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7 Attorneys for Complainant

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

11 In the Matter of	)	FILE NO. 923-3328
12 THE CALIFORNIA CORPORATIONS	)	
13 COMMISSIONER,	)	
14 Complainant,	)	STATEMENT IN SUPPORT OF ORDER TO
15 v.	)	DISCONTINUE VIOLATIONS PURSUANT
16 INVESTORS' INSIGHT ASSET	)	TO CORPORATIONS CODE SECTION 25249
17 MANAGEMENT (MICHAEL RENNIE	)	AND COMMISSIONER'S INTENTION TO
18 MORERA DBA),	)	MAKE FINAL ORDER
19 Respondent.	)	
	)	(CORPORATIONS CODE SECTION 25251)

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21 Wayne Strumpfer, the Acting California Corporations Commissioner ("Commissioner") of  
22 the Department of Corporations ("Department") alleges and charges as follows:

23 1. Investors' Insight Asset Management (Michael Rennie Morera DBA) ("Investors'  
24 Insight") holds a valid and unrevoked investment adviser certificate issued by the Commissioner  
25 pursuant to Corporations Code section 25230, on August 5, 1996. Investors' Insight is an  
26 investment adviser business located at 1278 Glenneyre Street, #159, Laguna Beach, CA 92651.  
27 Michael Rennie Morera ("Morera") is Investors' Insight's sole proprietor.

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1           2. On or about June 27, 2003, the Commissioner commenced a regulatory examination of  
2 Investors' Insight. The examination revealed violations of regulations promulgated pursuant to the  
3 Corporate Securities Law of 1968, found at Corporations Code section 25000 et seq.

4           3. Investors' Insight failed to prepare and maintain monthly trial balances and computations  
5 of net capital and aggregate indebtedness or of minimum net worth (Cal. Code Regs., tit. 10, section  
6 260.241.3, subd. (j)), failed to maintain general and auxiliary ledgers (Cal. Code Regs., tit. 10,  
7 section 260.241.3 subd. (a)(2), and failed to file annual financial reports with the Commissioner  
8 (Cal. Code Regs., tit. 10, section 260.241.2, subd. (a)). The books and records requirements and the  
9 annual report filing requirements provide the Department with a regulatory mechanism to validate a  
10 firm's liquidity and financial integrity to ensure that licensees maintain the necessary net capital for  
11 the protection of the public. Investors' Insight's failure to meet its reporting requirements prevented  
12 the Department from determining, as part of its regulatory examination, if Investors' Insight met the  
13 capital requirements imposed by the Corporate Securities Law of 1968 and the regulations enacted  
14 thereunder.

15           4. Corporations Code Section 25241 requires investment advisers to maintain books and  
16 records that are subject to examination and to file such reports as required by the Commissioner.  
17 Corporations Code section 25241 provides, in relevant part, the following:

18           (a) Every broker-dealer and every investment adviser licensed under Section 25230 shall  
19 make and keep accounts, correspondence, memorandums, papers, books, and other records  
20 and shall file financial and other reports as the commissioner by rule requires....

21           5. California Code of Regulations, title 10, section 260.241.2, subdivision (a) requires the  
22 filing of an annual report by certain investment advisors. Subdivision (a) of section 260.241.2  
23 provides as follows:

24           (a) General Rule. Subject to the provisions of subsection (c) of this section, . . . every  
25 licensed investment adviser subject to the provisions of Section 260.237.1 or Section  
26 260.237.2, as applicable, of these rules, shall file an annual financial report containing the  
27 information required by a form or forms to be supplied or approved by the Commissioner, as  
28 follows . . .

(2) The annual report for investment advisers shall contain a Statement of Financial  
Condition. Supporting schedules shall contain computations of net capitals, aggregate

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indebtedness and ratios required under Section 260.237.1 or minimum financial requirements required under 260.237.2, as applicable, and the certificate of the accountant required under subsection (e) of 260.237 of these rules.

6. California Code of Regulations, title 10, section 260.241.3 requires that investment advisers maintain specific books and records. Section 260.241.3, in relevant parts, provides as follows:

(a) Every licensed investment adviser shall make and keep true, accurate and current the following books and records, relating to such person's investment advisory business:

(2) General and auxiliary ledgers (or other comparable records) reflecting asset, liability, reserve, capital, income and expense accounts.

(j) Any investment adviser who is subject to the minimum financial requirements of Section 260.237.1 or Section 260.237.2, as applicable, shall, in addition to the records otherwise required under this section, maintain a record of the proof of money balances of all ledger accounts in the form of trial balances and a record of the computations of net capitals and aggregate indebtedness pursuant to Section 260.237.1 of these rules or minimum net worth pursuant to Section 260.237.2 of these rules (as of the trial balance date). The trial balances and computations shall be prepared currently at least once a month.

