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Acting California Corporations Commissioner
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7
8 BEFORE THE DEPARTMENT OF CORPORATIONS
9 OF THE STATE OF CALIFORNIA

10 In the Matter of the Accusation of THE) File No.: 7301
11 COMMISSIONER OF CORPORATIONS OF)
12 THE STATE OF CALIFORNIA,) ACCUSATION
13)
14 Complainant,)
15)
16 vs.)
17)
18 CALIFORNIA FINANCIAL NETWORK, INC.)
19 (ANTHONY HAROLD BARKATE, DBA); and)
20 ANTHONY HAROLD BARKATE, as an)
21 individual)
22 Respondents.)

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24 The Complainant is informed and believes, and based upon such information and belief,
25 alleges and charges Respondent as follows:

26 I.

27 JURISDICTION AND VENUE

28 The California Corporations Commissioner brings this action to revoke the investment
adviser certificate previously issued to Respondent, California Financial Network, Inc. (Anthony
Harold Barkate, DBA) pursuant to California Corporations Code section 25232(d)(2) and to bar
Respondent Anthony Harold Barkate (“Barkate”) from any position of employment, management or
control of any investment adviser , broker-dealer or commodity adviser pursuant to California

1 Corporations Code section 25232.1.

2 California Corporations Code section 25600 authorizes the Commissioner to administer and
3 enforce the provisions of the Corporate Securities Law of 1968 (California Corporations Code section
4 25000, et. seq.) and the regulations promulgated thereunder (Cal. Code Regs., title 10, sec.260.000 et
5 seq.).

6 California Financial Network, Inc. is a California sole proprietorship located at 4700
7 Stockdale Highway, Suite 108, Bakersfield, California 93309.
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9 II.

10 STATEMENT OF FACTS

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12 In April of 1984, Respondent Barkate entered into the securities industry as a general
13 securities representative. In May of 1991, Respondent Barkate became registered as a general
14 securities principal.

15 In June of 1996, Barkate owned and operated California Financial Network, Inc., located in
16 Bakersfield, California.

17 In September 4, 1997, Barkate executed a registered representative agreement with Securities
18 Service Network, Inc. ("SSN"), providing he would operate California Financial Network, Inc. as an
19 SSN Office of Supervisory Jurisdiction. The agreement expressly prohibited Barkate from offering
20 or selling any security to any purchaser without prior written approval of SSN. The agreement also
21 required Barkate to disclose in writing all sources of outside income.
22

23 On September 18, 1997, Barkate submitted his first outside business activity form to SSN,
24 and he represented that he had outside income from advisory fees and insurance commissions.

25 In March, 1998, Barkate became involved with various TLC entities ("TLC instruments").
26 The TLC instruments provided investors with a tax lien certificate that represented the right to collect
27 delinquent taxes on real property.
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1 In July, 1998, Barkate completed his first three sales of TLC instruments for a total of
2 \$278,896.00, resulting in upfront commissions of \$13,388.00 and deferred commissions of
3 \$3,693.00. From July, 1998 through March, 1999, Barkate, while associated with SSN, solicited and
4 sold \$6.8 Million in TLC instruments. Barkate received a total of \$400,144.00 in commissions from
5 TLC instruments. Barkate admits that he did not provide SSN with prior written notice of his intent
6 to sell the TLC instruments.

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8 III.

9 PROCEDURAL BACKGROUND

10 On April 1, 1999, SSN sent legal counsel from SSN's compliance department to Barkate's
11 office to conduct an unannounced audit. On April 1, 1999, SSN also directed Barkate to cease and
12 desist from selling TLC instruments. SSN terminated Barkate's employment on April 12, 1999, and
13 terminated his registration on April 16, 1999.

14 In October, 2000, the Securities and Exchange Commission filed a complaint against the TLC
15 entities alleging a Ponzi scheme. On October 19, 2001, the United States District Court for the
16 Central District of California entered a preliminary injunction against TLC and appointed a receiver
17 for same.

18 A complaint against Barkate was filed with the National Association of Securities Dealers
19 ("NASD") alleging Barkate participated in private securities transactions without giving his firm
20 prior written notice of such activity in violation of conduct rules 2110 and 3040. A hearing convened
21 on September 5, 2002.

22 Respondent Barkate admitted that he received compensation for his participation in the sales.
23 He also admitted that he did not receive approval from SSN prior to his participation in the sales.
24 Barkate further stipulated that the TLC instruments were securities. The Panel found certain specific
25 facts particularly aggravating. First, Respondent created the impression that SSN sanctioned the sales.
26 Respondent advised his customers of the TLC instruments mainly during his routine conversations
27 with his existing customers. Consequently, Respondent offered and sold the TLC instruments from
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1 his SSN office, primarily to his existing customers in his capacity as their Securities Network Inc.
2 adviser. Second, the private securities transactions involved numerous customers of SSN .
3 Additionally, Respondent testified at the hearing that a vast majority of his 93 customers were SSN
4 customers. Finally, Respondent did not orally disclose his involvement with TLC instruments and
5 SSN, even though he had repeated opportunities to do so.

