

1 ALAN S. WEINGER  
2 Deputy Commissioner  
3 EDWARD KELLY SHINNICK (CA Bar No. 96209)  
4 Corporations Counsel  
5 One Sansome Street, Suite 600  
6 San Francisco, CA 94104  
7 Tel: 415/972-8544  
8 Fax: 415/972-8550  
9 Attorneys for Complainant

BEFORE THE DEPARTMENT OF CORPORATIONS

OF THE STATE OF CALIFORNIA

<p>10 In the Matter of</p> <p>11 THE CALIFORNIA CORPORATIONS</p> <p>12 COMMISSIONER,</p> <p>13 Complainant,</p> <p>14 v.</p> <p>15 C. MACKEY y SALAZAR; XAVIER O.</p> <p>16 BARRIOS; JOSEPH A. MERMIS; AND</p> <p>17 MARRCAL OIL COMPANY, INC.</p> <p>18 Respondents.</p>	<p>) CASE NO.</p> <p>)</p> <p>) STATEMENT IN SUPPORT OF THE</p> <p>) FOLLOWING ORDERS:</p> <p>) 1) ORDER LEVYING ADMINISTRATIVE</p> <p>) PENALTIES PURSUANT TO</p> <p>) CORPORATIONS CODE</p> <p>) SECTION 25252;</p> <p>) 2) ANCILLARY RELIEF PURSUANT TO</p> <p>) CORPORATIONS CODE SEC. 25254;</p> <p>) 3.) DESIST AND REFRAIN ORDER</p> <p>) PURSUANT TO CORPORATIONS CODE</p> <p>) SECTION 25532</p>
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22 Jan Lynn Owen, the California Corporations Commissioner ("Commissioner") of the  
23 Department of Corporations ("Department"), collectively ("Complainant"), finds, states, alleges  
24 and charges as follows:  
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**I.**

**VIOLATIONS OF LAW**

California Corporations Code section 25110 provides that, “(i)t is unlawful for any person to offer or sell in this state any security in an issuer transaction ... unless such sale has been qualified ... or unless such security or transaction is exempted or not subject to qualification under Chapter 1 [commencing with Sec. 25100].”

Based on the following findings, the California Corporations Commissioner is of the opinion that investments offered by C. Mackey y Salazar (“Butch Salazar”), Xavier. O. Barrios, Joseph A. Mermis, and MarrCal Oil Company, Inc. (“MarrCal Oil”) constitute securities, which are subject to qualification under the California Corporate Securities Law of 1968, and that these securities have been and are being offered without being qualified, and are not exempt, in violation of Corporations Code section 25110.

Corporations Code section 25401 provides, “(i)t is unlawful for any person to offer or sell a security in this state or buy or offer to buy a security in this state by means of any written or oral communication which includes an untrue statement of a material fact or omits to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading.”

Based on the following findings, the California Corporations Commissioner is of the further opinion that securities were offered by Respondents Butch Salazar, Xavier O. Barrios, Joseph A. Mermis and MarrCal Oil by means of written or oral communications that failed to disclose material facts in violation of 25401 of the Corporations Code.

**II.**

**FINDINGS OF FACT**

1. At all relevant times herein, MarrCal Oil Company, Inc. (“MarrCal Oil”) was a corporation formed in California on October 11, 2005 and suspended in May 2007 with a business address of 723 Camino Plaza, Suite 218, San Bruno, California, 94066.

1           2.       At all relevant times herein, Xavier O. Barrios was the President of MarrCal Oil, and  
2 Joesph A. Mermis and Butch Salazar were agents and managers of MarrCal Oil soliciting investors.

3           3.       Beginning in 2005 founding members Butch Salazar, Xavier O. Barrios, and Joseph  
4 A. Mermis formed the following Limited Liability Companies in California: MarrCal August 2005  
5 Associates, LLC; MarrCal September 2005 Associates, LLC; MarrCal December 2005 Associates,  
6 LLC; and MarrCal June 2006 Associates, LLC (“MarrCal Limited Liability Companies”). The  
7 founding members stated that they had acquired rights in technology that could recover oil from  
8 capped wells and the purpose of the MarrCal Limited Liability Companies was to purchase wells  
9 and profit from the oil recovered using this “enhanced oil recovery” technology. The founding  
10 members stated that they had designed this business opportunity and would continue to coordinate  
11 its operation.

