

SECURITIES AND EXCHANGE COMMISSION

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Unless otherwise noted, each of the following individual Members of the Commission voted affirmatively upon each action of the Commission shown in the file:

MARY L. SCHAPIRO, CHAIRMAN

ELISSE B. WALTER, COMMISSIONER

LUIS A. AGUILAR, COMMISSIONER

TROY A. PAREDES, COMMISSIONER

DANIEL M. GALLAGHER, COMMISSIONER

(58 Documents)

*Commissioner Gallagher
not participating*

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

September 29, 2011

In re

BB Liquidation Inc.,

File No. 500-1

ORDER OF SUSPENSION
OF TRADING

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of BB Liquidation Inc. because of assertions in third-party press releases to investors concerning, among other things, the company's current financial condition and business prospects.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the company listed above.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the company listed above is suspended for the period from 9:30 a.m. EDT, September 29, 2011, through 11:59 p.m. EDT, on October 12, 2011.

By the Commission.

Elizabeth M. Murphy
Elizabeth M. Murphy
Secretary

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*Commissioner Aguilar,
Commissioner Gallagher
not participating*

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 66886 / May 1, 2012

ADMINISTRATIVE PROCEEDING
File No. 3-14861

In the Matter of

TMST, INC.,

Respondent.

ORDER INSTITUTING ADMINISTRATIVE
PROCEEDINGS PURSUANT TO SECTION
12(j) OF THE SECURITIES EXCHANGE ACT
OF 1934, MAKING FINDINGS, AND
REVOKING REGISTRATION OF
SECURITIES

I.

The Securities and Exchange Commission ("Commission") deems it necessary and appropriate for the protection of investors that proceedings be, and hereby are, instituted pursuant to Section 12(j) of the Securities Exchange Act of 1934 ("Exchange Act"), against TMST, Inc. ("TMST" or "Respondent").

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the "Offer") 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 it and the subject matter of these proceedings, Respondent consents to the entry of this Order Instituting Administrative Proceedings Pursuant to Section 12(j) of the Securities Exchange Act of 1934, Making Findings, and Revoking Registration of Securities ("Order"), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds that:

A. TMST, formerly known as Thornburg Mortgage, Inc., is a Maryland corporation whose former principal place of business was in Santa Fe, New Mexico. Prior to filing for Chapter 11 bankruptcy on May 1, 2009, TMST was a single-family residential mortgage lender focused primarily on the jumbo and super-jumbo segment of

the adjustable rate mortgage market. During the relevant period, TMST was a reporting company that had five classes of securities, consisting of common and preferred stock, registered with the Commission under Section 12(b) of the Exchange Act. TMST's common stock was listed on the New York Stock Exchange ("NYSE") under the ticker symbol "TMA." The NYSE suspended trading in TMST's common stock on December 5, 2008, and filed a Form 25 on January 15, 2009, which delisted the common stock effective January 26, 2009, due to its failure to maintain the NYSE's listing standard of a closing price of \$1.00 or more, and deregistered it from Section 12(b) effective April 15, 2009. The NYSE suspended trading in TMST's four classes of preferred stock on November 20, 2008, and delisted them effective December 12, 2008 for the same reason. Since deregistration from Section 12(b), TMST's securities have been deemed registered under Section 12(g) pursuant to Rule 12g-2. TMST's common stock is currently quoted on the "Pink Sheets" disseminated by Pink Sheets LLC under the symbol "THMRQ." TMST's preferred stock is currently quoted on the "Pink Sheets" under the symbols "THMMQ," "THMOQ," "THMPQ," and "THNMQ." TMST's most recent Form 10-K reflected 5,669 shareholders of record as of February 15, 2008. Since filing for Chapter 11 bankruptcy on May 1, 2009, TMST has filed Forms 8-K with the Commission incorporating the monthly operating reports it files with the United States Bankruptcy Court for the District of Maryland.

B. TMST has failed to comply with Section 13(a) of the Exchange Act and Rules 13a-1 and 13a-13 thereunder, while its stock was registered with the Commission in that it has not filed an Annual Report on Form 10-K since March 11, 2008 or periodic or quarterly reports on Form 10-Q for any fiscal period subsequent to its fiscal quarter ending September 30, 2008.

IV.

Section 12(j) of the Exchange Act provides as follows:

The Commission is authorized, by order, as it deems necessary or appropriate for the protection of investors to deny, to suspend the effective date of, to suspend for a period not exceeding twelve months, or to revoke the registration of a security, if the Commission finds, on the record after notice and opportunity for hearing, that the issuer of such security has failed to comply with any provision of this title or the rules and regulations thereunder. No member of a national securities exchange, broker, or dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce the purchase or sale of, any security the registration of which has been and is suspended or revoked pursuant to the preceding sentence.

In view of the foregoing, the Commission finds that it is necessary and appropriate for the protection of investors to impose the sanction specified in Respondent's Offer.

Accordingly, it is hereby ORDERED, pursuant to Section 12(j) of the Exchange Act, that registration of each class of Respondent's securities registered pursuant to Section 12 of the Exchange Act be, and hereby is, revoked.

By the Commission.

Elizabeth M. Murphy
Secretary

Jill M. Peterson
By: Jill M. Peterson
Assistant Secretary

*Commissioner Aguilar
Commissioner Gallagher
not participating*

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 9317 / May 1, 2012

SECURITIES EXCHANGE ACT OF 1934
Release No. 66892 / May 1, 2012

INVESTMENT COMPANY ACT OF 1940
Release No. 30058 / May 1, 2012

ADMINISTRATIVE PROCEEDING
File No. 3-14862

In the Matter of

MIGUEL A. FERRER, and
CARLOS J. ORTIZ,

Respondents.

ORDER INSTITUTING
ADMINISTRATIVE AND CEASE-AND-
DESIST PROCEEDINGS PURSUANT
TO SECTION 8A OF THE SECURITIES
ACT OF 1933, SECTIONS 15(b) AND
21C OF THE SECURITIES EXCHANGE
ACT OF 1934, AND SECTION 9(b) OF
THE INVESTMENT COMPANY ACT
OF 1940

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"), Sections 15(b) and 21C of the Securities Exchange Act of 1934 ("Exchange Act"), and Section 9(b) of the Investment Company Act of 1940 ("Investment Company Act"), against Miguel A. Ferrer ("Ferrer") and Carlos J. Ortiz ("Ortiz") (collectively "Respondents").

II.

After an investigation, the Division of Enforcement alleges that:

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A. SUMMARY

1. This case concerns the significant roles Ferrer and Ortiz played in misleading thousands of customers of UBS Financial Services Inc. of Puerto Rico ("UBS PR") into buying and holding hundreds of millions of dollars in UBS PR-affiliated, non-exchange-traded closed-end funds ("CEFs") in 2008 and 2009.

2. Ferrer, UBS PR's senior officer in Puerto Rico, and Ortiz, in charge of UBS PR's CEF trading desk, touted the CEFs as safe investments with high, stable prices and which yielded consistently higher returns than similar funds. They also promoted the liquidity of the CEFs in a supposedly robust secondary market in which investors could sell their shares for income if necessary.

3. However, Ferrer, Ortiz, and UBS PR misrepresented and did not disclose numerous material facts about the CEFs. For example, the Respondents falsely claimed CEF prices were based on market forces such as supply and demand. In reality, however, as Ferrer and Ortiz knew, prices were set under Ortiz's direction solely at the discretion of UBS PR's trading desk, which used them as a means of keeping the investment attractive. Furthermore, Ferrer and Ortiz did not disclose that UBS PR, as the dominant CEF broker-dealer, controlled the secondary market. In truth, any secondary market sales investors wanted to make depended largely on UBS PR's ability to solicit additional customers or its willingness to purchase shares into its inventory.

4. To prevent a collapse of the CEF market, UBS PR (under the direction of Ferrer and Ortiz) for much of 2008 purchased millions of dollars of CEF shares into its own inventory to create the appearance of liquidity, prop up prices, and maintain stable dividend yields – thus promoting the façade of a safe, secure market.

5. Ferrer and Ortiz were well aware throughout 2008 that investor demand was dropping and UBS PR was propping up the market. But Ferrer nonetheless repeatedly pumped CEF sales and misrepresented the nature and liquidity of the CEF market, both directly to investors and to UBS PR's financial advisors, who repeated those misstatements to customers.

6. By the spring of 2009, UBS PR's parent company determined that UBS PR's growing inventory represented a significant financial risk to the firm. The parent's senior executives ordered UBS PR to quickly and substantially reduce its inventory of CEF shares. With Ferrer's knowledge and under Ortiz's supervision, UBS PR orchestrated a scheme in which it dumped about \$35 million, or 75 percent, of UBS PR's inventory of CEF shares on unsuspecting investors.

7. To accomplish the scheme, Ortiz executed a plan, dubbed "Objective: Soft Landing" in one memo, in which UBS PR routinely offered and sold its CEF shares by undercutting pending customer sell orders. This effectively wiped those orders off the books, prevented customers from selling, and enriched UBS PR at its customers' expense.

Ferrer knew full well this scheme would cause investors huge losses, a fact he communicated to UBS PR's parent company executives.

8. Despite this knowledge, Ferrer stepped up his campaign to tout CEF sales. He pushed financial advisors to solicit sales of CEFs and helped arrange for certain Funds to repurchase millions of dollars of newer CEF shares from customers so UBS PR could sell them shares from its aged inventory.

9. By September 2009, UBS PR's customers had lost approximately \$500 million, or 10-15 percent, off the value of their CEF holdings.

B. RESPONDENTS

10. Ferrer, 73, was UBS PR's Chairman and CEO from 2003 until October 2009, when UBS PR temporarily terminated him. The firm then re-hired him three months later as its Vice Chairman. Ferrer holds Series 1, 4, 5, 40 and 65 securities licenses and has no disciplinary history. The same group of UBS PR executives, headed by Ferrer during the relevant time period, controlled the CEFs' regular broker-dealer and principal underwriter (UBS PR), the CEFs' investment adviser and asset manager (UBS Trust Company of Puerto Rico) and all 23 CEF companies.

11. Ortiz, 51, has been UBS PR's Managing Director of Capital Markets since 2005. Among other things, he supervises the firm's CEF trading desk. Ortiz holds Series 7, 24, 53, and 55 securities licenses and has no disciplinary history.

C. RELEVANT ENTITIES

12. UBS PR, a Puerto Rico corporation with its principal place of business in Hato Rey, Puerto Rico, is a broker-dealer registered with the Commission since 1982. UBS PR is the largest broker-dealer in Puerto Rico, with about 49 percent of total retail brokerage assets. The firm employs about 230 registered representatives ("financial advisors") and has 26 branch offices throughout Puerto Rico.

13. UBS Trust Company of Puerto Rico is an unregistered entity that shares offices and personnel with UBS PR, and serves as the investment adviser, administrator, transfer agent and custodian for the CEFs. The CEFs are exempt from Commission registration under the U.S. Territories exemption from § 6(a)(1) of the Investment Company Act of 1940. The same group of UBS PR executives, headed by Ferrer during the relevant time period, controlled the CEFs' regular broker-dealer and principal underwriter (UBS PR), the CEFs' investment adviser and asset manager (UBS Trust Company) and all 23 CEF companies.

14. UBS Financial Services, Inc. ("UBSFS") is the parent company of UBS PR. UBSFS is a Delaware corporation with its principal places of business in New York, New York and Weehawken, New Jersey. UBSFS is a wholly-owned subsidiary of UBS AG, a foreign private issuer based in Switzerland. UBSFS is registered with the Commission.

D. UBS PR's MARKETING AND SALES OF CEFs

15. Since 1995, UBS PR has been the primary underwriter and sole manager of fourteen separately organized closed-end fund companies' CEFs with a total market capitalization of \$4 billion, and co-manager of nine closed-end fund companies' CEFs with more than \$1 billion in total market capitalization. The CEFs are not traded on an exchange or quoted on any quotation service, and are available only to Puerto Rico residents. The majority of the CEFs' holdings are Puerto Rico municipal bonds, a substantial amount of which UBS PR underwrote. UBS PR has been the only secondary market dealer or liquidity provider for the sole-managed Funds and the dominant dealer for several co-managed CEFs, and has effectively controlled the secondary market for all CEFs.

16. The CEF business was UBS PR's largest single source of revenue. For example, between 2004 and 2008, the CEF business generated 50 percent of annual total revenues for UBS PR and UBS Trust Company combined, which included Fund advisory and administration fees, and primary and secondary market sales commissions. During 2008 alone, UBS PR's CEF business produced \$94.5 million in revenue for the firm.

17. Ferrer had a direct financial interest in the CEFs performing well. Ferrer's compensation was based on UBS PR's revenue, which were closely tied to the CEFs success or failure. Although Ortiz did not directly receive any proceeds from CEF sales, his compensation was based in part on the performance of UBS PR, which derived much of its revenue from the CEFs.

18. Furthermore, Ferrer controlled all important aspects of UBS PR's CEF business during 2008 and 2009. As UBS PR's CEO and Chairman, Ferrer controlled the CEFs broker-dealer and principal underwriter. He also controlled each of the twenty-three CEF companies. In addition, as CEO of UBS Trust Company, Ferrer controlled the CEFs' investment adviser, administrator, transfer agent and custodian for the CEFs.

19. UBS PR marketed CEFs primarily to retail customers. Many CEF investors were seniors and retirees, and a number of them depended on monthly dividend income from the CEFs to supplement their payments from Social Security. UBS PR's network of financial advisors aggressively solicited customers to buy CEF shares, particularly as demand for the shares dropped during 2008 and 2009 and Ferrer pushed the financial advisors to solicit buyers. During UBS PR's inventory dump, the firm solicited as much as 95% of CEF sales.

20. Financial advisors also promoted UBS PR's undocumented dividend reinvestment program. According to Ferrer and other UBS PR principals, this was the CEFs' primary selling point. Under this word-of-mouth monthly program, investors could elect to receive dividend reinvestment shares – issued by the CEFs at the Net Asset Value of the Funds ("NAV") – and immediately sell them back to UBS PR at the then-existing market price, earning premiums of up to 45 percent. This program was highly attractive to

many of UBS PR's senior and retiree customers, who depended on the income from their CEF shares. Ferrer referred to the additional returns investors could get as the "reinvestment kicker."

E. FERRER AND ORTIZ MISREPRESENTED AND OMITTED DISCLOSING MATERIAL FACTS ABOUT THE CEFs' PRICES AND LIQUIDITY

i) Misrepresentations About CEF Prices

21. Consistent and stable share prices above the Funds' respective NAVs were crucial to the success of CEF sales for several reasons. Elderly investors in the Funds were looking for stable, consistently-priced investments to protect their retirement savings and income. In addition, the success of the undocumented dividend reinvestment program was dependent on UBS PR maintaining high share prices relative to the Funds' NAVs so when investors received additional shares each month at NAV prices, they could immediately sell the shares at the higher market prices to UBS and earn an instant profit.

22. As a result, Ferrer and Ortiz ensured that throughout 2008 and early 2009, CEF prices remained high and changed little. UBS PR had no substantive written or formal CEF pricing procedures or guidelines during this time. The process was left to the discretion of Ortiz, as the head of the CEF trading desk, and the CEF Head Trader. At the direction of Ortiz, and with Ferrer's knowledge, UBS PR priced CEFs to achieve stability and reduce volatility. For example, from May to October 2008, the Head Trader, at Ortiz's direction, re-priced the CEFs only one or two times a month. Their predominant goal was not to find an objective market price, but to achieve high and stable CEF prices and what they termed "appropriate" yields for each Fund class. UBS PR also used its CEF inventory account to purchase shares for which it could not find customers to keep prices at consistently high premiums to the Funds' NAVs.

23. At the same time, however, Ferrer, and Ortiz consistently misled customers and UBS PR financial advisors by representing that market forces such as supply and demand determined CEF prices.

24. For example, UBS PR paid the Puerto Rico daily newspaper *El Vocero* to publish CEF prices in the paper's business section. Each week, beginning in October 2008 and continuing through September 2009, the trading desk transmitted the share prices Ortiz had set to the newspaper for publication. The newspaper simply listed CEF share "prices." This was misleading because UBS PR omitted to disclose in the listings that the prices represented only what UBS PR and Ortiz termed "indicative" prices. Indicative prices were simply what UBS PR and Ortiz thought the prices should be, but did not represent any commitment by UBS PR to buy or sell at that price.

25. The CEF share prices contained in UBS PR customers' monthly account statements were similarly misleading. Ortiz was aware that each month, a trader he supervised transmitted the CEF share prices he set to UBSFS to be included as "market

values" in customers' account statements each month. As with the newspaper prices, these were simply prices Ortiz thought they should be, not true market prices.

ii) Misrepresentations About CEF Liquidity

26. Ortiz also misrepresented the liquidity of the CEFs in the secondary market in 2008 and 2009. As 2008 progressed, Ortiz became increasingly aware that the supply of CEF shares far outstripped demand, leading to an illiquid market. Nonetheless, as Ferrer knew, Ortiz repeatedly petitioned UBSFS to increase the firm's inventory limits so UBS PR could purchase additional CEF shares into inventory and maintain the illusion of a liquid market.

27. At the same time, Ferrer repeatedly pushed financial advisors to solicit new customers while touting the purported strong market for the Funds. During this period, Ferrer failed to disclose to financial advisors or investors the increasing imbalance in the secondary market for CEF shares, or that the secondary market liquidity he repeatedly promoted was due to UBS PR's inventory purchases, and not to an active, independent market for the shares.

iii) The 2008-09 Price And Liquidity Crisis

28. As early as May 2008, Ortiz noted a serious "supply and demand imbalance" in the CEF secondary market because customers were placing sell orders in increasing numbers.

29. By May 16, 2008, Ortiz, Ferrer and other UBS PR executives knew UBS PR had \$37 million of CEF shares in its inventory, \$7 million above its limit. In addition, there were \$16 million in unexecuted customer orders to sell shares at prices lower than UBS PR's bid. Ortiz acknowledged in an email to senior executives the trading desk either had to execute these customer orders or lower the bid price of the Funds.

30. However, Ortiz would not agree to price the CEF shares in line with actual supply and demand. He told UBSFS' Chief Risk Officer UBS PR did not want to decrease Fund prices. Instead, UBS PR for the next several months continued to ask UBSFS for increased inventory limits. UBSFS granted these requests and allowed UBS PR to increase its inventory of CEFs by millions of dollars.

31. Furthermore, Ortiz made only small changes to CEF share prices during this period, approximately once or twice a month. As UBS PR's CEF inventory grew from May through August 2008, Ortiz did not change prices for nine CEFs on any trading day. For other CEFs, he changed the price at most on five trading days over four months. For example, UBS PR's trading desk quoted the same \$9.65 per-share price for the \$460 million PR Fixed Income Fund I from May to August, even with \$5.7 million shares of that Fund in inventory, a declining NAV, and changing dividend rates. From May to December 2008, Ortiz changed the price of that Fund only once.

32. Ortiz ensured other CEFs saw similarly unchanging prices during 2008. On every trading day from May to August 2008, UBS PR's desk quoted the same \$9.90 per-share price for the PR Investors Tax-Free Fund I (a fund with a purported \$120 million market value) and only changed the price of that fund on three trading days through December 2008, even with UBS PR's share inventory rising to \$3 million. For another \$460 million fund – the PR Fixed Income Fund IV – Ortiz kept the share prices between \$9.60 and \$9.70 every day from May through December.

33. Ferrer knew UBS PR set CEF share prices to maintain a consistent yield. He also knew prices were both at a premium to NAV and atypically high compared with comparable closed-end funds. These unchanging and consistently high prices in the face of declining NAVs, reduced customer demand, and other unfavorable market conditions were in marked contrast to the representations by Ferrer and others at UBS PR that market forces determined CEF share prices.

34. UBS PR attempted to generate customer demand by promoting the CEFs at a UBS PR Investor Conference in June 2008. Ferrer hosted the conference, at which a UBS PR managing director touted the CEFs' extraordinary market returns and low risk and volatility, but failed to disclose the share prices and liquidity depended largely on UBS PR's willingness to purchase CEF shares into inventory.

35. After the Investor Conference, Ortiz directed the CEF Head Trader to develop sales stories for brokers, focusing on promoting and selling CEFs with the greatest inventory levels. Ortiz told the trader to inform the sales force the CEF desk was willing to help push sales of Funds with the highest inventory levels by reducing the typical five-cent-per-share markup the desk received on sales. But he cautioned the trader not to put this information in an email so as not to unduly alarm the entire sales force. The trader, in fact, held a meeting with the financial advisors to explain why they should promote certain funds to customers – not telling them the funds he was pushing were those with the highest inventory levels.

36. By August 2008, Ferrer and Ortiz knew customer demand for CEF shares was further ebbing. On August 12, UBS PR's Group Management Board, including Ferrer and Ortiz, met. Among other things, the board discussed the "market drag," "product fatigue," and "weak secondary market" for CEF shares. Ferrer expressed his uneasiness to the board that financial advisors were concerned about the concentration of customers' investments in CEFs and about not being able to sell new CEF offerings.

37. After the board meeting, Ferrer directed his subordinates to boost investor demand for CEF shares. On August 29, he told UBS PR executives "[i]t is clear to me that we have to 'fix' this." He ordered them to "generate a story for each Fund" that the financial advisors could use to: increase sales; facilitate large cross trades between customers; and work with the traders to coordinate bids and offers.

38. Ferrer also directed Ortiz's Capital Markets group to create a CEF "Wholesaler" and "Facilitator" to move excess CEF inventory. Ferrer emphasized the need

to immediately solve the liquidity issues in the CEF markets because he feared "apathy in the Funds." He also made a thinly veiled threat to Ortiz: if there were not sufficient sales of CEFs, there would not be any need for a CEF desk.

39. Notwithstanding his knowledge of the weak demand for CEF shares in the secondary market and UBS PR's increasing use of inventory to support and stabilize the CEF market, Ferrer repeatedly misled UBS PR's financial advisors throughout the fall of 2008 into continuing to promote CEF sales. In email after email, he repeatedly misstated the strength, stability and liquidity of the CEF market. Ferrer also directed Ortiz to create investor demand for the CEFs.

40. For example, on September 18, 2008, Ferrer told financial advisors "[i]n the midst of all the turmoil [of the then-ongoing financial crisis], I note the superior performance of our local funds. . . . [Y]ou should look at these for clients searching for low volatility and respectable returns." (emphasis in original). On September 30, Ferrer sent another email to "note our Funds did not budge in the midst of all the bad news yesterday? Their low volatility . . . [is] a "great reason to consider them as a timely investment. Plus their returns are superior!" (emphasis in original). On October 9, 2008, Ferrer emailed financial advisors to "keep in mind that local investors have side stepped the wrath of the marketplace and have been enjoying superior returns from our Funds."

41. Ferrer did not disclose to the financial advisors the liquidity problems the CEFs were having because of weakening demand, or that the high, stable CEF prices were being maintained only because UBS PR was buying millions worth of CEF shares into its inventory.

42. During this period, UBS PR's financial advisors, at Ferrer's insistence, also heavily promoted two new primary CEF offerings totaling \$66 million. The two funds were Puerto Rico Fixed Income Fund VI, Inc. and Puerto Rico AAA Portfolio Bond Fund II, Inc. UBS PR underwrote both offerings. New offerings meant additional broker-dealer commissions and asset management fees. Primary offerings of new CEFs benefited Ferrer personally because his compensation was based on revenue performance of UBS PR, UBS Trust Company, and the CEF companies.

43. For example, even though he knew about the CEF market's illiquidity, Ferrer sent an e-mail to UBS PR's financial advisors on September 10, 2008 in an effort to dispel their concerns about the potential impact of the two planned CEF issues on share prices and the liquidity of the secondary market:

"Not to worry!!! No one should feel discomfort for our opening new Fund opportunities; because the local marketplace [is] in a very rapid consolidation... We have put in place a growth strategy in a consolidating market! It is bold, but it is right. This move should have little direct effect on secondary market activity, and if any, a positive one." (emphasis in original).

44. Just a few days earlier, Ferrer privately told other UBS PR executives he was directing UBS PR's Investment Banking department to move forward with the primary offerings regardless of UBS PR's high CEF inventory holdings, stating: "I want these [two primary offerings] to happen right away. I do not want to keep postponing new availability for reasons of inventory, no way!" (emphasis in original)

45. At Ferrer's direction, UBS PR's Investment Banking department made a presentation to financial advisors in connection with the new CEF offerings. At this presentation, senior investment bankers told financial advisors that customers should invest in the new funds because, among other things, "[f]und inventory levels are low, trading volumes are at all-time high (annualized), and prices/yields are aligned with current market conditions." These statements were patently false given the record high inventory levels, waning customer demand, and artificially high prices of the CEF shares.

46. In the two weeks before the primary offerings, which began on September 30, Ferrer sent several e-mails to UBS PR's sales force urging financial advisors to recommend the new issues for their customers' accounts, including the following:

- Financial Advisors: There is a certain comfort in owning our Funds; low volatility, attractive returns (in fact very attractive). Conclusion: Worth Considering!!! Look at Fund VI...; it will presently provide good yields.
- Financial Advisors: It is our expectation that due to particular and favorable circumstances, Fund VI will promptly show attractive returns. I urge you to focus your efforts in what we expect will have stellar performance.

47. Ferrer failed to disclose to financial advisors that: (1) secondary markets for CEFs were illiquid; and (2) UBS PR routinely acquired CEFs for its inventory and supported CEF market prices and liquidity to prevent price declines and maintain yields.

48. Ortiz misrepresented material information to the financial advisors during this same time. For the entire month leading up to the new offerings, Ortiz concealed UBS PR's ballooning inventory from the financial advisors. He directed the Head Trader to alter the daily CEF inventory sheets sent to financial advisors to reflect a maximum of 50,000 shares per Fund, rather than the actual number of shares the firm owned. By understating UBS PR's inventory of CEFs by approximately \$30 million during the primary offerings, Ortiz and UBS PR misled the financial advisors and investors about the health of the secondary market for CEFs and the availability of CEF shares trading at lower prices with higher yields.

49. Ultimately more than 600 investors purchased shares in the primary offerings. But their purchases did not fix UBS PR's secondary market illiquidity problem. UBS PR continued to purchase shares into inventory throughout the fall of 2008 and early 2009, often to buttress the undocumented dividend reinvestment program. Ferrer and Ortiz worried that if UBS PR denied CEF investors their monthly dividend reinvestment check,

they would complain and hurt demand for the shares. Therefore, the CEF trading desk gave preference to executing reinvestment share orders over the backlog of other customers' sell orders, even when executing the reinvestment share sales put UBS PR over its inventory limit.

50. To accommodate these reinvestment share purchases, UBS PR asked for and received permission from UBSFS to increase its inventory to as high as \$50 million.

51. In December 2008, UBS PR had exceeded its \$50 million CEF inventory limit. The Head Trader assured UBSFS' risk officer the trading desk "will revise prices tomorrow to bring the inventory down to the 50MM limit." Ortiz then directed his traders to "price to sell" all aged inventory holdings by pricing each class of CEF to achieve certain yields. After financial advisors complained about the desk manipulating CEF prices, Ferrer instructed Ortiz to meet with the sales force to reassure them and promote additional CEF sales by providing "appropriate justifications" for the price changes and make them "believe" in the Funds.

F. UBS PR DUMPED ITS CEF INVENTORY BY LOWERING SHARE PRICES TO UNDERCUT ITS CUSTOMERS' SELL ORDERS

i) UBSFS Orders UBS To Reduce Inventory

52. In February and March 2009, UBS PR's persistently high CEF inventory levels and the CEF shares' significant price premiums over NAV began to raise concerns at the highest levels of UBSFS.

53. In March, Ortiz emailed a number of UBSFS executives seeking a temporary increase of inventory levels from \$50 to \$55 million to buy customers' reinvestment shares. Ferrer was copied on the email. The email explained the reason for the request was because of the supply and demand imbalance in the CEF market.

54. On March 19, UBSFS' Chief Risk Officer rejected the request and told Ortiz to begin reducing inventory levels from about \$50 million to the historical limit of \$30 million. UBS PR executives told UBSFS' Head, Wealth Management Advisor Group ("Head of WMAG") that UBS PR would correct the market imbalance by increasing demand using its sales force. UBS PR's president added if that strategy failed, UBS PR would use "the ultimate weapon [of] aggressive use of pricing to bring balance back to the market. . . ."

55. Over the next several weeks, UBSFS senior executives continued to discuss their concerns about the supply and demand imbalance in the CEF secondary market and UBS PR's large CEF inventory. A review by UBSFS' Risk Control Group and Compliance Department of UBS PR's CEF pricing methods for both NAV and market value concluded:

- UBS PR was the sole CEF liquidity provider;
- UBS PR had to reduce its CEF inventory to limit its risk exposure and “promote more rational pricing and more clarity to clients . . . [so] prices transparently develop based on supply and demand;” and
- UBS PR ran a significant concentration risk that was inherent to the CEF business, which could not “effectively be reduced.”

56. UBSFS’ Risk Control Committee mandated further reductions to inventory limits as a result of this review. On May 29, 2009, UBSFS’ Chief Risk Officer sent Ortiz an email ordering UBS PR to further reduce its CEF inventory to \$12 million. The risk officer’s email was forwarded to Ferrer that same day.

57. In response, Ortiz made a presentation to UBSFS’ Executive Committee in June 2009 in which he described UBS PR’s strategy to reduce its inventory and bring prices in-line with NAVs as “Objective: Soft Landing.” In a subsequent email to members of UBSFS’ Executive Committee and Ferrer, Ortiz described the firm’s strategy as: “1. [p]urchasing from clients the minimum amount of shares possible,” and “2. [l]owering our price to keep ahead of any client open orders in terms of lowest offer price in the market,” effectively undercutting UBS PR customer orders.

58. Over the course of the next few months, Ortiz and UBS PR, with Ferrer’s assistance, pursued this strategy to execute UBSFS’ directive and dramatically reduce its inventory by:

- Lowering CEF prices just enough to undercut the pending customer sell orders in UBS PR’s Good-Til Canceled (“GTC”) order book;
- Not executing tens of millions of customer sell orders, and buying into inventory only dividend reinvestment shares;
- Aggressively soliciting new and existing customers to buy CEF shares without disclosing UBS PR’s decision to drastically reduce its inventory by lowering CEF share prices to undercut customer orders; and
- Arranging for the affiliated CEF companies to repurchase newly issued CEF shares from customers so UBS PR could sell them CEF shares from the firm’s aged inventory.

59. By the end of the inventory reduction in September 2009, UBS PR had lowered CEF share prices by up to 15 percent. Many investors who tried to sell incurred additional losses as they waited days, weeks, and even months before UBS PR executed their sell orders. Many orders were never executed.

ii) *Ortiz And UBS PR Schemed To Dump The Firm's Inventory By Undercutting Pending Customer Sell Orders*

60. UBS PR and Ortiz capitalized on the firm's control of the secondary market and inside access to order information to execute a scheme to dump UBS PR's CEF inventory ahead of a growing wave of customers attempting to exit the CEF market. UBS PR's trading desk reduced its inventory by selling CEF shares at prices slightly below pending customer limit orders. Ortiz and the Head Trader discouraged financial advisors from placing market orders by telling them customers might not receive the best execution price. In reality, UBS PR and Ortiz were strongly discouraging market orders because UBS PR had to execute those orders before it could reduce its own positions.

61. Customers (the majority of whom were unsophisticated retail investors) did not know the difference between market and limit orders. To comply with the trading desk's directives, the financial advisors placed the vast majority of sell orders as limit orders, except in the case of dividend reinvestment shares.

62. UBS PR's trading policy directed the firm to treat "marketable" limit orders, i.e., orders at or better than UBS PR's bid prices, like market orders. However, commencing in March 2009, Ortiz directed the Head Trader to regularly wipe pending marketable limit orders off the GTC book by reducing CEF prices to pennies below the customers' pending sales orders. This allowed UBS PR to sell its inventory first.

63. For example, on March 3, 2009, UBS PR sent its GTC book to the sales force showing \$16 million in marketable, unexecuted customer sell orders. That day, Ortiz instructed the Head Trader to "prepare a pricing where we eliminate the marketable GTC [customer] orders . . . This is top priority."

64. A few hours later, the Head Trader lowered market prices of 15 of the funds to a penny below the best customer orders, rendering \$14 million of customer orders "non-marketable." The GTC book the CEF trading desk sent to financial advisors on March 4 reflected a much smaller number, only \$2 million, of pending marketable sales orders.

iii) *Ferrer and Ortiz Failed To Disclose UBS PR's Conflicts Of Interest Associated With the Inventory Dump to New Or Existing CEF Investors*

65. Ferrer and Ortiz did not disclose to UBS PR's customers or financial advisors that UBS PR was no longer supporting the CEF market, or the firm's new CEF pricing strategy to undercut customers' limit orders and sell UBS PR's shares first.

66. Ferrer and Ortiz also failed to disclose the conflict of interest created by recommending CEFs to investors while dumping the firm's own shares. UBS PR continued to accept sell limit orders from customers without disclosing the direct conflict of interest created by UBS PR's new practice of purchasing few, if any, CEF shares, or undercutting customer orders to liquidate UBS PR's own inventory position. Once UBS PR chose to accept limit orders on behalf of their customers, UBS PR acted as agent for

those customers, and had a fiduciary duty to disclose conflicts of interest relevant to handling those orders.

67. UBS PR's conflicts of interest with its customers were exacerbated because the firm controlled the market for the CEFs, and investors could not go to another broker-dealer to sell their CEF shares. Customers had to compete with UBS PR to sell shares in a market UBS PR dominated and controlled. Many of UBS PR's customers attempting to sell CEF shares during this time were senior, unsophisticated retail investors who had substantial amounts of their net worth concentrated in the CEFs.

68. Ferrer and Ortiz, knew their and UBS PR's actions would have a negative impact on customers and the CEF market. However, they nonetheless took actions they knew would harm investors to reduce the risk to UBS PR and UBSFS of holding too many CEF shares. Ferrer and Ortiz put UBS PR's interests ahead of customers', dumped UBS PR's CEF shares, and let the customers take the losses they knew would follow.

iv) *While UBS PR Was Dumping Its Inventory, Ferrer And Ortiz Pushed Financial Advisors To Boost Demand For CEF Shares*

69. On March 31, 2009, UBS PR and Ortiz made misrepresentations and omissions to thousands of customers at a UBS PR Investor Conference about the CEFs' superior returns and consistent liquidity levels.

70. Before the conference, Ferrer urged UBS PR's sales force to "call your clients, [because] the information presented will offer comfort to holders of Puerto Rico bonds and Funds" (emphasis in original). UBS PR also purchased full-page newspaper advertisements in the Puerto Rican daily newspaper *El Vocero* as well as television spots promoting the conference. On the morning of the conference, Ortiz told Ferrer and other executives his view that UBS PR should present the message to investors the secondary market had "shown resiliency (high liquidity, stable price) during these times." This directly contradicted Ortiz's statements just two weeks earlier to UBS PR executives that the market was illiquid because sellers far outnumbered buyers.

71. At the conference, which Ferrer hosted, Ortiz made a presentation about the CEFs' secondary trading market. He misrepresented that CEF liquidity was increasing, and CEF prices were the result of supply and demand in an open market. These statements were false because the CEFs were experiencing a severe supply and demand imbalance and UBS PR had been using its own inventory to support CEF prices and disguise the lack of liquidity in the market. Furthermore, Ortiz omitted disclosing UBSFS had recently ordered UBS PR to reduce inventory, and that to comply with this directive UBS PR had begun lowering share prices and buying fewer customer shares.

72. The day after the investor conference, Ferrer sent an e-mail to UBS PR's sales force stating:

"Wow! What a show. Our clients received a huge dose of comfort on their investments, the right consideration in view of what we believe the local

market for bonds (and funds) is headed. This will offer you another opportunity to do right for your own client base by showing each client how he or she can benefit from the opportunities at hand. The ball is now in your court."

73. During the ensuing months, Ferrer stepped up his campaign to create CEF demand while also concealing the liquidity crisis and inventory dump. Ferrer directed UBS PR's sales force to push their customers to buy CEFs while dismissing UBS PR customers and financial advisors' concerns about CEF prices and liquidity.

74. Ferrer further misled investors about the state of the CEF market in a newspaper interview published in *El Vocero* on April 24, 2009. Specifically addressing the CEF market, Ferrer stated in the newspaper article:

"The local mutual funds have had an excellent return during all this process," explained Ferrer. But through all of this, many investors call [UBS PR] scared about the news of the drop in financial markets, 'when the reality is that news doesn't have any relevance for the investor.' In general, 'the Puerto Rican investor that has their money invested in bonds and mutual funds has obtained fantastic results . . . The result of an investor in local mutual funds, that has been able to reinvest dividends, has been superior and in some cases comparable with the stock market Indices,' said Ferrer, and he assured that this type of investment offers much less volatility and relative positive results."

75. That day, Ferrer sent an email entitled "Creation of Value" in which he misrepresented to financial advisors the CEFs would continue to trade at significant premiums to NAV and provide the "reinvestment kickers" of the dividend reinvestment program.

76. From April to August 2009, Ortiz and other UBS PR executives conducted multiple sales meetings with financial advisors focusing exclusively on promoting CEF solicitations. They did not disclose UBS PR's inventory dump and misleadingly blamed falling CEF prices on global economic conditions. As a result of this sales push, the percentage of investors' CEF purchases that financial advisors solicited grew from approximately 65 percent to 95 percent by mid-2009.

77. In August 2009, despite having recently expressed concerns to UBSFS executives that UBS PR's inventory reduction had caused "huge losses" to investors, Ferrer sent an e-mail to UBS PR's sales force urging them to "consider the present prices of our Funds" and increasing dividends as a buying opportunity for UBS PR customers. Ferrer omitted any mention of UBS PR's inventory or share price reductions, or his belief the ongoing inventory dump had drastically reduced market prices.

78. Because Ferrer and Ortiz misled financial advisors, the advisors did not disclose to the customers they aggressively solicited the main reason UBS PR was

recommending these particular CEF investments was to find buyers for the shares UBS PR was selling from its inventory. Ferrer and Ortiz also failed to disclose UBS PR was undercutting other customers' orders.

79. Ferrer, in his role as the Fund companies' Chairman, assisted UBS PR in dumping its inventory by authorizing the Funds to repurchase CEF shares. At the May 19, 2009 UBSFS Executive Committee meeting, UBSFS' Head of WMAG and Chief Risk Officer proposed petitioning the board of directors for UBS PR's 14 sole-managed proprietary CEF funds to approve a share repurchase program to absorb some of UBS PR's inventory. Eight days later, Ferrer and the Funds' board of directors approved the repurchase of a higher percentage of the Funds' outstanding shares than the board had previously approved.

80. After the board approved the repurchase, Ortiz arranged for customers who had purchased shares of the two new CEFs only seven months earlier to sell \$7 million of those shares back to the Fund companies and immediately purchase \$7 million of the CEF issues in which UBS PR held the most inventory.

81. For example, on June 22, 2009, UBS PR purchased \$4.5 million of the newly issued Puerto Rico AAA Portfolio Bond Fund II from 23 customers that the Fund companies in turn repurchased. Immediately after UBS PR purchased these shares, the 23 customers' accounts purchased \$4.5 million of an older CEF from UBS PR's inventory account, reducing UBS PR's inventory for that fund by 80 percent. Days later, Ortiz arranged for customers to sell newly issued shares of PR Fixed Income Fund VI back to UBS PR (and from UBS PR to the Fund company) and use the proceeds from that sale to purchase shares of an older CEF from UBS PR's inventory.

82. By September 30, UBS PR had reduced its CEF inventory to about \$12 million, the level UBSFS mandated. However, UBS PR's GTC order book on the same day detailed \$72 million in pending, unexecuted customer sell orders.

G. THE FRAUDULENT CONDUCT HARMED CEF INVESTORS

83. When UBS PR stopped supporting the CEF secondary market by buying customers' shares and dumped 80 percent of its own shares, prices dropped. From March to September 2009, 21 of 23 CEFs experienced significant price declines. The prices of the seven CEFs with the largest UBS PR inventory positions declined 10 to 15 percent.

84. In July 2009, Ferrer warned UBSFS' CEO and Head of WMAG that the forced inventory reduction was causing "huge losses to our clients," which he estimated at \$250 million, and losses to "our P&L . . . a dislocation in the market place." He also wrote in an email "the present lack of demand for our Funds in the secondary market carries forth to our inability to launch new Funds." However, Ferrer grossly underestimated the harm to CEF shareholders; the difference in value of the funds from the height of their respective prices on March 1, 2009 to the prices at the end of September 2009 was more than \$500 million.

85. UBS PR's inventory dump also harmed investors who sold or attempted to sell shares during the dump. UBS PR's GTC book of unexecuted customer sell orders grew from \$19 million in March 2009 to more than \$60 million by June 2009, and \$72 million by September 30. Customers waited weeks or months for UBS PR to execute their orders, at significant losses and lower prices, while some customers' orders to sell were never executed. Many investors lost value in their CEF accounts while their pending sales orders went unexecuted. These investors included:

- A retired dentist with no investment experience who invested her entire \$400,000 inheritance in two UBS PR CEFs. In June 2009, after her CEF investments had already lost significant value, she directed her financial advisor in writing to liquidate her CEF shares. She told her broker she could not afford to lose any more money and needed immediate access to her funds to pay substantial family healthcare expenses. Her financial advisor placed limit orders that UBS PR regularly undercut. She was finally able to liquidate her position near the end of 2009, after UBS PR had liquidated its inventory. The customer lost \$20,000 because UBS PR delayed the execution of, or undercut, her sell orders. Parroting Ferrer, Ortiz, and UBS PR, the customer's financial advisor told her the economy was the reason for the decline in value.
- A 62-year old retiree with no investment experience, living on a fixed income and dependant on Social Security, invested his entire savings - \$50,000 - in one CEF. A UBS PR financial advisor promised six to seven percent returns and principal protection, and enrolled him in the dividend reinvestment program. After the retiree stopped receiving monthly checks, he repeatedly directed his broker beginning in late 2008 to sell his CEF shares. However, UBS PR did not execute his order until March 2010, after their value had declined by more than \$15,000.

H. VIOLATIONS

86. As a result of the conduct described above, Ortiz and Ferrer willfully violated Section 17(a)(1), (2), and (3) of the Securities Act, which prohibits fraudulent conduct in the offer and sale of securities, and Section 10(b) of the Exchange Act and Exchange Act Rule 10b-5(a), (b), and (c) which prohibit fraudulent conduct in connection with the purchase or sale of securities.

87. Also, as a result of the conduct described above, Ferrer and Ortiz each had knowledge his role was part of an improper activity and substantially assisted UBS PR's principal violations of Securities Section Act 17(a), Exchange Act Sections 10(b) and 15(c), and Exchange Act Rule 10b-5, as articulated above. Based on these facts, Ferrer and Ortiz willfully aided and abetted and caused UBS' violations of Securities Act Section 17(a), Exchange Act Sections 10(b) and 15(c), and Exchange Act Rule 10b-5.

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate in the public interest that public administrative and cease-and-desist proceedings be instituted to determine:

A. Whether the allegations set forth in Section II hereof are true and, in connection therewith, to afford the Respondents an opportunity to establish any defenses to such allegations;

B. What, if any, remedial action is appropriate in the public interest against the Respondents pursuant to Section 15(b) of the Exchange Act including, but not limited to, disgorgement and civil penalties pursuant to Section 21B of the Exchange Act;

C. What, if any, remedial action is appropriate in the public interest against Respondents pursuant to Section 9(b) of the Investment Company Act including, but not limited to, disgorgement and civil penalties pursuant to Section 9 of the Investment Company Act; and

D. Whether, pursuant to Section 8A of the Securities Act and Section 21C of the Exchange Act, the Respondents should be ordered to cease and desist from committing or causing violations of and any future violations of Section 17(a) of the Securities Act, Sections 10(b) and 15(c) of the Exchange Act, and Exchange Act Rule 10b-5, whether the Respondents should be ordered to pay civil penalties pursuant to Section 8A(g) of the Securities Act, Section 21B(a) of the Exchange Act, and Section 9(d) of the Investment Company Act, and whether Ferrer should be ordered to pay disgorgement pursuant to Section 8A(e) of the Securities Act, Sections 21B(e) and 21C(e) of the Exchange Act, and Section 9 of the Investment Company Act.

IV.

IT IS ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened not earlier than 30 days and not later than 60 days from service of this Order at a time and place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice, 17 C.F.R. § 201.110.

IT IS FURTHER ORDERED that the Respondents shall each file an Answer to the allegations contained in this Order within twenty (20) days after service of this Order, as provided by Rule 220 of the Commission's Rules of Practice, 17 C.F.R. § 201.220.

If the Respondents fail to file the directed answer, or fail to appear at a hearing after being duly notified, the Respondents may be deemed in default and the proceedings may be determined against them upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f) and 310 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f) and 201.310.

This Order shall be served forthwith upon each Respondent personally or by certified mail.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 300 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

By the Commission.

Elizabeth M. Murphy
Secretary


By: Jill M. Peterson
Assistant Secretary

*Commissioner Aguilar
Commissioner Gallagher
not participating*

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 9318 / May 1, 2012

SECURITIES EXCHANGE ACT OF 1934
Release No. 66893 / May 1, 2012

ADMINISTRATIVE PROCEEDING
File No. 3-14863

In the Matter of

UBS FINANCIAL SERVICES INC.
OF PUERTO RICO

Respondent.

ORDER INSTITUTING
ADMINISTRATIVE AND CEASE-AND-
DESIST PROCEEDINGS PURSUANT
TO SECTION 8A OF THE SECURITIES
ACT OF 1933 AND SECTIONS 15(b)
AND 21C OF THE SECURITIES
EXCHANGE ACT OF 1934, 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 15(b) and 21C of the Securities Exchange Act of 1934 ("Exchange Act"), against UBS Financial Services Inc. of Puerto Rico ("UBS PR" or "Respondent").

II.

In anticipation of the institution of these proceedings, UBS PR has submitted an Offer of Settlement (the "Offer") 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 it and the subject matter of these proceedings, which are admitted, UBS PR consents 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 15(b) and 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order ("Order"), as set forth below.

III.

On the basis of the Order and UBS PR's Offer, the Commission finds¹ that:

A. SUMMARY

1. During 2008 and 2009, UBS PR, its former CEO ("CEO") and its Head of Capital Markets ("HCM") made misrepresentations and omissions of material facts to numerous retail customers in Puerto Rico regarding the secondary market liquidity and pricing of UBS PR-affiliated, non-exchange-traded closed-end funds ("CEFs" or "Funds"). For example, UBS PR claimed CEF prices were based on market forces such as supply and demand. However, UBS PR did not disclose that CEF prices were set solely at the discretion of the trading desk. Moreover, although UBS had certain disclosures about liquidity in prospectuses (not supplied to secondary market customers) and on its website, it did not adequately disclose, among other things, that as the dominant CEF broker-dealer, UBS PR controlled the secondary market. In reality, any secondary market sales investors wanted to make depended largely on UBS PR's ability to solicit additional customers or willingness to purchase shares into its inventory.

2. As UBS PR, the CEO and the HCM promoted CEF sales throughout 2008, they knew investor demand was significantly declining relative to supply. For much of 2008, UBS PR purchased millions of dollars of CEF shares into its own inventory while promoting the appearance of a liquid market with stable prices, without disclosing UBS PR's actions were propping up prices and liquidity.

3. But in the spring of 2009, UBS PR's parent firm determined UBS PR's growing CEF inventory represented a financial risk to the firm. The parent company directed UBS PR to substantially reduce its inventory of CEF shares. To accomplish the reduction, UBS PR and the HCM executed a plan, dubbed "Objective: Soft Landing" in one document, in which UBS PR routinely offered and sold its CEF shares at prices that undercut pending customer sell orders.

4. During this period, numerous UBS PR customers were also attempting to sell their holdings but UBS PR's actions effectively prevented certain customers from selling their CEF shares. Between March and September 2009, UBS PR sold about \$35 million, or 75%, of its inventory to investors. At the same time, UBS PR increased its efforts to solicit sales of CEFs while continuing to misrepresent how it was setting secondary market prices and the liquidity of the market. UBS PR also did not disclose its withdrawal of market support. By September 2009, when UBS PR completed its CEF inventory reduction, the market price of certain funds had declined by 10-15%.

¹ The findings herein are made pursuant to UBS PR's Offer and are not binding on any other person or entity in this or any other proceeding.

B. RESPONDENT

5. UBS PR, a Puerto Rico corporation with its principal place of business in Hato Rey, Puerto Rico, is a broker-dealer registered with the Commission since 1982. UBS PR is a subsidiary of UBS Financial Services, Inc. ("UBSFS"). UBS PR is the largest broker-dealer in Puerto Rico, with about 49% of total retail brokerage assets. The firm employs about 230 registered representatives ("financial advisors") and has nineteen branch offices throughout Puerto Rico.

C. OTHER INDIVIDUALS AND ENTITIES

6. UBSFS is a Delaware corporation with its principal places of business in New York, New York and Weehawken, New Jersey. UBSFS is a wholly-owned subsidiary of UBS AG, a foreign private issuer based in Switzerland.

7. UBS Trust Company of Puerto Rico ("UBS Trust Company") is not registered with the Commission. It shares offices and certain personnel with UBS PR, and serves as the administrator, transfer agent and custodian to fourteen of the twenty-three CEFs, while a division of UBS Trust Company serves as an investment adviser to all twenty-three CEFs. The CEFs are organized as corporations in Puerto Rico, and are exempt from Commission registration under the U.S. Territories exemption of § 6(a)(1) of the Investment Company Act of 1940. UBS PR personnel also served as members of the board of directors of all 23 CEF companies. The CEF company boards have a majority of independent directors.

D. UBS PR's MARKETING AND SALES OF CEFS

8. Since 1995, UBS PR has been the primary underwriter of fourteen separately organized closed-end fund companies' CEFs with a total market capitalization of approximately \$4 billion, and nine co-managed closed-end fund companies' CEFs with more than \$1 billion in total market capitalization. The CEFs are not traded on an exchange or quoted on any quotation service, and are available only to Puerto Rico residents. The majority of the CEFs' holdings of Puerto Rico securities are Puerto Rico municipal bonds. UBS PR has been the only secondary market dealer or liquidity provider for the sole-managed Funds and the dominant dealer for several co-managed CEFs.²

9. The CEFs represent the largest single source of revenue for UBS PR. For example, between 2004 and 2008, the CEF business generated 50% of annual total revenues for UBS PR and UBS Trust Company combined, which included Fund advisory and administration fees, and primary and secondary market sales commissions. During 2008, UBS PR's CEF business produced \$94.5 million in revenue for the firm.

² UBS Trust Company serves as the sole manager for: Puerto Rico Fixed Income Funds I – VI; Puerto Rico Mortgage Backed & US Govt. Fund; Tax-Free Puerto Rico Funds I and II; Tax-Free Puerto Rico Target Maturity Fund; Puerto Rico AAA Portfolio Target Maturity Fund; Puerto Rico AAA Portfolio Bond Funds I and II; and Puerto Rico GNMA & U.S. Gov. Target Maturity Fund. UBS Trust Company serves as co-manager for Puerto Rico Investor's Tax-Free Funds I – VI, Puerto Rico Tax-Free Target Maturity Fund I and II, and Puerto Rico Investors Bond Fund I.

10. UBS PR marketed its CEFs mainly to its Puerto Rico retail customer base. That customer base included some seniors and retirees, and a number of them who invested in CEFs depended on monthly dividend income from the CEFs to supplement their payments from Social Security.

11. Financial advisors also promoted UBS PR's dividend reinvestment program which was an important selling point of the CEFs. Under this word-of-mouth monthly program, investors could elect to receive dividend reinvestment shares – issued by the CEFs at the Net Asset Value of the Funds ("NAV") – and immediately sell them back to UBS PR at the then-existing market price, earning premiums of up to 45%. This program was highly attractive to many of UBS PR's senior customers, who depended on the income from their CEF shares.

E. UBS PR, THE CEO AND THE HCM MISREPRESENTED AND OMITTED DISCLOSING MATERIAL FACTS ABOUT THE CEFs

Misrepresentations About CEF Prices

12. UBS PR knew investors were seeking stable, consistently-priced securities to protect their investment or retirement income. UBS PR was also aware that consistently high share prices were important to promoting the dividend reinvestment program which relied on high market price premiums relative to the Funds' NAVs.

13. Throughout 2008 and early 2009, UBS PR priced the CEFs to reduce volatility and maintain high premiums to NAV. UBS PR's pricing of the CEFs was left to the discretion of the HCM and the CEF head trader, who reported to the HCM. At the direction of the HCM, UBS PR used its CEF inventory account to purchase any excess supply of shares for which UBS PR could not find customers.

14. During the same time period, however, UBS PR misrepresented that market forces such as supply and demand determined CEF prices. For example, a January 2008 UBS PR brochure entitled "UBS Family of Funds" posted on the company's website stated that: "[m]arket forces such as supply and demand and the yield of similar type products determine the price of closed end fund shares."

15. In addition, UBS PR provided CEF prices to the Puerto Rico daily newspaper *El Vocero* to publish those prices in the paper's business section. The newspaper simply listed CEF share "prices." UBS PR omitted disclosing in the listings the prices represented only what UBS PR termed "indicative" prices. Indicative prices were simply what UBS PR thought the prices should be, but did not represent any commitment by UBS PR to buy or sell at that price. UBS PR's also failed to disclose that the prices included a 3% sales commission.

16. The CEF share prices in UBS PR customers' monthly account statements were similarly misleading in that they described "market values." As with the newspaper prices, these prices were simply what UBS PR thought they should be, not true market prices.

The 2008-09 CEF Market Imbalance

17. As early as May 2008, the HCM noted a significant supply and demand imbalance in the CEF secondary market, because customers were placing sell orders in increasing numbers. By May 16, UBS PR executives knew the firm had \$37 million of CEF shares in its inventory, approaching the temporarily increased \$40 million limit that had been put in place in late April. In addition, there were \$16 million in unexecuted customer orders to sell shares at prices lower than UBS PR's bid. The HCM acknowledged in an email to senior executives that the trading desk should either execute these customer orders or lower the bid price of the Funds.

18. Rather than reduce CEF prices, for the next several months, the HCM continued to make repeated requests on behalf of UBS PR that UBSFS temporarily increase inventory limits, which increased to \$45 million at the end of July, and to \$50 million in December 2008.

19. Furthermore, on behalf of UBS PR, the HCM made only small changes to CEF share prices once or twice a month during this period. As UBS PR's CEF inventory grew from May through August 2008, the HCM did not change prices for 9 CEFs on any trading day. For example, from May through December, the HCM changed the price of one fund only one time. In the case of another fund, the trading desk quoted the same price every day from May through August 2008, and changed the price on just three trading days through December.

20. These unchanging and consistently high prices in the face of declining NAVs, increased customer selling relative to customer demand, and other unfavorable market conditions were in contrast to the representations of UBS PR that market forces determined CEF share prices.

21. UBS PR attempted to generate customer demand by promoting the CEFs at a UBS PR Investor Conference in June 2008. At that conference, a UBS PR managing director promoted the CEFs' extraordinary "market returns" and low risk and volatility, but failed to disclose that share prices and liquidity were increasingly dependent on UBS PR's support of the CEF secondary market.

22. After the Investor Conference, the HCM directed the CEF head trader to develop sales stories for brokers, regarding particular CEFs for which UBS PR had significant inventory positions. The HCM told the head trader to inform the sales force that the CEF desk was willing to offer the Funds with the highest inventory levels at reduced prices by reducing the typical five-cent-per-share markup the desk got on sales. The head trader met with financial advisors to provide information about those CEFs while omitting to disclose that the funds were those with the highest inventory levels.

23. By August 2008, customer demand for CEF shares was further ebbing. UBS PR's Group Management Board, including the CEO and the HCM, met on August 12. Among other things, the board minutes from that meeting show the attendees discussed the "market drag," "product fatigue," and "weak secondary market" for CEF shares. The CEO expressed uneasiness that financial advisors were concerned about the concentration of customers' investments in CEFs and about the continued CEF offerings.

24. After the board meeting, the CEO directed his subordinates to boost investor demand for CEF shares. On August 29, 2008, he told UBS PR executives "[i]t is clear to me that we have to 'fix' this." He told them to "generate a story for each Fund" that the financial advisors could use to increase sales and facilitate large cross trades between customers, and work with the traders to coordinate bids and offers.

25. Notwithstanding his knowledge of the weak demand for CEF shares in the secondary market, the CEO repeatedly misled UBS PR's financial advisors throughout the fall of 2008 into continuing to promote CEF sales. In numerous e-mails, he repeatedly misstated the strength, stability and liquidity of the CEF market. The CEO did not disclose to the sales force the liquidity issues in the secondary market, or that UBS PR was keeping the CEF prices high by increasing its CEF inventory.

26. The sales force solicited sales of the CEFs during this period, including two new primary CEF offerings totaling \$66 million. The CEO sent several emails to the UBS PR sales force strongly promoting the anticipated returns of the new offerings while assuring that the offerings would have little if any effect on the CEF secondary market. Yet privately, the CEO told the HCM and other executives he was directing that UBS PR move forward with the primary offerings regardless of UBS PR's high CEF inventory holdings.

27. UBS PR prepared a presentation to the sales force in connection with the new CEF offerings. This presentation, provided as reasons that customers should invest in the new funds that, among other things, "[f]und inventory levels are low, trading volumes are at all-time high (annualized), and prices/yields are aligned with current market conditions." These statements were false or misleading given the record high inventory levels and UBS PR's support of market prices.

28. Although the prospectuses for the two new CEF offerings, which were provided to primary market customers, stated that UBS PR was not obligated to maintain a market in the CEF shares, may discontinue maintaining a market at any time and that in the event it discontinued there may be no other market for the shares, UBS PR failed to disclose material facts to investors: (1) concerning the significant secondary market supply and demand imbalance; (2) that UBS PR was using its inventory account to support CEF market prices and liquidity to prevent price declines and maintain yields; and (3) that CEF prices and liquidity were highly dependent on the efforts of UBS PR's sales force to maintain customer demand for the shares.

29. The HCM misrepresented material information to the financial advisors during this same time. Prior to the fall of 2008, UBS PR had routinely displayed inventory levels for each CEF in the firm's inventory sheets that were circulated to its financial advisors. For the entire month leading up to the new offerings, the HCM concealed UBS PR's increasing inventory from the company's sales force. He directed the head trader to change the daily CEF inventory sheets sent to financial advisors to reflect a maximum of 50,000 shares per Fund, rather than the actual number of shares the firm owned.

30. Ultimately more than 600 investors purchased shares in the primary offerings. The secondary market continued to experience supply and demand imbalances. UBS PR continued to

purchase shares into inventory throughout the fall of 2008 and early 2009, often from investors who wanted to sell shares they had obtained through the dividend reinvestment program.

F. UBS PR REDUCES ITS INVENTORY BY UNDERCUTTING
CUSTOMER SELL ORDERS

UBSFS Orders UBS PR To Reduce Inventory

31. In February and March 2009, UBS PR's persistently high CEF inventory levels and the CEF shares' significant price premiums over NAV raised concerns of UBSFS' then-Chief Risk Officer ("Chief Risk Officer") and other executives.

32. In March, the HCM emailed a number of UBSFS executives seeking a temporary increase of inventory levels from \$50 to \$55 million to buy shares from customers selling their reinvestment shares. The reason given for the request was because of the supply and demand imbalance in the CEF market.

33. On March 19, UBSFS' Chief Risk Officer rejected the request and directed UBS PR to begin reducing inventory levels to the historical limit of \$30 million. UBS PR executives told a UBSFS senior executive that they expected the imbalance in the Funds market to improve because of economic conditions and because UBS PR would increase demand using its sales force. A senior UBS PR executive added if that strategy failed, UBS PR would use "the ultimate weapon [of] aggressive use of pricing to bring balance back to the market. . . ."

34. Two weeks later, UBSFS' Chief Risk Officer expressed his concern to UBSFS senior executives, that, although a supply and demand imbalance existed in the CEF secondary market, CEF prices remained high with a significant "difference between NAV and the price quoted by the trading desk . . . in some cases over 40%." He further alerted the executives that due to the fact that UBS PR's internal CEF trading limits were already exceeded because UBS PR had not yet reduced its inventory to its permanent limit, "there is a significant likelihood that clients wishing to sell the shares received through the dividend reinvestment program will be unable to do so."

35. As a result, the senior executives directed a review of UBS PR's pricing method for the market values of the CEFs. After conducting their review, on May 19, 2009, the then-Head of Wealth Management Advisor Group ("Head of WMAG") and the Chief Risk Officer reported:

- UBS PR was the sole CEF liquidity provider;
- UBS PR should reduce its CEF inventory to limit its risk exposure and "promote more rational pricing and more clarity to clients . . . [so] prices transparently develop based on supply and demand;" and,
- UBS PR ran a significant concentration risk that was inherent to the CEF business, which could not "effectively be reduced."

36. UBSFS' Risk Control Committee mandated further reductions to inventory limits as a result of this review. On May 29, 2009, UBSFS' Chief Risk Officer directed UBS PR to further reduce its CEF inventory to \$12 million.

*UBS PR Reduced The Firm's Inventory By Undercutting
Pending Customer Sell Orders*

37. In response, in June 2009, the HCM made a presentation to members of UBSFS' Risk Committee in which he described UBS PR's strategy to reduce its inventory and bring prices in-line with NAVs as "Objective: Soft Landing." In a subsequent email to members of UBSFS' Risk Committee and the CEO, the HCM described the firm's strategy as: "1. [p]urchasing from clients the minimum amount of shares possible," and "2. [l]owering our price to keep ahead of any client open orders in terms of lowest offer price in the market."

38. Over the course of the next few months, the HCM and UBS PR pursued this strategy to execute UBSFS' directive and reduce its inventory by:

- Lowering CEF prices to undercut the pending customer sell orders in the firm's Good-Til-Cancelled ("GTC") order book;
- Soliciting new and existing customers to buy CEF shares without disclosing UBS PR's decision to reduce its inventory by lowering CEF share prices below customer orders;
- Limiting UBS PR's inventory purchases to dividend reinvestment share sellers; and,
- Arranging transactions in conjunction with offers by the affiliated CEF companies to repurchase newly issued shares from customers, so UBS PR could sell to those customers shares from the firm's aged inventory.

39. The HCM and the head trader discouraged financial advisors from placing market orders, which UBS PR had to execute before reducing its own position, by telling financial advisors that customers might not receive the best execution price. Numerous CEF customers (many of whom were unsophisticated retail clients) did not know the difference between market and limit orders. Thus, to comply with the trading desk's directives, the financial advisors placed the vast majority of sell orders as limit orders.

40. UBS PR's trading policy directed the firm to treat "marketable" limit orders, i.e., orders at or better than UBS PR's bid prices, like market orders. However, commencing in March 2009, the HCM directed the head trader to regularly eliminate pending marketable limit orders by reducing CEF prices to just below the customers' pending sell orders, to sell UBS PR's CEF inventory first.

41. For example, on March 3, 2009, UBS PR sent its GTC book to the sales force showing \$16 million in marketable, unexecuted customer sell orders. That day, the HCM instructed the head trader to "prepare a pricing where we eliminate the marketable GTC [customer] orders . . . This is top priority."

42. A few hours later, the head trader lowered market prices of 15 of the 23 funds to one penny below the best customer orders, rendering \$14 million of customer orders "non-marketable." The GTC book the HCM and the head trader sent to financial advisors on March 4 reflected only \$2 million in marketable, unexecuted customer orders.

UBS PR Misrepresented Its Support of the CEF Market and Failed To Disclose Its Conflicts Of Interest to CEF Investors

43. UBS PR did not disclose to its customers it was substantially reducing the use of its inventory to support the CEF market. UBS PR also continued to accept customer limit orders without disclosing that it was undercutting those limit orders to sell UBS PR's shares first. UBS PR also failed to disclose the conflict of interest created by recommending CEFs to investors while selling its own shares.

44. UBS PR's conflicts of interest with its customers were exacerbated because the firm controlled the market for the CEFs, and investors could not go to another broker-dealer to sell their CEF shares. Customers had to compete with UBS PR to sell shares in a market UBS PR dominated and controlled. In addition, some UBS PR customers attempting to sell CEF shares during this time were senior retail investors who had substantial amounts of their net worth invested and concentrated in the CEFs.

While UBS PR Was Selling Its Inventory, UBS PR, the CEO and the HCM Pushed Financial Advisors To Boost Demand For CEF Shares

45. On March 31, 2009, UBS PR and the HCM made misrepresentations and omissions to hundreds of customers at a UBS PR Puerto Rico Investor Conference about the CEF's superior returns and consistent liquidity levels.

46. Before the conference, the CEO urged UBS PR's sales force to "call your clients, [because] the information presented will offer comfort to holders of Puerto Rico bonds and Funds" (emphasis in original). UBS PR also purchased full-page newspaper advertisements in *El Vocero* as well as television spots promoting the conference. In an e-mail sent on the morning of the conference, the HCM told the CEO and other executives his view that UBS PR should present the message to investors that the secondary market had "shown resiliency (high liquidity, stable price) during these times." This directly contradicted the HCM's statements two weeks earlier to UBS PR executives that the market was imbalanced because sellers significantly outnumbered buyers.

47. At the conference, the HCM made a presentation about the CEFs' secondary trading market. The HCM misrepresented that CEF liquidity was increasing and CEF prices were stable and the result of supply and demand in an open market. In fact, the CEFs were experiencing a significant supply and demand imbalance and UBS PR had been using its own inventory to support CEF prices and disguise the lack of liquidity in the market. Furthermore, the HCM omitted disclosing UBSFS had recently ordered UBS PR to reduce inventory, and that to comply with this directive UBS PR had begun lowering share prices and buying fewer customer shares.

48. During the ensuing months, the CEO and UBS PR tried to create CEF demand while concealing the liquidity problems and inventory reduction. The CEO directed UBS PR's sales force to solicit customers to buy CEFs notwithstanding UBS PR customers' and financial advisors' concerns about CEF prices and liquidity.

49. The CEO further misled investors about the state of the CEF market. In a newspaper interview published in *El Vocero* on April 24, 2009, the CEO specifically addressed the CEF market, stating that in the face of other, poor-performing markets, CEF share prices had been stable and performed well. That same day, the CEO sent an email entitled "Creation of Value" in which he directed financial advisors to tell their customers that the CEFs would continue to trade at significant premiums to NAV and provide the "reinvestment kickers" of the dividend reinvestment program. These statements were made without disclosing the existing secondary market illiquidity, or that UBS PR was significantly reducing CEF market prices in order to sell its inventory.

50. From April to August 2009, UBS PR's executives, including the HCM, conducted multiple sales meetings with financial advisors encouraging them to solicit their customers to invest in the CEFs without disclosing UBS PR's significant inventory reduction and misleadingly blamed falling CEF prices on global economic conditions. During this period, the percentage of investors' CEF purchases that financial advisors solicited increased to approximately 70% to 90%.

51. In August 2009, despite expressing concerns in an email to UBSFS executives that UBS PR's inventory reduction had caused "huge losses" to investors, the CEO sent an e-mail to UBS PR's sales force urging them to "consider the present prices of our Funds" and increasing dividends as a buying opportunity for UBS PR customers. The CEO omitted any mention of UBS PR's inventory or share price reductions, or his belief the inventory reduction had drastically reduced market prices.

52. To assist the firm in selling its inventory, UBS PR also took advantage of a CEF share repurchase program the CEO and other CEF board members authorized. At a UBSFS Executive Committee meeting, UBSFS' Head of WMAG and Chief Risk Officer proposed petitioning the independent board of directors for UBS PR's 14 sole-managed proprietary CEF funds to approve a share repurchase program, which could be used to reduce UBS PR's CEF inventory. On May 27, 2009, the CEO and the other members of the Funds' board of directors approved the repurchase of a higher percentage of the Funds' outstanding shares than the board had previously approved.

53. After the board approved the repurchase, UBS PR and the HCM arranged for UBS PR customers, who had only seven months earlier purchased shares of the two new CEFs, to sell \$7 million of tendered shares back to the Fund companies. That same day, UBS PR solicited those customers to immediately purchase \$7 million of shares from Funds where UBS PR had the highest inventory. UBS PR did not disclose to those customers that a material basis for recommending those specific funds was to reduce UBS PR's largest aged inventory positions.

54. In June 2009, to discourage customer sales of CEF shares, UBS PR instituted a requirement that any customer order to sell over 10,000 CEF shares required approval of a branch office manager.

55. By September 30, UBS PR had reduced its CEF inventory to about \$12 million, the level UBSFS mandated. However, UBS PR's GTC order book on the same day detailed approximately \$72 million in unexecuted customer sell orders that had accumulated over the prior 6 months.

56. When UBS PR sold 75% of its inventory and ceased using its inventory to support the CEF secondary market, prices dropped. From March 3 to September 30, 2009, 21 of 23 CEFs experienced significant price declines. The prices of the seven CEFs with the largest UBS PR inventory positions declined 10% to 15%.

G. VIOLATIONS

57. As a result of the conduct described above, UBS PR willfully violated Section 17(a) of the Securities Act, which prohibits fraudulent conduct in the offer and sale of securities, and Sections 10(b) and 15(c) of the Exchange Act and Exchange Act Rule 10b-5, which prohibit fraudulent conduct in connection with the purchase or sale of securities.

H. UNDERTAKINGS

58. UBS PR agrees to retain, at UBS PR's expense and within sixty days of the issuance of this Order, an independent third-party consultant, not unacceptable to the staff, to review UBS PR's closed-end fund disclosures and trading and pricing policies, procedures, and practices for adequacy. After such review, which UBS PR shall require to be completed within ninety days of the issuance of this Order, UBS PR will submit to the Commission, the findings of the independent consultant making recommendations for any changes in or improvements to UBS PR's policies, procedures, and practices, and a procedure for implementing such recommended changes. Within ninety days of receipt of the report, UBS PR shall adopt the recommendations contained in the report; provided, however, that as to any recommendation that UBS PR considers to be, in whole or in part, unduly burdensome or impractical, UBS PR may submit in writing to the consultant and Commission staff, within thirty days of receiving the report, an alternative policy, practice, or procedure designed to achieve the same objective or purpose. Within forty-five days of receiving the report, UBS PR shall attempt in good faith to reach an agreement relating to each recommendation that UBS PR considers to be unduly burdensome or impractical. Within fifteen days after the discussion and evaluation by UBS PR and the consultant, UBS PR shall require that the consultant inform UBS PR and Commission staff of the consultant's final determination concerning any recommendation that UBS PR considers unduly burdensome or impractical, and UBS PR shall abide by the determinations of the consultant and adopt and implement all recommendations within the ninety-day time period set forth in this paragraph.

59. Within fourteen days of UBS PR's adoption of all of the recommendations that the consultant deems appropriate, UBS PR agrees to certify in writing to the consultant and Commission staff that UBS PR has adopted and implemented all of the consultant's recommendations. Thereafter, UBS PR agrees to require the independent third-party consultant to conduct an annual review for each of the following three years from the date of the issuance of the consultant's initial report, to assess whether UBS PR is complying with the consultant's

recommended policies, procedures, and/or practices that UBS PR adopted and whether the adopted policies, procedures, and/or practices are effective in achieving their stated purposes.

60. In connection with this action and any related judicial or administrative proceeding or investigation commenced by the Commission or to which the Commission is a party, Respondent (i) agrees to use all best efforts to make its principals, partners, officers, and employees available to appear and be interviewed by Commission staff at such times and places as the staff requests upon reasonable notice; (ii) will accept service by mail or facsimile transmission of notices or subpoenas issued by the Commission for documents or testimony at depositions, hearings, or trials, or in connection with any related investigation by Commission staff; (iii) appoints Respondent's counsel as agent to receive service of such notices and subpoenas; (iv) with respect to such notices and subpoenas, waives the territorial limits on service contained in Rule 45 of the Federal Rules of Civil Procedure and any applicable local rules, provided that the party requesting the testimony reimburses Respondent's travel, lodging, and subsistence expenses at the then-prevailing U.S. Government per diem rates; and (v) consents to personal jurisdiction over Respondent in any United States District Court for purposes of enforcing any such subpoena.

In determining whether to accept the Offer, the Commission has considered these undertakings.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in UBS PR's Offer.

Accordingly, pursuant to Section 8A of the Securities Act, and Sections 15(b) and 21C of the Exchange Act, it is hereby ORDERED that:

A. UBS PR cease and desist from committing or causing any violations and any future violations of Sections 17(a) of the Securities Act, Sections 10(b) and 15(c) of the Exchange Act, and Rule 10b-5 of the Exchange Act.

B. UBS PR is censured.

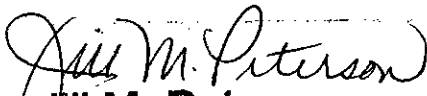
C. UBS PR shall, within 14 days of the entry of this Order, pay disgorgement of \$11,500,000.00, prejudgment interest of \$1,109,739.94, and a civil money penalty of \$14,000,000.00 to the Securities and Exchange Commission. If timely payment is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600 or 31 U.S.C. 3717. Such payment shall be: (A) made by United States postal money order, certified check, bank cashier's check or bank money order; (B) made payable to the Securities and Exchange Commission; (C) hand delivered or mailed to Enterprise Services Center, Accounts Receivable, 6500 S. MacArthur Blvd., Oklahoma City, Oklahoma, 73169; and (D) submitted under cover letter that identifies UBS PR as a Respondent in these proceedings, the file number of these proceedings, a copy of which shall be sent to Jason R. Berkowitz, Division of Enforcement, Securities and Exchange Commission, Miami Regional Office, 801 Brickell Avenue, Suite 1800, Miami, FL 33131.

D. Pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended, a Fair Fund is created for the disgorgement, interest and/or penalties referenced in Paragraph C above. Regardless of whether any such Fair Fund distribution is made, amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, it, shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that it shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the United States Treasury or to a Fair Fund, as the Commission directs. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

E. Respondent shall comply with the undertakings enumerated in paragraphs 58 and 59 of Section III above.

By the Commission.

Elizabeth M. Murphy
Secretary


By: **Jill M. Peterson**
Assistant Secretary

*Commissioner Aguilar,
Commissioner Gallagher
not participating*

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 9319 / May 1, 2012

SECURITIES EXCHANGE ACT of 1934
Release No. 66896 / May 1, 2012

ADMINISTRATIVE PROCEEDING
File No. 3-14863

In the Matter of

**UBS Financial Services Inc. of
Puerto Rico**

Respondent.

**ORDER UNDER SECTION 27A(b) OF THE
SECURITIES ACT OF 1933 AND SECTION
21E(b) OF THE SECURITIES EXCHANGE
ACT OF 1934, GRANTING WAIVERS OF
THE DISQUALIFICATION PROVISIONS OF
SECTION 27A(b)(1)(A)(ii) OF THE
SECURITIES ACT OF 1933 AND SECTION
21E(b)(1)(A)(ii) OF THE SECURITIES
EXCHANGE ACT OF 1934**

UBS Financial Services Inc. of Puerto Rico has submitted a letter, dated April 24, 2012, requesting a waiver of the disqualification provisions of Section 27A(b)(1)(A)(ii) of the Securities Act of 1933 ("Securities Act") and Section 21E(b)(1)(A)(ii) of the Securities Exchange Act of 1934 ("Exchange Act") arising from UBS Financial Services Inc. of Puerto Rico's settlement of an administrative and cease-and-desist proceeding instituted by the Commission. On May 1, 2012 the Commission issued an Order Instituting Administrative and Cease-and-Desist Proceeding, Pursuant to Section 8A of the Securities Act of 1933, and Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order ("Order") against UBS Financial Services Inc. of Puerto Rico.

Under the Order, the Commission found that UBS Financial Services Inc. of Puerto Rico, a registered broker-dealer, violated the antifraud provisions of the Securities Act and Exchange Act by making misrepresentations and omissions to investors involving secondary market prices and liquidity concerning 23 affiliated, non-exchange-traded closed-end funds in Puerto Rico. Without admitting or denying the findings in the Order, except as to the Commission's jurisdiction over it and the subject matter of the proceedings, UBS Financial Services Inc. of Puerto Rico consented to the Order. In the Order, the Commission ordered that UBS Financial Services Inc. of Puerto Rico be censured, cease and desist from committing or causing any

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violations and any future violations of Sections 17(a) of the Securities Act, Sections 10(b) and 15(c) of the Exchange Act, and Rules 10b-5 of the Exchange Act, and pay a \$11,500,000.00 million in disgorgement, \$1.1 million in prejudgment interest and a \$14,000,000.00 civil penalty.

The safe harbor provisions of Section 27A(c) of the Securities Act and Section 21E(c) of the Exchange Act are not available for any forward-looking statement that is "made with respect to the business or operations of the issuer, if the issuer . . . during the 3-year period preceding the date on which the statement was first made . . . has been made the subject of a judicial or administrative decree or order arising out of a governmental action that (I) prohibits future violations of the antifraud provisions of the securities laws; (II) requires that the issuer cease and desist from violating the antifraud provisions of the securities laws; or (III) determines that the issuer violated the antifraud provisions of the securities laws[.]" Section 27A(b)(1)(A)(ii) of the Securities Act; Section 21E(b)(1)(A)(ii) of the Exchange Act. The disqualifications may be waived "to the extent otherwise specifically provided by rule, regulation, or order of the Commission." Section 27A(b) of the Securities Act; Section 21E(b) of the Exchange Act.

Based upon the representations set forth in UBS Financial Services Inc. of Puerto Rico's request, the Commission has determined that, under the circumstances, the request for a waiver of the disqualifications resulting from the issuance of the Commission's Order is appropriate and should be granted.

Accordingly, **IT IS ORDERED**, pursuant to Section 27A(b) of the Securities Act and Section 21E(b) of the Exchange Act, that a waiver from the disqualification provisions of Section 27A(b)(1)(A)(ii) of the Securities Act and Section 21E(b)(1)(A)(ii) of the Exchange Act resulting from the Commission's Order is hereby granted.

By the Commission.

Elizabeth M. Murphy
Secretary

Jill M. Peterson
By: **Jill M. Peterson**
Assistant Secretary

*Commissioner Aguilar
Commissioner Gallagher
not participating*

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT of 1933
Release No. 9320 / May 1, 2012

ADMINISTRATIVE PROCEEDING
File No. 3-14863

In the Matter of

**UBS Financial Services Inc. of
Puerto Rico,**

Respondent.

**ORDER UNDER RULE 602(e) OF THE
SECURITIES ACT OF 1933 GRANTING A
WAIVER OF THE RULE 602(c)(3)
DISQUALIFICATION PROVISION**

I.

UBS Financial Services Inc. of Puerto Rico has submitted a letter, dated April 23, 2012, requesting a waiver of the Rule 602(c)(3) disqualification from the exemption from registration under Regulation E arising from UBS Financial Services Inc. of Puerto Rico's settlement of an administrative and cease-and-desist proceeding instituted by the Commission.

II.

On May 1, 2012, the Commission issued an Order Instituting Administrative and Cease-and-Desist Proceedings, Pursuant to Section 8A of the Securities Act of 1933 and Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order ("Order") against UBS Financial Services Inc. of Puerto Rico. Under the Order, the Commission found that UBS Financial Services Inc. of Puerto Rico, a registered broker-dealer, violated the antifraud provisions of the Securities Act of 1933 ("Securities Act") and the Securities Exchange Act of 1934 ("Exchange Act"). The Commission further found that UBS Financial Services Inc. of Puerto Rico made misrepresentations and omissions to investors involving secondary market prices and liquidity concerning 23 affiliated, non-exchange-traded closed-end funds in Puerto Rico. Without admitting or denying the findings in the Order, except as to the Commission's jurisdiction over it and the subject matter of the proceedings, UBS Financial Services Inc. of Puerto Rico consented to the Order which, among other things, censures UBS Financial Services Inc. of Puerto Rico and requires it to cease and desist from committing or causing any violations and any future violations of Sections 17(a) of the Securities

Act, Sections 10(b) and 15(c) of the Exchange Act, and Rules 10b-5 of the Exchange Act, and pay a \$11,500,000.00 million in disgorgement, \$1.1 million in prejudgment interest and a \$14,000,000.00 civil penalty.

III.

Regulation E provides an exemption from registration under the Securities Act, subject to certain conditions, for securities issued by certain small business investment companies and business development companies. Rule 602(c)(3) makes this exemption unavailable for the securities of any issuer if, among other things, any investment adviser or underwriter of the securities to be offered is "subject to an order of the Commission entered pursuant to Section 15(b)" of the Exchange Act. Rule 602(e) provides, however, that the disqualification "... shall not apply . . . if the Commission determines, upon a showing of good cause, that it is not necessary under the circumstances that the exemption [from registration pursuant to Regulation E] be denied." 17 C.F.R. § 230.602(e).

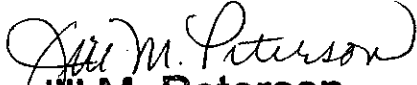
IV.

Based upon the representations set forth in UBS Financial Services Inc. of Puerto Rico's request, the Commission has determined that pursuant to Rule 602(e) under the Securities Act, a showing of good cause has been made that it is not necessary under the circumstances that the exemption be denied as a result of the Order.

Accordingly, **IT IS ORDERED**, pursuant to Rule 602(e) under the Securities Act, that a waiver from the application of the disqualification provision of Rule 602(c)(3) under the Securities Act resulting from the Commission's Order is hereby granted.

By the Commission.

Elizabeth M. Murphy
Secretary


By: **Jill M. Peterson**
Assistant Secretary

*Commissioner Aguilar
Commissioner Gallagher
not participating*

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
May 2, 2012

In the Matter of:

Recycle Tech, Inc.

File No. 500-1

ORDER OF SUSPENSION
OF TRADING

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Recycle Tech, Inc. ("Recycle Tech") because it has not filed a periodic report since its 10-Q for the quarterly period ending November 30, 2009, filed on January 13, 2010.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of Recycle Tech. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of Recycle Tech is suspended for the period from 9:30 a.m. EDT on May 2, 2012, through 11:59 p.m. EDT on May 15, 2012.

By the Commission.

Elizabeth M. Murphy
Secretary

Jill M. Peterson
By: **Jill M. Peterson**
Assistant Secretary

*Commissioner Aguilar
Commissioner Gallagher
not participating*

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 66902 / May 2, 2012

ADMINISTRATIVE PROCEEDING
File No. 3-14866

In the Matter of	:	ORDER INSTITUTING PUBLIC
	:	ADMINISTRATIVE PROCEEDINGS
Recycle Tech, Inc.	:	AND NOTICE OF HEARING PURSUANT
	:	TO SECTION 12(j) OF THE SECURITIES
	:	EXCHANGE ACT OF 1934
Respondent.	:	

I.

The Securities and Exchange Commission ("Commission") deems it necessary and appropriate for the protection of investors that public administrative proceedings be, and hereby are, instituted pursuant to Section 12(j) of the Securities Exchange Act of 1934 ("Exchange Act") against Recycle Tech, Inc. (CIK No. 0001344770) ("Recycle Tech" or "Respondent").

II.

As a result of its investigation, the Division of Enforcement alleges that:

A. RESPONDENT

1. Recycle Tech is a Colorado corporation based in Miami, Florida. Recycle Tech has had a class of securities registered with the Commission pursuant to Section 12(g) of the Exchange Act. Recycle Tech's stock is currently quoted on OTC Link operated by OTC Markets Group Inc. under the trading symbol "RCYT."

B. DELINQUENT PERIODIC FILINGS

2. Section 13(a) of the Exchange Act and the rules promulgated thereunder require issuers of securities registered pursuant to Section 12 of the Exchange Act to file with the Commission current and accurate information in periodic reports, even if the registration is voluntary under Section 12(g). Specifically, Rule 13a-1 requires issuers to file annual reports (Forms 10-K or 10-KSB) and Rule 13a-13 requires issuers to file quarterly reports (Forms 10-Q or 10-QSB).

3. Recycle Tech has failed to make any of its periodic reports required by Section 13(a) and Rules 13a-1 and 13a-13 of the Exchange Act since January 13, 2010, when it filed a Form 10-Q for the quarterly period ending November 30, 2009, and while its securities have been registered with the Commission.

4. As a result of the foregoing, Recycle Tech has failed to comply with Section 13(a) and Rules 13a-1 and 13a-13 of the Exchange Act.

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate for the protection of investors that public administrative proceedings be instituted to determine:

A. Whether the allegations contained in Section II of this Order are true, and to afford Recycle Tech an opportunity to establish any defenses to such allegations; and

B. Whether it is necessary or appropriate for the protection of investors to suspend for a period not exceeding twelve months, or to revoke the registration of each class of Recycle Tech's securities identified in Section 2 of this Order registered pursuant to Section 12 of the Exchange Act.

IV.

IT IS HEREBY ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened at a time and place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice [17 C.F.R. § 201.110].

IT IS FURTHER ORDERED that the Respondent shall file an Answer to the allegations contained in the Order Instituting Proceedings within twenty days after service of this Order, as provided by Rule 220 of the Commission's Rules of Practice [17 C.F.R. § 201.220].

If the Respondent fails to file the directed Answer, or fails to appear at a hearing after being duly notified, the Respondent may be deemed in default and the proceedings may be determined against it upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f), and 310 of the Commission's Rules of Practice [17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f), and 201.310].

This Order shall be served forthwith upon Respondent personally or by certified or registered mail or by other means of verifiable delivery.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 120 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice [17 C.F.R. § 201.360(a)(2)].

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

By the Commission.

Elizabeth M. Murphy
Secretary

Jill M. Peterson
By: **Jill M. Peterson**
Assistant Secretary

*Commissioner Aguilar
Commissioner Gallagher
not participating*

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934

Release No. 66900 / May 2, 2012

ADMINISTRATIVE PROCEEDING

File No. 3-14864

In the Matter of

HYDROGENETICS, INC.,

Respondent.

**ORDER INSTITUTING
ADMINISTRATIVE PROCEEDINGS
AND NOTICE OF HEARING
PURSUANT TO SECTION 12(j) OF THE
SECURITIES EXCHANGE ACT OF 1934**

I.

The Securities and Exchange Commission ("Commission") deems it necessary and appropriate for the protection of investors that public administrative proceedings be, and hereby are, instituted pursuant to Section 12(j) of the Securities Exchange Act of 1934 ("Exchange Act") against Respondent HydroGenetics, Inc.

II.

After an investigation, the Division of Enforcement alleges that:

A. RESPONDENT

1. HydroGenetics, Inc. (CIK No. 0001309223) is a Florida corporation located in Fort Lauderdale, Florida with a class of securities registered with the Commission pursuant to Section 12(g) of the Exchange Act since January 2005. HydroGenetics' stock is currently quoted on OTC Link operated by OTC Markets Group Inc. under the trading symbol "HYGN."

B. DELINQUENT PERIODIC FILINGS

2. Section 13(a) of the Exchange Act and the rules promulgated thereunder require issuers of securities registered pursuant to Section 12 of the Exchange Act to file with the Commission current and accurate information in periodic reports, even if the registration is

voluntary under Section 12(g). Specifically, Rule 13a-1 requires issuers to file annual reports and Rule 13a-13 requires issuers to file quarterly reports.

3. HydroGenetics, Inc. is delinquent in its periodic filings with the Commission, having never made any of its required periodic reports while its common stock has been registered with the Commission.

4. As a result of the foregoing, HydroGenetics, Inc. has failed to comply with Section 13(a) of the Exchange Act and Rules 13a-1 and 13a-13 thereunder.

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate for the protection of investors that public administrative proceedings be instituted to determine:

A. Whether the allegations contained in Section II of this Order are true, and, in connection therewith, to afford Respondent an opportunity to establish any defenses to such allegations; and

B. Whether it is necessary and appropriate for the protection of investors to suspend for a period not exceeding twelve months, or revoke the registration of each class of securities registered pursuant to Section 12 of the Exchange Act of the Respondent identified in Section II above.

IV.

IT IS HEREBY ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened at a time and place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice [17 C.F.R. § 201.110].

IT IS FURTHER ORDERED that the Respondent shall file an Answer to the allegations contained in the Order Instituting Proceedings within twenty (20) days after service of this Order, as provided by Rule 220 of the Commission's Rules of Practice [17 C.F.R. § 201.220].

If the Respondent fails to file the directed Answer, or fails to appear at a hearing after being duly notified, the Respondent may be deemed in default and the proceedings may be determined against it upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f), and 310 of the Commission's Rules of Practice [17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f), and 201.310].

This Order shall be served forthwith upon Respondent personally or by certified, registered, or Express Mail, or by other means permitted by the Commission's Rules of Practice.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 120 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice [17 C.F.R. § 201.360(a)(2)].

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

By the Commission.

Elizabeth M. Murphy
Secretary

Jill M. Peterson
By: **Jill M. Peterson**
Assistant Secretary

*Commissioner Aquilar
Commissioner Gallagher
not participating*

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 9321 / May 2, 2012

ADMINISTRATIVE PROCEEDING
File No. 3-14865

In the Matter of

HYDROGENETICS, INC.,

Respondent.

ORDER INSTITUTING CEASE-AND-
DESIST PROCEEDINGS PURSUANT TO
SECTION 8A OF THE SECURITIES ACT
OF 1933, MAKING FINDINGS, AND
IMPOSING A CEASE-AND-DESIST
ORDER

I.

The Securities and Exchange Commission ("Commission") deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 ("Securities Act"), against HydroGenetics, Inc. ("HydroGenetics" or "Respondent").

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the "Offer") 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 it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933, Making Findings, and Imposing a Cease-and-Desist Order ("Order"), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds¹ that:

1. HydroGenetics is a Florida corporation with its principal place of business in Fort Lauderdale, Florida. HydroGenetics purportedly engages in the business of acquiring emerging alternative energy companies. During the relevant time its common stock was registered pursuant to Section 12(g) of the Securities Exchange Act of 1934 ("Exchange Act"). Its common stock is quoted on the OTC Link, operated by OTC Markets Group, Inc.

2. In or about April 2008, certain investors purchased promissory notes that were convertible to HydroGenetics shares. Over the next year, the investors caused portions of the promissory notes to be assigned to various individuals and entities. Those individuals and entities then sought to convert the promissory notes to shares.

3. From May 2008 to approximately June 2009 HydroGenetics issued more than 248 million common shares that did not bear a restrictive legend to various stock recipients who had converted the promissory notes into HydroGenetics common stock.

4. HydroGenetics accepted the conversion of promissory notes. Then, beginning in May 2008 and ending in May 2009, two attorneys drafted eight nearly identical opinion letters opining that, pursuant to Rule 144, the shares issued pursuant to the conversion need not bear a restrictive legend because the holders of the promissory notes could rely on Rule 144 for their resales. According to the opinion letters, HydroGenetics was a non-reporting company. That statement was incorrect. HydroGenetics common stock was at all relevant times registered under Rule 12(g) of the Exchange Act and thus HydroGenetics was required to file periodic reports with the Commission.

5. HydroGenetics never filed any periodic reports and therefore failed to comport with the filing requirements of Section 13(a) of the Exchange Act. Accordingly, Rule 144 was not available and HydroGenetics could not issue the stock without a restrictive legend.

6. Nonetheless, HydroGenetics sent its transfer agent the opinion letters. In reliance on the opinion letters, HydroGenetics' transfer agent issued stock certificates representing more than 248 million shares that did not bear a restrictive legend.

7. In addition to improperly authorizing the issuance of unlegended stock certificates purportedly in compliance with Rule 144, HydroGenetics continued to accept the promissory notes for conversion to shares after the convertibility of the promissory notes to shares was exhausted. As a result, of the more than 248 million shares issued, approximately 107 million of those shares were also the product of improperly over-converting the promissory notes to HydroGenetics shares.

¹ The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

8. Section 5(a) of the Securities Act prohibits the use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell a security unless a registration statement is in effect as to such security. Section 5(c) of the Securities Act prohibits the use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy a security unless a registration statement has been filed as to such security. No registration statement was filed with the Commission or was in effect as to the offer and sale of the shares that HydroGenetics distributed to the public.

9. As a result of the conduct described above, HydroGenetics violated Sections 5(a) and 5(c) of the Securities Act.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent HydroGenetics' Offer.

Accordingly, it is hereby ORDERED that:

Pursuant to Section 8A of the Securities Act, Respondent HydroGenetics cease and desist from committing or causing any violations and any future violations of Sections 5(a) and 5(c) of the Securities Act.

By the Commission.

Elizabeth M. Murphy
Secretary

Jill M. Peterson
By: **Jill M. Peterson**
Assistant Secretary

*Commissioner Aguilar
Commissioner Gallagher
not participating*

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

May 2, 2012

In the Matter of

HydroGenetics, Inc.

File No. 500-1

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ORDER OF SUSPENSION
OF TRADING

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of HydroGenetics, Inc. ("HydroGenetics") because it has not filed a periodic report since its Form 10 registration statement became effective in January 2005.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of HydroGenetics. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of HydroGenetics is suspended for the period from 9:30 a.m. EDT on May 2, 2012, through 11:59 p.m. EDT on May 15, 2012.

By the Commission.

Elizabeth M. Murphy
Secretary

Jill M. Peterson
By: Jill M. Peterson
Assistant Secretary

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*Commissioner Aguilar
not participating*

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934

Release No. 66906 / May 2, 2012

ADMINISTRATIVE PROCEEDING

File No. 3-14867

In the Matter of

SinoTech Energy Limited

Respondent.

**ORDER INSTITUTING
ADMINISTRATIVE PROCEEDINGS
AND NOTICE OF HEARING
PURSUANT TO SECTION 12(j) OF
THE SECURITIES EXCHANGE ACT
OF 1934**

I.

The Securities and Exchange Commission ("Commission") deems it necessary and appropriate for the protection of investors that public administrative proceedings be, and hereby are, instituted pursuant to Section 12(j) of the Securities Exchange Act of 1934 ("Exchange Act") against SinoTech Energy Limited ("SinoTech" or "Respondent").

II.

After an investigation, the Division of Enforcement alleges that:

A. RESPONDENT

1. **SinoTech** is a Cayman Islands company. It operates an enhanced oil recovery (EOR) services business through a subsidiary, Tianjin New Highland Science and Technology Development Co., Ltd., a British Virgin Islands-incorporated company with its principal place of business in Beijing, China. SinoTech's registration statement for its initial public offering went effective on November 3, 2010. The company's American Depositary Shares thereafter traded on NASDAQ (ticker: CTE) until August 16, 2011, when NASDAQ halted trading. On October 18, 2011, NASDAQ suspended trading in SinoTech's shares. SinoTech traded on the Pink Sheets (ticker: CTESY.PK) thereafter until its stock was delisted by NASDAQ on January 6, 2012.

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B. DELINQUENT PERIODIC FILINGS

2. On September 22, 2011, SinoTech's independent auditor resigned. The auditor withdrew its audit report with respect to SinoTech's September 30, 2010 fiscal year-end financial statements that were included in the company's annual report on Form 20-F filed with the Commission and stated that the audit report should no longer be relied upon.

3. Exchange Act Section 13(a) and the rules promulgated thereunder require issuers of securities registered pursuant to Exchange Act Section 12 to file with the Commission current and accurate information in periodic reports. Specifically, Rule 13a-1 requires issuers to file annual reports.

4. Because Respondent's auditor withdrew its audit report for Respondent's financial statements as of and for the fiscal year ended September 30, 2010, SinoTech's annual report on Form 20-F is not supported by audited financial statements. As a result, SinoTech has no compliant Commission filings, is delinquent in its periodic filings with the Commission, and has failed to comply with Exchange Act Section 13(a) and Rule 13a-1 thereunder.

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate for the protection of investors that public administrative proceedings be instituted to determine:

A. Whether the allegations contained in Section II hereof are true and, in connection therewith, to afford the Respondent an opportunity to establish any defenses to such allegations; and

B. Whether it is necessary and appropriate for the protection of investors to suspend for a period not exceeding twelve months, or revoke the registration of, each class of securities registered pursuant to Section 12 of the Exchange Act of SinoTech and any successor under Exchange Act Rule 12b-2 or 12g-3, and any new corporate name of the Respondent.

IV.

IT IS HEREBY ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened at a time and place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice [17 C.F.R. § 201.110].

IT IS HEREBY FURTHER ORDERED that Respondent shall file an Answer to the allegations contained in this Order within ten (10) days after service of this Order, as provided by Rule 220(b) of the Commission's Rules of Practice [17 C.F.R. § 201.220(b)].

If Respondent fails to file the directed Answer, or fails to appear at a hearing after being duly notified, the Respondent, and any successor under Exchange Act Rule 12b-2 or 12g-3, and any new corporate name of the Respondent, may be deemed in default and the proceedings may be determined against it upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f), and 310 of the Commission's Rules of Practice [17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f), and 201.310].

This Order shall be served forthwith upon the Respondent personally or by certified, registered, or Express Mail, or by other means permitted by the Commission Rules of Practice.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 120 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice [17 C.F.R. § 201.360(a)(2)].

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

By the Commission.

Elizabeth M. Murphy
Secretary


By **Jill M. Peterson**
Assistant Secretary

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

May 3, 2012

In the Matter of

**Airtrax, Inc.,
Amedia Networks, Inc.,
American Business Financial Services, Inc.,
Appalachian Bancshares, Inc., and
Ariel Way, Inc.**

File No. 500-1

**ORDER OF SUSPENSION OF
TRADING**

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Airtrax, Inc. because it has not filed any periodic reports since the period ended March 31, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Amedia Networks, Inc. because it has not filed any periodic reports since the period ended September 30, 2007.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of American Business Financial Services, Inc. because it has not filed any periodic reports since the period ended September 30, 2004.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Appalachian Bancshares, Inc. because it has not filed any periodic reports since the period ended June 30, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Ariel Way, Inc. because it has not filed any periodic reports since the period ended June 30, 2008.

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The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on May 3, 2012, through 11:59 p.m. EDT on May 16, 2012.

By the Commission.

Elizabeth M. Murphy
Elizabeth M. Murphy
Secretary

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934

Release No. 66908 / May 3, 2012

ADMINISTRATIVE PROCEEDING

File No. 3-14869

In the Matter of

**Airtrax, Inc.,
Amedia Networks, Inc.,
American Business Financial Services, Inc.,
Appalachian Bancshares, Inc., and
Ariel Way, Inc.**

Respondents.

**ORDER INSTITUTING
ADMINISTRATIVE
PROCEEDINGS AND NOTICE
OF HEARING PURSUANT TO
SECTION 12(j) OF THE
SECURITIES EXCHANGE ACT
OF 1934**

I.

The Securities and Exchange Commission ("Commission") deems it necessary and appropriate for the protection of investors that public administrative proceedings be, and hereby are, instituted pursuant to Section 12(j) of the Securities Exchange Act of 1934 ("Exchange Act") against the Respondents named in the caption.

II.

After an investigation, the Division of Enforcement alleges that:

A. RESPONDENTS

1. Airtrax, Inc. ("AITX")¹ (CIK No. 1081372) is a New Jersey corporation located in Blackwood, New Jersey with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). AITX is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-Q for the period ended March 31, 2008, which reported a net loss of \$1,977,411 for the prior three months. As of May 1, 2012, the common stock of AITX was quoted on OTC Link (formerly "Pink Sheets") operated by OTC Markets Group Inc. ("OTC Link"), had eight market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

¹The short form of each issuer's name is also its stock symbol.

2. Amedia Networks, Inc. ("AANI") (CIK No. 933955) is a void Delaware corporation located in Eatontown, New Jersey with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). AANI is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-QSB for the period ended September 30, 2007, which reported a net loss of \$10,808,499 for the prior nine months. As of May 1, 2012, the common stock of AANI was quoted on OTC Link, had seven market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

3. American Business Financial Services, Inc. ("ABFIQ") (CIK No. 772349) is a void Delaware corporation located in Philadelphia, Pennsylvania with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). ABFIQ is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-Q for the period ended September 30, 2004, which reported a net loss of \$25,237,000 for the prior three months. On January 21, 2005, ABFIQ filed a Chapter 11 petition in the U.S. Bankruptcy Court for the District of Delaware, which was converted to a Chapter 7 petition on May 17, 2005, and was still pending as of May 1, 2012. As of May 1, 2012, the common stock of ABFIQ was quoted on OTC Link, had seven market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

4. Appalachian Bancshares, Inc. ("APAB") (CIK No. 1019883) is a noncompliant Georgia corporation located in Ellijay, Georgia with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). APAB is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-Q for the period ended June 30, 2009, which reported a net loss of \$32,660,000 for the prior six months. As of May 1, 2012, the common stock of APAB was quoted on OTC Link, had eight market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

5. Ariel Way, Inc. ("AWYI") (CIK No. 1145254) is a Florida corporation located in Washington, D.C. with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). AWYI is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-QSB for the period ended June 30, 2008, which reported a net loss of \$1,579,346 for the prior nine months. As of May 1, 2012, the common stock of AWYI was quoted on OTC Link, had ten market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

B. DELINQUENT PERIODIC FILINGS

6. As discussed in more detail above, all of the Respondents are delinquent in their periodic filings with the Commission, have repeatedly failed to meet their obligations to file timely periodic reports, and failed to heed delinquency letters sent to them by the Division of Corporation Finance requesting compliance with their periodic filing obligations or, through their failure to maintain a valid address on file with the Commission as required by Commission rules, did not receive such letters.

7. Exchange Act Section 13(a) and the rules promulgated thereunder require issuers of securities registered pursuant to Exchange Act Section 12 to file with the Commission current

and accurate information in periodic reports, even if the registration is voluntary under Section 12(g). Specifically, Rule 13a-1 requires issuers to file annual reports, and Rule 13a-13 requires domestic issuers to file quarterly reports.

8. As a result of the foregoing, Respondents failed to comply with Exchange Act Section 13(a) and Rules 13a-1 and 13a-13 thereunder.

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate for the protection of investors that public administrative proceedings be instituted to determine:

A. Whether the allegations contained in Section II hereof are true and, in connection therewith, to afford the Respondents an opportunity to establish any defenses to such allegations; and,

B. Whether it is necessary and appropriate for the protection of investors to suspend for a period not exceeding twelve months, or revoke the registration of each class of securities registered pursuant to Section 12 of the Exchange Act of the Respondents identified in Section II hereof, and any successor under Exchange Act Rules 12b-2 or 12g-3, and any new corporate names of any Respondents.

IV.

IT IS HEREBY ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened at a time and place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice [17 C.F.R. § 201.110].

IT IS HEREBY FURTHER ORDERED that Respondents shall file an Answer to the allegations contained in this Order within ten (10) days after service of this Order, as provided by Rule 220(b) of the Commission's Rules of Practice [17 C.F.R. § 201.220(b)].

If Respondents fail to file the directed Answers, or fail to appear at a hearing after being duly notified, the Respondents, and any successor under Exchange Act Rules 12b-2 or 12g-3, and any new corporate names of any Respondents, may be deemed in default and the proceedings may be determined against it upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f), and 310 of the Commission's Rules of Practice [17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f), and 201.310].

This Order shall be served forthwith upon Respondents personally or by certified, registered, or Express Mail, or by other means permitted by the Commission Rules of Practice.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 120 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice [17 C.F.R. § 201.360(a)(2)].

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

By the Commission.

Elizabeth M. Murphy

Elizabeth M. Murphy
Secretary

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-66910; File No. S7-08-07]

RIN 3235-AJ85

Amendments to Financial Responsibility Rules for Broker-Dealers

AGENCY: Securities and Exchange Commission

ACTION: Proposed rule; reopening of comment period.

SUMMARY: The Securities and Exchange Commission ("Commission") is reopening the comment period for proposed amendments to its net capital, customer protection, books and records, and notification rules for broker-dealers under the Securities Exchange Act of 1934 ("Exchange Act"), which was issued by the Commission on March 9, 2007 (Exchange Act Release No. 55431, 72 FR 12862 (Mar. 19, 2007)). The original comment period for the proposed amendments closed on May 18, 2007, and the Commission extended the public comment period until June 18, 2007. The Commission did not act on the rules at that time. The Commission is presently reconsidering the proposed rule amendments. Given the passage of time since the amendments were proposed, the Commission is reopening for 30 days the time period in which to provide the Commission with comments.

DATES: Comments should be received on or before [insert date 30 days after FR publication].

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/proposed>);
- Send an e-mail to rule-comments@sec.gov. Please include File Number S7-08-07 on the subject line; or

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- Use the Federal eRulemaking Portal (<http://www.regulations.gov>). Follow the instructions for submitting comments.

Paper Comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number S7-08-07. This file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet web site (<http://www.sec.gov/rules/proposed>). Comments will also be available for public inspection and copying in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Michael A. Macchiaroli, Associate Director, at (202) 551-5525; Thomas K. McGowan, Deputy Associate Director, at (202) 551-5521; Randall Roy, Assistant Director, at (202) 551-5522; Raymond A. Lombardo, Branch Chief, at (202) 551-5755; or Sheila Dombal Swartz, Special Counsel, at (202) 551-5545; Division of Trading and Markets, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-7010.

SUPPLEMENTARY INFORMATION: On March 9, 2007, the Commission requested comment on proposed amendments to the Commission's net capital, customer protection, books

and records, and notification rules for broker-dealers under the Exchange Act.¹ Specifically, the proposed amendments are designed to address several areas of concern regarding the financial requirements for broker-dealers. They also would update the financial responsibility rules and make certain technical amendments.

The Commission originally requested that comments on this proposal be received by May 18, 2007, and subsequently extended the public comment period to June 18, 2007.² The

Commission is reconsidering these proposals presently. Given economic events since the rule amendments were proposed, as well as regulatory developments, comments received on the proposed amendments, the continuing public interest in the proposed amendments and the passage of time, the Commission believes that it would be appropriate to facilitate additional public comments on the proposed rule amendments. Accordingly, the Commission is reopening the public comment period for 30 days.

By the Commission.



Elizabeth M. Murphy
Secretary

Date: May 3, 2012

¹ See Exchange Act Release No. 55431, 72 FR 12862 (Mar. 19, 2007).

² See Exchange Act Release No. 55777 (May 17, 2007), 72 FR 28908 (May 23, 2007).

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 66921 / May 4, 2012

ADMINISTRATIVE PROCEEDING
File No. 3-14870

In the Matter of

**Anthracite Capital, Inc.,
Auto Data Network Inc.,
Avenue Group, Inc.,
Ckrush, Inc.,
Clickable Enterprises, Inc., and
DCI USA, Inc.,**

Respondents.

**ORDER INSTITUTING
ADMINISTRATIVE
PROCEEDINGS AND NOTICE
OF HEARING PURSUANT TO
SECTION 12(j) OF THE
SECURITIES EXCHANGE ACT
OF 1934**

I.

The Securities and Exchange Commission ("Commission") deems it necessary and appropriate for the protection of investors that public administrative proceedings be, and hereby are, instituted pursuant to Section 12(j) of the Securities Exchange Act of 1934 ("Exchange Act") against the Respondents named in the caption.

II.

After an investigation, the Division of Enforcement alleges that:

A. RESPONDENTS

1. Anthracite Capital, Inc. ("ACPIQ")¹ (CIK No. 1050112) is a forfeited Maryland corporation located in New York, New York with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). ACPIQ is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-Q for the period ended September 30, 2009, which reported a net loss of \$118,794,000 for the prior nine months. On March 15, 2010, ACPIQ filed a Chapter 7 petition in the U.S. Bankruptcy Court for the Southern District of New York, which was still pending as of May 1, 2012. As of May 1, 2012, the common stock of ACPIQ was quoted on OTC Link (formerly "Pink Sheets")

¹The short form of each issuer's name is also its stock symbol.

operated by OTC Markets Group Inc. ("OTC Link"), had thirteen market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

2. Auto Data Network Inc. ("ADNW") (CIK No. 1029762) is a void Delaware corporation located in New York, New York with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). ADNW is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-QSB for the period ended November 30, 2004. As of May 1, 2012, the common stock of ADNW was quoted on OTC Link, had ten market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

3. Avenue Group, Inc. ("AVNU") (CIK No. 1100006) is a forfeited Delaware corporation located in New York, New York with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). AVNU is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-Q for the period ended March 31, 2009, which reported a net loss of \$339,266 for the prior three months. As of May 1, 2012, the common stock of AVNU was quoted on OTC Link, had eight market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

4. Ckrush, Inc. ("CKRU") (CIK No. 1064539) is a forfeited Delaware corporation located in New York, New York with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). CKRU is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-Q for the period ended March 31, 2008, which reported a net loss of \$1,341,028 for the prior three months. On December 2, 2005, CKRU (then named Cedric Kushner Promotions, Inc.) consented to the entry of a permanent injunction which, among other relief, enjoined it from violating Exchange Act Sections 10(b), 13(a), 13(b)(2)(A), and 13(b)(2)(B) and Rules 10b-5, 12b-20 and 13a-1 thereunder. *S.E.C. v. Cedric Kushner Promotions, Inc.*, 04-CV-2324 (S.D.N.Y. Dec. 2, 2005). Litigation Rel. No. 19485 (Dec. 5, 2005). As of May 1, 2012, the common stock of CKRU was quoted on OTC Link, had seven market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

5. Clickable Enterprises, Inc. ("CKEI") (CIK No. 1045151) is a void Delaware corporation located in Larchmont, New York with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). CKEI is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-KSB for the period ended March 31, 2008, which reported a net loss of \$4,303,759 for the prior year. As of May 1, 2012, the common stock of CKEI was quoted on OTC Link, had eight market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

6. DCI USA, Inc. ("DCIU") (CIK No. 1120210) is a delinquent Delaware corporation located in Brooklyn, New York with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). DCIU is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-Q for the period ended June 30, 2008. As of May 1, 2012, the common stock of DCIU was quoted on OTC Link, had six market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

B. DELINQUENT PERIODIC FILINGS

7. As discussed in more detail above, all of the Respondents are delinquent in their periodic filings with the Commission, have repeatedly failed to meet their obligations to file timely periodic reports, and failed to heed delinquency letters sent to them by the Division of Corporation Finance requesting compliance with their periodic filing obligations or, through their failure to maintain a valid address on file with the Commission as required by Commission rules, did not receive such letters.

8. Exchange Act Section 13(a) and the rules promulgated thereunder require issuers of securities registered pursuant to Exchange Act Section 12 to file with the Commission current and accurate information in periodic reports, even if the registration is voluntary under Section 12(g). Specifically, Rule 13a-1 requires issuers to file annual reports, and Rule 13a-13 requires domestic issuers to file quarterly reports.

9. As a result of the foregoing, Respondents failed to comply with Exchange Act Section 13(a) and Rules 13a-1 and 13a-13 thereunder.

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate for the protection of investors that public administrative proceedings be instituted to determine:

A. Whether the allegations contained in Section II hereof are true and, in connection therewith, to afford the Respondents an opportunity to establish any defenses to such allegations; and,

B. Whether it is necessary and appropriate for the protection of investors to suspend for a period not exceeding twelve months, or revoke the registration of each class of securities registered pursuant to Section 12 of the Exchange Act of the Respondents identified in Section II hereof, and any successor under Exchange Act Rules 12b-2 or 12g-3, and any new corporate names of any Respondents.

IV.

IT IS HEREBY ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened at a time and place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice [17 C.F.R. § 201.110].

IT IS HEREBY FURTHER ORDERED that Respondents shall file an Answer to the allegations contained in this Order within ten (10) days after service of this Order, as provided by Rule 220(b) of the Commission's Rules of Practice [17 C.F.R. § 201.220(b)].

If Respondents fail to file the directed Answers, or fail to appear at a hearing after being duly notified, the Respondents, and any successor under Exchange Act Rules 12b-2 or 12g-3,

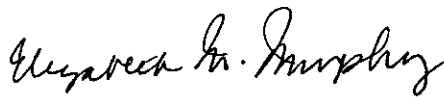
and any new corporate names of any Respondents, may be deemed in default and the proceedings may be determined against it upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f), and 310 of the Commission's Rules of Practice [17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f), and 201.310].

This Order shall be served forthwith upon Respondents personally or by certified, registered, or Express Mail, or by other means permitted by the Commission Rules of Practice.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 120 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice [17 C.F.R. § 201.360(a)(2)].

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

By the Commission.


Elizabeth M. Murphy
Secretary

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

May 4, 2012

In the Matter of

**Anthracite Capital, Inc.,
Auto Data Network Inc.,
Avenue Group, Inc.,
Ckrush, Inc.,
Clickable Enterprises, Inc., and
DCI USA, Inc.,**

File No. 500-1

**ORDER OF SUSPENSION OF
TRADING**

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Anthracite Capital, Inc. because it has not filed any periodic reports since the period ended September 30, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Auto Data Network Inc. because it has not filed any periodic reports since the period ended November 30, 2004.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Avenue Group, Inc. because it has not filed any periodic reports since the period ended March 31, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Ckrush, Inc. because it has not filed any periodic reports since the period ended March 31, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Clickable Enterprises, Inc. because it has not filed any periodic reports since the period ended March 31, 2008.

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It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of DCI USA, Inc. because it has not filed any periodic reports since the period ended June 30, 2008.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on May 4, 2012, through 11:59 p.m. EDT on May 17, 2012.

By the Commission.

Elizabeth M. Murphy

Elizabeth M. Murphy
Secretary

*Commissioner Paredes
Commissioner Gallagher
Disapproved*

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-66927; File No. SR-MSRB-2011-09)

May 4, 2012

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Approving Proposed Rule Change, as Modified by Amendment No. 2, Consisting of Interpretive Notice Concerning the Application of MSRB Rule G-17 to Underwriters of Municipal Securities

I. Introduction

On August 22, 2011, the Municipal Securities Rulemaking Board ("MSRB" or "Board") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act" or "Act")¹ and Rule 19b-4 thereunder,² a proposed rule change consisting of an interpretive notice concerning the application of MSRB Rule G-17 (Conduct of Municipal Securities and Municipal Advisory Activities) to underwriters of municipal securities ("Interpretive Notice"). The proposed rule change was published for comment in the Federal Register on September 9, 2011.³ The Commission received five comment letters on the proposed rule change.⁴ On October 11, 2011, the MSRB extended the time period for Commission action to December 7, 2011. On November 3, 2011, the MSRB filed Amendment No. 1 to the proposed rule change. On November 10,

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 65263 (September 6, 2011), 76 FR 55989 ("Original Notice of Filing").

⁴ See letters from Joy A. Howard, Principal, WM Financial Strategies, dated September 30, 2011 ("WM Letter I"); Mike Nicholas, Chief Executive Officer, Bond Dealers of America, dated September 30, 2010 ("BDA Letter I"); Colette J. Irwin-Knott, CIPFA, President, National Association of Independent Public Finance Advisors, dated September 30, 2011 ("NAIPFA Letter I"); Leslie M. Norwood, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association, dated September 30, 2011 ("SIFMA Letter I"); and Susan Gaffney, Director, Federal Liaison Center, Government Finance Officers Association, dated October 3, 2011 ("GFOA Letter I").

2011, the MSRB withdrew Amendment No. 1, responded to comments,⁵ and filed Amendment No. 2 to the proposed rule change. The proposed rule change, as modified by Amendment No. 2, was published for comment in the Federal Register on November 21, 2011.⁶ The Commission received eight comment letters on the proposed rule change, as modified by Amendment No. 2, and a second response from the MSRB.⁷ On December 6, 2011, the MSRB extended the time period for Commission action to December 8, 2011. On December 8, 2011, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act to determine whether to approve or disapprove the proposed rule change.⁸ The Commission received five comment letters and two additional responses from the MSRB.⁹ On March 5, 2012, the MSRB extended the time period

⁵ See letter from Margaret C. Henry, General Counsel, Market Regulation, MSRB, dated November 10, 2011 ("Response Letter I").

⁶ See Securities Exchange Act Release No. 65749 (November 15, 2011), 76 FR 72013 ("Amended Notice of Filing").

⁷ See letters from Colette J. Irwin-Knott, CIPFA, President, National Association of Independent Public Finance Advisors, dated November 30, 2011 ("NAIPFA Letter II"); E. John White, Chief Executive Officer, Public Financial Management, Inc., dated November 30, 2011 ("PFM Letter I"); Leslie M. Norwood, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association, dated November 30, 2011 ("SIFMA Letter II"); Joy A. Howard, Principal, WM Financial Strategies, dated November 30, 2011 ("WM Letter II"); Michael Nicholas, CEO, Bond Dealers of America, dated December 1, 2011 ("BDA Letter II"); Susan Gaffney, Director, Federal Liaison Center, Government Finance Officers Association, dated December 1, 2011 ("GFOA Letter II"); Robert Doty, AGFS, dated December 1, 2011 ("AGFS Letter"); and Peter C. Orr, CFA, President, Intuitive Analytics LLC, dated December 7, 2011 ("IA Letter"). See letter from Margaret C. Henry, General Counsel, Market Regulation, MSRB, dated December 7, 2011 ("Response Letter II").

⁸ See Securities Exchange Act Release No. 65918 (December 8, 2011), 76 FR 77865 (December 14, 2011).

⁹ See letters from Leslie M. Norwood, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association, dated January 27, 2012 ("SIFMA Letter III"); Michael Nicholas, Chief Executive Officer, Bond Dealers of America, dated January 30, 2012 ("BDA Letter III"); Colette J. Irwin-Knott, CIPFA, President, National Association of Independent Public Finance Advisors, dated January 30, 2012 ("NAIPFA Letter III"); Susan Gaffney, Director, Federal Liaison Center, Government Finance Officers Association, dated January 30, 2012 ("GFOA Letter III"); and John H. Bonow,

for Commission action to May 4, 2012. This order approves the proposed rule change, as modified by Amendment No. 2.

II. Description of the Proposal

The MSRB proposes to adopt an interpretive notice with respect to MSRB Rule G-17, which states that “[i]n the conduct of its municipal securities or municipal advisory activities, each broker, dealer, municipal securities dealer, and municipal advisor shall deal fairly with all persons and shall not engage in any deceptive, dishonest, or unfair practice.”

The Interpretive Notice would apply to dealers acting as underwriters and their duty to municipal entity¹⁰ issuers of municipal securities in negotiated underwritings (except where the Interpretive Notice indicates that it also applies to competitive underwritings), but would not apply to selling group members or when a dealer is serving as an advisor to a municipal entity. The Interpretive Notice would include the following sections: (1) Basic Fair Dealing Principle; (2) Role of the Underwriter/Conflicts of Interest; (3) Representations to Issuers; (4) Required Disclosures to Issuers; (5) Underwriter Duties in Connection with Issuer Disclosure Documents; (6) Underwriter Compensation and New Issue Pricing; (7) Conflicts of Interest; (8) Retail Order Periods; and (9) Dealer Payments to Issuer Personnel.

Chief Executive Officer, Public Financial Management, Inc., dated February 13, 2012 (“PFM Letter II”). See letters from Margaret C. Henry, General Counsel, Market Regulation, MSRB, dated January 30, 2012 (“Response Letter III”) and Margaret C. Henry, General Counsel, Market Regulation, MSRB, dated February 13, 2012 (“Response Letter IV”).

¹⁰ The Interpretive Notice would define the term “municipal entity” as that term is defined by Section 15B(e)(8) of the Exchange Act: “any State, political subdivision of a State, or municipal corporate instrumentality of a State, including—(A) any agency, authority, or instrumentality of the State, political subdivision, or municipal corporate instrumentality; (B) any plan, program, or pool of assets sponsored or established by the State, political subdivision, or municipal corporate instrumentality or any agency, authority, or instrumentality thereof; and (C) any other issuer of municipal securities.” See Interpretive Notice at endnote 1.

A. Basic Fair Dealing Principle

The Interpretive Notice would interpret Rule G-17's duty to deal fairly with all persons as providing that an underwriter must not misrepresent or omit the facts, risks, potential benefits, or other material information about municipal securities activities undertaken with a municipal entity issuer. The Interpretive Notice would also state that MSRB Rule G-17 establishes a general duty of a dealer to deal fairly with all persons (including, but not limited to, issuers of municipal securities), even in the absence of fraud.

B. Role of the Underwriter/Conflicts of Interest

The Interpretive Notice would state that MSRB Rule G-17's duty to deal fairly with all persons requires the underwriter to make certain disclosures to the issuer of municipal securities to clarify the underwriter's role in an issuance of municipal securities and the actual or potential material conflicts of interest with respect to such issuance, as described below.

1. Disclosures Concerning the Underwriter's Role

An underwriter must disclose the following information to an issuer: (A) MSRB Rule G-17 requires an underwriter to deal fairly at all times with both municipal issuers and investors; (B) the underwriter's primary role is to purchase securities with a view to distribution in an arm's-length commercial transaction with the issuer and it has financial and other interests that differ from those of the issuer; (C) unlike a municipal advisor, the underwriter does not have a fiduciary duty to the issuer under the federal securities laws and is not required by federal law to act in the best interest of the issuer without regard to the underwriter's own financial or other interests; (D) the underwriter has a duty to purchase securities from the issuer at a fair and reasonable price, but must balance that duty with its duty to sell municipal securities to investors at prices that are fair and reasonable; and (E) the underwriter will review the official statement

for the issuer's securities in accordance with, and as part of, its responsibilities to investors under the federal securities laws, as applied to the facts and circumstances of the transaction. Moreover, the Interpretive Notice would state that the underwriter must not recommend that the issuer not retain a municipal advisor.

2. Disclosure Concerning the Underwriter's Compensation

An underwriter must disclose to an issuer whether its underwriting compensation will be contingent on the closing of a transaction. The underwriter must also disclose that compensation that is contingent on the closing of a transaction or the size of a transaction presents a conflict of interest, because it may cause the underwriter to recommend a transaction that is unnecessary or to recommend that the size of the transaction be larger than is necessary.

3. Other Conflicts Disclosures

An underwriter must disclose other potential or actual material conflicts of interest, including, but not limited to, the following: (A) any payments described below in Section II (G)(1) "Conflicts of Interest – Payments to or from Third Parties"; (B) any arrangements described below in Section II (G)(2) "Conflicts of Interest – Profit-Sharing with Investors"; (C) the credit default swap disclosures described below in Section II (G)(3) "Conflicts of Interest – Credit Default Swaps"; and (D) any incentives for the underwriter to recommend a complex municipal securities financing and other associated conflicts of interest described below in Section II (D) "Required Disclosures to Issuers."

Disclosures concerning the role of the underwriter and the underwriter's compensation could be made by a syndicate manager on behalf of other syndicate members. Other conflicts disclosures must be made by the particular underwriters subject to such conflicts.

4. Timing and Manner of Disclosures

All of the foregoing disclosures must be made in writing to an official of the issuer that the underwriter reasonably believes has the authority to bind the issuer by contract with the underwriter and that, to the knowledge of the underwriter, is not a party to a disclosed conflict. The Interpretive Notice would specify that the disclosures must be made in a manner designed to make clear to such official the subject matter of the disclosures and their implications for the issuer.

Disclosure concerning the arm's-length nature of the underwriter-issuer relationship must be made in the earliest stages of the underwriter's relationship with the issuer, for example, in a response to a request for proposals or in promotional materials provided to an issuer. Other disclosures concerning the role of the underwriter and the underwriter's compensation generally must be made when the underwriter is engaged to perform underwriting services, for example, in an engagement letter, not solely in a bond purchase agreement. Other conflicts disclosures must be made at the same time, except with regard to conflicts discovered or arising after the underwriter has been engaged. For example, a conflict may not be present until an underwriter has recommended a particular financing. In that case, the disclosure must be provided in sufficient time before the execution of a contract with the underwriter to allow the official to evaluate the recommendation, as described below in Section II (D) "Required Disclosures to Issuers."

5. Acknowledgement of Disclosures

An underwriter must attempt to receive written acknowledgement (other than by automatic e-mail receipt) by the official of the issuer of receipt of the foregoing disclosures. If the official of the issuer agrees to proceed with the underwriting engagement after receipt of the

disclosures but will not provide written acknowledgement of receipt, the underwriter may proceed with the engagement after documenting with specificity why it was unable to obtain such written acknowledgement.

C. Representations to Issuers

All representations made by underwriters to issuers of municipal securities in connection with municipal securities underwritings, whether written or oral, must be truthful and accurate and not misrepresent or omit material facts. Underwriters must have a reasonable basis for the representations and other material information contained in the documents they prepare and must refrain from including representations or other information they know or should know is inaccurate or misleading. For example, in connection with a certificate signed by the underwriter that will be relied upon by the issuer or other relevant parties to an underwriting (e.g., an issue price certificate), the dealer must have a reasonable basis for the representations and other material information contained therein.

In addition, an underwriter's response to an issuer's request for proposals or qualifications must fairly and accurately describe the underwriter's capacity, resources, and knowledge to perform the proposed underwriting as of the time the proposal is submitted and must not contain any representations or other material information about such capacity, resources, or knowledge that the underwriter knows or should know to be inaccurate or misleading. Matters not within the personal knowledge of those preparing the response, for example, pending litigation, must be confirmed by those with knowledge of the subject matter. An underwriter must not represent that it has the requisite knowledge or expertise with respect to a particular financing if the personnel that it intends to work on the financing do not have the requisite knowledge or expertise.

D. Required Disclosures to Issuers

The Interpretive Notice would provide that while many municipal securities are issued using financing structures that are routine and well understood by the typical municipal market professional, including most issuer personnel that have the lead responsibilities in connection with the issuance of municipal securities, the underwriter must provide disclosures on the material aspects of structures that it recommends when the underwriter reasonably believes issuer personnel lacks knowledge or experience with such structures.

In cases where the issuer personnel responsible for the issuance of municipal securities would not be well positioned to fully understand or assess the implications of a financing in its totality, because the financing is structured in a unique, atypical, or otherwise complex manner, the underwriter in a negotiated offering that recommends such complex financing has an obligation to make more particularized disclosures than otherwise required in a routine financing.¹¹ Examples of complex financings include variable rate demand obligations and financings involving derivatives such as swaps. The underwriter must disclose the material financial characteristics of the complex financing, as well as the material financial risks of the financing that are known to the underwriter and reasonably foreseeable at the time of the disclosure.¹² The underwriter must also disclose any incentives to recommend the financing and

¹¹ The Interpretive Notice would state that if a complex municipal securities financing consists of an otherwise routine financing structure that incorporates a unique, atypical or complex element and the issuer personnel have knowledge or experience with respect to the routine elements of the financing, the disclosure of material risks and characteristics may be limited to those relating to such unique, atypical or complex element and any material impact such element may have on other features that would normally be viewed as routine. See Interpretive Notice at endnote 6.

¹² The Interpretive Notice would provide, as an example, that an underwriter that recommends variable rate demand obligations should inform the issuer of the risk of interest rate fluctuations and material risks of any associated credit or liquidity facilities (for example, the risk that the issuer might not be able to replace the facility upon its

other associated conflicts of interest.¹³ These disclosures must be made in a fair and balanced manner based on principles of fair dealing and good faith.

The Interpretive Notice would provide that the level of required disclosure may vary according to the issuer's knowledge or experience with the proposed financing structure or similar structures, capability of evaluating the risks of the recommended financing, and financial ability to bear the risks of the recommended financing, in each case based on the reasonable belief of the underwriter.¹⁴ In all events, the underwriter must disclose any incentives for the

expiration and might be required to repay the facility provider over a short period of time). As an additional example, if the underwriter recommends that the issuer swap the floating rate interest payments on the variable rate demand obligations to fixed rate payments, the underwriter must disclose the material financial risks (including market, credit, operational, and liquidity risks) and material financial characteristics of the recommended swap (for example, the material economic terms of the swap, the material terms relating to the operation of the swap, and the material rights and obligations of the parties during the term of the swap), as well as the material financial risks associated with the variable rate demand obligations. Such disclosure should be sufficient to allow the issuer to assess the magnitude of its potential exposure as a result of the complex municipal securities financing. The underwriter must also inform the issuer that there may be accounting, legal, and other risks associated with the swap and that the issuer should consult with other professionals concerning such risks. If the underwriter's affiliated swap dealer is proposed to be the executing swap dealer, the underwriter may satisfy its disclosure obligation with respect to the swap if such disclosure has been provided to the issuer by the affiliated swap dealer or the issuer's swap or other financial advisor that is independent of the underwriter and the swap dealer, as long as the underwriter has a reasonable basis for belief in the truthfulness and completeness of such disclosure. If the issuer decides to enter into a swap with another dealer, the underwriter is not required to make disclosures with regard to that swap. Dealers that recommend swaps or security-based swaps to municipal entities may also be subject to rules of the Commodity Futures Trading Commission ("CFTC") or those of the Commission. See Interpretive Notice at endnote 7.

¹³ The Interpretive Notice would provide that, as an example, a conflict of interest may exist when the underwriter is also the provider of a swap used by an issuer to hedge a municipal securities offering or when the underwriter receives compensation from a swap provider for recommending the swap provider to the issuer. See Interpretive Notice at endnote 8.

¹⁴ The Interpretive Notice would state that even a financing in which the interest rate is benchmarked to an index that is commonly used in the municipal marketplace, such as LIBOR or SIFMA, may be complex to an issuer that does not understand the components

underwriter to recommend the complex municipal securities financing and other associated conflicts of interest.

The Interpretive Notice would provide that this disclosure must be made in writing to an official of the issuer whom the underwriter reasonably believes has the authority to bind the issuer by contract with the underwriter in (A) sufficient time before the execution of a contract with the underwriter to allow the official to evaluate the recommendation and (B) a manner designed to make clear to such official the subject matter of such disclosures and their implications for the issuer. The complex financing disclosures must address the specific elements of the financing and cannot be general in nature. Finally, the Interpretive Notice would provide that the underwriter must make additional efforts reasonably designed to inform the official of the issuer if the underwriter does not reasonably believe that the official is capable of independently evaluating the disclosures.

E. Underwriter Duties in Connection with Issuer Disclosure Documents

The Interpretive Notice would note that underwriters often play an important role in assisting issuers in the preparation of disclosure documents, such as preliminary official statements and official statements.¹⁵ These documents are critical to the municipal securities

of that index or its possible interaction with other indexes. See Interpretive Notice at endnote 9.

¹⁵ The Interpretive Notice would state that underwriters that assist issuers in preparing official statements must remain cognizant of the underwriters' duties under federal securities laws. The Interpretive Notice would state that, with respect to primary offerings of municipal securities, the Commission has noted that "[b]y participating in an offering, an underwriter makes an implied recommendation about the securities" and "this recommendation itself implies that the underwriter has a reasonable basis for belief in the truthfulness and completeness of the key representations made in any disclosure documents used in the offerings." See Interpretive Notice at endnote 10 and Securities Exchange Act Release No. 26100 (September 22, 1988), 53 FR 37778, 37787 (September 28, 1988) (proposing Exchange Act Rule 15c2-12). Further, the Interpretive Notice would state that, pursuant to Exchange Act Rule 15c2-12(b)(5), an underwriter may not

transaction, in that investors rely on the representations contained in the documents in making their investment decisions. Investment professionals, such as municipal securities analysts and ratings services, rely on the representations in forming an opinion regarding the credit.

The Interpretive Notice would provide that a dealer's duty to have a reasonable basis for the representations it makes, and other material information it provides, to an issuer and to ensure that such representations and information are accurate and not misleading extends to representations and information provided by the underwriter in connection with the preparation by the issuer of its disclosure documents, for example, cash flows.

F. Underwriter Compensation and New Issue Pricing

1. Excessive Compensation

The Interpretive Notice would state that an underwriter's compensation for a new issue (including both direct compensation paid by the issuer and other separate payments, values, or credits received by the underwriter from the issuer or any other party in connection with the underwriting), in certain cases and depending upon the specific facts and circumstances of the offering, may be so disproportionate to the nature of the underwriting and related services performed as to constitute an unfair practice with regard to the issuer that it is a violation of MSRB Rule G-17. The Interpretive Notice would state that, among the factors relevant to whether an underwriter's compensation is disproportionate to the nature of the underwriting and related services performed, are the credit quality of the issue, the size of the issue, market

purchase or sell municipal securities in most primary offerings unless the underwriter has reasonably determined that the issuer or an obligated person has entered into a written undertaking to provide certain types of secondary market disclosure and has a reasonable basis for relying on the accuracy of the issuer's ongoing disclosure representations. See Interpretive Notice at endnote 10 and Securities Exchange Act Release No. 34961 (November 10, 1994), 59 FR 59590 (November 17, 1994) (adopting continuing disclosure provisions of Exchange Act Rule 15c2-12).

conditions, the length of time spent structuring the issue, and whether the underwriter is paying the fee of the underwriter's counsel, or any other relevant costs related to the financing.

2. Fair Pricing

The Interpretive Notice would state that the duty of fair dealing under MSRB Rule G-17 includes an implied representation that the price an underwriter pays to an issuer is fair and reasonable, taking into consideration all relevant factors, including the best judgment of the underwriter as to the fair market value of the issue at the time it is priced.¹⁶ In general, a dealer purchasing bonds in a competitive underwriting for which the issuer may reject any and all bids will be deemed to have satisfied its duty of fairness to the issuer with respect to the purchase price of the issue, as long as the dealer's bid is a bona fide bid as defined in MSRB Rule G-13¹⁷ that is based on the dealer's best judgment of the fair market value of the securities that are the subject of the bid.

In a negotiated underwriting, the underwriter has a duty under MSRB Rule G-17 to negotiate in good faith with the issuer. This duty would include the obligation of the dealer to ensure the accuracy of representations made during the course of such negotiations, including representations regarding the price negotiated and the nature of investor demand for the securities, for example, the status of the order period and the order book. If, for example, the

¹⁶ The Interpretive Notice would state that the MSRB has previously observed that whether an underwriter has dealt fairly with an issuer for purposes of MSRB Rule G-17 is dependent upon all of the facts and circumstances of an underwriting and is not dependent solely on the price of the issue. The Notice would refer to MSRB Notice 2009-54 and MSRB Rule G-17 Interpretive Letter – Purchase of New Issue From Issuer, MSRB interpretation of December 1, 1997. See Interpretive Notice at endnote 11.

¹⁷ The Interpretive Notice would refer to MSRB Rule G-13(b)(iii), which provides: "For purposes of subparagraph (i), a quotation shall be deemed to represent a 'bona fide bid for, or offer of, municipal securities' if the broker, dealer or municipal securities dealer making the quotation is prepared to purchase or sell the security which is the subject of the quotation at the price stated in the quotation and under such conditions, if any, as are specified at the time the quotation is made." See Interpretive Notice at endnote 12.

dealer represents to the issuer that it is providing the "best" market price available on the new issue, or that it will exert its best efforts to obtain the "most favorable" pricing, the dealer may violate MSRB Rule G-17 if its actions are inconsistent with such representations.¹⁸

G. Conflicts of Interest

1. Payments to or from Third Parties

The Interpretive Notice would state that in certain cases, compensation received by the underwriter from third parties, such as the providers of derivatives and investments (including affiliates of the underwriters), may color the underwriter's judgment and cause it to recommend products, structures, and pricing levels to an issuer when it would not have done so absent such payments. The MSRB would view the failure of an underwriter to disclose to the issuer the existence of payments, values, or credits received by the underwriter in connection with its underwriting of the new issue from parties other than the issuer, and payments made by the underwriter in connection with such new issue to parties other than the issuer (in either case including payments, values, or credits that relate directly or indirectly to collateral transactions integrally related to the issue being underwritten), to be a violation of the underwriter's obligation to the issuer under MSRB Rule G-17.

For example, the MSRB would consider it to be a violation of MSRB Rule G-17 for an underwriter to compensate an undisclosed third party in order to secure municipal securities business. Similarly, the MSRB would consider it to be a violation of MSRB Rule G-17 for an underwriter to receive undisclosed compensation from a third party in exchange for recommending that third party's services or products to an issuer, including business related to

¹⁸ The Interpretive Notice would refer to MSRB Rule G-17 Interpretive Letter – Purchase of New Issue From Issuer, MSRB interpretation of December 1, 1997. See Interpretive Notice at endnote 13.

municipal securities derivative transactions. The amount of such third party payments need not be disclosed.

In addition, the underwriter must disclose to the issuer whether the underwriter has entered into any third-party arrangements for the marketing of the issuer's securities.

2. Profit-Sharing with Investors

The Interpretive Notice would state that arrangements between the underwriter and an investor purchasing newly issued securities from the underwriter (including purchases that are contingent upon the delivery by the issuer to the underwriter of the securities) according to which profits realized from the resale by such investor of the securities are directly or indirectly split or otherwise shared with the underwriter would, depending on the facts and circumstances (including, in particular, if such resale occurs reasonably close in time to the original sale by the underwriter to the investor), constitute a violation of the underwriter's fair dealing obligation under MSRB Rule G-17. Such arrangements could also constitute a violation of MSRB Rule G-25(c), which precludes a dealer from sharing, directly or indirectly, in the profits or losses of a transaction in municipal securities with or for a customer.¹⁹

3. Credit Default Swaps

The Interpretive Notice would state that the issuance or purchase by a dealer of credit default swaps for which the reference is the issuer for which the dealer is serving as underwriter, or an obligation of that issuer, may pose a conflict of interest, because trading in such municipal credit default swaps has the potential to affect the pricing of the underlying reference obligations, as well as the pricing of other obligations brought to market by that issuer. As such, a dealer

¹⁹ According to MSRB Rule D-9: "Except as otherwise specifically provided by rule of the Board, the term 'Customer' shall mean any person other than a broker, dealer, or municipal securities dealer acting in its capacity as such or an issuer in transactions involving the sale by the issuer of a new issue of its securities."

must disclose the fact that it engages in such activities to the issuers for which the dealer serves as underwriter.

The Interpretive Notice would provide that activities with regard to credit default swaps based on baskets or indexes of municipal issuers that include the issuer or its obligations need not be disclosed, unless the issuer or its obligations represents more than 2% of the total notional amount of the credit default swap or the underwriter otherwise caused the issuer or its obligations to be included in the basket or index.

H. Retail Order Periods

The Interpretive Notice would provide that an underwriter that has agreed to underwrite a transaction with a retail order period must honor such agreement.²⁰ The Interpretive Notice would provide that a dealer that wishes to allocate securities in a manner that is inconsistent with an issuer's requirements must obtain the issuer's consent.

The Interpretive Notice would state that an underwriter that has agreed to underwrite a transaction with a retail order period must take reasonable measures to ensure that retail clients are bona fide. An underwriter that knowingly accepts an order that has been framed as a retail order when it is not, for example, a number of small orders placed by an institutional investor that would otherwise not qualify as a retail customer would violate MSRB Rule G-17 if its actions are inconsistent with the issuer's expectations regarding retail orders. Moreover, a dealer that places an order that is framed as a qualifying retail order but in fact represents an order that

²⁰

The Interpretive Notice would refer to MSRB Interpretation on Priority of Orders for Securities in a Primary Offering under Rule G-17, MSRB interpretation of October 12, 2010, reprinted in the MSRB Rule Book. The Notice would remind underwriters of previous MSRB guidance on the pricing of securities sold to retail investors and refer to Guidance on Disclosure and Other Sales Practice Obligations to Individual and Other Retail Investors in Municipal Securities, MSRB Notice 2009-42 (July 14, 2009). See Interpretive Notice at endnote 15.

does not meet the qualification requirements to be treated as a retail order, for example, an order by a retail dealer without "going away" orders²¹ from retail customers when such orders are not within the issuer's definition of "retail," would violate its MSRB Rule G-17 duty of fair dealing.

The Interpretive Notice would specify that the MSRB will continue to review activities relating to retail order periods to ensure that they are conducted in a fair and orderly manner consistent with the intent of the issuer and the MSRB's investor protection mandate.

I. Dealer Payments to Issuer Personnel

The Interpretive Notice would state that dealers are reminded of the application of MSRB Rule G-20 on gifts, gratuities, and non-cash compensation, and MSRB Rule G-17, in connection with certain payments made to, and expenses reimbursed for, issuer personnel during the municipal bond issuance process.²² The Interpretive Notice would further state that the rules are designed to avoid conflicts of interest and to promote fair practices in the municipal securities market.

The Interpretive Notice would alert dealers to consider carefully whether payments they make in regard to expenses of issuer personnel in the course of the bond issuance process, including in particular, but not limited to, payments for which dealers seek reimbursement from bond proceeds or issuers, comport with the requirements of MSRB Rule G-20. For example, the Interpretive Notice would provide that a dealer acting as a financial advisor or underwriter may violate MSRB Rule G-20 by paying for excessive or lavish travel, meal, lodging and

²¹ The Interpretive Notice would state that a "going away" order is an order for newly issued securities for which a customer is already conditionally committed and cite Securities Exchange Act Release No. 62715 (August 13, 2010), 75 FR 51128 (August 18, 2010) (SR-MSRB-2009-17). See Interpretive Notice at endnote 16.

²² The Interpretive Notice would cite to MSRB Rule G-20 Interpretation – Dealer Payments in Connection With the Municipal Securities Issuance Process, MSRB interpretation of January 29, 2007, reprinted in the MSRB Rule Book. See Interpretive Notice at endnote 17.

entertainment expenses in connection with an offering such as may be incurred for rating agency trips, bond closing dinners, and other functions, that inure to the personal benefit of issuer personnel and that exceed the limits or otherwise violate the requirements of the rule.²³

III. Discussion and Commission Findings

The Commission has carefully considered the proposed rule change, as modified by Amendment No. 2, the comment letters received, and the MSRB's responses, and finds that the proposed rule change, as modified by Amendment No. 2, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB. Specifically, the Commission finds that the proposed rule change is consistent with the provisions of Section 15B(b)(2)(C) of the Act,²⁴ which requires, among other things, that the rules of the MSRB be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons facilitating transactions in municipal securities and municipal financial products, to remove impediments to and perfect the mechanism of a free and open market in municipal securities and municipal financial products, and, in general, to protect investors, municipal entities, obligated persons, and the public interest. The sections below include a detailed description of the comments received, the MSRB's responses to the comments, and the Commission's findings.

²³ The Interpretive Notice would cite to In the Matter of RBC Capital Markets Corporation, SEC Rel. No. 34-59439 (February 24, 2009) (settlement in connection with broker-dealer alleged to have violated MSRB Rules G-20 and G-17 for payment of lavish travel and entertainment expenses of city officials and their families associated with rating agency trips, which expenditures were subsequently reimbursed from bond proceeds as costs of issuance); In the Matter of Merchant Capital, L.L.C., SEC Rel. No. 34-60043 (June 4, 2009) (settlement in connection with broker-dealer alleged to have violated MSRB rules for payment of travel and entertainment expenses of family and friends of senior officials of issuer and reimbursement of the expenses from issuers and from proceeds of bond offerings). See Interpretive Notice at endnote 18.

²⁴ 15 U.S.C. 78o-4(b)(2)(C).

A. Basic Fair Dealing Principle

Commenters generally supported the principle of fair dealing in MSRB Rule G-17.²⁵ Some commenters expressed their belief that the principle of fair dealing should not be interpreted to impose a fiduciary duty on underwriters to issuers,²⁶ while other commenters expressed their belief that underwriters have such a duty if they engage in certain activities.²⁷ In Response Letter I, the MSRB stated that the Interpretive Notice does not impose a fiduciary duty on underwriters and that the duties imposed by the Interpretive Notice on underwriters are no different in many cases from the duties already imposed on them by MSRB rules with respect to other types of customers (e.g., individual investors). Further, the MSRB stated that an underwriter is not required to act in the best interest of an issuer without regard to the underwriter's own financial and other interests and is not required to consider all reasonably feasible alternatives to the proposed financings. Rather, the MSRB stated that one purpose of the Interpretive Notice is to eliminate issuer confusion about the role of the underwriter.

The Commission finds that the proposed provision regarding the basic fair dealing principle of MSRB Rule G-17 is consistent with the Act because it will help to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors, municipal entities, and the public interest. For example, the

²⁵ See, e.g., SIFMA Letter I.

²⁶ See SIFMA Letter I; NAIPFA Letter I; and BDA Letter I. Two commenters noted that the appearance of the imposition of a fiduciary duty would confuse municipal issuers on the role of underwriters. See NAIPFA Letter I and BDA Letter I. One commenter opposed the appearance of the imposition of a fiduciary duty and noted that municipal issuers often do not understand the disclosures that they are provided and do not benefit from complex disclosures from firms that are not acting in a fiduciary capacity. See WM Letter I (stating its belief that the proposal will not improve transparency in the municipal market).

²⁷ See, e.g., PFM Letter I. This commenter stated that advice given by brokers in their promotion of themselves to become underwriters makes them municipal advisors.

Interpretive Notice specifies that MSRB Rule G-17 establishes a general duty to deal fairly with all persons, even in the absence of fraud. In addition, the Commission believes that the MSRB has adequately responded to the comments by, among other things, clarifying the level of the underwriter's duties toward an issuer.

B. Role of the Underwriter/Conflicts of Interest

1. Disclosures Concerning the Underwriter's Role

Some commenters stated that it is important that issuers understand the different roles that underwriters and financial advisors play in a transaction.²⁸ Other commenters suggested additional disclosures with respect to the role of underwriters.²⁹ For example, commenters suggested that the MSRB require an underwriter to state: (1) that the underwriter does not have a fiduciary duty to the issuer and is a counterparty at arm's length;³⁰ (2) that the issuer may choose to engage a financial advisor to represent its interests;³¹ (3) that the underwriter is not acting as an advisor;³² (4) that the underwriter has conflicts with issuers because the underwriter

²⁸ See, e.g., GFOA Letter I and NAIPFA Letter III (stating that "[a]doption of the Rule is crucial to the prevention of confusion and harm from occurring to municipal issuers").

²⁹ One commenter stated that it supports the proposal but believes that additional changes would be required to protect infrequent and/or small and unsophisticated issuers. See NAIPFA Letter I and NAIPFA Letter II.

³⁰ See GFOA Letter I; NAIPFA Letter I; GFOA Letter II; and GFOA Letter III. One commenter stated that a simple disclosure from an underwriter to the issuer that the underwriter is not acting as financial advisor and that the issuer should consult with a financial advisor would be sufficient. See WM Letter I. Another commenter stated that the requirement for an underwriter to compare its obligations with others, such as a municipal advisor, should be eliminated. See BDA Letter II.

³¹ See GFOA Letter I; GFOA Letter II; GFOA Letter III; and NAIPFA Letter I (requesting a disclosure that an underwriter is no replacement for a municipal advisor and stating that when an issuer engages a municipal advisor, the underwriter disclosures should not overlap with areas covered by the role of municipal advisor).

³² See NAIPFA Letter I.

represents the interests of investors and other parties;³³ (5) that the underwriter seeks to maximize profitability;³⁴ and (6) that the underwriter has no continuing obligation to the issuer after the transaction.³⁵

In Response Letter I, the MSRB noted that the Interpretive Notice, as modified by Amendment No. 2, incorporates many of the recommendations suggested by commenters, such as requiring underwriters to provide issuers with disclosure that underwriters do not have a fiduciary duty to issuers. In addition, the MSRB noted that the Interpretive Notice, as modified by Amendment No. 2, requires disclosure regarding the underwriter's role as compared to that of a municipal advisor, and prohibits an underwriter from recommending that the issuer not retain a municipal advisor.³⁶ The MSRB also stated that it does not believe that it is necessary for underwriters to disclose that they seek to maximize profitability and have no continuing obligation to the issuer after the transaction.

