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

10
11 In the Matter of the Accusation of)
12 THE CALIFORNIA CORPORATIONS)
13 COMMISSIONER,)
14 Complainant,)
15 v.)
16)
17 JAMES W. DARDEN III (INTEGRITY)
18 FINANCIAL MANAGEMENT, DBA), and)
19 JAMES W. DARDEN III, as an individual,)
20 Respondents.)
21)
22)

FILE NO. 927-6689

**AMENDED STATEMENT OF ISSUES IN
SUPPORT OF NOTICE OF INTENTION
TO ISSUE ORDERS:**

1. REVOKING INVESTMENT ADVISER
CERTIFICATE OF JAMES W.
DARDEN III PURSUANT TO
CORPORATIONS CODE SECTIONS
25232 AND 25256
2. BARRING JAMES W. DARDEN III
FROM ANY POSITION OF
EMPLOYMENT, MANAGEMENT OR
CONTROL OF ANY INVESTMENT
ADVISER, BROKER-DEALER OR
COMMODITY ADVISER PURSUANT
TO CORPORATIONS CODE SECTION
25232.1 AND 25256

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24 Preston DuFauchard, the California Corporations Commissioner ("Commissioner") of the
25 Department of Corporations ("Department") alleges and charges as follows:

26 **I. JURISDICTION AND VENUE**

27 1. This action is brought in order to revoke a certificate of investment adviser previously
28 issued to Respondent James W. Darden III dba Integrity Financial Management ("James Darden")
pursuant to Corporations Code sections 25232 and 25256 and to bar Respondent James Darden from

1 any position of employment, management or control of any investment adviser, broker-dealer or
2 commodity adviser pursuant to Corporations Code sections 25232.1 and 25256.

3 2. The Commissioner is authorized to administer and enforce the provisions of the
4 Corporate Securities Law of 1968, Corporations Code section 25000 et seq., and the regulations
5 thereunder at California Code of Regulations (“C.C.R.”), title 10, section 260.000 et seq.

6 **II. BACKGROUND**

7 3. James Darden is a sole proprietor with a dba of Integrity Financial Management. In
8 May 2007 James Darden’s principal place of business was 570 Moody Road, Lincoln, Vermont
9 05443, and currently is 2047 Price Street, Suite B, San Luis Obispo, California, 93401.

10 4. On October 16, 2005, James Darden filed for Chapter 7 bankruptcy protection in the
11 United States Bankruptcy Court, District of Vermont, Petition No. 05-12420. The Bankruptcy Court
12 discharged James Darden’s debts on February 14, 2006 and terminated the bankruptcy proceeding
13 by final decree on October 16, 2006.

14 **III. VERMONT AND CALIFORNIA INVESTMENT ADVISER REGISTRATION** 15 **HISTORY**

16 5. Beginning on October 30, 1996 James Darden was certified as an investment advisor
17 with the State of Vermont Department of Banking, Insurance, Securities and Health Care
18 Administration, Securities Division. Since April 29, 1999 James Darden has also been certified with
19 the California Department of Corporations as an investment adviser. In May 2007 James Darden
20 provided discretionary supervisory or management services for eight clients with reported assets
21 under management of approximately \$1.7 million.

22 6. On May 16, 2007 the State of Vermont Securities Division issued to James Darden a
23 Cease and Desist Order and Summary Revocation of Investment Adviser Registration in that state
24 for violations of Vermont law relating to registered investment advisers. The Cease and Desist
25 Order and Revocation followed an examination by the Vermont Securities Division of the business
26 records of James Darden on May 3 and 4, 2007. According to the Order and Revocation, James
27 Darden violated Vermont law by failing to keep required books and records, by failing to maintain a
28 minimum net worth of \$10,000, the insolvency indicated by the Chapter 7 bankruptcy filing on

1 October 16, 2005, and by failing to report the bankruptcy by amending the Form U-4 information
2 required of all licensed investment advisers. James Darden did not contest Vermont's Order and
3 signed a Consent to the Entry of Order on June 4, 2007.

4 7. Each of the activities by James Darden found to be in violation of Vermont
5 investment adviser law are substantially related to activities regulated under Division 1 of the
6 California Corporate Securities Law. C.C.R. section 260.241.2 (a) and (b) provides that a registered
7 investment adviser is to keep verified annual financial reports. C.C.R. section 260.237.2 (a) requires
8 that an investment adviser with discretionary authority over client accounts maintain a minimum net
9 worth of \$10,000. C.C.R. section 260.237.2 (c) requires an investment adviser to notify the
10 Department by the close of the next business day when his net worth is less than the minimum, and,
11 as a condition of the right to continue to transact business, that a report and other financial records be
12 filed.

