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STATE OF CALIFORNIA
BUSINESS, TRANSPORTATION AND HOUSING AGENCY
DEPARTMENT OF CORPORATIONS

TO: Jason T. Rose
Berkshire Resources, L.L.C.
Berkshire (40L), L.L.P.
Berkshire 2006-5, L.L.P.
590 Missouri Avenue, Suite 200
Jeffersonville, Indiana 47130

DESIST AND REFRAIN ORDER
(For violations of section 25110 and 25401 of the Corporations Code)

The California Corporations Commissioner finds that:

1. Berkshire (40L), L.L.P. (“Berkshire 40L”) and Berkshire 2006-5, L.L.P. (“Berkshire 2006-5”) are Wyoming Limited Liability Partnerships that have listed business addresses of 109 East 17th Street, Suite 46, Cheyenne, Wyoming 82001; 123 West First Street, Suite 675, Casper, Wyoming 82601; and more recently 590 Missouri Avenue, Suite 200, Jeffersonville, Indiana, 47130. Berkshire Resources, L.L.C. (“Berkshire”) is a Wyoming Limited Liability Company and the Managing Partner of Berkshire 40L and Berkshire 2006-5; Berkshire has listed the same business addresses as Berkshire 40L and Berkshire 2006-5. Jason T. Rose (“Jason Rose”) is a managing member of Berkshire.
2. Beginning before July 2006, Berkshire 40L, Berkshire 2006-5, Berkshire, and Jason Rose offered and sold securities in the form of investment contracts involving interests in limited partnerships.
3. The purported purpose of the solicitation and sale has been for the development, drilling, and operation of oil and gas wells.

1 4. These securities were offered and sold in this state in issuer transactions. Berkshire
2 filed with the Department of Corporations a Form D Notice of Sale of Securities claiming an
3 exemption pursuant to federal Rule 506 of Regulation D for the Berkshire 40L and Berkshire 2006-5
4 offerings. The Department of Corporations has not issued a permit or other form of qualification
5 authorizing any person or entity to offer and sell these securities in this state.

6 5. Berkshire 40L, Berkshire 2006-5, Berkshire, and Jason Rose have engaged in general
7 solicitations to offer and sell these securities to the public by telephone.

8 6. In connection with these offers and sales, Berkshire 40L, Berkshire 2006-5, Berkshire,
9 and Jason Rose cite Jason Rose’s prior employment in family run oil and gas businesses and the long
10 history of success on the part of his family in oil and gas businesses, but omit to disclose the
11 following material facts:

12 a.) On July 2, 2004 the Office of Financial Institutions of Kentucky filed Civil Action
13 No. 04-CI-00895 in the Commonwealth of Kentucky, Franklin Circuit Court, against father
14 David Rose alleging the offer and sale of unregistered securities involving interests in oil and
15 gas programs and fraud for having offered and sold these securities without disclosing to
16 investors David Rose’s past legal and regulatory problems, specifically that Orders had been
17 entered against David Rose, and/or persons connected with him, which include a Cease and
18 Desist Order issued June 30, 1989, and Agreed Order entered September 29, 1989, and an
19 Agreed Order entered July 28, 1997. In that action, on July 29, 2005 David Rose entered into
20 an agreed upon permanent injunction enjoining him from offering and selling securities and
21 barring him from acting as a broker-dealer or investment adviser in Kentucky;

22 b.) On June 13, 2006 a Restraining Order was issued in Civil Action No. 06-CI-00783
23 in the Commonwealth of Kentucky, Franklin Circuit Court, enjoining Jason Rose and his
24 brother Brian Rose from offering or selling securities of an oil and gas company called Jupiter
25 Energy, LLC, that at a minimum did not disclose legal and administrative matters involving
26 their father David Rose including the above referenced agreed upon permanent injunction in
27 Civil Action No. 04-CI-00895.

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1 Based on the forgoing findings, the California Corporations Commissioner is of the opinion
2 that the investments offered and sold by Berkshire 40L, Berkshire 2006-5, Berkshire, and Jason Rose
3 constitute securities which are subject to qualification under the California Corporate Securities Law
4 of 1968, and that these securities have been and are being offered and sold, without an exemption
5 under federal Rule 506 of Regulation D as claimed, and without being qualified pursuant to
6 Corporations Code section 25110.

7 Pursuant to Corporations Code section 25532, Berkshire (40L), L.L.P., Berkshire 2006-5,
8 L.L.P., Berkshire Resources, L.L.C., and Jason T. Rose are hereby ordered to desist and refrain from
9 the further offer or sale in the State of California of securities, including but not limited to investment
10 contracts involving interests in limited partnerships, unless and until qualification has been made
11 under the law or unless exempt.

12 Based on the forgoing findings, the California Corporations Commissioner is of the further
13 opinion that securities were offered and sold by means of written or oral communications that failed
14 to disclose material facts in violation of 25401 of the Corporations Code.

15 Pursuant to Corporations Code section 25532, Berkshire (40L), L.L.P., Berkshire 2006-5,
16 L.L.P., Berkshire Resources, L.L.C., and Jason T. Rose are hereby ordered to desist and refrain from
17 offering or selling or buying or offering to buy securities in this state, including but not limited to
18 investment contracts involving interests in limited of partnerships, by means of any written or oral
19 communication which includes an untrue statement of a material fact or omits to state a material fact
20 necessary in order to make the statements made, in light of the circumstances under which they are
21 made, not misleading.

22 This Order is necessary, in the public interest, for the protection of investors and consistent
23 with the purposes, policies, and provisions of the Corporate Securities Law of 1968.

24 Dated: June 10, 2008
25 Los Angeles, California

PRESTON DuFAUCHARD
California Corporations Commissioner

26 By _____
27 ALAN S. WEINGER
28 Lead Corporations Counsel