One commenter suggested that the MSRB require underwriters to disclose pending litigation that may affect the underwriter's municipal securities business, departure of experts that the issuer relied upon, and transactional risks, including a comparison of different forms of financings.³⁷ In Response Letter I, the MSRB disagreed that underwriters should disclose the

³³ See id.

³⁴ See id.

³⁵ See id.

³⁶ In Response Letter IV, the MSRB stated that the proposed provision that an underwriter must not recommend that the issuer not retain a municipal advisor is a stronger protection to issuers than a disclosure that an issuer may choose to engage an advisor because the proposed provision "affirmatively restrains an underwriter from taking action to discourage the use of an advisor rather than simply informing an issuer of a choice it already has and has no reason to believe it does not have." See also Response Letter II. One commenter agreed with the MSRB that an underwriter should not recommend that an issuer not retain a municipal advisor. See BDA Letter II.

³⁷ See GFOA Letter I. See also GFOA Letter II.

different types of financings that may be applicable to an issuer's particular situation because that is under the domain of the municipal advisor. The MSRB also noted that pending litigation and expert departures that do not rise to the level of conflicts could be required by an issuer as the issuer deems appropriate.³⁸

One commenter suggested that the MSRB develop and promote educational information for issuers and other market participants with respect to underwriting pricings and fees.³⁹ This commenter also suggested that the MSRB develop educational materials for issuers with respect to the information that underwriters must disclose and the appropriate questions that issuers should ask their underwriters regarding a transaction, as well as with respect to the "fair and reasonable" standard for the amount that underwriters pay issuers for bonds.⁴⁰ In Response Letter I, the MSRB noted that it is in the process of developing educational materials for issuers with respect to the duties owed them by their underwriters under MSRB rules, as suggested by the commenter.

One commenter stated that underwriters should not be required to provide generalized role and compensation disclosures or written risk disclosures to large and frequent issuers unless requested by such issuers.⁴¹ Another commenter stated that the Commission and the MSRB would create confusion by imposing fiduciary-like duties on underwriters through Rule G-17, and that any disclosure requirements must be narrowly drawn to avoid conceptual and practical inconsistencies that would only confuse the parties as to their roles and responsibilities.⁴² In

³⁸ According to the Interpretive Notice, disclosures regarding pending litigation against the underwriter must be confirmed by those persons with knowledge of the subject matter.

³⁹ See GFOA Letter I.

⁴⁰ See id.

⁴¹ See SIFMA Letter II. See also SIFMA Letter III.

⁴² See BDA Letter I. See also SIFMA Letter I; NAIPFA Letter I; and NAIPFA Letter II.

Response Letter II, the MSRB noted its disagreement with the comments and stated that providing more information to issuers about the nature of the duties of the professionals they engage – regardless of the issuer's size, sophistication or frequency of accessing the market – can only serve to empower, rather than confuse, issuers. In Response Letter IV, the MSRB declined to modify the requirements for providing written disclosures to large and frequent issuers. The MSRB stated that such issuers may experience turnover in finance personnel, and that disclosures are required to be made to issuer representatives to inform them in their decision making.

The Commission finds that the proposed disclosures concerning the underwriter's role are consistent with the Act because they will help to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors, municipal entities, and the public interest. In providing municipal issuers with written information regarding such things as the arm's-length nature of the underwriter-issuer relationship and the role of the underwriter, municipal issuers should be better informed to evaluate, among other things, potential risks in engaging a particular underwriter. The disclosures should also help issuers to better understand the role of the underwriter, as compared to that of a municipal advisor. In addition, the required disclosures should benefit issuers, investors, and the public interest, and provide issuers and their advisors with valuable information with which to evaluate underwriter recommendations. Further, the Commission believes that, by providing that an underwriter must not recommend that the issuer not retain a municipal advisor, the Interpretive Notice will help further protect municipal issuers. The Commission agrees with the MSRB that the proposed provision that an underwriter must not

recommend that the issuer not retain a municipal advisor is a stronger protection to issuers than a disclosure that an issuer may choose to engage an advisor.⁴³

The Commission also believes that the MSRB has adequately addressed the comments regarding the disclosure requirements. Specifically, the Commission notes that, in response to commenters' requests for additional disclosures, the MSRB modified the Interpretive Notice, as originally proposed, by including specific information that an underwriter must disclose to the issuer. In addition, in response to comments, the MSRB stated that it is in the process of developing certain educational materials for issuers with respect to the duties owed them by their underwriters to help further the aim of the required disclosures.⁴⁴

2. Disclosure Concerning the Underwriter's Compensation

One commenter requested additional conflicts of interest disclosures regarding underwriter compensation, such as the manner of such compensation and any associated conflicts of interest.⁴⁵ In Response Letter I, the MSRB stated that the Interpretive Notice, as modified by Amendment No. 2, incorporates many of the commenters' recommendations, such as disclosure regarding the conflicts of interest raised by contingent fee compensation.

Another commenter stated that the underwriter should be required to disclose to an issuer, and obtain its informed consent in writing, that the form of the underwriter's compensation creates a conflict of interest because the compensation is based primarily on the size and type of issuance.⁴⁶ This commenter also stated that the amount of compensation should be disclosed.⁴⁷

⁴³ See supra note 36.

⁴⁴ See Response Letter I.

⁴⁵ See GFOA Letter I.

⁴⁶ See NAIPFA Letter I and NAIPFA Letter III.

⁴⁷ See NAIPFA Letter II. This commenter also suggested that disclosures regarding non-contingent fees may be necessary.

On the other hand, one commenter objected to the characterization of contingent fee arrangements as resulting in a conflict of interest with issuers.⁴⁸ The commenter stated that such arrangements do not necessarily result in a conflict, and recommended that the disclosure should state that such compensation “may” present a conflict or “may have the potential” for a conflict.⁴⁹

In Response Letter II, the MSRB stated that it has accurately characterized contingent compensation arrangements as creating a conflict of interest. The MSRB stated that there may be other factors on which an underwriter and the issuer have a coincidence of interests that may outweigh the conflicting interests resulting from the contingent arrangement, but that does not change the fact that such arrangement itself represents a conflict. Further, the MSRB stated that, given the transaction-based nature of the typical relationship between underwriters and issuers, the proposal’s requirements regarding disclosure of compensation conflicts, together with the other conflicts disclosures included in the proposal, adequately address concerns that may arise in cases where potential conflicts may arise under less typical compensation scenarios.

The Commission finds that the proposed disclosure requirements for underwriter’s compensation are consistent with the Act because they will help to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors, municipal entities, and the public interest. Specifically, written disclosures by underwriters regarding such things as whether the underwriter’s compensation is contingent on the closing of the transaction, as well as other potential or actual conflicts of interest, should help ensure that municipal issuers are better informed in evaluating, among other things, potential risks of engaging a particular underwriter. Further, the Commission believes that the

⁴⁸ See BDA Letter II.

⁴⁹ See id.

required disclosures should benefit issuers, investors, and the public interest, and provide issuers and their advisors with valuable information with which to evaluate underwriter recommendations.

In addition, the Commission believes that the MSRB has adequately addressed the comments regarding the compensation disclosure requirements. Specifically, the Commission notes that, in response to a commenter's request for additional conflicts of interest disclosures regarding underwriter compensation, the MSRB modified the Interpretive Notice, as originally proposed, by providing that the underwriter must disclose whether its compensation is contingent, and that contingent compensation presents a conflict of interest.

3. Other Conflicts Disclosures

One commenter stated that when there is a syndicate of underwriters, an underwriter whose participation level is below 10% should be exempted from the disclosure requirements.⁵⁰ Another commenter stated that, with respect to underwriter syndicates, underwriters who do not have a role in the development or implementation of the financing structure or other aspects of the issue should not be subject to the disclosure requirements.⁵¹ In Response Letter II, the MSRB declined to adopt the suggested exemptions and stated that not all conflicts or other concerns that arise in the context of an underwriting are necessarily proportionate to the size of participation of an underwriter.⁵² The MSRB noted, however, that with respect to disclosures about the material financial characteristics and risks of an underwriting transaction recommended by underwriters, where such recommendation is made by the syndicate manager on behalf of the underwriting syndicate, the Interpretive Notice does not prohibit syndicate

⁵⁰ See SIFMA Letter II. See also SIFMA Letter III.

⁵¹ See BDA Letter II.

⁵² See also Response Letter IV.

members from delegating to the syndicate manager (through, for example, the agreement among underwriters) the task of delivering such disclosure in a full and timely manner on behalf of the syndicate members, although each syndicate member would remain responsible for providing disclosures with respect to conflicts specific to such member.

As discussed in further detail below in Sections III.D. and III.G., the Commission finds that disclosures concerning other conflicts of interest are consistent with the Act because they will help to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors, municipal entities, and the public interest. The Commission also believes that it is consistent with the Act to not provide the exemptions from the disclosure requirements suggested by commenters. As the MSRB noted, not all conflicts or other concerns that arise in the context of an underwriting are necessarily proportionate to the size of an underwriter's participation.⁵³

4. Timing and Manner of Disclosures

With respect to the disclosure process, one commenter stated that underwriters should be subject to a process similar to the more rigorous process for municipal advisors under the municipal advisor portion of proposed MSRB Rules G-17 and G-36.⁵⁴ The commenter stated that providing disclosures is inadequate; rather, underwriters should be required to obtain informed consent from issuers. Moreover, the commenter stated that disclosures should be made to officials of the municipal entity with the power to bind the issuer, such as to the issuer's

⁵³ See Response Letter II.

⁵⁴ See NAIPFA Letter I. The Commission notes that these proposals were subsequently withdrawn by the MSRB. See Securities Exchange Act Release Nos. 65397 (September 26, 2011), 76 FR 60955 (September 30, 2011) (SR-MSRB-2011-14) (withdrawing proposed MSRB Rule G-36 and interpretive guidance concerning MSRB Rule G-36); and 65398 (September 26, 2011), 76 FR 60958 (September 30, 2011) (SR-MSRB-2011-15) (withdrawing proposed interpretive notice concerning MSRB Rule G-17).

governing body.⁵⁵ Alternatively, the commenter stated that the Interpretive Notice should be amended to prohibit the giving of disclosures based on a reasonable belief standard and instead require underwriters to have actual knowledge of whether an official has the power to bind the issuer by contract.⁵⁶ On the other hand, one commenter suggested that disclosures should be made to an official that the underwriter reasonably believes "has or will have" the authority to bind the issuer by contract, instead of an official that the underwriter believes "has" the requisite authority.⁵⁷ The commenter stated that due to the nature of these transactions, at the time of disclosure, there may not be an official with such authority as the authority may not be granted until later.

In Response Letter I, the MSRB stated that it is not necessary for underwriters to obtain consent from the issuer's governing body when the issuer finance officials have been delegated the ability to contract with the underwriter. The MSRB stated that it is not necessary for a contract to have been executed in order for an underwriter to have a reasonable belief that an issuer official has the requisite power to bind the issuer. Further, in Response Letter II, the MSRB noted that an official, such as a finance director, who is expected to receive the delegation of authority from the governing body to bind the issuer, could reasonably be viewed as an acceptable recipient of disclosures provided such expectation remains reasonable.

One commenter stated that the Interpretive Notice should provide that the disclosure regarding the arm's-length nature of the underwriter-issuer relationship must be made in a

⁵⁵ See NAIPFA Letter I and NAIPFA Letter II. One commenter stated its disagreement with the commenters who would require underwriters to make disclosures to the issuer's governing body. See SIFMA Letter III.

⁵⁶ See NAIPFA Letter I and NAIPFA Letter II. But see SIFMA Letter III (stating that underwriters should not be required to have actual knowledge that the official receiving the disclosures has the power to bind the issuer by contract).

⁵⁷ See BDA Letter II.

response to a request for proposals or in promotional materials provided to an issuer, rather than “at the earliest stages” of the relationship as proposed, because the proposed standard is vague and ambiguous.⁵⁸ This commenter also requested clarification with respect to when “other conflicts” disclosures must be made. Another commenter requested clarification regarding the meaning of “execution of a contract” with respect to the timing of the risk disclosures.⁵⁹ This commenter stated that execution of the bond purchase agreement should be the appropriate measurement. In Response Letter II, the MSRB clarified that, other than the disclosure with respect to the arm’s-length nature of the relationship, the remaining disclosures regarding the underwriter’s role, compensation and other conflicts of interest all must be provided when the underwriter is engaged to perform underwriting services (such as in an engagement letter), not solely in the bond purchase agreement. The MSRB also clarified that the “contract” with respect to the timing of the risk disclosures is the bond purchase agreement.⁶⁰

One commenter suggested that the underwriter make its disclosures to the issuer in plain English to ensure that the issuer understands such disclosures.⁶¹ In Response Letter II, the MSRB stated that it agrees that reasonable efforts must be made to make the disclosures understandable, that disclosures must be made in a fair and balanced manner and, if the underwriter does not reasonably believe that the official to whom the disclosures are addressed is

⁵⁸ See id.

⁵⁹ See SIFMA Letter II. This commenter also requested clarification with respect to how underwriters would satisfy the disclosure requirements in situations where the financing terms are determined in a short period of time, such as within a 24-hour window. See SIFMA Letter II and SIFMA Letter III. In Response Letter II, the MSRB stated that “if an underwriter is asking an issuer to bind itself to the terms of a complex financing, it is unreasonable for the underwriter to expect the issuer to do so without having an opportunity to fully understand the nature of its commitment.” See also Response Letter IV.

⁶⁰ See also Response Letter IV.

⁶¹ See GFOA Letter II and GFOA Letter III.

capable of independently evaluating the disclosures, the underwriter must make additional efforts reasonably designed to inform the issuer or its employees or agent.⁶²

The Commission finds that the proposed timing and manner of disclosure are consistent with the Act because they will help to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors, municipal entities, and the public interest. Specifically, the Commission believes that the proposed timing and manner of disclosure will help to ensure that municipal issuers are fully and timely informed of the underwriter's role and any potential or actual conflicts of interest. Further, as noted by the MSRB, such provisions would provide guidance as to conduct required to comply with the fair dealing component of Rule G-17.⁶³

In addition, the Commission believes that the MSRB has adequately addressed the comments regarding the timing and manner of disclosure. The Commission notes that, in response to comments, the MSRB modified the Interpretive Notice, as originally proposed, by specifically setting forth near the beginning of the Interpretive Notice the appropriate timing and manner of disclosure. The MSRB also provided clarification with respect to the timing of disclosure and the party to whom the disclosure must be made. In addition, the Commission notes that the MSRB has committed to monitoring matters relating to the timing of disclosure in order to determine whether any further action with respect to timing is merited.⁶⁴

5. Acknowledgement of Disclosures

⁶² See also Response Letter IV.

⁶³ See Amended Notice of Filing, *supra* note 6 at 72015 (stating that "[t]he sections of the Notice entitled 'Role of the Underwriter/Conflicts of Interest,' 'Required Disclosures to Issuers,' 'Fair Pricing,' and 'Credit Default Swaps' primarily would provide guidance as to conduct required to comply with the fair dealing component of the rule"). See also Response Letter III.

⁶⁴ See Response Letter II.

One commenter stated that the requirement for issuer written acknowledgement of the receipt of disclosures would be helpful.⁶⁵ However, in situations where written acknowledgement is not received from the issuer, the commenter urged the MSRB to require underwriters to put forth some level of effort to obtain the written acknowledgement. Another commenter stated that it believes that an underwriter should not be required to document why an official of the issuer does not acknowledge in writing that disclosures were received.⁶⁶ Instead, the commenter recommended that the underwriter should only be required to document that disclosures were made and whether acknowledgement was received.

In Response Letter II, the MSRB clarified that if an issuer does not provide the underwriter with written acknowledgement of the receipt of disclosures, the failure to receive such acknowledgement must be documented, as well as what actions were taken to attempt to obtain the acknowledgement, in order for the underwriter to fulfill its obligation under MSRB Rule G-17 to deal fairly with the issuer.

The Commission finds that the proposed provisions concerning the issuer's acknowledgement of the receipt of disclosures are consistent with the Act. The Commission believes that the proposed provisions will help to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors, municipal entities, and the public interest by helping to ensure that the issuer receives appropriate disclosures from the underwriter. For example, the Commission notes that, in response to comments, the MSRB modified the Interpretive Notice, as originally proposed, by specifically setting forth near the beginning of the Interpretive Notice the provisions with respect to the timing and acknowledgment of receipt of the disclosures, including the obligation to

⁶⁵ See NAIPFA Letter II.

⁶⁶ See BDA Letter II.

document the failure to receive such acknowledgement. In addition, in Response Letter II, the MSRB provided clarification with respect to the underwriter's obligation to document the failure to receive such acknowledgement.

C. Representations to Issuers

According to the Interpretive Notice, an underwriter must have a reasonable basis for the representations and material information contained in a certificate that will be relied upon by the municipal entity issuer or other relevant parties to an underwriting. One commenter stated that one example of such a certificate used by the MSRB in the Interpretive Notice (i.e., an issue price certificate) is already regulated by tax laws and does not need additional regulation by the MSRB.⁶⁷ In Response Letter IV, the MSRB disagreed with the comment that evaluating the reasonableness of an issue price certificate should be left to the tax authorities, and stated that "the reasonableness of an underwriter's representation in an issue price certificate may have a direct effect on a key representation that an issuer makes to potential investors – that interest on its securities is tax exempt."

The Commission finds that the proposed provisions with respect to representations to issuers are consistent with the Act. The Commission believes that these provisions will help to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors, municipal entities, and the public interest by helping to ensure that all representations made by underwriters to issuers in connection with municipal securities underwritings are truthful and accurate. Also, as noted by the MSRB, such provisions would provide guidance as to conduct required to comply with the anti-fraud

⁶⁷ See SIFMA Letter I. See also SIFMA Letter III.

component of Rule G-17.⁶⁸ In addition, the Commission believes that the MSRB has adequately addressed the comment with respect to issue price certificates.

D. Required Disclosures to Issuers

One commenter stated that the disclosure requirements, especially for routine transactions, should only be imposed when the underwriter has reason to believe that the issuer does not have the knowledge or experience available to understand the transaction.⁶⁹ The commenter also noted that “issuer personnel responsible for the issuance of municipal securities” and “an official of the issuer whom the underwriter reasonably believes has the authority to bind the issuer by contract with the underwriter” are not the same.⁷⁰ Thus, the commenter stated that

⁶⁸ See Amended Notice of Filing, *supra* note 6 at 72015 (stating that “[t]he sections of the Notice entitled ‘Representations to Issuers,’ ‘Underwriter Duties in Connection with Issuer Disclosure Documents,’ ‘Excessive Compensation,’ ‘Payments to or from Third Parties,’ ‘Profit-Sharing with Investors,’ ‘Retail Order Periods,’ and ‘Dealer Payments to Issuer Personnel’ primarily would provide guidance as to conduct required to comply with the anti-fraud component of the rule and, in some cases, conduct that would violate the anti-fraud component of the rule, depending on the facts and circumstances”). See also Response Letter III.

⁶⁹ See BDA Letter I. One commenter suggested factors to determine when disclosures would not be necessary for routine financings. See NAIPFA Letter I. In Response Letter I, the MSRB stated that while the factors are helpful, they do not address the particular issuer personnel’s experience and knowledge, which are more relevant to the Interpretive Notice. Another commenter stated its belief that “it can do no harm for the underwriter to provide information about routine financings to the issuer personnel who are charged by the government to execute the financing.” See GFOA Letter II and GFOA Letter III. This commenter further stated that the amount of materials and explanations provided may need to be determined through conversations with the issuer personnel. Further, this commenter stated that it would not be unreasonable for the rule to state that the underwriter may be asked by issuer personnel to make disclosures about routine financings to others on the finance team or the members of a governing board who gave the authorization for the financing. In Response Letter II, the MSRB stated its belief that the provisions relating to risk disclosure are appropriate for the reasons described in Response Letter I and, therefore, no further modification is warranted.

⁷⁰ Another commenter noted that the issue of how the underwriter should identify the person to whom it must provide information deserves further discussion. See GFOA Letter II and GFOA Letter III. In Response Letter II, the MSRB noted that it would monitor disclosure practices and would engage in a dialogue with industry participants

clarification should be provided that these regulatory requirements are imposed on the underwriter only if the underwriter has reason to believe that issuer personnel do not have the requisite knowledge or experience, regardless of whether the particular official who the underwriter reasonably believes to have the legal authority to contractually bind the issuer can be reasonably thought to have the requisite knowledge and experience. Another commenter stated that the Interpretive Notice should be amended to take into consideration the needs of unsophisticated municipal issuers, and underwriters should be required to assess the knowledge and understanding of municipal issuers on a case-by-case basis.⁷¹ In Response Letter I, the MSRB stated that it does not consider it unduly burdensome to require an underwriter to evaluate the level of knowledge and sophistication of issuer personnel, particularly considering that under the Interpretive Notice, as modified by Amendment No. 2, the underwriter need only have a reasonable basis for its evaluation. In Response Letter IV, the MSRB also noted that in the Interpretive Notice, it provided guidance on the factors that are relevant in coming to the reasonable belief.⁷²

and the Commission to determine whether sufficient improvements have occurred in the flow of disclosures to decision-making personnel of issuers or whether additional steps should be taken.

⁷¹ See NAIPFA Letter I and NAIPFA Letter II. The commenter also stated that the proposal requires additional changes in order to protect the infrequent and/or small, unsophisticated issuers of municipal bonds. See NAIPFA Letter II. Another commenter stated that there are many unsophisticated issuers who will benefit from the disclosures. See AGFS Letter.

⁷² According to the Interpretive Notice, the level of disclosure required may vary according to the issuer's knowledge or experience with the proposed financing structure or similar structures, capability of evaluating the risks of the recommended financing, and financial ability to bear the risks of the recommended financing. See Interpretive Notice.

One commenter stated that the underwriter should not be required to evaluate issuer personnel when the issuer has retained a municipal advisor.⁷³ This commenter also stated that the written risk disclosures imposed on underwriters related to the financings do not take into account the role of the issuer's municipal advisor, if any.⁷⁴ Other commenters stated that in a negotiated sale, when the issuer of municipal securities engages a registered municipal advisor, disclosures should be reduced or eliminated.⁷⁵ In Response Letter I, the MSRB stated that underwriters are in the best position to understand the material financial terms and risks associated with recommended financings, and the burden should not be solely on municipal advisors to ascertain such terms and risks.

One commenter stated that the written risk disclosures imposed on underwriters related to the financings (including complex financings) are too broad and vague.⁷⁶ This commenter noted that if written risk disclosures are to be required, then additional guidance and clarity is needed on the following: (1) references to "atypical or complex" financings; (2) references to "all material risks and characteristics of the complex municipal securities financing;" (3) which issuer personnel must have the requisite level of knowledge and sophistication; (4) if the issuer

⁷³ See SIFMA Letter I and SIFMA Letter II.

⁷⁴ See SIFMA Letter I. See also SIFMA Letter II and SIFMA Letter III.

⁷⁵ See, e.g., NAIPFA Letter II; SIFMA Letter II; WM Letter II; and BDA Letter I. One commenter stated that if the issuer has a financial advisor or internal personnel serving the same role, then no underwriter written risk disclosures should be required. See SIFMA Letter I. The commenter further recommended that underwriters may satisfy their disclosure requirements by communicating the disclosures to the financial advisor or issuer internal personnel. This commenter stated that the underwriter should be permitted to assume, without further inquiry, that the finance staff will use its expertise to communicate the disclosure in an appropriate manner to other decision makers. See also SIFMA Letter II and SIFMA Letter III. In Response Letter IV, the MSRB stated that "it is essential for issuer representatives to be the recipients of the required disclosures as they are the ones that must decide whether to accept their underwriters' recommendations."

⁷⁶ See SIFMA Letter I. See also SIFMA Letter III.

does not have a financial advisor or internal personnel acting in a similar role, then the issuer's finance staff's knowledge and experience should be assessed by underwriters; and (5) only material risks that are known to the underwriter and reasonably foreseeable at the time of the disclosure should be required.

In Response Letter I, the MSRB stated that it does not consider it appropriate to provide a more precise definition of "complex municipal securities financing" since the Interpretive Notice already provides the comparison to a fixed rate financing and examples of financings that are considered to be complex, such as those involving variable rate demand obligations and swaps.⁷⁷ In addition, the MSRB stated that if there is any doubt on the part of the underwriter as to whether a financing is complex, it should err on the side of concluding that the financing is complex and provide the requisite disclosures. On the other hand, the MSRB noted that the Interpretive Notice, as modified by Amendment No. 2, would limit disclosures of a complex municipal securities financing recommended by the underwriter to its material financial characteristics, and its material financial risks that are known to the underwriter and reasonably foreseeable at the time of disclosure (rather than all material risks and characteristics), and would provide examples of the types of disclosures in the case of swaps.

One commenter stated that if an issuer has no financial advisor or internal financial department, the written disclosure requirements should not be triggered unless the issuer informs the underwriter that it lacks knowledge or experience and specifically requests such written disclosure in writing.⁷⁸ In Response Letter I, the MSRB stated that it does not consider it appropriate to require an issuer to inform the underwriter that it lacks knowledge or experience

⁷⁷ See also Response Letter IV.

⁷⁸ See SIFMA Letter I.

with a financing as a condition of receiving disclosures from the underwriter because this would put the burden on the party least able to understand the transaction and its rights to disclosure.

One commenter stated that it would not be appropriate or practical to impose upon the underwriter the duty to assess the level of sophistication and experience of the issuer official to whom the disclosure is delivered, if the official is reasonably believed to have the authority to bind the issuer.⁷⁹ The commenter stated that the underwriter should be permitted to rely on a representation from such official that he or she is sufficiently sophisticated and experienced, and issuers should be responsible for ensuring that they authorize appropriate personnel to contract for them.⁸⁰ In Response Letter IV, the MSRB stated its expectation that if it were to provide the clarification that the commenter requested, issuers would be provided with boilerplate language requesting that they waive this disclosure requirement, and many of those that actually read the language “would be loath to admit that they lacked sophistication or experience.”

One commenter disagreed with the MSRB that the level of disclosure may vary based on the issuer’s financial ability to bear the risks of the recommended financing.⁸¹ The commenter stated that a municipal entity with taxing power, who would be able to bear more risks of a financing, should not be ineligible for advice that is competent and unimpaired by the broker’s own interests simply because the government can tax the citizens to restore any loss. In Response Letter II, the MSRB conceded that the financial ability to bear the risks of a recommended financing would not normally be a sufficient basis by itself for determining the level of disclosure. The MSRB noted, however, that the Interpretive Notice states three distinct factors that should be considered together in coming to this determination.

⁷⁹ See id.

⁸⁰ See SIFMA Letter I and SIFMA Letter III.

⁸¹ See PFM Letter I.

Other commenters noted that disclosure regarding derivatives is premature since there are pending rulemakings with the CFTC and the Commission that will apply to dealers recommending swaps or security-based swaps to municipal entities.⁸² One commenter urged the MSRB to work together with the Commission and CFTC to ensure that one set of definitions and rules apply to the municipal securities market.⁸³

In Response Letter I, the MSRB noted that it is aware of the ongoing rulemaking by the Commission and CFTC and has taken care to ensure that requirements of the Interpretive Notice are consistent with such rulemaking. In Response Letter IV, the MSRB also noted that most of the derivatives entered into by municipal securities issuers are interest rate swaps, which are within the jurisdiction of the CFTC. The MSRB noted that the provisions concerning the disclosure of material financial risks and characteristics of complex municipal securities financings have been drafted to be consistent with the CFTC's business conduct rule, which was finalized on January 11, 2012.⁸⁴

The Commission finds that the proposed disclosures to issuers with respect to financings that the underwriter recommends are consistent with the Act because they will help to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors, municipal entities, and the public interest. Specifically, the Commission believes that, in providing municipal issuers with disclosures regarding the material financial characteristics and risks of certain recommended financing structures, municipal issuers should be better informed to evaluate, among other things, potential risks in selecting the

⁸² See SIFMA Letter I and BDA Letter I. See also SIFMA Letter III.

⁸³ See GFOA Letter I.

⁸⁴ In the Original Notice of Filing, the MSRB stated that it may undertake additional rulemaking as necessary to ensure consistency with Commission and CFTC rulemaking. See Original Notice of Filing, supra note 3 at 55994.

financing structure most appropriate for their financing needs. The Commission also believes that issuers engaging in financings more appropriate to their needs will benefit municipal issuers, investors, and the public interest. Further, as noted by the MSRB, the required disclosures should provide issuers and their advisors with valuable information with which to evaluate underwriter recommendations and should benefit investors and the public interest.⁸⁵

In addition, the Commission believes that it is consistent with the Act for underwriters to continue to have disclosure obligations even if the municipal issuer has retained a municipal advisor. Underwriters are in the best position to understand the material terms and risks associated with the financings that they recommend.

The Commission also believes that it is consistent with the Act to provide that underwriters must establish a reasonable belief with respect to the knowledge and experience of the issuer in determining the appropriate level of disclosures. The Commission believes that such an approach will result in disclosure more appropriately targeted to the level of the issuer's sophistication.⁸⁶ For example, to the extent that the disclosures are to a sophisticated issuer, the level of disclosure should be reduced. For a less sophisticated issuer, however, additional disclosures will help to ensure that the issuer does not proceed with a financing transaction that it otherwise would not undertake if it fully understood the material aspects of the transaction.

In addition, the Commission believes that the MSRB has adequately addressed comments regarding the disclosures for financing structures that the underwriter recommends to an issuer. Specifically, the Commission notes that in response to comments, the MSRB modified the Interpretive Notice, as originally proposed, to provide that an underwriter that recommends a complex municipal securities financing to an issuer must disclose the material financial

⁸⁵ See Response Letter III.

⁸⁶ See Response Letter II and Response Letter IV.

characteristics of such complex municipal securities financing, as well as the material financial risks of such financing that are known to the underwriter and reasonably foreseeable at the time of the disclosure.⁸⁷ Also, with respect to routine financing structures, the MSRB modified the original Interpretive Notice by stating that the underwriter must provide disclosures only on the material aspects of the structures that it recommends (rather than on all routine financing structures) and, only in the case of issuer personnel that the underwriter reasonably believes lack knowledge or experience with such structures.⁸⁸ Further, the Commission notes that the MSRB provided clarification with respect to the scope of the disclosure requirements and justifications for the timing of the disclosure requirements, as well as guidance regarding the types of disclosures that must be provided for complex municipal securities financings.

In addition, the Commission notes that the MSRB has committed to monitor disclosure practices by underwriters to municipal issuers and to engage in a dialogue with industry participants and the Commission to determine whether sufficient improvements have occurred in the flow of disclosures to decision-making personnel of issuers or whether additional steps should be taken to improve upon the information flow.⁸⁹

E. Underwriter Duties in Connection with Issuer Disclosure Documents

Under the Interpretive Notice, the underwriter must have a reasonable basis for the representations and information provided to issuers in connection with the preparation by the

⁸⁷ According to the Interpretive Notice, as originally proposed, an underwriter that recommends a complex municipal securities financing to an issuer must disclose all material risks and characteristics of the complex municipal securities financing. The MSRB also modified the examples of the risk disclosures in the original Interpretive Notice to provide additional guidance regarding such disclosures.

⁸⁸ The Interpretive Notice, as originally proposed, stated that in the case of issuer personnel that lack knowledge or experience with routine financing structures, the underwriter must provide disclosures on the material aspects of such structures.

⁸⁹ See Response Letter II. See also Response Letter IV.

issuer of its disclosure documents. One commenter stated its belief that the reasonable basis requirement is unreasonably broad.⁹⁰ The commenter stated that the Interpretive Notice should be revised to clarify that an underwriter may limit its responsibility for the information provided by disclosing to the issuer any limitations on the scope of its analysis and factual verification. The commenter further stated that such duty should extend only to material information. Another commenter stated its belief that when an underwriter intends to assist in the preparation of an official statement, a disclosure should be made to the issuer stating that the underwriter can only be held liable where it can be shown that it did not act with a reasonable belief that the information presented was truthful and complete.⁹¹

In Response Letter I, the MSRB reiterated that, in connection with materials prepared by an underwriter for use in an official statement, the underwriter must have "a reasonable basis for the representations it makes, and other material information it provides, to an issuer" and "ensure that such representations and information are accurate and not misleading." The MSRB stated that the "reasonable basis" standard is based on the Commission's statement that "[b]y participating in an offering, an underwriter makes an implied recommendation about the securities... this recommendation itself implies that the underwriter has a reasonable basis for belief in the truthfulness and completeness of the key representations made in any disclosure documents used in the offerings."⁹²

⁹⁰ See SIFMA Letter I.

⁹¹ See NAIPFA Letter I.

⁹² See Original Notice of Filing, 76 FR at 55992 (quoting Securities Exchange Act Release No. 26100 (September 22, 1988), 53 FR 37778, 37787 (September 28, 1988) (proposing Exchange Act Rule 15c2-12)). The MSRB stated that it would be a curious result for the underwriter not to be required under Rule G-17 to have a reasonable basis for its own representations set forth in the official statement, as well as a reasonable basis for the material information it provides to the issuer in connection with the preparation of the

The Commission finds that the dealer's duty to have a reasonable basis for the representations and material information it provides to an issuer in connection with the preparation by the issuer of its disclosure documents, and to ensure that such representations and information are accurate and not misleading, is consistent with the Act. The Commission believes that this provision will help to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors, municipal entities, and the public interest. The Commission also believes that the MSRB has adequately addressed the comments regarding the "reasonable basis" standard.

F. Underwriter Compensation and New Issue Pricing

With respect to the standard that the price an underwriter pays in a negotiated sale be fair and reasonable, one commenter stated that the standard should be altered so that the price the underwriter pays is "not unreasonable."⁹³ In the alternative, the commenter recommended that the disclosure be changed to state that although the pricing provided is fair and reasonable, it is not necessarily the best or lowest rate available.⁹⁴ Another commenter objected to the required disclosure that an underwriter must balance a fair and reasonable price for issuers with a fair and reasonable price for investors.⁹⁵ The commenter stated that there exists a reasonable price for

official statement. See Original Notice of Filing, 76 FR at 55992. See also Response Letter IV.

⁹³ See NAIPFA Letter I and NAIPFA Letter II.

⁹⁴ See NAIPFA Letter II. This commenter subsequently clarified this comment and stated its belief that the "fair and reasonable" standard should not create an expectation that the underwriter is providing the "best pricing" in the market. See NAIPFA Letter III. The commenter also stated that "the determinate of 'best pricing' cannot be made by the underwriter whose conflicts of interest in this regard greatly outweigh any objectivity that an underwriter may have in regard to the pricing they have provided." Id.

⁹⁵ See BDA Letter II.

both issuers and investors, and recommended that the disclosure be modified to reflect that statement.

In Response Letter I, the MSRB stated that the underwriter's fair and reasonable pricing duty is no different than the duties already imposed on the underwriter by MSRB rules with respect to its customers. In Response Letter II, the MSRB disagreed that underwriters should be required to provide a disclosure that the price paid to the issuer may not be the best or lowest price available because, depending on the specific pricing of a new issue, this might not be an accurate disclosure. The MSRB also stated that it is appropriate to characterize the underwriter's duties of fair pricing as a balance between the interests of the issuer and investors. In Response Letter IV, the MSRB agreed that the "fair and reasonable" pricing standard should not create an expectation by the issuer that the underwriter is providing the "best pricing" in the market and stated its belief that the disclosures under the Interpretive Notice would sufficiently address this point.

One commenter urged that underwriters be required to expressly represent in writing to the issuer that the price paid for the issuer's debt is fair, and specify the facts that support the representation.⁹⁶ This commenter stated that according to the MSRB, the underwriter's own judgment as to what is fair is an independent component of "fairness" and that the MSRB hedged the protection of an issuer "by adhering to its earlier, pre-Dodd-Frank expression of the principle that 'whether an underwriter has dealt fairly with an issuer' – the command of Rule G-17 – depends on all 'the facts and circumstances' and is not dependent solely on the price of the issue."

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See PFM Letter I.

In Response Letter II, the MSRB stated that its long-standing view that whether an underwriter has dealt fairly with an issuer for purposes of Rule G-17 is dependent upon all of the facts and circumstances of an underwriting, and not solely on the price of the issue, enhances issuer protection, and that the commenter had misunderstood its meaning. The MSRB further stated that even if an underwriter provides a fair price to an issuer for its new issue offering, its fair practice duties under Rule G-17 are not thereby discharged because, among other things, the many principles laid out in the Interpretive Notice also must be addressed. Conversely, an underwriter cannot justify under Rule G-17 an unfair price to an issuer by balancing that unfair price with the fact that it may otherwise have been fair to the issuer under the other fairness principles enunciated in the Interpretive Notice.

The Commission finds that the proposed standard with respect to new issue pricing is consistent with the Act because it will help to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors, municipal entities, and the public interest. Specifically, the Commission notes that the Interpretive Notice would provide that the duty of fair dealing under Rule G-17 includes an implied representation that the price an underwriter pays to an issuer is fair and reasonable. The Commission also believes that the MSRB has adequately addressed the comments on new issue pricing by clarifying the underwriter's duty and required disclosures with respect to such pricing.

In addition, the Commission finds that the proposed provision with respect to excessive compensation is consistent with the Act because it will help to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors, municipal entities, and the public interest. For example, the Interpretive Notice would remind underwriters that compensation for a new issue could be so

disproportionate to the nature of the underwriting and related services performed as to constitute an unfair practice with respect to the issuer, and as such a violation of Rule G-17.

G. Conflicts of Interest

1. Payments to or from Third Parties

One commenter suggested that the disclosure requirement with respect to payments to or from third parties is too broad.⁹⁷ The commenter stated its belief that "the intent of G-17 is that payments to those who carry some level of influence with an issuer and who have advocated on the underwriter's behalf in securing municipal securities business must be disclosed," but the proposed requirement "may be interpreted to encompass a broad array of other professional services that happen in the standard course of municipal securities business."⁹⁸ In Response Letter II, the MSRB clarified that the third-party payments to which the disclosure requirement would apply are those that give rise to actual or potential conflicts of interest, and the disclosure requirement typically would not apply to third-party arrangements for products and services of the type that are routinely entered into in the normal course of business, so long as any specific routine arrangement does not give rise to an actual or potential conflict of interest.

One commenter stated that disclosures with respect to third-party arrangements for the marketing of the issuer's securities should be clarified as to the level of details.⁹⁹ Further, the commenter stated that payments to and from affiliates of the underwriters are not third-party payments since payments would not color a party's judgment when the parties are related to each other, unlike third parties. In Response Letter I, while the MSRB disagreed with the comment that payments from affiliates do not raise risks, the MSRB noted that the Interpretive Notice, as

⁹⁷ See IA Letter.

⁹⁸ Id.

⁹⁹ See SIFMA Letter I.

modified by Amendment No. 2, would not require disclosure of the amount of third-party payments. In addition, in Response Letter III, the MSRB stated its belief that "it is essential that issuers and their advisors understand the conflicts of interest that might color underwriter recommendations."¹⁰⁰

Another commenter stated that the payment amount is an important variable for the issuer to consider and that it would encourage its members to further question the underwriter about any relevant third-party relationships and payments, which would provide better transparency for the transaction.¹⁰¹ In Response Letter II, the MSRB agreed that such further inquiries could be made. In Response Letter IV, the MSRB noted that the purpose of the third-party payment disclosure is to draw them to the issuer's attention, and the issuer may then request additional information about such payments as it considers appropriate.

The Commission finds that the proposed disclosure with respect to the existence of payments to or from third parties is consistent with the Act because the disclosure will notify the issuer of potential conflicts of interest, even though underwriters need not disclose the amount of

¹⁰⁰ Specifically, in Response Letter III, the MSRB stated that: "Municipal securities offerings borne of self-interested advice or in the context of conflicting interests or undisclosed payments to third parties are much more likely to be the issues that later experience financial or legal stress or otherwise perform poorly as investments, resulting in significant harm to investors and issuers, including increased costs to taxpayers." The MSRB also noted that in recent years, a series of state and federal proceedings involving undisclosed third-party payments in connection with new issues of municipal securities or closely-related transactions have been instituted. According to the MSRB, in at least one case, such undisclosed third-party payments allegedly occurred in connection with activities that may have contributed to the bankruptcy in Jefferson County, Alabama. In addition, the MSRB noted that the U.S. Department of Justice, the Commission, and the attorneys general of a number of states have pursued criminal and civil cases involving allegedly fraudulent activities relating to municipal securities offerings and closely-related transactions in which undisclosed third-party payments have played an important role in carrying out the allegedly fraudulent activities.

¹⁰¹ See GFOA Letter II. See also GFOA Letter III. In Response Letter IV, the MSRB stated that it would monitor whether disclosure of the amounts should be required.

such payments. As such, the Commission believes that the disclosure will help to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors, municipal entities, and the public interest.

In addition, the Commission believes that the MSRB has adequately addressed the comments regarding the disclosure of third-party payments by providing clarification with respect to the scope of the disclosure, the information required to be disclosed, and justifications for the disclosure. Specifically, the Commission notes that in response to comments, the MSRB modified the Interpretive Notice, as originally proposed, by stating that the underwriter is not required to disclose the amount of third-party payments, but rather only the existence of such payments. The MSRB also modified the original Interpretive Notice by providing that an underwriter must only disclose whether it has entered into any third-party arrangements for the marketing of the issuer's securities. Further, in response to comments, the MSRB deleted the statements in the original Interpretive Notice that the underwriter must disclose the purpose of the third-party payment, the name of the party making or receiving the payment, and details of third-party arrangements for the marketing of the issuer's securities. In addition, the MSRB stated that it will monitor whether the proposal has achieved the effect of providing issuers with adequate information about actual or potential material conflicts of interest and whether the amount of third-party payments or other additional information should be required.¹⁰²

2. Profit-Sharing with Investors

One commenter sought clarification that legitimate trading, such as when an underwriter sells a bond and later repurchases the bond from a purchaser, is not included in the disclosure

¹⁰²

See Response Letter IV.

requirement for profit sharing arrangements.¹⁰³ In Response Letter II, the MSRB stated that the language of the proposal appropriately reflects that the disclosure applies in cases where there exists an arrangement to split or share profits realized by an investor upon resale.

The Commission finds that the proposed provision with respect to profit-sharing arrangements with investors is consistent with the Act because it will help to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors, municipal entities, and the public interest. For example, the Interpretive Notice would clarify that such arrangements could constitute a violation of an underwriter's fair dealing obligation under Rule G-17, or a violation of Rule G-25(c), which precludes a dealer from sharing in the profits or losses of a transaction in municipal securities with or for a customer.

3. Credit Default Swaps

One commenter expressed support for the disclosure of an underwriter's credit default swap position as it relates to the issuer and the financing.¹⁰⁴ Another commenter stated its belief that the disclosure of underwriters' hedging and risk management activities could unduly deter the use of credit default swaps for risk management and could potentially compromise counterparty relationships.¹⁰⁵ The commenter noted that should these disclosures be required, generalized disclosures that put the issuer on notice of the possibility that the underwriter may, from time to time, engage in such dealings, should be sufficient. The commenter objected to any provision that would require underwriters to provide specific disclosures that could reveal counterparty information or the underwriters' hedging and risk management strategies. In

¹⁰³ See BDA Letter II.

¹⁰⁴ See GFOA Letter II. See also GFOA Letter III.

¹⁰⁵ See SIFMA Letter I.

Response Letter I, the MSRB stated that the disclosure requirement would not compromise counterparty relationships or deter the use of credit default swaps for legitimate risk management purposes. Specifically, the MSRB noted that the amended Interpretive Notice would only require a dealer that engages in the issuance or purchase of a credit default swap for which the underlying reference is an issuer for which the dealer is serving as underwriter, or an obligation of that issuer, to disclose the fact that it does so to the issuer, and not the terms of the particular trades.¹⁰⁶

The Commission finds that the proposed disclosure requirements with respect to credit default swaps where the reference is the issuer for which the dealer is serving as underwriter, or an obligation of that issuer, are consistent with the Act. The Commission believes that the disclosures will help to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors, municipal entities, and the public interest by bringing to the issuer's attention a potential conflict of interest with the underwriter. As noted by the MSRB, the disclosure of potential or actual material conflicts of interest could help issuers and their advisors to understand the conflicts of interest that might color underwriter recommendations.¹⁰⁷ Further, the Commission does not believe that the

¹⁰⁶ One commenter stated that the Interpretive Notice provides that if a dealer issues or purchases credit default swaps for which the reference obligor is the issuer to which the dealer is serving as an underwriter, the underwriter must disclose that fact to the issuer. See SIFMA Letter II. This commenter stated that, in the case of a conduit issuer that issues bonds for multiple obligors or with respect to a specific project or revenue stream, any disclosure regarding credit default swaps needs to be made solely to the obligor or obligors that are obligated with respect to the securities transaction being underwritten by the underwriter. In Response Letter II, the MSRB stated that the proposal only requires that credit default swap disclosures be made to the issuers of the municipal securities and not to any conduit borrowers or other obligors. However, the MSRB stated that it would take under advisement the question of whether such disclosure should be extended to any applicable obligors other than the issuer.

¹⁰⁷ See Response Letter III.

disclosures will deter the use of credit default swaps for risk management purposes or compromise counterparty relationships because, while a dealer would be required to disclose that it engages in credit default swaps to the issuer for which it serves as an underwriter, it would not be required to disclose the details of such swaps.

In addition, the Commission believes that the MSRB has adequately addressed the comments regarding the disclosure of credit default swaps by providing clarification with respect to the scope of the disclosure. Specifically, the Commission notes that in response to comments, the MSRB modified the Interpretive Notice, as originally proposed, by clarifying that a dealer must only disclose the fact that it engages in such credit default swaps to the issuer for which it serves as underwriter.¹⁰⁸

H. Retail Order Periods

One commenter recommended that the Interpretive Notice use a single standard of requiring that the underwriter not knowingly accept orders that do not meet the requirements of the retail order period.¹⁰⁹ In Response Letter II, the MSRB stated that it believes that the commenter misunderstood these provisions. According to the MSRB, the Interpretive Notice provides that an underwriter that knowingly accepts an order that has been framed as a retail order when it is not would violate MSRB Rule G-17 if its actions are inconsistent with the issuer's expectations regarding retail orders, but also provides that a dealer that places an order that is framed as a qualifying retail order but that in fact represents an order that does not meet the qualification requirements to be treated as a retail order, would violate its duty of fair dealing.

¹⁰⁸ The original Interpretive Notice stated that Rule G-17 requires that a dealer who engages in such credit default swaps disclose that to the issuers for which it serves as underwriter. In its discussion of the exemption for credit default swaps on baskets or indexes of municipal issuers that include the issuer or its obligations, the MSRB replaced the words "trades in credit default swaps" with "[a]ctivities with regard to credit default swaps."

¹⁰⁹ See BDA Letter II.

In Response Letter II, the MSRB stated that these two provisions are entirely consistent and appropriate, since in the first provision an underwriter is receiving an order framed by a third party, whereas in the second provision, a dealer (not limited to an underwriter) is itself placing and framing the order. Therefore, the MSRB noted that it has not modified these provisions.

The Commission finds that the proposed provisions regarding retail order periods are consistent with the Act. The Commission believes that the provisions will help to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors, municipal entities, and the public interest by helping to ensure that the underwriter complies with its Rule G-17 duty of fair dealing in a transaction with a retail order period. For example, the Interpretive Notice would state that Rule G-17 requires an underwriter that has agreed to underwrite a transaction with a retail order period to honor such agreement and to take reasonable measures to ensure that retail clients are bona fide. In addition, the Commission believes that the MSRB has adequately addressed the comment regarding the requirements for retail order periods by providing clarification with respect to the activities that could be considered violations of Rule G-17.

I. Dealer Payments to Issuer Personnel

One commenter requested that, in the absence of disclosure and informed consent, underwriters be prohibited from seeking reimbursements from bond proceeds for expenditures made on behalf of the issuer for any expenses incurred by the underwriter.¹¹⁰ The commenter also requested that underwriters provide disclosure to issuers that "[e]xpenses made in connection with the issuance of securities were incurred by the underwriter on behalf of the issuer, but that the issuer is under no obligation to issue additional bonds to reimburse the

¹¹⁰ See NAIPFA Letter I. See also NAIPFA Letter III. But see SIFMA Letter III.

underwriter for these expenditures.”¹¹¹ In Response Letter I, the MSRB stated that it is unreasonable to require underwriters to disclose to issuers that they are under no obligation to reimburse the underwriter from bond proceeds for expenditures made on behalf of the issuer. The MSRB noted that Rule G-20 already precludes underwriters from seeking reimbursement for lavish expenditures, especially from bond proceeds, and that various state laws also address whether such reimbursements are permissible.

The Commission finds that the proposed provisions regarding dealer payments to issuer personnel are consistent with the Act. The Commission believes that the provisions will help to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors, municipal entities, and the public interest by reminding dealers of the application of MSRB Rules G-20 and G-17 in connection with certain payments made to, and expenses reimbursed for, issuer personnel during the municipal bond issuance process. The Commission also believes that the MSRB has adequately addressed the comments with respect to dealer payments to issuer personnel by clarifying the laws and rules that govern such payments.

J. Timing and Consistency

One commenter noted that underwriters that may also be municipal advisors will not be able to properly evaluate the Interpretive Notice until rules with respect to municipal advisors have been approved and adopted by the Commission and the MSRB.¹¹² The commenter stated that, given the withdrawal of the MSRB’s rule proposals with respect to municipal advisors, the

¹¹¹ NAIPFA Letter I.

¹¹² See SIFMA Letter I; SIFMA Letter II; and SIFMA Letter III. See also BDA Letter III. Another commenter, however, stated that the proposal should not be dependent on the definition of municipal advisor and urged the Commission to approve the proposal. See NAIPFA Letter III. See also GFOA Letter III.

requirements that will be applicable to underwriters that are also municipal advisors are unknown.¹¹³ The commenter suggested that underwriters may ultimately become subject to duplicative or inconsistent obligations for the same or similar activities. The commenter also stated that many interested parties are abstaining from commenting on the proposal due to this uncertainty. In Response Letter IV, the MSRB noted that two commenters supported the Commission's approval of the proposed rule change even though the Commission's rulemaking on the definition of "municipal advisor" remains pending.¹¹⁴ The MSRB also noted that one commenter stated that it could "find no rational correlation between a delay in the adoption of the [Interpretive Notice] and the adoption of a definition of 'municipal advisor'."¹¹⁵

One commenter stated that because the Interpretive Notice would obligate underwriters to comply with detailed and specific requirements to which they are not currently subject, the 90-day implementation period is too short and requested a period of no less than six months.¹¹⁶ In Response Letter I, the MSRB stated that it believes that 90 days is an adequate time period for underwriters to develop the required disclosures, especially as noted by the commenter, "underwriters who follow best practices in their dealings with municipal issuers already engage in an open dialogue with the issuers concerning the risks of the transactions being underwritten."¹¹⁷

The Commission finds that the timing of the proposed rule change is consistent with the Act. As discussed above, the Commission believes that the disclosures specified in the

¹¹³ See SIFMA Letter I.

¹¹⁴ See, e.g., GFOA Letter III and NAIPFA Letter III.

¹¹⁵ NAIPFA Letter III.

¹¹⁶ See SIFMA Letter I. See also SIFMA Letter III.

¹¹⁷ SIFMA Letter I. See also Response Letter IV.

Interpretive Notice will benefit municipal issuers, including helping municipal issuers to better understand the role of the underwriter, and to better evaluate potential risks in engaging a particular underwriter and in selecting the financing structure most appropriate for their financing needs. Such disclosures should, in turn, benefit investors and the public interest. The MSRB also noted that the required disclosures should provide issuers and their advisors with valuable information with which to evaluate underwriter recommendations.¹¹⁸ In addition, the Commission does not believe that approval of the proposed rule change should be delayed pending rulemaking with respect to municipal advisors because, as noted by one commenter, the provisions of the Interpretive Notice would govern the conduct of underwriters and not the conduct of municipal advisors.¹¹⁹ With respect to commenters' concerns about potential duplication or inconsistency between the requirements applicable to underwriters and the requirements applicable to underwriters that are also municipal advisors, the Commission notes that any proposal by the MSRB interpreting the application of MSRB Rule G-17 to municipal advisors must be filed with, and considered by, the Commission pursuant to Section 19(b) of the Exchange Act¹²⁰ before the proposal can become effective.

The Commission also believes that the 90-day implementation period is consistent with the Act and notes that, as stated by one commenter, underwriters may already provide issuers with some of the required disclosures to the extent such underwriters are already following best practices in their dealings with issuers.¹²¹

K. Other Comments

¹¹⁸ See Response Letter III.

¹¹⁹ See NAIPFA Letter III.

¹²⁰ 15 U.S.C. 78s(b).

¹²¹ See SIFMA Letter I.

One commenter requested clarification that the proposal is not intended to apply to private placement agents.¹²² In Response Letter II, the MSRB stated that, given the nature of the proposed role disclosures and in light of the characteristics of a "true private placement" of municipal securities, those elements of the role disclosures that would not be applicable to a true private placement would not be required to be included in the disclosures made in connection with a dealer serving as placement agent for a new issue. The MSRB stated, however, that Rule G-17, and the remaining provisions of the Interpretive Notice, would continue to apply.¹²³ The Commission believes that the MSRB has adequately addressed the comment on the application of the Interpretive Notice to private placement agents by providing clarification with respect to the application of Rule G-17 and the Interpretive Notice to private placement agents.

One commenter urged further consideration of the costs of the disclosures and weighing of the costs against the potential benefits.¹²⁴ In Response Letter II, the MSRB noted its disagreement that it did not weigh the costs and benefits. The MSRB noted that the Interpretive Notice "recognizes that there is significant variability of size, sophistication and frequency of accessing the market among issuers across the country, and many of the disclosures required under the Proposal can be tailored, and in some cases are not required at all, based on a number of relevant factors set out in the Proposal." Further, the MSRB stated that although it recognizes that some underwriters may bear up-front costs in creating basic frameworks for the required disclosures for the various types of products they may offer their issuer clients, the on-going

¹²² See SIFMA Letter II.

¹²³ In Response Letter II, the MSRB also reminded dealers to remain cognizant of the fact that the circumstances under which a true private placement may arise in the municipal market are quite constrained.

¹²⁴ See SIFMA Letter I; SIFMA Letter II; and SIFMA Letter III. Other commenters stated their belief that the proposed disclosures will not cause undue costs or burdens to underwriters. See PFM Letter II and GFOA Letter III.

burden should thereafter be considerably reduced and the preparation of written disclosures would become an inter-related component of the necessary documentation of the transaction.¹²⁵ In Response Letter II, the MSRB also noted that providing more information to issuers would empower and provide considerable benefits to issuers.

In addition, in Response Letter III, the MSRB noted that the disclosures with respect to the role of the underwriter and actual or potential conflicts of interest could consist of the language provided in the Interpretive Notice, which would lessen the potential costs associated with the disclosures. Moreover, the MSRB stated that disclosures with respect to the risks of a proposed financing would not burden underwriters greatly as generally only complex financings would require such disclosures. For routine financings, the MSRB stated that disclosures would only be required if the issuer personnel lacked knowledge or expertise.

In Response Letter III, the MSRB emphasized its belief regarding the benefits of the proposed disclosures. First, the MSRB stated that municipal securities offerings that result from self-interested advice, conflicting interest or undisclosed payments to third-parties are more likely to encounter issues at a later date, which could cause harm to investors and issuers. Thus, the MSRB believes that the proposed disclosures would help address such practices. Second, the MSRB stated that municipal issuers have entered into complex financings that later created serious risks to the municipalities and that the burden on underwriters of the required disclosures would be outweighed by the benefits to issuers in avoiding similar situations in the future.

The Commission believes that the MSRB has adequately addressed comments regarding the costs resulting from the Interpretive Notice.¹²⁶ The Commission appreciates that the

¹²⁵ See also Response Letter III.

¹²⁶ In approving this proposed rule change, the Commission has also considered whether the proposed change will promote efficiency, competition, and capital formation. See 15

proposed rule change will impose costs upon underwriters, but believes such costs are justified by the benefits that will result from the Interpretive Notice.¹²⁷ As noted above, the Commission believes that the required disclosures will benefit municipal issuers by providing them with valuable information with which to evaluate, among other things, the potential risks of engaging a particular underwriter and entering into a recommended financing structure. The Commission also believes that the disclosures would benefit investors and the public interest.

As noted by the MSRB in Response Letter III, there may be additional up-front costs in creating basic frameworks for the disclosures, but many of the disclosures could be standardized. The Commission believes that such standardization will help reduce the ongoing burden of preparing the written disclosures.¹²⁸ In addition, to help further reduce the potential costs associated with the proposed disclosures, the Commission notes that the Interpretive Notice contains language that underwriters may incorporate into their written disclosures, such as language in the Interpretive Notice regarding the underwriter's role and the conflict of interest caused by contingent fee compensation.

Further, as noted above, in response to comments, the MSRB made modifications to the Interpretive Notice, as originally proposed, which it believes will help reduce the cost of

U.S.C. 78c(f). While none of the commenters specifically commented on efficiency, competition, and capital formation, some of the comments raised concerns about the burdens imposed by the proposed rule change and possible effects on certain transactions. As discussed above, the additional disclosures required by the proposed rule change are intended to deter fraud, inform issuers about potential conflicts of interest, and help to ensure that municipal entities engage in financings appropriate to their needs.

¹²⁷ See Response Letter III.

¹²⁸ The MSRB stated that standardized disclosures could be developed to describe common material financial risks and characteristics that would then only need to be modified in the event of variants in the structures proposed by the underwriter.

compliance.¹²⁹ For example, under the amended Interpretive Notice, an underwriter that recommends a complex municipal securities financing to an issuer must disclose the material financial characteristics of such complex municipal securities financing, as well as the material financial risks of such financing that are known to the underwriter and reasonably foreseeable at the time of the disclosure, as opposed to all material risks and characteristics of the financing.

IV. General Commission Findings

As noted above, the Commission has carefully considered the proposed rule change, as modified by Amendment No. 2, the comment letters received, and the MSRB's responses. For the reasons discussed above, the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB. Specifically, the Commission finds that the proposed rule change is consistent with the provisions of Section 15B(b)(2)(C) of the Act.¹³⁰

The Commission believes that, in general, the MSRB has adequately responded to the comments received on the proposed rule change. The Commission also notes that the MSRB has stated that it will monitor disclosure practices under the Interpretive Notice and will engage in a dialogue with industry participants and the Commission to determine whether sufficient improvements have occurred in the flow of the disclosures to decision-making personnel of issuers or whether additional steps should be taken.¹³¹ The MSRB also stated that it will monitor matters relating to the timing of disclosures in order to determine whether any further action in this area is merited.¹³² In addition, the MSRB stated that it will monitor whether the proposal

¹²⁹ See Response Letter III.

¹³⁰ 15 U.S.C. 78o-4(b)(2)(C).

¹³¹ See Response Letter II and Response Letter IV.

¹³² See Response Letter II.

has achieved the effect of providing issuers with adequate information about actual or potential material conflicts of interest and whether the amount of third-party payments or other additional information should be required.¹³³

V. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹³⁴ that the proposed rule change (SR-MSRB-2011-09), as modified by Amendment No. 2, be, and it hereby is, approved.

By the Commission.

Elizabeth M. Murphy

Elizabeth M. Murphy
Secretary

¹³³ See Response Letter IV.

¹³⁴ 15 U.S.C. 78s(b)(2).

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Rel. No. 66933 / May 7, 2012

Admin. Proc. File No. 3-14744

In the Matter of

TELOS, INC., *et al.*

TIANRONG INTERNET PRODUCTS AND SERVICES, INC.,
Respondent

ORDER AMENDING ORDER INSTITUTING PROCEEDINGS TO DISMISS TIANRONG
INTERNET PRODUCTS AND SERVICES, INC.

I.

On February 6, 2012, the Commission instituted an administrative proceeding against Tianrong Internet Products and Services, Inc. ("TIPS") and eight other respondents under Section 12(j) of the Securities Exchange Act of 1934.¹ The Order Instituting Proceedings ("OIP") described TIPS as the successor to MAS Acquisition XVII Corp. ("MAS"). The OIP alleged that TIPS had violated periodic reporting requirements under Exchange Act Section 13(a)² and sought to determine, based on those allegations, whether it was "necessary and appropriate for the protection of investors to suspend . . . or revoke" the registration of TIPS's securities.

The Division of Enforcement ("Division") has now moved to amend the OIP to delete any reference to TIPS. The Division has determined that TIPS was not a successor to MAS. MAS would remain as the respondent. By letter dated March 22, 2012, counsel for TIPS has stated that it agrees with the Division's motion.

¹ 15 U.S.C. § 781(j). The remaining respondents defaulted, resulting in the revocation of the registration of their securities.

² 15 U.S.C. § 78m.

The facts appear as follows. On December 3, 1998, TIPS, then known as Bria Communications Corporation ("Bria"), filed a Form 15 to terminate the registration of its securities under Exchange Act Section 12(g). Bria filed the Form 15 under its assigned CIK # 65231.

On March 7, 2000, TIPS filed a Form 8-K announcing its acquisition of MAS. The Form 8-K attached a purchase agreement that provided that MAS would become a majority-owned subsidiary of TIPS, and TIPS would assume MAS's reporting obligations as its successor. The Form 8-K was filed under MAS's assigned CIK # 1093987. That filing triggered a change in the company's name from MAS to TIPS in EDGAR. On March 20, 2012, however, after these proceedings were instituted, counsel for TIPS informed the staff of the Division of Corporation Finance that the acquisition was never consummated. TIPS failed to amend its Form 8-K to disclose that fact.

Because TIPS filed the Form 15 in 1998 and did not effectuate its acquisition of MAS, TIPS has no class of securities registered under Exchange Act Section 12(g). MAS's securities continue to be registered and are subject to the Exchange Act's reporting requirements.

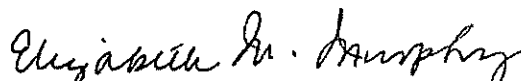
II.

We have determined to grant the Division's motion. TIPS does not have a class of securities registered under Exchange Act Section 12. Because revocation or suspension of registration are the only remedies available in a proceeding instituted under Exchange Act Section 12(j), we find that it is appropriate to dismiss these proceedings as to TIPS.³ We further find it appropriate to amend the OIP to delete any reference to TIPS and to continue this proceeding against MAS.

Accordingly, it is ORDERED that this proceeding be, and it hereby is, dismissed with respect to Tianrong Internet Products and Services, Inc.; and it is further

ORDERED that the Order Instituting Proceedings in this matter be, and it hereby is, amended in the form attached hereto to delete Tianrong Internet Products and Services, Inc. from the name of the second respondent in this proceeding and to delete any and all references to Tianrong Internet Products and Services, Inc. therein.

By the Commission.


Elizabeth M. Murphy
Secretary

³ See, e.g., *Enamelon, Inc.*, Securities Exchange Act Rel. No. 52956 (Dec. 15, 2005), 86 SEC Docket 2944.

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934

Release No.

ADMINISTRATIVE PROCEEDING

File No.

In the Matter of

**Telos, Inc.,
MAS Acquisition XVII Corp.,
Tianrong Building Material Holdings, Ltd.
(f/k/a MAS Acquisition XVIII Corp.),
TSS Ltd.,
Tuff Coat Manufacturing, Inc. (f/k/a Osage
Acquisition Corp.),
Tultex Corp.,
TVA, Inc.,
Tyger Holding, Inc., and
U.S. Energy Systems, Inc.,**

Respondents.

**AMENDED ORDER INSTITUTING
ADMINISTRATIVE PROCEEDINGS
AND NOTICE OF HEARING
PURSUANT TO SECTION 12(j) OF
THE SECURITIES EXCHANGE ACT
OF 1934**

I.

The Securities and Exchange Commission ("Commission") deems it necessary and appropriate for the protection of investors that public administrative proceedings be, and hereby are, instituted pursuant to Section 12(j) of the Securities Exchange Act of 1934 ("Exchange Act") against Respondents Telos, Inc., MAS Acquisition XVII Corp., Tianrong Building Material Holdings, Ltd. (f/k/a MAS Acquisition XVIII Corp.), TSS Ltd., Tuff Coat Manufacturing, Inc. (f/k/a Osage Acquisition Corp.), Tultex Corp., TVA, Inc., Tyger Holding, Inc., and U.S. Energy Systems, Inc.

II.

After an investigation, the Division of Enforcement alleges that:

A. RESPONDENTS

1. Telos, Inc. (CIK No. 1387000) is a void Delaware corporation located in Fort Myers, Florida with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Telos is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-QSB for the period ended June 30, 2007, which reported a net loss of over \$33,000 for the prior six months.

2. MAS Acquisition XVII Corp. (CIK No. 1093987) is a New Jersey corporation located in New York, New York with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). MAS Acquisition XVII Corp. is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-QSB for the period ended December 31, 1999, which reported a net loss of \$5 for the prior three months.

3. Tianrong Building Material Holdings, Ltd. (f/k/a MAS Acquisition XVIII Corp.) (CIK No. 1093988) is an expired Utah corporation located in New York, New York with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Tianrong Building Material Holdings is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-QSB for the period ended December 31, 1999, which reported a net loss of \$5 for the prior three months. On November 25, 1996, a permanent injunction was entered against Tianrong Building Material Holdings, enjoining the company from violations of the Exchange Act, including Section 13(a). As of January 30, 2012, the company's stock (symbol "TNRG") was traded on the over-the-counter markets.

4. TSS Ltd. (CIK No. 848013) is a Delaware corporation located in Westport, Connecticut with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). TSS is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-QSB/A for the period ended February 28, 1994, which reported a net loss of over \$4.6 million for the prior nine months.

5. Tuff Coat Manufacturing, Inc. (f/k/a Osage Acquisition Corp.) (CIK No. 1119179) is a revoked Nevada corporation located in Willow Grove, Pennsylvania with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Tuff Coat Manufacturing is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-QSB for the period ended May 22, 2001.

6. Tultex Corp. (CIK No. 100166) is a purged Virginia corporation located in Martinsville, Virginia with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Tultex is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-Q for the period ended October 2, 1999, which reported a net loss of over \$35 million for the prior three months.

7. TVA, Inc. (CIK No. 1198714) is a permanently revoked Nevada corporation located in Great Neck, New York with a class of securities registered with the

Commission pursuant to Exchange Act Section 12(g). TVA is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-SB registration statement on December 2, 2002, which reported a net loss of over \$7,000 for the period between the company's June 18, 2002 inception and July 31, 2002.

8. Tyger Holding, Inc. (CIK No. 1374069) is a void Delaware corporation located in New York, New York with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Tyger Holding is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-SB registration statement on September 28, 2006, which reported a net loss of \$421 for the period between its inception on March 28, 2006 and June 30, 2006.

9. U.S. Energy Systems, Inc. (CIK No. 351917) is a Delaware corporation located in Avon, Connecticut with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). US Energy Systems is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-K for the period ended December 31, 2006, which reported a net loss of over \$27.5 million for the prior twelve months. On January 9, 2008, US Energy Systems filed a Chapter 11 petition in the U.S. Bankruptcy Court for the Southern District of New York, and the case was still pending as of January 30, 2012.

B. DELINQUENT PERIODIC FILINGS

10. As discussed in more detail above, all of the Respondents are delinquent in their periodic filings with the Commission, have repeatedly failed to meet their obligations to file timely periodic reports, and failed to heed delinquency letters sent to them by the Division of Corporation Finance requesting compliance with their periodic filing obligations or, through their failure to maintain a valid address on file with the Commission as required by Commission rules, did not receive such letters.

11. Exchange Act Section 13(a) and the rules promulgated thereunder require issuers of securities registered pursuant to Exchange Act Section 12 to file with the Commission current and accurate information in periodic reports, even if the registration is voluntary under Section 12(g). Specifically, Rule 13a-1 requires issuers to file annual reports, and Rule 13a-13 requires domestic issuers to file quarterly reports.

12. As a result of the foregoing, Respondents failed to comply with Exchange Act Section 13(a) and Rules 13a-1 and 13a-13 thereunder.

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate for the protection of investors that public administrative proceedings be instituted to determine:

A. Whether the allegations contained in Section II hereof are true and, in connection therewith, to afford the Respondents an opportunity to establish any defenses to such allegations; and,

B. Whether it is necessary and appropriate for the protection of investors to suspend for a period not exceeding twelve months, or revoke the registration of each class of securities registered pursuant to Section 12 of the Exchange Act of the Respondents identified in Section II hereof, and any successor under Exchange Act Rules 12b-2 or 12g-3, and any new corporate names of any Respondents.

IV.

IT IS HEREBY ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened at a time and place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice [17 C.F.R. § 201.110].

IT IS HEREBY FURTHER ORDERED that Respondents shall file an Answer to the allegations contained in this Order within ten (10) days after service of this Order, as provided by Rule 220(b) of the Commission's Rules of Practice [17 C.F.R. § 201.220(b)].

If Respondents fail to file the directed Answers, or fail to appear at a hearing after being duly notified, the Respondents, and any successor under Exchange Act Rules 12b-2 or 12g-3, and any new corporate names of any Respondents, may be deemed in default and the proceedings may be determined against it upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f), and 310 of the Commission's Rules of Practice [17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f), and 201.310].

This Order shall be served forthwith upon Respondents personally or by certified, registered, or Express Mail, or by other means permitted by the Commission Rules of Practice.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 120 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice [17 C.F.R. § 201.360(a)(2)].

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

By the Commission.

Elizabeth M. Murphy
Secretary

SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 34-66932; File No. 265-26]

COMMODITY FUTURES TRADING COMMISSION

Joint CFTC-SEC Advisory Committee on Emerging Regulatory Issues

AGENCIES: Securities and Exchange Commission ("SEC") and Commodity Futures Trading Commission ("CFTC") (each, an "Agency," and collectively, "Agencies").

ACTION: Notice of Federal Advisory Committee Renewal.

SUMMARY: The Chairmen of the SEC and CFTC, with the concurrence of the other SEC and CFTC Commissioners, respectively, intend to renew the charter of the Joint CFTC-SEC Advisory Committee on Emerging Regulatory Issues (the "Committee").

COMMENTS:

Because the Agencies will jointly review all comments submitted, interested parties may send comments to either Agency and need not submit responses to both Agencies.

Respondents are encouraged to use the title "Joint CFTC-SEC Advisory Committee" to facilitate the organization and distribution of comments between the Agencies. Interested parties are invited to submit responses to:

Securities and Exchange Commission: Written comments may be submitted by the following methods:

Electronic Comments

- Use the SEC's Internet submission form (<http://www.sec.gov/rules/other/shtml>); or
- Send an email to rule-comments@sec.gov.

Please include File No. 265-26 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F St., NE, Washington 20549. All submissions should refer to File No. 265-26.

To help the SEC process and review your comments more efficiently, please use only one method. The SEC staff will post all comments on the SEC's Internet website (<http://www.sec.gov/rules/shtml>). Comments will also be available for website viewing and printing in the SEC's Public Reference Room, 100 F St., NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. All comments received will be posted without change; we do not edit personal identifying information from your submissions. You should submit only information that you wish to make available publicly.

Commodity Futures Trading Commission:

- Written comments may be mailed to the Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street, N.W., Washington, DC 20581, attention Office of the Secretary; transmitted by facsimile to the CFTC at (202) 418-5521; or transmitted electronically to Jointcommittee@cftc.gov. Reference should be made to "Joint CFTC-SEC Advisory Committee."

FOR FURTHER INFORMATION CONTACT: Ronesha Butler, Special Counsel, at (202) 551-5629, Division of Trading and Markets, Securities and Exchange Commission, 100 F St., NE, Washington DC 20549, or Gail Scott, Committee Management Officer, at (202) 418-5139, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street, N.W., Washington, DC 20581.

SUPPLEMENTARY INFORMATION: In accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. App. 2, the Agencies are publishing this notice

that the Chairmen of the SEC and CFTC, with the concurrence of the other SEC and CFTC Commissioners, intend to renew the charter of the Committee. The Committee was originally established on May 10, 2010, to operate for a term of two years.¹ The Committee's objectives and scope of activities are to conduct public meetings, submit reports and recommendations to the CFTC and the SEC and otherwise to serve as a vehicle for discussion and communication on regulatory issues of mutual concern and their effect on the CFTC's and SEC's statutory responsibilities. Subjects to be addressed by the Committee will include, but will not be limited to, identification of emerging regulatory risks, assessment and quantification of the impact of such risks and their implications for investors and market participants, and to further the Agencies' efforts on regulatory harmonization. The Committee will work to develop clear and specific goals toward identifying and addressing emerging regulatory risks, protecting investors and customers, and furthering regulatory harmonization, and to recommend processes and procedures for achieving and reporting on those goals.

