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9 Attorneys for Complainant

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11 BEFORE THE DEPARTMENT OF CORPORATIONS
12 OF THE STATE OF CALIFORNIA
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14 In the Matter of) CASE NO.
15)
16 THE CALIFORNIA CORPORATIONS)
COMMISSIONER,) ACCUSATION
17)
18 Complainant,)
19 v.)
20 LYN J. FLANAGAN,)
Respondent.)
21)
22)

23 PRESTON DuFAUCHARD, the California Corporations Commissioner ("Commissioner")
24 of the Department of Corporations ("Department") alleges and charges as follows:

25 **I. JURISDICTION AND VENUE**

26 1. The Commissioner brings this action to bar Respondent Lyn J. Flanagan, also known as
27 Lyn Jeanne Flanagan, ("Flanagan") from any position of employment, management or control of any
28 broker-dealer or investment adviser pursuant to Corporations Code section 25213.

1 10. Flanagan’s employment with Commonwealth Equity Services, Inc. terminated on
2 December 31, 2003. Flanagan was subsequently employed as a registered representative with ING
3 Financial Partners, Inc., a registered broker-dealer, from August 2004 through May 15, 2005. In
4 March 2004, at the time Flanagan supposedly offered and sold the securities issued by Cole
5 Collateralized Senior Notes II, LLC to the California investor, Flanagan was not a registered
6 representative with any licensed broker-dealer.

7 11. Flanagan has not applied for or received a certificate from the Commissioner to engage in
8 business as a broker-dealer.

9 12. In connection with the offer and sale of securities issued by Cole Collateralized Senior
10 Notes II, LLC, Flanagan made, or caused to be made, misrepresentations of material fact or omitted
11 to state material facts necessary in order to make the statements made, in the light of the
12 circumstances under which they were made, not misleading. These misrepresentations and
13 omissions included, but are not limited to the following:

14 a. That the investor was investing in Cole Collateralized Senior Notes II, LLC when in fact
15 Flanagan deposited the investor’s money in her personal account and no securities were purchased
16 on the investor’s behalf;

17 b. Flanagan failed to disclose that her employment with Commonwealth Equity Services,
18 Inc. terminated on December 31, 2003 and she was not registered with any licensed broker-dealer;

19 c. Flanagan failed to disclose that she was not authorized by the Cole Capital Partners, LLC
20 or any other Cole entity to offer or sell any securities including Cole Collateralized Senior Notes.

21 13. On December 20, 2006, the Commissioner issued a desist and refrain order to Flanagan
22 for acting as an unlicensed broker-dealer in violation of Corporations Code section 25210 and for
23 making material misrepresentations and omissions in connection with the offer and sale of securities
24 in violation of Corporations Code section 25401.

25 14. In or about October 2005, the NASD, formerly known as the National Association of
26 Securities Dealers, Inc., began an investigation of this transaction and requested information and
27 documents from Flanagan on several occasions.
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1 15. On or about March 28, 2006, the NASD suspended Flanagan from associating with any
2 NASD member firm in any capacity because she failed to respond to the NASD requests for
3 information.

4 16. On or about September 8, 2006, the NASD barred Flanagan from associating with any
5 NASD member firm in any capacity.

6 **III. FLANAGAN SHOULD BE BARRED FROM ANY POSITION OF EMPLOYMENT,**
7 **MANAGEMENT OR CONTROL OF ANY BROKER-DEALER OR INVESTMENT**
8 **ADVISER PURSUANT TO CORPORATIONS CODE SECTION 25213**

9 17. Corporations Code Section 25213 provides:

10 The commissioner may, after appropriate notice and opportunity for hearing, by order
11 censure, or suspend for a period not exceeding 12 months, or deny or bar from any
12 position of employment, management or control of any broker-dealer or investment
13 adviser, any officer, director, partner, agent, employee of, or person performing similar
14 functions for, a broker-dealer, or any other person, if the commissioner finds that the
15 censure, suspension, denial, or bar is in the public interest and that the person has
16 committed any act or omission enumerated in subdivision (a), (e), (f), or (g) of Section
17 25212 or has been convicted of, or pled nolo contendere to, any offense or held liable in
18 any civil action specified in subdivision (b) of Section 25212, or is enjoined from any act,
19 conduct or practice specified in subdivision (c) of Section 25212 or is subject to any
20 order specified in subdivision (d) of Section 25212.

