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2 **STATE OF CALIFORNIA**  
3 **BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY**  
4 **DEPARTMENT OF BUSINESS OVERSIGHT**

5 TO: Alternative Capital Management, LLC  
6 Empire Alternative Investments, L.P.  
7 Empire Managed Investments, Inc.  
8 Robert Todd Wilson  
9 Newport Executive Center  
10 260 Newport Center Drive, #100  
11 Newport Beach, California 92660

12 **DESIST AND REFRAIN ORDER**  
13 **(For violations of section 25401, 29520 and 29536 of the Corporations Code)**

14 The Commissioner of Business Oversight finds that:

15 1. At all relevant times, Alternative Capital Management, LLC (ACM) is, or was, an  
16 entity whose legal status is unknown. ACM represented and held itself out to potential investors as a  
17 General Partner of Empire Alternative Investments, L.P. (“EAI”).

18 2. At all relevant times, EAI is, or was, a Delaware Limited Partnership with the  
19 principal place of business located at 30101Town Center Drive, Suite 209, Laguna Niguel, California  
20 92677. EAI represented to potential investors that it is “an alternative investment hedge fund.”

21 3. At all relevant times, Empire Managed Investments, Inc. (“EMI”) is, or was a  
22 California corporation with the principal place of business located at Newport Executive Center 260  
23 Newport Center Drive #100, Newport Beach, California 92660.

24 4. At all relevant times, Robert Todd Wilson (“Wilson”) is, or was, the founder and  
25 registered agent of EMI, and a managing partner of ACM.

26 5. At all relevant times, EMI maintained a website at <http://www.empiremi.com>. EMI  
27 claimed on its website that it was formed in May 1, 2000 for the purpose of finding “a better way to  
28 manage money for clients so that individuals could participate in institutional type portfolios.”  
Through EMI’s website, Wilson represented and held himself out as a licensed commodity trader,

1 claiming that his "... 23 years as a licensed broker and commodity trading advisor and commodity  
2 pool operator coupled with multi-decade relationships with other traders and fund managers is the  
3 birth of Consultants in Portfolio Management...." EMI's website further advertised that "...  
4 Individuals can hire Mr. Wilson as a consultant to build, supervise and design unique, individual  
5 multiple assets portfolios...."

6 6. Beginning in or about December 2008 and thereafter, ACM, AEI, EMI, and Wilson,  
7 offered and sold unqualified, non-exempt securities in the form of partnership interests in AEI or  
8 investment contracts to investors raising at least \$90,000.00.

9 7. On or about December 1, 2008, AEI and Wilson, executed a Subscription Agreement  
10 with at least two investors, and provided the investors a Confidential Offering Circular dated  
11 December 1, 2008 ("Circular"). The Circular stated among other provisions, that "... the principal  
12 investment objective of the Partnership is to achieve superior returns by trading in over-the-counter  
13 foreign currency, or FOREX, or investing or trading in any other alternatives investments that are not  
14 directly dependent on the direction of the stock market...." The Circular further stated that the  
15 minimum investment required to invest in EAI was \$500,000.00 but that the "General Partner may  
16 waive the minimum subscription requirement for any investor and it may raise this minimum  
17 requirement in the future...."

18 8. Wilson, EAI, ACM, and EMI told investors that their funds would be invested in  
19 stocks and commodities, including different classes of assets or portfolios purportedly managed by  
20 EAI.

21 9. These securities in the form of partnership interests or investment contracts in EAI  
22 were offered or sold in this state in issuer transactions. The Department of Business Oversight has  
23 not issued a permit or other form of qualification authorizing any person to offer or sell the securities  
24 referred to herein in this state, nor is EAI exempt from the qualification requirement.

25 10. Further, Wilson, EAI, ACM, and EMI sold or purchased, offered to sell or purchase  
26 commodity contracts or options, or offered to enter into, or entered into, as a seller or purchaser of  
27 commodity contracts or options in California.  
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1           11.     The contracts or options Wilson, EAI, ACM, and EMI sold or purchased, offered for  
2 sale or purchased, or offered to enter into, or entered into, as a seller or purchaser are commodity  
3 contracts or commodity options, as defined in Corporations Code sections 29505 and 29510,  
4 respectively.

5           12.     Wilson, EAI, ACM, and EMI's above-described transactions are in violation of  
6 Corporations Code section 29520.

7           13.     In connection with the offer and sale of these securities, and the offer to enter into, or  
8 the entry into, a commodity, commodity contract, or commodity option, Wilson, EAI, ACM, and  
9 EMI made, or caused to be made, misrepresentations of material fact or omitted to state material facts  
10 necessary in order to make the statements made, in the light of the circumstances under which they  
11 were made, not misleading, in violation of sections 25401 and 29536 of the Corporations Code.  
12 These misrepresentations and omissions include, but are not limited to:

13           a)     misrepresenting that investors' money would be used to purchase stocks or trade in  
14 commodities when, in fact, some of the investors' money was deposited into Wilson's personal  
15 account;

16           b)     ACM, AEI, EMI, and Wilson represented, or held themselves out to investors as  
17 licensed or qualified to trade in commodities;

18           c)     misrepresenting that ACM was registered as a commodity pool operator with the  
19 Commodity Futures Trading Commission and was a member of the National Futures Association  
20 ("NFA") when in fact, at all material times, ACM's license with the NFA was withdrawn; and

21           d)     failing to inform investors that ACM, AEI, EMI, and Wilson were not licensed to  
22 trade in foreign exchange.

23           Based on the foregoing findings, the Commissioner of Business Oversight is of the opinion  
24 that ACM, AEI, EMI, and Wilson sold or purchased, offered to sell or purchase securities in the form  
25 of investment contracts, or commodity contracts or options, or offered to enter into, or entered into as  
26 a seller or purchaser of commodity contracts or options in violation of section 29520 of the  
27 Corporations Code.

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1           Based on the foregoing findings, the Commissioner of Business Oversight is of the opinion  
2 that the securities in the form of partnership interests or investment contracts, commodity contracts,  
3 and commodity options offered and sold by Alternative Capital Management, LLC; Empire  
4 Alternative Investment, L.P.; Empire Managed Investments, Inc., and Robert Todd Wilson were  
5 offered and sold in this state by means of written or oral communications that included untrue  
6 statements of material fact or omitted to state material facts necessary in order to make the statements  
7 made, in the light of the circumstances under which they were made, not misleading, in violation of  
8 sections 25401 and 29536 of the Corporations Code.

9           Pursuant to sections 25532 and 29542 of the Corporations Code, Robert Todd Wilson, Empire  
10 Alternative Investment, L.P.; Alternative Capital Management, LLC; and Empire Managed  
11 Investments, Inc. are hereby ordered to desist and refrain from offering or selling or buying or  
12 offering to buy any security or commodity in the State of California, including, but not limited to,  
13 partnership interests in AEI or investment contracts, commodity contracts, and commodity options by  
14 means of any written or oral communication which includes an untrue statement of a material fact or  
15 omits to state a material fact necessary in order to make the statements made, in the light of the  
16 circumstances under which they were made, not misleading.

17           This Order is necessary, in the public interest, for the protection of investors and consistent  
18 with the purposes, policies, and provisions of the California Commodity Law of 1990 and the  
19 Corporate Securities Law of 1968.

20 Dated: August 16, 2016  
21           Sacramento, California

JAN LYNN OWEN  
Commissioner of Business Oversight

22  
23  
24 By \_\_\_\_\_  
25 MARY ANN SMITH  
26 Deputy Commissioner  
27 Enforcement Division  
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