To achieve the Committee's goals, the Chairmen of the SEC and CFTC may appoint approximately 10 - 15 members. There will be two co-designated federal officers of the Committee. The Chairman of the CFTC will appoint a CFTC employee to serve as one co-designated federal officer of the Committee and the Chairman of the SEC will appoint an SEC employee to serve as the other co-designated federal officer of the Committee. The co-designated federal officers jointly call all of the Committee's and subcommittees' meetings, prepare and jointly approve all meeting agendas, adjourn any meeting when they jointly determine adjournment to be in the public interest, and chair meetings when directed to do so. The co-designated federal officers also will attend all Committee and subcommittee meetings. The Chairmen of the CFTC and of the SEC continue to serve as Co-Chairmen of the

¹ See Securities Act Release No. 9123, 75 FR 27028 (May 13, 2010) (File No. 265-26).

Committee. The Committee's membership will be fairly balanced in terms of points of view represented and the functions to be performed.

The Committee's charter will be filed with the Senate Committee on Agriculture, Nutrition and Forestry; the House of Representatives Committee on Agriculture; the Senate Committee on Banking, Housing, and Urban Affairs; the House Committee on Financial Services; and U.S. General Services Administration Committee Management Secretariat ("Secretariat"). A copy of the charter also will be filed with the SEC, CFTC and the Library of Congress. The charter will be available for website viewing and printing in the Public Reference Room at the SEC's headquarters and posted on the SEC's website at www.sec.gov and the CFTC's website at www.cftc.gov.

The Committee will continue to operate for an additional two years from the date of renewal of the charter unless, before the expiration of that time period, its charter is re-established or renewed in accordance with the Federal Advisory Committee Act or unless either the Chairman of the SEC or the Chairman of the CFTC determines that the Committee's continuance is no longer in the public interest.

The Committee will meet at such intervals as are necessary to carry out its functions. It is estimated that the meetings will occur six times per year. Meetings of subgroups or subcommittees of the full Committee may occur more frequently.

The charter will provide that the duties of the Committee are to be solely advisory. Each Agency alone will make any determinations of action to be taken and policy to be expressed with respect to matters within their respective authority as to which the Committee

provides advice or makes recommendations.

The Chairmen of the Agencies affirm that the renewal of the Committee is necessary and in the public interest.

By the Securities and Exchange Commission.

Elizabeth M. Murphy

Elizabeth M. Murphy
Secretary

By the Commodity Futures Trading Commission.

David A. Stawick

David A. Stawick
Secretary

MAY 07 2012

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

May 8, 2012

In the Matter of

**One Voice Technologies, Inc.,
Orchestra Therapeutics, Inc.,
Path 1 Network Technologies, Inc.,
Pavilion Energy Resources, Inc.
(f/k/a Global Business Services, Inc.),
Pine Valley Mining Corp.,
Platina Energy Group, Inc.,
Pop N Go, Inc., and
Powercold Corp.,**

File No. 500-1

**ORDER OF SUSPENSION OF
TRADING**

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of One Voice Technologies, Inc. because it has not filed any periodic reports since the period ended September 30, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Orchestra Therapeutics, Inc. because it has not filed any periodic reports since the period ended June 30, 2007.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Path 1 Network Technologies, Inc. because it has not filed any periodic reports since the period ended September 30, 2006.

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It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Pavilion Energy Resources, Inc. (f/k/a Global Business Services, Inc.) because it has not filed any periodic reports between the periods ended June 30, 2005 and June 30, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Pine Valley Mining Corp. because it has not filed any periodic reports since the period ended March 31, 2006.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Platina Energy Group, Inc. because it has not filed any periodic reports since the period ended September 30, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Pop N Go, Inc. because it has not filed any periodic reports since the period ended June 30, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Powercold Corp. because it has not filed any periodic reports since the period ended September 30, 2005.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on May 8, 2012, through 11:59 p.m. EDT on May 21, 2012.

By the Commission.

Elizabeth M. Murphy
Elizabeth M. Murphy
Secretary

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934

Release No. 66938 / May 8, 2012

ADMINISTRATIVE PROCEEDING

File No. 3-14871

In the Matter of

**One Voice Technologies, Inc.,
Orchestra Therapeutics, Inc.,
Path 1 Network Technologies, Inc.,
Pavilion Energy Resources, Inc.
(f/k/a Global Business Services, Inc.),
Pine Valley Mining Corp.,
Platina Energy Group, Inc.,
Pop N Go, Inc., and
Powercold Corp.,**

Respondents.

**ORDER INSTITUTING
ADMINISTRATIVE PROCEEDINGS
AND NOTICE OF HEARING
PURSUANT TO SECTION 12(j) OF
THE SECURITIES EXCHANGE ACT
OF 1934**

I.

The Securities and Exchange Commission ("Commission") deems it necessary and appropriate for the protection of investors that public administrative proceedings be, and hereby are, instituted pursuant to Section 12(j) of the Securities Exchange Act of 1934 ("Exchange Act") against Respondents One Voice Technologies, Inc., Orchestra Therapeutics, Inc., Path 1 Network Technologies, Inc., Pavilion Energy Resources, Inc. (f/k/a Global Business Services, Inc.), Pine Valley Mining Corp., Platina Energy Group, Inc., Pop N Go, Inc., and Powercold Corp.

II.

After an investigation, the Division of Enforcement alleges that:

A. RESPONDENTS

1. One Voice Technologies, Inc. (CIK No. 1096088) is a revoked Nevada corporation located in La Jolla, California with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). One Voice is delinquent in its

periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-Q for the period ended September 30, 2009, which reported a net loss of \$522,203 for the prior nine months. As of April 30, 2012, the company's stock (symbol "OVOE") was quoted on OTC Link (previously, "Pink Sheets") operated by OTC Markets Group, Inc. ("OTC Link"), had nine market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

2. Orchestra Therapeutics, Inc. (CIK No. 817785) is a void Delaware corporation located in Carlsbad, California with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Orchestra is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-Q/A for the period ended June 30, 2007, which reported a net loss of over \$3.9 million for the prior six months. On October 13, 2008, the company filed a Chapter 7 petition in the U.S. Bankruptcy Court for the Southern District of California, and the case was pending as of February 16, 2012. As of April 30, 2012, the company's stock (symbol "OCHTQ") was quoted on OTC Link, had ten market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

3. Path 1 Network Technologies, Inc. (CIK No. 1059404) is a void Delaware corporation located in San Diego, California with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Path 1 is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-Q for the period ended September 30, 2006, which reported a net loss of over \$4.8 million for the prior nine months. As of April 30, 2012, the company's stock (symbol "PNOT") was quoted on OTC Link, had six market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

4. Pavilion Energy Resources, Inc. (f/k/a Global Business Services, Inc.) (CIK No. 1082431) is a Delaware corporation located in Draper, Utah with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Pavilion is delinquent in its periodic filings with the Commission, having not filed any periodic reports between the periods ended June 30, 2005 and June 30, 2009. The company's Form 10-K for the period ended June 30, 2011 reported a net loss of \$82,085 for the prior twelve months. As of April 30, 2012, the company's stock (symbol "PVRE") was quoted on OTC Link, had nine market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

5. Pine Valley Mining Corp. (CIK No. 749750) is a British Columbia corporation located in Vancouver, British Columbia, Canada with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Pine Valley is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 20-F for the period ended March 31, 2006, which reported a net loss of over \$2.1 million (Canadian) for the prior twelve months. As of April 30, 2012, the company's stock (symbol "PVMCF") was quoted on OTC Link, had six market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

6. Platina Energy Group, Inc. (CIK No. 1098278) is a void Delaware corporation located in Corpus Christi, Texas with a class of securities registered with the Commission

pursuant to Exchange Act Section 12(g). Platina is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-Q for the period ended September 30, 2008, which reported a net loss of over \$10.5 million for the prior six months. As of April 30, 2012, the company's stock (symbol "PLTGQ") was quoted on OTC Link, had eight market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

7. Pop N Go, Inc. (CIK No. 1071819) is a Delaware corporation located in Whittier, California with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Pop N Go is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-QSB for the period ended June 30, 2008, which reported a net loss of over \$1.31 million for the prior nine months. As of April 30, 2012, the company's stock (symbol "POPN") was quoted on OTC Link, had nine market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

8. Powercold Corp. (CIK No. 827055) is a Nevada corporation located in La Vernia, Texas with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Powercold is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-Q/A for the period ended September 30, 2005, which reported a net loss of over \$5 million for the prior nine months. As of April 30, 2012, the company's stock (symbol "PWCL") was quoted on OTC Link, had seven market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

B. DELINQUENT PERIODIC FILINGS

9. As discussed in more detail above, all of the Respondents are delinquent in their periodic filings with the Commission, have repeatedly failed to meet their obligations to file timely periodic reports, and failed to heed delinquency letters sent to them by the Division of Corporation Finance requesting compliance with their periodic filing obligations or, through their failure to maintain a valid address on file with the Commission as required by Commission rules, did not receive such letters.

10. Exchange Act Section 13(a) and the rules promulgated thereunder require issuers of securities registered pursuant to Exchange Act Section 12 to file with the Commission current and accurate information in periodic reports, even if the registration is voluntary under Section 12(g). Specifically, Rule 13a-1 requires issuers to file annual reports, and Rule 13a-13 requires domestic issuers to file quarterly reports.

11. As a result of the foregoing, Respondents failed to comply with Exchange Act Section 13(a) and Rules 13a-1 and 13a-13 thereunder.

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate for the protection of investors that public administrative proceedings be instituted to determine:

A. Whether the allegations contained in Section II hereof are true and, in connection therewith, to afford the Respondents an opportunity to establish any defenses to such allegations; and,

B. Whether it is necessary and appropriate for the protection of investors to suspend for a period not exceeding twelve months, or revoke the registration of each class of securities registered pursuant to Section 12 of the Exchange Act of the Respondents identified in Section II hereof, and any successor under Exchange Act Rules 12b-2 or 12g-3, and any new corporate names of any Respondents.

IV.

IT IS HEREBY ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened at a time and place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice [17 C.F.R. § 201.110].

IT IS HEREBY FURTHER ORDERED that Respondents shall file an Answer to the allegations contained in this Order within ten (10) days after service of this Order, as provided by Rule 220(b) of the Commission's Rules of Practice [17 C.F.R. § 201.220(b)].

If Respondents fail to file the directed Answers, or fail to appear at a hearing after being duly notified, the Respondents, and any successor under Exchange Act Rules 12b-2 or 12g-3, and any new corporate names of any Respondents, may be deemed in default and the proceedings may be determined against it upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f), and 310 of the Commission's Rules of Practice [17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f), and 201.310].

This Order shall be served forthwith upon Respondents personally or by certified, registered, or Express Mail, or by other means permitted by the Commission Rules of Practice.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 120 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice [17 C.F.R. § 201.360(a)(2)].

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to

notice. Since this proceeding is not "rule making" within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

By the Commission.

Elizabeth M. Murphy
Secretary


By: Jill M. Peterson
Assistant Secretary

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934

Release No. 66942 / May 8, 2012

ADMINISTRATIVE PROCEEDING

File No. 3-14744

In the Matter of

**Telos, Inc.,
MAS Acquisition XVII Corp.,
Tianrong Building Material Holdings, Ltd.
(f/k/a MAS Acquisition XVIII Corp.),
TSS Ltd.,
Tuff Coat Manufacturing, Inc. (f/k/a Osage
Acquisition Corp.),
Tultex Corp.,
TVA, Inc.,
Tyger Holding, Inc., and
U.S. Energy Systems, Inc.,**

Respondents.

**AMENDED ORDER INSTITUTING
ADMINISTRATIVE PROCEEDINGS
AND NOTICE OF HEARING
PURSUANT TO SECTION 12(j) OF
THE SECURITIES EXCHANGE ACT
OF 1934**

I.

The Securities and Exchange Commission ("Commission") deems it necessary and appropriate for the protection of investors that public administrative proceedings be, and hereby are, instituted pursuant to Section 12(j) of the Securities Exchange Act of 1934 ("Exchange Act") against Respondents Telos, Inc., MAS Acquisition XVII Corp., Tianrong Building Material Holdings, Ltd. (f/k/a MAS Acquisition XVIII Corp.), TSS Ltd., Tuff Coat Manufacturing, Inc. (f/k/a Osage Acquisition Corp.), Tultex Corp., TVA, Inc., Tyger Holding, Inc., and U.S. Energy Systems, Inc.

II.

After an investigation, the Division of Enforcement alleges that:

A. RESPONDENTS

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1. Telos, Inc. (CIK No. 1387000) is a void Delaware corporation located in Fort Myers, Florida with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Telos is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-QSB for the period ended June 30, 2007, which reported a net loss of over \$33,000 for the prior six months.

2. MAS Acquisition XVII Corp. (CIK No. 1093987) is a New Jersey corporation located in New York, New York with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). MAS Acquisition XVII Corp. is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-QSB for the period ended December 31, 1999, which reported a net loss of \$5 for the prior three months.

3. Tianrong Building Material Holdings, Ltd. (f/k/a MAS Acquisition XVIII Corp.) (CIK No. 1093988) is an expired Utah corporation located in New York, New York with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Tianrong Building Material Holdings is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-QSB for the period ended December 31, 1999, which reported a net loss of \$5 for the prior three months. On November 25, 1996, a permanent injunction was entered against Tianrong Building Material Holdings, enjoining the company from violations of the Exchange Act, including Section 13(a). As of January 30, 2012, the company's stock (symbol "TNRG") was traded on the over-the-counter markets.

4. TSS Ltd. (CIK No. 848013) is a Delaware corporation located in Westport, Connecticut with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). TSS is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-QSB/A for the period ended February 28, 1994, which reported a net loss of over \$4.6 million for the prior nine months.

5. Tuff Coat Manufacturing, Inc. (f/k/a Osage Acquisition Corp.) (CIK No. 1119179) is a revoked Nevada corporation located in Willow Grove, Pennsylvania with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Tuff Coat Manufacturing is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-QSB for the period ended May 22, 2001.

6. Tultex Corp. (CIK No. 100166) is a purged Virginia corporation located in Martinsville, Virginia with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Tultex is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-Q for the period ended October 2, 1999, which reported a net loss of over \$35 million for the prior three months.

7. TVA, Inc. (CIK No. 1198714) is a permanently revoked Nevada corporation located in Great Neck, New York with a class of securities registered with the

Commission pursuant to Exchange Act Section 12(g). TVA is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-SB registration statement on December 2, 2002, which reported a net loss of over \$7,000 for the period between the company's June 18, 2002 inception and July 31, 2002.

8. Tyger Holding, Inc. (CIK No. 1374069) is a void Delaware corporation located in New York, New York with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Tyger Holding is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-SB registration statement on September 28, 2006, which reported a net loss of \$421 for the period between its inception on March 28, 2006 and June 30, 2006.

9. U.S. Energy Systems, Inc. (CIK No. 351917) is a Delaware corporation located in Avon, Connecticut with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). US Energy Systems is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-K for the period ended December 31, 2006, which reported a net loss of over \$27.5 million for the prior twelve months. On January 9, 2008, US Energy Systems filed a Chapter 11 petition in the U.S. Bankruptcy Court for the Southern District of New York, and the case was still pending as of January 30, 2012.

B. DELINQUENT PERIODIC FILINGS

10. As discussed in more detail above, all of the Respondents are delinquent in their periodic filings with the Commission, have repeatedly failed to meet their obligations to file timely periodic reports, and failed to heed delinquency letters sent to them by the Division of Corporation Finance requesting compliance with their periodic filing obligations or, through their failure to maintain a valid address on file with the Commission as required by Commission rules, did not receive such letters.

11. Exchange Act Section 13(a) and the rules promulgated thereunder require issuers of securities registered pursuant to Exchange Act Section 12 to file with the Commission current and accurate information in periodic reports, even if the registration is voluntary under Section 12(g). Specifically, Rule 13a-1 requires issuers to file annual reports, and Rule 13a-13 requires domestic issuers to file quarterly reports.

12. As a result of the foregoing, Respondents failed to comply with Exchange Act Section 13(a) and Rules 13a-1 and 13a-13 thereunder.

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate for the protection of investors that public administrative proceedings be instituted to determine:

A. Whether the allegations contained in Section II hereof are true and, in connection therewith, to afford the Respondents an opportunity to establish any defenses to such allegations; and,

B. Whether it is necessary and appropriate for the protection of investors to suspend for a period not exceeding twelve months, or revoke the registration of each class of securities registered pursuant to Section 12 of the Exchange Act of the Respondents identified in Section II hereof, and any successor under Exchange Act Rules 12b-2 or 12g-3, and any new corporate names of any Respondents.

IV.

IT IS HEREBY ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened at a time and place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice [17 C.F.R. § 201.110].

IT IS HEREBY FURTHER ORDERED that Respondents shall file an Answer to the allegations contained in this Order within ten (10) days after service of this Order, as provided by Rule 220(b) of the Commission's Rules of Practice [17 C.F.R. § 201.220(b)].

If Respondents fail to file the directed Answers, or fail to appear at a hearing after being duly notified, the Respondents, and any successor under Exchange Act Rules 12b-2 or 12g-3, and any new corporate names of any Respondents, may be deemed in default and the proceedings may be determined against it upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f), and 310 of the Commission's Rules of Practice [17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f), and 201.310].

This Order shall be served forthwith upon Respondents personally or by certified, registered, or Express Mail, or by other means permitted by the Commission Rules of Practice.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 120 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice [17 C.F.R. § 201.360(a)(2)].

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

By the Commission.

Elizabeth M. Murphy
Elizabeth M. Murphy
Secretary

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934

Release No. 66947 / May 8, 2012

ADMINISTRATIVE PROCEEDING

File No. 3-13532

In the Matter of

**Prime Capital Services, Inc.,
Gilman Ciocia, Inc.,
Michael P. Ryan,
Christie A. Andersen,
Eric J. Brown,
Matthew J. Collins,
Kevin J. Walsh, and
Mark W. Wells,**

Respondents.

**ORDER APPROVING AND RATIFYING
PRIOR DISBURSEMENT**

On September 23, 2010, the United States Securities and Exchange Commission ("Commission") issued a Notice of Proposed Plan of Distribution and Opportunity for Comment (Exchange Act Rel. No. 62979) pursuant to Rule 1103 of the Commission's Rules on Fair Funds and Disgorgement Plans, 17 C.F.R. § 201.1103. The Notice was modified on February 1, 2011 (Exchange Act Rel. No. 63813) ("Modified Notice"). The Modified Notice advised parties they could obtain a copy of the modified proposed Distribution Plan at www.sec.gov. The Modified Notice also advised that all persons desiring to comment on the Modified Distribution Plan could submit their comments, in writing, no later than 30 days from the date of the Notice. No comments were received by the Commission in response to the Modified Notice. On March 14, 2011, the Commission issued an Order Approving Distribution Plan of a Fair Fund and Appointing a Fund Administrator (Exchange Act Rel. No. 64081).

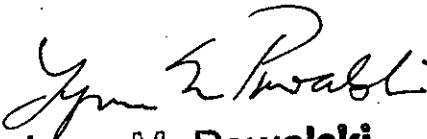
The Modified Distribution Plan states that monies from the Fair Fund will be distributed to Eligible Investors who were harmed by the Respondents' conduct, as further described in the Modified Distribution Plan. On December 12, 2011, a distribution of \$390,054.77 was made from the Fair Fund.

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IT IS HEREBY ORDERED that the distribution described above is approved and ratified as of the day of distribution, December 12, 2011.

By the Commission.

Elizabeth M. Murphy
Secretary


By: Lynn M. Powalski
Deputy Secretary

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 66948 / May 9, 2012

ADMINISTRATIVE PROCEEDING
File No. 3-14872

In the Matter of

**Deloitte Touche Tohmatsu
Certified Public Accountants
Ltd.,**

Respondent.

**SECOND CORRECTED ORDER
INSTITUTING ADMINISTRATIVE
PROCEEDINGS PURSUANT TO RULE
102(e)(1)(iii) OF THE COMMISSION'S
RULES OF PRACTICE AND NOTICE OF
HEARING**

I.

The Securities and Exchange Commission ("Commission") deems it appropriate that public administrative proceedings be, and hereby are, instituted pursuant to Rule 102(e)(1)(iii) of the Commission's Rules of Practice against Deloitte Touche Tohmatsu Certified Public Accountants Ltd. ("Respondent" or "D&T Shanghai").

II.

The Division of Enforcement alleges that:

A. RESPONDENT

1. **Deloitte Touche Tohmatsu Certified Public Accountants Ltd.,** is a public accounting firm, registered with the Public Company Accounting Oversight Board, and located in Shanghai, the People's Republic of China ("PRC"). D&T Shanghai is a Chinese member firm of Deloitte Touche Tohmatsu Limited, a United Kingdom private company ("Global Firm"). Within the PRC, D&T Shanghai is regulated by the Ministry of Finance and the Chinese Securities Regulatory Commission.

B. FACTS

Summary

2. This action stems from D&T Shanghai's willful failure, in response to a Commission request, to provide audit work papers despite its legal obligations, as a registered accounting firm, to do so.

Commission Staff's Efforts to Obtain Audit Work Papers

3. Beginning in April 2010, Commission staff has made extensive efforts to obtain D&T Shanghai's audit work papers connected to the firm's independent audit work for an issuer-client ("Client A") in relation to a Commission investigation into potential accounting fraud.

4. On April 9, 2010, staff served Deloitte LLP, the U.S. member firm of the Global Firm with a subpoena requesting audit work papers relating to the Global Firm's audit of Client A's financial statements for the period January 1, 2008 through April 9, 2010.

5. Between April 13, 2010 and May 18, 2010, staff had several communications with U.S. based counsels for both Deloitte LLP and the Global Firm.

6. Counsel for Deloitte LLP initially informed the staff that Deloitte LLP did not perform any audit work for Client A, that all audit work was conducted by Respondent, and that Deloitte LLP did not have possession, custody, or control of the documents called for by the subpoena.

7. Counsel for Deloitte LLP subsequently informed the staff that Deloitte LLP performed some review work of Client A's periodic reports and produced certain documents relating to this review to the staff.

8. Counsel for the Global Firm informed the staff that the request for audit work papers, as contained in the staff's April 9th subpoena, had been communicated to Respondent, but that Respondent would not produce the relevant audit work papers because of Respondent's interpretation that it was prevented from doing so by PRC law.

9. Commencing in June 2010, Commission staff sought to obtain the relevant audit work papers through international sharing mechanisms, however, these efforts have been unsuccessful.

Commission Staff's Sarbanes-Oxley Section 106 Request

10. On March 11, 2011, in conjunction with the staff's efforts to obtain the relevant audit work papers through D&T Shanghai's local regulator, pursuant to Section 106 of the Sarbanes-Oxley Act of 2002 ("Sarbanes-Oxley"), as amended by Section 929J of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Commission staff served D&T Shanghai,

through its designated U.S. agent, with a request for "All audit work papers and all other documents related to any audit work or interim reviews performed for [Client A] for the fiscal year ending December 31, 2009."

11. On April 29, 2011, Respondent informed the staff that it would not produce the documents as requested in the Staff's March 11, 2011 Sarbanes-Oxley Section 106 request, because Respondent interpreted PRC law as preventing Respondent from doing so.

12. As of the date of this filing, Commission staff does not have the audit work papers and other relevant documents sought in the Sarbanes-Oxley Section 106 request.

C. VIOLATIONS

13. Section 106(b) of Sarbanes-Oxley directs a foreign public accounting firm that "issues an audit report, performs audit work or interim review" to "produce the audit work papers of the foreign public accounting firm and all other documents of the firm related to such audit work" to the Commission upon request.

14. A willful refusal to comply, in whole or in part, with a request by the Commission under Section 106 is a violation of Sarbanes-Oxley. *See* Section 106(e).

15. A violation of Sarbanes-Oxley constitutes a violation of the Securities Exchange Act of 1934 ("Exchange Act"). *See* Sarbanes-Oxley Section 3.

16. D&T Shanghai has willfully refused to provide the Commission with its audit work papers and all other documents relating to D&T Shanghai's audit work for Client A.

17. As such, D&T Shanghai has willfully violated Sarbanes-Oxley and the Exchange Act.

18. As a result of the conduct described above, it is appropriate that this proceeding be brought pursuant to Rule 102(e)(1)(iii) of the Commission's Rules of Practice to determine whether D&T Shanghai should be censured or denied the privilege of appearance and practice before the Commission for having willfully violated Section 106 of Sarbanes-Oxley.

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it appropriate that public administrative proceedings be instituted to determine:

- A. Whether the allegations set forth above are true and, in connection therewith, to afford D&T Shanghai an opportunity to establish any defenses to such allegations; and

B: What, if any, remedial action is appropriate and in the public interest against D&T Shanghai pursuant to Rule 102(e)(1)(iii) of Commission's Rules of Practice.

IV.

IT IS ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened at a time and place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice, 17 C.F.R. § 201.110.

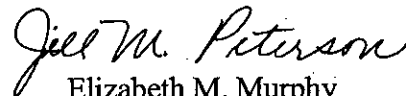
IT IS FURTHER ORDERED that D&T Shanghai shall file an Answer to the allegations contained in this Order within twenty (20) days after service of this Order, as provided by Rule 220 of the Commission's Rules of Practice, 17 C.F.R. § 201.220.

If D&T Shanghai fails to file the directed answer, or fails to appear at a hearing after being duly notified, D&T Shanghai may be deemed in default and the proceedings may be determined against D&T Shanghai upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f) and 310 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f) and 201.310.

This Order shall be served forthwith upon D&T Shanghai through its designated agent.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 300 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice.

By the Commission.


Elizabeth M. Murphy
Secretary

By: Jill M. Peterson
Assistant Secretary

*Commissioner Walter
Commissioner Fares
not participating*

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 3404 / May 10, 2012

INVESTMENT COMPANY ACT OF 1940
Release No. 30062 / May 10, 2012

ADMINISTRATIVE PROCEEDING
File No. 3-14873

In the Matter of

Martin Currie Inc. and
Martin Currie Investment Management Ltd.,

Respondents.

ORDER INSTITUTING
ADMINISTRATIVE AND CEASE-
AND-DESIST PROCEEDINGS
PURSUANT TO SECTIONS 203(e)
AND 203(k) OF THE INVESTMENT
ADVISERS ACT OF 1940 AND
SECTIONS 9(b) AND 9(f) OF THE
INVESTMENT COMPANY ACT OF
1940, MAKING FINDINGS, AND
IMPOSING REMEDIAL
SANCTIONS AND CEASE-AND-
DESIST ORDERS

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 Sections 203(e) and 203(k) of the Investment Advisers Act of 1940 ("Advisers Act") and Sections 9(b) and 9(f) of the Investment Company Act of 1940 ("Investment Company Act") against Martin Currie Inc. ("MCI") and Martin Currie Investment Management Ltd. ("MCIM") (collectively, "Martin Currie" or "Respondents").

II.

In anticipation of the institution of these proceedings, Respondents have submitted Offers 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 Sections 203(e) and 203(k) of the Investment Advisers Act of 1940 and Sections 9(b) and 9(f) of the Investment Company Act of 1940, Making Findings, and Imposing Remedial Sanctions and Cease-and-Desist Orders ("Order"), as set forth below.

III.

On the basis of this Order and Respondents' Offers, the Commission finds¹ that:

Summary

This case involves improper preferential client treatment by the UK-based Martin Currie group of institutional investment managers. In April 2009, in the midst of the financial crisis, Martin Currie fraudulently used its U.S. registered investment company client, The China Fund Inc. (the "China Fund") to rescue another client, a hedge fund called the Martin Currie China Hedge Fund L.P. (the "Hedge Fund"). The Hedge Fund had acquired significant – and largely illiquid – exposure to a single Chinese company and required liquidity to satisfy mounting redemption requests from its investors. Martin Currie caused the China Fund to enter into a transaction that alleviated the Hedge Fund's liquidity concerns by redeeming a substantial portion of this exposure.

Through its registered subsidiaries MCI and MCIM, Martin Currie managed the China Fund side by side with the Hedge Fund and other accounts. The China Fund, the Hedge Fund, and other accounts made similar investments in public and private Chinese companies under the direction of a single portfolio management team based in Shanghai, China.

During the 2000s, the Hedge Fund made significant debt and equity investments in a Chinese printer cartridge recycling company called Jackin International Holdings ("Jackin"). By November 2008, the Hedge Fund's overall investment in Jackin totaled \$17 million, which approached the fund's limit on portfolio exposure to a single issuer. As the global financial crisis deepened, the Hedge Fund also developed liquidity issues as asset values declined and investors began making redemption requests. At the same time, Jackin needed cash to fund operations and make interest payments to its bondholders, including the Hedge Fund.

In response to these overlapping problems, MCI and MCIM caused the China Fund to make a hasty, ill-advised \$22.8 million convertible bond investment in a Jackin subsidiary, Ugent Holdings Ltd. ("Ugent"). As part of the transaction, Jackin/Ugent used the China Fund's proceeds to redeem \$10 million of the Hedge Fund's bonds at face value, thereby relieving the Hedge Fund's crisis. The remaining \$12.8 million in proceeds kept Jackin afloat and enabled it to make debt service payments, further benefiting the Hedge Fund and another affiliated client that

¹ The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

remained Jackin investors. For the China Fund, however, the Ugent convertible bonds were a poor investment. In April 2011, the China Fund sold the bonds for approximately 50% of their face value.

MCI and MCIM acted deceptively in (i) structuring this improper unlisted bond transaction by the China Fund to benefit the Hedge Fund and preserve Jackin, and (ii) failing to make full and fair disclosure of material facts to the China Fund's board of directors. In addition, after the investment was made, MCI deviated from the China Fund's valuation procedures by failing to provide the China Fund's board with evidence of negative events relevant to the value of the convertible bonds. As a result, the China Fund held the bonds at an inadequately supported cost valuation for several months.

The problems began in June 2007, when MCIM caused the Hedge Fund to purchase a large quantity of illiquid Jackin bonds that deviated from the fund's normal equities-trading strategy. As the deal was about to close, MCIM realized that the investment would cause the Hedge Fund to breach its 5% limit on the portion of its portfolio that could be invested in unlisted securities. In response, MCIM sought and obtained approval from the Hedge Fund's board of directors to modify the 5% limit. However, MCIM failed to present all material issues and risks for the board's consideration, and thus weakened the Hedge Fund's main liquidity safeguard. Later, after the deal closed, MCIM improperly classified the high-yield Jackin bonds as cash in the firm's risk-management system. Because of this misclassification, the liquidity and credit risks from the Hedge Fund's exposure to Jackin were not appreciated at Martin Currie headquarters until November 2008, after the fund had purchased additional Jackin bonds. By that time, the Hedge Fund's portfolio was highly illiquid and exposed to Jackin – a crisis that ultimately led to the China Fund's unlawful involvement. MCIM's misclassification of the bonds was also reflected in certain inaccurate monthly reports to the Hedge Fund's investors.

By their actions, MCI and MCIM violated certain antifraud, affiliated transaction, and reporting provisions of the Advisers Act and Investment Company Act. MCI also failed to adopt and implement policies and procedures reasonably designed to prevent violations of the Advisers Act and Investment Company Act, particularly in the identification and management of conflicts of interest.

Respondents

Martin Currie Inc. ("MCI") is a corporation organized under the laws of New York and headquartered in Edinburgh, Scotland. MCI is an investment adviser registered with the Commission, and serves as adviser to the China Fund. MCI is wholly owned by Martin Currie Ltd. ("MCL"), which owns other advisory subsidiaries. During the relevant period, MCI managed approximately \$6.3 billion in assets.

Martin Currie Investment Management Ltd. ("MCIM") is a limited liability company organized under the laws of Scotland and headquartered in Edinburgh, Scotland. MCIM is an investment adviser registered with the Commission, and serves as adviser to the Hedge Fund and other institutional clients. Along with MCI, MCIM is a wholly-owned subsidiary of MCL. MCIM

and MCI operate from the same offices and share common employees. During the relevant period, MCIM managed approximately \$11.4 billion in assets.

Other Relevant Entities

The China Fund, Inc. ("China Fund") is a corporation organized under the laws of Maryland and is a closed-end investment company registered with the Commission. The China Fund's shares are listed on the NYSE under the symbol CHN. MCI has been the investment manager to the China Fund's portfolio of listed securities since 2001 and its portfolio of unlisted securities since 2007.

Martin Currie China Hedge Fund L.P. ("Hedge Fund") is a limited partnership organized under the laws of Bermuda and is a private fund managed by MCIM. U.S. investors invest in the Hedge Fund through, among other things, a U.S. private feeder fund known as MC Absolute Return China Fund LLC, a Delaware limited liability company.

Jackin International Holdings ("Jackin") is a company organized under the laws of Bermuda and located in Hong Kong, China. Jackin's stock is listed on the Hong Kong Stock Exchange ("HKSE") under the code 630. Jackin changed its name to Guojin Resources Holdings Ltd. in November 2010.

Facts

A. Martin Currie's China Operations

The China Fund, Hedge Fund, and other Martin Currie clients made similar investments in China under the direction of two portfolio managers, PM-1 and PM-2. PM-1 and PM-2 headed the firm's China operations from Shanghai.

PM-1 was considered a star investment manager. In 2006, Martin Currie gave PM-1 a lucrative profit-sharing arrangement to retain his services. Under this arrangement, PM-1 and PM-2 formed their own company, which entered into a joint venture with MCI and MCIM. The joint venture enabled PM-1 and PM-2 to receive a portion of the fee revenues on investments they managed. Through an employee-sharing or "secondment" arrangement, PM-1 and PM-2 were engaged by MCI and MCIM to serve as portfolio managers for the China Fund and Hedge Fund, respectively, along with other accounts. At all relevant times, PM-1 and PM-2 were associated persons of MCI and MCIM and were subject to MCI and MCIM policies and procedures.

Despite overseeing one third of the Martin Currie's total assets under management, PM-1 operated with very little supervision. PM-1 reported directly to the firm's chief executive officer in Edinburgh, bypassing the normal chain of command that applied to other investment managers.

Compounding these structural flaws, MCI and MCIM had weak controls governing certain aspects of their compliance with the Advisers Act and Investment Company Act. MCI and MCIM were particularly deficient in their identification and management of client conflicts of interest. For example, the investment mandates of the China Fund, the Hedge Fund, and other affiliated

clients permitted them to make direct investments in the debt and equity of unlisted or microcap companies in China. MCI and MCIM, through PM-1 and PM-2, had authority to make such investments on behalf of their managed funds and separate accounts.² As a result, multiple funds and separate accounts had the ability to – and did in fact – invest in different parts of the capital structure of the same company, presenting potential conflicts of interest. Nevertheless, MCI and MCIM lacked sufficient policies and procedures to ensure that they were meeting their fiduciary obligations to each of their clients in these types of situations. Moreover, MCI and MCIM did not employ any compliance staff in Shanghai until mid-2011, in response to the discovery of the improper conduct described below.

B. Summary of Relevant Investments in Jackin

This case arises from a series of investments by Martin Currie clients in Jackin, a Chinese company engaged primarily in the printer cartridge recycling business. Jackin held this business through a chain of wholly-owned subsidiaries including Ugent and Afex International (HK) Ltd. (“Afex”). Over many years, PM-1 had developed a close relationship with Jackin’s management, particularly its chairman/managing director.

During the 2000s, certain client accounts managed by MCIM and PM-1 made investments in various parts of Jackin’s capital structure, as follows:

- The Hedge Fund purchased equity shares of Jackin in 2003 and remained a shareholder until mid-2010.
- Another client account, which generally mirrored the Hedge Fund, also acquired an equity stake in Jackin and remained a shareholder until mid-2009.
- In June 2007, MCIM and PM-1 caused the Hedge Fund to purchase bonds from Jackin for a principal amount of HK\$78 million (\$10 million) that bore a coupon rate of 10% and matured in 2010 (the “Jackin 10% Bond(s)”). These bonds were secured by equity shares of Afex, the operations subsidiary of Jackin, and also included detachable warrants that were convertible into Jackin stock.
- In October 2008, MCIM and PM-1 caused the Hedge Fund to purchase additional bonds from Jackin for a principal amount of HK\$31.2 million (\$4 million) that bore a coupon rate of 15% and matured in 2010 (the “Jackin 15% Bond(s)”). These bonds were secured by a personal guarantee from Jackin’s chairman/managing director, who also held over 20% of Jackin’s equity.³

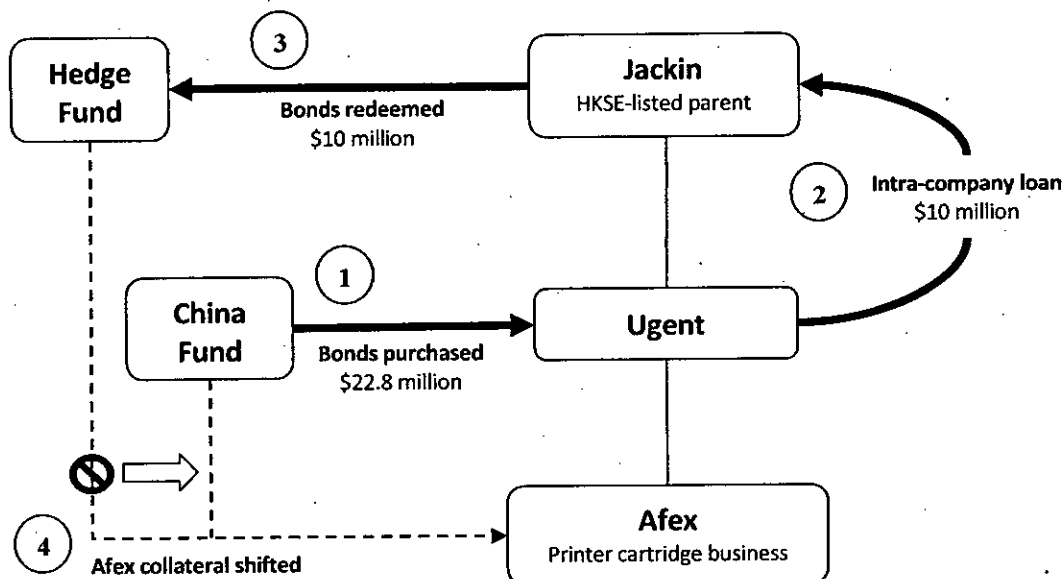
In April 2009, at MCI and PM-1’s direction, the China Fund purchased convertible bonds from Jackin – through its Ugent subsidiary – for a principal amount of HK\$177 million (\$22.8 million) (the “Ugent Bond(s)”). The Ugent Bonds bore a coupon rate of 12%, matured in 2012,

² Unless otherwise indicated, MCI and MCIM had full discretion and authority to make and manage investments on behalf of their respective managed funds and separate accounts.

³ This additional Jackin bond acquisition put the Hedge Fund at significant risk and ultimately led MCI and MCIM to involve the China Fund, as described in more detail later.

and were convertible into common shares representing approximately 30% of Ugent. As part of the transaction, as provided under the subscription agreement, Jackin/Ugent used the proceeds to redeem, at face value, the Jackin 10% Bonds that were held by the Hedge Fund. In effect, this was a structured crossing transaction in which the China Fund transferred \$10 million in cash to the Hedge Fund, an affiliated client, through Jackin. The transaction is illustrated below, beginning with Step 1 in the center.⁴

Ugent Bond Transaction, April 2009



Jackin/Ugent's financial condition deteriorated rapidly in 2009. In October 2010, at the recommendation of MCI, the China Fund's board determined to write down the value of the Ugent Bonds by 50% of their face value. In November 2010, the China Fund's board wrote down the value of the Ugent Bonds to zero. Ultimately, in April 2011, the China Fund sold the Ugent Bonds for approximately 50% of their face value.

C. The Ugent Bond Transaction – Preferential Client Treatment and Deceptive Disclosures to the China Fund Board

The Ugent Bond transaction pictured above was the result of a deceptive breach of fiduciary duty owed to the China Fund. At the height of the financial crisis, MCI and MCIM caused the China Fund to make an investment that rescued the Hedge Fund from its significant

⁴ In Step 1 of the diagram, the China Fund purchased the Ugent Bonds. In Step 2, as provided by the subscription agreement, Ugent instantaneously transferred to Jackin, via an intra-company loan, \$10 million of the China Fund's investment proceeds. As Step 3 illustrates, Jackin immediately used the \$10 million to redeem the Hedge Fund's Jackin 10% Bonds. Jackin redeemed the 10% Jackin Bonds at par and more than a year before their maturity date. Step 4 shows the movement of collateral. The Hedge Fund's bonds had been secured by equity shares of Afex, Jackin's operations subsidiary. Upon redemption of the Jackin 10% Bonds, the Afex collateral was transferred to serve as security for the Ugent Bonds held by the China Fund.

(and mostly illiquid) exposure to a single issuer, and provided the Hedge Fund with much-needed liquidity to pay investor redemptions.

The Hedge Fund in Crisis

The Hedge Fund's offering materials prohibited the fund from investing more than 20% of its net assets in the securities of any one issuer, including the issuer's subsidiaries or affiliates (the "20% Limit"). At the end of July 2008, the Hedge Fund's net assets were approximately \$100 million. Accordingly, the 20% Limit precluded the fund from investing more than \$20 million in the securities of a single issuer.

As the global financial crisis deepened in 2008, the Hedge Fund faced a significant increase in redemption requests by investors, including U.S. investors. To meet these requests, MCIM and PM-1 began selling down the liquid portion of the fund's portfolio. These sales impacted the Hedge Fund's relative exposure to the illiquid securities that remained in its portfolio. At the end of August 2008, the fund's exposure to Jackin stood at about 14% of its net assets.

In October 2008, MCIM and PM-1 caused the Hedge Fund to purchase the Jackin 15% Bonds. This increased the fund's total investment in Jackin to \$17 million. At the same time, the Hedge Fund's net assets had fallen to about \$92 million. As a result, the fund's exposure to Jackin reached about 18.5% of its portfolio, as the table below shows.

Hedge Fund Investments in Jackin, Oct. 2008

Jackin 15% Bonds (Oct. 2008)	\$4 million
Jackin 10% Bonds (June 2007)	\$10 million
Jackin equity (May 2003)	\$3 million
	\$17 million
 Fund Net Assets	 \$92 million
 Jackin % of Net Assets	 18.5%

By causing the Hedge Fund to purchase the Jackin 15% Bonds, MCIM came close to breaching the fund's 20% Limit.

The Hedge Fund also faced severe liquidity issues in October 2008. The financial markets were in turmoil and MCIM continued to receive investor redemption requests. Although the fund's redemption policy provided 90 days in which to make redemption payments, MCIM was forced to continue selling the fund's other holdings, such as exchange-traded securities, to generate liquidity. This left the Hedge Fund with an increasingly illiquid portfolio that was even further weighted toward Jackin. Had the fund sold down its remaining liquid securities, its exposure to Jackin would have stood at nearly 30% of net assets. At the same time, Jackin's financial condition had significantly weakened by the latter half of 2008, and it desperately needed cash to fund operations and make debt service payments to its various lenders and bondholders, including the Hedge Fund.

In November 2008, MCIM employees in Edinburgh became alarmed about the Hedge Fund's situation. Several senior-level officials began to openly question the wisdom of the second Jackin bond transaction, the fund's exposure and liquidity problems, Jackin's poor financial condition, and potential impairment to the value of bonds – all against the backdrop of global market turmoil. One senior MCIM official, in a November 2008 email to other senior colleagues, described MCIM's actions with regard to Jackin as "reckless in the extreme." Martin Currie's head of risk escalated those concerns to the firm's chief executive officer.

In late November 2008, MCIM informed the Hedge Fund's board of directors about the fund's exposure to Jackin. The board gave an urgent direction to MCIM to reduce the Hedge Fund's exposure to Jackin by mid-February 2009.

The China Fund Becomes a Rescue Option

By early December 2008, an internal working group (the "Working Group") was formed in Edinburgh to explore options for reducing the Hedge Fund's exposure to Jackin. The Working Group included several senior MCIM and MCI officials who oversaw the firm's China operations and its risk, legal, and compliance functions. PM-1 was not a part of the group. Rather, the director of China operations in Edinburgh was responsible for liaising with PM-1 and the Shanghai office.

On a separate track, PM-1 was already negotiating a transaction in which an independent private equity fund would lead a group of investors in purchasing 100% of the equity of Jackin's subsidiary, Ugent. As contemplated, the China Fund would be a minority participant in the buyout group. This proposed transaction, named "Project Ink," called for the repayment of the Jackin 10% Bonds held by the Hedge Fund. Because the Project Ink transaction would have used the China Fund to benefit the Hedge Fund by reducing its exposure to Jackin, the deal posed a direct conflict of interest between those two clients. The deal also would have been a prohibited joint arrangement absent an exemptive order from the Commission.

While PM-1 continued negotiating Project Ink in Shanghai, the Working Group in Edinburgh discussed options for selling off the largest slice of the Hedge Fund's Jackin exposure, the Jackin 10% Bonds. The group initially focused on whether the bonds could be traded to another client, including the China Fund. There was no outside market for the Jackin 10% Bonds in December 2008, nor did the Working Group consider soliciting external bids for these assets.⁵

The Working Group then turned its attention to Project Ink, which involved the China Fund and other investment partners acquiring Ugent. Project Ink initially was attractive to the group because, under its terms, the proceeds would be used to redeem the Jackin 10% Bonds held by the Hedge Fund. However, on December 2, 2008, the Working Group concluded that Project Ink was likely prohibited by the Investment Company Act, and was otherwise improper because of the conflict of interest between the two funds. In that same meeting, two officials of

⁵ The group also considered creating a "side pocket" for the illiquid securities and/or gating the fund to limit redemptions, but rejected those options.

the Working Group remarked that the China Fund's involvement would not "pass the smell test" because of that conflict. Other members openly agreed that the China Fund should be excluded from the transaction and no one disagreed. The Working Group then decided to focus on another client as a more suitable purchaser, but only if the investment's rationale and valuation were sound.

After conferring with PM-1, however, the Working Group reversed course and decided to press forward with Project Ink and the China Fund, having concluded that the China Fund could participate as long as its board of directors gave approval through a conflict waiver. By coincidence, on December 4, 2008, the China Fund's board was holding a routine meeting in North Carolina. MCI and MCIM decided to brief the board on Project Ink as part of that meeting.

An Improper Conflict Waiver

The China Fund board briefing on December 4, 2008, was flawed in design and execution. Despite the importance of the conflict waiver and MCI's fiduciary obligation to make full disclosure, MCI and MCIM failed to send any employees with adequate knowledge of the facts and circumstances. The only Martin Currie employees at the meeting were PM-2 and a client service director, neither of whom had a full grasp of the Hedge Fund's problems, Jackin's problems, and the conflicts presented by the Project Ink transaction. Neither PM-1 nor any members of the Working Group participated in the board briefing, even by telephone.

Prior to the board meeting, PM-1 emailed instructions to PM-2 concerning which facts to disclose to the board about Project Ink. PM-1 directed PM-2 to disclose that two MCIM clients held equity stakes in Jackin, omitting the most important fact: that proceeds of China Fund's investment would be redeeming the Hedge Fund's Jackin 10% Bonds.

At the December 4 meeting, PM-2 and the client service director presented the transaction to the board as PM-1 had instructed. PM-2 never mentioned the Hedge Fund's redemption through the proposed transaction – the real reason MCI and MCIM were purportedly seeking a conflict waiver. The board also reviewed a short memorandum describing Project Ink and other proposed deals. This report, drafted by PM-1, stated that Jackin would be using the investment proceeds for "working capital for business expansion," but again failed to disclose the redemption of bonds held by the Hedge Fund. Based on these incomplete and misleading representations, the board approved Project Ink – contingent on the approval of the China Fund's outside lawyer ("Lawyer A"). Lawyer A was present at the board meeting but wanted to evaluate the issue further and review the relevant deal documents.

The next day, December 5, MCI and MCIM employees omitted material facts in obtaining Lawyer A's approval for the transaction. Once again, PM-1 guided the disclosure remotely by email, instructing PM-2 and MCIM's director of China operations to provide Lawyer A with selective and incomplete information. Lawyer A received and reviewed certain documents for Project Ink, but none of them mentioned the Hedge Fund's bond redemption. PM-2 had breakfast with Lawyer A the next morning, but did not raise the core conflict at issue.

A few days later, Lawyer A wrote an email explaining his understanding of the proposed Project Ink transaction and concluding that the proposed transaction was acceptable. The email was sent to PM-1, PM-2, and two other senior MCI/MCIM employees, including a key member of the Working Group who knew about the conflict of interest. Lawyer A's recitation of the facts clearly reflected his lack of awareness of the Hedge Fund's involvement, much less that the Hedge Fund was a chief beneficiary. Erring on the side of caution, however, Lawyer A closed with the following condition:

This conclusion is based on my understanding of the transaction. . . . Please let me know if I have misunderstood any of the facts or mischaracterized any of the factors.

No one corrected Lawyer A's misunderstanding or forwarded his email to others in the Working Group. As a result, many senior Martin Currie officials incorrectly assumed that a valid conflict waiver was obtained, but took no affirmative steps to ascertain whether this was true.

In fact, MCI and MCIM never made a bona fide effort to seek a conflict waiver from the China Fund's board. From that point forward, even after Project Ink transformed into the Ugent Bond transaction (in which the China Fund invested alone), MCI and MCIM continued to rely on the improperly-obtained approval of Project Ink from December 2008.

Project Ink Transforms into the Ugent Bond Transaction

In January 2009, the Project Ink transaction collapsed because the lead private equity investor decided to withdraw. At this point, PM-1 negotiated a new transaction. Rather than a group of buyers purchasing 100% of Ugent's equity, the China Fund would invest alone and purchase \$22.8 million in Ugent bonds that were convertible to common shares representing approximately 30% of Ugent. This was the form of the Ugent Bond transaction that ultimately closed in April 2009.

As with Project Ink, the proposed Ugent Bond transaction promised to solve numerous problems at once for MCIM and PM-1. The Hedge Fund's Jackin 10% Bonds would be redeemed in full, instantly relieving the Hedge Fund's exposure and liquidity crisis. By redeeming the bonds at face value, the Hedge Fund would realize no loss on the otherwise illiquid Jackin 10% Bonds. As a continued bond and equity holder, the Hedge Fund would also benefit from Jackin's ability to use the remaining \$12.8 million in China Fund proceeds for debt service payments and working capital.

The Working Group in Edinburgh examined the new transaction and again raised issues about client conflicts. The group understood that the conflict was even more pronounced now that the China Fund was investing alone in a transaction to redeem the Hedge Fund's bonds. Nevertheless, in the weeks that followed, PM-1 and other MCI and MCIM employees knowingly or recklessly avoided addressing the conflict issue while hurriedly moving forward with the Ugent Bond transaction.

Dubious Investment Rationale and Pricing

Prior to the Ugent Bond transaction closing, PM-1 and others at MCI failed to give sufficient consideration to whether the Ugent Bond investment was in the China Fund's best interests. During the period prior to the April 2009 closing, PM-1 did not conduct any new financial due diligence or credit risk analysis.⁶ Instead, he relied solely on verbal assurances from Jackin's management team. In pricing the bonds and the equity conversion feature, PM-1 decided to rely on the Ugent valuation that had been conducted for Project Ink in July 2008, eight months earlier. Others at MCI deferred to PM-1's approach.

PM-1 and others at MCI also disregarded several factors that should have raised doubts about the investment's rationale and pricing. By late March 2009, the global financial crisis had reached a nadir, and Chinese securities markets were not immune.⁷ Jackin/Ugent's financial condition had worsened significantly, especially in contrast to the forecasts used for Project Ink. In March 2009, PM-1 and others learned that Ugent's year-end earnings for 2008 were 25% lower than the earnings estimates used for Project Ink. Moreover, in January 2009, Jackin failed to make its semi-annual coupon payment owed to the Hedge Fund for the Jackin 10% Bonds. PM-1 responded by placing Jackin on a payment plan in order to avoid seizure of its operations. Jackin eventually paid the coupon, but told PM-1 that its ability to survive depended on the Ugent Bond transaction closing. PM-1 and others were also fully aware that there was no market for the Jackin bonds that were held by the Hedge Fund; those bonds were illiquid. Despite such troubling information, PM-1 and other MCI employees pushed forward without adequately considering whether the Ugent Bonds were suitable for the China Fund.

Final Misleading Disclosures to the China Fund Board

MCI and MCIM did not seek a new conflict waiver from the China Fund's board, even though the transaction had changed fundamentally from Project Ink. Nor did any MCI/MCIM employees ask Lawyer A for an opinion on the new transaction. Rather, PM-1 and others continued their pattern of disclosing selected information to facilitate the closing of the transaction without raising questions.

On March 26, 2009, the China Fund's board held another regularly-scheduled meeting. At the meeting, among other routine items, PM-1 planned to brief the China Fund's board about the status of the Ugent Bond transaction and seek approval to escrow approximately \$22.8 million in funds required to complete the investment. The Ugent Bond transaction was scheduled to close the following week. This was a final opportunity to ensure that the board and Lawyer A, who was in attendance, fully understood that the transaction would redeem bonds held by the Hedge Fund. PM-1 and an MCI client service director attended the meeting. PM-1, in particular, knew or was

⁶ PM-1 supervised the negotiations with Jackin and the preparation of the Ugent Bond transaction documentation by the funds' outside law firm in China.

⁷ The Hang Seng Index, which tracks the top companies listed on the HKSE, had fallen by over 40% between July 2008 and March 2009.

extremely reckless in not knowing that the board and Lawyer A were unaware of the Hedge Fund's interest in the deal. But instead of correcting their misunderstanding, PM-1 continued to deceive them.

PM-1 provided the board and Lawyer A with another misleading memorandum, which PM-1 drafted, describing the proposed investment. The report stated that the China Fund "will buy a convertible bond [from Ugent], to provide working capital for business expansion," but omitted the fact that almost half of the proceeds would be used to redeem the Jackin 10% Bonds held by the Hedge Fund. The document also gave a false reason for the collapse of Project Ink: that Jackin/Ugent's largest customer had also wished to acquire the business and thus opposed Project Ink. This was untrue. In fact, Project Ink had collapsed solely because the lead investor backed out. By its language and tone, the report downplayed Project Ink's failure while creating the misimpression that Jackin's largest customer was a willing investor in Ugent and a potential exit strategy for the China Fund's proposed investment. PM-1's memorandum was the only substantive communication with the board concerning the deal.

Based on the false and misleading information provided by PM-1 at the March 26 meeting, the China Fund board agreed to escrow the funds and authorized MCI to proceed with the Ugent Bond transaction.⁸ As a final step, MCIM arranged for the Hedge Fund to release the collateral securing the Jackin 10% Bonds so that it could be used as security for the new Ugent Bond transaction.⁹

The Ugent Bond transaction closed on April 6, 2009. The China Fund purchased the Ugent Bonds for \$22.8 million. Pursuant to the subscription agreement, Ugent loaned \$10 million to its parent, Jackin, which then redeemed at par the Jackin 10% Bonds held by the Hedge Fund. The Hedge Fund's exposure and liquidity crisis was resolved. Moreover, the remaining \$12.8 million in China Fund proceeds enabled Jackin to remain in business and make debt service payments, to the benefit of the Hedge Fund and the other MCIM-managed account that continued to hold Jackin bonds and stock. The China Fund, however, now owned \$22.8 million in illiquid convertible bonds of questionable value.

D. The Ugent Bond Transaction – Failure to Follow Valuation Procedures

After the Ugent Bond investment closed, MCI and PM-1 failed to follow the China Fund's procedures for valuing the convertible bonds. Between April 2009 and October 2010, MCI

⁸ The only genuine disclosure of the Hedge Fund's role in the Ugent Bond transaction came from Jackin in the form of two routine announcements that it was required to make to the HKSE. In January 2009, Jackin announced the China Fund's execution of a memorandum of understanding to purchase the Ugent Bonds, and in March 2009, Jackin announced the execution of the subscription agreement. Both of Jackin's HKSE announcements attached legal documents that, upon a close reading, revealed the use of proceeds to redeem bonds held by the Hedge Fund. An MCI client service director emailed Jackin's HKSE announcements to the China Fund's chairman merely as a courtesy – because the China Fund was mentioned – and in an offhand way that failed to draw the chairman's attention. In the second instance, the chairman was asked merely to approve the description of the China Fund on a specific page of a lengthy document.

⁹ The collateral was equity shares of Afex, Jackin's operations subsidiary.

advised the China Fund to value the Ugent Bonds at cost (\$22.8 million) while failing to disclose to the board certain evidence relevant to the fair valuation of the bonds.

The China Fund's valuation policies tracked Section 2(a)(41)(B) of Investment Company Act and Rule 2a-4 thereunder,¹⁰ and were provided in the fund's annual, semi-annual, and quarterly reports filed with the Commission on Forms N-CSR and N-Q. The fund's direct investments that were not traded on an exchange ("Direct Investments"), such as the Ugent Bonds, were to be priced at "fair value" as determined in good faith by the board based on financial and other information supplied by MCI. "Fair value" was defined as the price that the fund would reasonably expect to receive in a current sale to an independent buyer. This policy was in accord with FAS 157, which the China Fund implemented in November 2008.¹¹

The China Fund also maintained internal written procedures with additional guidance for valuing Direct Investments. The fund's procedures provided that "any fair valuation of a direct investment held by the Fund will be based primarily on the recommendation of [MCI], which will consider such factors as it believes appropriate in making its recommendation." MCI formed a valuation committee in early 2008 to conduct fair valuation of all securities for which market quotations were not readily available.

Prior to October 2009, Direct Investments were to be valued at cost unless the board, based on MCI's advice, concluded that there was a material change in value. In October 2009, the fund amended its procedures to require Direct Investments to be valued at fair value at all times, rather than presumptively at cost in the absence of a material change.¹² In either case, the board relied on MCI's expertise, judgment, and obligation to disclose all factors, events, and other circumstances that were material to the fair valuation of Direct Investments such as the Ugent convertible bonds.

MCI and PM-1 improperly withheld certain information from the board that was material to its fair valuation of the Ugent Bonds. PM-1 and others already knew about serious financial problems at Jackin/Ugent and the overall market decline in the weeks and months before the investment closed in April 2009. However, PM-1 and others disregarded these red flags in causing the China Fund to invest without any new financial due diligence, credit analysis, or independent valuation to substantiate the transaction.

¹⁰ The China Fund, a closed-end fund, tracked the language of Section 2(a)(41)(B) and Rule 2a-4, but Rule 2a-4 pertains only to registered open-end funds.

¹¹ Statement of Financial Accounting Standards No. 157, *Fair Value Measurements* (Sept. 2006) ("FAS 157," now known as Accounting Standards Codification ("ASC") Topic 820. See also Accounting Series Release No. 118, Investment Company Act Release No. 6295 (Dec. 23, 1970) ("ASR 118") (providing guidance for registered investment company valuation of securities for which market quotations are not readily available).

¹² The China Fund, prompted by its independent auditor, amended its valuation procedures for Direct Investments to conform to Commission interpretive guidance on the valuation of restricted securities. See Accounting Series Release No. 113, Investment Company Act Release No. 5487 (Oct. 21, 1969) ("ASR 113") (questioning valuation at cost when changes in issuer's operations or general market conditions suggest that cost no longer represents fair value).

This pattern of incomplete disclosure continued after the transaction closed, despite mounting evidence of further deterioration in Jackin/Ugent's business and creditworthiness. For example, in May 2009, PM-1 and others at MCI learned that Ugent's independent auditor, a Big Four accounting firm, issued a going concern warning in connection with its audit of the company's 2008 annual financial statements. In its qualified opinion letter, the auditor raised concerns about the possible overstatement of Ugent's sales and inventory, among other issues. Shortly thereafter, the auditor resigned and was replaced by a small local accounting firm. Although these events were material to the fair valuation of the Ugent Bonds, PM-1 and others failed to bring them to the attention of the China Fund's board at subsequent valuation meetings. Based on MCI's recommendation, the China Fund continued to value the Ugent Bonds at cost, \$22.8 million.

In June 2009, PM-1 and other MCI employees became aware that Jackin wanted to recast itself as a gold mining venture and that Ugent, whose printer cartridge business was failing because of competition and lack of working capital, faced an uncertain future. PM-1 and others failed to bring these changing circumstances to MCI's valuation committee until October 2009. As a result, there was no disclosure to the China Fund board until that time.

In September 2009, PM-1 caused two other clients – the Hedge Fund and a separately-managed account that mirrored the Hedge Fund – to sell all of their existing Jackin stock holdings. PM-1 also caused the Hedge Fund to begin exercising certain Jackin warrants that the fund had acquired in 2007 as part of its Jackin 10% Bond investment. This hastened the Hedge Fund's exit from Jackin, and Jackin was able to use the proceeds of the warrant exercise to make its first semi-annual coupon payment to the China Fund on the Ugent Bonds. The Hedge Fund sold the equity shares from its warrant exercise between late-2009 and mid-2010. PM-1 did not inform the China Fund board that his other clients were selling all of their Jackin stock holdings, and the China Fund continued to value the Ugent Bonds at cost.

In October 2010, 19 months after the investment closed, MCI recommended that the China Fund board mark down the value of the Ugent Bonds by 50% due to Ugent's deteriorating financial condition. The China Fund accepted that recommendation. The following month, on MCI's recommendation, the board wrote down the investment to \$0.¹³

By its actions, MCI deviated from the China Fund's valuation procedures and misled the board, which had valuation responsibilities. As a consequence, the China Fund held the Ugent bonds for many months at an insufficiently supported cost valuation of \$22.8 million, which, between April 2009 and October 2010, comprised about 25% of the fund's direct investment portfolio net asset value ("NAV") and approximately 5% of the fund's total NAV. MCI's actions also resulted in material misstatements in the China Fund's annual, semi-annual, and quarterly reports filed with the Commission on Forms N-CSR and N-Q. Those reports, which were prepared by MCI, described valuation policies for direct investments that MCI was not following and contained Ugent Bond valuations that were not fully substantiated.

¹³ On April 18, 2011, the China Fund sold the Ugent Bonds for \$11.5 million, which was about 50% of their face value.

E. The Original Jackin 10% Bond Investment – Deceptive Disclosures to the Hedge Fund and Its Investors

The Hedge Fund's crisis in November 2008, which culminated in its improper rescue by the China Fund through the Ugent Bond transaction, was directly traceable to MCIM's actions in causing the Hedge Fund to purchase Jackin 10% Bonds in the first place.

Modification of the 5% Limit on Unlisted Holdings

Among other investment restrictions in the Hedge Fund's offering materials, the Hedge Fund was precluded from investing more than 5% of its net assets in "unlisted" securities, or securities not traded on an exchange (the "5% Unlisted Limit"). By capping exposure to such securities, this 5% Unlisted Limit helped ensure that the Hedge Fund had sufficient liquid assets to satisfy investor redemptions.

On June 14, 2007, at PM-1's direction, MCIM caused the Hedge Fund to enter into a binding subscription agreement to purchase the Jackin 10% Bonds, which included detachable warrants that were convertible into Jackin stock, for \$10 million. Although Jackin's common stock was listed on the HKSE, the bonds and warrants in question were privately-negotiated, unlisted securities. As a result, the proposed \$10 million investment breached the Hedge Fund's 5% Unlisted Limit, and would have constituted 9.4% of the fund's net assets.

Although PM-1 and other MCIM officials had been working on the bond investment for several months, no one identified the problem until the firm's order-management system flagged the breach on June 25, 2007, just a few days before settlement was to occur. Jackin had already announced the investment publicly, and the Hedge Fund lacked cause to terminate the subscription agreement without penalty.

With a fast-approaching deadline, MCIM sought approval from the Hedge Fund's board to modify the 5% Unlisted Limit. In presenting the matter to the board, however, MCIM officials were focused on the short-term objective of permitting PM-1 to complete the Jackin bond investment. These MCIM officials portrayed the restriction as ambiguous and unclear, and asserted that the 5% Unlisted Limit should not apply to all "unlisted securities" but only to "securities issued by unlisted companies" (*i.e.*, companies whose stock was not publicly traded). Under this reasoning, because Jackin's stock was listed on the HKSE, the Jackin 10% Bonds should not breach the restriction. In addition, the MCIM officials who briefed the board avoided raising the most important issues, including: (i) the risks of illiquid investments in general and Jackin in particular; (ii) the purpose of the original restriction; (iii) whether allowing greater exposure to illiquid investments was in the fund's best interests; and (iv) whether the proposed modification was appropriate for the fund and legally permissible.

Although several Hedge Fund board members raised concerns and complained about having to make this decision in a rushed way, the board approved the transaction and agreed to revise the 5% Unlisted Limit. The investment closed on June 28, 2007. As of that date, the Jackin 10% Bonds represented 8.8% of the Hedge Fund's net assets. Because Jackin's stock was listed,

the investment no longer counted against the Hedge Fund's new 5% Unlisted Limit. The same was true for the fund's second Jackin bond investment in October 2008.

The modification of the 5% Unlisted Limit had serious consequences, as the revised restriction was no longer as effective as a liquidity safeguard. The Hedge Fund was established as an equities-trading vehicle whose interests were easily redeemable because its portfolio was mostly liquid. Instead, over a 15-month period that coincided with the onset of the global financial crisis, MCIM caused the fund to make two Jackin bond investments comprising nearly 15% of the fund's net assets. These investments were highly illiquid, even though Jackin's common stock was listed. As a result, the Hedge Fund was unable to sell these securities in the fall of 2008 when it needed to make redemption payments.

Improper Classification and Reporting of Bonds

After the Jackin 10% Bond investment closed in June 2007, PM-1 and MCIM improperly classified the bonds as cash in MCIM's risk management system and reported them inaccurately to the fund's investors in certain reports.

PM-1 executed the Hedge Fund's subscription agreement for the Jackin 10% Bonds on June 14. On June 16, PM-1 suggested to MCIM back office and legal officials that the investment should be recorded as cash in the fund's risk management system. PM-1's reasoning was that MCIM's systems offered limited classifications, and he believed that cash best matched his investment rationale. MCIM's back office accepted PM-1's view without significant discussion. The bonds were booked as cash in the firm's risk management system, even though they were high-yield fixed income securities (with detachable warrants) that did not remotely qualify as cash or cash-equivalent for risk and reporting purposes.

As a result of the bonds' misclassification, the liquidity and credit risks caused by Hedge Fund's exposure to Jackin did not surface until November 2008, after the Hedge Fund made the second Jackin bond investment. By that time, the Hedge Fund was in a full-fledged crisis that was caused in large part by MCIM's effort to modify the 5% Unlisted Limit and its failure to classify the bonds properly from the start.

In addition, the improper classification of the Jackin bonds was reflected in inaccurate monthly portfolio reports that MCIM sent to the Hedge Fund's investors, including U.S. investors. The July 2007 monthly report provided an accurate summary of the Jackin 10% Bond transaction, and from July through September 2007, the bonds were properly included in the monthly reports as part of the "Top 10 long holdings" and "net market exposure" for the fund. But in October 2007, PM-1 again expressed the view that the bonds should be reported to investors as cash, in order to be consistent with cash classification in the firm's risk management systems. Once more, MCIM's back office deferred to PM-1 and changed the monthly reports.

In the new reports, because the Jackin 10% Bonds were deemed cash and not securities, MCIM excluded them from the fund's "Top 10 long holdings" and calculation of "net market exposure." This was misleading to the fund's investors. The bonds represented over 8% of the

fund's portfolio, easily satisfying the criteria for these reported categories, and had been reported that way before. Nevertheless, MCIM did not sufficiently disclose its rationale for altering the monthly portfolio reports, or why it was reporting high-yield corporate bonds as cash in the first place. MCIM's misreporting of the bonds to investors lasted from November 2007 through December 2008.¹⁴

Violations

A. Advisers Act Antifraud Provisions – Sections 206(1) and 206(2)

Section 206(1) of the Advisers Act makes it unlawful for an investment adviser to employ any device, scheme or artifice to defraud any client or prospective client. Section 206(2) makes it unlawful for an investment adviser to engage in any transaction, practice or course of business that operates as a fraud or deceit upon any client or prospective client. Pursuant to Section 206, investment advisers have a fiduciary duty that requires them to act in each client's best interests, and to make full and fair disclosure of all material facts.

MCI willfully violated Sections 206(1) and 206(2) of the Advisers Act by knowingly or recklessly advising the China Fund to make, and advising the China Fund's board of directors to approve, the Ugent Bond investment on the basis of material misrepresentations and omissions concerning, among other things, the Hedge Fund's involvement, the investment rationale, and the initial pricing of the convertible bonds.

MCI also willfully violated Sections 206(1) and 206(2) of the Advisers Act by knowingly or recklessly deviating from the China Fund's fair valuation policies and procedures in recommending that the China Fund directors value the Ugent Bonds at cost while failing to disclose certain information that was material to the fair valuation of those bonds.

B. Investment Company Act Affiliated Transaction Provision – Section 17(d) and Rule 17d-1

Section 17(d) of the Investment Company Act prohibits any affiliated person of a registered investment company or any affiliated person of such affiliated person (or each, an "affiliate"), acting as principal, from effecting any transaction in which such registered investment company is a joint or a joint and several participant with such affiliate in contravention of such rules and regulations as the Commission may prescribe. Section 17(d) is intended to limit or prevent participation by such registered company on a basis different from or less advantageous than that of another participant. Rule 17d-1 under the Investment Company Act prohibits any such affiliate from participating in any joint enterprise, other joint arrangement, or profit-sharing plan (a "joint arrangement") unless it obtains an order from the Commission regarding the joint arrangement.

¹⁴ During this time period, MCIM did prepare one annual and two semi-annual reports for the Hedge Fund that categorized the Jackin 10% bonds as non-cash financial holdings.

MCI and MCIM willfully aided, abetted, and caused violations of Section 17(d) of the Investment Company Act and Rule 17d-1 by causing the Hedge Fund, an affiliate of the China Fund, to participate in a joint arrangement with the China Fund without a Commission order.

C. Investment Company Act Reporting Provision – Section 34(b)

Section 34(b) of the Investment Company Act prohibits untrue statements or omissions of material fact by any person in, among other things, reports filed with the Commission pursuant to the Investment Company Act or the keeping of which is required pursuant to Section 31(a) of the Investment Company Act.

MCI willfully violated Section 34(b) of the Investment Company Act by preparing the China Fund's annual, semi-annual, and quarterly reports filed with the Commission on Forms N-CSR and N-Q that described valuation policies for direct investments, such as the Ugent Bonds, that MCI was not following and that reported valuations for the Ugent Bonds that were not fully substantiated.

D. Advisers Act Antifraud Provision – Section 206(4) and Rule 206(4)-8

Section 206(4) of the Advisers Act and Rule 206(4)-8 thereunder prohibit investment advisers from making materially false or misleading statements to investors or prospective investors in a pooled investment vehicle.

MCIM willfully violated Section 206(4) of the Advisers Act and Rule 206(4)-8 by misrepresenting the Jackin 10% Bonds in monthly portfolio reports provided to the Hedge Fund's investors.

E. Advisers Act Compliance Provision – Section 206(4) and Rule 206(4)-7

Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder require registered investment advisers to adopt and implement written procedures reasonably designed to prevent violations of the Advisers Act.

MCI willfully violated Section 206(4) of the Advisers Act and Rule 206(4)-7 by failing to adopt and implement policies and procedures reasonably designed to address: (i) the proper identification and full and fair disclosure of advisory and client conflicts of interest; (ii) the timeliness, accuracy, and completeness of its disclosures to the China Fund's boards of directors; and (iii) accurate disclosure and valuation of portfolio securities.

Cooperation and Remedial Efforts

In determining to accept the Offer, the Commission considered the cooperation afforded the Commission staff and certain remedial measures undertaken by Martin Currie. MCI and MCIM: (i) compensated the China Fund for net losses arising from the Ugent Bond transaction, plus associated legal, accounting and other expenses; (ii) refunded management fees incurred as a

result of the Ugent Bond transaction; (iii) severed relations with PM-1; (iv) terminated, replaced, or disciplined certain other senior employees; (v) ceased new unlisted bond and private equity investments; (vi) undertook an investigation of the facts; and (vii) made enhancements to their policies, procedures, and controls governing compliance with the Advisers Act and Investment Company Act.

Undertakings

Respondents shall cooperate fully with the Commission in any and all investigations, litigations or other proceedings relating to or arising from the matters described in the Order. In connection with such cooperation, Respondents shall: (i) produce, without service of a notice or subpoena, any and all non-privileged documents and other information requested by the Commission staff subject to any restrictions under the law of any foreign jurisdiction; (ii) use their best efforts to cause their officers, employees, and directors to be interviewed by the Commission staff at such time as the staff reasonably may direct; and (iii) use their best efforts to cause their officers, employees, and directors to appear and testify without service of a notice or subpoena in such investigations, depositions, hearings or trials as may be requested by the Commission staff.

IV.

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

Accordingly, pursuant to Sections 203(e) and 203(k) of the Advisers Act and Sections 9(b) and 9(f) of the Investment Company Act, it is hereby ORDERED that:

A. Respondent MCI cease and desist from committing or causing any violations and any future violations of Sections 206(1), 206(2), and 206(4) of the Advisers Act and Rule 206(4)-7 thereunder, and Sections 17(d) and 34(b) of the Investment Company Act and Rule 17d-1 thereunder.

B. Respondent MCIM cease and desist from committing or causing any violations and any future violations of Section 206(4) of the Advisers Act and Rule 206(4)-8 thereunder and Sections 17(d) of the Investment Company Act and Rule 17d-1 thereunder.

C. Respondents are censured.

D. Respondents MCI and MCIM shall, jointly and severally, within ten (10) days of the entry of this Order, pay a civil money penalty in the amount of \$8,300,000 to the United States Treasury. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. 3717. Such payment shall be: (i) made by wire transfer, United States postal money order, certified check, bank cashier's check or bank money order; (ii) made payable to the Securities and Exchange Commission; (iii) hand-delivered or mailed to the Securities and Exchange Commission, Office of Financial Management, 100 F Street, NE, Mail Stop 6042, Washington, DC 20549; and (iv) submitted under cover letter that identifies MCI and MCIM as Respondents in

these proceedings, the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to Scott Weisman, Assistant Director, Asset Management Unit, Division of Enforcement, Securities and Exchange Commission, 100 F Street, NE, Mail Stop 5010, Washington, DC 20549.

