

1 days of receipt of the Summary Order and Notice of Opportunity for Hearing, either on the
2 Application for Hearing provided or otherwise.

3 The Securities Administrator therefore will adopt as final the findings of fact and
4 conclusions of law as set forth in the Summary Order.

5 The Securities Administrator finds as follows:

6 **FINDINGS OF FACT**

7 Respondents

8 1. Westwood Holdings, Inc. (“Westwood Holdings”) is a New York corporation, doing
9 business at 40 Exchange Place, Suite 808, New York, NY 10005.

10 2. Igor Malyar (a/k/a George Falcone) (“Malyar”) represents himself as George Falcone,
11 President of Westwood Holdings.

12 Other Proceedings

13 3. The U.S. Securities and Exchange Commission filed a civil action in the United States
14 District Court for the District of Connecticut against, in part, Westwood Holdings, Inc. and
15 Malyar in connection with the unregistered and fraudulent offerings of "pre-IPO" stock in two
16 separate automatic teller machine ("ATM") companies in which the defendants raised at least
17 \$4.9 million from over 360 investors nationwide.

18 4. On June 14, 2005, the United States Attorney for the District of Connecticut
19 announced the unsealing of a Superseding Indictment that charges, in part, Malyar with 28
20 counts of securities fraud, mail fraud, money laundering, and money laundering conspiracy
21 violations. Malyar, with others, is alleged to have stolen approximately \$2,000,000 through a
22 “boiler room” investment scam that defrauded more than 50 victims. The unsealed Superseding
23

1 Indictment was returned by a federal grand jury on May 26, 2005. Malyar was arrested on a
2 federal arrest warrant by New York Police on June 1, 2005.

3 Description of the AMTX Offering

4 5. In early February 2004, a Washington resident residing in Whatcom County
5 (“Investor”) was contacted at home via a “cold call” by Malyar representing himself as George
6 Falcone.

7 6. Malyar explained to Investor that Westwood Holdings is a venture capital firm which
8 takes small companies public or sells small companies to mutual funds. Additionally, for every
9 share Investor would purchase, Westwood Holdings would purchase matching shares, which
10 would create a partnership between Malyar and Investor so that Malyar would have a major
11 voice in the company. Malyar further explained that, after the sale of their first investment,
12 Investor’s original money would be returned and the gains invested in the next venture. Malyar
13 clarified that Westwood Holdings only does three or four ventures a year.

14 7. Malyar mailed Investor an eight page pamphlet describing Westwood Holdings’
15 investment strategy.

16 8. Malyar contacted Investor throughout February 2004. Malyar described a venture in
17 which Investor could purchase shares of ATM Express (ATMX) at \$20 per share that
18 Westwood Holdings would sell to a mutual fund in September 2004 for at least \$28 per share.

19 9. In late February 2004, Investor agreed to purchase 100 shares of ATMX at \$20 per
20 share. On February 25, 2004, a letter welcoming Investor as a new client of Westwood
21 Holdings was mailed and signed by Adam Paulson, Senior Vice President of Westwood
22 Holdings.

1 10. Westwood Holdings sent a Subscription Agreement to Investor for ATMX stating that
2 the “undersigned acknowledges that the Shares will not be registered under the Federal
3 Securities Act of 21933 [sic], as amended, ‘(the ‘1933 Act’)[sic], or the Securities Act of any
4 State that absent an exemption would require registration, in reliance upon exemptions from
5 registration contained in those respective Acts....”

6 11. Westwood Holdings also sent a “Buy Confirmation” dated February 25, 2004 to
7 Investor. The Buy Confirmation confirmed the purchase of 100 shares of ATMX at a unit price
8 of \$20 for a total cost of \$2,000. The comments section of the Buy Confirmation stated
9 “Estimated Opening Price: \$32.00” and “Stop Loss: 12% @ \$28.00.” The Buy Confirmation
10 included the following payment instructions: “Please make checks payable to WESTWOOD
11 HOLDINGS Inc. escrow agent to ATM Express.”

12 12. On February 27, 2004, Investor sent Westwood Holdings a check for \$2,000 for the
13 purchase of 100 shares of ATMX at \$20 per share.

14 13. Investor did not receive a new account statement, a prospectus, or financial
15 information of AMTX.

