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8  
9 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT  
10 OF THE STATE OF CALIFORNIA

11 In the Matter of:

12 THE COMMISSIONER OF BUSINESS  
13 OVERSIGHT,

14 Complainant,

15 v.

16 MARC SCOTT SARNER,

17 Respondent.

) OAH Nos.: 2016010427, 2016010430

) CRD No.: 4567083

) STIPULATION TO FINALITY OF:

) (1) ORDER BARRING MARC SCOTT  
) SARNER FROM ANY POSITION OF  
) EMPLOYMENT, MANAGEMENT OR  
) CONTROL OF ANY INVESTMENT  
) ADVISER, BROKER-DEALER OR  
) COMMODITY ADVISER PURSUANT  
) TO CORPORATIONS CODE SECTION  
) 25232.1

) (2) DESIST AND REFRAIN ORDER FOR  
) VIOLATIONS OF CORPORATIONS  
) CODE SECTION 25401

21 \_\_\_\_\_ )  
22 It is hereby stipulated and agreed by and between the Commissioner of Business Oversight  
23 (Complainant or Commissioner) and Marc Scott Sarner (Respondent or Sarner) as follows:

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**RECITALS**

A. Beacon Financial Advisory Services, Inc. (Beacon) (CRD No. 146292) is a suspended California corporation last doing business at 41120 Elm Street, Suite H102, Murrieta, California, 92562. On February 25, 2008, Beacon first became registered in this state as an investment adviser pursuant to section 25230 of the California Corporate Securities Law of 1968 (Corp. Code, § 25000 et seq.) (CSL).

B. Sarner (CRD No. 4567083) is or was the sole owner and president of Beacon.

C. On December 16, 2015, the Commissioner issued an Accusation to Bar Marc Scott Sarner From Any Position Of Employment, Management or Control of Any Investment Adviser, Broker-Dealer or Commodity Adviser Pursuant to Corporations Code Section 25232.1 (Accusation). A true and correct copy of the Accusation is attached and incorporated by reference as Exhibit A.

D. Also on December 16, 2015, the Commissioner issued to Sarner a Desist and Refrain Order for violations of Corporations Code section 25401 (Desist and Refrain Order). A true and correct copy of the Desist and Refrain Order is attached and incorporated by reference as Exhibit B.

E. Respondent timely requested a hearing on the Accusation and Desist and Refrain Order which is set for July 14-15, 2016.

F. It is the intention and the desire of the parties at this time to resolve this matter without the need for a hearing.

THEREFORE, in consideration of the foregoing, and the terms and conditions set forth herein, the parties agree and stipulate as follows:

**TERMS AND CONDITIONS**

1. Purpose. This Stipulation is entered into for the purpose of judicial economy and efficiency, and to avoid the expense of a hearing, and possible other court proceedings.

2. Admissions. For purposes of this action only, Respondent admits the jurisdiction of the Commissioner over Respondent and over the subject matter hereof. If Respondent (i) applies to vacate the bar or judgment imposed by the orders contemplated herein, (ii) applies for any license under the Commissioner’s current or future jurisdiction, or (iii) is the subject of an action by the

1 Commissioner to enforce the orders contemplated herein, then the allegations contained in the  
2 Accusation and Desist and Refrain Order shall be admitted for the purpose of such application(s) or  
3 enforcement proceeding(s).

4 3. Bar Order. Respondent stipulates to the finality of the order barring Respondent from any  
5 position of employment, management or control of any investment adviser, broker-dealer or  
6 commodity adviser pursuant to Corporations Code section 25232.1 (Bar Order). A copy of the Bar  
7 Order is attached and incorporated by reference as Exhibit C.

8 4. Desist and Refrain Order. Respondent further stipulates to the finality of the Desist and  
9 Refrain Order attached as Exhibit B.

10 5. Waiver of Hearing Rights. Respondent agrees to waive all rights to hearing, appeal, or  
11 judicial review of the above-referenced final orders which may be afforded under the CSL or the  
12 California Administrative Procedures Act (Gov. Code, § 11400 et seq.).

