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

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11 In the Matter of) FILE NO. 923-2397
12)
13 THE CALIFORNIA CORPORATIONS)
14 COMMISSIONER,)
15 Complainant,) STATEMENT IN SUPPORT OF ORDER TO
16 v.) DISCONTINUE VIOLATIONS PURSUANT
17 REDWOOD FINANCIAL (BRUCE TODD) TO CORPORATIONS CODE SECTION 25249
18 ROSEN DBA),) AND COMMISSIONER'S INTENTION TO
19 Respondent.) MAKE ORDER FINAL
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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. Redwood Financial (Bruce Todd Rosen DBA) ("Redwood") holds a valid and
24 unrevoked investment adviser certificate issued by the Commissioner pursuant to Corporations Code
25 section 25230 on January 1, 1992. Redwood is an investment adviser business located at 17138
26 Avenida de la Herradura, Pacific Palisades, California 90272. Bruce Todd Rosen ("Rosen") is
27 Redwood's sole proprietor.

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1 2. On or about February 26, 2003, the Commissioner commenced a regulatory
2 examination of Redwood. The examination revealed violations of regulations promulgated pursuant
3 to the Corporate Securities Law of 1968, found at Corporations Code section 25000 et seq.

4 3. These violations included Redwood’s failure to maintain a general ledger accounting
5 system and the failure to prepare and maintain monthly records of trial balances and computations of
6 net capital and aggregate indebtedness for Redwood. (Cal. Code Regs., tit. 10, section 260.241.3,
7 subs. (a)(2) and (j).) An investment adviser is required to maintain a general ledger accounting
8 system and to prepare and maintain monthly computations, in part, to provide the Department with a
9 regulatory mechanism to validate a firm's liquidity and financial integrity to ensure that licensees
10 maintain the necessary net capital for the protection of the public. Redwood’s violation of these
11 books and records provisions prevented the Department from determining as part of its regulatory
12 examination, if Redwood met the capital requirements imposed by the Corporate Securities Law of
13 1968 and the regulations enacted thereunder.

14 4. Corporations Code section 25241 provides that investment advisers are required to
15 maintain books and records that are subject to examination by, and to file such reports as required
16 by, the Commissioner. Corporations Code section 25241 provided, at the time of the Department’s
17 February 26, 2003 examination, in relevant part, the following¹:

18 [E]very investment adviser licensed under Section 25230 shall make and keep such
19 accounts, correspondence, memoranda, papers, books, and other records and shall file such
20 financial and other reports as the commissioner by rule requires, . . .

21 5. California Code of Regulations, title 10, section 260.241.3 requires that investment
22 advisers maintain specific books and records. Prior to April 3, 2003 and at the time of the February
23 26, 2003 examination, subdivisions (a)(2) and (j) of section 260.241.3 provided the following:

- 24 (a) Every licensed investment adviser shall make and keep true, accurate and current the
25 following books and records relating to such person’s investment advisory business:
26 (2) General and auxiliary ledgers (or other comparable records) reflecting asset, liability,
reserve, capital, income and expense accounts.

27 ¹ Various provisions of the California Code of Regulations, title 10, were amended and became effective April 3, 2003.
28 This administrative action is based on violations that occurred under statutes and rules prior to the effective date of the
amendments.

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(j) Any investment adviser who is subject to the minimum capital requirements of Section 260.237.1 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 (as of the trial balance date). The trial balances and computations shall be prepared currently at least once a month.

6. At the time of the February 26, 2003 regulatory examination, California Code of Regulations, title 10, section 260.237.1 contained the capital requirements for investment advisers. Subdivision (a)(2) of section 260.237.1 provided, in relevant part, as follows:

(a) No investment adviser who has any power of attorney from any investment advisory client to execute transactions . . . shall permit its total aggregate indebtedness to exceed 500% of its tangible net capital or permit its current aggregate indebtedness to exceed its current net capital; and,

...

(2) If the investment adviser 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

Subdivision (c) of section 260.237.1 provided that for purposes of section 260.237.1, subdivision (a), all financial information shall be determined in accordance with generally accepted accounting principles ("GAAP").