16 14. Sometime between February and May 2004 the price of AMTX stock declined to \$16
17 per share. Malyar explained to Investor that all shareholders would receive two (2) warrants
18 (ATMXW) with each share. The AMTXW warrants were to sell for \$5 each.

19 15. On or about May 11, 2004, Investor bought 900 shares of ATMX at \$16 for a total
20 price of \$14,400. Investor also received 1,800 AMTXW warrants at a unit price of \$5 for no
21 charge.

22 16. The Buy Confirmation for the additional shares listed Investor’s total position as 1,000
23 ATMX shares and 2,000 AMTXW warrants, which is a combination of the 100 ATMX shares

1 first purchased, 200 ATMXW warrants from those 100 shares, and the 900 ATMX shares with
2 the 1,800 warrants from the second purchase. The comments section still contained the
3 statements “Estimated Opening Price: \$32.00” and “Stop Loss: 12% @ \$28.00,” but also added
4 that “If deal is not public in 60 days all original funds will be returned.”

5 17. Investor mailed a check for \$5,000 on June 16, 2004 and a check for \$9,400 on July 3,
6 2004, totaling \$14,400 as payment for the 900 ATMX shares.

7 18. On July 29, 2004, Investor purchased 1,000 ATMX shares at \$16 per share for a total
8 of \$16,000, as well as received 2,000 ATMXW warrants. The Buy Confirmation listed
9 Investor’s total position as 2,000 ATMX shares and 4,000 ATMXW warrants. Once again the
10 comments section stated that “If deal is not public in 60 days all original funds will be returned.

11 19. On August 4, 2004, Investor mailed through Federal Express a check for \$16,000 to
12 Westwood Holdings as payment for the 1,000 ATMX shares.

13 20. Sometime between August 4, 2004 and September 2004, Malyar explained to Investor
14 that Malyar’s AMTXW warrants had not been part of his original agreement with the company
15 AMT Express. Therefore, Malyar offered to sell his AMTXW warrants to Investor.

16 21. On or about September 9, 2004, Investor purchased 500 ATMX shares at \$16 per
17 share for a total of \$8,000, and received 1,000 ATMXW warrants with a listed unit price of \$5
18 per warrant. The Buy Confirmation listed Investor’s total position as 2,500 ATMX shares and
19 5,000 ATMXW warrants. The comments section stated “Estimated Buy-out Price \$44.00
20 Estimated Buyout Date 9-10 to 9-24-04 If deal is not complet [sic] in 45, [sic] days all original
21 funds will be returned.”

22 22. Malyar told Investor that a mutual fund would purchase ATMX on September 19,
23 2004.

1 Description of Google Offering

2 23. In August 2004, with the AMTX venture allegedly closing in September 2004, Malyar
3 told Investor that he had access to 500 shares of Google, which Investor could purchase at
4 \$66.33 per share.

5 24. Investor declined the offer of Google shares.

6 25. Malyar accepted Investor's rejection, but stated that he would take Investor's profits
7 from AMTX to purchase the Google shares for Investor.

8 26. Malyar and/or Westwood Holdings failed to provide Investor with any documentation
9 of the purchase or sale of Google stock. Google stock went public on August 19, 2004 at \$85
10 per share. It appears that Google stock was never available at \$66.33 per share.

11 Description of BDKR Offering

12 27. In or around August 2004, Malyar contacted Investor about Westwood Holdings' next
13 venture. The company was described as a small lock company (referred to as BDKR) that
14 would be sold to Black and Decker Corporation.

15 28. Soon after September 19, 2004, Investor attempted to contact Malyar. After five days
16 of trying, Investor spoke with Malyar and requested \$15,000 from his account with Westwood
17 Holdings. Malyar stated that he had invested all of Investor's funds from the sale of AMTX and
18 Google shares into the next venture, BDKR, and therefore, Malyar was unable to withdraw
19 Investor's money.

20 29. From the end of September through October 2004, Investor requested that Malyar wire
21 all of his money to his bank account.

1 30. On or about October 27, 2004, Westwood Holdings sent Investor a "Sell
2 Confirmation" that described the sale of 13,102,272 BDKR shares at \$28.60 per share for a total
3 of \$374,724.97. The Sell Confirmation listed Investor's total position as "0".

4 31. On many different occasions throughout November 2004, Malyar told Investor that the
5 funds could not be wired because the attorneys working on the deal were "holding things up."