13 8. Corporations Code section 25230 provides that it is unlawful for any investment
14 adviser to conduct such business in this state unless a certificate or license has first been applied for
15 and secured from the Commissioner. Corporations Code section 25231 and C.C.R. section 260.230
16 provide that all investment adviser license applications, amendments, and notices to be filed with the
17 Commissioner shall be filed electronically with and transmitted to the Web-Based Investment
18 Adviser Registration Depository ("IARD") operated by the National Association of Securities
19 Dealers (now called Financial Industry Regulatory Authority or "FINRA"). C.C.R. section 260.231
20 provides that the applications be made by completing Form ADV in accordance with the form
21 instructions and by filing the form with IARD for transmission to the Commissioner. C.C.R. section
22 260.241.4 provides that a Form ADV is to be promptly amended by a licensed investment adviser
23 upon any change in the information contained therein. In addition, investment advisers are required
24 to file an annual updating amendment to Form ADV within 90 days of the end of the fiscal year in
25 C.C.R. section 260.241.4(e).

26 9. Following Vermont's license revocation and Cease and Desist Order, James Darden
27 amended the "Regulatory Action Disclosure Reporting Page" of his Form ADV and provided partial
28 information as to Vermont's action and his bankruptcy, and then on December 12, 2008 deleted that

1 disclosure. In his most recent amended Form ADV filing of March 19, 2009, he insufficiently
2 describes the scope of the Vermont license suspension, only in the inappropriate “Miscellaneous”
3 section of Form ADV, and makes no reference to or disclosure of his bankruptcy.

4 10. In addition, C.C.R. section 260.236.1 provides that a licensed investment adviser file
5 a Form U-4, and amend the Form U-4 within 30 days of any changes in the information contained in
6 the Form U-4. Among other things, the Form U-4 requires that the investment adviser disclose any
7 bankruptcy filings within the last ten years and any finding by a federal or state regulatory agency of
8 violation of investment-related regulations.

9 11. After Vermont revoked James Darden’s investment adviser Vermont registration in
10 May 2007, in part because of his failure to update his Form U-4 filing to disclose his October 16,
11 2005 bankruptcy filing, and after repeated assurances that he would update his Form U-4, James
12 Darden has still not updated his Form U-4 to disclose his bankruptcy filing or the Vermont
13 investment adviser registration revocation.

14 **IV. THE INVESTMENT ADVISER CERTIFICATE OF JAMES DARDEN**
15 **SHOULD BE REVOKED PURSUANT TO CORPORATIONS CODE SECTION 25232(d)(1).**

16 12. Corporations Code section 25232 provides, in pertinent part:

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

26 (d) Is or has been subject to (1) any order of the Securities and Exchange Commission
27 or the securities administrator of any other state denying or revoking or suspending his
28 or her registration as an investment adviser, or investment adviser representative....”

25 **V. RESPONDENT JAMES DARDEN SHOULD BE BARRED FROM ANY**
26 **POSITION OF EMPLOYMENT, MANAGEMENT OR CONTROL OF ANY INVESTMENT**
27 **ADVISER, BROKER-DEALER OR COMMODITY ADVISER PURSUANT TO**
28 **CORPORATIONS CODE SECTION 25232.1**

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

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“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...is subject to any order specified in subdivision (d) of Section 25232.”

VI. THE INVESTMENT ADVISER CERTIFICATE OF JAMES DARDEN SHOULD BE REVOKED AND JAMES DARDEN SHOULD BARRED FROM ANY POSITION OF EMPLOYMENT, MANAGEMENT OR CONTROL OF ANY INVESTMENT ADVISER, BROKER-DEALER OR COMMODITY ADVISER PURSUANT TO CORPORATIONS CODE SECTION 25256.

14. Corporations Code Section 25256 provides in pertinent part as follows:

“(a) For any broker-dealer or investment adviser, a disciplinary action taken by the State of California, another state, an agency of the federal government, or another country for an action substantially related to the activity regulated under this division may be grounds for disciplinary action by the commissioner....”

VII. CONCLUSION

Based upon the foregoing, the Commissioner finds that grounds exist and that it is in the public interest to revoke the investment adviser certificate of James Darden pursuant to Corporations Code sections 25232(d) and 25256, and to bar James Darden from any position of employment, management or control of any investment adviser, broker-dealer or commodity adviser pursuant to Corporations Code sections 25232.1 and 25256. The Commissioner hereby notifies James Darden of its intention to make such Orders final.

Dated: July 9, 2009

PRESTON DuFAUCHARD
California Corporations Commissioner

By: _____
EDWARD KELLY SHINNICK
Corporations Counsel
Enforcement Division