

1 PRESTON DuFAUCHARD  
California Corporations Commissioner  
2 WAYNE STRUMPFER  
Deputy Commissioner  
3 ALAN S. WEINGER (CA BAR NO. 86717)  
Supervising Attorney  
4 EDWARD KELLY SHINNICK (CA Bar No. 96209)  
Corporations Counsel  
5 71 Stevenson Street, Ste. 2100  
6 San Francisco, CA 94105-2908  
7 Tel: 415/972-8544  
8 Fax: 415/972-8550  
Attorneys for Complainant

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

12  
13 In the Matter of ) CASE NO.  
14 THE CALIFORNIA CORPORATIONS ) FILE NO. 923-5225  
15 COMMISSIONER, )  
16 Complainant, ) **ORDER DENYING APPLICATION FOR**  
17 v. ) **AN INVESTMENT ADVISER**  
18 XO FINANCIAL GROUP, INC., ) **CERTIFICATE PURSUANT TO**  
19 Respondent. ) **CORPORATIONS CODE SECTION 25232**  
20 )  
21 )  
22 )

23 TO: Richard Simpson  
24 XO Financial Group, Inc.  
25 16709 San Dieguito Road, Suite A-2  
26 Rancho Sante Fe, CA 92067

27 1. On January 30, 2006 the California Corporations Commissioner brought an action to  
28 deny a certificate of investment adviser to XO Financial Group, Inc. ("XO Financial") pursuant to  
California Corporations Code ("CC") section 25232. Since at least May 2005 XO Financial has

1 been a Nevada Corporation in the business of providing investment advisory services. The primary  
2 office of XO Financial is 16079 San Dieguito Road, Suite A-2, Rancho Santa Fe, California, 92067.  
3 According to item 6 of an application for investment adviser registration filed with the Department  
4 by XO Financial, Dennis Pearson, Jr. is the Chief Executive Officer and Richard Simpson is the  
5 President. Following service of the Commissioner's Notice of Intent to Issue Order Denying the  
6 Application, XO Financial requested a hearing in this matter, but it withdrew its request on or about  
7 July 31, 2006.

8         2.         Intra-Network Securities, Inc. is or has been in the broker-dealer business and is  
9 located at 16709 San Dieguito Road, Rancho Santa Fe, CA 92067. Dennis Pearson is the owner and  
10 Chief Executive Officer and Richard Simpson is the principal and Chief Operation Officer of Intra-  
11 Network Securities, Inc. Intra-Network Securities, Inc. had held a valid broker-dealer certificate  
12 issued by the Commissioner pursuant to Corporations Code section 25211 on March 7, 1997, but the  
13 Commissioner issued a notice of intent to revoke that broker-dealer certificate pursuant to  
14 Corporations Code section 25212 on January 30, 2006 and the order of revocation became final on  
15 June 5, 2006.

16  
17  
18         3.         On or about December 6, 2002, Intra-Network Securities, Inc. and Dennis Pearson  
19 executed a Letter of Acceptance, Waiver and Consent ("AWC") issued by the National Association  
20 of Securities Dealers ("NASD") for engaging in fraudulent securities solicitation and sales practices.  
21 Per the AWC Intra-Network Securities Inc. and Pearson were suspended from all broker dealer  
22 activities for 7 months, ordered to make offers of rescission to investors, and penalized \$30,000 to be  
23 paid by installments. On December 13, 2004 the NASD expelled Intra-Network Securities, Inc. and  
24 Dennis Pearson from NASD membership for failure to pay the penalties and costs.

25         4.         On January 15, 2002 Hoaison Green and Hai Weeks of Seattle, Washington, filed a  
26 Complaint, action number CV 02 0143, in the Federal District Court, Western District of  
27 Washington, against Intra-Network Securities, Inc. its principal Richard Simpson, and others  
28 alleging securities fraud and misrepresentation. On June 16, 2003 Richard Simpson on behalf of  
Intra-Network Securities, Inc. entered into a settlement agreement providing that Intra-Network

1 Securities, Inc. would pay the plaintiffs a certain total sum through periodic installment payments  
2 and agreeing that an executed stipulated judgment could be filed if timely installment payments were  
3 not made. When only one installment payment was made, the action was reopened and the  
4 stipulated judgment was filed. On July 23, 2004 the court entered Judgment against Richard and  
5 Jane Doe Simpson and Intra-Network Securities, Inc. in the amount of \$87,745.20. That judgment  
6 amount remains unpaid to date.

7         5.         Intra-Network Securities, Inc., Dennis Pearson and Richard Simpson engaged in a  
8 general solicitation to offer and sell securities, specifically promissory notes issued by Deltacom  
9 Networks, Inc., by means of unsolicited telephone calls to investors. These securities were offered  
10 and sold in non-issuer transactions. The Department of Corporations has not issued any  
11 qualification authorizing the offer and sale of these securities in this state and there is no available  
12 exemption.