12           4.       Butch Salazar and MarrCal Oil made this same claim to have acquired enhanced oil  
13 recovery technology when soliciting a member of the public to purchase, in July 2006, the rights and  
14 obligations of MarrCal Oil in a long-term leasehold interest in an oil well, with MarrCal Oil to  
15 continue as a well operator.

16           5.       Butch Salazar, Xavier O. Barrios, and Joseph A. Mermis, and MarrCal Oil offered  
17 and sold securities in the form of interests in these MarrCal Limited Liability Companies, and in the  
18 form of investment contracts, to members of the public with whom they had no prior relationship  
19 and who could not be reasonably assumed to have the experience to protect their own interests in  
20 connection with the transactions.

21           6.       These securities were offered in issuer transactions.

22           7.       The Department of Corporations has not issued a permit or other form of qualification  
23 authorizing any person or entity to offer and sell these securities in this state.

24           8.       In connection with the offer and sale of these securities Butch Salazar, Xavier O.  
25 Barrios, Joseph A. Mermis, and MarrCal Oil made, or caused to be made, omissions of material  
26 facts. Specifically, Respondents omitted to disclose that on November 16, 1993 the San Francisco  
27 County District Attorneys’ Office filed a criminal complaint in the San Francisco County Superior  
28 Court, file Number 153125, against Butch Salazar alleging over 90 counts of fraud in the offer and

1 sale of securities, specifically interests in Limited Partnerships. Butch Salazar stipulated that losses  
2 to victims were \$811,805. He was convicted and on February 17, 1995 and sentenced to 4 years  
3 state prison, execution of which was suspended. Butch Salazar was placed on probation with  
4 restitution to be paid over the period of his probation. The court records show that Butch Salazar  
5 only made some of his restitution payments over the next several years.

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7 **III.**

8 **ORDER LEVYING ADMINISTRATIVE PENALTIES**

9 **(For violations of Corporations Code sections 25110 and 25401)**

10 9. Complainant re-states and incorporates by reference paragraphs 1-8 of the Findings of  
11 Fact as though fully set forth herein.

12 10. Corporations Code section 25252 authorizes the Commissioner to issue an order  
13 levying administrative penalties against any person for willful violations of any provision of the CSL  
14 and any rules promulgated thereunder. Specifically, Corporations Code section 25252 provides, in  
15 relevant part:

16 The commissioner may, after appropriate notice and opportunity for  
17 hearing, by orders, levy administrative penalties as follows:

18 (a) Any person subject to this division, other than a broker-dealer or  
19 investment adviser, who willfully violates any provision of this  
20 division, or who willfully violates any rule or order adopted or issued  
21 pursuant to this division, is liable for administrative penalties of not  
22 more than one thousand dollars (\$1,000) for the first violation, and not  
23 more than two thousand five hundred dollars (\$2,500) for each  
24 subsequent violation.

25 11. Respondents violations of Corporations Code section 25110, were willful as to at least  
26 four investors, and Respondents violation of Corporations Code section 25401, were willful as to at  
27 least nine investors.

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**WHEREFORE**, good cause showing, and pursuant to Corporations Code section 25252, the Commissioner prays for an order levying administrative penalties against Respondents C. Mackey y Salazar, Xavier. O. Barrios, Joseph A. Mermis, and MarrCal Oil Company, Inc., jointly and severally, as follows:

A) That pursuant to Corporations Code section 25252, the Commissioner levy administrative penalties of one thousand dollars (\$1,000) for the first violation of Corporations Code section 25110 and two thousand five hundred dollars (\$2,500) for each subsequent violation, as listed below, for a total amount of eight thousand five hundred dollars (\$8,500).

B) That pursuant to Corporations Code section 25252, the Commissioner levy administrative penalties of one thousand dollars (\$1,000) for the first violation of Corporations Code section 25401 and two thousand five hundred dollars (\$2,500) for each subsequent violation, as listed below, for a total amount of twenty thousand five hundred dollars (\$20,500).

C) The total amount of administrative penalties for Respondents' violations of Corporations Code sections 25110 and 25401 is twenty nine thousand dollars (\$29,000).