E. Respondents MCI and MCIM acknowledge that the Commission is not imposing a civil penalty in excess of \$8,300,000 based upon their cooperation in the Commission investigation. If at any time following the entry of the Order, the Division of Enforcement ("Division") obtains information indicating that Respondents knowingly provided materially false or misleading information or materials to the Commission or in a related proceeding, the Division may, at its sole discretion and without prior notice to the Respondents, petition the Commission to reopen this matter and seek an order directing that Respondents pay an additional civil penalty. Respondents may not, by way of defense to any resulting administrative proceeding: (i) contest the findings in the Order; or (ii) assert any defense to liability or remedy, including, but not limited to, any statute of limitations defense.

By the Commission.

Elizabeth M. Murphy
Secretary


By: Jill M. Peterson
Assistant Secretary

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

May 10, 2012

In the Matter of

**Adrenalina,
Affinity Technology Group, Inc.,
Braintech, Inc.,
Builders Transport, Incorporated, and
Catuity, Inc.,**

File No. 500-1

**ORDER OF SUSPENSION OF
TRADING**

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Adrenalina because it has not filed any periodic reports since the period ended September 30, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Affinity Technology Group, Inc. because it has not filed any periodic reports since the period ended June 30, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Braintech, Inc. because it has not filed any periodic reports since the period ended September 30, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Builders Transport, Incorporated because it has not filed any periodic reports since the period ended March 31, 1998.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Catuity, Inc. because it has not filed any periodic reports since the period ended March 31, 2007.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on May 10, 2012, through 11:59 p.m. EDT on May 23, 2012.

By the Commission.

Elizabeth M. Murphy
Secretary

Jill M. Peterson
By: **Jill M. Peterson**
Assistant Secretary

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 66955 / May 10, 2012

ADMINISTRATIVE PROCEEDING
File No. 3-14874

In the Matter of

**Adrenalina,
Affinity Technology Group, Inc.,
BrainTech, Inc.,
Builders Transport, Incorporated, and
Catuity, Inc.,**

Respondents.

**ORDER INSTITUTING
ADMINISTRATIVE
PROCEEDINGS AND NOTICE OF
HEARING PURSUANT TO
SECTION 12(j) OF THE
SECURITIES EXCHANGE ACT
OF 1934**

I.

The Securities and Exchange Commission ("Commission") deems it necessary and appropriate for the protection of investors that public administrative proceedings be, and hereby are, instituted pursuant to Section 12(j) of the Securities Exchange Act of 1934 ("Exchange Act") against the Respondents named in the caption.

II.

After an investigation, the Division of Enforcement alleges that:

A. RESPONDENTS

1. Adrenalina ("AENA")¹ (CIK No. 1398235) is a Nevada corporation located in Hallandale, Florida with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). AENA is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-Q for the period ended September 30, 2008, which reported a net loss of \$6,198,213 for the prior nine months. As of May 8, 2012, the common stock of AENA was quoted on OTC Link (formerly "Pink Sheets") operated by OTC Markets Group Inc. ("OTC Link"), had seven market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

¹The short form of each issuer's name is also its stock symbol.

2. Affinity Technology Group, Inc. ("AFFI") (CIK No. 1007508) is a void Delaware corporation located in Columbia, South Carolina with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). AFFI is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-Q for the period ended June 30, 2008, which reported a net loss of \$741,542 for the prior six months. On August 19, 2008, AFFIQ filed a Chapter 11 petition in the U.S. Bankruptcy Court for the District of South Carolina, which was closed on June 1, 2009. As of May 8, 2012, the common stock of AFFI was quoted on OTC Link, had ten market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

3. Braintech, Inc. ("BRHI") (CIK No. 1015715) is a revoked Nevada corporation located in McLean, Virginia with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). BRHI is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-Q for the period ended September 30, 2009, which reported a net loss of \$3,824,569 for the prior nine months. As of May 8, 2012, the common stock of BRHI was quoted on OTC Link, had seven market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

4. Builders Transport, Incorporated ("TRUKQ") (CIK No. 726617) is a void Delaware corporation located in Columbia, South Carolina with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). TRUKQ is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-Q for the period ended March 31, 1998, which reported a net loss of \$5,257,000 for the prior three months. On May 21, 1998, TRUKQ filed a Chapter 11 petition in the U.S. Bankruptcy Court for the Northern District of Georgia, which was closed on May 27, 2010. As of May 8, 2012, the common stock of TRUKQ was quoted on OTC Link, had three market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

5. Catuity, Inc. ("CTTY") (CIK No. 1109740) is a void Delaware corporation located in Charlottesville, Virginia with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). CTTY is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-QSB for the period ended March 31, 2007, which reported a net loss of \$1,435,139 for the prior three months. As of May 8, 2012, the common stock of CTTY was quoted on OTC Link, had seven market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

B. DELINQUENT PERIODIC FILINGS

6. As discussed in more detail above, all of the Respondents are delinquent in their periodic filings with the Commission, have repeatedly failed to meet their obligations to file timely periodic reports, and failed to heed delinquency letters sent to them by the Division of Corporation Finance requesting compliance with their periodic filing obligations or, through their failure to maintain a valid address on file with the Commission as required by Commission rules, did not receive such letters.

7. Exchange Act Section 13(a) and the rules promulgated thereunder require issuers of securities registered pursuant to Exchange Act Section 12 to file with the Commission current

and accurate information in periodic reports, even if the registration is voluntary under Section 12(g). Specifically, Rule 13a-1 requires issuers to file annual reports, and Rule 13a-13 requires domestic issuers to file quarterly reports.

8. As a result of the foregoing, Respondents failed to comply with Exchange Act Section 13(a) and Rules 13a-1 and 13a-13 thereunder.

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate for the protection of investors that public administrative proceedings be instituted to determine:

A. Whether the allegations contained in Section II hereof are true and, in connection therewith, to afford the Respondents an opportunity to establish any defenses to such allegations; and,

B. Whether it is necessary and appropriate for the protection of investors to suspend for a period not exceeding twelve months, or revoke the registration of each class of securities registered pursuant to Section 12 of the Exchange Act of the Respondents identified in Section II hereof, and any successor under Exchange Act Rules 12b-2 or 12g-3, and any new corporate names of any Respondents.

IV.

IT IS HEREBY ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened at a time and place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice [17 C.F.R. § 201.110].

IT IS HEREBY FURTHER ORDERED that Respondents shall file an Answer to the allegations contained in this Order within ten (10) days after service of this Order, as provided by Rule 220(b) of the Commission's Rules of Practice [17 C.F.R. § 201.220(b)].

If Respondents fail to file the directed Answers, or fail to appear at a hearing after being duly notified, the Respondents, and any successor under Exchange Act Rules 12b-2 or 12g-3, and any new corporate names of any Respondents, may be deemed in default and the proceedings may be determined against it upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f), and 310 of the Commission's Rules of Practice [17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f), and 201.310].

This Order shall be served forthwith upon Respondents personally or by certified, registered, or Express Mail, or by other means permitted by the Commission Rules of Practice.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 120 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice [17 C.F.R. § 201.360(a)(2)].

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

By the Commission.

Elizabeth M. Murphy
Secretary

Jill M. Peterson
By: **Jill M. Peterson**
Assistant Secretary

*Commissioner Walter
Commissioner Gallagher
not participating*

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

May 14, 2012

In the Matter of

1-800-ATTORNEY, Inc.
Accessible Software Inc.
Accom, Inc.
AccuHealth, Inc.
Adaptive Solutions, Inc.
AHSI, Inc.
Ainslie Corp.
American Cattle Co., Inc.
American Interactive Media, Inc.
AmeriStar International Holdings Corp.
Angeles Corp.
Aprogenex, Inc.
Ardent Communications, Inc.
Asante Technologies, Inc.
ASFG, Inc.
Asia Pacific Engineering Solutions International,
Inc.
Atlantic Central Enterprise Ltd.
ATM Capitol Co.
Avatex Corp.
Avisana Corp.
Axtive Corporation
Batterymarch Trust
Bedford Holdings, Inc.
Beijing Logistic, Inc.
Belle Isle Corp.
Ben Ezra, Weinstein & Co.
Bestway Coach Express, Inc.
Biomedtex, Inc.
BMJ Medical Management, Inc.
Bon Coeur, Inc.
BRIAZZ, Inc.
Buffalo, Inc.
Burr Oak Coal Corp.
Cabo Group, Ltd. (The)
CallNOW.com, Inc.
Capital Media Group Ltd.
Capitol First Corp.
Cartis, Inc.

ORDER OF SUSPENSION OF
TRADING

CCI Group, Inc.
Centra Capital Corp.
CES International, Inc.
Chambersburg Engineering Co.
Chariot Group, Inc.
Chemicorp International, Inc.
Chemtrak, Inc.
China Cable & Communication, Inc.
China TianRen Organic Food, Inc.
ChinaMallUSA.com, Inc.
Christian Brothers, Inc.
Ciao Cucina Corp.
Clarent Corp.
Clinicorp, Inc.
CNF Technologies, Inc.
Columbia Management Co.
Columbia Ventures, Inc.
Commonwealth Oil Refining Co., Inc.
Community Medical Transport, Inc.
Computer Learning Centers, Inc.
Computerized Thermal Imaging, Inc.
Condor Technology Solutions, Inc.
Continental Information Systems Corp.
Conversion Industries, Inc.
Country Maid Financial, Inc.
C-Phone Corp.
Cray Computer Corp.
Creative Gourmet, Inc.
Credit Depot Corp.
Crowley Maritime Corp.
Crowley Milner & Company
Crown Andersen Inc.
Crown City Plating Co.
Crown Financial Holdings, Inc.
CTI Technology, Inc.
CybeRecord, Inc.
Data Systems of Oregon
Datatrend Services, Inc.
Defense Technology Systems, Inc.
Design Media Technology, Inc.
Digital Armor Inc.
DNA Medical Technologies, Inc.
dot1Web, Inc.
dotwap.com Holdings Corp.
DualStar Technologies Corp.
Duncan Hill Co., Ltd.
Dunes Hotels & Casinos, Inc.
Dynamic Leisure Corp.

EAC Industries, Inc.
Eagle-Picher Industries, Inc.
eChapman, Inc.
EGM International, Inc.
Electro Brain International Corp.
Electronic Transmission Corp.
Elsinore Corp.
Emergisoft Holding, Inc.
E-Monee.com, Inc.
Enerphaze Corp.
Enhance Biotech, Inc.
Enviro Global Corp.
Environmental Asset Management Inc.
ETI International, Inc.
Excal Enterprises, Inc.
Fastlane Footwear, Inc.
Firamada Inc.
Firebrand Financial Group, Inc.
First Look Media, Inc.
First Medical Group, Inc.
First Sun South Corp.
Florida Development Fund (1995), Inc.
Florida Partners Corp.
Florsheim Group, Inc. (FGI Group, Inc.)
Fone America, Inc.
Fruehauf Trailer Corp.
Future Healthcare, Inc.
Gargoyles, Inc.
General Broadcasting Inc.
General Store International Corp. (The)
Georgia 400 Industries, Inc.
Glengarry Holdings Ltd.
Global iTechnology, Inc.
Global Teledata Corp.
Gold Lake Mines, Inc.
Grant Enterprise, Ltd.
Great Train Store Co. (The)
Greenleaf Technologies Corp.
GreyStone Digital Technology, Inc.
Harriet & Henderson Yarns, Inc.
Hartz Restaurants International, Inc.
Hayden Hall, Inc.
HealthRenu Medical, Inc.
Helionetics, Inc.
Henley Healthcare, Inc.
Hi-Rise Recycling Systems, Inc.
Home Energy Savings Corp.
Home Security International, Inc.

Home Solutions Health, Inc.
Home State Holdings, Inc.
HomeGold Financial, Inc.
Homeland Holding Corp.
Hubco Exploration, Inc.
Hungarian Broadcasting Corp.
Huntco, Inc.
HyperFeed Technologies, Inc.
HyperSecur Corp.
iBX Group, Inc.
IFS International Holdings, Inc.
IGIA, Inc.
ImageMatrix Corp.
IMC Mortgage Co.
IMP, Inc.
Imperial Credit Industries, Inc.
IMT, Inc.
Inamco International Corp.
Incomnet, Inc.
Industrial Imaging Corp.
Industrial Technologies, Inc.
Innovative Materials, Inc.
Instruments For Industry, Inc.
In-Systcom, Inc.
Integrated Information Systems, Inc.
Integrated Services Group, Inc.
Integrated Waste Services, Inc.
INTER*ACT Communications, Inc.
Interactive Media Technologies, Inc.
Interactive Television Networks, Inc.
Intercontinental Holdings, Inc.
International Building Concepts Ltd.
International Capital Equipment, Ltd.
Interpharm Holdings, Inc.
Interspeed, Inc.
InterWorld Corp.
Intrenet, Inc.
IPTV Corp.
Iridium World Communications Ltd.
Istec-Industries & Technologies, Ltd.
IT Group Holdings, Inc.
J.Rish Group, Inc. (The)
JEC Lasers, Inc.
JPE, Inc.
Kentucky Central Life Insurance Co.
Krause's Furniture, Inc.
Kuala Healthcare, Inc.
L.A. Gear, Inc.

Lady Baltimore Foods, Inc.
 LeaseSmart, Inc.
 Lexington Healthcare Group Inc.
 Liberate Technologies
 Liberty Group Holdings, Inc.
 Liberty International Entertainment, Inc.
 LINC Capital, Inc.
 Link Energy, LLC
 LogicalOptions International, Inc.
 LogiMetrics, Inc.
 Lois/USA, Inc.
 Louisiana Central Oil & Gas Co.
 LoyaltyPoint, Inc.
 LTI Technologies, Inc.
 LTWC Corp.
 Lucille Farms, Inc.
 M.POS Inc.
 Malibu Entertainment Worldwide, Inc.
 Marine Management Systems, Inc.
 Marine Sports, Inc.
 Marnetics Broadband Technologies Ltd.
 Master Woodcraft, Inc.
 Materials Protection Technologies Inc.
 Matrix Denture Systems International, Inc.
 MaxWorldwide, Inc.
 Meadowbrook Golf Group Inc.
 Media 100, Inc.
 Media Logic, Inc.
 MediaWorx, Inc.
 Medical Sciences, Inc.
 Medical Technology Products, Inc.
 Medra Corp.
 Mega Group, Inc.
 Mellin Industries, Inc.
 Meridian Software, Inc.
 Merit Studios, Inc.
 Metals Research Group Corp.
 Metro Airlines, Inc.
 MidasTrade.com, Inc.
 MIIX Group, Inc. (The)
 Miniscribe Corp.
 Miravant Medical Technologies
 Mobile Ready Entertainment Corp.
 MyGlobalConcierge.com, Inc.
 Nahdree Group Ltd. (The)
 National Cable, Inc.
 National Terminals Corp.
 Nelson (L.B.) Corp.

NetImpact Holdings, Inc.
 NetObjects, Inc.
 Netplex Group Inc. (The)
 Network Connection, Inc. (THE)
 Neuro Bioscience, Inc.
 New York & Harlem Railroad Co.
 NewGen Technologies, Inc.
 Next Generation Technology Holdings, Inc.
 Nextrata Energy Inc.
 North American Building, Inc.
 Northeast Digital Networks, Inc.
 NorthPoint Communications Group, Inc.
 Nuko Information Systems, Inc.
 nVIEW Corp.
 Ocean Power Corp.
 Ohmstar Home Lending LLC
 Omega Ventures Group, Inc.
 Omni Multimedia Group, Inc.
 One World Nutrition, Inc.
 Oneita Industries, Inc.
 OneLink Corp.
 OneSource Technologies, Inc.
 Open Plan Systems, Inc.
 Optomedic Medical Technologies Ltd.
 Oriole Systems, Inc.
 OTC Wireless, Inc.
 OTR Express, Inc.
 Panama Coca-Cola Bottling Co., Inc.
 Paper Warehouse, Inc.
 Pentronics Industries, Inc.
 Phoenix Gold International, Inc.
 Pilot Therapeutics Holdings, Inc.
 Pioneer Commercial Funding Corp.
 Plastic Recycling, Inc.
 PlayNet Technologies, Inc.
 Pluma, Inc.
 PMD Investment Co.
 Portivity, Inc.
 Precision Optics, Inc.
 Preiss Byron Multimedia, Inc.
 Presidion Corp.
 Pressure Piping Components, Inc.
 Prestige Graphics, Inc.
 PreventCo, Inc.
 PrimePlayer Incorporated
 Princeton American Corp.
 Princeton Chemical Research, Inc.
 ProMedCo Management Co.

Proterion Corporation
 Public Service Investment & Management Corp.
 Publishers Equipment Corp.
 Pure Vanilla eXchange, Inc.
 Quality Data Processing, Inc.
 Radio World Corp.
 Receptors, Inc.
 Regent Assisted Living, Inc.
 Renaissance Capital Group, Inc.
 Response Oncology, Inc.
 Robomatix Technologies Ltd.
 Rodman & Renshaw Capital Group, Inc.
 Room Plus, Inc.
 Royal Palm Beach Colony, L.P.
 R-Tec Holding, Inc.
 RxBazaar, Inc.
 Sanders Confectionary Products, Inc.
 Security Asset Capital Corporation
 Seiler Pollution Control Systems, Inc.
 Sequel Technology Corp.
 Shallbetter Industries, Inc.
 Silverado Foods, Inc.
 Silvercrest Corp.
 Simmons-Boardman Publishing Corp.
 SimPlayer.com Ltd.
 SISCOM, Inc.
 SiVault Systems, Inc.
 SmarTalk TeleServices, Inc.
 Smith Corona Corp.
 Smith Technology Corp.
 SMX Corp.
 Solo Serve Corp.
 Speaking Roses International, Inc.
 Specialty Chemical Resources, Inc.
 Spectrum Oil Corp.
 Spotlight Homes, Inc.
 Star Entertainment Group, Inc.
 Stars To Go, Inc.
 Sterling Business Solutions Inc.
 Storage Computer Corp.
 Stratcomm Media Ltd.
 Summit Life Corporation
 Sundance Homes, Inc.
 Sungroup, Inc.
 Sunstyle Corp.
 SVC Financial Services, Inc.
 Sykes Datatronics, Inc.
 TechLite, Inc.

Telcoa International Corp.
Teledigital, Inc.
Teletrak Environmental Systems, Inc.
Tellurian, Inc.
TeraForce Technology Corp.
Terminal Applications Group, Inc.
Top Air Manufacturing, Inc.
Trans World Airlines, Inc.
Transco Realty Trust
Trans-Industries, Inc.
Transportation Components, Inc.
TRISM, Inc.
TVC Telecom, Inc.
U.S.A. Floral Products, Inc.
UMC Electronics Co.
UniCapital Corp.
Uniglobe.com Inc.
UnionFed Financial Corp.
Unison HealthCare Corp.
Unitel Video, Inc.
UniverCell Holdings, Inc.
Universal Automotive Industries, Inc.
Value Added Communications, Inc.
VECTRA Technologies, Inc.
VIA NET.WORKS, Inc.
Vie Financial Group, Inc.
Viral Response Systems, Inc.
Viseon, Inc.
Visicom International, Inc.
Vision Technology Corp.
Vision Twenty-One, Inc.
Vistula Communications Services, Inc.
VR Business Brokers, Inc.
Washtenaw Group, Inc. (The)
Watchit Media, Inc.
Wavex International Inc.
Wayne's Famous Phillies, Inc.
West Coast Entertainment Corp.
Westbury Metals Group, Inc.
Wilshire Technologies, Inc.
Winfield Capital Corp.
Wismer-Martin, Inc.
Womens Golf Unlimited, Inc.
Woodroast Systems, Inc.
WorldModal Network Services, Inc.
Worldwide Data, Inc.
Wright (G.F.) Steel & Wire Co.
Wright (G.F.) Steel & Wire Co.

Wright Brothers Energy, Inc.
XI Tec, Inc.
Xpedior Inc.
York Research Corp.
ZeroPlus.com, Inc.

File No. 500-1

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of 1-800-ATTORNEY, Inc. because questions have arisen as to its operating status, if any. 1-800-ATTORNEY, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "ATTY."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Accessible Software Inc. because questions have arisen as to its operating status, if any. Accessible Software Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "ASWE."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Accom, Inc. because questions have arisen as to its operating status, if any. Accom, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "ACMM."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of AccuHealth, Inc. because questions have arisen as to its operating status, if any. AccuHealth, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "AHLHQ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Adaptive Solutions, Inc. because questions have arisen as to its operating status, if any. Adaptive Solutions, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "ADPVQ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of AHSI, Inc. because questions have arisen as to its operating status, if any. AHSI, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "AHSI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Ainslie Corp. because questions have arisen as to its operating status, if any. Ainslie Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "ANSE."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of American Cattle Co., Inc. because questions have arisen as to its operating status, if any. American Cattle Co., Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "ALCC."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of American Interactive Media, Inc. because questions have arisen as to its operating status, if any. American Interactive Media, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "AIME."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of AmeriStar International Holdings Corp. because questions have arisen as to its operating status, if any. AmeriStar International Holdings Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "AIHC."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Angeles Corp. because questions have arisen as

to its operating status, if any. Angeles Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "ANGC."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Aprogenex, Inc. because questions have arisen as to its operating status, if any. Aprogenex, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "APGX."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Ardent Communications, Inc. because questions have arisen as to its operating status, if any. Ardent Communications, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "ARDTQ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Asante Technologies, Inc. because questions have arisen as to its operating status, if any. Asante Technologies, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "ASNL."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of ASFG, Inc. because questions have arisen as to its operating status, if any. ASFG, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "ASFJ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Asia Pacific Engineering Solutions International, Inc. because questions have arisen as to its operating status, if any. Asia Pacific Engineering Solutions International, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "APCI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Atlantic Central Enterprise Ltd. because questions have arisen as to its operating status, if any. Atlantic Central Enterprise Ltd. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "ALCN."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of ATM Capitol Co. because questions have arisen as to its operating status, if any. ATM Capitol Co. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "ATMA."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Avatex Corp. because questions have arisen as to its operating status, if any. Avatex Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "AVATQ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Avisana Corp. because questions have arisen as to its operating status, if any. Avisana Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "AVSA."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Axtive Corporation because questions have arisen as to its operating status, if any. Axtive Corporation is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "AXTC."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Batterymarch Trust because questions have arisen as to its operating status, if any. Batterymarch Trust is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "BTYM."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Bedford Holdings, Inc. because questions have arisen as to its operating status, if any. Bedford Holdings, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "BFHI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Beijing Logistic, Inc. because questions have arisen as to its operating status, if any. Beijing Logistic, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "BJGL."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Belle Isle Corp. because questions have arisen as to its operating status, if any. Belle Isle Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "BILSU."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Ben Ezra, Weinstein & Co. because questions have arisen as to its operating status, if any. Ben Ezra, Weinstein & Co. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "BNEZ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Bestway Coach Express, Inc. because questions have arisen as to its operating status, if any. Bestway Coach Express, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "BWCX."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Biomedtex, Inc. because questions have arisen as to its operating status, if any. Biomedtex, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "BMDX."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of BMJ Medical Management, Inc. because questions have arisen as to its operating status, if any. BMJ Medical Management, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "BONSQ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Bon Coeur, Inc. because questions have arisen as to its operating status, if any. Bon Coeur, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "BOCU."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of BRIAZZ, Inc. because questions have arisen as to its operating status, if any. BRIAZZ, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "BRZZQ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Buffalo, Inc. because questions have arisen as to its operating status, if any. Buffalo, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "BUFO."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Burr Oak Coal Corp. because questions have arisen as to its operating status, if any. Burr Oak Coal Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "BOAK."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Cabo Group, Ltd. (The) because questions have arisen as to its operating status, if any. Cabo Group, Ltd. (The) is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "CGLT."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of CallNOW.com, Inc. because questions have arisen as to its operating status, if any. CallNOW.com, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "CALN."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Capital Media Group Ltd. because questions have arisen as to its operating status, if any. Capital Media Group Ltd. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "CPMG."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Capitol First Corp. because questions have arisen as to its operating status, if any. Capitol First Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "CFCO."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Cartis, Inc. because questions have arisen as to its operating status, if any. Cartis, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "CARI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of CCI Group, Inc. because questions have arisen as to its operating status, if any. CCI Group, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "CCIG."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Centra Capital Corp. because questions have arisen as to its operating status, if any. Centra Capital Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "CENC."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of CES International, Inc. because questions have arisen as to its operating status, if any. CES International, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "CSNL."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Chambersburg Engineering Co. because questions have arisen as to its operating status, if any. Chambersburg Engineering Co. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "CEGR."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Chariot Group, Inc. because questions have arisen as to its operating status, if any. Chariot Group, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "CGRU."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Chemicorp International, Inc. because questions have arisen as to its operating status, if any. Chemicorp International, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "CHEM."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Chemtrak, Inc. because questions have arisen as to its operating status, if any. Chemtrak, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "CTKI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of China Cable & Communication, Inc. because questions have arisen as to its operating status, if any. China Cable & Communication, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "CCCI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of China TianRen Organic Food, Inc. because questions have arisen as to its operating status, if any. China TianRen Organic Food, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "CTRI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of ChinaMallUSA.com, Inc. because questions have arisen as to its operating status, if any. ChinaMallUSA.com, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "CHML."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Christian Brothers, Inc. because questions have arisen as to its operating status, if any. Christian Brothers, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "CHBI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Ciao Cucina Corp. because questions have arisen as to its operating status, if any. Ciao Cucina Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "CIAQQ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Clarent Corp. because questions have arisen as to its operating status, if any. Clarent Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "CLRN."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Clinicorp, Inc. because questions have arisen as to its operating status, if any. Clinicorp, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "CLNI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of CNF Technologies, Inc. because questions have arisen as to its operating status, if any. CNF Technologies, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "CNFT."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Columbia Management Co. because questions have arisen as to its operating status, if any. Columbia Management Co. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "CLMB."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Columbia Ventures, Inc. because questions have arisen as to its operating status, if any. Columbia Ventures, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "COVE."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Commonwealth Oil Refining Co., Inc. because questions have arisen as to its operating status, if any. Commonwealth Oil Refining Co., Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "CWLO."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Community Medical Transport, Inc. because questions have arisen as to its operating status, if any. Community Medical Transport, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "CMTI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Computer Learning Centers, Inc. because questions have arisen as to its operating status, if any. Computer Learning Centers, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "CLCXQ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Computerized Thermal Imaging, Inc. because questions have arisen as to its operating status, if any. Computerized Thermal Imaging, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "COIB."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Condor Technology Solutions, Inc. because questions have arisen as to its operating status, if any. Condor Technology Solutions, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "CTSI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Continental Information Systems Corp. because questions have arisen as to its operating status, if any. Continental Information Systems Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "CISC."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Conversion Industries, Inc. because questions have arisen as to its operating status, if any. Conversion Industries, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "CVII."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Country Maid Financial, Inc. because questions have arisen as to its operating status, if any. Country Maid Financial, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "CMFI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of C-Phone Corp. because questions have arisen

as to its operating status, if any. C-Phone Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "CFON."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Cray Computer Corp. because questions have arisen as to its operating status, if any. Cray Computer Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "CRYYQ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Creative Gourmet, Inc. because questions have arisen as to its operating status, if any. Creative Gourmet, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "CGOM."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Credit Depot Corp. because questions have arisen as to its operating status, if any. Credit Depot Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "CDDJ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Crowley Maritime Corp. because questions have arisen as to its operating status, if any. Crowley Maritime Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "CWLM."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Crowley Milner & Company because questions have arisen as to its operating status, if any. Crowley Milner & Company is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "CWYM."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Crown Andersen Inc. because questions have

arisen as to its operating status, if any. Crown Andersen Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "CRAN."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Crown City Plating Co. because questions have arisen as to its operating status, if any. Crown City Plating Co. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "CCPGQ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Crown Financial Holdings, Inc. because questions have arisen as to its operating status, if any. Crown Financial Holdings, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "CFGL."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of CTI Technology, Inc. because questions have arisen as to its operating status, if any. CTI Technology, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "CTIT."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of CybeRecord, Inc. because questions have arisen as to its operating status, if any. CybeRecord, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "CYRD."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Data Systems of Oregon because questions have arisen as to its operating status, if any. Data Systems of Oregon is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "DSTO."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Datatrend Services, Inc. because questions

have arisen as to its operating status, if any. Datatrend Services, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "DATV."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Defense Technology Systems, Inc. because questions have arisen as to its operating status, if any. Defense Technology Systems, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "DFTS."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Design Media Technology, Inc. because questions have arisen as to its operating status, if any. Design Media Technology, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "DMTK."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Digital Armor Inc. because questions have arisen as to its operating status, if any. Digital Armor Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "DTALQ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of DNA Medical Technologies, Inc. because questions have arisen as to its operating status, if any. DNA Medical Technologies, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "DNAT."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of dot1Web, Inc. because questions have arisen as to its operating status, if any. Dot1Web, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "DTWB."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of dotwap.com Holdings Corp. because questions

have arisen as to its operating status, if any. Dotwap.com Holdings Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "DWAP."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of DualStar Technologies Corp. because questions have arisen as to its operating status, if any. DualStar Technologies Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "DSTR."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Duncan Hill Co., Ltd. because questions have arisen as to its operating status, if any. Duncan Hill Co., Ltd. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "DUNC."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Dunes Hotel & Casinos, Inc. because questions have arisen as to its operating status, if any. Dunes Hotel & Casinos, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "DUNE."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Dynamic Leisure Corp. because questions have arisen as to its operating status, if any. Dynamic Leisure Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "DYLI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of EAC Industries, Inc. because questions have arisen as to its operating status, if any. EAC Industries, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "EACI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Eagle-Picher Industries, Inc. because questions

have arisen as to its operating status, if any. Eagle-Picher Industries, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "EGLP."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of eChapman, Inc. because questions have arisen as to its operating status, if any. eChapman, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "ECMN."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of EGM International, Inc. because questions have arisen as to its operating status, if any. EGM International, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "EGML."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Electro Brain International Corp. because questions have arisen as to its operating status, if any. Electro Brain International Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "EBIC."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Electronic Transmission Corp. because questions have arisen as to its operating status, if any. Electronic Transmission Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "ETSM."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Elsinore Corp. because questions have arisen as to its operating status, if any. Elsinore Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "ELSO."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Emergisoft Holding, Inc. because questions

have arisen as to its operating status, if any. Emergisoft Holding, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "ESHG."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of E-Monee.com, Inc. because questions have arisen as to its operating status, if any. E-Monee.com, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "EMNC."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Enerphaze Corp. because questions have arisen as to its operating status, if any. Enerphaze Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "EPHZ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Enhance Biotech, Inc. because questions have arisen as to its operating status, if any. Enhance Biotech, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "EBOI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Enviro Global Corp. because questions have arisen as to its operating status, if any. Enviro Global Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "ENVG."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Environmental Asset Management Inc. because questions have arisen as to its operating status, if any. Environmental Asset Management Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "EVAM."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of ETI International, Inc. because questions have

arisen as to its operating status, if any. ETI International, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "ETIC."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Excal Enterprises, Inc. because questions have arisen as to its operating status, if any. Excal Enterprises, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "EXCL."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Fastlane Footwear, Inc. because questions have arisen as to its operating status, if any. Fastlane Footwear, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "FSLF."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Firamada Inc. because questions have arisen as to its operating status, if any. Firamada Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "FAMH."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Firebrand Financial Group, Inc. because questions have arisen as to its operating status, if any. Firebrand Financial Group, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "FFGL."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of First Look Media, Inc. because questions have arisen as to its operating status, if any. First Look Media, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "FRST."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of First Medical Group, Inc. because questions

have arisen as to its operating status, if any. First Medical Group, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "FMDG."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of First Sun South Corp. because questions have arisen as to its operating status, if any. First Sun South Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "FSSU."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Florida Development Fund (1995), Inc. because questions have arisen as to its operating status, if any. Florida Development Fund (1995), Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "FLDV."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Florida Partners Corp. because questions have arisen as to its operating status, if any. Florida Partners Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "FPCO."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Florsheim Group, Inc. (FGI Group, Inc.) because questions have arisen as to its operating status, if any. Florsheim Group, Inc. (FGI Group, Inc.) is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "FLSCQ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Fone America, Inc. because questions have arisen as to its operating status, if any. Fone America, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "FONM."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Fruehauf Trailer Corp. because questions have arisen as to its operating status, if any. Fruehauf Trailer Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "FTCFQ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Future Healthcare, Inc. because questions have arisen as to its operating status, if any. Future Healthcare, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "FHCI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Gargoyles, Inc. because questions have arisen as to its operating status, if any. Gargoyles, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "GOYL."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of General Broadcasting Inc. because questions have arisen as to its operating status, if any. General Broadcasting Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "GNBR."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of General Store International Corp. (The) because questions have arisen as to its operating status, if any. General Store International Corp. (The) is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "GSIL."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Georgia 400 Industries, Inc. because questions

have arisen as to its operating status, if any. Georgia 400 Industries, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "GAID."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Glengarry Holdings Ltd. because questions have arisen as to its operating status, if any. Glengarry Holdings Ltd. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "GLGH."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Global iTechnology, Inc. because questions have arisen as to its operating status, if any. Global iTechnology, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "GITN."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Global Teledata Corp. because questions have arisen as to its operating status, if any. Global Teledata Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "GDAC."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Gold Lake Mines, Inc. because questions have arisen as to its operating status, if any. Gold Lake Mines, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "GOLM."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Grant Enterprise, Ltd. because questions have arisen as to its operating status, if any. Grant Enterprise, Ltd. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "GRET."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Great Train Store Co. (The) because questions

have arisen as to its operating status, if any. Great Train Store Co. (The) is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "GTRNQ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Greenleaf Technologies Corp. because questions have arisen as to its operating status, if any. Greenleaf Technologies Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "GLFC."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of GreyStone Digital Technology, Inc. because questions have arisen as to its operating status, if any. GreyStone Digital Technology, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "GSTN."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Harriet & Henderson Yarns, Inc. because questions have arisen as to its operating status, if any. Harriet & Henderson Yarns, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "HHYN."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Hartz Restaurants International, Inc. because questions have arisen as to its operating status, if any. Hartz Restaurants International, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "HRII."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Hayden Hall, Inc. because questions have arisen as to its operating status, if any. Hayden Hall, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "HYDN."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of HealthRenu Medical, Inc. because questions

have arisen as to its operating status, if any. HealthRenu Medical, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "HRUM"

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Helionetics, Inc. because questions have arisen as to its operating status, if any. Helionetics, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "HLXC."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Henley Healthcare, Inc. because questions have arisen as to its operating status, if any. Henley Healthcare, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "HENL."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Hi-Rise Recycling Systems, Inc. because questions have arisen as to its operating status, if any. Hi-Rise Recycling Systems, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "HIRI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Home Energy Savings Corp. because questions have arisen as to its operating status, if any. Home Energy Savings Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "HESV."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Home Security International, Inc. because questions have arisen as to its operating status, if any. Home Security International, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "HMSI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Home Solutions Health, Inc. because questions

have arisen as to its operating status, if any. Home Solutions Health, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "HSHL."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Home State Holdings, Inc. because questions have arisen as to its operating status, if any. Home State Holdings, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "HOMH."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of HomeGold Financial, Inc. because questions have arisen as to its operating status, if any. HomeGold Financial, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "HGFNQ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Homeland Holding Corp. because questions have arisen as to its operating status, if any. Homeland Holding Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "HMLD."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Hubco Exploration, Inc. because questions have arisen as to its operating status, if any. Hubco Exploration, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "HBCE."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Hungarian Broadcasting Corp. because questions have arisen as to its operating status, if any. Hungarian Broadcasting Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "HBCO."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Huntco, Inc. because questions have arisen as

to its operating status, if any. Huntco, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "HCOIQ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of HyperFeed Technologies, Inc. because questions have arisen as to its operating status, if any. HyperFeed Technologies, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "HYPRQ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of HyperSecur Corp. because questions have arisen as to its operating status, if any. HyperSecur Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "HYUR."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of iBX Group, Inc. because questions have arisen as to its operating status, if any. iBX Group, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "IBXG."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of IFS International Holdings, Inc. because questions have arisen as to its operating status, if any. IFS International Holdings, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "IFSH."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of IGIA, Inc. because questions have arisen as to its operating status, if any. IGIA, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "IGAI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of ImageMatrix Corp. because questions have

arisen as to its operating status, if any. ImageMatrix Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "IMCX."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of IMC Mortgage Co. because questions have arisen as to its operating status, if any. IMC Mortgage Co. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "IMCC."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of IMP, Inc. because questions have arisen as to its operating status, if any. IMP, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "IMPX."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Imperial Credit Industries, Inc. because questions have arisen as to its operating status, if any. Imperial Credit Industries, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "ICII."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of IMT, Inc. because questions have arisen as to its operating status, if any. IMT, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "IMIT."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Inamco International Corp. because questions have arisen as to its operating status, if any. Inamco International Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "IICC."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Incomnet, Inc. because questions have arisen as

to its operating status, if any. Incomnet, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "ICNT."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Industrial Imaging Corp. because questions have arisen as to its operating status, if any. Industrial Imaging Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "INIM."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Industrial Technologies, Inc. because questions have arisen as to its operating status, if any. Industrial Technologies, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "INTE."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Innovative Materials, Inc. because questions have arisen as to its operating status, if any. Innovative Materials, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "INOMA."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Instruments For Industry, Inc. because questions have arisen as to its operating status, if any. Instruments For Industry, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "INSF."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of In-Systcom, Inc. because questions have arisen as to its operating status, if any. In-Systcom, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "ISYX."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Integrated Information Systems, Inc. because

questions have arisen as to its operating status, if any. Integrated Information Systems, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "IISX."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Integrated Services Group, Inc. because questions have arisen as to its operating status, if any. Integrated Services Group, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "ISVG."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Integrated Waste Services, Inc. because questions have arisen as to its operating status, if any. Integrated Waste Services, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "TWSI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of INTER*ACT Communications, Inc. because questions have arisen as to its operating status, if any. INTER*ACT COMMUNICATIONS, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "IAMM."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Interactive Media Technologies, Inc. because questions have arisen as to its operating status, if any. Interactive Media Technologies, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "IMDI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Interactive Television Networks, Inc. because questions have arisen as to its operating status, if any. Interactive Television Networks, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "ITTV."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Intercontinental Holdings, Inc. because

questions have arisen as to its operating status, if any. Intercontinental Holdings, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "ICLH."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of International Building Concepts Ltd. because questions have arisen as to its operating status, if any. International Building Concepts Ltd. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "IBDG."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of International Capital Equipment, Ltd. because questions have arisen as to its operating status, if any. International Capital Equipment, Ltd. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "ICQLF."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Interpharm Holdings, Inc. because questions have arisen as to its operating status, if any. Interpharm Holdings, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "IPAH."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Interspeed, Inc. because questions have arisen as to its operating status, if any. Interspeed, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "ISPD."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of InterWorld Corp. because questions have arisen as to its operating status, if any. InterWorld Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "ITWR."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Intrenet, Inc. because questions have arisen as

to its operating status, if any. Intrenet, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "IRNE."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of IPTV Corp. because questions have arisen as to its operating status, if any. IPTV Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "IPTV."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Iridium World Communications Ltd. because questions have arisen as to its operating status, if any. Iridium World Communications Ltd. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "IRIDQ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Istec-Industries & Technologies, Ltd. because questions have arisen as to its operating status, if any. Istec-Industries & Technologies, Ltd. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "ISEF."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of IT Group Holdings, Inc. because questions have arisen as to its operating status, if any. IT Group Holdings, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "ITGL."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of J.Rish Group, Inc. (The) because questions have arisen as to its operating status, if any. J.Rish Group, Inc. (The) is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "RISH."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of JEC Lasers, Inc. because questions have arisen

as to its operating status, if any. JEC Lasers, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "JECL."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of JPE, Inc. because questions have arisen as to its operating status, if any. JPE, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "JPEI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Kentucky Central Life Insurance Co. because questions have arisen as to its operating status, if any. Kentucky Central Life Insurance Co. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "KENCA."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Krause's Furniture, Inc. because questions have arisen as to its operating status, if any. Krause's Furniture, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "KAUSQ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Kuala Healthcare, Inc. because questions have arisen as to its operating status, if any. Kuala Healthcare, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "KUAL."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of L.A. Gear, Inc. because questions have arisen as to its operating status, if any. L.A. Gear, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "LAGR."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Lady Baltimore Foods, Inc. because questions

have arisen as to its operating status, if any. Lady Baltimore Foods, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "LDYBA."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of LeaseSmart, Inc. because questions have arisen as to its operating status, if any. LeaseSmart, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "LSMJ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Lexington Healthcare Group Inc. because questions have arisen as to its operating status, if any. Lexington Healthcare Group Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "LEXI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Liberate Technologies because questions have arisen as to its operating status, if any. Liberate Technologies is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "LBTE."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Liberty Group Holdings, Inc. because questions have arisen as to its operating status, if any. Liberty Group Holdings, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "LGHI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Liberty International Entertainment, Inc. because questions have arisen as to its operating status, if any. Liberty International Entertainment, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "LIEI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of LINC Capital, Inc. because questions have arisen as to its operating status, if any. LINC Capital, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "LNCC."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Link Energy, LLC because questions have arisen as to its operating status, if any. Link Energy, LLC is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "LNKE."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of LogicalOptions International, Inc. because questions have arisen as to its operating status, if any. LogicalOptions International, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "LOGO."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of LogiMetrics, Inc. because questions have arisen as to its operating status, if any. LogiMetrics, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "LGMTA."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Lois/USA, Inc. because questions have arisen as to its operating status, if any. Lois/USA, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "LSUS."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Louisiana Central Oil & Gas Co. because questions have arisen as to its operating status, if any. Louisiana Central Oil & Gas Co. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "LCNTU."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of LoyaltyPoint, Inc. because questions have arisen as to its operating status, if any. LoyaltyPoint, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "LYLP."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of LTI Technologies, Inc. because questions have arisen as to its operating status, if any. LTI Technologies, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "LTTI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of LTWC Corp. because questions have arisen as to its operating status, if any. LTWC Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "LTWC."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Lucille Farms, Inc. because questions have arisen as to its operating status, if any. Lucille Farms, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "LUCY."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of M.POS Inc. because questions have arisen as to its operating status, if any. M.POS Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "MPSN."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Malibu Entertainment Worldwide, Inc. because questions have arisen as to its operating status, if any. Malibu Entertainment Worldwide, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "MBEW."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Marine Management Systems, Inc. because questions have arisen as to its operating status, if any. Marine Management Systems, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "MMSY."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Marine Sports, Inc. because questions have arisen as to its operating status, if any. Marine Sports, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "MRSP."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Marnetics Broadband Technologies Ltd. because questions have arisen as to its operating status, if any. Marnetics Broadband Technologies Ltd. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "MXBTF."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Master Woodcraft, Inc. because questions have arisen as to its operating status, if any. Master Woodcraft, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "MCFL."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Materials Protection Technologies Inc. because questions have arisen as to its operating status, if any. Materials Protection Technologies Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "MTXLF."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Matrix Denture Systems International, Inc. because questions have arisen as to its operating status, if any. Matrix Denture Systems

International, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "MDSI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of MaxWorldwide, Inc. because questions have arisen as to its operating status, if any. MaxWorldwide, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "MAXW."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Meadowbrook Golf Group Inc. because questions have arisen as to its operating status, if any. Meadowbrook Golf Group Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "MGGI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Media 100, Inc. because questions have arisen as to its operating status, if any. Media 100, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "MDEA."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Media Logic, Inc. because questions have arisen as to its operating status, if any. Media Logic, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "MDLG."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of MediaWorx, Inc. because questions have arisen as to its operating status, if any. MediaWorx, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "MEWX."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Medical Sciences, Inc. because questions have

arisen as to its operating status, if any. Medical Sciences, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "MCLS."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Medical Technology Products, Inc. because questions have arisen as to its operating status, if any. Medical Technology Products, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "MTPX."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Medra Corp. because questions have arisen as to its operating status, if any. Medra Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "MDRA."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Mega Group, Inc. because questions have arisen as to its operating status, if any. Mega Group, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "MGINQ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Mellin Industries, Inc. because questions have arisen as to its operating status, if any. Mellin Industries, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "MELL."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Meridian Software, Inc. because questions have arisen as to its operating status, if any. Meridian Software, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "MSWI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Merit Studios, Inc. because questions have

arisen as to its operating status, if any. Merit Studios, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "MRITQ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Metals Research Group Corp. because questions have arisen as to its operating status, if any. Metals Research Group Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "MLRA."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Metro Airlines, Inc. because questions have arisen as to its operating status, if any. Metro Airlines, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "MEAL."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of MidasTrade.com, Inc. because questions have arisen as to its operating status, if any. MidasTrade.com, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "MIDS."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of MIIX Group, Inc. (The) because questions have arisen as to its operating status, if any. MIIX Group, Inc. (The) is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "MIIX."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Miniscribe Corp. because questions have arisen as to its operating status, if any. Miniscribe Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "MINY."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Miravant Medical Technologies because

questions have arisen as to its operating status, if any. Miravant Medical Technologies is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "MRVT."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Mobile Ready Entertainment Corp. because questions have arisen as to its operating status, if any. Mobile Ready Entertainment Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "MRDY."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of MyGlobalConcierge.com, Inc. because questions have arisen as to its operating status, if any. MyGlobalConcierge.com, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "MGCG."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Nahdree Group Ltd. (The). because questions have arisen as to its operating status, if any. Nahdree Group Ltd. (The) is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "NDRE."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of National Cable, Inc. because questions have arisen as to its operating status, if any. National Cable, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "NCAB."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of National Terminals Corp. because questions have arisen as to its operating status, if any. National Terminals Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "NTRM."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Nelson (L.B.) Corp. because questions have

arisen as to its operating status, if any. Nelson (L.B.) Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "NLBC."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of NetImpact Holdings, Inc. because questions have arisen as to its operating status, if any. NetImpact Holdings, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "NTHD."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of NetObjects, Inc. because questions have arisen as to its operating status, if any. NetObjects, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "NETO."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Netplex Group, Inc. (The) because questions have arisen as to its operating status, if any. Netplex Group, Inc. (The) is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "NTPL."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Network Connection, Inc. (The) because questions have arisen as to its operating status, if any. Network Connection, Inc. (The) is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "TNCXQ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Neuro Bioscience, Inc. because questions have arisen as to its operating status, if any. Neuro Bioscience, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "NRBO."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of New York & Harlem Railroad Co. because

questions have arisen as to its operating status, if any. New York & Harlem Railroad Co. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "NYHA."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of NewGen Technologies, Inc. because questions have arisen as to its operating status, if any. NewGen Technologies, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "NWGN."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Next Generation Technology Holdings, Inc. because questions have arisen as to its operating status, if any. Next Generation Technology Holdings, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "NGTHQ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Nextrata Energy Inc. because questions have arisen as to its operating status, if any. Nextrata Energy Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "NXTA."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of North American Building, Inc. because questions have arisen as to its operating status, if any. North American Building, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "NABD."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Northeast Digital Networks, Inc. because questions have arisen as to its operating status, if any. Northeast Digital Networks, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "GSML."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of NorthPoint Communications Group, Inc. because questions have arisen as to its operating status, if any. NorthPoint Communications Group, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "NPNTQ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Nuko Information Systems, Inc. because questions have arisen as to its operating status, if any. Nuko Information Systems, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "NUKO."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of nVIEW Corp. because questions have arisen as to its operating status, if any. nVIEW Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "NVUE."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Ocean Power Corp. because questions have arisen as to its operating status, if any. Ocean Power Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "PWREQ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Ohmstar Home Lending LLC because questions have arisen as to its operating status, if any. Ohmstar Home Lending LLC is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "OMST."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Omega Ventures Group, Inc. because questions

have arisen as to its operating status, if any. Omega Ventures Group, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "OMGV."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Omni Multimedia Group, Inc. because questions have arisen as to its operating status, if any. Omni Multimedia Group, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "OMMG."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of One World Nutrition, Inc. because questions have arisen as to its operating status, if any. One World Nutrition, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "OWDN."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Oneita Industries, Inc. because questions have arisen as to its operating status, if any. Oneita Industries, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "ONTAQ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of OneLink Corp. because questions have arisen as to its operating status, if any. OneLink Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "OLNK."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of OneSource Technologies, Inc. because questions have arisen as to its operating status, if any. OneSource Technologies, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "OSRC."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Open Plan Systems, Inc. because questions

have arisen as to its operating status, if any. Open Plan Systems, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "PLANQ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Optomedic Medical Technologies Ltd. because questions have arisen as to its operating status, if any. Optomedic Medical Technologies Ltd. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "KPLNF."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Oriole Systems, Inc. because questions have arisen as to its operating status, if any. Oriole Systems, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "ORLSF."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of OTC Wireless, Inc. because questions have arisen as to its operating status, if any. OTC Wireless, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "OTCL."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of OTR Express, Inc. because questions have arisen as to its operating status, if any. OTR Express, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "OTRX."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Panama Coca-Cola Bottling Co., Inc. because questions have arisen as to its operating status, if any. Panama Coca-Cola Bottling Co., Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "PCOK."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Paper Warehouse, Inc. because questions have

arisen as to its operating status, if any. Paper Warehouse, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "PWHSQ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Pentronics Industries, Inc. because questions have arisen as to its operating status, if any. Pentronics Industries, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "PNTN."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Phoenix Gold International, Inc. because questions have arisen as to its operating status, if any. Phoenix Gold International, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "PGLD."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Pilot Therapeutics Holdings, Inc. because questions have arisen as to its operating status, if any. Pilot Therapeutics Holdings, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "PLTT."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Pioneer Commercial Funding Corp. because questions have arisen as to its operating status, if any. Pioneer Commercial Funding Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "PCFC."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Plastic Recycling, Inc. because questions have arisen as to its operating status, if any. Plastic Recycling, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "PLTK."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of PlayNet Technologies, Inc. because questions

have arisen as to its operating status, if any. PlayNet Technologies, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "PLYI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Pluma, Inc. because questions have arisen as to its operating status, if any. Pluma, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "PLUAQ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of PMD Investment Co. because questions have arisen as to its operating status, if any. PMD Investment Co. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "PMDI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Portivity, Inc. because questions have arisen as to its operating status, if any. Portivity, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "BRLS."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Precision Optics, Inc. because questions have arisen as to its operating status, if any. Precision Optics, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "PREO."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Preiss Byron Multimedia, Inc. because questions have arisen as to its operating status, if any. Preiss Byron Multimedia, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "RSVP."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Presidion Corp. because questions have arisen

as to its operating status, if any. Presidion Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "PSDI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Pressure Piping Components, Inc. because questions have arisen as to its operating status, if any. Pressure Piping Components, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "PPCI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Prestige Graphics, Inc. because questions have arisen as to its operating status, if any. Prestige Graphics, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "PGPI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of PreventCo, Inc. because questions have arisen as to its operating status, if any. PreventCo, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "PREV."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of PrimePlayer Incorporated because questions have arisen as to its operating status, if any. PrimePlayer Incorporated is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "PPYR."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Princeton American Corp. because questions have arisen as to its operating status, if any. Princeton American Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "PAMC."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Princeton Chemical Research, Inc. because

questions have arisen as to its operating status, if any. Princeton Chemical Research, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "PRCH."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of ProMedCo Management Co. because questions have arisen as to its operating status, if any. ProMedCo Management Co. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "PMCOQ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Proterion Corporation because questions have arisen as to its operating status, if any. Proterion Corporation is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "PROI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Public Service Investment & Management Corp. because questions have arisen as to its operating status, if any. Public Service Investment & Management Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "PSIM."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Publishers Equipment Corp. because questions have arisen as to its operating status, if any. Publishers Equipment Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "PEQU."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Pure Vanilla eXchange, Inc. because questions have arisen as to its operating status, if any. Pure Vanilla eXchange, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "PVNX."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Quality Data Processing, Inc. because questions have arisen as to its operating status, if any. Quality Data Processing, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "QDTA."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Radio World Corp. because questions have arisen as to its operating status, if any. Radio World Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "RAWO."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Receptors, Inc. because questions have arisen as to its operating status, if any. Receptors, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "RCRS."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Regent Assisted Living, Inc. because questions have arisen as to its operating status, if any. Regent Assisted Living, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "RGNT."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Renaissance Capital Group, Inc. because questions have arisen as to its operating status, if any. Renaissance Capital Group, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "RNCG."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Response Oncology, Inc. because questions have arisen as to its operating status, if any. Response Oncology, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "ROIX."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Robomatix Technologies Ltd. because questions have arisen as to its operating status, if any. Robomatix Technologies Ltd. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "RBMXF."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Rodman & Renshaw Capital Group, Inc. because questions have arisen as to its operating status, if any. Rodman & Renshaw Capital Group, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "RRSHQ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Room Plus, Inc. because questions have arisen as to its operating status, if any. Room Plus, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "PLSSQ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Royal Palm Beach Colony, L.P. because questions have arisen as to its operating status, if any. Royal Palm Beach Colony, L.P. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "RPAML."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of R-Tec Holding, Inc. because questions have arisen as to its operating status, if any. R-Tec Holding, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "RTHG."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of RxBazaar, Inc. because questions have arisen

as to its operating status, if any. RxBazaar, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "RXBZ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Sanders Confectionary Products, Inc. because questions have arisen as to its operating status, if any. Sanders Confectionary Products, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "SDCF."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Security Asset Capital Corporation because questions have arisen as to its operating status, if any. Security Asset Capital Corporation is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "SCYA."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Seiler Pollution Control Systems, Inc. because questions have arisen as to its operating status, if any. Seiler Pollution Control Systems, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "SEPE."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Sequel Technology Corp. because questions have arisen as to its operating status, if any. Sequel Technology Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "SEQL."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Shallbetter Industries, Inc. because questions have arisen as to its operating status, if any. Shallbetter Industries, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "SBNS."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Silverado Foods, Inc. because questions have

arisen as to its operating status, if any. Silverado Foods, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "SVFO."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Silvercrest Corp. because questions have arisen as to its operating status, if any. Silvercrest Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "SLVI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Simmons-Boardman Publishing Corp. because questions have arisen as to its operating status, if any. Simmons-Boardman Publishing Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "SBPG."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of SimPlayer.com Ltd. because questions have arisen as to its operating status, if any. SimPlayer.com Ltd. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "SMPLF."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of SISCOM, Inc. because questions have arisen as to its operating status, if any. SISCOM, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "SATI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of SiVault Systems, Inc. because questions have arisen as to its operating status, if any. SiVault Systems, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "SVTLQ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of SmarTalk TeleServices, Inc. because questions

have arisen as to its operating status, if any. SmarTalk TeleServices, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "STKTQ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Smith Corona Corp. because questions have arisen as to its operating status, if any. Smith Corona Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "SITM."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Smith Technology Corp. because questions have arisen as to its operating status, if any. Smith Technology Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "SMTQQ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of SMX Corp. because questions have arisen as to its operating status, if any. SMX Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "SMXP."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Solo Serve Corp. because questions have arisen as to its operating status, if any. Solo Serve Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "SSVR."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Speaking Roses International, Inc. because questions have arisen as to its operating status, if any. Speaking Roses International, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "SRII."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Specialty Chemical Resources, Inc. because

questions have arisen as to its operating status, if any. Specialty Chemical Resources, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "SCCS."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Spectrum Oil Corp. because questions have arisen as to its operating status, if any. Spectrum Oil Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "SPOC."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Spotlight Homes, Inc. because questions have arisen as to its operating status, if any. Spotlight Homes, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "SPHM."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Star Entertainment Group, Inc. because questions have arisen as to its operating status, if any. Star Entertainment Group, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "SREN."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Stars To Go, Inc. because questions have arisen as to its operating status, if any. Stars To Go, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "STGO."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Sterling Business Solutions Inc. because questions have arisen as to its operating status, if any. Sterling Business Solutions Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "STLB."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Storage Computer Corp. because questions

have arisen as to its operating status, if any. Storage Computer Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "SOSO."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Stratcomm Media Ltd. because questions have arisen as to its operating status, if any. Stratcomm Media Ltd. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "SMMT."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Summit Life Corporation because questions have arisen as to its operating status, if any. Summit Life Corporation is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "SMLF."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Sundance Homes, Inc. because questions have arisen as to its operating status, if any. Sundance Homes, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "SDHM."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Sungroup, Inc. because questions have arisen as to its operating status, if any. Sungroup, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "SGUP."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Sunstyle Corp. because questions have arisen as to its operating status, if any. Sunstyle Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "SSCO."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of SVC Financial Services, Inc. because questions

have arisen as to its operating status, if any. SVC Financial Services, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "SVCX."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Sykes Datatronics, Inc. because questions have arisen as to its operating status, if any. Sykes Datatronics, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "PSYC."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of TechLite, Inc. because questions have arisen as to its operating status, if any. TechLite, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "THLT."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Telcoa International Corp. because questions have arisen as to its operating status, if any. Telcoa International Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "TCOA."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Teledigital, Inc. because questions have arisen as to its operating status, if any. Teledigital, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "TLDG."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Teletrak Environmental Systems, Inc. because questions have arisen as to its operating status, if any. Teletrak Environmental Systems, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "TAES."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Tellurian, Inc. because questions have arisen as

to its operating status, if any. Tellurian, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "TLRN."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of TeraForce Technology Corp. because questions have arisen as to its operating status, if any. TeraForce Technology Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "TERA."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Terminal Applications Group, Inc. because questions have arisen as to its operating status, if any. Terminal Applications Group, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "TAGI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Top Air Manufacturing, Inc. because questions have arisen as to its operating status, if any. Top Air Manufacturing, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "TPAM."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Trans World Airlines, Inc. because questions have arisen as to its operating status, if any. Trans World Airlines, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "TWAIQ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Transco Realty Trust because questions have arisen as to its operating status, if any. Transco Realty Trust is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "TCRTS."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Trans-Industries, Inc. because questions have

arisen as to its operating status, if any. Trans-Industries, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "TRNIQ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Transportation Components, Inc. because questions have arisen as to its operating status, if any. Transportation Components, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "TUIC."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of TRISM, Inc. because questions have arisen as to its operating status, if any. TRISM, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "TSMX."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of TVC Telecom, Inc. because questions have arisen as to its operating status, if any. TVC Telecom, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "TVCE."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of U.S.A. Floral Products, Inc. because questions have arisen as to its operating status, if any. U.S.A. Floral Products, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "ROSI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of UMC Electronics Co. because questions have arisen as to its operating status, if any. UMC Electronics Co. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "UMCE."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of UniCapital Corp. because questions have arisen

as to its operating status, if any. UniCapital Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "UCPC."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Uniglobe.com Inc. because questions have arisen as to its operating status, if any. Uniglobe.com Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "UGTRF."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of UnionFed Financial Corp. because questions have arisen as to its operating status, if any. UnionFed Financial Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "UNFD."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Unison HealthCare Corp. because questions have arisen as to its operating status, if any. Unison HealthCare Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "UNHC."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Unitel Video, Inc. because questions have arisen as to its operating status, if any. Unitel Video, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "UTLV."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of UniverCell Holdings, Inc. because questions have arisen as to its operating status, if any. UniverCell Holdings, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "UVCL."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Universal Automotive Industries, Inc. because

questions have arisen as to its operating status, if any. Universal Automotive Industries, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "UVSLQ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Value Added Communications, Inc. because questions have arisen as to its operating status, if any. Value Added Communications, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "VACI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of VECTRA Technologies, Inc. because questions have arisen as to its operating status, if any. VECTRA Technologies, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "VCTRQ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of VIA NET.WORKS, Inc. because questions have arisen as to its operating status, if any. VIA NET.WORKS, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "VNWI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Vie Financial Group, Inc. because questions have arisen as to its operating status, if any. Vie Financial Group, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "VIFI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Viral Response Systems, Inc. because questions have arisen as to its operating status, if any. Viral Response Systems, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "VRSI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Viseon, Inc. because questions have arisen as

to its operating status, if any. Viseon, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "VSNI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Visicom International, Inc. because questions have arisen as to its operating status, if any. Visicom International, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "VSCM."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Vision Technology Corp. because questions have arisen as to its operating status, if any. Vision Technology Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "VSTCQ."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Vision Twenty-One, Inc. because questions have arisen as to its operating status, if any. Vision Twenty-One, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "EYES."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Vistula Communications Services, Inc. because questions have arisen as to its operating status, if any. Vistula Communications Services, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "VSTL."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of VR Business Brokers, Inc. because questions have arisen as to its operating status, if any. VR Business Brokers, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "VRBB."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Washtenaw Group, Inc. (The) because

questions have arisen as to its operating status, if any. Washtenaw Group, Inc. (The) is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "TWHR."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Watchit Media, Inc. because questions have arisen as to its operating status, if any. Watchit Media, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "WMDA."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Wavex International Inc. because questions have arisen as to its operating status, if any. Wavex International Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "WVXI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Wayne's Famous Phillies, Inc. because questions have arisen as to its operating status, if any. Wayne's Famous Phillies, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "WFPI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of West Coast Entertainment Corp. because questions have arisen as to its operating status, if any. West Coast Entertainment Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "WCEC."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Westbury Metals Group, Inc. because questions have arisen as to its operating status, if any. Westbury Metals Group, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "WMET."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Wilshire Technologies, Inc. because questions

have arisen as to its operating status, if any. Wilshire Technologies, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "WILK."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Winfield Capital Corp. because questions have arisen as to its operating status, if any. Winfield Capital Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "WCAP."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Wismer-Martin, Inc. because questions have arisen as to its operating status, if any. Wismer-Martin, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "WSMM."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Womens Golf Unlimited, Inc. because questions have arisen as to its operating status, if any. Womens Golf Unlimited, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "WGLF."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Woodroast Systems, Inc. because questions have arisen as to its operating status, if any. Woodroast Systems, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "WRSI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of WorldModal Network Services, Inc. because questions have arisen as to its operating status, if any. WorldModal Network Services, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "WMDL."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Worldwide Data, Inc. because questions have

arisen as to its operating status, if any. Worldwide Data, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "WWDI."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Wright (G.F.) Steel & Wire Co. because questions have arisen as to its operating status, if any. Wright (G.F.) Steel & Wire Co. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "WRGFP."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Wright (G.F.) Steel & Wire Co. because questions have arisen as to its operating status, if any. Wright (G.F.) Steel & Wire Co. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "WRGF."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Wright Brothers Energy, Inc. because questions have arisen as to its operating status, if any. Wright Brothers Energy, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "WOIL."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of XI Tec, Inc. because questions have arisen as to its operating status, if any. XI Tec, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "XTIC."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Xpedior, Inc. because questions have arisen as to its operating status, if any. Xpedior, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "XPDR."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of York Research Corp. because questions have

arisen as to its operating status, if any. York Research Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "YORK."

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of ZeroPlus.com, Inc. because questions have arisen as to its operating status, if any. ZeroPlus.com, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol "ZPLSQ."

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies.

THEREFORE, IT IS ORDERED, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on May 14, 2012 through 11:59 p.m. EDT on May 25, 2012.

By the Commission.

Elizabeth M. Murphy
Secretary

By: *Jill M. Peterson*
Jill M. Peterson
Assistant Secretary

*Commissioner Aguilar
Commissioner Gallagher
not participating*

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934

Release No. 66978 / May 14, 2012

ADMINISTRATIVE PROCEEDING

File No. 3-14877

In the Matter of

KENNETH A. WOLKOFF,

Respondent.

ORDER INSTITUTING
ADMINISTRATIVE PROCEEDINGS
PURSUANT TO SECTION 15(b) OF
THE SECURITIES EXCHANGE ACT
OF 1934, MAKING FINDINGS, AND
IMPOSING REMEDIAL SANCTIONS

I.

The Securities and Exchange Commission ("Commission") deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted pursuant to Section 15(b) of the Securities Exchange Act of 1934 ("Exchange Act") against Kenneth A. Wolkoff ("Respondent").

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement ("Offer") 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 him and the subject matter of these proceedings, and the findings contained in Section III.2 below, which are admitted, Respondent consents to the entry of this Order Instituting Administrative Proceedings Pursuant to Section 15(b) of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions ("Order"), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds that:

1. Respondent is a 64 year old and a resident of Park City, Utah. He is a medical doctor. During the time in which he engaged in the conduct described below,

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Wolkoff was not a registered representative associated with a broker or dealer registered with the Commission.

2. On April 27, 2012, a final judgment was entered against Wolkoff, permanently enjoining him from future violations of Sections 5(a) and 5(c) of the Securities Act of 1933 ("Securities Act") and Section 15(a) of the Exchange Act, in the civil action entitled Securities and Exchange Commission v. e-Smart Technologies, Inc. et al., Civil Action Number 1:11cv00895-JEB, in the United States District Court for the District of Columbia.

3. The Commission's complaint alleged that, from at least April 2005 until July 2006, in connection with an illegal offering of unrestricted shares of common stock of e-Smart Technologies, Inc., Wolkoff sold shares to individual investors and received compensation in the form of commissions. Wolkoff was responsible for at least 115 separate transactions totaling over 26,000,000 shares. Wolkoff has never been associated with a registered broker-dealer.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED pursuant to Section 15(b)(6) of the Exchange Act that Respondent be, and hereby is:

barred from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical ratings organization with a right to apply for reentry after five years to the appropriate self-regulatory organization, or if there is none, to the Commission.

Any reapplication for association by the Respondent will be subject to the applicable laws and regulations governing the reentry process, and reentry may be conditioned upon a number of factors, including, but not limited to, the satisfaction of any or all of the following: (a) any disgorgement ordered against the Respondent, whether or not the Commission has fully or partially waived payment of such disgorgement; (b) any arbitration award related to the conduct that served as the basis for the Commission order;

(c) any self-regulatory organization arbitration award to a customer, whether or not related to the conduct that served as the basis for the Commission order; and (d) any restitution order by a self-regulatory organization, whether or not related to the conduct that served as the basis for the Commission order.

By the Commission.

Elizabeth M. Murphy
Secretary

Jill M. Peterson
By: **Jill M. Peterson**
Assistant Secretary

*Commissioner Aguilar
Commissioner Gallagher
not participating*

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 66977 / May 14, 2012

ADMINISTRATIVE PROCEEDING
File No. 3-14876

In the Matter of

GEORGE SOBOL,

Respondent.

ORDER INSTITUTING
ADMINISTRATIVE PROCEEDINGS
PURSUANT TO SECTION 15(b) OF
THE SECURITIES EXCHANGE ACT
OF 1934, MAKING FINDINGS, AND
IMPOSING REMEDIAL SANCTIONS

I.

The Securities and Exchange Commission ("Commission") deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted pursuant to Section 15(b) of the Securities Exchange Act of 1934 ("Exchange Act") against George Sobol ("Respondent").

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement ("Offer") 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 him and the subject matter of these proceedings, and the findings contained in Section III.2 below, which are admitted, Respondent consents to the entry of this Order Instituting Administrative Proceedings Pursuant to Section 15(b) of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions ("Order"), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds that:

1. Respondent is a 65 year old businessman and a resident of Beverly Hills, California. During the time in which he engaged in the conduct described below, Sobol was

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not a registered representative associated with a broker or dealer registered with the Commission.

2. On April 27, 2012, a final judgment was entered against Sobol, permanently enjoining him from future violations of Sections 5(a) and 5(c) of the Securities Act of 1933 ("Securities Act") and Section 15(a) of the Exchange Act, in the civil action entitled Securities and Exchange Commission v. e-Smart Technologies, Inc. et al., Civil Action Number 1:11cv00895-JEB, in the United States District Court for the District of Columbia.

3. The Commission's complaint alleged that, from at least March 2005 until June 2006, in connection with an illegal offering of unrestricted shares of common stock of e-Smart Technologies, Inc., Sobol sold shares to individual investors and received compensation in the form of commissions. Sobol was responsible for at least 19 separate transactions totaling over 8,800,000 shares. Sobol has never been associated with a registered broker-dealer.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED pursuant to Section 15(b)(6) of the Exchange Act that Respondent be, and hereby is:

barred from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical ratings organization with a right to apply for reentry after five years to the appropriate self-regulatory organization, or if there is none, to the Commission.

Any reapplication for association by the Respondent will be subject to the applicable laws and regulations governing the reentry process, and reentry may be conditioned upon a number of factors, including, but not limited to, the satisfaction of any or all of the following: (a) any disgorgement ordered against the Respondent, whether or not the Commission has fully or partially waived payment of such disgorgement; (b) any arbitration award related to the conduct that served as the basis for the Commission order;

(c) any self-regulatory organization arbitration award to a customer, whether or not related to the conduct that served as the basis for the Commission order; and (d) any restitution order by a self-regulatory organization, whether or not related to the conduct that served as the basis for the Commission order.

By the Commission.

Elizabeth M. Murphy
Secretary


By: **Jill M. Peterson**
Assistant Secretary

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 66987 / May 15, 2012

ADMINISTRATIVE PROCEEDING
File No. 3-14878

In the Matter of

VINEYARD NATIONAL BANCORP,

Respondent.

**ORDER INSTITUTING PROCEEDINGS, MAKING
FINDINGS, AND REVOKING REGISTRATION OF
SECURITIES PURSUANT TO SECTION 12(j) OF
THE SECURITIES EXCHANGE ACT OF 1934**

I.

The Securities and Exchange Commission ("Commission") deems it necessary and appropriate for the protection of investors that proceedings be, and hereby are, instituted pursuant to Section 12(j) of the Securities Exchange Act of 1934 ("Exchange Act"), against Vineyard National Bancorp ("Vineyard National" or the "Respondent").

II.

In anticipation of the institution of these proceedings, the Liquidating Trust of Vineyard National Bancorp (the "Liquidating Trust"), successor in interest to the Respondent has submitted an Offer of Settlement (the "Offer") 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 Respondent, and the subject matter of these proceedings, the Liquidating Trust consents to the entry of this Order Instituting Proceedings, Making Findings, and Revoking Registration of Securities Pursuant to Section 12(j) of the Securities Exchange Act of 1934 ("Order"), as set forth below.

III.

On the basis of this Order and the Liquidating Trust's Offer, the Commission finds that:

1. On August 26, 2010, the U.S. Bankruptcy Court for the Central District of California, in a Chapter 11 proceeding, entered an order confirming a plan of liquidation under which, *inter alia*, the assets of Respondent (Vineyard Bancorp (CIK No. 840256), a

California corporation that was located in Irvine, California) vested in the Liquidating Trust and Respondent was ordered dissolved. At all times relevant to this proceeding, the securities of Respondent were registered under Exchange Act Section 12(g). As of June 8, 2011, Respondent's securities (symbols "VNBCQ" and "VNBAQ") were quoted on OTC Link (previously, "Pink Sheets") operated by OTC Markets Group Inc., had twelve (VNBCQ) and seven (VNBAQ) market makers, and were eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

2. Respondent failed to comply with Exchange Act Section 13(a) and Rules 13a-1 and 13a-13 thereunder because it has not filed any periodic reports with the Commission since the period ended September 30, 2008.

IV.

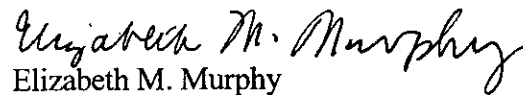
Section 12(j) of the Exchange Act provides as follows:

The Commission is authorized, by order, as it deems necessary or appropriate for the protection of investors to deny, to suspend the effective date of, to suspend for a period not exceeding twelve months, or to revoke the registration of a security, if the Commission finds, on the record after notice and opportunity for hearing, that the issuer of such security has failed to comply with any provision of this title or the rules and regulations thereunder. No member of a national securities exchange, broker, or dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce the purchase or sale of, any security the registration of which has been and is suspended or revoked pursuant to the preceding sentence.

In view of the foregoing, the Commission finds that it is necessary and appropriate for the protection of investors to impose the sanction specified in Respondent's Offer.

Accordingly, it is hereby ORDERED, pursuant to Section 12(j) of the Exchange Act, that registration of each class of securities of Respondent registered pursuant to Section 12 of the Exchange Act be, hereby is, revoked.

By the Commission.


Elizabeth M. Murphy
Secretary

*Commissioner Walter
not participating*

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 66990 / May 15, 2012

ADMINISTRATIVE PROCEEDING
File No. 3-14879

In the Matter of

EDWARD J. MARINO

Respondent.

ORDER INSTITUTING CEASE-AND-
DESIST PROCEEDINGS PURSUANT TO
SECTION 21C OF THE SECURITIES
EXCHANGE ACT OF 1934, MAKING
FINDINGS, AND IMPOSING A CEASE-
AND-DESIST ORDER

I.

The Securities and Exchange Commission ("Commission") deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 21C of the Securities Exchange Act of 1934 ("Exchange Act") against Edward J. Marino ("Marino" or "Respondent").

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the "Offer") 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 him and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order ("Order"), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds that:

Summary

On Thursday, September 28, 2006, Marino, the former President and chief executive officer ("CEO") of Presstek, Inc. ("Presstek") caused¹ Presstek's violation of Section 13(a) of the

¹ Respondent has separately consented to an order to pay a \$50,000 penalty in the previously filed United States

Exchange Act and Regulation FD promulgated thereunder. While acting on behalf of Presstek, Marino selectively disclosed negative material nonpublic information regarding Presstek's financial performance during the third quarter of 2006 to a managing partner ("managing partner") of an investment adviser then registered with the Commission ("investment adviser"). Within minutes after receiving the information from Marino, the managing partner decided to sell all of the shares of Presstek held by the investment funds advised by the investment adviser.

