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

11 In the Matter of) File No.:
12 THE CALIFORNIA CORPORATIONS)
COMMISSIONER,) ACCUSATION TO BAR MARC DUDA,
13) A.K.A. MARK DUDA, PURSUANT TO
Complainant,) CORPORATIONS CODE SECTIONS 25232
14) AND 25232.1
15 vs.)
16 MARC DUDA, a.k.a. MARK DUDA,)
Respondent.)
17)
18)

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20 JAN LYNN OWEN, the California Corporations Commissioner (“Commissioner”) of the
21 Department of Corporations (“Department”) alleges and charges as follows:

22 **I. JURISDICTION AND VENUE**

23 1. The COMMISSIONER brings this action pursuant to the provisions of California
24 Corporations Code (“CC”) Sections 25232 and 25232.1 and the rules and regulations promulgated
25 thereunder.

26 2. The Commissioner is authorized to administer and enforce the provisions of the
27 Corporate Securities Law of 1968, Corporations Code Sections 25000 et seq. (“CSL”) and the
28 regulations thereunder at Title 10, California Code of Regulations (“CCR”).

II. STATEMENT OF FACTS

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2 3. This action is brought pursuant to Corporations Code Sections 25232 and 25232.1 to
3 bar Respondent Marc Duda, a.k.a. Mark Duda (“Duda”) from any position of employment,
4 management or control of any investment adviser, broker-dealer or commodity adviser. Duda’s last
5 known employers are Geneos Wealth Management, Inc.; Centerpointe Financial Network; KAD
6 Capital Group, LLC; and Capistrano Beach Funding Corporation. Duda’s last known business
7 address is 1440 N. Harbor Boulevard, Suite 900, Fullerton, California 92835.

8 4. On October 20, 2011, in the United States District Court for the Central District of
9 California, Southern Division, Duda pled guilty to Count One of the Information for violation of
10 Title 18, United States Code, Section 1343, felony wire fraud. The Information states that beginning
11 in or around March 2008 and continuing to at least in or around July 2011, in Orange County, within
12 the Central District of California, and elsewhere, Duda “knowingly and with intent to defraud,
13 devised, participated in, and executed a scheme to defraud investors as to material matters, and to
14 obtain money from investors by means of material false and fraudulent pretenses, representations,
15 and promises, and the concealment of material facts . . . Using the business names KAD Capital
16 Group, LLC, Centerpointe Financial Network, Geneos Wealth Management, and Capistrano Beach
17 Funding Corporation, defendant Duda, as a registered investment advisor, solicited funds from
18 investors falsely representing to them that the funds would be used to invest in certificates of deposit
19 with banks, secured note funds, and lending investments.” In fact, Duda used the investor funds,
20 “among other things, to fund other business ventures, to purchase and maintain airplanes, to
21 purchase a boat, to make car and motorcycle payments, to make mortgage payments, to gamble in
22 Las Vegas, and to fund child care expenses. Defendant Duda also used investor funds to repay other
23 investors and make lulling payments to conceal the fraudulent scheme.”

24 5. On March 26, 2012, Duda was sentenced to seventy-eighty (78) months
25 imprisonment to commence on July 20, 2012. Pursuant to Title 18, United States Code, Section
26 3663A, Duda was ordered to pay restitution in the total amount of \$5,400,440.95. Upon release
27 from imprisonment, Duda shall be placed on supervised release for a term of three (3) years.

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III. RESPONDENT DUDA SHOULD BE BARRED FROM ANY POSITION OF EMPLOYMENT, MANAGEMENT, OR CONTROL OF ANY INVESTMENT ADVISER, BROKER-DEALER OR COMMODITY ADVISER

6. Corporations Code Section 25232.1 provides, in pertinent part:

The commissioner may, after appropriate notice and opportunity for hearing, by order censure, or suspend for a period not exceeding 12 months, or bar from any position of employment, management or control of any investment adviser, broker-dealer or commodity adviser, any officer, director, partner, employee of, or person performing similar functions for, an investment adviser, or any other person, if he or she finds that the censure, suspension or bar is in the public interest and that the person has . . . been convicted of any offense or held liable in any civil action specified in subdivision (b) of Section 25232

7. Corporations Code Section 25232 provides, in pertinent part:

The commissioner may, after appropriate notice and opportunity for hearing, by order censure, deny a certificate to, or suspend for a period not exceeding 12 months or revoke the certificate of, an investment adviser, if the commissioner finds that the censure, denial, suspension, or revocation is in the public interest and that the investment adviser, whether prior or subsequent to becoming such, or any partner, officer or director thereof or any person performing similar functions or any person directly or indirectly controlling the investment adviser, whether prior or subsequent to becoming such, or any employee of the investment adviser while so employed has done any of the following: . . .

(b) Has been either (1) convicted of or has pled nolo contendere to *any* felony or misdemeanor

8. Duda is subject to being barred from any position of employment, management or control of any investment adviser, broker-dealer or commodity adviser pursuant to Corporations Code Section 25232.1 for acts committed as specified in Corporations Code Section 25232, subdivision (b), specifically pleading guilty to felony wire fraud in violation of Title 18, United States Code, Section 1343.

IV. RELIEF REQUESTED

WHEREFORE, based upon the foregoing, the Commissioner finds it is in the public interest to bar Marc Duda, a.k.a. Mark Duda from any position of employment, management or control of

1 any investment adviser, broker-dealer or commodity adviser pursuant to Corporations Code Sections
2 25232 and 25232.1.

3 WHEREFORE, IT IS PRAYED that Respondent Marc Duda, a.k.a. Mark Duda be barred
4 from any position of employment, management or control of any investment adviser, broker-dealer
5 or commodity adviser pursuant to Corporations Code Section 25232.1 for acts committed as
6 specified in Corporations Code Section 25232, subdivision (b).

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Dated: May 1, 2012

Los Angeles, California

JAN LYNN OWEN

California Corporations Commissioner

By _____

Sophia C. Kim

Corporations Counsel