

POSITION DUTY STATEMENT

DFPI-HR0 203 (Rev. 08-21)



NAME	EFFECTIVE DATE
CLASSIFICATION TITLE Attorney III	POSITION NUMBER 410-140-5795-100/214/219
WORKING TITLE Senior Counsel	DIVISION/OFFICE/UNIT/SECTION Enforcement Division
BARGAINING UNIT R02	GEOGRAPHIC LOCATION Sacramento, San Francisco, Los Angeles, San Diego

General Statement: Under the general direction of the Attorney, Assistant Chief Counsel and with occasional instruction from the Deputy Commissioner, CEA (C), the Attorney III is responsible for acting as a Senior Counsel for the Enforcement Division. Duties include, but are not limited to, the following:

A. SPECIFIC ASSIGNMENTS

ESSENTIAL FUNCTIONS

40% Performs, with minimum supervision and with broad discretion and independence, routine legal work including litigation, appellate cases, settlement, and post-trial negotiations, legal research, and hearings under the Department's jurisdiction. Responsible for filing civil and administrative cases in state and federal courts and before the Office of Administrative Hearings. Drafts complicated complaints to be filed in court concerning violations of the law, and drafts pretrial, trial and post-trial motions. Engages in extensive administrative and civil discovery, including taking investigative testimony and conducting depositions, preparing and responding to requests for admissions and propounding and answering interrogatories. Responsible for all aspects on appeal including preparing writs of mandamus and appellate pleadings. Responsible for the issuance of Desist and Refrain Orders for violations of the law, actions to bar, suspend, revoke, censure and deny companies and individuals that are applying for or have licenses, actions to void loan transactions and to levy administrative penalties and obtain restitution for consumers and investors that have lost funds. Appears before federal Bankruptcy Courts and represent the Department in matters relating to actions brought by the Department. Reviews, researches (factually and legally) and prepares written analyses of complaints of activities that may constitute violations of laws under the Department's jurisdiction; conducts related interviews necessary to support a decision as to whether investigation is warranted.

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- 35%** Acts as a lead attorney on routine matters with a team of examiners and investigators. Issues subpoenas to banks and companies to obtain information necessary in the investigation of the case. Takes administrative testimony of witnesses and defendants during investigations. If subpoenas and interrogatories are not complied with, will be responsible for filing the appropriate civil action to compel compliance. Assist as co-counsel or as expert witness and participate in grand jury proceedings in criminal prosecutions and provide litigation assistance.
- 10%** Assists in large complex financial frauds or acts as lead on routine investigations working with other agencies to effectively prosecute persons that violate the laws under the Department's jurisdiction. Prepares referrals for criminal prosecution; assists district attorneys and federal prosecutors in the preparation of criminal cases, and upon request presents criminal cases at preliminary hearings, grand jury hearings, trials, and related proceedings. Assists in trial, exhibit and witness preparation and legal strategy concerning the criminal case, including taking testimony, and providing expertise in the technical and complicated areas of securities and other laws subject to the Commissioner's jurisdiction. Responsible for direct and cross examination of witnesses, opening and closing arguments and drafting of points and authorities and jury instructions relevant to the charges relating to the laws under the Department's jurisdiction. Responsible for drafting and responding to motions concerning the conduct of the criminal case.
- 10%** Prepares opinions and analyses of the law and facts and recommends various types of enforcement action. Achieves positive results based on the decisions, recommendations, and direction in enforcement actions taken. Assists other staff and less senior attorneys and acts in a lead capacity with less senior attorneys. Actively participates in statewide or national agencies and groups, on working groups, task forces, boards or similar groups related to the laws enforced by the Department. Directs and conducts investigations consisting of a multi-discipline staff. Directs the operational activities of examiners, legal assistants and support staff in enforcement activities. Develops investigation and litigation plans to determine violations of the law and also reviews and analyzes the work product prepared by the examiners, legal assistants, support staff and lower level attorneys.

MARGINAL FUNCTIONS

- 5%** Performs other job-related duties as required.

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B. Supervision Received

The Senior Counsel reports directly to and receives the majority of assignments from the Attorney, Assistant Chief Counsel; however, direction and instructions may also come from the Deputy Commissioner, Enforcement Division, CEA (C).

C. Supervision Exercised

None.

D. Administrative Responsibility

None.

E. Personal Contacts

The incumbent interacts with Investigators, Examiners, Legal support, Programs, Department of Justice, Attorney General, District Attorney's, and various federal/state agencies when completing examinations and investigations at the request of Counsels. Investigations are confidential and sensitive in nature, involving company books & records, financial statements, bank records, and investigative reports. The incumbent interacts frequently with Counsels on every case assigned and as often as 10 times per week depending on the complexity of cases. All other contacts occur on an as needed basis and no more than five times per month.

F. Actions and Consequences

The consequences of not adequately performing the job may lead to:

- Defendants escaping prosecution
- Defendants not receiving appropriate penalties if violations are overlooked
- Consumers not being adequately protected, and
- Harmful consumer products entering the marketplace

This will lead to illegal activity going unchecked. Failure to detect and deter unlicensed and illegal activity negatively impacts the California economy by discouraging investing and use of legitimate licensees' services. Also, the lack of sufficient supervision limits DFPI's ability to fulfill the DFPI's intent to discover and discourage illegal and fraudulent activity, to improve accountability in the financial system, and protect consumers from improper financial services practices. The inability to check unlicensed illegal activity undermines the DFPI's ability to regulate state-licensed professionals in order to provide accessibility to a fair and secure financial services industry.

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G. Functional Requirements

The incumbent works 40 hours per week in an office setting, with artificial light and temperature control. The use of a personal computer, telephone, copier, and fax machine is essential to the duties of this position. The position requires bending and stooping to retrieve files, sitting and standing consistent with office work, and light lifting of no more than 10 pounds occasionally. The position requires answering telephones; receiving verbal information from outside sources; and understanding verbal instruction.

H. Other Information

Senior Counsel are expected to work complex cases including those involving novel legal issues, and handle civil cases, appellate proceedings, bankruptcy, co-chairing criminal actions, and negotiating successful resolutions of actions, while working independently with minimal contact or reinforcement from supervisors and/or colleagues.

Senior Counsel are expected to produce quality work product requiring minimal editing that demonstrates independent thinking and judgment in the application of facts, evidence and law; and orally communicate information and legal principles, facts and positions effectively, convincingly and accurately.

Senior Counsel are expected to lead and/or manage investigative teams, hearings, civil actions, multi-state task forces; including cooperating with other regulatory agencies; as well as internal project groups, task forces, and Program related matters.

This position may require traveling to attend administrative hearings and/or civil and criminal court proceedings across the state (County, State and Federal), other locations, and occasional travel to conferences, meetings, and training events. Travel is primarily done by driving, but also includes periodic air travel and overnight travel.

CONFLICT OF INTEREST

This position is subject to Title 10, § 250.30 of the California Code of Regulations, the Department of Financial Protection and Innovation's Conflict of Interest Regulations, the incumbent is required to submit a Statements of Economic Interests (Form 700) within 30 days of assuming office, annually by April 1st and within 30 days of leaving office.

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I have read and understand the duties listed above and I can perform these duties with or without reasonable accommodation. (If you believe reasonable accommodation is necessary, discuss your concerns with the hiring supervisor. If unsure of a need for reasonable accommodation, inform the hiring supervisor, who will discuss your concerns with the Health & Safety analyst.)

Employee Signature

Date

Employee's Printed Name, Classification

I have discussed the duties of this position with and have provided a copy of this duty statement to the employee named above.

Supervisor Signature

Date

Supervisor's Printed Name, Classification