Facts

1. Presstek is a Delaware corporation headquartered in Greenwich, Connecticut. Presstek is in the business of designing, manufacturing, selling and servicing high-technology digital imaging equipment to the worldwide graphic arts industry. Presstek's stock is registered with the Commission pursuant to Section 12(g) of the Exchange Act and trades on the NASDAQ National Market System. Presstek's fiscal year ends on December 31, and the quarter ending September 30 is its fiscal third quarter.

2. Respondent Edward J. Marino, 61, is a resident of Cambridge, Massachusetts. Marino became a member of Presstek's Board of Directors in 1999 and served as Chairman of Presstek's Audit Committee. Marino served as Presstek's president and CEO from April 2002 through May 2007.

3. In 2006, Marino was one of three persons authorized by Presstek to speak on its behalf to investors, analysts, and other securities professionals, along with the chief financial officer and the director of investor relations.

4. By at least 2006, Marino was aware of Presstek's internal policy concerning periods of "corporate silence" generally starting on the 15th day of the last month of a quarter, whereby he could discuss with outside parties only information that was already publicly known. At that time, Marino was also aware that Exchange Act Regulation FD [17 C.F.R. §§ 243.100 *et seq.*] prohibited him from selectively disclosing material nonpublic information to one party that was not publicly disclosed to all.

5. In September 2006, Marino was aware that the investment adviser was an institutional investor with holdings of Presstek stock

6. On September 10, 2006, Presstek's controller sent an e-mail to Marino advising him that "[w]eak August performance in both North America and Europe has negatively impacted [Presstek's] margin and operating income relative to plan."

7. On September 18, 2006, Marino sent an e-mail to certain Presstek senior personnel stating that "[t]he reality is that our forecast for the quarter has dropped precipitously as we approach quarter end."

8. Presstek planned to issue a preliminary announcement in early October 2006 to

District Court case *SEC v. Presstek, Inc. et al.*, 10 CV 10406 (D. Mass. 2010). In that case the complaint alleged that Marino had aided and abetted Presstek's violation of Section 13(a) of the Exchange Act and Regulation FD thereunder.

report its lower than expected financial performance for the third quarter of 2006 (the quarter ended September 30, 2006). As of September 28, 2006, Presstek had not issued any announcement regarding its third quarter financial performance. Thus, the information about Presstek's lower than expected financial performance in the third quarter of 2006 was still nonpublic as of September 28, 2006.

9. On September 28, 2006, at or about 10:39 a.m., the managing partner called Presstek to speak with Presstek's chief financial officer ("CFO"). When the CFO was unavailable, he was transferred to Marino and spoke with him by telephone, as reflected in telephone records and a text message the managing partner sent to a business associate indicating that he was "on with ed marino."

10. In the conversation between Marino and the managing partner, the managing partner asked Marino about Presstek's performance in Europe during the summer of 2006. The managing partner took handwritten notes of Marino's reply.

11. The managing partner's notes indicate that Marino replied that "[s]ummer [was] not as vibrant as [they] expected in North America and Europe." The managing partner's notes also indicate that Marino summarized the situation as while "Europe [had] gotten better since [the summer]" it was "overall a mixed picture [for Presstek's performance that quarter]."

12. At or about 10:42 a.m., while on the telephone with Marino, the managing partner sent another text message to his business associate indicating that the information he was receiving from Marino "sounds like a disaster."

13. The business associate then asked the managing partner by text message whether he should buy puts and Barone responded affirmatively.

14. At or about 10:50 a.m. on September 28, 2006, the telephone call ended between Marino and the managing partner.

15. At or about 10:52 a.m., the investment adviser began placing sell orders for Presstek shares.

16. At or about 10:53 a.m., the managing partner sent a text message to the investment adviser's trader directing him to "sell all prst." "PRST" is the trading symbol for Presstek.

17. During the day, the investment adviser sold substantially all of its Presstek shares.

18. Marino was acting on behalf of Presstek when he revealed the negative material nonpublic information to the managing partner, and he disclosed the information to the managing partner under circumstances in which it was reasonably foreseeable that the managing partner would sell (and did sell) Presstek's securities on the basis of the information.

19. Presstek did not simultaneously disclose to the public the information provided to the investor during the telephone call between Marino and the investor.

20. As a result of the conduct described above, Marino caused a violation of Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Regulation FD [17 C.F.R. §§ 243.100 *et seq.*] promulgated thereunder by Presstek in connection with the selective disclosure of material nonpublic information described above.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent Edward J. Marino's Offer.

Accordingly, pursuant to Section 21C of the Exchange Act, it is hereby ORDERED that Respondent Edward J. Marino cease and desist from committing or causing any violations and any future violations of Section 13(a) of the Exchange Act and Regulation FD promulgated thereunder.

By the Commission.

Elizabeth M. Murphy
Secretary


By: Jill M. Peterson
Assistant Secretary

*Commissioner Walter
not participating*

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 66999 / May 16, 2012

ADMINISTRATIVE PROCEEDING
File No. 3-14883

In the Matter of

WORLDWIDE ENERGY
AND MANUFACTURING
USA, INC.,

Respondent.

ORDER INSTITUTING PROCEEDINGS
PURSUANT TO SECTION 12(j) OF THE
SECURITIES EXCHANGE ACT OF 1934, MAKING
FINDINGS, AND REVOKING REGISTRATION OF
SECURITIES

I.

The Securities and Exchange Commission ("Commission") deems it necessary and appropriate for the protection of investors that proceedings be, and hereby are, instituted pursuant to Section 12(j) of the Securities Exchange Act of 1934 ("Exchange Act"), against Worldwide Energy and Manufacturing USA, Inc. ("WEMU" or "Respondent").

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the "Offer") 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 it and the subject matter of these proceedings, Respondent consents to the entry of this Order Instituting Proceedings Pursuant to Section 12(j) of the Securities Exchange Act of 1934, Making Findings, and Revoking Registration of Securities ("Order"), as set forth below.

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III.

On the basis of this Order and Respondent's Offer, the Commission finds¹ that:

A. WEMU is a Colorado corporation that is headquartered in South San Francisco, California. WEMU is a supplier of photovoltaic (PV) solar modules under the "Amerisolar" brand, and supplier of contract manufacturing services for mechanical and electronic products manufacturing. WEMU's predecessor, Tabatha III, Inc., registered its common stock pursuant to Section 12(g) of the Exchange Act in 2000 and changed its official name to "Worldwide Manufacturing USA, Inc." in November 2003. It then changed its official name to "Worldwide Energy and Manufacturing USA, Inc." in February 2008. Shares of WEMU were quoted on the Over the Counter Bulletin Board starting on May 28, 2004 and have been quoted on OTC Link (formerly, "Pink Sheets") operated by OTC Markets Group, Inc. since May 20, 2011.

B. WEMU has failed to comply with Section 13(a) of the Exchange Act and Rules 13a-1 and 13a-13 thereunder, while its common stock was registered with the Commission in that it has not filed an Annual Report on Form 10-K since April 2010, or periodic or quarterly reports on Form 10-Q for any fiscal period subsequent to its fiscal quarter ending September 30, 2010.

C. WEMU issued a Form 8-K on August 3, 2011 stating that WEMU's financial statements for the year ended 2009 and for the quarter ended March 31, 2010 would need to be amended and that WEMU's financial statements for the quarters ended June 30, 2010 and September 2010, as filed on Form 10-Q could not be relied upon.

IV.

Section 12(j) of the Exchange Act provides as follows:

The Commission is authorized, by order, as it deems necessary or appropriate for the protection of investors to deny, to suspend the effective date of, to suspend for a period not exceeding twelve months, or to revoke the registration of a security, if the Commission finds, on the record after notice and opportunity for hearing, that the issuer of such security has failed to comply with any provision of this title or the rules and regulations thereunder. No member of a national securities exchange, broker, or dealer shall make use of the mails or any means of instrumentality of interstate commerce to effect any transaction in, or to induce the purchase or sale of, any security the registration of which has been and is suspended or revoked pursuant to the preceding sentence.

In view of the foregoing, the Commission finds that it is necessary and appropriate for the protection of investors to impose the sanction specified in Respondent's Offer.

¹ The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

Accordingly, it is hereby ORDERED, pursuant to Section 12(j) of the Exchange Act, that registration of each class of Respondent's securities registered pursuant to Section 12 of the Exchange Act be, and hereby is, revoked.

By the Commission

Elizabeth M. Murphy
Secretary


By: Jill M. Peterson
Assistant Secretary

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934

Release No. 66998 / May 16, 2012

ADMINISTRATIVE PROCEEDING

File No. 3-14882

In the Matter of

**QPC Lasers, Inc.,
Stratcomm Media, Ltd.,
Sweet Success Enterprises, Inc.,
Trinsic, Inc.,
Veridicom International, Inc.,
Windswept Environmental Group, Inc., and
Wyndstorm Corp.,**

Respondents.

**ORDER INSTITUTING
ADMINISTRATIVE PROCEEDINGS
AND NOTICE OF HEARING
PURSUANT TO SECTION 12(j) OF
THE SECURITIES EXCHANGE ACT
OF 1934**

I.

The Securities and Exchange Commission ("Commission") deems it necessary and appropriate for the protection of investors that public administrative proceedings be, and hereby are, instituted pursuant to Section 12(j) of the Securities Exchange Act of 1934 ("Exchange Act") against Respondents QPC Lasers, Inc., Stratcomm Media, Ltd., Sweet Success Enterprises, Inc., Trinsic, Inc., Veridicom International, Inc., Windswept Environmental Group, Inc., and Wyndstorm Corp.

II.

After an investigation, the Division of Enforcement alleges that:

A. RESPONDENTS

1. QPC Lasers, Inc. (CIK No. 1310753) is a revoked Nevada corporation located in Cedarhurst, New York with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). QPC Lasers is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-Q for the period ended June 30, 2008, which reported a net loss of over \$13.7 million for the prior six months. As of May 8, 2012, the company's stock (symbol "QPCF") was quoted

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on OTC Link (previously, "Pink Sheets") operated by OTC Markets Group, Inc. ("OTC Link"), had eight market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

2. Stratcomm Media, Ltd. (CIK No. 1002224) is a Yukon corporation located in Winter Park, Florida with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Stratcomm Media is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10 registration statement with the Commission on March 9, 2000, which reported a net loss of over \$3.5 million for nine-month period ended December 31, 1999. As of May 8, 2012, the company's stock (symbol "SMMT") was quoted on OTC Link, had seven market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

3. Sweet Success Enterprises, Inc. (CIK No. 1338067) is a revoked Nevada corporation located in Boca Raton, Florida with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Sweet Success Enterprises is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-QSB for the period ended September 30, 2007, which reported a net loss of over \$4.2 million for the prior nine months. As of May 8, 2012, the company's stock (symbol "SWTS") was quoted on OTC Link, had nine market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

4. Trinsic, Inc. (CIK No. 1096509) is a forfeited Delaware corporation located in Tampa, Florida with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Trinsic is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-Q for the period ended September 30, 2006, which reported a net loss of over \$7.8 million for the prior nine months. On February 7, 2007, Trinsic filed a voluntary Chapter 7 petition with the United States Bankruptcy Court for the Southern District of Alabama, and the case was still pending as of May 8, 2012. As of May 8, 2012, the company's stock (symbol "TNSIQ") was quoted on OTC Link, had seven market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

5. Veridicom International, Inc. (CIK No. 710217) is a void Delaware corporation located in Verona, New Jersey with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Veridicom International is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-QSB for the period ended September 30, 2006, which reported a net loss of over \$6.9 million for the prior nine months. As of May 8, 2012, the company's stock (symbol "VRDI") was quoted on OTC Link, had seven market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

6. Windswept Environmental Group, Inc. (CIK No. 814915) is a void Delaware corporation located in Holtsville, New York with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Windswept Environmental Group is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-Q for the period ended March 31, 2008, which reported a

net loss of more than \$4.2 million for the prior nine months. On November 22, 1999, the Commission entered an order against Windswept Environmental Group to cease and desist committing violations of the Exchange Act, including Section 13(a). As of May 8, 2012, the company's stock (symbol "WEGI") was quoted on OTC Link, had eight market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

7. Wyndstorm Corp. (CIK No. 833203) is a defaulted Nevada corporation located in the District of Columbia with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Wyndstorm is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-Q for the period ended October 31, 2008, which reported a net loss of over \$1.8 million for the prior nine months. On October 7, 2011, Wyndstorm filed a Chapter 7 bankruptcy petition in the U.S. Bankruptcy Court for the District of Columbia, and as of May 8, 2012, the case was still pending. As of May 8, 2012, the company's stock (symbol "WYNDQ") was quoted on OTC Link, had five market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

B. DELINQUENT PERIODIC FILINGS

8. As discussed in more detail above, all of the Respondents are delinquent in their periodic filings with the Commission, have repeatedly failed to meet their obligations to file timely periodic reports, and failed to heed delinquency letters sent to them by the Division of Corporation Finance requesting compliance with their periodic filing obligations or, through their failure to maintain a valid address on file with the Commission as required by Commission rules, did not receive such letters.

9. Exchange Act Section 13(a) and the rules promulgated thereunder require issuers of securities registered pursuant to Exchange Act Section 12 to file with the Commission current and accurate information in periodic reports, even if the registration is voluntary under Section 12(g). Specifically, Rule 13a-1 requires issuers to file annual reports, and Rule 13a-13 requires domestic issuers to file quarterly reports.

10. As a result of the foregoing, Respondents failed to comply with Exchange Act Section 13(a) and Rules 13a-1 and 13a-13 thereunder.

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate for the protection of investors that public administrative proceedings be instituted to determine:

A. Whether the allegations contained in Section II hereof are true and, in connection therewith, to afford the Respondents an opportunity to establish any defenses to such allegations; and,

B. Whether it is necessary and appropriate for the protection of investors to suspend for a period not exceeding twelve months, or revoke the registration of each

class of securities registered pursuant to Section 12 of the Exchange Act of the Respondents identified in Section II hereof, and any successor under Exchange Act Rules 12b-2 or 12g-3, and any new corporate names of any Respondents.

IV.

IT IS HEREBY ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened at a time and place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice [17 C.F.R. § 201.110].

IT IS HEREBY FURTHER ORDERED that Respondents shall file an Answer to the allegations contained in this Order within ten (10) days after service of this Order, as provided by Rule 220(b) of the Commission's Rules of Practice [17 C.F.R. § 201.220(b)].

If Respondents fail to file the directed Answers, or fail to appear at a hearing after being duly notified, the Respondents, and any successor under Exchange Act Rules 12b-2 or 12g-3, and any new corporate names of any Respondents, may be deemed in default and the proceedings may be determined against it upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f), and 310 of the Commission's Rules of Practice [17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f), and 201.310].

This Order shall be served forthwith upon Respondents personally or by certified, registered, or Express Mail, or by other means permitted by the Commission Rules of Practice.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 120 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice [17 C.F.R. § 201.360(a)(2)].

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

By the Commission.

Elizabeth M. Murphy
Secretary


Jill M. Peterson
Assistant Secretary

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

May 16, 2012

In the Matter of

**QPC Lasers, Inc.,
Sweet Success Enterprises, Inc.,
Trinsic, Inc.,
Veridicom International, Inc.,
Windswept Environmental Group, Inc., and
Wyndstorm Corp.,**

File No. 500-1

**ORDER OF SUSPENSION OF
TRADING**

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of QPC Lasers, Inc. because it has not filed any periodic reports since the period ended June 30, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Sweet Success Enterprises, Inc. because it has not filed any periodic reports since the period ended September 30, 2007.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Trinsic, Inc. because it has not filed any periodic reports since the period ended September 30, 2006.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Veridicom International,

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Inc. because it has not filed any periodic reports since the period ended September 30, 2006.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Windswept Environmental Group, Inc. because it has not filed any periodic reports since the period ended March 31, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Wyndstorm Corp. because it has not filed any periodic reports since the period ended October 31, 2008.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on May 16, 2012, through 11:59 p.m. EDT on May 30, 2012.

By the Commission.

Elizabeth M. Murphy
Secretary


By: **Jill M. Peterson**
Assistant Secretary

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
May 16, 2012

ORDER OF SUSPENSION OF
TRADING

Orbit E-Commerce, Inc.,
Orbit E-Commerce, Inc.,
Orbit E-Commerce, Inc.,
Orbit E-Commerce, Inc., and
Orbit E-Commerce International Corp.
File No. 500-1

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Orbit E-Commerce, Inc. because it has not filed any periodic reports since the period ended April 30, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Orion Ethanol, Inc. because it has not filed any periodic reports since the period ended September 30, 2007.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Pacificnet, Inc. because it has not filed any periodic reports since the period ended April 30, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of PainCare Holding because it has not filed any periodic reports since the period ended September

Elizabeth
Secretary

M. M.

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UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934

Release No. 66996 / May 16, 2012

ADMINISTRATIVE PROCEEDING

File No. 3-14881

In the Matter of

**Orbit E-Commerce, Inc.,
Orion Ethanol, Inc.,
Pacifinet, Inc.,
PainCare Holdings, Inc.
Pay88, Inc.,
Rahaxi, Inc., and
Raven Biofuels International Corp.,**

Respondents.

**ORDER INSTITUTING
ADMINISTRATIVE PROCEEDINGS
AND NOTICE OF HEARING
PURSUANT TO SECTION 12(j) OF
THE SECURITIES EXCHANGE ACT
OF 1934**

I.

The Securities and Exchange Commission ("Commission") deems it necessary and appropriate for the protection of investors that public administrative proceedings be, and hereby are, instituted pursuant to Section 12(j) of the Securities Exchange Act of 1934 ("Exchange Act") against Respondents Orbit E-Commerce, Inc., Orion Ethanol, Inc., Pacifinet, Inc., PainCare Holdings, Inc., Pay88, Inc., Rahaxi, Inc., and Raven Biofuels International Corp.

II.

After an investigation, the Division of Enforcement alleges that:

A. RESPONDENTS

1. Orbit E-Commerce, Inc. (CIK No. 71391) is a permanently revoked Nevada corporation located in Aurora, Ontario, Canada with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Orbit is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-QSB for the period ended April 30, 2008, which reported a comprehensive net loss of \$60,855 for the prior nine months. As of May 4, 2012, the company's stock

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

May 16, 2012

In the Matter of

**Orbit E-Commerce, Inc.,
Orion Ethanol, Inc.,
Pacificnet, Inc.,
PainCare Holdings, Inc.,
Pay88, Inc.,
Rahaxi, Inc., and
Raven Biofuels International Corp.**

File No. 500-1

**ORDER OF SUSPENSION OF
TRADING**

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Orbit E-Commerce, Inc. because it has not filed any periodic reports since the period ended April 30, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Orion Ethanol, Inc. because it has not filed any periodic reports since the period ended September 30, 2007.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Pacificnet, Inc. because it has not filed any periodic reports since the period ended April 30, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of PainCare Holdings, Inc. because it has not filed any periodic reports since the period ended September 30, 2007.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Pay88, Inc. because it has not filed any periodic reports since the period ended June 30, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Rahaxi, Inc. because it has not filed any periodic reports since the period ended March 31, 2010.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Raven Biofuels International Corp. because it has not filed any periodic reports since the period ended March 31, 2009.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on May 16, 2012, through 11:59 p.m. EDT on May 30, 2012.

By the Commission.

Elizabeth M. Murphy
Secretary

Jill M. Peterson
By: **Jill M. Peterson**
Assistant Secretary

(symbol "OECT") was quoted on OTC Link (previously, "Pink Sheets") operated by OTC Markets Group, Inc. ("OTC Link"), had six market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

2. Orion Ethanol, Inc. (CIK No. 812355) is a revoked Nevada corporation located in Pratt, Kansas with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Orion Ethanol is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-QSB for the period ended September 30, 2007, which reported a loss of over \$30 million since the company's January 1, 2003 inception. As of May 4, 2012, the company's stock (symbol "OEHL") was quoted on OTC Link, had three market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

3. Pacificnet, Inc. (CIK No. 815017) is a void Delaware corporation located in Shenzhen, China with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Pacificnet is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-Q for the period ended April 30, 2008, which reported a net loss of over \$4.4 million for the prior nine months. As of May 4, 2012, the company's stock (symbol "PACT") was quoted on OTC Link, had seven market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

4. PainCare Holdings, Inc. (CIK No. 1003472) is a dissolved Florida corporation located in Orlando, Florida with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). PainCare is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-Q for the period ended September 30, 2007, which reported a net loss of over \$2 million for the prior nine months. As of May 4, 2012, the company's stock (symbol "PRXZ") was quoted on OTC Link, had ten market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

5. Pay88, Inc. (CIK No. 1338360) is a defaulted Nevada corporation located in Barnstead, New Hampshire with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Pay88 is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-Q for the period ended June 30, 2009, which reported a net loss of \$43,022 for the prior six months. As of May 4, 2012, the company's stock (symbol "PAYI") was quoted on OTC Link, had nine market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

6. Rahaxi, Inc. (CIK No. 1102301) is a defaulted Nevada corporation located in Wicklow Town, Ireland with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Rahaxi is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-Q for the period ended March 31, 2010, which reported a net loss of over \$4.1 million for the prior nine months. As of May 4, 2012, the company's stock (symbol "RHXI") was quoted on OTC Link, had twelve market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

7. Raven Biofuels International Corp. (CIK No. 1372507) is a revoked Nevada corporation located in Paramus, New Jersey with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Raven is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-Q for the period ended March 31, 2009, which reported a net loss of \$169,206 for the prior three months. As of May 4, 2012, the company's stock (symbol "RVBF") was quoted on OTC Link, had six market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

B. DELINQUENT PERIODIC FILINGS

8. As discussed in more detail above, all of the Respondents are delinquent in their periodic filings with the Commission, have repeatedly failed to meet their obligations to file timely periodic reports, and failed to heed delinquency letters sent to them by the Division of Corporation Finance requesting compliance with their periodic filing obligations or, through their failure to maintain a valid address on file with the Commission as required by Commission rules, did not receive such letters.

9. Exchange Act Section 13(a) and the rules promulgated thereunder require issuers of securities registered pursuant to Exchange Act Section 12 to file with the Commission current and accurate information in periodic reports, even if the registration is voluntary under Section 12(g). Specifically, Rule 13a-1 requires issuers to file annual reports, and Rule 13a-13 requires domestic issuers to file quarterly reports.

10. As a result of the foregoing, Respondents failed to comply with Exchange Act Section 13(a) and Rules 13a-1 and 13a-13 thereunder.

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate for the protection of investors that public administrative proceedings be instituted to determine:

A. Whether the allegations contained in Section II hereof are true and, in connection therewith, to afford the Respondents an opportunity to establish any defenses to such allegations; and,

B. Whether it is necessary and appropriate for the protection of investors to suspend for a period not exceeding twelve months, or revoke the registration of each class of securities registered pursuant to Section 12 of the Exchange Act of the Respondents identified in Section II hereof, and any successor under Exchange Act Rules 12b-2 or 12g-3, and any new corporate names of any Respondents.

IV.

IT IS HEREBY ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened at a time and

place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice [17 C.F.R. § 201.110].

IT IS HEREBY FURTHER ORDERED that Respondents shall file an Answer to the allegations contained in this Order within ten (10) days after service of this Order, as provided by Rule 220(b) of the Commission's Rules of Practice [17 C.F.R. § 201.220(b)].

If Respondents fail to file the directed Answers, or fail to appear at a hearing after being duly notified, the Respondents, and any successor under Exchange Act Rules 12b-2 or 12g-3, and any new corporate names of any Respondents, may be deemed in default and the proceedings may be determined against it upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f), and 310 of the Commission's Rules of Practice [17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f), and 201.310].

This Order shall be served forthwith upon Respondents personally or by certified, registered, or Express Mail, or by other means permitted by the Commission Rules of Practice.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 120 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice [17 C.F.R. § 201.360(a)(2)].

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

By the Commission.

Elizabeth M. Murphy
Secretary


By: **Jill M. Peterson**
Assistant Secretary

美利坚合众国

呈交

证券交易委员会 (SECURITIES AND EXCHANGE COMMISSION)

1934 年证券交易法 (SECURITIES EXCHANGE ACT OF 1934)

发行编号 66996 / May 16, 2012

行政诉讼

文件编号 3-14881

关于

Orbit E-Commerce, Inc.,
Orion Ethanol, Inc.,
Pacificnet, Inc.,
PainCare Holdings, Inc.
Pay88, Inc.,
Rahaxi, Inc., and
Raven Biofuels International Corp.,

答辩人

根据 1934 年证券交易法第 12 节 (j) 条
实行行政诉讼以及发布听证会公告之命令

I.

证券交易委员会 (“委员会”) 认为, 为保护投资者, 根据 1934 年证券交易法 (“交易法”) 第 12 节 (j) 条对答辩人 Orbit E-Commerce, Inc., Orion Ethanol, Inc., Pacificnet, Inc., Pain88, Inc., Rahaxi, Inc., 以及 Raven Biofuels International Corp. 提起公共行政诉讼是必要和适当的。据此, 对答辩人提起公共行政诉讼。

II.

经过调查, 执法司 (Division of Enforcement) 提出:

是一家已被永久吊销的内华达州公司。该公司根据交易法第 12 节 (g) 条在委员会注册了一类证券。Orbit 拖欠应向委员会定期提交的文件, 为 2008 年 4 月 30 日止之期间提交表格 Form10-QSB 后就没有提交过任何定期报告。该报告显示, 该公司在前九个月的综合净损失为 \$60,855 美元。截至 2012 年 5 月 4 日止, 该公司的普通股 (股票代码“OECI”) 在场外交易市场集团 (OTC Markets Group Inc.) 操作的场外交易市场链接 (OTC Link) (原名“粉单市场”) (以下简称“OTC 键结”) 仍有报价, 有 6 个做市商, 符合交易法 15c2-11 (f) (3) 规则中“捎带” (piggyback) 例外的资格。

2. Orion Ethanol, Inc. (CIK 号码 812355) 位于堪萨斯州 Pratt, 是一家已被吊销的内华达州公司。该公司根据交易法第 12 节 (g) 条在委员会注册了一类证券。Orion Ethanol 拖欠应向委员会定期提交的文件, 为 2007 年 9 月 30 日止之期间提交表格 Form10-QSB 后就没有提交过任何定期报告。该报告显示, 该公司自 2003 年 1 月 1 日开始营业起, 损失超过了三千万美元。截至 2012 年 5 月 4 日止, 该公司的普通股 (股票代码“OEHL”) 在 OTC 键结仍有报价, 有 3 个做市商, 符合交易法 15c2-11 (f) (3) 规则中“捎带” (piggyback) 例外的资格。

3. Pacificnet, Inc. (CIK 号码 815017) 位于中国深圳, 是一家无效的特拉华州公司。该公司根据交易法第 12 节 (g) 条在委员会注册了一类证券。Pacificnet 拖欠应向委员会定期提交的文件, 为 2008 年 4 月 30 日止之期间提交表格 Form10-Q 后就没有提交过任何定期报告。该报告显示, 该公司在前九个月的净损失超过了 \$ 440 万美元。截至 2012 年 5 月 4 日止, 该公司的普通股 (股票代码“PACT”) 在 OTC 键结仍有报价, 有 7 个做市商, 符合交易法 15c2-11 (f) (3) 规则中“捎带” (piggyback) 例外的资格。

4. PainCare Holdings, Inc. (CIK 号码 1003472) 位于佛罗里达州 Orlando, 是一家解散的佛罗里达州公司。该公司根据交易法第 12 节 (g) 条在委员会注册了一类证券。PainCare 拖欠应向委员会定期提交的文件, 为 2007 年 9 月 30 日止之期间提交表格 Form10-Q 后就没有提交过任何定期报告。该报告显示, 该公司在前九个月的净损失超过了 \$ 200 万美元。截至 2012 年 5 月 4 日止, 该公司的普通股 (股票代码“PRXZ”) 在 OTC 键结仍有报价, 有 10 个做市商, 符合交易法 15c2-11 (f) (3) 规则中“捎带” (piggyback) 例外的资格。

5. Pay88, Inc. (CIK 号码 1138360) 位于新罕布什尔州 Barnstead, 是一家倒

帐的佛罗里达州公司。该公司根据交易法第12节(g)条在委员会注册了一类证券。Pay88拖欠应向委员会定期提交的文件,为2009年6月30日止之期间提交表格Form10-Q后就没有提交过任何定期报告。该报告显示,该公司在前六个月的净损失为\$43,022美元。截至2012年5月4日止,该公司的普通股(股票代码“PAYI”)在OTC键结仍有报价,有9个做市商,符合交易法15c2-11(f)(3)规则中“捎带”(piggyback)例外的资格。

6. Rahaxi, Inc. (CIK 号码 1102301) 位于爱尔兰 Wicklow 镇,是一家倒帐的内华达州公司。该公司根据交易法第12节(g)条在委员会注册了一类证券。Rahaxi拖欠应向委员会定期提交的文件,为2010年3月31日止之期间提交表格Form10-Q后就没有提交过任何定期报告。该报告显示,该公司在前九个月的净损失超过了\$410万美元。截至2012年5月4日止,该公司的普通股(股票代码“RHXI”)在OTC键结仍有报价,有12个做市商,符合交易法15c2-11(f)(3)规则中“捎带”(piggyback)例外的资格。

7. Raven Biofuels International Corp. (CIK 号码 1372507) 位于新泽西州 Paramus, 是一家已被吊销的内华达州公司。该公司根据交易法第12节(g)条在委员会注册了一类证券。Raven拖欠应向委员会定期提交的文件,为2009年3月31日止之期间提交表格Form10-Q后就没有提交过任何定期报告。该报告显示,该公司在前三个月的净损失为\$169,206美元。截至2012年5月4日止,该公司的普通股(股票代码“RVBF”)在OTC键结仍有报价,有6个做市商,符合交易法15c2-11(f)(3)规则中“捎带”(piggyback)例外的资格。

B. 拖欠定期申报书

8. 如同以上细节所述,所有答辩人拖欠了应提交给委员会的定期申报书,多次未能履行提交定期报告的义务,而且未能遵守由企业财务司(Division of Corporation Finance)所寄,要求其遵守定期申报义务之拖欠函。或者,由于答辩人未能依委员会规则的要求在委员会的档案中保有一有效地址,未收到该类信函。

9. 交易法第13节(a)条以及据此颁布的规则要求根据交易法第12节登记的证券发行人向委员会提交定期报告,报告中应有当前的和正确的信息,即使是根据第12节(g)条自愿登记者也要提交。具体来说,规则13a-1要求发行人提交年度报告,规则13a-13要求国内发行人提交季度报告。

10. 由于上述原因,答辩人未能遵守交易法第13节(a)以及项下之规则13a-

1 和 13a-13。

III.

鉴于执法司提出的指控，委员会认为，为保护投资者而提起公共行政诉讼是必要和适当的，以据此决定：

A. 是否在本文件中第二节中的指控是真实的，而且，与此相关的，给答辩人一个机会以对指控提出抗辩；而且，

B. 是否为保护投资者的利益有必要以及适合暂停其证券登记，期间不超过十二个月，或者是，撤销在本文件第二节中所指出的答辩人依交易法第 12 节所登记注册的每一类证券，以及撤销任何以交易法规则 12b-2 或 12g-3 定义下之继任者名义和以答辩人任何新公司名称所登记注册的每一类证券。

IV.

兹在此下令，在一待决定的时间和地点召开公开听证会，以就在本文件第三节中提出的问题取得证据，此听证会应在行政法法官前举行。依照委员会实务规则（Commission's Rules of Practice）第 110 条 [17 C. F. R. § 201.110] 规定，行政法法官将由进一步的命令来指派。

兹在此进一步下令，答辩人应当依照委员会实务规则第 220 (b) 条 [17 C. F. R. § 201.220(b)]，在取得本命令之后十（10）天之内，对本命令所载的指控提供答复。

如果答辩人不提出本命令所要求的答复，或在被适当通知后未出席听证会，答辩人，以及任何根据交易法规则 12b-2 或 12g-3 定义下的继任者，以及答辩人之任何新的公司名称，可被视为缺席，而且诉讼结果之裁定可能会因本命令被纳入考虑而对答辩人不利。根据委员会实务规则第 155(a)、220(f)、221(f) 和 310 条 [17 C. F. R. §§ 201.155(a), 201.220(f), 201.221(f), 和 201.310] 规定，命令中的指控可能会被视为是真实的。

此命令应立即送达答辩人本人，或经由保证邮件、挂号、或快递邮件，或委员会实务规则所允许的其他方式送达答辩人。

兹在此进一步下令，根据委员会实务规则第 360(a)(2) 条 [17 C. F. R. § 201.360(a)(2)] 规定，行政法官应从本命令送达之日算起 120 天内出具一最初决定。

如果没有适当的豁免书，任何在本诉讼程序中担任调查或起诉职能的委员会官员或雇员，或是任何在与本诉讼程序事实相关的诉讼程序中担任调查或起诉职能的委员会官员或雇员，除了根据通知在诉讼程序中作为证人或律师以外，均不可参与本程序的决策或对本程序提出建议。由于本程序不是行政程序法（Administrative Procedure Act）第 551 节所指的“规则制定”，本程序不受第 553 节所限制，任何最终的委员会行动生效日期不可再予延迟。

委员会在此提交。

Elizabeth M. Murphy
秘书

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 67002 / May 16, 2012

ADMINISTRATIVE PROCEEDING
File No. 3-11538

In the Matter of

J. MICHAEL SCARBOROUGH and
ROYAL ALLIANCE ASSOCIATES, INC.,

Respondents.

ORDER DIRECTING DISBURSEMENT
OF FAIR FUND

On February 6, 2009, the United States Securities and Exchange Commission ("Commission") issued a Notice of Proposed Plan of Distribution and Opportunity for Comment (Exchange Act Rel. No. 59368) pursuant to Rule 1103 of the Commission's Rules on Fair Fund and Disgorgement Plans, 17 C.F.R. §201.1103. The Notice advised parties they could obtain a copy of the Distribution Plan at www.sec.gov. The Notice also advised that all persons desiring to comment on the Distribution Plan could submit their comments, in writing, no later than March 9, 2009. No comments were received by the Commission in response to the Notice. On May 15, 2009, the Commission issued an Order Approving Plan of Distribution (Exchange Act Rel. No. 59930).

The Distribution Plan provides that the Commission will arrange for distribution of the Fair Fund when an electronic payment file listing the payees with the identification information required to make the distribution has been received and accepted. A validated electronic payment file has been received and accepted for the disbursement of \$6,912.82.

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Accordingly, it is ORDERED that the Commission staff shall disburse \$6,912.82 from the Fair Fund to the payee identified in the validated payment file, pursuant to the Distribution Plan.

By the Commission.

Elizabeth M. Murphy
Elizabeth M. Murphy
Secretary

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 3406 / May 17, 2012

ADMINISTRATIVE PROCEEDING
File No. 3-14885

In the Matter of

**COPELAND WEALTH
MANAGEMENT,**

Respondent.

**ORDER INSTITUTING
ADMINISTRATIVE PROCEEDINGS
PURSUANT TO SECTION 203(e) OF
THE INVESTMENT ADVISERS ACT OF
1940, MAKING FINDINGS, AND
IMPOSING REMEDIAL SANCTIONS**

I.

The Securities and Exchange Commission ("Commission") deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted pursuant to Section 203(e) of the Investment Advisers Act of 1940 ("Advisers Act") against Copeland Wealth Management ("CWM" or "Respondent").

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the "Offer") 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 it and the subject matter of these proceedings, and the findings contained in Section III.2 below, which are admitted, Respondent consents to the entry of this Order Instituting Administrative Proceedings Pursuant to Section 203(e) of the Investment Advisers Act of 1940, Making Findings, and Imposing Remedial Sanctions ("Order"), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds that:

1. Copeland Wealth Management is a California corporation with its principal place of business in Redlands, California. CWM is registered with the Commission as an investment adviser. As of May 31, 2011, CWM had approximately \$144 million in assets under management comprised of \$123 million invested primarily in mutual funds and \$21 million invested primarily in real estate and real estate related loans through partnerships managed by Copeland Realty. As of May 31, 2011, CWM had approximately 770 advisory accounts.

2. On October 19, 2011, a final judgment was entered by consent against CWM, permanently enjoining it from future violations of Section 17(a) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder, and Sections 206(1) and 206(2) of the Advisers Act, in the civil action entitled Securities and Exchange Commission v. Charles P. Copeland, Copeland Wealth Management, A Financial Advisory Corporation, and Copeland Wealth Management, A Real Estate Corporation, Civil Action No. 11-08607, in the United States District Court for the Central District of California.

3. The Commission's complaint alleged that during 2008, in connection with the sale of limited partnership interests, CWM made material misrepresentations regarding the payment of guaranteed returns by the limited partnerships.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent CWM's Offer.

Accordingly, it is hereby ORDERED:

Pursuant to Section 203(e) of the Advisers Act, that the registration of Respondent CWM be, and hereby is, revoked.

By the Commission.

Elizabeth M. Murphy

Elizabeth M. Murphy
Secretary

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 3405 / May 17, 2012

ADMINISTRATIVE PROCEEDING
File No. 3-14884

In the Matter of

Belal K. Faruki,

Respondent.

**ORDER INSTITUTING
ADMINISTRATIVE PROCEEDINGS PURSUANT
TO SECTION 203(f) OF THE INVESTMENT
ADVISERS ACT OF 1940, MAKING FINDINGS,
AND IMPOSING REMEDIAL SANCTIONS**

I.

The Securities and Exchange Commission ("Commission") deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted pursuant to Section 203(f) of the Investment Advisers Act of 1940 ("Advisers Act") against Belal K. Faruki ("Faruki" or "Respondent").

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the "Offer"), 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 him and the subject matter of these proceedings, and the findings contained in Section III.2 below, which are admitted, Respondent consents to the entry of this Order Instituting Administrative Proceedings Pursuant to Section 203(f) of the Investment Advisers Act of 1940, Making Findings, and Imposing Remedial Sanctions ("Order"), as set forth below.

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III.

On the basis of this Order and Respondent's Offer, the Commission finds that:

1. From at least January 2010 through August 2011, Faruki operated and was the majority owner of Neural Markets, LLC ("Neural Markets"), an investment adviser. Faruki and Neural Markets solicited investors to purchase interests in the Evolution Quantitative 1X Fund ("Fund"), for which Neural Markets served as the manager. In or about September 2010, as a result of the representations and omissions of Faruki and Neural Markets, an individual wired \$1 million into a bank account controlled by Neural Markets and Faruki to purchase interests in the Fund. At all relevant times, Faruki was a resident of Illinois. Faruki is 40 years old.

2. On April 11, 2012, a Judgment of Permanent Injunction and Other Relief, was entered against Faruki and Neural Markets, permanently enjoining them from future violations of Section 17(a) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder, and Section 206(4) of the Advisers Act and Rule 206-4(8) thereunder in the civil action entitled Securities and Exchange Commission v. Faruki, et al., No. 11 C 5406, in the United States District Court for the Northern District of Illinois ("District Court Litigation").

3. The Commission's complaint in the District Court Litigation alleges that beginning as early as January 2010 and continuing through at least the initiation of the District Court Litigation, Faruki and Neural Markets presented themselves as managers of a start-up quantitative hedge fund that began trading in 2009, that was managing millions of dollars on behalf of wealthy investors, and had a track record of sustained success. The complaint further alleges that, through their scheme, Faruki and Neural Markets defrauded at least one investor ("Investor") out of a \$1 million and solicited other investors as well. The complaint alleges, among other things, that Faruki and Neural Markets made numerous material misrepresentations and omissions to the Investor, including (but not limited to) the following: (a) that Faruki, through Neural Markets, created a quantitative hedge fund that was actively trading and had a successful track record of positive performance since at least December 2009; (b) that Faruki and Neural Markets traded securities for the Fund through prime brokers J.P. Morgan Securities, Inc. and Tradestation Securities, Inc. prior to September 2010; (c) that other wealthy individuals had invested approximately \$5 million with Faruki and Neural Markets and those funds were being traded by them, but that they could not reveal the investors' identities because of confidentiality restrictions; (d) that Faruki had invested his own money in the fund and his interests were aligned with the interests of the other supposed investors; (e) that Neural Markets and Faruki engaged RSM McGladrey, Inc. ("McGladrey"), to perform audit services for the Fund and that McGladrey would provide quarterly and annual audited financial statements; and (f) that, as of September 2010, Faruki had only been involved in five court or regulatory proceedings when, in fact, Faruki was a party to numerous additional lawsuits. The complaint alleges that many

of the misrepresentations and omissions described above were made to the Investor by Faruki and Neural Markets in August and September 2010.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in the Offer submitted by Faruki.

Accordingly, it is hereby ORDERED:

Pursuant to Section 203(f) of the Advisers Act, that Respondent Belal K. Faruki be, and hereby is, barred from being associated with an investment adviser, broker, dealer, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization;

Any reapplication for association by Respondent Belal K. Faruki will be subject to the applicable laws and regulations governing the reentry process, and reentry may be conditioned upon a number of factors, including, but not limited to, the satisfaction of any or all of the following: (a) any disgorgement ordered against the Respondent, whether or not the Commission has fully or partially waived payment of such disgorgement; (b) any arbitration award related to the conduct that served as the basis for the Commission order; (c) any self-regulatory organization arbitration award to a customer, whether or not related to the conduct that served as the basis for the Commission order; and (d) any restitution order by a self-regulatory organization, whether or not related to the conduct that served as the basis for the Commission order.

By the Commission.

Elizabeth M. Murphy
Secretary


By **Jill M. Peterson**
Assistant Secretary

*Commissioner Walter
Commissioner Gallagher
not participating*

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934

Release No. 67029 / May 18, 2012

ADMINISTRATIVE PROCEEDING

File No. 3-14720

In the Matter of

Alchemy Ventures, Inc., KM
Capital Management, LLC,
Zanshin Enterprises, LLC,
Mark H. Rogers, Steven D.
Hotovec, Joshua A. Klein,
Yisroel M. Wachs, Frank K.
McDonald, and Douglas G.
Frederick,

Respondents.

**ORDER MAKING FINDINGS AND
IMPOSING REMEDIAL SANCTIONS AND A
CEASE-AND-DESIST ORDER PURSUANT
TO SECTIONS 15(b) AND 21C OF THE
SECURITIES EXCHANGE ACT OF 1934 AS
TO DOUGLAS G. FREDERICK**

I.

In these proceedings, instituted on January 26, 2012 pursuant to Sections 15(b) and 21C of the Securities Exchange Act of 1934 ("Exchange Act"), Respondent Douglas G. Frederick ("Respondent") has submitted an Offer of Settlement ("Offer") which the Securities and Exchange Commission ("Commission") has determined to accept.

II.

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 him and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Making Findings and Imposing Remedial Sanctions and a Cease-and-Desist Order Pursuant to Sections 15(b) and 21C of the Securities Exchange Act of 1934 as to Douglas G. Frederick ("Order"), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds¹ that:

¹ The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other persons or entities in this or any other proceeding.

Summary

1. These proceedings arise from trading access that Mercury Capital ("Mercury"), an unregistered firm, and Respondent extended to an individual who subsequently used that trading access to profit from an account intrusion and market manipulation scheme. On 77 occasions from April 2010 to July 2010, the individual made profitable trades through Mercury contemporaneous with unauthorized trading in the same securities in hijacked online brokerage accounts of innocent and unknowing account holders at multiple U.S. broker-dealers. The individual generated ill-gotten gains of \$433,816 from the scheme through Mercury.

2. By effecting securities transactions for the individual, Mercury, and Frederick, acting directly and through Mercury, acted as unregistered brokers in willful² violation of Section 15(a) of the Exchange Act. Frederick also willfully aided and abetted and caused Mercury's violation of Section 15(a).

Respondent

3. From June 2009 until Mercury Capital ceased operations in November 2010 (the "relevant period"), Douglas G. Frederick provided management services to, and was associated with, Mercury. In that capacity, Frederick caused Mercury to extend market access to traders through Mercury. Frederick previously held Series 6, 7, 55 and 63 licenses but was permanently barred in 2008 from association with a broker or dealer. See *In re Frederick*, Admin. Proc. File No. 3-13004, Initial Decision (Sept. 9, 2008) and Notice that Initial Decision Has Become Final (Oct. 8, 2008). Frederick, age 42, is a resident of Brighton, Michigan.

Other Relevant Entity

4. Mercury Capital is a Nevada corporation that had its principal place of business in La Jolla, California during the relevant period. Mercury has never been registered with the Commission in any capacity. During the relevant period, approximately 600 individuals traded as many as 800 million shares per month on U.S. exchanges in an omnibus account held in Mercury's name at a registered broker-dealer.³

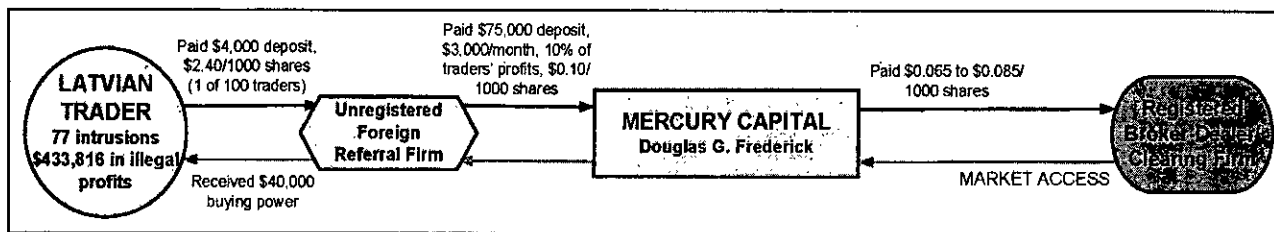
Sponsored Market Access

5. Sponsored market access is a form of trading access whereby a broker-dealer permits customers to enter orders into the public market without the orders first passing through the broker-dealer's trading systems.

² A willful violation of the securities laws means merely "that the person charged with the duty knows what he is doing." *Wonsover v. SEC*, 205 F.3d 408, 414 (D.C. Cir. 2000) (quoting *Hughes v. SEC*, 174 F.2d 969, 977 (D.C. Cir. 1949)).

³ The Commission previously issued an Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Sections 15(b)(4), 15(b)(6) and 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions and Cease-and-Desist Orders against Mercury and its president Lisa R. Hyatt. Exchange Act Rel. No. 66248 (Jan. 26, 2012).

6. The following chart illustrates the relationships through which Mercury and Frederick extended market access to an individual identified as a citizen of Latvia ("the Latvian trader") who conducted an account intrusion and market manipulation scheme.



7. During the relevant period, Mercury, and Frederick, through Mercury, received sponsored market access from a registered broker-dealer and passed the sponsored market access on to the Latvian trader and other traders through an unregistered Canadian entity that solicited traders through its website and referred them to Mercury.

8. In connection with extending sponsored market access to traders through the Canadian entity, Mercury and Frederick participated in the order-taking and order-routing process, extended credit to the traders in connection with securities transactions, and handled customer funds and securities.

9. During the relevant period, Mercury, at Frederick's direction, maintained an independent contractor agreement with the Canadian entity. Approximately 100 traders who had been referred by the Canadian entity were trading through Mercury's omnibus account via sponsored market access during the relevant period.

10. Under the independent contractor agreement, Mercury charged the Canadian entity a monthly fee of \$3,000 plus a "clearing fee" of \$0.10 per thousand shares traded, which exceeded the commission of \$0.065 to \$0.085 that Mercury paid its registered broker-dealer. Frederick was one of the individuals responsible for setting the fee and commission rate and directing Mercury to charge transaction-based compensation for extending the market access.

11. Mercury, at Frederick's direction, required the Canadian entity to make an initial risk deposit of \$75,000 and made the Canadian entity responsible for 100% of any trading losses that its traders incurred through Mercury's account.

12. During the relevant period, Frederick directed Mercury to maintain documentation tracking the Canadian entity's deposit balance against all commissions, fees, and profits or losses for all trading activity through Mercury's account by traders referred by the Canadian entity.

13. In April 2010, the Canadian entity notified Mercury that the Latvian trader had requested market access. Mercury provided the Latvian trader with sponsored access trading software and instructed the software provider to assign the Latvian trader a user ID and password so that he could use the software to trade online through Mercury's account. In so doing, Mercury, at Frederick's direction, provided order-taking and order-routing services and controlled an electronic trading system for the Latvian trader to trade in the public market. The Canadian entity agreed that Mercury could retain 10% of any trading profits generated by the Latvian trader through Mercury's account.

14. Frederick was one of the individuals responsible for authorizing traders referred by the Canadian entity to trade through Mercury's account, for determining whether to terminate a trader's access, and for controlling the trading parameters in the trading software, including the amount of margin each trader received.

15. The Latvian trader wired \$4,000 of his own money to the Canadian entity as a risk deposit. Mercury then used the trading software to extend the Latvian trader \$40,000 in "buying power" through Mercury's account, which was a portion of the trading margin that Mercury received from the registered broker-dealer. Although Mercury extended credit to the Latvian trader to purchase securities, Mercury's capital was not ultimately at risk because it was entitled to recoup losses from the Canadian entity and the trading software allowed Mercury to see the Latvian trader's trading in real time and automatically cut off his trading access if he or other traders referred by the Canadian entity incurred losses greater than the Canadian entity's deposit balance.

Account Intrusions

16. On 77 occasions between April 2010 and July 2010, the Latvian trader made profitable trades through Mercury's account contemporaneous with unauthorized trading in the same securities in hijacked online brokerage accounts at multiple U.S. broker-dealers.

17. On each occasion, the Latvian trader first established a long or short position in a security through Mercury's account. Then the Latvian trader surreptitiously gained access to an online brokerage account and made large unauthorized trades in the same security to manipulate the stock price in his favor. Finally, during or shortly after the manipulative trading in the intruded account, the Latvian trader closed out his position through Mercury at the artificial market price to generate a profit.

18. The Latvian trader generated ill-gotten gains of \$433,816 from the scheme through the electronic trading system provided by Mercury. The Latvian trader engaged in similar manipulative trading through other unregistered firms, and generated total profits of more than \$850,000 from 159 account intrusions between June 2009 and August 2010.

19. As a result of providing electronic order-taking and order-routing services that the Latvian trader used to conduct an illegal market manipulation scheme, Mercury retained 10% of the Latvian trader's illegal trading profits, or \$43,382, and also received trading commissions and fees.

20. By extending market access to traders through the Canadian entity in the manner described above, including through participating in the order-taking and order-routing process, extending credit in connection with securities transactions, handling customer funds and securities, and allocating trades conducted by the traders against deposits provided by the Canadian entity, Mercury, and Frederick, directly and through Mercury, engaged in the business of effecting transactions in securities for the account of others.

21. As described above, Frederick was aware of his role in furthering improper or illegal activity by Mercury and provided substantial assistance to Mercury in connection with conduct that constituted a violation of the federal securities laws.

Violations

22. As a result of the conduct described above, Frederick willfully violated Section 15(a) of the Exchange Act, which prohibits certain persons and entities, while acting as brokers, from effecting transactions in securities when such person or entity is not registered with the Commission as a broker.

23. As a result of the conduct described above, Frederick willfully aided and abetted and caused Mercury's violation of Section 15(a) of the Exchange Act, which prohibits certain persons and entities, while acting as brokers, from effecting transactions in securities when such person or entity is not registered with the Commission as a broker.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent's Offer.

Accordingly, pursuant to Sections 15(b) and 21C of the Exchange Act, it is hereby ORDERED that:

A. Respondent shall cease and desist from committing or causing any violations and any future violations of Section 15(a) of the Exchange Act.

B. Respondent be, and hereby is:

barred from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization; and

barred from participating in any offering of a penny stock, including: acting as a promoter, finder, consultant, agent or other person who engages in activities with a broker, dealer or issuer for purposes of the issuance or trading in any penny stock, or inducing or attempting to induce the purchase or sale of any penny stock.

C. Any reapplication for association by the Respondent will be subject to the applicable laws and regulations governing the reentry process, and reentry may be conditioned upon a number of factors, including, but not limited to, the satisfaction of any or all of the following: (a) any disgorgement ordered against the Respondent, whether or not the Commission has fully or partially waived payment of such disgorgement; (b) any arbitration award related to the conduct that served as the basis for the Commission order; (c) any self-regulatory organization arbitration award to a customer, whether or not related to the conduct that served as the basis for the Commission order; and (d) any restitution order by a self-regulatory organization, whether or not related to the conduct that served as the basis for the Commission order.

D. Respondent shall, within 30 days of the entry of this Order, pay a civil money penalty in the amount of \$35,000 to the United States Treasury. If timely payment is not made, interest shall accrue pursuant to 31 U.S.C. Section 3717. Such payment shall be: (A) made by wire transfer, United States postal money order, certified check, bank cashier's check, or bank money order; (B) made payable to the Securities and Exchange Commission; (C) hand-delivered or mailed to the Securities and Exchange Commission, Office of Financial Management, 100 F St., NE, Stop 6042,

Washington, DC 20549; and (D) submitted under cover letter that identifies Douglas G. Frederick as a Respondent in these proceedings and the file number of these proceedings, a copy of which cover letter and check, money order, or wire transfer confirmation shall be sent to Jina L. Choi, Market Abuse Unit, Division of Enforcement, Securities and Exchange Commission, 44 Montgomery St, 26th Floor, San Francisco, CA 94104.

By the Commission.

Elizabeth M. Murphy
Secretary


By: **Jill M. Peterson**
Assistant Secretary

*Commissioner Walter
Commissioner Gallagher
not participating*

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 67028 / May 18, 2012

ADMINISTRATIVE PROCEEDING
File No. 3-14720

In the Matter of

Alchemy Ventures, Inc., KM
Capital Management, LLC,
Zanshin Enterprises, LLC,
Mark H. Rogers, Steven D.
Hotovec, Joshua A. Klein,
Yisroel M. Wachs, Frank K.
McDonald, and Douglas G.
Frederick,

Respondents.

**ORDER MAKING FINDINGS AND
IMPOSING REMEDIAL SANCTIONS AND
CEASE-AND-DESIST ORDERS PURSUANT
TO SECTIONS 15(b) AND 21C OF THE
SECURITIES EXCHANGE ACT OF 1934 AS
TO ZANSHIN ENTERPRISES, LLC AND
FRANK K. MCDONALD**

I.

In these proceedings, instituted on January 26, 2012 pursuant to Sections 15(b) and 21C of the Securities Exchange Act of 1934 ("Exchange Act"), Respondents Zanshin Enterprises, LLC ("Zanshin") and Frank K. McDonald (collectively "Respondents") have submitted Offers of Settlement ("Offers") which the Securities and Exchange Commission ("Commission") has determined to accept.

II.

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 Making Findings and Imposing Remedial Sanctions and Cease-and-Desist Orders Pursuant to Sections 15(b) and 21C of the Securities Exchange Act of 1934 as to Zanshin Enterprises, LLC and Frank K. McDonald ("Order"), as set forth below.

III.

On the basis of this Order and Respondents' Offers, the Commission finds¹ that:

¹ The findings herein are made pursuant to Respondents' Offers of Settlement and are not binding on any other persons or entities in this or any other proceeding.

Summary

1. These proceedings arise from trading access that Zanshin, an unregistered firm, and McDonald extended to an individual who subsequently used that trading access to profit from an account intrusion and market manipulation scheme. On nine occasions from September to December 2009, the individual made profitable trades through Zanshin contemporaneous with unauthorized trading in the same securities in hijacked online brokerage accounts of innocent and unknowing account holders at multiple U.S. broker-dealers. The individual generated ill-gotten gains of \$55,725 from the scheme through Zanshin.

2. By effecting securities transactions for the individual, Zanshin, and McDonald, acting directly and through Zanshin, acted as unregistered brokers in willful² violation of Section 15(a) of the Exchange Act. McDonald also willfully aided and abetted and caused Zanshin's violation of Section 15(a).

Respondents

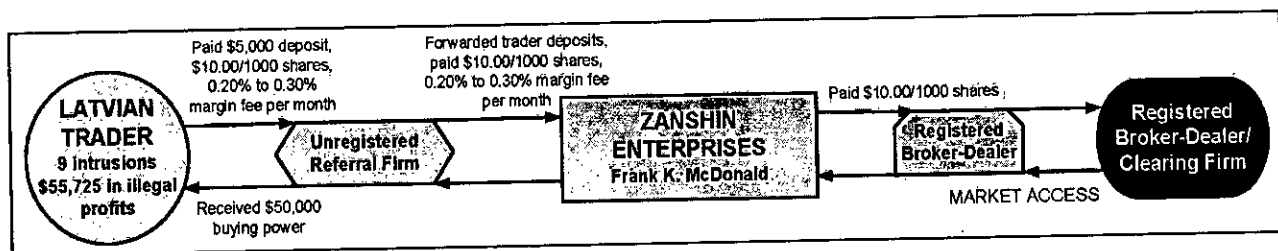
3. Zanshin Enterprises, LLC is a Texas limited liability company that had its principal place of business in Boise, Idaho until it ceased operations in February 2010. Zanshin has never been registered with the Commission in any capacity. From September to December 2009 (the "relevant period"), approximately 125 individuals traded as many as four million shares per month on U.S. exchanges in omnibus accounts held in Zanshin's name at a registered broker-dealer.

4. During the relevant period, Frank K. McDonald was Managing Member of, and associated with, Zanshin. In that capacity, McDonald caused Zanshin to extend market access to traders through Zanshin. McDonald did not hold any securities licenses and was not registered with the Commission in any capacity during the relevant period. McDonald, age 56, is a resident of Boise, Idaho.

Sponsored Market Access

5. Sponsored market access is a form of trading access whereby a broker-dealer permits customers to enter orders into the public market without the orders first passing through the broker-dealer's trading systems.

6. The following chart illustrates the relationships through which Zanshin and McDonald extended market access to an individual identified as a citizen of Latvia ("the Latvian trader") who conducted an account intrusion and market manipulation scheme.



² A willful violation of the securities laws means merely "that the person charged with the duty knows what he is doing." *Wonsover v. SEC*, 205 F.3d 408, 414 (D.C. Cir. 2000) (quoting *Hughes v. SEC*, 174 F.2d 969, 977 (D.C. Cir. 1949)).

7. During the relevant period, Zanshin, and McDonald, through Zanshin, received sponsored market access from a registered broker-dealer and passed the sponsored market access on to traders through a referral firm that solicited traders through its website and referred them to Zanshin.

8. In connection with extending sponsored market access to traders through the referral firm, Zanshin and McDonald participated in the order-taking and order-routing process, extended credit to the traders in connection with securities transactions, and handled customer funds and securities.

9. During the relevant period, McDonald arranged for traders solicited by the referral firm to receive market access through Zanshin. At McDonald's direction, traders who had been solicited by the referral firm were trading through Zanshin's omnibus account via sponsored market access during the relevant period.

10. In September 2009, the referral firm notified Zanshin that the Latvian trader had requested market access. Zanshin provided the Latvian trader with sponsored access trading software and instructed the software provider to assign the Latvian trader a user ID and password so that he could use the software to trade online through Zanshin's account. In so doing, Zanshin, at McDonald's direction, provided order-taking and order-routing services and controlled an electronic trading system for the Latvian trader to trade in the public market.

11. McDonald was ultimately responsible for authorizing traders referred by the referral firm to trade through Zanshin's account, for determining whether to terminate a trader's access, and for controlling the trading parameters in the trading software, including the amount of credit each trader received.

12. The Latvian trader wired \$5,000 of his own money to the referral firm as a risk deposit, which the referral firm forwarded to Zanshin. The referral firm arranged for the Latvian trader to sign a "trader agreement" stating that the Latvian trader was responsible for 100% of any trading losses that he incurred through Zanshin's account.

13. Zanshin then used the trading software to extend the Latvian trader \$50,000 in "buying power" through Zanshin's account, which was a portion of the trading credit that Zanshin received from its registered broker-dealer. Although Zanshin extended credit to the Latvian trader to purchase securities, Zanshin's capital was not ultimately at risk because it was entitled to recoup losses from the Latvian trader and the trading software allowed Zanshin to see the Latvian trader's trading in real time and would automatically cut off his trading access if his deposit balance fell below \$2,000, effectively allowing Zanshin to ensure that the Latvian trader would never lose money in excess of his deposit balance.

14. Instead of charging commissions, Zanshin received remuneration by charging the Latvian trader and other traders referred by the referral firm a monthly fee that ranged from 0.20 to 0.30 percent of every dollar of credit above their deposit balance that they were authorized to trade through Zanshin on margin. McDonald was responsible for setting the amount of the margin fees and directed Zanshin to collect these margin fees for extending the market access.

15. During the relevant period, McDonald directed Zanshin or the registered broker-dealer to track the Latvian trader's deposit balance, adding the trading profits that he generated

through Zanshin's account and subtracting the margin fees charged by Zanshin and the trading commissions charged by the registered broker-dealer.

Account Intrusions

16. On nine occasions between September and December 2009, the Latvian trader made profitable trades through Zanshin's account contemporaneous with unauthorized trading in the same securities in hijacked online brokerage accounts at multiple U.S. broker-dealers.

17. On each occasion, the Latvian trader first established a long or short position in a security through Zanshin's account. Then the Latvian trader surreptitiously gained access to an online brokerage account and made large unauthorized trades in the same security to manipulate the stock price in his favor. Finally, during or shortly after the manipulative trading in the intruded account, the Latvian trader closed out his position through Zanshin at the artificial market price to generate a profit.

18. The Latvian trader generated ill-gotten gains of \$55,725 from the scheme through the electronic trading system provided by Zanshin. The Latvian trader engaged in similar manipulative trading through other unregistered firms, and generated total profits of more than \$850,000 from 159 account intrusions between June 2009 and August 2010.

19. As a result of providing electronic order-taking and order-routing services that the Latvian trader used to conduct an illegal market manipulation scheme, Zanshin received \$5,700 in margin fees during the relevant period.

20. By extending market access to traders through the referral firm in the manner described above, including through participating in the order-taking and order-routing process, extending credit in connection with securities transactions, handling customer funds and securities, and allocating trades conducted by the traders against their deposits, Zanshin, and McDonald, directly and through Zanshin, engaged in the business of effecting transactions in securities for the account of others.

21. As described above, McDonald was aware of his role in furthering improper or illegal activity by Zanshin and provided substantial assistance to Zanshin in connection with conduct that constituted a violation of the federal securities laws.

Violations

22. As a result of the conduct described above, Zanshin and McDonald willfully violated Section 15(a) of the Exchange Act, which prohibits certain persons and entities, while acting as brokers, from effecting transactions in securities when such person or entity is not registered with the Commission as a broker.

23. As a result of the conduct described above, McDonald willfully aided and abetted and caused Zanshin's violation of Section 15(a) of the Exchange Act, which prohibits certain persons and entities, while acting as brokers, from effecting transactions in securities when such person or entity is not registered with the Commission as a broker.

Civil Penalty

24. Respondent Zanshin has submitted a sworn Statement of Financial Information dated February 3, 2012 and other evidence and has asserted its inability to pay a civil penalty.

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 Sections 15(b) and 21C of the Exchange Act, it is hereby ORDERED that:

A. Respondents Zanshin and McDonald shall cease and desist from committing or causing any violations and any future violations of Section 15(a) of the Exchange Act.

B. Respondents Zanshin and McDonald are censured.

C. Respondent Zanshin shall, within 30 days of the entry of this Order, pay disgorgement of \$5,700.00 and prejudgment interest of \$472.05 to the United States Treasury. If timely payment is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600. Payment shall be: (A) made by wire transfer, United States postal money order, certified check, bank cashier's check, or bank money order; (B) made payable to the Securities and Exchange Commission; (C) hand-delivered or mailed to the Securities and Exchange Commission, Office of Financial Management, 100 F St., NE, Stop 6042, Washington, DC 20549; and (D) submitted under cover letter that identifies Zanshin Enterprises, LLC as a Respondent in these proceedings and the file number of these proceedings, a copy of which cover letter and check, money order, or wire transfer confirmation shall be sent to Jina L. Choi, Market Abuse Unit, Division of Enforcement, Securities and Exchange Commission, 44 Montgomery St., 28th Floor, San Francisco, CA 94104.

D. Based upon Zanshin's sworn representations in its Statement of Financial Information dated February 3, 2012 and other documents submitted to the Commission, the Commission is not imposing a penalty against Respondent Zanshin.

E. The Division of Enforcement ("Division") may, at any time following the entry of this Order, petition the Commission to: (1) reopen this matter to consider whether Zanshin provided accurate and complete financial information at the time such representations were made; and (2) seek an order directing payment of the maximum civil penalty allowable under the law. No other issue shall be considered in connection with this petition other than whether the financial information provided by Zanshin was fraudulent, misleading, inaccurate, or incomplete in any material respect. Zanshin may not, by way of defense to any such petition: (1) contest the findings in this Order; (2) assert that payment of a penalty should not be ordered; (3) contest the imposition of the maximum penalty allowable under the law; or (4) assert any defense to liability or remedy, including, but not limited to, any statute of limitations defense.

F. Respondent McDonald shall, within 30 days of the entry of this Order, pay a civil money penalty in the amount of \$35,000 to the United States Treasury. If timely payment is not made, interest shall accrue pursuant to 31 U.S.C. Section 3717. Such payment shall be: (A) made by wire transfer, United States postal money order, certified check, bank cashier's check, or bank money order; (B) made payable to the Securities and Exchange Commission; (C) hand-delivered or mailed

to the Securities and Exchange Commission, Office of Financial Management, 100 F St., NE, Stop 6042, Washington, DC 20549; and (D) submitted under cover letter that identifies Frank K. McDonald as a Respondent in these proceedings and the file number of these proceedings, a copy of which cover letter and check, money order, or wire transfer confirmation shall be sent to Jina L. Choi, Market Abuse Unit, Division of Enforcement, Securities and Exchange Commission, 44 Montgomery St, 26th Floor, San Francisco, CA 94104.

By the Commission.

Elizabeth M. Murphy
Secretary


By: **Jill M. Peterson**
Assistant Secretary

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

May 18, 2012

In the Matter of

**Alderox, Inc.,
Applied Solar, Inc.,
Artes Medical, Inc.,
AskMeNow, Inc.,
Blink Logic Inc., and
Convergence Ethanol, Inc.,**

File No. 500-1

**ORDER OF SUSPENSION OF
TRADING**

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Alderox, Inc. because it has not filed any periodic reports since the period ended March 31, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Applied Solar, Inc. because it has not filed any periodic reports since the period ended February 28, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Artes Medical, Inc. because it has not filed any periodic reports since the period ended September 30, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of AskMeNow, Inc. because it has not filed any periodic reports since the period ended March 31, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Blink Logic Inc. because it has not filed any periodic reports since the period ended June 30, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Convergence Ethanol, Inc. because it has not filed any periodic reports since the period ended June 30, 2007.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on May 18, 2012, through 11:59 p.m. EDT on June 1, 2012.

By the Commission.

Elizabeth M. Murphy
Secretary

Jill M. Peterson
By: Jill M. Peterson
Assistant Secretary

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934

Release No. 67016 / May 18, 2012

ADMINISTRATIVE PROCEEDING

File No. 3-14886

In the Matter of

**Alderox, Inc.,
Applied Solar, Inc.,
Artes Medical, Inc.,
AskMeNow, Inc.,
Blink Logic Inc., and
Convergence Ethanol, Inc.,**

Respondents.

**ORDER INSTITUTING
ADMINISTRATIVE
PROCEEDINGS AND NOTICE
OF HEARING PURSUANT TO
SECTION 12(j) OF THE
SECURITIES EXCHANGE ACT
OF 1934**

I.

The Securities and Exchange Commission ("Commission") deems it necessary and appropriate for the protection of investors that public administrative proceedings be, and hereby are, instituted pursuant to Section 12(j) of the Securities Exchange Act of 1934 ("Exchange Act") against the Respondents named in the caption.

II.

After an investigation, the Division of Enforcement alleges that:

A. RESPONDENTS

1. Alderox, Inc. ("AROX")¹ (CIK No. 1100091) is a delinquent Colorado corporation located in San Clemente, California with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). AROX is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-QSB for the period ended March 31, 2008, which reported a net loss of \$5,525,941 for the prior nine months. On December 7, 2009, AROX filed a Chapter 7 petition in the U.S. Bankruptcy Court for the Central District of California, which was closed on July 7, 2011. As of May 11, 2012, the common stock of AROX was quoted on OTC Link (formerly "Pink Sheets") operated by OTC

¹The short form of each issuer's name is also its stock symbol.

Markets Group Inc. ("OTC Link"), had eight market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

2. Applied Solar, Inc. ("APSOQ") (CIK No. 1176193) is a revoked Nevada corporation located in San Diego, California with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). APSOQ is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-Q for the period ended February 28, 2009, which reported a net loss of \$38,780,000 for the prior nine months. On July 24, 2009, APSOQ filed a Chapter 11 petition in the U.S. Bankruptcy Court for the District of Delaware, which was converted to a Chapter 7 petition on December 23, 2009, and was still pending as of May 11, 2012. As of May 11, 2012, the common stock of APSOQ was quoted on OTC Link, had ten market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

3. Artes Medical, Inc. ("ARTEQ") (CIK No. 1351197) is a void Delaware corporation located in San Diego, California with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). ARTEQ is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-Q for the period ended September 30, 2008, which reported a net loss of \$35,461,000 for the prior nine months. On December 1, 2008, ARTEQ filed a Chapter 7 petition in the U.S. Bankruptcy Court for the Southern District of California, which was still pending as of May 11, 2012. As of May 11, 2012, the common stock of ARTEQ was quoted on OTC Link, had eight market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

4. AskMeNow, Inc. ("AKMN") (CIK No. 1104538) is a void Delaware corporation located in Irvine, California with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). AKMN is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-Q for the period ended March 31, 2008, which reported a net loss of \$10,884,045 for the prior three months. As of May 11, 2012, the common stock of AKMN was quoted on OTC Link, had nine market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

5. Blink Logic Inc. ("BLKL") (CIK No. 81350) is a revoked Nevada corporation located in San Rafael, California with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). BLKL is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-Q for the period ended June 30, 2009. As of May 11, 2012, the common stock of BLKL was quoted on OTC Link, had eight market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

6. Convergence Ethanol, Inc. ("CETH") (CIK No. 23778) is a defaulted Nevada corporation located in Las Vegas, Nevada with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). CETH is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-QSB for the period ended June 30, 2007, which reported a net loss of \$5,941,752 for the prior nine months. On December 21, 2007, CETH filed a Chapter 7 petition in the U.S. Bankruptcy Court for the Southern District of Texas, which was still pending as of May 11, 2012. As of May 11, 2012,

the common stock of CETH was quoted on OTC Link, had eleven market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

B. DELINQUENT PERIODIC FILINGS

7. As discussed in more detail above, all of the Respondents are delinquent in their periodic filings with the Commission, have repeatedly failed to meet their obligations to file timely periodic reports, and failed to heed delinquency letters sent to them by the Division of Corporation Finance requesting compliance with their periodic filing obligations or, through their failure to maintain a valid address on file with the Commission as required by Commission rules, did not receive such letters.

8. Exchange Act Section 13(a) and the rules promulgated thereunder require issuers of securities registered pursuant to Exchange Act Section 12 to file with the Commission current and accurate information in periodic reports, even if the registration is voluntary under Section 12(g). Specifically, Rule 13a-1 requires issuers to file annual reports, and Rule 13a-13 requires domestic issuers to file quarterly reports.

9. As a result of the foregoing, Respondents failed to comply with Exchange Act Section 13(a) and Rules 13a-1 and 13a-13 thereunder.

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate for the protection of investors that public administrative proceedings be instituted to determine:

A. Whether the allegations contained in Section II hereof are true and, in connection therewith, to afford the Respondents an opportunity to establish any defenses to such allegations; and,

B. Whether it is necessary and appropriate for the protection of investors to suspend for a period not exceeding twelve months, or revoke the registration of each class of securities registered pursuant to Section 12 of the Exchange Act of the Respondents identified in Section II hereof, and any successor under Exchange Act Rules 12b-2 or 12g-3, and any new corporate names of any Respondents.

IV.

IT IS HEREBY ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened at a time and place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice [17 C.F.R. § 201.110].

IT IS HEREBY FURTHER ORDERED that Respondents shall file an Answer to the allegations contained in this Order within ten (10) days after service of this Order, as provided by Rule 220(b) of the Commission's Rules of Practice [17 C.F.R. § 201.220(b)].

If Respondents fail to file the directed Answers, or fail to appear at a hearing after being duly notified, the Respondents, and any successor under Exchange Act Rules 12b-2 or 12g-3, and any new corporate names of any Respondents, may be deemed in default and the proceedings may be determined against it upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f), and 310 of the Commission's Rules of Practice [17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f), and 201.310].

This Order shall be served forthwith upon Respondents personally or by certified, registered, or Express Mail, or by other means permitted by the Commission Rules of Practice.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 120 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice [17 C.F.R. § 201.360(a)(2)].

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

By the Commission.

Elizabeth M. Murphy
Secretary


By: **Jill M. Peterson**
Assistant Secretary

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 67041 / May 22, 2012

ADMINISTRATIVE PROCEEDING
File No. 3-14887

In the Matter of

RICHARD A. FINGER, JR.,

Respondent.

**ORDER INSTITUTING
ADMINISTRATIVE PROCEEDINGS
PURSUANT TO SECTION 15(b) OF THE
SECURITIES EXCHANGE ACT OF 1934,
MAKING FINDINGS, AND IMPOSING
REMEDIAL SANCTIONS**

I.