7. California Code of Regulations, title 10, section 260.237.1, subdivision (a)(2), provides, in relevant part, as follows:

An investment adviser licensed prior to 03/01/03 may comply with either the minimum financial requirements in this section or in Section 260.237.2 until January 1, 2005, at which time this section shall become inoperative and an investment adviser shall comply with the minimum financial requirements in Section 260.237.2

(a) No investment adviser who has any power of attorney from any investment advisory client to execute transactions or has regular or periodic custody of any of its investment advisory clients' securities or funds, including fees for periodic publications or other investment advisory services...shall permit its total aggregate indebtedness to exceed 500% of its tangible net capital or permit its current aggregate indebtedness to exceeds its current net capital; and,

(1) The investment adviser shall at all times have and maintain tangible net capital of not less than \$25,000.00; or

(2) If the investment adviser who has any power of attorney from any investment advisory client to execute transactions and does not have regular or periodic custody or possession of any of its investment advisory clients' securities or funds, except the receipt of prepaid subscriptions for periodic publications, or other investment advisory services, it shall at all times have and maintain tangible net capital of not less than \$5,000 . . .

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1 Subdivision (c) of Section 260.237.1 provides that for purposes of section 260.237.1,  
2 subdivision (a), all financial information shall be determined in accordance with generally accepted  
3 accounting principles.

4 8. California Code of Regulations, title 10, section 260.237.2, in relevant part, provides as  
5 follows:

6 An investment adviser licensed prior to 03/01/03 may comply with either the minimum  
7 financial requirements in this section or in Section 260.237.1 until January 1, 2005, at which  
8 time Section 260.237.1 shall become inoperative and an investment adviser shall comply  
with the minimum financial requirement in this section.

9 (a) Every investment adviser who has custody of client funds or securities shall maintain at  
10 all times a minimum net worth of \$35,000, and every investment adviser who has  
discretionary authority over client funds or securities but does not have custody of client  
11 funds or securities shall maintain at all times a minimum net worth of \$10,000.

12 9. The Department's examiner found during the regulatory examination on June 27, 2003,  
13 that Investors' Insight had custody and possession of clients' funds and securities. Therefore,  
14 Investors' Insight was required to meet either the net capital provided for under section 260.237.1,  
15 subdivision (a)(2), or the minimum net capital requirements provided for under section 260.237.2,  
16 subdivision (a), and to show proof of compliance with this regulation by filing annual financial  
17 reports in accordance with California Code of Regulations, title 10, section 260.241.2, subdivision  
18 (a). Investors' Insight was also required to prepare and maintain monthly proof of ledger account  
19 money balances and either monthly computations of net capitals and aggregate indebtedness, or of  
20 minimum net worth, in accordance with California Code of Regulations, title 10, section 260.241.3,  
21 subdivisions (a)(2) and (j). At the time of the June 27, 2003 examination, Investors' Insight had not  
22 prepared and maintained monthly proof of ledger and aggregate indebtedness, or of minimum net  
23 worth in violation of California Code of Regulations, title 10, section 260.241.3, subdivisions (a)(2)  
24 and (j). As a result of Investors' Insight's violation of California Code of Regulations, title 10,  
25 section 260.241.3, subdivisions (a)(2) and (j), the Department's examiner was unable to determine if  
26 the firm, at the time of the examination, was in compliance with either the net capital requirements  
27 of section 260.237.1, or of the minimum net worth requirement of section 260.237.2.

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1           10. The Department's examiner also found that Investors' Insight had failed to submit its  
2 annual financial reports for the years 1998, 1999, 2000, 2001, 2002, and 2003 in violation of  
3 California Code of Regulations, title 10, section 260.241.2, subdivision (a).

4           11. On December 30, 2003, the Department sent Investors' Insight a regulatory letter  
5 explaining the violations discovered during the June 27, 2003 examination, including violations of  
6 California Code of Regulations, title 10, sections 260.241.3, subdivisions (a)(2) and (j), and  
7 260.241.2, subdivision (a). Morera, on behalf of Investors' Insight, responded by letter dated  
8 January 27, 2004. In his letter, Morera stated "We have put in place software and a schedule to  
9 maintain current books and records with postings no later than the 10<sup>th</sup> day of the following month  
10 including monthly trial balances and net capital computations pursuant to Section 260.237.1."  
11 Morera also submitted, among other things, copies of Investors' Insight's balance sheet, general  
12 ledger, bank and brokerage account information, verification form, and a capital computation  
13 worksheet as of December 31, 2003, but still failed to file Investors' Insight's annual reports for the  
14 years 2000 to 2002, as requested in the regulatory letter. Morera gave no explanation as to why  
15 Investors' Insight had not corrected the deficiencies.

16           12. On April 22, 2004, the Department sent Investors' Insight a follow-up letter requesting,  
17 among other things, a copy of the checking/savings account statement from the bank that was  
18 previously requested, but not submitted and a reconciliation of the account statement balance to the  
19 register balance. In addition, the Department requested the annual reports for the years 2000-2003.