6 As a result of the facts revealed at this disciplinary hearing, the hearing panel found the
7 following: That Barkate’s misconduct was egregious and worthy of a bar. Barkate was fined
8 \$400,144.00 to be reduced by any amounts paid in disgorgement of commissions to Barkate’s
9 customers or the TLC receiver. He was also ordered to pay \$5,141.21 for the costs of the hearing.
10 Barkate was also barred from association with any NASD member brokerage firm. (Attached and
11 incorporated hereto as Exhibit “A” is NASD’s Notice of Hearing Panel Decision and Hearing Panel
12 Decision)

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14 IV.

15 MEMORANDUM OF POINTS AND AUTHORITIES

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17 A. INVESTMENT ADVISER LICENSE MUST BE REVOKED PURSUANT
18 TO CORPORATIONS CODE SECTION 25232(d)(2)

19 California Corporations Code section 25232(d)(2) states in pertinent part:

20 “The commissioner may, after appropriate notice and opportunity for hearing, by order
21 censure, deny a certificate to, or suspend for a period not exceeding 12 months or revoke the
22 certificate of, an investment adviser, if the commissioner finds that the censure, denial,
23 suspension, or revocation is in the public interest and that the investment adviser, whether
24 prior or subsequent to becoming such, or any partner, officer or director thereof or any person
performing similar functions or any persons directly or indirectly controlling the investment
adviser, whether prior or subsequent to becoming such, or any employee of the investment
adviser while so employed has done any of the following:

25 (d)(2) Is or has been subject to any order of any national securities association or national
26 securities exchange (registered under the Securities Exchange Act of 1934) suspending or
27 expelling him or her from membership in that association or exchange or from association
28 with any member thereof.

1 On September 5, 2002, Anthony Barkate was fined \$400,144.00 to be reduced by any
2 amounts paid in disgorgement of commissions; and \$5,141.21 as costs for the hearing by the NASD.
3 Based on the particularly aggravating facts revealed at the NASD hearing, the panel also found
4 Barkate’s conduct egregious enough to be worthy of a bar. Barkate was, in fact, barred from
5 association with any NASD member brokerage firm. Therefore, cause exists to revoke the
6 investment adviser license of California Financial Network, Inc. pursuant to California Code of
7 Corporations section 25232(d)(2).
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10 **B. ANTHONY BARKATE MUST BE BARRED FROM FURTHER EMPLOYMENT,
11 MANAGEMENT OR CONTROL OF ANY INVESTMENT ADVISER, BROKER-
12 DEALER OR COMMODITY ADVISER PURSUANT TO CALIFORNIA
CORPORATIONS CODE SECTION 25232.1**

13 California Corporations Code section 25232.1 states in pertinent part:

14 “The commissioner may, after appropriate notice and opportunity for hearing
15 bar from any position of employment, management or control of any investment adviser,
16 broker-dealer or commodity adviser, any officer, director, partner, employee of, or person
performing similar functions for, an investment adviser”

17 Barkate knowingly engaged in outside business activities while employed with SSN. He solicited
18 investors who were existing customers of SSN. He had numerous opportunities to disclose this
19 activity, but failed to do so. This conduct was done knowingly and for an extended period of time.
20 Such conduct warranted a bar by NASD as set forth above. Therefore, cause exists to bar Barkate
21 from any position of employment, control or management of any investment adviser, broker-dealer or
22 commodity adviser pursuant to California Corporations Code section 25231.1.
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RELIEF REQUESTED

WHEREFORE, based upon the foregoing, the Commissioner finds it is in the public interest to revoke the investment adviser certificate of California Financial Services, Inc. pursuant to California Corporations Code, section 25232(d)2) and to bar Anthony Harold Barkate from any position of employment, management or control of any investment adviser, broker-dealer or commodity adviser pursuant to California Corporations Code section 25232.1.

WHEREFORE, IT IS PRAYED, that Respondent California Financial Network, Inc's. investment adviser certificate be revoked pursuant to California Corporations Code section 25232(d)(2) and that Respondent Anthony Harold Barkate be barred from any position of employment, management or control of any investment adviser, broker-dealer or commodity adviser pursuant to California Corporations Code section 25232.1.

Dated: December 15, 2005

WAYNE STRUMPFER
Acting California Corporations Commissioner

By _____
SHARON A. LUERAS
Senior Corporations Counsel