

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES ACT OF 1933**  
**Release No. 9501 / December 23, 2013**

**INVESTMENT ADVISERS ACT OF 1940**  
**Release No. 3746 / December 23, 2013**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-15660**

**In the Matter of**

**WEST COAST ASSET  
MANAGEMENT, INC. AND  
LANCE W. HELFERT**

**Respondents.**

**ORDER INSTITUTING ADMINISTRATIVE  
AND CEASE-AND-DESIST PROCEEDINGS,  
PURSUANT TO SECTION 8A OF THE  
SECURITIES ACT OF 1933, AND SECTIONS  
203(e), 203(f) AND 203(k) OF THE  
INVESTMENT ADVISERS ACT OF 1940,  
MAKING FINDINGS, AND IMPOSING  
REMEDIAL SANCTIONS AND A CEASE-  
AND-DESIST ORDER**

**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”) and Sections 203(e), 203(f) and 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”) against West Coast Asset Management, Inc. (“WCAM”) and Lance W. Helfert (“Helfert” and collectively with WCAM, “Respondents”).

**II.**

In anticipation of the institution of these proceedings, each Respondent has submitted an Offer of Settlement (the “Offers”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over them and the subject matter of these proceedings, which are admitted, Respondents consent to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933 and Sections 203(e), 203(f) and 203(k) of the Investment Advisers Act of 1940, Making

Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (“Order”), as set forth below.

### III.

On the basis of this Order and Respondents’ Offers, the Commission finds<sup>1</sup> that

#### Summary

1. This matter involves untrue statements by WCAM and Helfert to an advisory client regarding a hedge fund WCAM managed, the West Coast Opportunity Fund (“WCOF” or the “Fund”). In September and October 2008, as the financial crisis was unfolding, the client was considering an additional \$4 million investment in the Fund. In response to a question from the client’s representative, Respondents stated that there had been only two minor redemptions from WCOF, and that there had been net inflows into the Fund, neither of which was true. In reality, a WCAM affiliate had requested a \$5 million redemption from WCOF just a month before that resulted in net outflows from the Fund. As a result, Respondents violated Section 17(a)(2) of the Securities Act and Sections 206(2) and 206(4) of the Advisers Act and Rule 206(4)-8(a)(1) thereunder as set forth below.

#### Respondents

2. **West Coast Asset Management, Inc. (“WCAM”)**, is a California corporation with its principal place of business in Montecito, CA. WCAM is registered with the Commission as an investment adviser and currently has approximately \$190 million in assets under management. WCAM is also the managing member of and investment adviser to WCOF.

3. **Lance W. Helfert (“Helfert”)**, age 40, resides in Thousand Oaks, CA. Helfert is the president, director and 40% owner of WCAM.

#### Facts

4. On November 4, 2008, a family trust (the “Fund Investor”) invested \$4 million into WCOF. This was the Fund Investor’s second investment in the Fund, having invested \$2 million in the Fund earlier in 2008. The Fund Investor also had a separately managed account with WCAM, over which WCAM had discretionary control. In connection with both of its investments in WCOF, the Fund Investor was represented by an individual (the “Investor’s Representative”) who performed due diligence regarding the investment opportunity, provided a summary of his thoughts to the Fund Investor, and ultimately recommended that it make each of its two investments in the Fund.

5. In conducting his due diligence, the Investor’s Representative regularly communicated with Helfert and others at WCAM regarding the Fund. Helfert understood that the

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<sup>1</sup> The findings herein are made pursuant to Respondents’ Offers of Settlement and are not binding on any other person or entity in this or any other proceeding.

Investor's Representative was representing the Fund Investor and that the information Helfert provided the Investor's Representative was for his assessment of whether the Fund Investor should invest in WCOF.

6. WCAM marketed the Fund, in part, by emphasizing that WCAM's principals had "skin in the game," accounting for approximately 40% of WCOF's assets.

7. On October 31, 2008, as the financial crisis unfolded, the Investor Representative sent an email to Helfert inquiring about redemption activity in WCOF. Specifically, he posed the following question: "One thing that we didn't touch on was how your investors are reacting. Are funds being pulled to any large extent, from their SMA's, or the early investors in WCOF who are out of their lockups?"

8. Helfert responded by email on November 3, 2008: "We have had net inflow in both the SMA's and the WCOF the past couple of months. We have had no full redemptions in the WCOF, just 2 minor partial redemptions that we were informed of months ago."

9. This response, however, was not true because it did not include a redemption by a WCAM affiliate. In particular, it excluded the WCAM affiliate's \$5 million redemption request made on September 30, 2008 (and that was deemed effective on October 31, 2008—the same day as the Investor Representative's inquiry). Second, when including the \$5 million redemption, there was actually a net outflow from the Fund since July 1, 2008 of over \$3.4 million. The \$5 million redemption represented approximately 5% of WCOF's total value.