20           13. A prior regulatory examination of Investors' Insight conducted by the Department on  
21 January 26, 1999 revealed, in part, identical regulatory violations. On March 11, 1999, the  
22 Department sent a letter, notifying Investors' Insight, among other things, of Investors' Insight's  
23 failure to prepare and maintain monthly trial balances and computations of net capital and aggregate  
24 indebtedness or of minimum worth, its failure to maintain generally and auxiliary ledgers, and its  
25 failure to file annual financial reports with the Commissioner, in violation of California Code of  
26 Regulations, title 10, sections 260.241.3, subdivisions (a)(2) and (j), and 260.241.2, subdivision (a).  
27 The Department requested that Investors' Insight file financial reports for the year 1998. In  
28 correspondence with the Department dated June 8, 1999, Morera stated "We have put in place a

1 schedule to maintain current books and records with postings no later than the 10<sup>th</sup> day of the  
2 following month.”

3 14. Corporations Code section 25249, which became effective January 1, 1999, authorizes  
4 the Commissioner to issue an order directing any investment adviser to discontinue any violation of  
5 any provision of the Corporate Securities Law of 1968 and any rule promulgated thereunder.  
6 Specifically, Corporations Code section 25249 provides, in relevant part,

7 If, after examination or investigation, the commissioner has reasonable grounds to believe  
8 that any broker-dealer or investment adviser has violated any law or rule binding upon it, the  
9 commissioner shall, by written order addressed to the broker-dealer or investment adviser,  
10 direct the discontinuance of the violation. The order shall be effective immediately, but shall  
11 not become final except in accordance with the provision of Section 25251.

12 15. Corporations Code section 25251 provides:

13 (a) No order issued pursuant to Section 25249 or 25250 may become final except after  
14 notice to the affected broker-dealer or investment adviser of the commissioner’s intention to  
15 make the order final and of the reasons for the finding. The commissioner shall also notify  
16 the broker-dealer or investment adviser that upon receiving a request the matter shall be set  
17 for hearing to commence within 15 business days after receipt of the request. The broker-  
18 dealer or investment adviser may consent to have the hearing commence at a later date. If no  
19 hearing is requested within 30 days after the mailing or service of the required notice, and  
20 none is ordered by the commissioner, the order may become final without a hearing and the  
21 broker-dealer or investment adviser shall immediately discontinue the practices named in the  
22 order. If a hearing is requested or ordered, it shall be held in accordance with the provisions  
23 of the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1  
24 of division 3 of title 2 of the Government Code) and the commissioner shall have all of the  
25 powers granted under that act. If, upon the conclusion of the hearing, it appears to the  
26 commissioner that the broker-dealer or investment adviser is conducting business in an  
27 unsafe or injurious manner or is violating any law of this state, or any rule binding upon it,  
28 the commissioner shall make the order of discontinuance final and the broker-dealer or  
investment adviser shall immediately discontinue the practices named in the order.

(b) The broker dealer or investment adviser may within 10 days after an order is made final  
commence an action to restrain enforcement of the order. If the enforcement of the order is  
not enjoined within 10 days by the court in which the action is brought, the broker-dealer or  
investment adviser shall comply with the order.

16. By reason of the foregoing, Investors’ Insight has violated California Code of  
Regulations, title 10, sections 260.241.2, subdivision (a), and 260.241.3, subdivisions (a)(2) and (j),  
justifying the issuance of an Order to Discontinue Violations. Investors’ Insight, as a licensee, was  
obligated to have knowledge of, and to comply with, the provisions of the Corporate Securities Law

1 of 1968 and the regulations thereunder to maintain its investment adviser certificate. Furthermore,  
2 on March 11, 1999, the department notified Investors' Insight of the requirements of California Code  
3 of Regulations, title 10, sections 260.241.2, subdivision (a), and 260.241.3, subdivisions (a)(2) and  
4 (j). Investors' Insight violated these sections again, despite the Department's actual notification.

5 17. Therefore, pursuant to the Corporations Code section 25249, the Commissioner has  
6 issued an order directing Investors' Insight to discontinue violating California Code of Regulations,  
7 title 10, sections 260.241.2, subdivision (a), and 260.241.3, subdivisions (a)(2) and (j).

8 WHEREFORE, good cause showing, and pursuant to Corporations Code section 25251, the  
9 California Corporations Commissioner hereby notifies Investors' Insight of his intention to make  
10 final the Order to Discontinue Violations Pursuant to Corporations Code Section 25249 issued on  
11 July 14, 2005.

12 Dated: July 14, 2005  
13 Los Angeles, California

WAYNE STRUMPFER  
Acting California Corporations Commissioner

15 By: \_\_\_\_\_  
16 Marlou de Luna  
17 Senior Corporations Counsel  
18 Enforcement Division  
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