**IV.**

**ORDER FOR ANCILLARY RELIEF**

**(For violations of Corporations Code sections 25110 and 25401)**

12. Complainant re-states and incorporates by reference paragraphs 1-8 of the Findings of Fact as though fully set forth herein.

13. Corporations Code section 25254 authorizes the Commissioner to seek ancillary relief on behalf of any person injured by violations of any provision of the Corporate Securities Law and any rules promulgated thereunder. Corporations Code section 25254 states:

(a) If the commissioner determines it is in the public interest, the commissioner may include in any administrative action brought under this part a claim for ancillary relief, including, but not limited to, a claim for restitution or disgorgement or damages on behalf of the persons injured by the act or practice constituting the subject matter of the action, and the administrative law judge shall have jurisdiction to award additional relief.

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(b) In an administrative action brought under this part, the commissioner is entitled to recover costs, which in the discretion of the administrative law judge may include an amount representing reasonable attorney’s fees and investigative expenses for the services rendered, for deposit into the State Corporations Fund for the use of the Department of Corporations.

14. Based on the foregoing findings of fact, as set forth fully above in paragraphs 1-8, Respondents sold securities in an amount of at least seven hundred thousand nine hundred dollars (\$790,000) to at least nine (9) California investors in violation of Corporations Code sections 25110 and 25401. The following is a list of these nine investors (who are identified by initials only) and their respective investment amount and loss:

L.W.	\$20,000
J. M.	\$220,000
L.G.	\$20,000
G.O.	\$50,000
T. I.	\$75,000
C.B.	\$15,000
I.R.	\$80,000
E.E.	\$110,000
<u>K.T.</u>	<u>\$200,000</u>
Total:	\$790,000

**WHEREFORE**, good cause showing and the Commissioner’s determination that this action is in the public interest and necessary to effectuate the Department’s primary, legitimate, regulatory purpose based upon the Respondents’ violations of the CSL, the Commissioner hereby prays for an order of ancillary relief pursuant to Corporation Code section 25254, individually, jointly and severally against Respondents C. Mackey y Salazar, Xavier. O. Barrios, Joseph A. Mermis, and MarrCal Oil Company, Inc. as follows:

- A) Full restitution, consisting of the investors’ investment principal in an amount of at least seven hundred thousand nine hundred dollars (\$790,000) and interest accumulated on the investment principal or according to proof;
- B) Recovery of reasonable attorney’s fees, investigative expenses, and costs in an amount of at least fifteen thousand dollars (\$15,000) or according to proof.

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V.

**DESIST AND REFRAIN ORDER**

15. Complainant re-states and incorporates by reference paragraphs 1-8 of the Findings of Fact as though fully set forth herein.

16. Corporations Code section 25532, in pertinent part, states:

(a) If, in the opinion of the commissioner, (1) the sale of a security is subject to qualification under this law and it is being or has been offered or sold without first being qualified, the commissioner may order the issuer or offeror of the security to desist and refrain from the further offer or sale of the security until qualification has been made under this law ...

(c) If, in the opinion of the commissioner, a person has violated or is violating Section 25401, the commissioner may order that person to desist and refrain from the violation.

**IT IS HEREBY ORDERED EFFECTIVE IMMEDIATELY THAT:**

Pursuant to Corporations Code section 25532, C. Mackey y Salazar, Xavier. O. Barrios, Joseph A. Mermis, and MarrCal Oil Company, Inc., desist and refrain from the further offer or sale in the State of California of securities, including but not limited to, interests in limited liability companies and investment contracts, unless and until qualification has been made under this law or unless exempt.

Pursuant to Corporations Code section 25532, C. Mackey y Salazar, Xavier. O. Barrios, Joseph A. Mermis, and MarrCal Oil Company, Inc., desist and refrain from offering or selling or buying or offering to buy any security in the State of California, including but not limited to, interests in limited liability companies and investment contracts, by means of any written or oral communication which includes an untrue statement of a material fact or omits to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.

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These Orders are necessary, in the public interest, for the protection of investors and consistent with the purposes, policies, and provisions of the Corporate Securities Law of 1968.

Dated: June 12, 2012

JAN LYNN OWEN  
California Corporations Commissioner

By \_\_\_\_\_  
ALAN S. WEINGER  
Deputy Commissioner