The Securities and Exchange Commission ("Commission") deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted pursuant to Section 15(b) of the Securities Exchange Act of 1934 ("Exchange Act") against Richard A. Finger, Jr. ("Finger" or "Respondent").

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the "Offer") 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, Respondent consents to the Commission's jurisdiction over him and the subject matter of these proceedings and to the entry of this Order Instituting Administrative Proceedings Pursuant to Section 15(b) of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions ("Order"), as set forth below:

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III.

On the basis of this Order and Respondent's Offer, the Commission finds that:

1. Since February 2011, Finger has been the chief executive officer and majority owner of Black Diamond Securities, LLC ("Black Diamond"), a broker-dealer registered with the Commission with offices in Kirkland, Washington. Finger was also a registered representative of several other broker-dealer firms from 2001 through 2010.

2. On April 13, 2012, judgment was entered against Finger based on his guilty plea to one count of wire fraud, in violation of Title 18 United States Code, Sections 1342 and 1343, by the United States District Court for the Western District of Washington, in *United States v. Richard A. Finger, Jr.*, Crim. No. 2:11-cr-00382-RSM-1. As part of the judgment, Finger was sentenced to 54 months in prison and three years of supervised release.

3. The count of the criminal complaint to which Finger pled guilty alleged, *inter alia*, that (a) Finger induced individuals to invest significant sums of money in accounts Finger managed at various broker-dealers, including Black Diamond; (b) when trading these accounts on behalf of his clients, Finger generated significant trading losses and diverted funds to his personal benefit and use by charging excessive commissions; and (c) in order to conceal the trading losses and commissions, Finger provided clients with account statements that falsely reflected that Finger's trading had generated positive returns. As a result of this conduct, Finger defrauded at least ten investors of millions of dollars.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED pursuant to Section 15(b)(6) of the Exchange Act that Respondent be, and hereby is:

barred from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization; and

barred from participating in any offering of a penny stock, including: acting as a promoter, finder, consultant, agent or other person who engages in activities with a broker, dealer or issuer for purposes of the issuance or trading in any penny stock, or inducing or attempting to induce the purchase or sale of any penny stock.

Any reapplication for association by Respondent will be subject to the applicable laws and regulations governing the reentry process, and reentry may be conditioned upon a number of factors, including, but not limited to, the satisfaction of any or all of the following: (a) any disgorgement ordered against Respondent, whether or not the Commission has fully or partially

waived payment of such disgorgement; (b) any arbitration award related to the conduct that served as the basis for the Commission order; (c) any self-regulatory organization arbitration award to a customer, whether or not related to the conduct that served as the basis for the Commission order; and (d) any restitution order by a self-regulatory organization, whether or not related to the conduct that served as the basis for the Commission order.

By the Commission.

Elizabeth M. Murphy
Secretary

Jill M. Peterson
By: **Jill M. Peterson**
Assistant Secretary

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934

Release No. 67043 / May 23, 2012

ADMINISTRATIVE PROCEEDING

File No. 3-14888

In the Matter of

**Savoy Resources Corp.,
SNRG Corp.,
Standard Mobile, Inc., and
VTEX Energy, Inc.,**

Respondents.

**ORDER INSTITUTING
ADMINISTRATIVE PROCEEDINGS
AND NOTICE OF HEARING
PURSUANT TO SECTION 12(j) OF
THE SECURITIES EXCHANGE ACT
OF 1934**

I.

The Securities and Exchange Commission ("Commission") deems it necessary and appropriate for the protection of investors that public administrative proceedings be, and hereby are, instituted pursuant to Section 12(j) of the Securities Exchange Act of 1934 ("Exchange Act") against Respondents Savoy Resources Corp., SNRG Corp., Standard Mobile, Inc., and VTEX Energy, Inc.

II.

After an investigation, the Division of Enforcement alleges that:

A. RESPONDENTS

1. Savoy Resources Corp. (CIK No. 1113190) is a Colorado corporation located in Lakewood, Colorado with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Savoy Resources is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-QSB for the period ended March 31, 2006, which reported a net loss of over \$299,000 for the prior three months. As of May 14, 2012, the company's stock (symbol "SVYR") was quoted on OTC Link (previously, "Pink Sheets") operated by OTC Markets Group, Inc. ("OTC Link"), had seven market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

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2. SNRG Corp. (CIK No. 1102944) is a revoked Nevada corporation located in Houston, Texas with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). SNRG is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-QSB for the period ended June 30, 2006, which reported a net loss of over \$35,000 for the prior three months. As of May 14, 2012, the company's stock (symbol "SNRG") was quoted on OTC Link, had eleven market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

3. Standard Mobile, Inc. (CIK No. 1353490) is a Delaware corporation located in La Mirada, California with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Standard Mobile is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-Q for the period ended March 31, 2009, which reported a net loss of over \$6,000 for the prior three months. As of May 14, 2012, the company's stock (symbol "SDML") was quoted on OTC Link, had three market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

4. VTEX Energy, Inc. (CIK No. 1036265) is a revoked Nevada corporation located in Houston, Texas with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). VTEX Energy is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-QSB for the period ended July 31, 2006, which reported a net loss of over \$1.3 million for the prior three months. As of May 14, 2012, the company's stock (symbol "VXEN") was quoted on OTC Link, had seven market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

B. DELINQUENT PERIODIC FILINGS

5. As discussed in more detail above, all of the Respondents are delinquent in their periodic filings with the Commission, have repeatedly failed to meet their obligations to file timely periodic reports, and failed to heed delinquency letters sent to them by the Division of Corporation Finance requesting compliance with their periodic filing obligations or, through their failure to maintain a valid address on file with the Commission as required by Commission rules, did not receive such letters.

6. Exchange Act Section 13(a) and the rules promulgated thereunder require issuers of securities registered pursuant to Exchange Act Section 12 to file with the Commission current and accurate information in periodic reports, even if the registration is voluntary under Section 12(g). Specifically, Rule 13a-1 requires issuers to file annual reports, and Rule 13a-13 requires domestic issuers to file quarterly reports.

7. As a result of the foregoing, Respondents failed to comply with Exchange Act Section 13(a) and Rules 13a-1 and 13a-13 thereunder.

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate for the protection of investors that public administrative proceedings be instituted to determine:

A. Whether the allegations contained in Section II hereof are true and, in connection therewith, to afford the Respondents an opportunity to establish any defenses to such allegations; and,

B. Whether it is necessary and appropriate for the protection of investors to suspend for a period not exceeding twelve months, or revoke the registration of each class of securities registered pursuant to Section 12 of the Exchange Act of the Respondents identified in Section II hereof, and any successor under Exchange Act Rules 12b-2 or 12g-3, and any new corporate names of any Respondents.

IV.

IT IS HEREBY ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened at a time and place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice [17 C.F.R. § 201.110].

IT IS HEREBY FURTHER ORDERED that Respondents shall file an Answer to the allegations contained in this Order within ten (10) days after service of this Order, as provided by Rule 220(b) of the Commission's Rules of Practice [17 C.F.R. § 201.220(b)].

If Respondents fail to file the directed Answers, or fail to appear at a hearing after being duly notified, the Respondents, and any successor under Exchange Act Rules 12b-2 or 12g-3, and any new corporate names of any Respondents, may be deemed in default and the proceedings may be determined against it upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f), and 310 of the Commission's Rules of Practice [17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f), and 201.310].

This Order shall be served forthwith upon Respondents personally or by certified, registered, or Express Mail, or by other means permitted by the Commission Rules of Practice.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 120 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice [17 C.F.R. § 201.360(a)(2)].

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

By the Commission.

Elizabeth M. Murphy
Secretary

Jill M. Peterson
By: **Jill M. Peterson**
Assistant Secretary

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

May 23, 2012

In the Matter of

**Savoy Resources Corp.,
SNRG Corp.,
Standard Mobile, Inc., and
VTEX Energy, Inc.,**

File No. 500-1

**ORDER OF SUSPENSION OF
TRADING**

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Savoy Resources Corp. because it has not filed any periodic reports since the period ended March 31, 2006.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of SNRG Corp. because it has not filed any periodic reports since the period ended June 30, 2006.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Standard Mobile, Inc. because it has not filed any periodic reports since the period ended March 31, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of VTEX Energy, Inc. because it has not filed any periodic reports since the period ended July 31, 2006.

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The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on May 23, 2012, through 11:59 p.m. EDT on June 6, 2012.

By the Commission.

Elizabeth M. Murphy
Secretary


By: **Jill M. Peterson**
Assistant Secretary

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 67048 / May 23, 2012

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 3386 / May 23, 2012

ADMINISTRATIVE PROCEEDING
File No. 3-10415

In the Matter of Charles P. Morrison, CPA	:	ORDER GRANTING APPLICATION FOR REINSTATEMENT TO APPEAR AND PRACTICE BEFORE THE COMMISSION AS AN ACCOUNTANT RESPONSIBLE FOR THE PREPARATION OR REVIEW OF FINANCIAL STATEMENTS REQUIRED TO BE FILED WITH THE COMMISSION
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On January 31, 2001 Charles P. Morrison, CPA ("Morrison") was suspended from appearing or practicing before the Commission as an accountant as a result of settled public administrative proceedings instituted by the Commission against Morrison pursuant to Rule 102(e)(3)(i) of the Commission's Rules of Practice.¹ Morrison consented to the entry of the order without admitting or denying the findings therein. This order is issued in response to Morrison's application for reinstatement to appear and practice before the Commission as an accountant responsible for the preparation or review of financial statements required to be filed with the Commission.

The Commission found that Morrison had been permanently enjoined by the United States District Court for the Eastern District of Pennsylvania from future violations of Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") and Rule 10b-5 thereunder. The Commission's complaint alleged that, from at least December 1996 through July 1998, Morrison violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder by creating, reviewing and approving false financial statements and Disclosure Reports of the Allegheny Health, Education and Research Foundation ("AHERF") and certain subsidiaries. The complaint further alleged that Morrison falsely certified to the bond trustee of certain AHERF subsidiaries and others that the 1997 audited financial statements fairly presented the consolidated financial position and the results of operations for AHERF as of and for the fiscal year ended June 30, 1997 and that they were prepared in accordance with GAAP.

¹ See Accounting and Auditing Enforcement Release No. 1364 dated January 31, 2001. Morrison was permitted, pursuant to the order, to apply for reinstatement after three years upon making certain showings.

In his capacity as a preparer or reviewer, or as a person responsible for the preparation or review, of financial statements of a public company to be filed with the Commission, Morrison attests that he will undertake to have his work reviewed by the independent audit committee of any company for which he works, or in some other manner acceptable to the Commission, while practicing before the Commission in this capacity. Morrison is not, at this time, seeking to appear or practice before the Commission as an independent accountant. If he should wish to resume appearing and practicing before the Commission as an independent accountant, he will be required to submit an application to the Commission showing that he has complied and will comply with the terms of the original suspension order in this regard. Therefore, Morrison's suspension from practice before the Commission as an independent accountant continues in effect until the Commission determines that a sufficient showing has been made in this regard in accordance with the terms of the original suspension order.

Rule 102(e)(5) of the Commission's Rules of Practice governs applications for reinstatement, and provides that the Commission may reinstate the privilege to appear and practice before the Commission "for good cause shown."² This "good cause" determination is necessarily highly fact specific.

On the basis of information supplied, representations made, and undertakings agreed to by Morrison, it appears that he has complied with the terms of the January 31, 2001 order suspending him from appearing or practicing before the Commission as an accountant, that no information has come to the attention of the Commission relating to his character, integrity, professional conduct, or qualifications to practice before the Commission that would be a basis for adverse action against him pursuant to Rule 102(e) of the Commission's Rules of Practice, and that Morrison, by undertaking to have his work reviewed by the independent audit committee of any company for which he works, or in some other manner acceptable to the Commission, in his practice before the Commission as a preparer or reviewer of financial statements required to be filed with the Commission, has shown good cause for reinstatement. Therefore, it is accordingly,

ORDERED pursuant to Rule 102(e)(5)(i) of the Commission's Rules of Practice that Charles P. Morrison, CPA is hereby reinstated to appear and practice before the Commission as an accountant responsible for the preparation or review of financial statements required to be filed with the Commission.

By the Commission.

Elizabeth M. Murphy
Secretary

² Rule 102(e)(5)(i) provides:

"An application for reinstatement of a person permanently suspended or disqualified under paragraph (e)(1) or (e)(3) of this section may be made at any time, and the applicant may, in the Commission's discretion, be afforded a hearing; however, the suspension or disqualification shall continue unless and until the applicant has been reinstated by the Commission for good cause shown." 17 C.F.R. § 201.102(e)(5)(i).

Jill M. Peterson
By: **Jill M. Peterson**
Assistant Secretary

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934

Release No. 67049 / May 23, 2012

ACCOUNTING AND AUDITING ENFORCEMENT

Release No. 3387 / May 23, 2012

ADMINISTRATIVE PROCEEDING

File No. 3-11782

In the Matter of Frank D. Edwards, CA	:	ORDER GRANTING APPLICATION FOR REINSTATEMENT TO APPEAR AND PRACTICE BEFORE THE COMMISSION AS AN ACCOUNTANT RESPONSIBLE FOR THE PREPARATION OR REVIEW OF FINANCIAL STATEMENTS REQUIRED TO BE FILED WITH THE COMMISSION
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On December 27, 2004, Frank D. Edwards, CA ("Edwards") was suspended from appearing or practicing before the Commission as an accountant as a result of settled public administrative proceedings instituted by the Commission against Edwards pursuant to Rule 102(e)(3)(i) of the Commission's Rules of Practice.¹ Edwards consented to the entry of the order without admitting or denying the findings therein. This order is issued in response to Edwards' application for reinstatement to appear and practice before the Commission as an accountant responsible for the preparation or review of financial statements required to be filed with the Commission.

The Commission found that Edwards had been permanently enjoined by a United States District Court from violating Sections 10(b), 13(a), 13(b)(2)(A), 13(b)(2)(B), and 13(b)(5) of the Securities Exchange Act of 1934 ("Exchange Act") and Rules 10b-5, 12b-20, 13a-1, 13a-13, 13b2-1, and 13b2-2 thereunder in an action brought against him and other defendants by the Commission. In its complaint, the Commission alleged that Edwards, as the Chief Financial Officer of Robotic Vision Systems, Inc. ("Robotic"), signed certain misleading filings with the Commission while he knew, or was reckless in not knowing, that the financial statements contained therein contained material overstatements of revenue and net income resulting from the improper recognition of revenue, that he failed to disclose relevant information to Robotic's external auditors, and that he violated and aided and abetted violations of the books and records and internal controls provisions of the Exchange Act.

¹ See Accounting and Auditing Enforcement Release No. 2156 dated December 27, 2004. Edwards was permitted, pursuant to the order, to apply for reinstatement after five years upon making certain showings.

In his capacity as a preparer or reviewer, or as a person responsible for the preparation or review, of financial statements of a public company to be filed with the Commission, Edwards attests that he will undertake to have his work reviewed by the independent audit committee of any company for which he works, or in some other manner acceptable to the Commission, while practicing before the Commission in this capacity. Edwards is not, at this time, seeking to appear or practice before the Commission as an independent accountant. If he should wish to resume appearing and practicing before the Commission as an independent accountant, he will be required to submit an application to the Commission showing that he has complied and will comply with the terms of the original suspension order in this regard. Therefore, Edwards' suspension from practice before the Commission as an independent accountant continues in effect until the Commission determines that a sufficient showing has been made in this regard in accordance with the terms of the original suspension order.

Rule 102(e)(5) of the Commission's Rules of Practice governs applications for reinstatement, and provides that the Commission may reinstate the privilege to appear and practice before the Commission "for good cause shown."² This "good cause" determination is necessarily highly fact specific.

On the basis of information supplied, representations made, and undertakings agreed to by Edwards, it appears that he has complied with the terms of the December 27, 2004 order suspending him from appearing or practicing before the Commission as an accountant, that no information has come to the attention of the Commission relating to his character, integrity, professional conduct, or qualifications to practice before the Commission that would be a basis for adverse action against him pursuant to Rule 102(e) of the Commission's Rules of Practice, and that Edwards, by undertaking to have his work reviewed by the independent audit committee of any company for which he works, or in some other manner acceptable to the Commission, in his practice before the Commission as a preparer or reviewer of financial statements required to be filed with the Commission, has shown good cause for reinstatement. Therefore, it is accordingly,

ORDERED pursuant to Rule 102(e)(5)(i) of the Commission's Rules of Practice that Frank D. Edwards, CA is hereby reinstated to appear and practice before the Commission as an accountant responsible for the preparation or review of financial statements required to be filed with the Commission.

By the Commission.

Elizabeth M. Murphy
Secretary

Jill M. Peterson
By: **Jill M. Peterson**
Assistant Secretary

² Rule 102(e)(5)(i) provides:

"An application for reinstatement of a person permanently suspended or disqualified under paragraph (e)(1) or (e)(3) of this section may be made at any time, and the applicant may, in the Commission's discretion, be afforded a hearing; however, the suspension or disqualification shall continue unless and until the applicant has been reinstated by the Commission for good cause shown." 17 C.F.R. § 201.102(e)(5)(i).

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

May 24, 2012

In the Matter of

**Quintek Technologies, Inc.,
The Saint James Co.,
Urogen Pharmaceuticals, Inc.,
Valor Energy Corp.,
Wherify Wireless, Inc., and
WinWin Gaming, Inc.,**

File No. 500-1

**ORDER OF SUSPENSION OF
TRADING**

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Quintek Technologies, Inc. because it has not filed any periodic reports since the period ended September 30, 2007.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of The Saint James Co. because it has not filed any periodic reports since the period ended September 30, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Urogen Pharmaceuticals, Inc. because it has not filed any periodic reports since the period ended March 31, 2010.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Valor Energy Corp. because it has not filed any periodic reports since the period ended February 28, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Wherify Wireless, Inc. because it has not filed any periodic reports since the period ended June 30, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of WinWin Gaming, Inc. because it has not filed any periodic reports since the period ended June 30, 2006.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on May 24, 2012, through 11:59 p.m. EDT on June 7, 2012.

By the Commission.

Elizabeth M. Murphy
Secretary

Jill M. Peterson
By: **Jill M. Peterson**
Assistant Secretary

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934

Release No. 67051 / May 24, 2012

ADMINISTRATIVE PROCEEDING

File No. 3-14890

In the Matter of

**Quintek Technologies, Inc.,
The Saint James Co.,
Urigen Pharmaceuticals, Inc.,
Valor Energy Corp.,
Wherify Wireless, Inc., and
WinWin Gaming, Inc.,**

Respondents.

**ORDER INSTITUTING
ADMINISTRATIVE PROCEEDINGS
AND NOTICE OF HEARING
PURSUANT TO SECTION 12(j) OF
THE SECURITIES EXCHANGE ACT
OF 1934**

I.

The Securities and Exchange Commission ("Commission") deems it necessary and appropriate for the protection of investors that public administrative proceedings be, and hereby are, instituted pursuant to Section 12(j) of the Securities Exchange Act of 1934 ("Exchange Act") against Respondents Quintek Technologies, Inc., The Saint James Co., Urigen Pharmaceuticals, Inc., Valor Energy Corp., Wherify Wireless, Inc., and WinWin Gaming, Inc.

II.

After an investigation, the Division of Enforcement alleges that:

A. RESPONDENTS

1. Quintek Technologies, Inc. (CIK No. 1107714) is a suspended California corporation located in Huntington Beach, California with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Quintek Technologies is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-QSB for the period ended September 30, 2007. On August 6, 2003, a permanent injunction was entered against Quintek Technologies, enjoining the company from violations of the Exchange Act, including Section 13(a). As

of May 14, 2012 the company's stock (symbol "QTEK") was quoted on OTC Link (previously, "Pink Sheets") operated by OTC Markets Group, Inc. ("OTC Link"), had nine market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

2. The Saint James Co. (CIK No. 758256) is a North Carolina corporation located in Santa Monica, California with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). The Saint James Co. is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-Q for the period ended September 30, 2009, which reported a net loss of over \$1 million for the prior nine months. As of May 14, 2012, the company's stock (symbol "STJC") was quoted on OTC Link, had seven market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

3. Urogen Pharmaceuticals, Inc. (CIK No. 932352) is a Delaware corporation located in Walnut Creek, California with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Urogen Pharmaceuticals is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-Q for the period ended March 31, 2010, which reported a net loss of over \$2.8 million for the prior nine months. As of May 14, 2012, the company's stock (symbol "URGP") was quoted on OTC Link, had eleven market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

4. Valor Energy Corp. (CIK No. 1081242) is a defaulted Nevada corporation located in Salmon Arm, British Columbia, Canada with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Valor Energy is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-Q/A for the period ended February 28, 2009, which reported a net loss of over \$332,000 for the prior three months. As of May 14, 2012, the company's stock (symbol "VLEN") was quoted on OTC Link, had six market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

5. Wherify Wireless, Inc. (CIK No. 1051902) is a void Delaware corporation located in San Mateo, California with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Wherify Wireless is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-KSB for the period ended June 30, 2008, which failed to provide any financial statements, and was materially deficient. As of May 14, 2012, the company's stock (symbol "WFYW") was quoted on OTC Link, had ten market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

6. WinWin Gaming, Inc. (CIK No. 897545) is a revoked Nevada corporation located in Las Vegas, Nevada with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). WinWin Gaming is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-QSB for the period ended June 30, 2006, which reported a net loss of over \$7.3 million for the prior six months. As of May 14, 2012, the company's stock (symbol

"WNWN") was quoted on OTC Link, had nine market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

B. DELINQUENT PERIODIC FILINGS

7. As discussed in more detail above, all of the Respondents are delinquent in their periodic filings with the Commission, have repeatedly failed to meet their obligations to file timely periodic reports, and failed to heed delinquency letters sent to them by the Division of Corporation Finance requesting compliance with their periodic filing obligations or, through their failure to maintain a valid address on file with the Commission as required by Commission rules, did not receive such letters.

8. Exchange Act Section 13(a) and the rules promulgated thereunder require issuers of securities registered pursuant to Exchange Act Section 12 to file with the Commission current and accurate information in periodic reports, even if the registration is voluntary under Section 12(g). Specifically, Rule 13a-1 requires issuers to file annual reports, and Rule 13a-13 requires domestic issuers to file quarterly reports.

9. As a result of the foregoing, Respondents failed to comply with Exchange Act Section 13(a) and Rules 13a-1 and 13a-13 thereunder.

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate for the protection of investors that public administrative proceedings be instituted to determine:

A. Whether the allegations contained in Section II hereof are true and, in connection therewith, to afford the Respondents an opportunity to establish any defenses to such allegations; and,

B. Whether it is necessary and appropriate for the protection of investors to suspend for a period not exceeding twelve months, or revoke the registration of each class of securities registered pursuant to Section 12 of the Exchange Act of the Respondents identified in Section II hereof, and any successor under Exchange Act Rules 12b-2 or 12g-3, and any new corporate names of any Respondents.

IV.

IT IS HEREBY ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened at a time and place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice [17 C.F.R. § 201.110].

IT IS HEREBY FURTHER ORDERED that Respondents shall file an Answer to the allegations contained in this Order within ten (10) days after service of this Order, as provided by Rule 220(b) of the Commission's Rules of Practice [17 C.F.R. § 201.220(b)].

If Respondents fail to file the directed Answers, or fail to appear at a hearing after being duly notified, the Respondents, and any successor under Exchange Act Rules 12b-2 or 12g-3, and any new corporate names of any Respondents, may be deemed in default and the proceedings may be determined against it upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f), and 310 of the Commission's Rules of Practice [17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f), and 201.310].

This Order shall be served forthwith upon Respondents personally or by certified, registered, or Express Mail, or by other means permitted by the Commission Rules of Practice.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 120 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice [17 C.F.R. § 201.360(a)(2)].

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

By the Commission.

Elizabeth M. Murphy
Secretary

By: *Jill M. Peterson*
Jill M. Peterson
Assistant Secretary

SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-9325; 34-67038 File No. 265-27]

SUBJECT: Advisory Committee on Small and Emerging Companies.

AGENCY: Securities and Exchange Commission.

ACTION: Notice of Meeting of SEC Advisory Committee on Small and Emerging Companies.

SUMMARY: The Securities and Exchange Commission Advisory Committee on Small and Emerging Companies is providing notice that it will hold a public meeting on Friday, June 8, 2012, in Multi-Purpose Room LL-006 at the Commission's headquarters, 100 F Street, N.E., Washington, DC. The meeting will begin at 9:00 a.m. (EDT) and will be open to the public. The meeting will be webcast on the Commission's website at www.sec.gov. Persons needing special accommodations to take part because of a disability should notify the contact person listed below. The public is invited to submit written statements to the Committee.

The agenda for the meeting includes discussions of provisions of the Jumpstart Our Business Startups (JOBS) Act and other matters relating to rules and regulations affecting small and emerging companies under the federal securities laws. Notice of this meeting is less than fifteen days prior to the meeting due to an administrative delay.

DATES: Written statements should be received on or before June 5, 2012.

ADDRESSES: Written statements may be submitted by any of the following methods:

Electronic Statements:

- Use the Commission's Internet submission form (<http://www.sec.gov/info/smallbus/acsec.shtml>);

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or

- Send an e-mail message to rule-comments@sec.gov. Please include File Number 265-27 on the subject line; or

Paper Statements:

- Send paper statements in triplicate to Elizabeth M. Murphy, Federal Advisory Committee Management Officer, Securities and Exchange Commission, 100 F Street, N.E., Washington, DC 20549-1090.

All submissions should refer to File No. 265-27. This file number should be included on the subject line if e-mail is used. To help us process and review your statement more efficiently, please use only one method. The Commission will post all statements on the Advisory Committee's website (<http://www.sec.gov/info/smallbus/acsec.shtml>).

Statements also will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, N.E., Room 1580, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. All statements received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Johanna V. Losert, Special Counsel, at (202) 551-3460, Office of Small Business Policy, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street, N.E., Washington, DC 20549-3628.

SUPPLEMENTARY INFORMATION: In accordance with Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C.-App. 1, and the regulations thereunder, Meredith B. Cross, Designated Federal Officer of the Committee, has ordered publication of this notice.

By the Commission.

A handwritten signature in black ink that reads "Elizabeth M. Murphy". The signature is written in a cursive style with a horizontal line at the end.

Elizabeth M. Murphy
Secretary

Dated: May 23, 2012

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 67060 / May 24, 2012

ADMINISTRATIVE PROCEEDING
File No. 3-14891

In the Matter of

SPENCER C. BARASCH,

Respondent.

**ORDER INSTITUTING ADMINISTRATIVE
PROCEEDINGS PURSUANT TO SECTION
4C OF THE SECURITIES EXCHANGE ACT
OF 1934 AND RULE 102(e) OF THE
COMMISSION'S RULES OF PRACTICE,
MAKING FINDINGS, AND IMPOSING
REMEDIAL SANCTIONS**

I.

The Securities and Exchange Commission ("Commission") deems it appropriate that public administrative proceedings be, and hereby are, instituted against Spencer C. Barasch ("Respondent" or "Barasch"), pursuant to Section 4C of the Securities Exchange Act of 1934 and Rule 102(e)(1)(ii) of the Commission's Rules of Practice.¹

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the "Offer") 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 him and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Administrative Proceedings Pursuant to Section 4C of the Securities Exchange Act of 1934 and Rule 102(e) of the Commission's Rules of Practice, Making Findings, and Imposing Remedial Sanctions ("Order"), as set forth below.

¹ Rule 102(e)(1)(ii) provides in relevant part, that:

The Commission may censure a person or deny, temporarily or permanently, the privilege of appearing or practicing before it in any way to any person who is found by the Commission after notice and opportunity for hearing in the matter:

(ii) to be lacking in character or integrity or to have engaged in unethical or improper professional conduct ***.

III.

On the basis of this Order and Respondent's Offer, the Commission finds that:

1. Barasch, age 54, is licensed to practice law in the District of Columbia and the State of Texas.
2. Barasch was Associate District Director for Enforcement in the Commission's Fort Worth District Office ("FWDO") from June 1998 until April 2005.
3. Between 1998 and 2003, Barasch participated personally and substantially in several decisions relating to the Commission's response to allegations that various entities associated with Robert Allen Stanford, including Stanford Group Company ("SGC"), violated the federal securities laws in connection with the sale of Stanford International Bank's ("SIB") self-styled "certificates of deposit."
4. After leaving the FWDO, Barasch joined a private law firm in 2005 and, later that year, contacted the Commission's Ethics Office to inquire as to whether there was an ethical bar to his representing SGC regarding an inquiry by the FWDO. The Ethics Office informed him that he was permanently barred from working for SGC on this matter because it was the same as or substantially related to matters he participated in while a Commission employee. Barasch declined SGC's request for representation at this time.
5. In the fall of 2006, SGC retained Barasch's legal services regarding an SEC inquiry. In total, Barasch billed for approximately 12 hours of legal service, including travel time.
6. On or about October 26, 2006, the Commission entered a formal order of investigation relating to SGC's possible violation of the federal securities laws in connection with the sale of SIB's self-styled "certificates of deposit."
7. After learning that the Commission had entered the formal order of investigation involving SGC, on or about November 27, 2006, Barasch knowingly communicated with FWDO staff with the intent to influence them. First, Barasch attempted to obtain information from FWDO staff about the investigation of SGC. Second, when one of the FWDO attorneys, in responding to that call, questioned whether Barasch could represent SGC, Barasch attempted to convince him that Barasch's involvement with the SGC matter while at the Commission was minimal,

and that Barasch could therefore represent SGC before the Commission. The FWDO attorney suggested that Barasch contact the Ethics Office.

8. Soon thereafter, Barasch contacted the Ethics Office and was again informed that he was permanently barred from working on matters concerning SGC's possible violation of the federal securities laws in connection with the sale of SIB's self-styled "certificates of deposit." Barasch billed no further time on the matter.
9. 18 U.S.C. § 207(a)(1) prohibits any former "officer or employee . . . of the executive branch of the United States . . . after the termination of his or her service or employment with the United States" from "knowingly mak[ing], with the intent to influence, any communication to or appearance before any officer or employee of any . . . agency . . . on behalf of any other person . . . , in connection with a particular matter--"
 - (A) in which the United States . . . is a party or has a direct and substantial interest,
 - (B) in which the person participated personally and substantially as such officer or employee, and
 - (C) which involved a specific party or specific parties at the time of such participation.
10. The Commission finds that Barasch's conduct was prohibited by 18 U.S.C. § 207(a)(1) and that his failure to comply with 18 U.S.C. § 207(a)(1) constitutes "improper professional conduct" under Commission Rule of Practice 102(e)(1)(ii).

IV.

Barasch has paid \$50,000 to the Department of Justice in settlement of claims pertaining to Barasch's representation of SGC, which represents the maximum civil fine available for a civil violation of 18 U.S.C. § 207.

V.

In view of the foregoing factual findings and the \$50,000 civil fine, the Commission deems it appropriate to impose the sanction agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED, effective immediately, that:

- A. Respondent is denied the privilege of appearing or practicing before the Commission as an attorney for ONE YEAR from the date of the Order.

B. After one year from the date of the Order, Respondent may request that the Commission consider his application to resume appearing and practicing before the Commission as an attorney. The application should be sent to the attention of the Office of the General Counsel.

C. In support of such an application, Respondent must provide a certificate of good standing from each state bar where Respondent is a member.

D. In support of such an application, Respondent must also submit an affidavit truthfully stating, under penalty of perjury:

1. that Respondent has complied with the Order;
2. that Respondent:
 - a. is not currently suspended or disbarred as an attorney by a court of the United States (or any agency of the United States) or the bar or court of any state, territory, district, commonwealth, or possession; and
 - b. since the entry of the Order, has not been suspended as an attorney for an offense involving moral turpitude by a court of the United States (or any agency of the United States) or the bar or court of any state, territory, district, commonwealth, or possession, except for any suspension concerning the conduct that was the basis for the Order;
3. that Respondent, since the entry of the Order, has not been convicted of a felony or misdemeanor involving moral turpitude as set forth in Rule 102(e)(2) of the Commission's Rules of Practice; and
4. that Respondent, since the entry of the Order:
 - a. has not been found by the Commission or a court of the United States to have committed a violation of the federal securities laws, except for any finding concerning the conduct that was the basis for the Order;
 - b. has not been charged by the Commission or the United States with a violation of the federal securities laws, except for any charge concerning the conduct that was the basis for the Order;
 - c. has not been found by a court of the United States or any state, territory, district, commonwealth, or possession, or any bar thereof, with having committed an offense involving moral turpitude,

except for any finding concerning the conduct that was the basis for the Order; and

- d. has not been charged by the United States or any state, territory, district, commonwealth, or possession, or any bar thereof, with having committed an offense involving moral turpitude, except for any charge concerning the conduct that was the basis for the Order.

E. If Respondent provides the documentation required in Paragraphs C and D, and the Commission determines that he truthfully attested to each of the items required in his affidavit, he shall by Commission order be permitted to resume appearing and practicing before the Commission as an attorney.

F. If Respondent is not able to truthfully attest to the statements required in Subparagraphs D(2)(b) or D(4), Respondent shall provide an explanation as to the facts and circumstances pertaining to the matter and the Commission may hold a hearing to determine whether there is good cause to permit him to resume appearing and practicing before the Commission as an attorney.

By the Commission.

Elizabeth M. Murphy
Secretary

Kevin M. O'Neill
By: Kevin M. O'Neill
Deputy Secretary

*Commissioner Natter
Commissioner Gallagher
not participating*

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 9326 / May 29, 2012

INVESTMENT ADVISERS ACT OF 1940
Release No. 3408 / May 29, 2012

INVESTMENT COMPANY ACT OF 1940
Release No. 30085 / May 29, 2012

ADMINISTRATIVE PROCEEDING
File No. 3-14893

In the Matter of

**QUANTEK ASSET MANAGEMENT, LLC,
BULLTICK CAPITAL MARKETS
HOLDINGS, LP, JAVIER GUERRA, and
RALPH PATINO,**

Respondents.

**ORDER INSTITUTING
ADMINISTRATIVE AND CEASE-AND-
DESIST PROCEEDINGS PURSUANT
TO SECTION 8A OF THE
SECURITIES ACT OF 1933, SECTIONS
203(e), 203(f), AND 203(k) OF THE
INVESTMENT ADVISERS ACT OF
1940, AND SECTION 9(b) OF THE
INVESTMENT COMPANY ACT OF
1940, MAKING FINDINGS, AND
IMPOSING REMEDIAL SANCTIONS
AND CEASE-AND-DESIST ORDERS**

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"), Sections 203(e), 203(f), and 203(k) of the Investment Advisers Act of 1940 ("Advisers Act"), and Section 9(b) of the Investment Company Act of 1940 ("Investment Company Act") against Quantek Asset Management, LLC ("Quantek"), Bulltick Capital Markets Holdings, LP ("Bulltick"), Javier Guerra ("Guerra"), and Ralph Patino ("Patino") (collectively "Respondents").

II.

In anticipation of the institution of these proceedings, Respondents have submitted Offers 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, Sections 203(e), 203(f), and 203(k) of the Investment Advisers Act of 1940, and Section 9(b) of the Investment Company Act of 1940, Making Findings, and Imposing Remedial Sanctions and Cease-and-Desist Orders ("Order"), as set forth below.

III.

On the basis of this Order and Respondents' Offers, the Commission finds¹ that:

Summary

This case involves a prominent Latin American-focused hedge fund adviser named Quantek that misled investors about three important attributes of funds that it managed: management "skin in the game," the funds' investment process, and certain related-party transactions. At its peak, Quantek managed over \$1 billion in assets, primarily through the Quantek Master Fund, SPC Ltd. and its two feeder funds, Quantek Opportunity Fund, L.P. and Quantek Opportunity Fund, Ltd. (collectively the "Opportunity Funds").

First, from 2006 through 2008, Quantek made various representations to the effect that its principals had "skin in the game" along with investors in the Opportunity Funds. "Skin in the game," in the managed fund context, means that the adviser or its principals invest their own money in the fund. Many fund investors consider this an important way to align the adviser's interests with their own, resulting in stronger discipline and risk management. In fact, Quantek's principals never invested their own capital in the Opportunity Funds. Quantek made these misstatements in due diligence questionnaires and in side letter agreements executed with certain institutional investors.

Second, from 2007 through 2008, Quantek misled investors about the rigor of the Opportunity Funds' investment process. The funds used an asset-based lending strategy, with a focus on industrial and real estate ventures in Latin America. Because the funds' loans were complex and illiquid, investors carefully evaluated Quantek's process for making investments. Quantek told investors that all of the funds' investments required approval by a committee of Quantek principals, and that the committee reviewed formal memoranda explaining each proposed investment before it was made. Quantek also told its largest investor that committee

¹ 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.

members documented their approval by signing the memoranda. In reality, Quantek failed to prepare investment committee memos for numerous transactions. In 2007, the funds' largest investor requested copies of the investment committee memos. Quantek responded by creating, backdating, and signing the missing memos, giving this investor – and others later – the misimpression that Quantek had been following its purportedly robust process all along.

Third, from 2007 through 2010, Quantek provided investors with inaccurate information about certain related-party transactions by the funds. Because the Opportunity Funds permitted related-party transactions with Quantek's parent company, Bulltick, and other affiliates, investors were wary of transactions that were not properly disclosed. In 2006 and 2007, the funds made related-party loans to an affiliate of their portfolio manager, Javier Guerra, and to Bulltick entities that were not properly documented or secured. Subsequently, Quantek and Bulltick employees prepared and backdated the missing loan documents. Quantek employees also created investment memos designed to appear as if they were drafted before the funds made the loans. These materials inaccurately described key terms of the related-party loans and gave the impression that the loans had been sufficiently documented and secured at all times. Quantek provided these misleading documents, or their substance, to the funds' investors in various ways.

By its actions, Quantek violated certain antifraud, compliance, and recordkeeping provisions of the Advisers Act and Securities Act. Quantek's managing principal, Guerra, and its former operations director, Ralph Patino, were responsible for making various misrepresentations on Quantek's behalf. Bulltick was responsible for aiding and abetting and causing some of Quantek's violations.

Respondents

Quantek Asset Management, LLC is a Delaware limited liability company with its principal place of business in Miami, Florida. At all relevant times it was the investment adviser for the Opportunity Funds. Quantek was a wholly owned subsidiary of Bulltick from November 2006 until January 2009, and is now owned primarily by Javier Guerra. Quantek has been registered as an investment adviser since June 2007.

Bulltick Capital Markets Holdings, LP is a Delaware limited partnership and the successor to Bulltick Capital Markets, LP, a Scottish limited partnership founded by Javier Guerra and his associates. Bulltick Capital Markets, LP was the Bulltick entity in existence at the time of the events described herein. It was the parent company of Quantek and two Commission registered broker-dealers.

Javier Guerra, age 41, resides in Miami, Florida. At all relevant times, Guerra was the lead principal of Quantek and the portfolio manager for the Opportunity Funds. Guerra was a partner and managing director of Bulltick from 2000 until January 2009, when Bulltick and Quantek separated. From at least 2006 through January 2009, an entity controlled by Guerra owned approximately 30% of Bulltick.

Ralph Patino, age 46, resides in Miramar, Florida. At all relevant times, Patino was Quantek's director of operations. Patino was also Quantek's head of compliance from December 2006 through approximately spring 2007, when the firm began preparations to register.

Other Relevant Entity

The Opportunity Funds are hedge funds created in July 2005. The funds have a master-feeder structure comprised of Quantek Master Fund, SPC Ltd. (offshore) and two feeder funds, Quantek Opportunity Fund, L.P. (onshore) and Quantek Opportunity Fund, Ltd., (offshore). Quantek served as investment adviser to the funds from December 2006 until September 2011. Prior to December 2006, the funds' adviser was Quantek Financial (Cayman), Ltd. At its peak in July 2008, the Opportunity Funds had over \$1 billion in assets.

Facts

A. Background

Bulltick and Guerra formed Quantek in 2006 to serve as investment adviser to the Opportunity Funds. The Opportunity Funds' main investment strategy was asset-based lending to finance various Latin American industrial and real estate ventures. The Opportunity Funds grew quickly and, by mid-2008, had over \$1 billion in assets and about seventy investors, many of which were institutional.

Quantek and Bulltick failed to implement strong compliance practices at Quantek to keep pace with the funds' rapid growth. Quantek lacked a dedicated adviser compliance function until spring 2008, almost a year after registering as an investment adviser. Between June 2007, when Quantek registered, and spring 2008, Bulltick's chief compliance officer and Bulltick's broker-dealer subsidiary compliance personnel were given responsibility for Quantek's compliance, even though they had virtually no experience or training concerning registered investment advisers. They also lacked adequate time to perform all of their additional compliance responsibilities including a review of Quantek's due diligence questionnaires and other correspondence with investors.

B. Misstatements Concerning "Skin in the Game"

From December 2006 through at least June 2008, Quantek made representations to prospective investors that its principals had invested their own money in the Opportunity Funds. Quantek made these representations in due diligence questionnaire responses and side letter agreements with sought-after institutional investors.² In fact, none of Quantek's principals or affiliates had ever invested their own wealth in the Opportunity Funds.

These misrepresentations provided Quantek with a significant marketing benefit. "Skin in the game," also known as principal co-investment, refers to an adviser's investment

² Quantek did make accurate disclosures to other investors on the subject of principal co-investment.

in the fund or otherwise alongside fund investors and is widely viewed as an important way to align a manager's interests with its investors. Many fund investors consider principal co-investment to be an important check on the manager, resulting in stronger investment discipline and risk management practices. Prospective investors frequently inquire about principal co-investment during their due diligence process, and many require it in their fund selection.

Due Diligence Questionnaires

Quantek made misstatements concerning its principals' investment in the Opportunity Funds on due diligence questionnaires published by the Alternative Investment Management Association ("AIMA").

AIMA is an international non-profit trade association for the hedge fund industry. Among the many publications it provides to members is a form due diligence questionnaire titled, "Illustrative Questionnaire for Due Diligence Review of Hedge Fund Managers" ("AIMA DDQ"). This questionnaire is commonly used throughout the industry. It is designed to be completed by hedge fund managers and distributed to prospective investors. The first page of the AIMA DDQ states that the form's purpose is to "serve as a guide to investors in their relations with hedge fund managers."

From December 2006 through June 2009, Quantek completed several AIMA DDQs and provided them to prospective investors in the Opportunity Funds.

The AIMA DDQs used by Quantek included a section titled "Management Team's Co-Investment" that contained the following questions:

What is the total amount invested by the principals/management in the fund and other investment vehicles managed *pari passu* with the fund?

Has the management reduced its personal investment?

- Date:
- Amount:
- Reasons:

Quantek's operations director and then head of compliance, Patino, was responsible for preparing Quantek's AIMA DDQ to be issued in December 2006. Patino answered the first question for Quantek by writing "\$13 million." He wrote "no" in response to the second question concerning management reduction of personal investment. In fact, Quantek principals and management had never invested in the Opportunity Funds or in any vehicle managed *pari passu* with the Opportunity Funds.³ Accordingly, Patino and Quantek's "\$13 million" answer was incorrect. The correct response was "zero."

³ The term *pari passu* is commonly used in the hedge fund industry. Its literal meaning is "of equal step." Quantek investors generally understood *pari passu*, in this context, to capture other investment vehicles

At the time he answered the AIMA DDQ Management Team Co-Investment questions, Patino did not know the meaning of the term *pari passu* and spent very little time researching its definition. Under an erroneous belief, Patino improperly counted certain unrelated investments as if they were investments made *pari passu* with the Opportunity Funds. Patino sent the completed draft AIMA DDQ answers to others at Quantek, including Guerra, for review and comment. Later, Guerra sent Quantek's AIMA DDQ responses to a prospective investor. That prospective investor subsequently invested approximately \$2 million in the Opportunity Funds.

Following the template set by Patino, Quantek and its third-party marketers provided prospective investors with the incorrect AIMA DDQ responses from December 2006 through June 2008. During that time, Patino and others at Quantek reduced the amount of Quantek's purported principal/management investment that was reported on AIMA DDQs from \$13 million to \$10 million in June 2007, and then to \$7 million in December 2007. The correct answer, however, was always "zero." Furthermore, even though Quantek reduced the amount of its purported principal co-investment, it consistently answered "No" to the question asking if Quantek management had reduced their personal investment.

The Opportunity Funds' investors who received AIMA DDQs continued to believe that Quantek's principals had a co-investment in the funds.

After Quantek registered as an investment adviser in June 2007, nearly a year passed before anyone reviewed the firm's AIMA DDQ responses for accuracy. During that period, Quantek did not have its own compliance staff. Bulltick and Guerra undertook to provide compliance resources to Quantek so it could meet its regulatory compliance obligations. Therefore, from June 2007 through spring 2008, Quantek and Bulltick shared compliance department employees, including a chief compliance officer. However, these shared employees had virtually no registered investment adviser compliance experience and were not properly trained in investment adviser regulatory issues. The employees also lacked sufficient time to review the AIMA DDQs because they were responsible for all compliance work at two Bulltick owned broker-dealers and Quantek, which by December 2007 was managing two separate hedge funds and almost \$1 billion in assets.

Eventually, in May 2008, Quantek hired a senior compliance manager with investment adviser compliance experience. He reviewed its AIMA DDQ responses and concluded that they should be changed. Accordingly, in an updated AIMA DDQ response dated June 2008, Quantek changed its principal/management investment answer to "N/A." In June 2009, Quantek changed this response again to "Zero." Quantek similarly changed its answer to the second part, concerning management reduction of personal investment, from "No" to "N/A."

Quantek also provided a prospective investor with misleading information about principal co-investment in the Opportunity Funds on another type of due diligence

utilizing the same strategy and style as the Opportunity Funds so that their value rose or fell in unison with the Opportunity Funds.

questionnaire. In December 2006, a prospective Opportunity Funds investor asked Quantek to complete a separate due diligence questionnaire titled, "Operational Due Diligence Questionnaire for Prospective Managers" ("Operational DDQ"). The Operational DDQ stated in capital letters on its first page:

THIS QUESTIONNAIRE IS AN INTEGRAL PART OF OUR DUE DILIGENCE PROCESS, NO INVESTMENT DECISIONS CAN OR WILL BE TAKEN, WITHOUT THE SUPPORT OF THIS COMPLETED DOCUMENT.

It contained the question: "Do the partners and employees have investments in the fund? Please provide as much information as possible." In response, Quantek stated that "[t]he Directors of the Manager have position of (*sic*) the fund, which represents a significant portion of their wealth." Quantek answered another query, which sought a description of the Opportunity Funds' investor base, by indicating that investments from Quantek principals accounted for 17% of the funds' assets. Quantek personnel prepared these inaccurate responses based on the firm's incorrect AIMA DDQ answers. In fact, none of Quantek's principals had invested in the Opportunity Funds. Less than two months after it received Quantek's misleading AIMA DDQ and Operational DDQ answers in December 2006, the prospective investor made a \$2.5 million investment in the Opportunity Funds.

Side Letter Agreements with Institutional Investors

In early 2007, two large institutional investors were considering investments in the Opportunity Funds. During the course of due diligence, one investor received Quantek's inaccurate AIMA DDQs concerning principal/management co-investment. The other investor received the same inaccurate information during a site visit to Quantek's offices. As a result, both investors operated with the understanding that Quantek's principals maintained a co-investment in the Opportunity Funds. Before investing, both investors separately sought assurances that they would be notified promptly if Quantek's principals significantly reduced their investments in the Opportunity Funds.

To memorialize their requirements, both investors sought and obtained side letter agreements from Quantek. The side letter with the first investor stated:

[Quantek] . . . agrees to (i) provide 2 business days written notice . . . and (ii) waive the standard notice period and accelerate the redemption date . . . if . . . Javier Guerra withdraws 20% or more of his investment in the Fund

The side letter with the second investor contained similar provisions in the event that "Quantek principals" redeemed 25% percent or more of their investment in the Opportunity Funds. Guerra executed both side letter agreements on behalf of Quantek and the Opportunity Funds.

These side letter agreements implied that Quantek's principals, including Guerra, had investments in the Opportunity Funds when in fact they did not. After receiving these side letters, the two investors allocated nearly \$100 million in combined capital to the Opportunity Funds.

C. Misrepresentations Concerning Investment Process

Quantek's investment process for the Opportunity Funds was particularly important to investors. Unlike funds that traded liquid securities on a public exchange, the Opportunity Funds made unique private investments that were illiquid. The funds' loans typically were secured by tangible assets or cash flows, and were subject to foreign law. In addition, Quantek was a relatively new adviser without an established performance record. For these reasons, many investors carefully evaluated Quantek's process for making investments on behalf of the Opportunity Funds.

Quantek's Stated Investment Process

Quantek's primary seed investor in the fall of 2006 was a large institutional hedge fund ("Seed Investor"). The Seed Investor made a number of requests that it wanted Quantek to satisfy before it would invest in the Opportunity Funds. One such request was that Quantek adopt a robust investment approval process. At the Seed Investor's request, Quantek formalized its investment process so that a committee would make investment decisions for the funds. This investment committee was comprised of five members: Guerra (chairman), two other Bulltick partners, Patino, and another senior Quantek employee.

According to the funds' offering documents, Quantek was to rely on the investment committee when making investment decisions for the funds, and all investments required approval from at least four committee members. Guerra assured the Seed Investor that all Opportunity Funds investments would be approved in advance by the investment committee, and that the committee would memorialize its decisions. Once Quantek committed to implementing this process, the Seed Investor allocated tens of millions of dollars to the Opportunity Funds.

Quantek made additional representations to prospective investors about its investment approval process. Beginning in December 2006, Quantek stated in AIMA DDQ responses and elsewhere that, as part of the approval process, a formal investment memorandum was prepared and presented to the investment committee for final consideration before each investment was made. These memoranda were to describe the proposed transactions and ask the investment committee to approve them. Patino also told the Seed Investor in June 2007 that when the investment committee approved a transaction, its members who voted for approval executed the investment memo for that transaction. Patino further indicated that there was no need for Quantek to prepare minutes of investment committee meetings because executed investment memos performed the same function. The investment memos, among other purposes, served to memorialize the decisions of the investment committee as part of the process Quantek promised the Seed Investor it would follow.

Failure to Follow Stated Investment Process

The Opportunity Funds grew very quickly. In mid-2006, the funds had about \$10 million in assets and three investors. By June 2007, the funds had approximately \$635 million in assets and almost 60 investors. The Opportunity Funds' rapid growth, however, coincided with a period of great disorganization at Quantek. Quantek had no standard procedure for maintaining the Opportunity Funds' investment documents and did not keep them in a centralized location. Many times Quantek employees could not readily locate investment documentation for reference.

Quantek's growth and disarray had an impact on the Opportunity Funds' investment approval process. During the first six months of 2007, Quantek repeatedly failed to follow the process that it had described to investors and prospective investors. Specifically, Quantek made at least fifteen investments for the Opportunity Funds without first preparing and submitting a memorandum to the investment committee. These investments accounted for about \$350 million, or more than half, of the Opportunity Funds' total portfolio value by June 2007.

The Seed Investor had a practice of conducting periodic due diligence reviews of the Opportunity Funds' portfolio. During one of these reviews in June 2007, a director of the Seed Investor asked Patino, Guerra, and others at Quantek for copies of the investment memoranda. None of the Quantek employees responded candidly that many of the investment memos did not exist. Instead, Quantek held off the Seed Investor to allow time for employees to prepare the missing investment memos. The newly-created memos described past Opportunity Funds investments in the future tense and purported to seek committee approval for deals that had already occurred. The memos also gave the impression that the committee's review and approval process was far more rigorous than it actually was. Guerra knew that Quantek employees were preparing after-the-fact investment memos for the Seed Investor in this way. Nevertheless, Guerra signed the memos along with other committee members so that Quantek could provide the Seed Investor with fully executed copies. Quantek provided these memos to the Seed Investor in June 2007. As a result, for the fifteen transactions in question, Quantek gave the Seed Investor the erroneous impression that the memos were authentic in describing the investment process and committee action.

Quantek generally prepared timely investment memoranda for investments made after June 2007. However, through the fall of 2007, Quantek personnel continued drafting after-the-fact memoranda for investments made prior to June 30, 2007. In addition, Quantek personnel provided the misleading memos to other investors and prospective investors conducting due diligence reviews of Opportunity Funds investments. The memos suggested that Quantek was following a robust, documented investment process, when in fact Quantek had frequently deviated from that process.

D. Misrepresentations Concerning Related-Party Transactions

The Opportunity Funds' asset-based lending strategy presented potential conflicts of interest between the funds and Quantek's affiliates, including its Bulltick parent company. Bulltick sometimes originated potential investments for the Opportunity Funds. Recognizing

this, the funds' offering documents permitted them to make transactions with Bulltick and other Quantek affiliates, including companies owned by Guerra. However, the Opportunity Funds' investors were wary of related-party transactions between the funds and Quantek's affiliates.

In 2006 and 2007, the Opportunity Funds made related-party loans to Bulltick entities and a separate Guerra-controlled company that were not properly documented or secured by collateral under the loan terms. Subsequently, Quantek and Guerra provided investors with misleading information about the timing and terms of these loans. Bulltick assisted Quantek and Guerra by creating written agreements for the loans that did not reflect the actual transactions and by permitting its subsidiaries to execute those agreements.

The "Equus" Loan

In August 2006, Guerra exercised his authority as portfolio manager to direct the Opportunity Funds to make an \$800,000 loan to a company he controlled for a real estate investment in New York City. The loan was reflected in the Opportunity Funds' records and repaid in full with interest by Guerra's affiliate company in 2008. However, Quantek and Guerra did not properly document the loan at the time it was made.

Before executing a loan agreement, Guerra wanted to ensure that the loan did not have negative tax implications for the Opportunity Funds. In early 2007, after these tax issues were resolved, Guerra signed a loan agreement on behalf of the Opportunity Funds. The underlying real estate investment was made by the Guerra-controlled company and had nothing to do with Bulltick or its subsidiaries. However, the loan agreement that Guerra executed inaccurately stated that the Opportunity Funds had made the loan to an entity called Equus Capital Partners, LP ("Equus"), which was a Bulltick subsidiary. The loan agreement also stated – incorrectly – that the loan was secured by "commissions" that Equus anticipated receiving, when in fact Equus's business did not actually involve the receipt of commissions. The agreement bore the date on which the loan was made in August 2006, rather than the date when the loan agreement was prepared and executed in 2007.

Guerra arranged for other Bulltick partners to execute the loan agreement and a similarly inaccurate loan note on behalf of Equus. As a result, Bulltick permitted its Equus subsidiary to enter into a related-party loan agreement with the Opportunity Funds that did not reflect the actual transaction. Instead of the loan documentation properly reflecting the funds' \$800,000 unsecured loan to Guerra's affiliate, the documents showed that the funds had made a nondescript secured loan to a Bulltick subsidiary called Equus.

Quantek and Guerra provided investors with untrue information about the loan. From June 2007 through July 2008, Quantek sent investors portfolio reports that referenced an "Equus" investment, even though the loan had nothing to do with Equus. For much of that time period, the same portfolio reports stated that the "Equus" investment was in Latin America when, in fact, Guerra's affiliate company received the loan and used it to purchase a building in New York City. In November and December 2007, Guerra personally provided some of the funds' investors with portfolio statements repeating the inaccurate borrower and collateral information in the backdated Equus loan documents. In January 2010, Quantek further

provided the inaccurate loan documents to a forensic accounting firm retained by a committee of large investors in the Opportunity Funds to evaluate the funds' related-party loans. Inaccurate information about the Opportunity Funds' loan to Guerra was also reflected on Quantek's internal records including its general ledger and trial balance for the Opportunity Funds.

The ERV Loan

Quantek and Guerra misled investors about another related-party transaction, a loan from the Opportunity Funds to an inactive Bulltick subsidiary called ERV Investments, LLC ("ERV"). Bulltick provided assistance by creating written agreements for the loan that did not reflect the actual transactions and permitting its subsidiaries to execute those agreements.

In March 2007, the Opportunity Funds made a \$10 million related-party loan to ERV. The purpose of the loan was to enable Bulltick, through the ERV special purpose vehicle, to provide initial capital to a new hedge fund that Quantek was forming. The loan documentation was executed by Guerra (on behalf of the funds) and other Bulltick partners (on behalf of ERV). To secure repayment of the Opportunity Funds' \$10 million loan, Bulltick pledged its ownership shares of ERV as collateral. However, ERV had no assets, no cash flows, and no other value apart from the loan proceeds it had just received.

After receiving the loan, Bulltick caused ERV to make a \$7 million investment in the new hedge fund. The rest of the \$3 million in loan proceeds were transferred to Bulltick and used for working capital. At this point, the Opportunity Funds' original \$10 million loan was under-secured by the ERV shares because ERV's only asset was the \$7 million subscription in the new fund.

In June 2007, Bulltick caused ERV to assign the Opportunity Funds' loan to Bulltick itself, along with the \$7 million subscription in the new hedge fund. Bulltick was now the borrower while ERV was once again an empty vehicle. However, in the loan assignment process, Bulltick failed to modify the original security agreement to ensure that valuable collateral would secure the funds' loan. Instead, the only collateral securing the loan was Bulltick's ownership stake in ERV, which was worthless. As a result, the Opportunity Funds' original loan to ERV was effectively unsecured. Bulltick ultimately repaid the loan in full with interest in 2009.

Guerra and Quantek provided the Opportunity Funds' investors with erroneous information about the ERV loan collateral. In June 2007, Guerra and the other investment committee members signed a backdated investment memo incorrectly stating that the loan was to be secured by Bulltick shares, when in fact it was secured by ERV shares. The difference was material, because ERV had no value at that time. The memo also stated that Bulltick would hold \$3 million of the loan proceeds as a "cash collateral agent," when in fact Bulltick had already used the \$3 million for its working capital. Quantek personnel provided this memo to various investors in the funds. Moreover, in November and December 2007, Guerra sent investors portfolio reports stating incorrectly that the loan collateral was shares of ERV worth

\$7.5 million, the value of the new hedge fund investment. In fact, the ERV shares had no value because the fund investment had been assigned to Bulltick.

Finally, in June 2008, Guerra and other Bulltick partners signed backdated assignment and pledge agreements for the Opportunity Funds' loan to ERV. In spring 2008, Bulltick personnel discovered that the documents assigning the loan from ERV to Bulltick had not been finalized. Bulltick attempted to remedy the problem by preparing backdated assignment and pledge agreements. Those documents incorrectly indicated that the ERV loan had been assigned to Bulltick and secured by Bulltick shares as early as June 2007. In this manner, Guerra, Quantek, and Bulltick made it appear as if the Opportunity Funds' loan to ERV was properly documented and secured with valuable collateral at all times. In September 2008, Quantek provided these loan documents to a prospective investor that was conducting due diligence on the funds' related-party transactions. In January 2010, Quantek also provided these documents to a forensic accounting firm that had been retained by a group of the Opportunity Funds' investors specifically to evaluate the funds' related-party loans.

Violations

Sections 17(a)(2) and 17(a)(3) of the Securities Act

Section 17(a)(2) of the Securities Act specifically prohibits obtaining money or property by means of any untrue statements of material fact or material omissions in the offer or sale of securities. Section 17(a)(3) prohibits engaging in any transaction, practice, or course of business which operates as a fraud or deceit upon the purchaser in the offer or sale of securities. Establishing violations of Sections 17(a)(2) and 17(a)(3) does not require a showing of scienter; negligence is sufficient. *Aaron v. SEC*, 446 U.S. 680, 697 (1980); *SEC v. Hughes Capital Corp.*, 124 F.3d 449, 453-54 (3d Cir. 1997).

As a result of the conduct described above, Quantek and Guerra willfully⁴ violated Sections 17(a)(2) and 17(a)(3) of the Securities Act, and Patino willfully violated Section 17(a)(3) of the Securities Act.

Section 206(4) of the Advisers Act and Rule 206(4)-8 Thereunder

Section 206(4) of the Advisers Act and Rule 206(4)-8 thereunder prohibit investment advisers from engaging in any act, practice, or course of business which is fraudulent, deceptive, or manipulative, and from making any untrue statement of a material fact or omitting to state a material fact necessary to make the statements made, in light of the circumstances under which they were made, not misleading to investors or prospective investors in a pooled investment vehicle. Scienter is not required to establish a violation of Section 206(4) and Rule 206(4)-8.

⁴ A willful violation of the securities laws means merely "that the person charged with the duty knows what he is doing." *Wonsover v. SEC*, 205 F.3d 408, 414 (D.C. Cir. 2000) (quoting *Hughes v. SEC*, 174 F.2d 969, 977 (D.C. Cir. 1949)).

As a result of the conduct described above, Quantek and Guerra willfully violated Section 206(4) of the Advisers Act and Rule 206(4)-8 thereunder, and Patino willfully aided and abetted and caused Quantek's violations of Section 206(4) of the Advisers Act and Rule 206(4)-8 thereunder.

As a result of the conduct described above, Bulltick willfully aided and abetted and caused Quantek's violations of Section 206(4) of the Advisers Act and Rule 206(4)-8 thereunder.

Section 206(4) of the Advisers Act and Rule 206(4)-7 Thereunder

Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder require registered investment advisers to adopt and implement written procedures reasonably designed to prevent violations of the Advisers Act.

Quantek willfully violated Rule 206(4)-7 by failing to implement policies and procedures reasonably designed to prevent the firm from making material misrepresentations to investors. Quantek's compliance policies required all of its correspondence with investors and prospective investors to be reviewed for compliance with applicable laws and approved in advance by its chief compliance officer. Quantek's compliance staff lacked sufficient time to review those marketing materials because of their other compliance responsibilities at Quantek affiliates. In addition, prior to spring 2008, Quantek's compliance employees, including its chief compliance officer, had virtually no investment adviser compliance experience or training. As a result, Quantek's correspondence with investors and prospective investors was not adequately reviewed and approved as required by its own compliance policies.

Both Bulltick and Guerra willfully aided and abetted and caused Quantek's violations of Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder. Guerra was the founder and managing principal of Quantek as well as portfolio manager of the Opportunity Funds. Bulltick established Quantek to serve as its hedge fund advisory subsidiary. Guerra and Bulltick knew about Quantek's regulatory compliance obligations and undertook to provide compliance staff for the firm. However, they assigned compliance staff to Quantek that did not have the necessary training, experience, and time to perform the required advisory compliance functions.

Section 204 of the Advisers Act and Rule 204-2(a)(7)

Section 204 of the Advisers Act requires that every investment adviser registered or required to be registered maintain certain books and records. Rule 204-2(a)(7) requires that registered investment advisers "make and keep true, accurate and current . . . originals of all written communications received and copies of all written communications sent by such investment adviser[s] relating to (i) any recommendation made or proposed to be made and any advice given or proposed to be given, [and] (ii) any receipt, disbursement or delivery of funds or securities"

Quantek willfully violated Section 204 of the Advisers Act and Rule 204-2(a)(7) thereunder by failing to keep true, accurate, and current originals of written communications

with investors and others concerning certain of the Opportunity Funds' related-party loans, whose underlying source documentation was inaccurate.

As a result of the conduct described above, Bulltick and Guerra willfully aided and abetted and caused Quantek's violations of Section 204 of the Advisers Act and Rule 204-2(a)(7) thereunder.

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, Sections 203(e), 203(f), and 203(k) of the Advisers Act, and Section 9(b) of the Investment Company Act, it is hereby ORDERED that:

A. Respondent **Quantek** cease and desist from committing or causing any violations and any future violations of Sections 17(a)(2) and 17(a)(3) of the Securities Act and Sections 206(4) and 204 of the Advisers Act and Rules 206(4)-8, 206(4)-7, and 204-2(a)(7) thereunder.

B. Respondent **Guerra** cease and desist from committing or causing any violations and any future violations of Sections 17(a)(2) and 17(a)(3) of the Securities Act and Sections 206(4) and 204 of the Advisers Act and Rules 206(4)-8, 206(4)-7, and 204-2(a)(7) thereunder.

C. Respondent **Bulltick** cease and desist from committing or causing any violations and any future violations of Sections 206(4) and 204 of the Advisers Act and Rules 206(4)-8, 206(4)-7, and 204-2(a)(7) thereunder.

D. Respondent **Patino** cease and desist from committing or causing any violations and any future violations of Section 17(a)(3) of the Securities Act and Section 206(4) of the Advisers Act and Rule 206(4)-8 thereunder.

E. Respondents **Quantek** and **Bulltick** are censured.

F. Respondent **Guerra** be, and hereby is:

barred from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization with the right to apply for reentry after five (5) years to the appropriate self-regulatory organization, or if there is none, to the Commission; and

prohibited from serving or acting as an employee, officer, director, member of an advisory board, investment adviser or depositor of, or principal underwriter for, a registered investment company or affiliated person of such investment adviser,

depositor, or principal underwriter with the right to apply for reentry after five (5) years to the appropriate self-regulatory organization, or if there is none, to the Commission.

G. Any reapplication for association by **Guerra** will be subject to the applicable laws and regulations governing the reentry process, and reentry may be conditioned upon a number of factors, including, but not limited to, the satisfaction of any or all of the following: (a) any disgorgement ordered against Guerra, whether or not the Commission has fully or partially waived payment of such disgorgement; (b) any arbitration award against Guerra related to the conduct that served as the basis for the Commission order; (c) any self-regulatory organization arbitration award against Guerra to a customer, whether or not related to the conduct that served as the basis for the Commission order; and (d) any restitution order against Guerra by a self-regulatory organization, whether or not related to the conduct that served as the basis for the Commission order.

H. Respondent **Patino** be, and hereby is:

barred from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization with the right to apply for reentry after one (1) year to the appropriate self-regulatory organization, or if there is none, to the Commission; and

prohibited from serving or acting as an employee, officer, director, member of an advisory board, investment adviser or depositor of, or principal underwriter for, a registered investment company or affiliated person of such investment adviser, depositor, or principal underwriter with the right to apply for reentry after one (1) year to the appropriate self-regulatory organization, or if there is none, to the Commission.

I. Any reapplication for association by **Patino** will be subject to the applicable laws and regulations governing the reentry process, and reentry may be conditioned upon a number of factors, including, but not limited to, the satisfaction of any or all of the following: (a) any disgorgement ordered against Patino, whether or not the Commission has fully or partially waived payment of such disgorgement; (b) any arbitration award against Patino related to the conduct that served as the basis for the Commission order; (c) any self-regulatory organization arbitration award against Patino to a customer, whether or not related to the conduct that served as the basis for the Commission order; and (d) any restitution order against Patino by a self-regulatory organization, whether or not related to the conduct that served as the basis for the Commission order.

J. Respondents **Quantek** and **Guerra**, shall, jointly and severally, pay disgorgement of \$2,056,446 and prejudgment interest of \$219,585 to the Securities and Exchange Commission. Payment shall be made in the following installments: \$1,138,016 within ten (10) days of the entry of this Order and \$1,138,015 on or before October 1, 2012. If

any payment is not made by the date the payment is required by this Order, the entire outstanding balance of disgorgement and prejudgment interest, plus any additional interest accrued pursuant to SEC Rule of Practice 600, shall be due and payable immediately, without further application. Payments shall be: (A) made by wire transfer, United States postal money order, certified check, bank cashier's check or bank money order; (B) made payable to the Securities and Exchange Commission; (C) hand-delivered or mailed to the Securities and Exchange Commission, Office of Financial Management, 100 F St., NE, Stop 6042, Washington, DC 20549; and (D) submitted under cover letter that identifies Quantek and Guerra as Respondents in these proceedings, the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to Scott Weisman, Assistant Director, Asset Management Unit, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549.

K. Respondent **Quantek** shall, within ten (10) days of the entry of this Order, pay a civil money penalty in the amount of \$375,000 to the Securities and Exchange Commission. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717. Payment shall be: (A) made by wire transfer, United States postal money order, certified check, bank cashier's check or bank money order; (B) made payable to the Securities and Exchange Commission; (C) hand-delivered or mailed to the Securities and Exchange Commission, Office of Financial Management, 100 F St., NE, Stop 6042, Washington, DC 20549; and (D) submitted under cover letter that identifies Quantek as a Respondent in these proceedings, the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to Scott Weisman, Assistant Director, Asset Management Unit, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549.

L. Respondent **Bulltick** shall, within ten (10) days of the entry of this Order, pay a civil money penalty in the amount of \$300,000 to the Securities and Exchange Commission. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717. Payment shall be: (A) made by wire transfer, United States postal money order, certified check, bank cashier's check or bank money order; (B) made payable to the Securities and Exchange Commission; (C) hand-delivered or mailed to the Securities and Exchange Commission, Office of Financial Management, 100 F St., NE, Stop 6042, Washington, DC 20549; and (D) submitted under cover letter that identifies Bulltick as a Respondent in these proceedings, the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to Scott Weisman, Assistant Director, Asset Management Unit, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549.

M. Respondent **Guerra** shall pay a civil money penalty in the amount of \$150,000 to the Securities and Exchange Commission. Payment shall be made in the following installments: \$75,000 shall be paid within thirty (30) days of the date of this Order and another \$75,000 shall be paid within 365 days of the date of this Order. If any payment is not made by the date the payment is required by this Order, the entire outstanding balance of civil penalties, plus any additional interest accrued pursuant to 31 U.S.C. § 3717, shall be due and payable immediately, without further application. Payment shall be: (A) made by wire transfer, United States postal money order, certified check, bank cashier's check or bank money order; (B) made

payable to the Securities and Exchange Commission; (C) hand-delivered or mailed to the Securities and Exchange Commission, Office of Financial Management, 100 F St., NE, Stop 6042, Washington, DC 20549; and (D) submitted under cover letter that identifies Guerra as a Respondent in these proceedings, the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to Scott Weisman, Assistant Director, Asset Management Unit, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549.

N. Respondent **Patino** shall pay a civil money penalty in the amount of \$50,000 to the Securities and Exchange Commission. Payment shall be made in the following installments: \$25,000 shall be paid within thirty (30) days of the date of this Order and another \$25,000 shall be paid within 365 days of the date of this Order. If any payment is not made by the date the payment is required by this Order, the entire outstanding balance of civil penalties, plus any additional interest accrued pursuant to 31 U.S.C. § 3717, shall be due and payable immediately, without further application. Payments shall be: (A) made by wire transfer, United States postal money order, certified check, bank cashier's check or bank money order; (B) made payable to the Securities and Exchange Commission; (C) hand-delivered or mailed to the Securities and Exchange Commission, Office of Financial Management, 100 F St., NE, Stop 6042, Washington, DC 20549; and (D) submitted under cover letter that identifies Patino as a Respondent in these proceedings, the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to Scott Weisman, Assistant Director, Asset Management Unit, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549.

O. Pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended, a Fair Fund is created for the disgorgement, interest, and penalties ordered herein. Regardless of whether any such Fair Fund distribution is made, amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondents agree that in any Related Investor Action, they shall not argue that they are entitled to, nor shall they benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondents' payment of civil penalties in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondents agree that they shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the United States Treasury or to a Fair Fund, as the Commission directs. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor

Action" means a private damages action brought against one or more of the Respondents by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

By the Commission.

Elizabeth M. Murphy
Secretary

Jill M. Peterson
By: Jill M. Peterson
Assistant Secretary

*Chairman Schapiro
Commissioner Walter
not participating*

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940

Release No. 3410 / May 29, 2012

ADMINISTRATIVE PROCEEDING

File No. 3-14895

In the Matter of :

Elijah Bang, :

Respondent. :

ORDER INSTITUTING
ADMINISTRATIVE PROCEEDINGS
PURSUANT TO SECTION 203(f) OF
THE INVESTMENT ADVISERS ACT
OF 1940, MAKING FINDINGS, AND
IMPOSING REMEDIAL SANCTIONS

I.

The Securities and Exchange Commission ("Commission") deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted pursuant to Section 203(f) of the Investment Advisers Act of 1940 ("Advisers Act") against Elijah Bang ("Bang" or "Respondent").

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the "Offer") 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 him and the subject matter of these proceedings, and the findings contained in Section III.2 below, which are admitted, Respondent consents to the entry of this Order Instituting Administrative Proceedings Pursuant to Section 203(f) of the Investment Advisers Act of 1940, Making Findings, and Imposing Remedial Sanctions ("Order"), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds that:

1. Bang, age 31, resides in Los Angeles, California. Bang represented himself as the president of IU Group, Inc. Bang has never been registered with the Commission in any capacity.

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2. On December 27, 2011, a judgment was entered by consent against Bang, permanently enjoining him from future violations of Sections 5(c) and 17(a) of the Securities Act of 1933, and Sections 206(1), 206(2), and 206(4) of the Advisers Act and Rule 206(4)-8 thereunder, in the civil action entitled Securities and Exchange Commission v. IU Group, Inc., et al., Civil Action Number CV-11-00556 MMM (AJWx), in the United States District Court for the Central District of California.

3. The Commission's complaint alleged that Bang attempted to solicit investors on behalf of IU Wealth, Inc., of which Bang was its principal, and which purported to operate as a hedge fund. The complaint alleged that Bang made material representations to prospective investors in IU Wealth, including falsely representing that the purported hedge fund had generated an average monthly return of 8.29%, and that the fund handled the wealth of high-net worth individuals such as athletes, actors, and producers.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent Bang's Offer.

Accordingly, it is hereby ORDERED:

Pursuant to Section 203(f) of the Advisers Act, that Respondent Bang be, and hereby is barred from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization.