13         6.         Corporations Code section 25232 provides that a Commissioner may deny an Investment  
14 Adviser Certificate if it is in the public interest and the applicant or one or more of its officers or  
15 controlling persons: 1) has been held liable in a civil action by final judgment of a court based upon  
16 conduct showing moral turpitude, and the Commissioner finds that that civil action involved the  
17 purchase or sale of a security and arose out of the conduct of the business of the broker-dealer; 2) is  
18 or has been subject to a state order revoking registration as a broker dealer or an order of a national  
19 securities association (registered under the Securities Exchange Act of 1934) suspending or  
20 expelling that person from membership in the association; and/or 3) has willfully violated provisions  
21 of the Securities Act of 1933, the Securities Exchange Act of 1934, or Title 4 (commencing with  
22 Section 25000).

23         7.         The Commissioner finds that each of the above enumerated matters provide an  
24 independent basis under California Corporations Code section 25232, justifying the issuance of an  
25 Order denying a certificate of investment adviser to XO Financial.  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Based upon the foregoing, the Commissioner finds it is in the public interest to deny an investment adviser certificate to XO Financial Group, Inc. NOW THEREFORE, GOOD CAUSE SHOWING, and pursuant to Corporations Code sections 25232, subdivisions (b), (d) and (e), and 25233, it is hereby ordered that application of XO Financial Group, Inc. for an investment adviser certificate is denied.

Dated: August 14, 2006

PRESTON DuFAUCHARD  
California Corporations Commissioner

By: \_\_\_\_\_  
ALAN S. WEINGER  
Supervising Attorney  
Enforcement Division

1 WAYNE STRUMPFER  
Acting California Corporations Commissioner  
2 ALAN S. WEINGER (CA BAR NO. 86717)  
Acting Deputy Commissioner  
3 EDWARD KELLY SHINNICK (CA Bar No. 96209)  
Corporations Counsel  
4 71 Stevenson Street, Ste. 2100  
5 San Francisco, CA 94105-2908  
6 Tel: 415/972-8544  
7 Fax: 415/972-8550  
Attorneys for Complainant

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

11 In the Matter of ) CASE NO.  
12 )  
13 THE CALIFORNIA CORPORATIONS ) FILE NO. 923-5225  
14 COMMISSIONER, )  
15 Complainant, ) **STATEMENT OF ISSUES IN SUPPORT OF**  
16 v. ) **NOTICE OF INTENTION TO ISSUE**  
17 XO FINANCIAL GROUP, INC., ) **ORDER DENYING APPLICATION FOR**  
18 Respondent. ) **AN INVESTMENT ADVISER**  
19 ) **CERTIFICATE PURSUANT TO**  
20 ) **CORPORATIONS CODE SECTION 25232**  
21 )

22 WAYNE STRUMPFER, the acting California Corporations Commissioner  
23 ("Commissioner") of the Department of Corporations ("Department") alleges and charges as follows:

24 **I. JURISDICTION AND VENUE**

25 1. The Commissioner brings this action pursuant to California Corporations Code  
26 ("CC") section 25232. The Commissioner is authorized to administer and enforce the provisions of  
27 the Corporate Securities Law of 1968, Corporations Code sections 25000 et seq. ("CSL").

28 **II. STATEMENT OF FACTS**

2. This action is brought in order to deny a certificate of investment adviser to

1 Respondent XO Financial Group, Inc. (“XO Financial”) pursuant to CC section 25232. Since at  
2 least May 2005 XO Financial has been a Nevada Corporation in the business of providing  
3 investment advisory services. The primary office of XO Financial is 16079 San Dieguito Road,  
4 Suite A-2, Rancho Santa Fe, California, 92067. According to item 6 of an application for  
5 investment adviser registration filed with the Department by XO Financial, Dennis Pearson, Jr. is the  
6 Chief Executive Officer and Richard Simpson is the President.

7 3. Intra-Network Securities, Inc. is or has been in the broker-dealer business and is  
8 located at 16709 San Dieguito Road, Rancho Santa Fe, CA 92067. Dennis Pearson is the owner and  
9 Chief Executive Officer and Richard Simpson is the principal and Chief Operation Officer of Intra-  
10 Network Securities, Inc. Intra-Network Securities, Inc. has held a valid broker-dealer certificate  
11 issued by the Commissioner pursuant to Corporations Code section 25211 on March 7, 1997, but the  
12 Commissioner has issued a notice of intent to revoke that broker-dealer certificate pursuant to  
13 Corporations Code section 25212.

14 4. On or about December 6, 2002, Intra-Network Securities, Inc. and Dennis Pearson  
15 executed a Letter of Acceptance, Waiver and Consent (“AWC”) issued by the National Association  
16 of Securities Dealers (“NASD”) for engaging in fraudulent securities solicitation and sales practices.  
17 Per the AWC Intra-Network Securities Inc. and Pearson were suspended from all broker dealer  
18 activities for 7 months, ordered to make offers of recession to investors, and penalized \$30,000 to be  
19 paid by installments. On December 13, 2004 the NASD expelled Intra-Network Securities, Inc. and  
20 Dennis Pearson from NASD membership for failure to pay the penalties and costs.

