

State of California - Department of Corporations

1 WAYNE STRUMPFER
 Acting California Corporations Commissioner
 2 ALAN S. WEINGER (CA BAR NO. 86717)
 Acting Deputy Commissioner
 3 SEAN M. ROONEY (CA BAR 188843)
 Corporations Counsel
 4 320 West 4th Street, Suite 750
 Los Angeles, California 90013-2344
 5 Telephone: (213) 576-7613

6 Attorneys for Complainant

7
 8 BEFORE THE DEPARTMENT OF CORPORATIONS
 9 OF THE STATE OF CALIFORNIA

11	In the Matter of)	FILE NO. 925-2761
12	THE CALIFORNIA CORPORATIONS)	
13	COMMISSIONER,)	STIPULATION TO FINAL ORDER TO
14	Complainant,)	DISCONTINUE VIOLATIONS AND ORDER
15	v.)	LEVYING ADMINISTRATIVE PENALTIES
16	AUSTIN LEMOINE CAPITAL MANAGEMENT,)	PURSUANT TO CORPORATIONS CODE
17	(AUSTIN JOSEPH LEMOINE, DBA),)	SECTION 25252
18	Respondent.)	

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 21 The Acting California Corporations Commissioner of the Department of Corporations
 22 ("Commissioner") and Respondent AUSTIN LEMOINE CAPITAL MANAGEMENT, (AUSTIN JOSEPH
 23 LEMOINE, DBA), ("ALC") enter into a stipulation in the above captioned administrative matters as follows:

24 **FACTS**

25 1. The Commissioner commenced administrative actions against ALC for its failure to reconcile
 26 bank accounts and the failure to prepare and maintain monthly computations of net capital and aggregate
 27 indebtedness as mandated by the corporate Securities Law of 1968 (Corporations Code section 25000 et seq.)
 28

1 and the regulations enacted there under found at California Code of Regulations, title 10, section 260.000 et
2 seq.

3 2. On March 29, 2006, the Commissioner issued and then served ALC, by certified mail, return
4 receipt requested, with copies of the following: (1) Order to Discontinue Violations Pursuant to Corporations
5 Code Section 25249; (2) Notice of Intention to Make Final an Order to Discontinue Violations Pursuant to
6 Corporations Code Section 25249 and Statement to Respondent; (3) Statement in Support of Order to
7 Discontinue Violations Pursuant to Corporations Code Section 25249 and Commissioner's Intention to Make
8 Order Final; (4) Notice of Defense; and (5) Government Code Sections 11507.5, 11507.6 and 11507
9 (documents referenced hereinafter collectively as "Administrative Pleadings").

10 3. On March 29, 2006, the Commissioner also issued and then served ALC, by certified mail,
11 return receipt requested, with copies of the following: (1) Notice of Intention to Issue Order Levying
12 Administrative Penalties Pursuant to Corporations Code Section 25252; (2) Statement in Support of Order
13 Levying Administrative Penalties Pursuant to Corporations Code Section 25252; (3) Notice of Defense; and
14 (4) Government Code Sections 11507.5, 11507.6, 11507.7 (documents referenced hereinafter collectively as
15 "Administrative Penalty Pleadings").

16 4. In lieu of administrative hearings on the Administrative Pleadings and the Administrative
17 Penalty Pleadings, the Commissioner and ALC agree to stipulate to the following:

18 **STIPULATION**

19 A. ALC stipulates to the issuance of an Order Levying Administrative Penalties Pursuant to
20 Corporations Code Section 25252.

21 B. ALC stipulates to the issuance of an Order to Discontinue Violations Pursuant to Corporations
22 Code Section 25249.

23 C. ALC agrees Austin Lemoine Capital Management and/or Austin Joseph Lemoine agrees to pay
24 \$2,250 as administrative penalties ordered under California Corporations Code section 25252, no later than
25 July 3, 2006, otherwise ALC will be deemed by the Commissioner to be in violation of the Order Levying
26 Administrative Penalties Pursuant to Corporations Code section 25252 and ALC may be subject to further
27 action provided by law.
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State of California Department of Corporations

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D. Payment of \$2,250, will be postmarked or personally delivered by July 3, 2006 to:

Department of Corporations
320 West 4th Street, Suite 750
Los Angeles, CA, 91106
ATTN: Sean Rooney, Enforcement Division

E. ALC agrees to remain compliant with all statutory requirements required of investment advisors pursuant to the pertinent provisions of the California Corporations Code and the California Code of Regulations.

F. ALC waives any rights to any hearings or appeals on both the Final Order to Discontinue Violations and the Order Levying Administrative Penalties Pursuant to Corporations Code Section 25252.

G. ALC acknowledges that pursuant to Corporations Code section 25255, remedies for violations of the Corporate Securities Law and the rules promulgated there under are not exclusive and may be sought and employed in any combination to enforce the purpose and provisions of the law.

H. ALC enters into this Stipulation voluntarily and without coercion and acknowledges that no promises, threats or assurances have been made by the Commissioner or any officer, or agent thereof, about this Stipulation and Agreement.

I. ALC and the Commissioner agree that this Stipulation may be executed in one or more separate counterparts, each of which when so executed, shall be deemed an original. Such counterparts shall together constitute and be one and the same instrument.

J. ALC acknowledges that nothing in this Stipulation shall preclude the Commissioner, or his agents or employees, to the extent authorized by law, from assisting or cooperating in any investigation and/or

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1 action brought by any other federal, state or county agency. ALC further agrees that this Stipulation shall not
2 bind or otherwise prevent any other federal, state or county agency from the performance of its duties.

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4 DATED: 5/30/06
5 Los Angeles, California

WAYNE STRUMPFER
Acting California Corporations Commissioner

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7 By: _____
8 ALAN S. WEINGER
9 Acting Deputy Commissioner
10 Enforcement Division

11
12 Austin Joseph Lemoine,
13 dba Austin Lemoine Capital Management

14
15 DATED: 05/25/2006

16 By: _____
17 Austin Joseph Lemoine
18 Respondent

19 Approved as to form:

Al Fishman, Attorney for Respondent

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21
22 DATED: 5-25-2006

23 By: _____
24 Al Fishman