7. The Department's examiner found during the regulatory examination on February 26, 2003, that Redwood had discretionary authority and power of attorney over advisory client accounts to execute transactions and, therefore, Redwood was required to meet the net capital requirements provided for under California Code of Regulations, title 10, section 260.237.1. Redwood was also required to prepare and maintain monthly proof of ledger account money balances and either monthly computations of net capitals and aggregate indebtedness, or monthly computations of minimum net worth, in accordance with California Code of Regulations, title 10, section 260.3, subdivisions (a)(2) and (j). As a result of Redwood's violation of California Code of Regulations, title 10, section 260.3, subdivisions (a)(2) and (j), the Department's examiner was unable to

1 determine if Redwood, at the time of the examination, was in compliance with the net capital
2 requirements of section 260.237.1.

3 8. On March 14, 2003, the Department sent Redwood a regulatory letter explaining the
4 violations discovered during the February 26, 2003 examination, including the violations of
5 California Code of Regulations, title 10, section 260.241.3, subdivisions (a)(2) and (j). Rosen
6 responded on behalf of Redwood by letter dated March 27, 2003. In this letter, Rosen stated, among
7 other things, that Redwood would set up a general ledger, accrual-based accounting system in
8 accordance with GAAP. Further, Rosen stated that Redwood would prepare and maintain bank
9 account reconciliations and computations of net capital and aggregate indebtedness on a monthly
10 basis as part of Redwood's business records. Rosen admitted that the format and system utilized to
11 maintain Redwood's books and records were not acceptable.

12 9. A prior regulatory examination of Redwood conducted by the Department in November
13 1998 revealed, in part, identical regulatory violations. On January 27, 1999, the Department sent a
14 letter notifying Redwood, among other things, of Redwood's failure to set up and maintain a general
15 accounting system and failure to prepare and maintain trial balances and computations of net capital
16 and aggregate indebtedness on a monthly basis. In a letter to the Department dated February 11,
17 1999, Rosen submitted trial balance and computation of net capital and aggregate indebtedness as of
18 January 31, 1999. Rosen stated that these computations would be made on a monthly basis as
19 required. On February 19, 1999, the Department notified Redwood that the financial information
20 submitted on February 11, 1999 was not prepared in accordance with GAAP. The Department again
21 advised Redwood that a full general ledger accounting system that provided detail on all asset,
22 liability, capital, income and expense accounts should be set up and maintained as part of Redwood's
23 books and records. On March 3, 1999, Rosen informed the Department by letter that he had
24 purchased Peachtree First Accounting software to maintain Redwood's books and records on an
25 accrual based accounting system in accordance with GAAP. Additionally, Rosen submitted a
26 balance sheet and income statement as well as net capital calculations as of January 31, 1999,
27 prepared in accordance with GAAP.

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1 10. Corporations Code section 25249, which became effective January 1, 1999, authorizes
2 the Commissioner to issue an order directing any investment adviser to discontinue any violation of
3 any provision of the Corporate Securities Law of 1968 and any rule promulgated thereunder.

4 Specifically, Corporations Code section 25249 provides, in relevant part, the following

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

10 11. Corporations Code section 25251 provided at the time of the February 26, 2003
11 examination, and presently, the following:

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

12 12. By reason of the foregoing, Redwood has willfully violated California Code of
13 Regulations, title 10, section 260.241.3, subdivisions (a)(2) and (j), justifying the issuance of an
14 Order to Discontinue Violations. Redwood, as a licensee, is obligated to have knowledge of, and to
15 comply with, the provisions of the Corporate Securities Law of 1968 and the regulations thereunder

1 to maintain its investment adviser certificate. Furthermore, on January 27, 1999, the Department
2 notified Redwood of the requirements of California Code of Regulations, title 10, section 260.241.3,
3 subdivisions (a)(2) and (j). Redwood has continued to violate both subdivisions, despite the
4 Department's actual notification and Redwood's assurances of future compliance.

5 13. Therefore, pursuant to Corporations Code section 25249, the Commissioner has issued
6 an order directing Redwood to discontinue violating California Code of Regulations, title 10, section
7 260.241.3, subdivisions (a)(2) and (j).

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

12 Dated: May 13, 2005

WAYNE STRUMPFER
Acting California Corporations Commissioner

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15 By: _____
16 MARLOU de LUNA
17 Corporations Counsel
18 Enforcement Division
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