

TRAVIS J. ILES  
SECURITIES COMMISSIONER



CRISTI RAMÓN OCHOA  
DEPUTY SECURITIES COMMISSIONER

Mail: P.O. BOX 13167  
AUSTIN, TEXAS 78711-3167

Phone: (512) 305-8300  
Facsimile: (512) 305-8310

## *Texas State Securities Board*

208 E. 10th Street, 5th Floor  
Austin, Texas 78701-2407  
www.ssb.texas.gov

E. WALLY KINNEY  
CHAIR

ROBERT BELT  
MEMBER

MELISSA TYROCH  
MEMBER

EJIKE E. OKPA II  
MEMBER

DAVID B. MONTGOMERY  
MEMBER

IN THE MATTER OF THE AGENT AND §  
INVESTMENT ADVISER REPRESENTATIVE §  
REGISTRATION OF GIHAN FERNANDO §

**Order No. REG-24-CAF-05**

TO: Gihan Fernando (CRD# 4469669)  
Cetera Investment Advisers LLC  
5433 Westheimer Rd., Suite 800  
Houston, TX 77056

### **DISCIPLINARY ORDER**

Be it remembered that Gihan Fernando ("Respondent") appeared before the Securities Commissioner of the State of Texas ("Securities Commissioner") and consented to the entry of this order ("Order") and the Findings of Fact, Conclusions of Law, and the Undertaking incorporated by reference herein for the sole purpose of resolving an investigation by the Texas State Securities Board.

### **FINDINGS OF FACT**

1. Respondent has waived (a) Respondent's right to notice and hearing in this matter; (b) Respondent's right to appear and present evidence in this matter; (c) Respondent's right to appeal this Order; and (d) all other procedural rights granted to the Respondent by The Securities Act, Tex. Gov't Code §§ 4001.001-4008.105 ("Texas Securities Act"), and the Administrative Procedure Act, Tex. Gov't Code Ann. §§ 2001.001-2001.903.
2. On January 8, 2024, Respondent applied for registration with the Securities Commissioner as an agent of Cetera Investment Services LLC and as an investment adviser representative of Cetera Investment Advisers, LLC (collectively, "Cetera"), as required by Section 4004.101 and Section 4004.102 of the Texas Securities Act. These registrations are currently pending.
3. From August 27, 2020 through June 21, 2024, fifty-one (51) customer complaint disclosures (the "Customer Complaints") have been filed against the Respondent.
4. The Customer Complaints are related to Respondent's sale and recommendation of non-traded real estate investment trusts ("REITs").

5. A non-traded REIT is a company that owns, operates, or finances income-producing real estate or real estate related assets.
6. Non-traded REITs are registered with the U.S. Securities and Exchange Commission ("SEC") and state securities regulators, file regular reports with the SEC, but are not listed on an exchange and are not publicly traded.
7. Non-traded REITs are generally redeemable by investors when the non-traded REITs lists its shares on an exchange or otherwise liquidates assets to achieve liquidity. These liquidity events could occur as early as five (5) years, but may also be as long as ten (10) years from the initial offering of non-traded REIT shares.
8. At the time that the REITs are liquidated, the value of the investment might have increased or decreased. The value of the REITs might even have become worthless.
9. Additionally, non-traded REITs usually offer investors opportunities to redeem their shares early through redemption programs. But these programs are not guaranteed and are generally subject to significant limitations, including suspensions of the programs altogether.
10. In recognition of the potential for extended periods of illiquidity, non-traded REITs generally specify investment qualifications and limitations tied to each investor's financial status.
11. From 2003 to 2023, Respondent was registered as an investment adviser representative and agent of BOK Financial Securities, Inc ("BOK").
12. As part of the Respondent's business, he often recommended the purchase of REITs to his clients.
13. In connection with the recommendation to purchase the REITs, Respondent received materials provided by the issuers.
14. Respondent relied on the information provided by the issuers rather than conducting sufficient due diligence on his own.
15. Based on these materials, Respondent believed that the REITs were principal protected and liquid after five (5) years.
16. Relying on these materials, Respondent recommended REITs to customers as an investment where they could expect their principal back in five (5) years.
17. In reality, the REITs were illiquid for a period longer than five (5) years and the customers' principal was not protected.

### CONCLUSIONS OF LAW

1. Respondent's recommendation that clients purchase the REITs without fully understanding the product constitutes an inequitable practice in the sale of securities and in rendering services as an investment adviser.
2. Pursuant to Section 4007.105(a)(3)(A) of the Texas Securities Act, the aforementioned inequitable practice constitutes a basis for the issuance of an Order reprimanding Respondent.

### ORDER

1. It is therefore ORDERED that the application for registration as an agent and investment adviser representative with the Securities Commissioner is hereby APPROVED.
2. It is further ORDERED that Gihan Fernando is hereby REPRIMANDED.
3. It is further ORDERED that Gihan Fernando COMPLY with the terms of the Undertaking; incorporated by reference herein, wherein Respondent undertakes and agrees: to not sell or directly recommend any alternative investments for a period of five (5) years from the date this order is signed by the Securities Commissioner, and abide by any additional supervisory requirements.

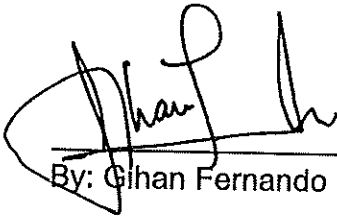
SIGNED AND ENTERED BY THE SECURITIES COMMISSIONER this 2<sup>nd</sup> day of July, 2024.



---

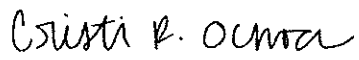
TRAVIS J. ILES  
Securities Commissioner

Respondent:



By: Gihan Fernando

Approved as to Form:



Cristi Ochoa,  
Deputy Securities Commissioner



Elliott Wolf,  
Attorney