10. Minutes after Helfert sent his November 3, 2008 email, the Investor Representative confirmed to Helfert that the Fund Investor would invest an additional \$4 million into WCOF. The Fund received the \$4 million the next day.

### **Violations**

11. By offering and selling interests in WCOF through the untrue statements in the November 3, 2008 email described above, Respondents willfully violated Section 17(a)(2) of the Securities Act, which makes it unlawful, in the offer or sale of securities, to obtain money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading. Section 17(a)(2) of the Securities Act does not require a showing of scienter; negligence is sufficient. *Aaron v. SEC*, 446 U.S. 680, 701-02 (1980).

12. As a result of the untrue statements in the November 3, 2008 email described above, Respondents willfully violated Section 206(2) of the Advisers Act, which prohibits investment advisers - such as Respondents - from, directly or indirectly, engaging in any transaction, practice or course of business which operates as a fraud or deceit upon any client or prospective client. Section 206(2) of the Advisers Act does not require a showing of scienter; negligence is sufficient. *SEC v. Steadman*, 967 F.2d 636, 643 n.5 (D.C. Cir. 1992) (citing *SEC v. Capital Gains Research Bureau, Inc.*, 375 U.S. 180, 195 (1963)).

13. As a result of the untrue statements in the November 3, 2008 email described above, Respondents willfully violated Section 206(4) of the Advisers Act and Rule 206(4)-8(a)(1) thereunder. Section 206(4) prohibits investment advisers from engaging in “any act, practice, or course of business which is fraudulent, deceptive or manipulative,” as defined by the Commission by rule. Rule 206(4)-8(a)(1) prohibits an investment adviser to a “pooled investment vehicle” - such as Respondents with respect to WCOF - from, directly or indirectly, making false or misleading statements to investors or prospective investors in those pools. Section 206(4) of the Advisers Act and Rule 206(4)-8(a)(1) thereunder do not require a showing of scienter; negligence is sufficient. *Steadman*, 967 F.2d at 647.

#### IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondents’ Offers.

Accordingly, pursuant to Section 8A of the Securities Act and Sections 203(e), 203(f) and 203(k) of the Advisers Act it is hereby ORDERED that:

A. Respondents WCAM and Helfert cease and desist from committing or causing any violations and any future violations of Section 17(a)(2) of the Securities Act and Sections 206(2) and 206(4) of the Advisers Act and Rule 206(4)-8 promulgated thereunder.

B. Respondents WCAM and Helfert are censured.

C. Respondent WCAM shall, within ten days of the entry of this Order, pay disgorgement of \$51,113 and prejudgment interest of \$5,073.32 to the Securities and Exchange Commission. If timely payment is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600. Payment must be made in one of the following ways:

(1) Respondent WCAM may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or

(2) Respondent WCAM may pay by certified check, bank cashier’s check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center  
Accounts Receivable Branch  
HQ Bldg., Room 181, AMZ-341  
6500 South MacArthur Boulevard  
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying WCAM as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Marshall S. Sprung, Co-Chief, Asset Management Unit, Division of Enforcement, Securities and Exchange Commission, 5670 Wilshire Blvd., 11th Floor, Los Angeles, CA 90036.

D. Respondent WCAM shall, within ten days of the entry of this Order, pay a civil money penalty in the amount of \$100,000 to the United States Treasury. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. 3717. Payment must be made in one of the following ways:

(1) Respondent WCAM may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or

(2) Respondent WCAM may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

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Accounts Receivable Branch  
HQ Bldg., Room 181, AMZ-341  
6500 South MacArthur Boulevard  
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying WCAM as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Marshall S. Sprung, Co-Chief, Asset Management Unit, Division of Enforcement, Securities and Exchange Commission, 5670 Wilshire Blvd., 11th Floor, Los Angeles, CA 90036.

E. Respondent Helfert shall, within ten days of the entry of this Order, pay a civil money penalty in the amount of \$32,500 to the United States Treasury. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. 3717. Payment must be made in one of the following ways:

(1) Respondent Helfert may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or

(2) Respondent Helfert may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center  
Accounts Receivable Branch  
HQ Bldg., Room 181, AMZ-341  
6500 South MacArthur Boulevard  
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Helfert as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Marshall S. Sprung, Co-Chief, Asset Management Unit, Division of Enforcement, Securities and Exchange Commission, 5670 Wilshire Blvd., 11th Floor, Los Angeles, CA 90036.

F. After receipt of all payments of civil money penalties and disgorgement, the Commission shall pay the disgorgement and additional interest accrued pursuant to SEC Rule of Practice 600 to the Fund Investor.

By the Commission.

Elizabeth M. Murphy  
Secretary