6 32. On November 30, 2004, Malyar agreed to wire Investor's money, stating that the wire
7 would be completed on December 1, 2004. To date, the funds have not been received in
8 Investor's account.

9 Misrepresentations and Omissions

10 33. Malyar's statements concerning the investments he offered, including his statements
11 about the returns of those investments and the safety of those investments, were misleading
12 because Malyar failed to provide investors material information about the companies described
13 above, including, but not limited to, the risk associated with the investment and the financial
14 condition of the companies. He did not provide financial statements for ATMX or BKDR or
15 other information concerning the financial condition of ATMX or BKDR.

16 34. Westwood Holdings failed to provide material information on the alleged purchase
17 and sale of 500 shares of Google.

18 35. Malyar's representation that Black and Decker Corporation would purchase BKDR
19 was misleading. Black and Decker Corporation has no knowledge of Westwood Holdings.

20 Registration Status

21 36. Westwood Holdings is not licensed to sell in the State of Washington as a broker-
22 dealer and has not previously been so registered.

1 37. Malyar is not licensed as a securities salesperson or broker-dealer in the State of
2 Washington and has not previously been so registered.

3 38. AMTX and BDKR are not registered to sell their securities in the State of Washington
4 and have not previously been so registered. The offer and sale of AMTX shares was not
5 authorized by AMTX, nor was AMTX aware of the sale and offer by Westwood Holdings and
6 Malyar. BDKR is an unknown company and is apparently just an acronym. There is no
7 indication that BDKR is any different than AMTX in that Westwood Holdings and Malyar was
8 more than likely not authorized to sell or offer BDKR stock if the company does exist.

9
10 Based upon the Findings of Fact, the following Conclusions of Law are made:

11
12 **CONCLUSIONS OF LAW**

13 1. The offer and sale of AMTX stock and warrants, Google stock, and BDRK stock
14 described above constitute the offer or sale of a security as defined in RCW 21.20.005 (10) and
15 (12).

16 2. As described above, Respondent, Westwood Holdings, Inc., is a broker-dealer as
17 defined in RCW 21.20.005 (3).

18 3. As described above, Respondent, Igor Malyar (a/k/a George Falcone), is a
19 securities salesperson or broker-dealer as defined in RCW 21.20.005 (2) and (3).

20 4. Respondents, Westwood Holdings, Inc., and Igor Malyar (a/k/a George Falcone),
21 have violated RCW 21.20.040 by offering and/or selling said securities while not registered as
22 a broker-dealer or securities salesperson in the State of Washington.

1 costs, fees, and other expenses incurred in the conduct of investigating this matter, in any amount
2 not less than \$1,000. Such payment shall be (a) made by United States postal money order,
3 certified check, bank cashier's check, or bank money order; (b) made payable to the Washington
4 State Treasurer; (c) delivered by certified mail to Michael Stevenson, Securities Administrator,
5 Department of Financial Institutions, PO Box 9033, Olympia, WA 98507; and (d) submitted
6 with a cover letter that identifies Westwood Holdings, Inc., and Igor Malyar as Respondents
7 under these proceedings and the Order and case number of these proceedings.

8
9 **AUTHORITY AND PROCEDURE**

10 This Final Order is entered pursuant to the provisions of 21.20.390, and is subject to the
11 provisions of Chapter 34.05 RCW. Respondents have the right to petition the superior court for
12 judicial review of this agency action under the provisions of chapter 34.05 RCW. For the
13 requirements for filing a Petition for Judicial Review, see RCW 34.050.510 and sections following.
14 Pursuant to 21.20.395, a certified copy of this order may be filed in Superior Court. If so filed,
15 the clerk shall treat the order in the same manner as a Superior Court judgment as to the fine, and
16 the fine may be recorded, enforced, or satisfied in like manner.

17
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19 **WILLFUL VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.**

20 Dated and Entered this 6th day of December, 2005

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22 MICHAEL E. STEVENSON
23 Securities Administrator

24 ENTRY OF FINDINGS OF FACT AND
CONCLUSIONS OF LAW AND FINAL ORDER TO
CEASE AND DESIST, IMPOSE FINES, AND
RECOVER COSTS

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Approved by:



Martin Cordell
Chief of Enforcement

Presented by:



Dylan Waits
Financial Legal Examiner