21 5. On January 15, 2002 Hoaison Green and Hai Weeks of Seattle, Washington, filed a  
22 Complaint, action number CV 02 0143, in the Federal District Court, Western District of  
23 Washington, against Intra-Network Securities, Inc. its principal Richard Simpson, and others  
24 alleging securities fraud and misrepresentation. On June 16, 2003 Richard Simpson on behalf of  
25 Intra-Network Securities, Inc. entered into a settlement agreement providing that Intra-Network  
26 Securities, Inc. would pay the plaintiffs a certain total sum through periodic installment payments  
27 and agreeing that an executed stipulated judgment could be filed if timely installment payments were  
28

1 not made. When only one installment payment was made, the action was reopened and the  
 2 stipulated judgment was filed. On July 23, 2004 the court entered Judgment against Richard and  
 3 Jane Doe Simpson and Intra-Network Securities, Inc. in the amount of \$87,745.20. That judgment  
 4 amount remains unpaid to date.

5 6. Intra-Network Securities, Inc., Dennis Pearson and Richard Simpson engaged in a  
 6 general solicitation to offer and sell securities, specifically promissory notes issued by Deltacom  
 7 Networks, Inc., by means of unsolicited telephone calls to investors. These securities were offered  
 8 and sold in non-issuer transactions. The Department of Corporations has not issued any  
 9 qualification authorizing the offer and sale of these securities in this state and there is no available  
 10 exemption.

11 **III. XO FINANCIAL SHOULD BE DENIED AN INVESTMENT ADVISER**  
 12 **CERTIFICATE PURSUANT TO CORPORATIONS CODE SECTION 25232**

13 7. Corporations Code section 25232 provides, in pertinent part:

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

23 (b) Has been either (1) convicted of or has pled nolo contendere to a felony or  
 24 misdemeanor, or (2) held liable in a civil action by final judgment of a court based upon  
 25 conduct showing moral turpitude, and the commissioner finds that the felony,  
 26 misdemeanor, or civil action (A) involved the purchase or sale of a security, (B) arose  
 27 out of the conduct of the business of a broker-dealer or investment adviser, (C)  
 28 involved theft, or (D) involved the violation of Section 1341, 1342, or 1343 Title 18 of  
 the United States Code....

(d) Is or has been subject to...(2) any order of any national securities association or  
 national securities exchange (registered under the Securities Exchange Act of 1934)  
 suspending or expelling that person from membership in the association or exchange or  
 from association with any member thereof....

(e) Has willfully violated any provision of the Securities Act of 1933, the Securities  
 Exchange Act of 1934, the Investment Advisers Act of 1940, the Commodity Exchange  
 Act, or Title 4 (commencing with Section 25000)...or any rule or regulation under any  
 of those statutes, or any order of the commissioner which is or has been necessary for  
 the protection of any investor.”

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

8. Corporations Code Section 25130 provides as follows:

“It is unlawful for any person to offer or sell any security in this state in any non-issuer transaction unless it is qualified for such under this chapter or under 25111 or 25113 of Chapter 2 (commencing with Section 25110) of this part ...or unless such security or transaction is exempted or not subject to qualification under Chapter 1 (commencing with Section 25100) of this part.”

9. Corporations Code section 25233 provides:

No order may be entered under Section 25232, 25232.1, or 25252 except after notice to the person affected thereby of the intention of the commissioner to enter that order and of the reasons therefor and that upon receipt of a request the matter will be set down for hearing to commence within 15 business days after that receipt unless the person affected consents to a later date. If no hearing is requested within 30 days after the mailing of the notice and none is ordered by the commissioner, the order may be entered without hearing to remain in effect until it is modified or vacated by the commissioner. In the case of an original application for a certificate, such a hearing shall be set down to commence within 15 business days after receipt of a written request by the applicant made 30 days or more after the filing of the application, even though no such notice by the commissioner has been given, unless the applicant consents to a later date. If a hearing is requested or ordered, it shall be held in accordance with the provisions of the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and the commissioner shall have all of the powers granted thereunder.

**IV. RELIEF REQUESTED**

WHEREFORE, based upon the foregoing and good cause showing, and pursuant to Corporations Code section 25232, the California Corporations Commissioner hereby finds that it is in the public interest to deny an investment adviser certificate to XO Financial Group, Inc. and hereby notifies XO Financial Group, Inc. of its intention to make final the Order denying the application for an investment adviser certificate.

Dated: January 30, 2006  
San Francisco, California

WAYNE STRUMPFER  
Acting California Corporations Commissioner

By: \_\_\_\_\_  
Edward Kelly Shinnick  
Corporations Counsel  
Enforcement Division