13 6. Settlement Agreement Coverage. The parties hereby acknowledge and agree that this  
14 Stipulation is intended to constitute a full, final and complete resolution of the matters set forth herein  
15 and that no further proceedings or actions will be brought by the Commissioner in connection with  
16 these matters under the CSL or any other provision of law, excepting therefrom any proceeding or  
17 action if such proceeding or action is based upon facts not presently known to the Commissioner or  
18 which were knowingly concealed from the Commissioner by Respondent.

19 7. Duties of Commissioner. The parties acknowledge and agree that nothing contained in this  
20 Stipulation shall operate to limit the Commissioner's ability to assist any other agency, (county, state  
21 or federal) with any prosecution, administrative, civil or criminal, brought by any such agency against  
22 Respondent based upon any of the activities alleged in this matter or otherwise. This Stipulation  
23 shall not limit the ability of the Commissioner to bring any administrative or civil action to enforce  
24 compliance with the orders attached hereto or seek penalties for their violation.

25 8. Independent Legal Advice. Respondent represents, warrants, and agrees that he has had the  
26 opportunity to seek independent advice from legal counsel and/or representative with respect to the  
27 advisability of executing this Stipulation.

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1 9. Reliance. Each of the parties represents, warrants, and agrees that in executing this  
2 Stipulation each has relied solely on the statements set forth herein and the advice of its own counsel  
3 and/or representative. Each of the parties further represents, warrants, and agrees that in executing  
4 this Stipulation it has placed no reliance on any statement, representation, or promise of any other  
5 party, or any other person or entity not expressly set forth herein, or upon the failure of any party or  
6 any other person or entity to make any statement, representation or disclosure of anything  
7 whatsoever. The parties have included this clause: (1) to preclude any claim that any party was in  
8 any way fraudulently induced to execute this Stipulation; and (2) to preclude the introduction of parol  
9 evidence to vary, interpret, supplement, or contradict the terms of this Stipulation.

10 10. Full Integration. This Stipulation is the final written expression and the complete and  
11 exclusive statement of all the agreements, conditions, promises, representations, and covenants  
12 between the parties with respect to the subject matter hereof, and supersedes all prior or  
13 contemporaneous agreements, negotiations, representations, understandings, and discussions between  
14 and among the parties, their respective representatives, and any other person or entity, with respect to  
15 the subject matter covered hereby.

16 11. Presumption from Drafting. In that the parties have had the opportunity to draft, review and  
17 edit the language of this Stipulation, no presumption for or against any party arising out of drafting  
18 all or any part of this Stipulation will be applied in any action relating to, connected, to, or involving  
19 this Stipulation. Accordingly, the parties waive the benefit of Civil Code section 1654 and any  
20 successor or amended statute, providing that in cases of uncertainty, language of a contract should be  
21 interpreted most strongly against the party who caused the uncertainty to exist.

22 12. Headings and Governing Law. The headings to the paragraphs of this Stipulation are inserted  
23 for convenience only and will not be deemed a part hereof or affect the construction or interpretation  
24 of the provisions hereof.

25 13. Counterparts. This Stipulation may be executed in one or more counterparts, each of which  
26 shall be an original but all of which, together, shall be deemed to constitute a single document.

27 14. Public Record. Respondent acknowledges that this Stipulation and the orders referenced  
28 herein are public records.

1 15. Authority. Each signator hereto covenants that he/she possesses all necessary capacity and  
2 authority to sign and enter into this Stipulation.

3 16. Service. Service to Respondent of this Stipulation and Bar Order shall be effected by an agent  
4 for the Commissioner sending copies by electronic mail to Respondent’s counsel at  
5 abholmes@htjlaw.com.

6 17. Effective Date. This Stipulation shall become effective once signed by all parties and service  
7 to Respondent is executed pursuant to Paragraph 16.

8  
9 JAN LYNN OWEN  
10 Commissioner of Business Oversight

11 Dated: 6/30/16

12 By \_\_\_\_\_  
13 MARY ANN SMITH  
14 Deputy Commissioner  
15 Enforcement Division

16  
17 Dated: 6/24/16

18 By \_\_\_\_\_  
19 MARC SCOTT SARNER, as an individual

20 Approved as to Form and Content

21 Dated:

22 By \_\_\_\_\_  
23 ANDREW B. HOLMES, ESQ.  
24 Holmes, Taylor & Jones, LLP  
25 Attorneys Marc Scott Sarner  
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