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

11	In the Matter of)	FILE NO. 923-2397
12	THE CALIFORNIA CORPORATIONS)	
13	COMMISSIONER,)	
14	Complainant,)	STATEMENT IN SUPPORT OF ORDER
15	v.)	LEVYING ADMINISTRATIVE PENALTIES
16	REDWOOD FINANCIAL (BRUCE TODD)	PURSUANT TO CORPORATIONS CODE
17	ROSEN DBA),)	SECTION 25252
18	Respondent.)	
19)	

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 subds. (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, at the time of the February 26, 2003
17 regulatory examination, provided, 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:

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

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(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 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,

1 title 10, section 260.3, subdivisions (a)(2) and (j), the Department's examiner was unable to
2 determine if Redwood, at the time of the examination, was in compliance with the net capital
3 requirements of section 260.237.1.

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

13 9. A prior regulatory examination of Redwood conducted by the Department in November
14 1998 revealed, in part, identical regulatory violations. On January 27, 1999, the Department sent a
15 letter notifying Redwood, among other things, of Redwood's failure to set up and maintain a general
16 accounting system and failure to prepare and maintain trial balances and computations of net capital
17 and aggregate indebtedness on a monthly basis in violation of California Code of Regulations, title
18 10, subdivisions (a)(2) and (j). In a letter to the Department dated February 11, 1999, Rosen
19 submitted a trial balance and computations of net capital and aggregate indebtedness as of January
20 31, 1999. Rosen stated that these computations would be made on a monthly basis as required. On
21 February 19, 1999, the Department notified Redwood that the financial information submitted on
22 February 11, 1999 was not prepared in accordance with GAAP. The Department again advised
23 Redwood that a full general ledger accounting system that provided detail on all asset, liability,
24 capital, income and expense accounts should be set up and maintained as part of Redwood's books
25 and records. On March 3, 1999, Rosen informed the Department by letter that he had purchased
26 Peachtree First Accounting software to maintain Redwood's books and records on an accrual based
27 accounting system in accordance with GAAP. Additionally, Rosen submitted a balance sheet and
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1 income statement as well as net capital calculations as of January 31, 1999, prepared in accordance
2 with GAAP.

3 10. Corporations Code section 25252, which became effective January 1, 1999, authorizes
4 the Commissioner to issue an order levying administrative penalties against any investment adviser
5 for willful violations of any provision of the Corporate Securities Law of 1968 and any rules
6 promulgated thereunder. Specifically, Corporations Code section 25252 provides, in relevant part:

7 The Commissioner may, after appropriate notice and opportunity for hearing, by orders, levy
8 administrative penalties as follows:

9 (b) Any broker-dealer or investment adviser that willfully violates any provision of this
10 division to which it is subject, or that willfully violates any rule or order adopted or issued
11 pursuant to this division and to which it is subject, is liable for administrative penalties of not
12 more than five thousand dollars (\$5,000) for the first violation, not more than ten thousand
dollars (\$10,000) for the second violation, and not more than fifteen thousand dollars
(\$15,000) for each subsequent violation.

13 11. By reason of the foregoing, Redwood has willfully violated Corporations Code section
14 25241 and California Code of Regulations, title 10, section 260.241.3, subdivisions (a)(2) and (j),
15 justifying the imposition of administrative penalties. Redwood, as a licensee, is obligated to have
16 knowledge of, and to comply with, the provisions of the Corporate Securities Law of 1968 and the
17 regulations thereunder to maintain its investment adviser certificate. Furthermore, on January 27,
18 1999, the Department notified Redwood of the requirements of California Code of Regulations, title
19 10, section 260.241.3, subdivisions (a)(2) and (j). Redwood continued to violate both subdivisions,
20 despite the Department's actual notification and Redwood's assurances of future compliance.

21 12. Therefore, pursuant to Corporations Code section 25252, the Commissioner seeks
22 administrative penalties for Redwood's failure to maintain a general and auxiliary ledger system and
23 Redwood's failure to prepare and maintain monthly trial balances and computations of net capital
24 and aggregate indebtedness in willful violation of California Code of Regulations, title 10, section
25 260.241.3, subdivision (a)(2) and section 260.241.3, subdivision (j).

26 WHEREFORE, good cause showing, and pursuant to Corporations Code section 25252, the
27 California Corporations Commissioner prays for an order levying administrative penalties in the
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1 amounts as follows, for willful violations of the following sections of title 10 of the California Code
2 of Regulations: \$750.00 for willful violation of California Code of Regulations, title 10, section
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4 260.241.3, subdivision (a)(2) and \$750.00 for willful violation of California Code of Regulations,
5 title 10, section 260.241.3, subdivision (j) for a total amount of \$1,500.00.

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Dated: May 13, 2005

WAYNE STRUMPFER
Acting California Corporations Commissioner

By: _____
MARLOU de LUNA
Corporations Counsel
Enforcement Division