21 18. Corporations Code section 25212 provides, in pertinent part:

22 The commissioner may, after appropriate notice and opportunity for hearing, by order
23 censure, deny a certificate to, or suspend for a period not exceeding 12 months or revoke
24 the certificate of, any broker-dealer if the commissioner finds that the censure, denial,
25 suspension, or revocation is in the public interest and that the broker-dealer, whether
26 prior or subsequent to becoming a broker-dealer, or any partner, officer, director, or
27 branch manager of the broker-dealer, whether prior or subsequent to becoming
28 associated with the broker-dealer, or any person directly or indirectly controlling the
broker-dealer, whether prior or subsequent to becoming such, or any agent employed by
the broker-dealer while so employed has done any of the following:

...

(d) Is or has been subject to (1) any order of the Securities and Exchange
Commission or the securities administrator of any other state denying registration
to, or revoking or suspending the registration of, the person as a broker, dealer,
agent, or investment adviser, (2) *any order of any national securities association
or national securities exchange (registered under the Securities Exchange Act of
1934)¹ suspending or expelling that person from membership in the association or
exchange or from association with any member thereof*, or (3) any other order of
the commission or any administrator, association, or exchange referred to in this

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subdivision which is or has been necessary for the protection of any investor.
(emphasis added)

(e) Has willfully violated any provision of the Securities Act of 1933², the Securities Exchange Act of 1934, the Investment Advisers Act of 1940³, the Investment Company Act of 1940⁴, the Commodity Exchange Act, or *Title 4 (commencing with Section 25000)*, including the Franchise Investment Law, Division 5 (commencing with Section 31000), or the California Commodity Law of 1990, Division 4.5 (commencing with Section 29500), or any rule or regulation under any of those statutes, or any order of the commissioner which is or has been necessary for the protection of any investor. (emphasis added)

19. Flanagan is subject to orders specified in Corporations Code section 25212, subdivision (d). On March 28, 2006, the NASD suspended Flanagan from associating with any NASD member firm in any capacity and on September 8, 2006, the NASD barred Flanagan from associating with any NASD member firm in any capacity.

20. Flanagan committed acts and omissions enumerated in Corporations Code section 25212, subdivision (e) by willfully violating Corporations Code section 25210 and 25401.

21. In March 2004, Flanagan offered and purportedly sold securities issued by Cole Collateralized Senior Notes II, LLC to a California investor. At this time, Flanagan was not a registered representative with any licensed broker-dealer and did not have a certificate issued by the Commissioner to engage in business as a broker-dealer. By engaging in unlicensed broker-dealer activity, Flanagan willfully violated Corporations Code section 25210.

22. In connection with the offer and purported sale of the securities, Flanagan made misrepresentations of material facts and omitted to state material facts as set forth above in paragraph 12. These misrepresentations and omissions of material facts constitute willful violations of Corporations Code section 25401.

23. Therefore, cause exists to bar Flanagan from any position of employment, management or control of any broker-dealer or investment adviser pursuant to Corporations Code section 25213.

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IV. RELIEF REQUESTED

WHEREFORE, based upon the foregoing, the Commissioner finds it is in the public interest to bar Lyn J. Flanagan, also known as Lyn Jeanne Flanagan, from any position of employment, management or control of any broker-dealer or investment adviser pursuant to Corporations Code section 25213.

WHEREFORE, IT IS PRAYED that Respondent Lyn J. Flanagan, also known as Lyn Jeanne Flanagan, be barred from any position of employment, management or control of any broker-dealer or investment adviser pursuant to Corporations Code section 25213 because she is subject to orders specified in Corporations Code section 25212, subdivision (d) and has committed acts and omissions enumerated in Corporations Code section 25212, subdivision (e).

Dated: December 21, 2006

PRESTON DuFAUCHARD
California Corporations Commissioner

By: _____
Linda A. Stella
Senior Corporations Counsel
Enforcement Division