OF LAW

The Director CONCLUDES that:

A. Violations of Oregon Securities Law

14. Under ORS 59.015(19)(a), "security" means a note, stock, evidence of indebtedness, investment contract, or, in general, any interest or instrument commonly known as a "security."

15. The contract that JL entered into with MPB to purchase the Gold Coins and Silver Coins for investment purposes was an investment contract, and therefore constitute securities under ORS 59.015(19)(a).

16. Pursuant to ORS 59.055, it is unlawful for any person to offer or sell any security in this state unless the security is registered, the security is exempt from registration, or the security is a federal covered security.

17. By selling securities to JL that were not registered, not exempt from registration, and not federal covered securities, Respondents violated ORS 59.055.

18. Under ORS 59.015(1), "broker-dealer" means a person who engages, all or part of the time, in effecting transactions in securities for the account of others or for the person's own account.

19. Respondents acted as a "broker-dealer" when they purported to trade in the Silver Coins and Gold Coins on JL's behalf.

20. Under ORS 59.165(1), it is unlawful for any person to transact business in this state as a broker-dealer unless the person is licensed under the Oregon Securities Law.

21. By transacting business in this state as a broker-dealer without being licensed under the Oregon Securities Law, Respondents violated ORS 59.165(1).

22. Pursuant to ORS 59.135(3), it is unlawful for any person, directly or indirectly, in connection with the purchase or sale of any security to "engage in any act, practice or course of business which operates or would operate as a fraud or deceit upon

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any person.

23. Respondents violated ORS 59.135(3) when they engaged in deceit by falsely claiming to JL and Entrust that they had filled JL's purchase of the Gold Coins and delivered the Gold Coins to the Depository.

24. Because the Director has reason to believe that Respondents have engaged, are engaging, or are about to engage in violations of the Oregon Securities Law, the Director may issue an order to Respondents to cease and desist from violations of the Oregon Securities Law under ORS 59.245(4).

25. Because the Director has reason to believe that Respondents have engaged in or are about to engage in violations of the Oregon Securities Law, or that the use of any exemption by Respondents would work a fraud or imposition on purchasers, the Director may deny Respondents the use of exemptions pursuant to ORS 59.045(2).

26. Under ORS 59.995(1)(a), any person who violates or who procures, aids, or abets the violation of ORS 59.005 to 59.505, 59.710 to 59.830, 59.991 and 59.995, or any rule or order of the Director, shall be subject to a penalty of not more than $20,000 for every violation, which shall be paid to the General Fund of the State Treasury.

B. <u>Violations of Oregon Commodity Transactions Law</u>

27. Under ORS 645.005 a "Commodity Contract" is a "contract for the purchase or sale of one or more commodities, however characterized, which is primarily for speculation or investment purposes and not for use or consumption by the offeree or purchaser. […] Any contract for one or more commodities offered or sold shall, in the absence of evidence to the contrary, be presumed to be offered or sold for speculation or investment purpose."

28. Pursuant to ORS 645.010(1), no person shall sell or offer to sell a commodity under a commodity contract or under any commodity option.

29. Generally, under ORS 645.020(2), a commodity contract for silver, gold, and

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other precious metals are exempt from the prohibition against the sale of a commodity contract pursuant to ORS 645.010(1) as long as the precious metals are delivered to and held on the purchaser's behalf at an authorized depository within seven days of the payment of any portion of the purchase price and the depository issues and the purchaser receives an instrument evidencing that the precious metals were delivered to the depository.

30. The contract that JL entered into with MPB to purchase the Gold Coins and Silver Coins for investment purposes was a commodity contract. Because the Gold Coins were never delivered to an authorized depository within seven days of JL's payment of the purchase price, and because JL never received an instrument evidencing delivery of the Gold Coins to the Depository, Respondents' sale of the Gold Coins under a commodity contract was not exempt under ORS 645.020(2). Therefore, Respondents' sale of the Gold Coins was a violation of ORS 645.010(1).

31. Pursuant to ORS 645.040(1)(d), it is unlawful for a person, in connection with a commodity contract, to misappropriate or convert the funds, security, or property of any other person.

32. Respondents' acceptance of JL's funds from the Entrust SDIRA without delivery of the eight Gold Coins, and Respondents' refusal to return JL's funds upon demand, constitutes misappropriation under ORS 645.040(1)(d).

33. Under ORS 645.950(1), any person who violates, or who participates or materially aids another person in a violation, or who procures, aids or abets the violation ORS Chapter 645, or any rule or order of the Director, shall be subject to a penalty of not more than $5,000 for every violation, which shall be paid to the General Fund of the State Treasury.

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ORDERS

Now therefore, the Director issues the following Orders:

Cease and Desist

34. Pursuant to ORS 59.245(4) and ORS 645.200(4), the Director hereby ORDERS Viera to CEASE AND DESIST from violating any provision of the Oregon Securities Law or the Oregon Commodity Transactions Law.

Denial of Exemptions to Registration

35. Pursuant to ORS 59.045(2), the Director hereby DENIES Viera the use of exemptions that might otherwise be available under ORS 59.025 and ORS 59.035 concerning securities and transactions exempt from the registration requirements of the Oregon Securities Law.

Civil Penalties

36. Pursuant to the authority of ORS 59.995(1), the Director hereby ORDERS that $30,000 in CIVIL PENALTIES be assessed against Viera for violating ORS 59.055, ORS 59.165(1), and ORS 59.135(3).

37. Pursuant to the authority of ORS 645.950(1), the Director hereby ORDERS that $10,000 in CIVIL PENALTIES be assessed against Viera for violating ORS 645.010(1) and ORS 645.040(1)(d).

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DESIGNATION OF FINAL ORDER

38. This Order is a "Final Order" under ORS 183.310(6)(b). Subject to that provision, the entry of this Order does not limit other remedies that are available to the Director under Oregon law.

IT IS SO ORDERED.

Dated this 28th day of May 2024.

ANDREW R. STOLFI, Director
Department of Consumer and Business Services

/s/ Dorothy Bean
Dorothy Bean, Chief of Enforcement
Division of Financial Regulation

NOTICE OF RIGHT TO JUDICIAL APPEAL

Judicial review of final orders in contested cases is governed by ORS 183.482. Respondents may request judicial review by filing a petition with the Court of Appeals in Salem, Oregon, within 60 days from the date this order is serve.

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