Any reapplication for association by the Respondent will be subject to the applicable laws and regulations governing the reentry process, and reentry may be conditioned upon a number of factors, including, but not limited to, the satisfaction of any or all of the following: (a) any disgorgement ordered against the Respondent, whether or not the Commission has fully or partially waived payment of such disgorgement; (b) any arbitration award related to the conduct that served as the basis for the Commission order; (c) any self-regulatory organization arbitration award to a customer, whether or not related to the conduct that served as the basis for the Commission order; and (d) any restitution order by a self-regulatory organization, whether or not related to the conduct that served as the basis for the Commission order.

By the Commission.

Elizabeth M. Murphy
Secretary

Jill M. Peterson
By: Jill M. Peterson
Assistant Secretary

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934

Release No. 67072 / May 29, 2012

ADMINISTRATIVE PROCEEDING

File No. 3-14898

In the Matter of

**Oklahoma Energy Corp.,
OL Funding, Inc.,
OmniSky Corp.,
Orange County Ventures, Inc.
Percipio Biotherapeutics, Inc., and
Priviam, Inc.,**

Respondents.

**ORDER INSTITUTING
ADMINISTRATIVE PROCEEDINGS
AND NOTICE OF HEARING
PURSUANT TO SECTION 12(j) OF
THE SECURITIES EXCHANGE ACT
OF 1934**

I.

The Securities and Exchange Commission ("Commission") deems it necessary and appropriate for the protection of investors that public administrative proceedings be, and hereby are, instituted pursuant to Section 12(j) of the Securities Exchange Act of 1934 ("Exchange Act") against Respondents Oklahoma Energy Corp., OL Funding, Inc., OmniSky Corp., Orange County Ventures, Inc., Percipio Biotherapeutics, Inc., and Priviam, Inc.

II.

After an investigation, the Division of Enforcement alleges that:

A. RESPONDENTS

1. Oklahoma Energy Corp. (CIK No. 355649) is a suspended Oklahoma corporation located in Gualala, California with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Oklahoma Energy is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-K for the period ended December 31, 2001, which reported a net loss of over \$5.97 million for the prior twelve months. As of May 17, 2012, the company's stock (symbol "OKOK") was traded on the over-the-counter markets.

2. OL Funding, Inc. (CIK No. 1415018) is a dissolved Nevada corporation located in Beverly Hills, California with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). OL Funding is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-Q for the period ended February 29, 2008, which reported a net loss of \$70,194 for the prior three months.

3. OmniSky Corp. (CIK No. 1104771) is a void Delaware corporation located in San Francisco, California with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). OmniSky is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-Q for the period ended June 30, 2001, which reported a net loss of over \$33 million for the prior three months.

4. Orange County Ventures, Inc. (CIK No. 841715) is a void Delaware corporation located in Irvine, California with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Orange County is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-Q for the period ended June 30, 1997, which reported a net loss of over \$10 million for the prior six months.

5. Percipio Biotherapeutics, Inc. (CIK No. 1046120) is a revoked Nevada corporation located in Los Angeles, California with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Percipio is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-K for the period ended August 31, 2008, which reported a net loss of over \$1.74 million for the prior twelve months.

6. Priviam, Inc. (CIK No. 1120088) is a New Jersey corporation located in Irvine, California with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Priviam is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-Q for the period ended March 31, 2009, which reported a net loss of \$82,966 for the prior three months.

B. DELINQUENT PERIODIC FILINGS

7. As discussed in more detail above, all of the Respondents are delinquent in their periodic filings with the Commission, have repeatedly failed to meet their obligations to file timely periodic reports, and failed to heed delinquency letters sent to them by the Division of Corporation Finance requesting compliance with their periodic filing obligations or, through their failure to maintain a valid address on file with the Commission as required by Commission rules, did not receive such letters.

8. Exchange Act Section 13(a) and the rules promulgated thereunder require issuers of securities registered pursuant to Exchange Act Section 12 to file with the Commission current and accurate information in periodic reports, even if the registration

is voluntary under Section 12(g). Specifically, Rule 13a-1 requires issuers to file annual reports, and Rule 13a-13 requires domestic issuers to file quarterly reports.

9. As a result of the foregoing, Respondents failed to comply with Exchange Act Section 13(a) and Rules 13a-1 and 13a-13 thereunder.

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate for the protection of investors that public administrative proceedings be instituted to determine:

A. Whether the allegations contained in Section II hereof are true and, in connection therewith, to afford the Respondents an opportunity to establish any defenses to such allegations; and,

B. Whether it is necessary and appropriate for the protection of investors to suspend for a period not exceeding twelve months, or revoke the registration of each class of securities registered pursuant to Section 12 of the Exchange Act of the Respondents identified in Section II hereof, and any successor under Exchange Act Rules 12b-2 or 12g-3, and any new corporate names of any Respondents.

IV.

IT IS HEREBY ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened at a time and place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice [17 C.F.R. § 201.110].

IT IS HEREBY FURTHER ORDERED that Respondents shall file an Answer to the allegations contained in this Order within ten (10) days after service of this Order, as provided by Rule 220(b) of the Commission's Rules of Practice [17 C.F.R. § 201.220(b)].

If Respondents fail to file the directed Answers, or fail to appear at a hearing after being duly notified, the Respondents, and any successor under Exchange Act Rules 12b-2 or 12g-3, and any new corporate names of any Respondents, may be deemed in default and the proceedings may be determined against it upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f), and 310 of the Commission's Rules of Practice [17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f), and 201.310].

This Order shall be served forthwith upon Respondents personally or by certified, registered, or Express Mail, or by other means permitted by the Commission Rules of Practice.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 120 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice [17 C.F.R. § 201.360(a)(2)].

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

By the Commission.

Elizabeth M. Murphy
Secretary

Jill M. Peterson
By: **Jill M. Peterson**
Assistant Secretary

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934

Release No. 67077 / May 30, 2012

ADMINISTRATIVE PROCEEDING

File No. 3-14900

In the Matter of

**Ohio Ferro Alloys Corp.,
Orbcomm Corp.,
Outboard Marine Corp.,
Oz Communications, Inc.
Penn-Pacific Corp.,
Peoples Community Bancorp, Inc.,
Performance Health Technologies, Inc., and
Petals Decorative Accents, Inc.,**

Respondents.

**ORDER INSTITUTING
ADMINISTRATIVE PROCEEDINGS
AND NOTICE OF HEARING
PURSUANT TO SECTION 12(j) OF
THE SECURITIES EXCHANGE ACT
OF 1934**

I.

The Securities and Exchange Commission ("Commission") deems it necessary and appropriate for the protection of investors that public administrative proceedings be, and hereby are, instituted pursuant to Section 12(j) of the Securities Exchange Act of 1934 ("Exchange Act") against Respondents Ohio Ferro Alloys Corp., Orbcomm Corp., Outboard Marine Corp., Oz Communications, Inc., Penn-Pacific Corp., Peoples Community Bancorp, Inc., Performance Health Technologies, Inc., and Petals Decorative Accents, Inc.

II.

After an investigation, the Division of Enforcement alleges that:

A. RESPONDENTS

1. Ohio Ferro Alloys Corp. (CIK No. 73967) is a cancelled Ohio corporation located in Canton, Ohio with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Ohio Ferro is delinquent in its periodic filings

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with the Commission, having not filed any periodic reports since it filed a Form 10-K for the period ended December 31, 1994, which provided no financial statements.

2. Orbcomm Corp. (CIK No. 1058416) is a dissolved Delaware corporation located in Herndon, Virginia with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Orbcomm is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-K for the period ended December 31, 1998, which reported a net loss of over \$69 million for the prior twelve months. On September 15, 2000, the company filed a Chapter 11 petition in the U.S. Bankruptcy Court for the District of Delaware, and the case was closed on June 30, 2003.

3. Outboard Marine Corp. (CIK No. 75149) is a void Delaware corporation located in Waukegan, Illinois with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Outboard Marine is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-Q for the period ended June 30, 2000, which reported a comprehensive net loss from operations of \$62.3 million for the prior six months. On December 22, 2000, the company filed a Chapter 11 petition in the U.S. Bankruptcy Court for the Northern District of Illinois, and the case was still pending as of May 18, 2012.

4. Oz Communications, Inc. (CIK No. 1112509) is a suspended California corporation located in Montreal, Quebec, Canada with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Oz Communications is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-Q for the period ended September 30, 2002.

5. Penn-Pacific Corp. (CIK No. 77140) is a revoked Nevada corporation located in Fort Lauderdale, Florida with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Penn-Pacific is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-Q for the period ended December 31, 2008, which reported a net loss of \$145,535 since the company's January 13, 1997 inception.

6. Peoples Community Bancorp, Inc. (CIK No. 1100983) is a forfeited Maryland corporation located in West Chester, Ohio with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Peoples is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-Q for the period ended March 31, 2009, which reported a net loss of over \$4.4 million for the prior three months. As of May 18, 2012, the company's stock (symbol "PCBI") was traded on the over-the-counter markets.

7. Performance Health Technologies, Inc. (CIK No. 1267147) is a void Delaware corporation located in Trenton, New Jersey with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Performance is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-Q for the period ended September 30, 2008, which reported a net loss of over

\$7.79 million for the prior nine months. As of May 18, 2012, the company's stock (symbol "PFMH") was traded on the over-the-counter markets.

8. Petals Decorative Accents, Inc. (CIK No. 789097) is a void Delaware corporation located in Ridgefield, Connecticut with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Petals is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10-QSB for the period ended September 30, 2006, which reported a net loss of over \$2.47 million for the prior three months.

B. DELINQUENT PERIODIC FILINGS

9. As discussed in more detail above, all of the Respondents are delinquent in their periodic filings with the Commission, have repeatedly failed to meet their obligations to file timely periodic reports, and failed to heed delinquency letters sent to them by the Division of Corporation Finance requesting compliance with their periodic filing obligations or, through their failure to maintain a valid address on file with the Commission as required by Commission rules, did not receive such letters.

10. Exchange Act Section 13(a) and the rules promulgated thereunder require issuers of securities registered pursuant to Exchange Act Section 12 to file with the Commission current and accurate information in periodic reports, even if the registration is voluntary under Section 12(g). Specifically, Rule 13a-1 requires issuers to file annual reports, and Rule 13a-13 requires domestic issuers to file quarterly reports.

11. As a result of the foregoing, Respondents failed to comply with Exchange Act Section 13(a) and Rules 13a-1 and 13a-13 thereunder.

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate for the protection of investors that public administrative proceedings be instituted to determine:

A. Whether the allegations contained in Section II hereof are true and, in connection therewith, to afford the Respondents an opportunity to establish any defenses to such allegations; and,

B. Whether it is necessary and appropriate for the protection of investors to suspend for a period not exceeding twelve months, or revoke the registration of each class of securities registered pursuant to Section 12 of the Exchange Act of the Respondents identified in Section II hereof, and any successor under Exchange Act Rules 12b-2 or 12g-3, and any new corporate names of any Respondents.

IV.

IT IS HEREBY ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened at a time and

place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice [17 C.F.R. § 201.110].

IT IS HEREBY FURTHER ORDERED that Respondents shall file an Answer to the allegations contained in this Order within ten (10) days after service of this Order, as provided by Rule 220(b) of the Commission's Rules of Practice [17 C.F.R. § 201.220(b)].

If Respondents fail to file the directed Answers, or fail to appear at a hearing after being duly notified, the Respondents, and any successor under Exchange Act Rules 12b-2 or 12g-3, and any new corporate names of any Respondents, may be deemed in default and the proceedings may be determined against it upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f), and 310 of the Commission's Rules of Practice [17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f), and 201.310].

This Order shall be served forthwith upon Respondents personally or by certified, registered, or Express Mail, or by other means permitted by the Commission Rules of Practice.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 120 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice [17 C.F.R. § 201.360(a)(2)].

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

By the Commission.

Elizabeth M. Murphy
Secretary

Jill M. Peterson
By: **Jill M. Peterson**
Assistant Secretary

*Commissioner Walter
Commissioner Gallagher
not participating*

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 3412 / May 30, 2012

INVESTMENT COMPANY ACT OF 1940
Release No. 30086 / May 30, 2012

ADMINISTRATIVE PROCEEDING
File No. 3-14899

In the Matter of

OXFORD INVESTMENT
PARTNERS, LLC AND
WALTER J. CLARKE

Respondents.

ORDER INSTITUTING
ADMINISTRATIVE AND CEASE-
AND-DESIST PROCEEDINGS
PURSUANT TO SECTIONS 203(e),
203(f) AND 203(k) OF THE
INVESTMENT ADVISERS ACT OF
1940 AND SECTION 9(b) OF THE
INVESTMENT COMPANY ACT OF
1940 AND NOTICE OF HEARING

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 Sections 203(e) and 203(k) of the Investment Advisers Act of 1940 ("Advisers Act") and Section 9(b) of the Investment Company Act of 1940 ("Investment Company Act"), against Oxford Investment Partners, LLC ("Oxford"), and pursuant to Sections 203(f) and 203(k) of the Advisers Act and Section 9(b) of the Investment Company Act against Walter J. Clarke ("Clarke," and together with Oxford, "Respondents.")

II.

After an investigation, the Division of Enforcement alleges that:

A. SUMMARY

1. This matter concerns fraud and repeated breaches of fiduciary duty by Oxford, a Phoenix based registered investment adviser, and Clarke, Oxford's owner and principal. In late 2007, Clarke faced severe financial problems and decided to obtain money to address his difficulties by exploiting an Oxford client. Specifically, in March

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2008, Clarke sold 7.5% of his ownership interest in Oxford to a client at a fraudulently inflated price (\$750,000). Indeed, in connection with this transaction, Clarke employed several devices to artificially inflate the value of Oxford by at least \$1.5 million, thereby causing the client to overpay for the 7.5% interest in the firm by at least \$112,000.

2. Moreover, on two occasions, Oxford and Clarke recommended and placed several clients in investments in which Clarke and/or Oxford had personal and pecuniary interests without first disclosing facts giving rise to plain conflicts of interest relating to these investments.

3. First, in September 2007, Clarke convinced a client to fund a \$116,000 loan originated by Cornerstone Lending Group ("Cornerstone"). Similarly, in March 2008, Clarke convinced two additional clients to invest \$200,000 to fund another Cornerstone loan origination. However, in each instance, Respondents failed to disclose that Clarke: (1) co-founded and was an owner of Cornerstone; and (2) would profit from Cornerstone loan originations. Within a few months of the loans being funded, the borrowers defaulted and the Oxford clients lost their entire investments.

4. Second, in November 2008, Clarke convinced four clients to invest approximately \$10,000 each in a privately-held company called HotStix, without first disclosing that the owners of HotStix: (1) had ownership interests in Oxford; and (2) were paid consultants to Oxford. Subsequently, HotStix failed and sought bankruptcy protection, which resulted in the clients' investment in the firm being marked down to zero.

B. RESPONDENTS

5. **Oxford** is an investment adviser located in Phoenix, Arizona, which registered with the Commission on March 4, 2003. Oxford provides discretionary advisory services to 364 client accounts, and non-discretionary advisory services to 25 accounts, totaling approximately \$224 million in assets under management.

6. **Clarke**, age 49, currently resides in Phoenix, Arizona and is Oxford's founder, president, and sole control person. At all relevant times, Clarke was responsible for the management of Oxford's business and solely responsible for identifying, recommending and assessing potential investment opportunities on behalf of Oxford's clients. Clarke holds a Series 65 license, after having passed the Uniform Investment Adviser Law examination administered by FINRA.

C. OTHER RELEVANT ENTITIES

7. **Oxford Stix** is a pooled investment vehicle that Oxford and Clarke created in 2006 to invest assets of Oxford's clients in HotStix, which was a privately-held company in Arizona that provided golf club fittings. Oxford served as the investment adviser to Oxford Stix, and four Oxford clients were members of Oxford Stix. In 2006, Oxford Stix invested a total of \$900,000 in HotStix. In November 2008, Oxford Stix invested an additional \$40,000 in HotStix.

8. **Cornerstone Lending Group ("Cornerstone")** was a lending firm in Phoenix, Arizona that Clarke co-created in 2007. Cornerstone focused exclusively on "hard money" lending, which is generally considered to be sub-prime. At Cornerstone's inception, Clarke held a 30% ownership interest in the firm, and thus would personally benefit from any profits realized. Cornerstone only originated two loans, which were funded almost exclusively by Oxford's clients. Cornerstone received points in connection with its loan originations.

9. **The Center for Wealth Management ("CWM")** is an entity that Clarke co-founded in 1999 that offers financial planning courses through colleges and universities in California and Arizona.

D. CLARKE FRAUDULENTLY INFLATED THE PRICE OF OXFORD WHEN SELLING AN INTEREST IN THE FIRM TO A CLIENT

1. In Late 2007, Clarke's Acute Financial Problems Drove Him to Sell a Portion of His Interest in Oxford

10. In late 2007, Clarke decided to sell a portion of his ownership interest in Oxford to raise money to address his deteriorating financial condition. As of Q1 2008, Clarke was heavily in debt and was struggling to meet his financial obligations. Indeed, Clarke was facing numerous financial difficulties in late 2007, which persisted and worsened in early 2008.

11. First, Clarke was paying mortgages on two homes – a new home he had purchased in 2007 for \$3.5 million, as well as his previous home, which he was unable to sell. In the summer of 2007, Clarke's mortgage payments ballooned as his interest rate increased from 5.75% to 7%.

12. Second, a number of "lifestyle" expenses (e.g., private schools, professional tennis lessons and interior designers) also aggravated his personal financial situation. In a January 2008 email, Clarke complained bitterly about being under pressure to find a solution to his financial problems.

13. Third, Clarke's finances were strained by a legal settlement with Wachovia, his former employer. Pursuant to the terms of this \$400,000 settlement, as of January 1, 2008, Clarke was obligated to: (1) make quarterly payments of \$10,000 to Wachovia; and (2) pay an additional \$130,000 by January 15, 2009.

14. Fourth, Clarke's purchase of an advisory firm was also a financial burden that contributed to his inclination to sell a portion of his interest in Oxford. In connection with this \$600,000 purchase, Clarke executed an agreement whereby he agreed to pay \$30,000 per quarter in satisfaction of the purchase price.

15. Fifth, when Gary Cluff (a co-owner of Oxford) became severely ill in late 2007, he approached Clarke about buying out his interest, which in turn caused Clarke to look for sources of liquidity.

2. In March 2008, Clarke Convinced an Oxford Client to Purchase an Interest in Oxford on the Basis of False and Misleading Information

16. In December 2007, Clarke asked Client A to consider purchasing an interest in Oxford. During his conversations with Client A, Clarke asserted that Oxford had grown dramatically, and that he expected such growth to continue, thereby increasing the firm's value. Clarke said that he was selling interests in Oxford to "expand his business" – e.g., by hiring employees and building out office space. Clarke also said that he was selling interests in Oxford because he needed capital to add infrastructure to the firm in anticipation of landing a large Indian gaming client. Additionally, Clarke told Client A that the firm was so profitable that: (1) he had received \$1.5 million in distributions in 2007; and that (2) revenues in excess of \$1.5 million would be distributed to Oxford's other owners in proportion to their ownership interest in the firm.

17. In March 2008, Clarke sold Client A 7.5% of his ownership interest in Oxford for \$750,000. Neither Client A, nor any lawyer or accountant acting on her behalf, performed any diligence relating to Oxford prior to the sale. To consummate the sale, Client A and Clarke executed a document entitled Membership Interest Purchase Agreement ("Purchase Agreement"), and Client A then authorized the transfer of \$750,000 from her account to an account in the name of "Oxford Investment Partners LLC."

18. Within days of the transfer, rather than make the capital investments in Oxford that he had mentioned to Client A, Clarke withdrew the money and used it to alleviate his personal financial problems.

3. Clarke Deliberately Inflated the Value of Oxford in Connection with the March 2008 Sale of a Portion of His Interest in Oxford to Client A

19. Clarke valued Oxford at \$10 million in connection with the sale to Client A. However, Clarke has failed to offer any documentation or plausible explanation to support this valuation. To the contrary, Clarke deliberately employed three devices to fraudulently inflate his valuation of Oxford. First, Clarke performed the valuation by applying an excessive and baseless multiple to Oxford's 2007 annual revenue. Second, Clarke calculated Oxford's 2007 revenue by quadrupling Oxford's Q4 2007 revenue – the highest of 2007 – and ignoring Oxford's lower revenue numbers from the previous three quarters. Third, Clarke added an additional and baseless \$1 million "premium" to Oxford's valuation, which he claimed accounted for Oxford's "amazing" growth trajectory.

20. Clarke claimed that his \$10 million valuation was based upon listings for the sale of advisory firms published by a firm called "FP Transitions", which performs valuations of advisory firms and provides listings for – and other services related to – the sale of advisory firms. These listings include the firm's annual revenues, number of clients and the owner's asking price.

21. According to Clarke, the listings prompted him to value Oxford at 3x the firm's 2007 revenues. Clarke claimed that, based upon the listings published by FP Transitions during the 2007 timeframe, advisory firms were selling at between 2.5x and 3.5x annual revenue, and thus he was confident that he was "right down the middle" in valuing Oxford at 3x its 2007 annual revenue.

22. However, according to FP Transitions, in 2007 advisory firms sold at an average multiple of 2.49, while the high multiple was 2.98 and the low multiple was 1.63. Similarly, in 2008, advisory firms sold at an average multiple of 2.33, with a high multiple of 2.74 and a low multiple of 2.33. Nevertheless, Clarke maintained that his review of the FP Transitions listings gave him confidence that he was "right down the middle" in valuing Oxford at 3x its 2007 annual revenue.

23. Next, Clarke proceeded to calculate Oxford's "2007 revenue." However, Clarke did so by quadrupling Oxford's Q4 2007 revenue (\$745,109), rather than adding up the revenues from Q1 through Q4 (\$637,622; \$700,798; \$734,457; \$745,109, respectively). Using this approach, Clarke calculated Oxford's 2007 revenue at \$2,980,436 – as opposed to Oxford's actual 2007 revenue, which was \$2,817,986 (a difference of \$162,450).

24. Clarke then multiplied his inflated 2007 annual revenue figure (\$2,980,436) by 3 to get \$8,941,308 (a figure containing \$487,350 of inflation due to Clarke's questionable calculation of Oxford's 2007 revenue).

25. Finally, Clarke added a \$1 million "premium" to his valuation of Oxford, which he felt was warranted due to the "amazing trajectory" of Oxford's growth. Clarke attributed some portion of the premium to Oxford's relationship with CWM, even though CWM had operated at a loss since inception.

E. RESPONDENTS FAILED TO DISCLOSE FACTS CONSTITUTING CONFLICTS OF INTEREST TO CLIENTS

1. Respondents Failed to Disclose Clarke's Ownership Interest in Cornerstone Prior to Advising Clients to Fund Loans Originated by that Firm

a. The Petra Luh Loan

26. In September 2007, Clarke advised an Oxford client ("Client B") to fund a \$116,000 loan to Petra Luh (the "Petra Luh Loan"), who intended to use the proceeds to help fund a project in Arizona. Client B informed Clarke that she was uncomfortable with the loan due to the questionable collateral offered, as well as the generally poor level of documentation. Clarke responded to her concerns by stressing that any changes would "kill" the deal and offering to "guarantee" her against any losses. In reliance upon Clarke's representations, Client B funded the \$116,000 loan to Petra Luh. Cornerstone received points in connection with its origination of the Petra Luh Loan. Additionally, Oxford

charged Client B advisory fees on the Petra Luh Loan, as it constituted an asset under management.

27. Prior to advising Client B to fund the Cornerstone loan to Petra Luh, neither Clarke, nor Oxford, informed her of the material fact that Clarke had an ownership interest in Cornerstone, and thus stood to profit from Cornerstone loans. Shortly after Client B funded the Petra Luh Loan, Luh stopped making interest payments, and subsequently defaulted. As a result of Luh's default, Client B was forced to hire an attorney and incur fees to foreclose on the collateral. To date, Client B has essentially lost the full \$116,000 that she invested in the Petra Luh Loan. Additionally, despite his supposed "guarantee," Clarke has not reimbursed Client B for the losses she incurred as a result of following Clarke's advice to fund the Cornerstone-originated loan to Petra Luh.

b. The Dannenbaum Loan

28. Similarly, in or around March 2008, Clarke convinced two additional Oxford clients ("Client C" and "Client D") to fund a loan originated by Cornerstone to Ken Dannenbaum (the "Dannenbaum Loan"). Specifically, on Clarke's recommendation, Client C and Client D each invested \$100,000 to fund the Dannenbaum Loan. However, prior to advising these clients to fund the Dannenbaum Loan, Clarke failed to disclose the material fact of his ownership interest in Cornerstone, which received points in connection with the origination of the loan.

29. In June 2008, over two months after Client C and Client D funded the Dannenbaum Loan, Oxford's compliance officer revealed Clarke's ownership interest in Cornerstone to Client C, who then demanded a full explanation and stated that he was now "uncomfortable" with the Dannenbaum Loan.

30. Internally at Oxford, the investments that Client C and Client D made in the Dannenbaum Loan were characterized as assets under Oxford's management, and were included in Oxford's fee calculation. In or around December 2008, Client C and Client D stopped receiving interest payments. Subsequently, in Q1 2009, Dannenbaum defaulted and the underlying property went into foreclosure, essentially wiping out the investments made by Client C and Client D.

2. Prior to Recommending an Investment in a Private Company, Respondents Failed to Disclose that the Company's Owners Had Ownership Interests in Oxford

31. In November 2008, Clarke solicited several clients to invest through a pooled investment vehicle in HotStix, a privately-held company, without first disclosing Oxford's relationship with the company's owners – a fact giving rise to conflicts of interest.

32. Oxford Stix is a pooled investment vehicle that Clarke created in 2006 for the sole purpose of pooling the assets of Oxford's clients to invest in HotStix. In 2006, four Oxford clients invested a total of \$900,000 in Oxford Stix.

33. After the Oxford Stix 2006 investment in HotStix, material transactions occurred between Clarke and the owners of HotStix – Tim and Eric Crown. First, in May 2008, the Crowns purchased a portion of Clarke's interest in Oxford, thereby becoming co-owners of the firm. Additionally, in connection with their acquisition of an ownership interest in Oxford, the Crowns executed a "Consulting Agreement" with Oxford, whereby Oxford agreed to pay the Crowns at least \$45,000 per year, purportedly in exchange for the Crowns' consulting services.

34. Subsequently, in November 2008, HotStix asked its investors – including the members of Oxford Stix – to provide additional capital to the firm. Clarke advised the members of Oxford Stix to make an additional investment of \$40,000. However, when making this recommendation, Clarke failed to disclose the material facts that the owners of HotStix: (1) were co-owners of Oxford; and (2) paid consultants to Oxford.

35. Shortly after seeking additional funds in November 2008, HotStix failed, sought bankruptcy protection, and the value of the Oxford Stix investment in HotStix was marked down to zero.

F. VIOLATIONS

36. As a result of the conduct described above, Oxford and Clarke willfully violated Sections 206(1) and 206(2) of the Advisers Act by employing devices, schemes or artifices to defraud clients, and engaging in transactions, practices or courses of business that defrauded clients or prospective clients.

37. As a result of the conduct described above, Oxford and Clarke willfully violated Section 206(4) of the Advisers Act and Rule 206(4)-8 promulgated thereunder, which prohibits fraudulent conduct by advisers to "pooled investment vehicles" with respect to investors or prospective investors in those pools.

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate in the public interest that public administrative and cease-and-desist proceedings be instituted to determine:

A. Whether the allegations set forth in Section II hereof are true and, in connection therewith, to afford Respondents an opportunity to establish any defenses to such allegations;

B. What, if any, remedial action is appropriate in the public interest against Respondent Oxford pursuant to Section 203(e) of the Advisers Act including, but not limited to, disgorgement and civil penalties pursuant to Section 203 of the Advisers Act;

rulemaking process.¹⁶⁰

Another commenter questioned whether there is a need for a Commission rule instead of an NMS plan and stated that ongoing and direct involvement of the Commission will be important to efficient and effective resolution of interpretive questions relating to the Plan and the reasonable policies and procedures.¹⁶¹ The same commenter also stated that self-regulatory organizations will need to adopt rules specifying how they plan to handle orders that have been routed to them when such orders present display or execution issues under the Plan.¹⁶²

Finally, one commenter stated that a cost-benefit analysis of the Plan should be conducted to address the anticipated costs of implementing the Plan, the parties that would pay for new systems, whether processors would be allowed to charge more than their costs for the new data components of the consolidated feeds, and the incremental benefits that would be incurred over the existing trading pause rules if the Plan were approved.¹⁶³

V. Amendment to the Plan

On May 24, 2012, in response to the comments received on the proposed Plan, the Participants submitted an amendment that proposed several changes to the Plan.¹⁶⁴ First, the participants proposed to amend the Plan to allow transactions that are exempt under Rule 611 of

¹⁶⁰ Id. (stating that the narrow focus of the group that developed the regulation may have also allowed some opportunities to increase competition between exchanges to have been overlooked).

¹⁶¹ See SIFMA Letter at 7.

¹⁶² Id. at 9.

¹⁶³ See Scottrade Letter at 4.

¹⁶⁴ See Amendment, supra note 13.

Regulation NMS¹⁶⁵, and which do not update the last sale price (except if solely because the transaction was reported late), to execute outside of the price bands.¹⁶⁶

Second, the Participants proposed to amend the Plan to provide for a 20% price band for Tier 1 and Tier 2 stocks with a Reference Price equal to \$0.75 and up to and including \$3.00. The Participants also proposed a conforming amendment for Tier 1 and Tier 2 stocks with a Reference Price less than \$0.75. The Percentage Parameters for these stocks would be the lesser of (a) \$0.15 or (b) 75%.¹⁶⁷ As initially proposed, those Percentage Parameters would apply to Tier 1 and Tier 2 stocks with a Reference Price less than \$1.00.

Third, the Participants proposed to amend the Plan to exclude rights and warrants from the Plan, consistent with the current single-stock circuit breaker pilot.¹⁶⁸

Fourth, the Participants proposed to amend the Plan to provide for the creation of an Advisory Committee to the Operating Committee. As set forth in greater detail in the amendment, the Operating Committee would be required to select at least one representative from each of the following categories to be members of the Advisory Committee: (i) a broker-dealer with a substantial retail investor customer base, (ii) a broker-dealer with a substantial institutional investor customer base, (iii) an alternative trading system, and (iv) an investor.¹⁶⁹ Members of the Advisory Committee would have the right to submit their view on Plan matters to the Operating Committee prior to a decision by the Operating Committee on such matters.

¹⁶⁵ 17 CFR 242.611.

¹⁶⁶ See Amendment, *supra* note 13.

¹⁶⁷ Id.

¹⁶⁸ Id.

¹⁶⁹ Id.

Such matters could include, but would not be limited to, proposed material amendments to the Plan.

Fifth, the Participants proposed to amend the Plan to provide for a manual override functionality when, for example, the National Best Bid for an NMS Stock is below the Lower Price Band, the NMS Stock has not entered the Limit State, and the Primary Listing Exchange has determined that trading in that stock has sufficiently deviated from its normal trading characteristics such that a trading pause would promote the Plan's core purpose of addressing extraordinary market volatility. Upon making this determination, the Primary Listing Exchange would have the ability to declare a trading pause in that stock.¹⁷⁰

Sixth, the Participants proposed a new implementation date of February 4, 2013. The Participants stated that this date would provide appropriate time to develop and test the technology necessary to implement the Plan, including market-wide testing.

Finally, the Participants proposed to amend the Plan to require the Participants to review and update, on a semi-annual basis, the list of ETPs included in Tier I of the Plan, and re-stated the criteria by which ETPs would be selected for inclusion in Tier I.¹⁷¹

The Participants also proposed technical changes to the Plan. For example, the Participants clarified that Regular Trading Hours could end earlier than 4:00 p.m. ET in the case of an early scheduled close. The Participants also provided that Participants may re-transmit the price bands calculated and disseminated by the Processor. Finally, the Participants clarified that the Reference Price used in determining which Percentage Parameter is applicable during the trading day would be based on the closing price of the subject security on the Primary Listing

¹⁷⁰

Id.

¹⁷¹

For example, ETPs, including inverse ETPs, that trade over \$2,000,000 consolidated average daily volume would be included in Tier I, as would ETPs that do not meet this volume criterion, but track similar benchmarks.

Exchange on the previous trading day or, if no closing price exists, the last sale on the Primary Listing Exchange reported by the Processor.

The Participants also proposed to amend the Plan in order to collect and provide to the Commission various data and analysis throughout the duration of the pilot period. Specifically, the Participants will provide summary statistics to the Commission, including data covering how often stocks enter the Limit State, and how often stocks enter a trading pause as a result of the limit up-limit down mechanism. The Participants will also examine certain parameters of the limit up-limit down mechanism, including the appropriateness of the proposed price bands, and the appropriateness of the duration of the Limit State. Finally, the Participants will provide raw data to the Commission, including the record of every limit price, the record of every Limit State, and the record of every trading pause.

VI. Discussion and Commission Findings

A. Section 11A of the Act

In 1975, Congress directed the Commission, through the enactment of Section 11A of the Act,¹⁷² to facilitate the establishment of a national market system to link together the individual markets that trade securities. Congress found the development of a national market system to be in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure fair competition among the exchange markets.¹⁷³ Section 11A(a)(3)(B) of the Act directs the Commission, "by rule or order, to authorize or require self-regulatory organizations to act jointly with respect to matters as to which they share authority under this title in planning, developing, operating, or regulating a national market system (or a

¹⁷² 15 U.S.C. 78k-1.

¹⁷³ 15 U.S.C. 78k-1(a)(1)(C).

subsystem thereof) or one or more facilities.”¹⁷⁴ The Commission’s approval of a national market system plan is required to be conditioned upon a finding that the plan is “necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of, a national market system, or otherwise in furtherance of the purposes of the Act.”¹⁷⁵

After carefully considering the proposed Plan and the issues raised by the comment letters, the Commission has determined to approve the Plan, as amended by the Participants, pursuant to Section 11A(a)(3)(B) of the Act¹⁷⁶ and Rule 608.¹⁷⁷ The Commission believes that the Plan is reasonably designed to prevent potentially harmful price volatility, including severe volatility of the kind that occurred on May 6, 2010.¹⁷⁸ The Plan should thereby help promote the

¹⁷⁴ 15 U.S.C. 78k-1(a)(3)(B).

¹⁷⁵ 17 CFR 242.608(b)(2). See also 15 U.S.C. 78k-1(a).

¹⁷⁶ 15 U.S.C. 78k-1(a)(3)(B).

¹⁷⁷ 17 CFR 242.608. In approving this Plan, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁷⁸ The Commission and the Participants have conducted simulations on historical data to examine how a limit up-limit down mechanism might work. The simulations generally support the structure of the proposal. In particular, the proposal would reduce, but not eliminate, extreme short-term price changes, and would not result in an excessive number of trading pauses.

Commission staff, for example, conducted a simulation that suggested that the percentage limits should be larger at the open and close and that the percentage limits should be larger for lower priced stocks. In addition, the simulation suggested that most trades occurring outside of the bands are reversed quickly, providing support for the notion that a limit state may help avoid unnecessary trading pauses. The simulation also showed that an average of slightly more than one large index stock would have a trading pause every four days, based on the structure of the simulation, which was not the same as the proposed structure. A follow-up analysis using the proposed structure showed that only one large index stock would have a trading pause in the three months analyzed.

The NYSE staff also simulated the proposed limit up-limit down mechanism to examine how the mechanism would have worked on May 6th, 2010. Given time constraints, the simulation was limited to the price band aspect of the proposal and did not consider the limit state or trading pause provisions of the proposal. This simulation suggested that the

goals of investor protection and fair and orderly markets. The Commission also believes that the Plan is a prudent replacement of the single-stock circuit breaker that is currently in effect, and that it is appropriately being introduced on a pilot basis. The pilot period will allow the public, the Participants, and the Commission to assess the operation of the Plan and whether the Plan should be modified prior to approval on a permanent basis.

As discussed above, commenters raised a variety of thoughtful concerns about the proposal and recommended certain changes. Some of the recommended changes were incorporated in the Amendment. As discussed further below, other comments raised important issues that are difficult to evaluate fully in the absence of practical experience with the Plan. These issues will warrant close consideration during the pilot period.

The Commission believes that it is consistent with the Act to approve the Plan on a pilot basis at this time because the Plan reflects the considered judgments of the Participants on operational issues and clearly represents a significant step forward that builds upon the experience with the current single-stock circuit breaker. The limit up-limit down mechanism set forth in the Plan approved today and the single-stock circuit breaker are broadly similar in some respects. For example, both mechanisms calculate a reference price that is based on a rolling

price bands alone would have reduced the size of the flash crash significantly, but stocks would still have experienced large five-minute declines. For example, on May 6th, Accenture experienced a five-minute decline of 99.98%. The simulation suggests that if there had been price bands in place on May 6th, the most extreme five-minute decline in Accenture might have been 6.43%. While the Commission recognizes that this is still a significant decline, it would have much less than the actual decline.

The NYSE simulation also examined the ability of the limit up-limit down price bands to reduce extreme positive and negative returns. In the Tier 1 stocks priced more than \$1.00, the price bands would eliminate five-minute returns more extreme than 10% and -10%. The price bands would reduce but not eliminate these extreme five-minute returns in other stocks. A sensitivity analysis comparing the proposed price limit percentages to alternative ones suggested that the proposed bands behave at least as well as the alternatives examined.

five-minute price band, and both mechanisms incorporate a five-minute trading pause, followed by a reopening auction on the Primary Listing Exchange.

The Plan, however, provides a more finely calibrated mechanism than that of the current single-stock circuit breaker. For example, the single-stock circuit breaker is triggered by trades that occur at or outside of the price band, and erroneous trades have triggered trading halts throughout the current pilot. In contrast, under the Plan, all trading centers in NMS stocks, including both those operated by Participants and those operated by members of Participants, are required to establish policies and procedures that are reasonably designed to prevent trades at prices outside of the price bands. In addition, quotes outside of the price bands will be marked as non-executable. Given that trades should not occur outside of the price bands, the Commission believes that the Plan is reasonably designed to reduce the number of erroneous trades in comparison to the current single-stock circuit breaker.

Moreover, Limit States under the Plan (and, ultimately, trading pauses) will be triggered by movements in the National Best Bid or the National Best Offer, rather than single trades. These quoting-based triggers are designed to be more stable and reliable indicators of a significant market event than the single trades that currently can trigger a single stock circuit breaker. The result of this change should be to reduce the frequency of Limit States (and, ultimately, trading pauses) to those circumstances that truly warrant a check on continuous trading.

In contrast to the current single-stock circuit breaker, the Plan also features a fifteen-second Limit State that precedes a trading pause. In those instances where the movement of, for example, the National Best Bid below the Lower Price Band is due to a momentary gap in liquidity, rather than a fundamental price move, the Limit State is reasonably designed to allow

the market to quickly correct and resume normal trading, without resorting to a trading pause. Because a Limit State, rather than a trading pause, may be sufficient to resolve some of these scenarios, the corresponding price bands can be narrower than in the single-stock circuit breaker. As such, the Commission believes that the Plan is reasonably designed to be a more finely calibrated mechanism than the current single-stock circuit breaker in guarding against market volatility.¹⁷⁹

While the price bands in the Plan are reasonably designed to be more finely calibrated than the current single-stock circuit breaker, the Commission notes that the Plan is also designed to accommodate more fundamental price moves, albeit in a manner that lessens the velocity of such moves. In this regard, the Commission notes that the Plan provides that the price bands shall not apply to single-priced re-openings, which allows for the stock to enter a trading pause and reopen at a price that is potentially significantly above or below its previous price. The Commission finds that this mechanism is reasonably designed to allow for more fundamental

¹⁷⁹ The Commission also finds that the Plan is consistent with the requirements of Rule 602 under Regulation NMS. Under that rule, bids and offers must be firm, i.e., brokers and dealers are obligated to execute any order to buy or sell a subject security presented to it by another broker or dealer at a price at least as favorable to such buyer or seller as that broker or dealer's published bid or published offer in any amount up to its published quotation size. Similarly, the best bids and offers collected by national securities exchanges must also be firm. See 17 CFR 242.602. However, Rule 602(a)(3)(i) relieves exchanges of their obligation to collect and make available bids and offers (which are firm) if the existence of "unusual market conditions" makes those bids and offers no longer accurately reflective of the current state of the market. This provision also relieves brokers and dealers of their corresponding obligation to submit firm quotes. The Commission believes that, when the National Best Bid (Offer) crosses the Lower (Upper) Price Band, and such quote becomes non-executable, an unusual market condition exists for purposes of Rule 602. To the extent that this scenario constitutes an unusual market condition, the broker or dealer could submit a quote that is outside of the applicable price band, and is thus not firm (as it is non-executable), and the exchange could collect and display such quote, without violating Rule 602. The Commission notes, however, that the firmness requirement continues to apply to quotes at or within the price bands that are submitted by brokers or dealers and collected by exchanges, as such quotes are executable.

price moves to occur. To the extent that a reopening only may occur following a five-minute trading pause, however, the Plan is still reasonably designed to reduce the velocity of more significant price moves.

The Amendment improves the initial proposal by addressing a number of concerns raised by commenters. Specifically, it excludes transactions that are exempt under Rule 611 of Regulation NMS and do not update the last sale price (except if solely because the transaction was reported late), from the requirement that such transactions occur within the price bands. This exclusion addresses commenters' concerns that such transactions often are executed at prices unrelated to the current market and do not have the capacity to initiate or exacerbate volatility.

In response to the concerns of commenters about the potential for bids or offers in an NMS stock to become unexecutable without triggering a Limit State, the Amendment authorizes the Primary Listing Exchange manually to declare a trading pause in these circumstances. This mechanism should help ensure that the market for a stock does not remain impaired for an indefinite period of time, while providing the Primary Listing Exchange with the discretion to determine whether such impairment is inconsistent with the stock's normal trading characteristics.

The Amendment assigns wider price bands for Tier 1 and Tier 2 securities that are priced between \$0.75 and \$3.00 that are reasonably designed to reflect more appropriately the characteristics of stocks that trade in that price range. Similarly, the Amendment excludes all rights and warrants from the Plan, which reflects the trading characteristics of such securities and is consistent with the scope of the current single-stock circuit breaker pilot. The Amendment's

provision for evaluating, on a semi-annual basis, the ETPs that are included in Tier I helps assure that ETPs meeting the criteria for inclusion are appropriately included in Tier I, and vice versa.

The Amendment also extends the implementation date to February 4, 2013. This extension of time should provide appropriate time to develop and test the technology necessary to implement the Plan, including market-wide testing.

Finally, in response to concerns expressed by commenters, the Amendment establishes an Advisory Committee to the Operating Committee composed of a broad cross-section of market participants. The Advisory Committee members will have the right to submit their views on Plan matters to the Operating Committee and thereby engage in the ongoing assessment of Plan operations and formulation of future proposed amendments to the Plan.

One serious concern raised by comments was the interaction between the limit up-limit down mechanism and the market-wide circuit breakers that apply across all securities and securities-related products, particularly during a “macro market event” that affects a large number of securities and securities-related products. The Commission is approving separately today on a pilot basis SRO proposals to revise these market-wide circuit breakers and make them more meaningful in today’s high-speed electronic markets.¹⁸⁰ These SRO rules include both tighter parameters and shorter halt periods. The Commission recognizes the potential for limit up-limit down trading halts in many securities to affect both the calculation of broader indexes and the trading in products related to such indexes. Nevertheless, it believes that the need for protection against extraordinary volatility in individual equities is essential for both investors in

¹⁸⁰ See Securities Exchange Act Release No. 67090 (May 31, 2012) (File Nos. SR-BATS-2011-038; SR-BYX-2011-025; SR-BX-2011-068; SR-CBOE-2011-087; SR-C2-2011-024; SR-CHX-2011-30; SR-EDGA-2011-31; SR-EDGX-2011-30; SR-FINRA-2011-054; SR-ISE-2011-61; SR-NASDAQ-2011-131; SR-NSX-2011-11; SR-NYSE-2011-48; SR-NYSEAmex-2011-73; SR-NYSEArca-2011-68; SR-Phlx-2011-129).

such listed equities and for their listed companies. Accordingly, it is approving the Plan on a pilot basis, but welcomes comments during the pilot period on ways that the Plan could be improved to address potential problems in its interaction with market-wide circuit breakers. The Commission also is accepting comment during the pilot period for the market-wide circuit breakers on ways to improve them to address this question on their interaction with the Plan.

The Commission notes that the Participants did not amend the Plan to incorporate some of the recommendations to modify the operational details of the Plan, including the duration of the Limit State, the calculation of the Reference Price, the application of the price bands at the open and the close, the criteria required to enter and exit the Limit State, and the display of quotes outside of the price bands. The Commission recognizes the thoughtfulness of the comments that put forward such recommendations, and indeed believes they raise valid concerns that warrant close scrutiny during the pilot period. At this time, however, the Commission believes that it is consistent with the Act to accept the considered collective judgment of the Participants on these complex issues, particularly given their expertise and responsibility for operating markets on a daily basis.¹⁸¹

Approving the Plan on a pilot basis will allow the Participants and the public to gain valuable practical experience with Plan operations during the pilot period. This experience should prove invaluable in assessing whether further modifications of the Plan are necessary or appropriate prior to final approval. The Participants also have agreed to provide the Commission

¹⁸¹ The Commission notes that one of the concerns of requiring the National Best Offer (Bid) to trigger the Limit Down (Up) may be partially alleviated by one of the amendments to the Plan. Specifically, if the National Best Bid is outside of the lower price band and is thus non-executable, while the offer remains within the price bands, the stated concern is that the market for that stock is impaired, perhaps for an indefinite period of time, while the stock has not entered the Limit State. The Commission believes that the addition of a manual override, as proposed by the Participants in the amendment to the Plan, may, at least partially, alleviate this concern.

with a significant amount of data bearing on operational questions that should assist the Commission in its evaluation of Plan operations. Finally, the Commission welcomes additional comments, and empirical evidence, on the Plan during the pilot period to further assist it in its evaluation of the Plan. Of course, any final approval of the Plan would require a proposed amendment of the Plan, and such amendment will provide an opportunity for public comment prior to further Commission action.

To the extent that the Participants did not amend the Plan to reflect other operational or procedural concerns, the Commission believes that those suggestions and concerns were generally considered by the Participants in developing a uniform proposal that would not be excessively complicated and yet could still provide important benefits to the markets. For example, one commenter noted that allowing the primary listing market to control the re-opening process in the first five minutes following a trading pause may confer a competitive advantage upon that market. The Commission notes that this aspect of the Plan is consistent with the current procedure for re-opening the market following a trading pause that has been triggered under the single-stock circuit breaker pilot.

Another commenter suggested that a market-wide limit up-limit down mechanism was more appropriately developed through Commission rulemaking than through an NMS plan. While a Commission rulemaking may be an appropriate means for developing such a mechanism, the Commission believes that an NMS plan, which was the means selected by the Participants here, is equally appropriate, particularly given the Participants' expertise in the trading characteristics in individual securities and the operation of market systems.

Some commenters expressed concern over the provision in the Plan governing withdrawal of Participants from the Plan. The Commission notes that withdrawing from the Plan

would require an amendment to the Plan, and Commission approval of that amendment. Given the importance of applying a limit up-limit down mechanism uniformly throughout the market, the Commission would anticipate approving such withdrawal from the Plan only if the Participant seeking to withdraw from the Plan ceased to trade NMS securities.

One commenter suggested that a cost-benefit analysis of the Plan should be conducted. The Commission notes that market participants are welcome to submit additional comments and empirical evidence during the pilot period with respect to, among other things, the operation of the limit up-limit down mechanism, its effectiveness in achieving its intended goals, and the costs associated therewith. The Commission will take such comments into account in considering whether to approve any amendment, in accordance with Rule 608 of Regulation NMS, that proposes to make the Plan permanent.

As such, the Commission believes that the Plan is consistent with the Act, notwithstanding such comments, and that it is reasonably designed to achieve its objective of reducing extraordinary market volatility.

Given that the Plan is being approved on a pilot basis, the Commission expects that the Participants will monitor the scope and operation of the Plan and study the data produced during that time with respect to such issues, and will propose any modifications to the Plan that may be necessary or appropriate. Similarly, the Commission expects that the Participants will propose any modifications to the Plan that may be necessary or appropriate in response to the data being gathered by the Participants during the pilot.¹⁸²

¹⁸² The Commission notes that some of the comments focused on the relation between the Plan, and other, exchange-specific volatility mechanisms, including the NYSE Liquidity Replenishment Points, and the Nasdaq Volatility Guard. While a stated purpose of the Plan is to replace the current single-stock circuit breaker, the Commission is also aware of the potential for unnecessary complexity that could result if the Plan were adopted, and exchange-specific volatility mechanisms were retained. To this end, the Commission

VII. Conclusion

IT IS THEREFORE ORDERED, pursuant to Sections 11A of the Act,¹⁸³ and the rules thereunder, that the Plan (File No. 4-631), as amended, is approved on a one-year pilot basis and declared effective, and the Participants are authorized to act jointly to implement the Plan as a means of facilitating a national market system.

By the Commission.



Elizabeth M. Murphy
Secretary

expects that, upon implementation of the Plan, such exchange-specific volatility mechanisms would be discontinued by the respective exchanges. In that regard, the Commission notes that one such mechanism, the Nasdaq Volatility Guard, is currently set to expire on the earlier of July 31, 2012, or the date on which the Plan is approved by the Commission. See Securities Exchange Act Release No. 66275 (January 30, 2012), 77 FR 5606 (February 3, 2012) (SR-Nasdaq-2012-019).

¹⁸³

15 U.S.C. 78k-1.

EXHIBIT A

PLAN TO ADDRESS EXTRAORDINARY MARKET VOLATILITY

SUBMITTED TO

THE SECURITIES AND EXCHANGE COMMISSION

PURSUANT TO RULE 608 OF REGULATION NMS

UNDER THE

SECURITIES EXCHANGE ACT OF 1934

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Preamble

The Participants submit to the SEC this Plan establishing procedures to address extraordinary volatility in NMS Stocks. The procedures provide for market-wide limit up-limit down requirements that prevent trades in individual NMS Stocks from occurring outside of the specified Price Bands. These limit up-limit down requirements are coupled with Trading Pauses to accommodate more fundamental price moves. The Plan procedures are designed, among other things, to protect investors and promote fair and orderly markets. The Participants developed this Plan pursuant to Rule 608(a)(3) of Regulation NMS under the Exchange Act, which authorizes the Participants to act jointly in preparing, filing, and implementing national market system plans.

I. Definitions

(A) "Eligible Reported Transactions" shall have the meaning prescribed by the Operating Committee and shall generally mean transactions that are eligible to update the last sale price of an NMS Stock.

(B) "Exchange Act" means the Securities Exchange Act of 1934, as amended.

(C) "Limit State" shall have the meaning provided in Section VI of the Plan.

(D) "Limit State Quotation" shall have the meaning provided in Section VI of the Plan.

(E) "Lower Price Band" shall have the meaning provided in Section V of the Plan.

(F) "Market Data Plans" shall mean the effective national market system plans through which the Participants act jointly to disseminate consolidated information in compliance with Rule 603(b) of Regulation NMS under the Exchange Act.

(G) "National Best Bid" and "National Best Offer" shall have the meaning provided in Rule 600(b)(42) of Regulation NMS under the Exchange Act.

(H) "NMS Stock" shall have the meaning provided in Rule 600(b)(47) of Regulation NMS under the Exchange Act.

(I) "Opening Price" shall mean the price of a transaction that opens trading on the Primary Listing Exchange, or, if the Primary Listing Exchange opens with quotations, the midpoint of those quotations.

(J) "Operating Committee" shall have the meaning provided in Section III(C) of the Plan.

(K) "Participant" means a party to the Plan.

(L) "Plan" means the plan set forth in this instrument, as amended from time to time in accordance with its provisions.

(M) "Percentage Parameter" shall mean the percentages for each tier of NMS Stocks set forth in Appendix A of the Plan.

(N) "Price Bands" shall have the meaning provided in Section V of the Plan.

(O) "Primary Listing Exchange" shall mean the Participant on which an NMS Stock is listed. If an NMS Stock is listed on more than one Participant, the Participant on which the NMS Stock has been listed the longest shall be the Primary Listing Exchange.

(P) "Processor" shall mean the single plan processor responsible for the consolidation of information for an NMS Stock pursuant to Rule 603(b) of Regulation NMS under the Exchange Act.

(Q) "Pro-Forma Reference Price" shall have the meaning provided in Section V(A)(2) of the Plan.

(R) "Regular Trading Hours" shall have the meaning provided in Rule 600(b)(64) of Regulation NMS under the Exchange Act. For purposes of the Plan, Regular Trading Hours can end earlier than 4:00 p.m. ET in the case of an early scheduled close.

(S) "Regulatory Halt" shall have the meaning specified in the Market Data Plans.

(T) "Reference Price" shall have the meaning provided in Section V of the Plan.

(U) "Reopening Price" shall mean the price of a transaction that reopens trading on the Primary Listing Exchange following a Trading Pause or a Regulatory Halt, or, if the Primary Listing Exchange reopens with quotations, the midpoint of those quotations.

(V) "SEC" shall mean the United States Securities and Exchange Commission.

(W) "Straddle State" shall have the meaning provided in Section VII(A)(2) of the Plan.

(X) "Trading center" shall have the meaning provided in Rule 600(b)(78) of Regulation NMS under the Exchange Act.

(Y) "Trading Pause" shall have the meaning provided in Section VII of the Plan.

(Z) "Upper Price Band" shall have the meaning provided in Section V of the Plan.

II. Parties

(A) List of Parties

The parties to the Plan are as follows:

- (1) BATS Exchange, Inc.
8050 Marshall Drive
Lenexa, Kansas 66214
- (2) BATS Y-Exchange, Inc.
8050 Marshall Drive
Lenexa, Kansas 66214
- (3) Chicago Board Options Exchange, Incorporated
400 South LaSalle Street
Chicago, Illinois 60605
- (4) Chicago Stock Exchange, Inc.
440 South LaSalle Street
Chicago, Illinois 60605
- (5) EDGA Exchange, Inc.
545 Washington Boulevard
Sixth Floor
Jersey City, NJ 07310
- (6) EDGX Exchange, Inc.
545 Washington Boulevard
Sixth Floor
Jersey City, NJ 07310
- (7) Financial Industry Regulatory Authority, Inc.
1735 K Street, NW

Washington, DC 20006

- (8) NASDAQ OMX BX, Inc.
One Liberty Plaza
New York, New York 10006
- (9) NASDAQ OMX PHLX LLC
1900 Market Street
Philadelphia, Pennsylvania 19103
- (10) The Nasdaq Stock Market LLC
1 Liberty Plaza
165 Broadway
New York, NY 10006
- (11) National Stock Exchange, Inc.
101 Hudson, Suite 1200
Jersey City, NJ 07302
- (12) New York Stock Exchange LLC
11 Wall Street
New York, New York 10005
- (13) NYSE MKT LLC
20 Broad Street
New York, New York 10005
- (14) NYSE Arca, Inc.
100 South Wacker Drive
Suite 1800
Chicago, IL 60606

(B) Compliance Undertaking

By subscribing to and submitting the Plan for approval by the SEC, each Participant agrees to comply with and to enforce compliance, as required by Rule 608(c) of Regulation NMS under the Exchange Act, by its members with the provisions of the Plan. To this end, each Participant shall adopt a rule requiring compliance by its members with the provisions of the Plan, and each Participant shall take such actions as are necessary and appropriate as a

participant of the Market Data Plans to cause and enable the Processor for each NMS Stock to fulfill the functions set forth in this Plan.

(C) New Participants

The Participants agree that any entity registered as a national securities exchange or national securities association under the Exchange Act may become a Participant by: (1) becoming a participant in the applicable Market Data Plans; (2) executing a copy of the Plan, as then in effect; (3) providing each then-current Participant with a copy of such executed Plan; and (4) effecting an amendment to the Plan as specified in Section III(B) of the Plan.

(D) Advisory Committee

(1) Formation. Notwithstanding other provisions of this Plan, an Advisory Committee to the Plan shall be formed and shall function in accordance with the provisions set forth in this section.

(2) Composition. Members of the Advisory Committee shall be selected for two-year terms as follows:

(A) Advisory Committee Selections. By affirmative vote of a majority of the Participants, the Participants shall select at least one representatives from each of the following categories to be members of the Advisory Committee: (1) a broker-dealer with a substantial retail investor customer base; (2) a broker-dealer with a substantial institutional investor customer base; (3) an alternative trading system; and (4) an investor.

(3) Function. Members of the Advisory Committee shall have the right to submit their views to the Operating Committee on Plan matters, prior to a decision by the Operating Committee on such matters. Such matters shall include, but not be limited to, proposed material amendments to the Plan.

(4) Meetings and Information. Members of the Advisory Committee shall have the right to attend meetings of the Operating Committee and to receive any information concerning Plan matters; provided, however, that the Operating Committee may meet in executive session if, by affirmative vote of a majority of the Participants, the Operating Committee determines that an item of Plan business requires confidential treatment.

III. Amendments to Plan

(A) General Amendments

Except with respect to the addition of new Participants to the Plan, any proposed change in, addition to, or deletion from the Plan shall be effected by means of a written amendment to the Plan that: (1) sets forth the change, addition, or deletion; (2) is executed on behalf of each Participant; and, (3) is approved by the SEC pursuant to Rule 608 of Regulation NMS under the Exchange Act, or otherwise becomes effective under Rule 608 of Regulation NMS under the Exchange Act.

(B) New Participants

With respect to new Participants, an amendment to the Plan may be effected by the new national securities exchange or national securities association executing a copy of the Plan, as then in effect (with the only changes being the addition of the new Participant's name in Section II(A) of the Plan) and submitting such executed Plan to the SEC for approval. The amendment shall be effective when it is approved by the SEC in accordance with Rule 608 of Regulation NMS under the Exchange Act or otherwise becomes effective pursuant to Rule 608 of Regulation NMS under the Exchange Act.

(C) Operating Committee

(1) Each Participant shall select from its staff one individual to represent the Participant as a member of an Operating Committee, together with a substitute for such individual. The substitute may participate in deliberations of the Operating Committee and shall be considered a voting member thereof only in the absence of the primary representative. Each Participant shall have one vote on all matters considered by the Operating Committee. No later than the initial date of Plan operations, the Operating Committee shall designate one member of the Operating Committee to act as the Chair of the Operating Committee.

(2) The Operating Committee shall monitor the procedures established pursuant to this Plan and advise the Participants with respect to any deficiencies, problems, or recommendations as the Operating Committee may deem appropriate. The Operating Committee shall establish specifications and procedures for the implementation and operation of the Plan that are consistent with the provisions of this Plan and the Appendixes thereto. With respect to matters in this paragraph, Operating Committee decisions shall be approved by a simple majority vote.

(3) Any recommendation for an amendment to the Plan from the Operating Committee that receives an affirmative vote of at least two-thirds of the Participants, but is less than unanimous, shall be submitted to the SEC as a request for an amendment to the Plan initiated by the Commission under Rule 608 of Regulation NMS.

IV. Trading Center Policies and Procedures

All trading centers in NMS Stocks, including both those operated by Participants and those operated by members of Participants, shall establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with the limit up - limit down

requirements specified in Sections VI of the Plan, and to comply with the Trading Pauses specified in Section VII of the Plan.

V. Price Bands

(A) Calculation and Dissemination of Price Bands

(1) The Processor for each NMS stock shall calculate and disseminate to the public a Lower Price Band and an Upper Price Band during Regular Trading Hours for such NMS Stock. The Price Bands shall be based on a Reference Price for each NMS Stock that equals the arithmetic mean price of Eligible Reported Transactions for the NMS stock over the immediately preceding five-minute period (except for periods following openings and reopenings, which are addressed below). If no Eligible Reported Transactions for the NMS Stock have occurred over the immediately preceding five-minute period, the previous Reference Price shall remain in effect. The Price Bands for an NMS Stock shall be calculated by applying the Percentage Parameter for such NMS Stock to the Reference Price, with the Lower Price Band being a Percentage Parameter below the Reference Price, and the Upper Price Band being a Percentage Parameter above the Reference Price. The Price Bands shall be calculated during Regular Trading Hours. Between 9:30 a.m. and 9:45 a.m. ET, and 3:35 p.m. and 4:00 p.m. ET, or in the case of an early scheduled close, during the last 25 minutes of trading before the early scheduled close, the Price Bands shall be calculated by applying double the Percentage Parameters set forth in Appendix A. If a Reopening Price does not occur within ten minutes after the beginning of a Trading Pause, the Price Band, for the first 30 seconds following the reopening after that Trading Pause, shall be calculated by applying triple the Percentage Parameters set forth in Appendix A.

(2) The Processor shall calculate a Pro-Forma Reference Price on a continuous basis during Regular Trading Hours, as specified in Section V(A)(1) of the Plan. If a Pro-Forma

Reference Price has not moved by 1% or more from the Reference Price currently in effect, no new Price Bands shall be disseminated, and the current Reference Price shall remain the effective Reference Price. When the Pro-Forma Reference Price has moved by 1% or more from the Reference Price currently in effect, the Pro-Forma Reference Price shall become the Reference Price, and the Processor shall disseminate new Price Bands based on the new Reference Price; provided, however, that each new Reference Price shall remain in effect for at least 30 seconds.

(B) Openings

(1) Except when a Regulatory Halt is in effect at the start of Regular Trading Hours, the first Reference Price for a trading day shall be the Opening Price on the Primary Listing Exchange in an NMS Stock if such Opening Price occurs less than five minutes after the start of Regular Trading Hours. During the period less than five minutes after the Opening Price, a Pro-Forma Reference Price shall be updated on a continuous basis to be the arithmetic mean price of Eligible Reported Transactions for the NMS Stock during the period following the Opening Price (including the Opening Price), and if it differs from the current Reference Price by 1% or more shall become the new Reference Price, except that a new Reference Price shall remain in effect for at least 30 seconds. Subsequent Reference Prices shall be calculated as specified in Section V(A) of the Plan.

(2) If the Opening Price on the Primary Listing Exchange in an NMS Stock does not occur within five minutes after the start of Regular Trading Hours, the first Reference Price for a trading day shall be the arithmetic mean price of Eligible Reported Transactions for the NMS Stock over the preceding five minute time period, and subsequent Reference Prices shall be calculated as specified in Section V(A) of the Plan.

(C) Reopenings

(1) Following a Trading Pause in an NMS Stock, and if the Primary Listing Exchange has not declared a Regulatory Halt, the next Reference Price shall be the Reopening Price on the Primary Listing Exchange if such Reopening Price occurs within ten minutes after the beginning of the Trading Pause, and subsequent Reference Prices shall be determined in the manner prescribed for normal openings, as specified in Section V(B)(1) of the Plan. If such Reopening Price does not occur within ten minutes after the beginning of the Trading Pause, the first Reference Price following the Trading Pause shall be equal to the last effective Reference Price before the Trading Pause. Subsequent Reference Prices shall be calculated as specified in Section V(A) of the Plan.

(2) Following a Regulatory Halt, the next Reference Price shall be the Opening or Reopening Price on the Primary Listing Exchange if such Opening or Reopening Price occurs within five minutes after the end of the Regulatory Halt, and subsequent Reference Prices shall be determined in the manner prescribed for normal openings, as specified in Section V(B)(1) of the Plan. If such Opening or Reopening Price has not occurred within five minutes after the end of the Regulatory Halt, the Reference Price shall be equal to the arithmetic mean price of Eligible Reported Transactions for the NMS Stock over the preceding five minute time period, and subsequent Reference Prices shall be calculated as specified in Section V(A) of the Plan.

VI. Limit Up-Limit Down Requirements

(A) Limitations on Trades and Quotations Outside of Price Bands

(1) All trading centers in NMS Stocks, including both those operated by Participants and those operated by members of Participants, shall establish, maintain, and enforce written policies and procedures that are reasonably designed to prevent trades at prices that are below the

Lower Price Band or above the Upper Price Band for an NMS Stock. Single-priced opening, reopening, and closing transactions on the Primary Listing Exchange, however, shall be excluded from this limitation. In addition, any transaction that both does not update the last sale price (except if solely because the transaction was reported late) and is excepted or exempt from Rule 611 under Regulation NMS shall be excluded from this limitation.

(2) When a National Best Bid is below the Lower Price Band or a National Best Offer is above the Upper Price Band for an NMS Stock, the Processor shall disseminate such National Best Bid or National Best Offer with an appropriate flag identifying it as non-executable. When a National Best Offer is equal to the Lower Price Band or a National Best Bid is equal to the Upper Price Band for an NMS Stock, the Processor shall distribute such National Best Bid or National Best Offer with an appropriate flag identifying it as a "Limit State Quotation".

(3) All trading centers in NMS Stocks, including both those operated by Participants and those operated by members of Participants, shall establish, maintain, and enforce written policies and procedures that are reasonably designed to prevent the display of offers below the Lower Price Band and bids above the Upper Price Band for an NMS Stock. The Processor shall disseminate an offer below the Lower Price Band or bid above the Upper Price Band that may be submitted despite such reasonable policies and procedures, but with an appropriate flag identifying it as non-executable; provided, however, that any such bid or offer shall not be included in National Best Bid or National Best Offer calculations.

(B) Entering and Exiting a Limit State

(1) All trading for an NMS Stock shall immediately enter a Limit State if the National Best Offer equals the Lower Price Band and does not cross the National Best Bid, or the National Best Bid equals the Upper Price Band and does not cross the National Best Offer.

(2) When trading for an NMS Stock enters a Limit State, the Processor shall disseminate this information by identifying the relevant quotation (i.e., a National Best Offer that equals the Lower Price Band or a National Best Bid that equals the Upper Price Band) as a Limit State Quotation. At this point, the Processor shall cease calculating and disseminating updated Reference Prices and Price Bands for the NMS Stock until either trading exits the Limit State or trading resumes with an opening or re-opening as provided in Section V.

(3) Trading for an NMS Stock shall exit a Limit State if, within 15 seconds of entering the Limit State, the entire size of all Limit State Quotations are executed or cancelled.

(4) If trading for an NMS Stock exits a Limit State within 15 seconds of entry, the Processor shall immediately calculate and disseminate updated Price Bands based on a Reference Price that equals the arithmetic mean price of Eligible Reported Transactions for the NMS Stock over the immediately preceding five-minute period (including the period of the Limit State).

(5) If trading for an NMS Stock does not exit a Limit State within 15 seconds of entry, the Limit State will terminate when the Primary Listing Exchange declares a Trading Pause pursuant to Section VII of the Plan. If trading for an NMS Stock is in a Limit State at the end of Regular Trading Hours, the Limit State will terminate when the Primary Listing Exchange executes a closing transaction in the NMS Stock or five minutes after the end of Regular Trading Hours, whichever is earlier.

VII. Trading Pauses

(A) Declaration of Trading Pauses

(1) If trading for an NMS Stock does not exit a Limit State within 15 seconds of entry during Regular Trading Hours, then the Primary Listing Exchange shall declare a Trading Pause for such NMS Stock and shall notify the Processor.

(2) The Primary Listing Exchange may also declare a Trading Pause for an NMS Stock when an NMS Stock is in a Straddle State, which is when National Best Bid (Offer) is below (above) the Lower (Upper) Price Band and the NMS Stock is not in a Limit State, and trading in that NMS Stock deviates from normal trading characteristics such that declaring a Trading Pause would support the Plan's goal to address extraordinary market volatility. The Primary Listing Exchange shall develop policies and procedures for determining when it would declare a Trading Pause in such circumstances. If a Trading Pause is declared for an NMS Stock under this provision, the Primary Listing Exchange shall notify the Processor.

(3) The Processor shall disseminate Trading Pause information to the public. No trades in an NMS Stock shall occur during a Trading Pause, but all bids and offers may be displayed.

(B) Reopening of Trading During Regular Trading Hours

(1) Five minutes after declaring a Trading Pause for an NMS Stock, and if the Primary Listing Exchange has not declared a Regulatory Halt, the Primary Listing Exchange shall attempt to reopen trading using its established reopening procedures. The Trading Pause shall end when the Primary Listing Exchange reports a Reopening Price.

(2) The Primary Listing Exchange shall notify the Processor if it is unable to reopen trading in an NMS Stock for any reason other than a significant order imbalance and if it has not

declared a Regulatory Halt. The Processor shall disseminate this information to the public, and all trading centers may begin trading the NMS Stock at this time.

(3) If the Primary Listing Exchange does not report a Reopening Price within ten minutes after the declaration of a Trading Pause in an NMS Stock, and has not declared a Regulatory Halt, all trading centers may begin trading the NMS Stock.

(4) When trading begins after a Trading Pause, the Processor shall update the Price Bands as set forth in Section V(C)(1) of the Plan.

(C) Trading Pauses Within Five Minutes of the End of Regular Trading Hours

(1) If a Trading Pause for an NMS Stock is declared less than five minutes before the end of Regular Trading Hours, the Primary Listing Exchange shall attempt to execute a closing transaction using its established closing procedures. All trading centers may begin trading the NMS Stock when the Primary Listing Exchange executes a closing transaction.

(2) If the Primary Listing Exchange does not execute a closing transaction within five minutes after the end of Regular Trading Hours, all trading centers may begin trading the NMS Stock.

VIII. Implementation

(A) Phase I

(1) Phase I of Plan implementation shall apply immediately following the initial date of Plan operations.

(2) During Phase I, the Plan shall apply only to the Tier 1 NMS Stocks identified in Appendix A of the Plan.

(3) During Phase I, the first Price Bands for a trading day shall be calculated and disseminated 15 minutes after the start of Regular Trading Hours as specified in Section (V)(A)

of the Plan. No Price Bands shall be calculated and disseminated less than 30 minutes before the end of Regular Trading Hours, and trading shall not enter a Limit State less than 25 minutes before the end of Regular Trading Hours.

(B) Phase II – Full Implementation

Six months after the initial date of Plan operations, or such earlier date as may be announced by the Processor with at least 30 days notice, the Plan shall fully apply (i) to all NMS Stocks; and (ii) beginning at 9:30 a.m. ET, and ending at 4:00 p.m. ET each trading day, or earlier in the case of an early scheduled close or if the Processor disseminates a closing trade for the Primary Listing Exchange.

(C) Pilot

The Plan shall be implemented on a one-year pilot basis.

IX. Withdrawal from Plan

If a Participant obtains SEC approval to withdraw from the Plan, such Participant may withdraw from the Plan at any time on not less than 30 days' prior written notice to each of the other Participants. At such time, the withdrawing Participant shall have no further rights or obligations under the Plan.

X. Counterparts and Signatures

The Plan may be executed in any number of counterparts, no one of which need contain all signatures of all Participants, and as many of such counterparts as shall together contain all such signatures shall constitute one and the same instrument.

IN WITNESS THEREOF, this Plan has been executed as of the ___ day of _____ 2012 by
each of the parties hereto.

BATS EXCHANGE, INC.

BY: _____

CHICAGO BOARD OPTIONS
EXCHANGE, INCORPORATED

BY: _____

EDGA EXCHANGE, INC.

BY: _____

FINANCIAL INDUSTRY
REGULATORY AUTHORITY, INC.

BY: _____

NASDAQ OMX PHLX LLC

BY: _____

NATIONAL STOCK EXCHANGE, INC.

BY: _____

NYSE MKT LLC

BY: _____

BATS Y-EXCHANGE, INC.

BY: _____

CHICAGO STOCK EXCHANGE, INC.

BY: _____

EDGX EXCHANGE, INC.

BY: _____

NASDAQ OMX BX, INC.

BY: _____

THE NASDAQ STOCK MARKET LLC

BY: _____

NEW YORK STOCK EXCHANGE LLC

BY: _____

NYSE ARCA, INC.

BY: _____

Appendix A – Percentage Parameters

I. Tier 1 NMS Stocks

(1) Tier 1 NMS Stocks shall include all NMS Stocks included in the S&P 500 Index, the Russell 1000 Index, and the exchange-traded products (“ETP”) listed on Schedule 1 to this Appendix. Schedule 1 to the Appendix will be reviewed and updated semi-annually based on the fiscal year by the Primary Listing Exchange to add ETPs that meet the criteria, or delete ETPs that are no longer eligible. To determine eligibility for an ETP to be included as a Tier 1 NMS Stock, all ETPs across multiple asset classes and issuers, including domestic equity, international equity, fixed income, currency, and commodities and futures will be identified. Leveraged ETPs will be excluded and the list will be sorted by notional consolidated average daily volume (“CADV”). The period used to measure CADV will be from the first day of the previous fiscal half year up until one week before the beginning of the next fiscal half year. Daily volumes will be multiplied by closing prices and then averaged over the period. ETPs, including inverse ETPs, that trade over \$2,000,000 CADV will be eligible to be included as a Tier 1 NMS Stock. To ensure that ETPs that track similar benchmarks but that do not meet this volume criterion do not become subject to pricing volatility when a component security is the subject of a trading pause, non-leveraged ETPs that have traded below this volume criterion, but that track the same benchmark as an ETP that does meet the volume criterion, will be deemed eligible to be included as a Tier 1 NMS Stock. The semi-annual updates to Schedule 1 do not require an amendment to the Plan. The Primary Listing Exchanges will maintain the updated Schedule 1 on their respective websites.

(2) The Percentage Parameters for Tier 1 NMS Stocks with a Reference Price more than \$3.00 shall be 5%.

(3) The Percentage Parameters for Tier 1 NMS Stocks with a Reference Price equal to \$0.75 and up to and including \$3.00 shall be 20%.

(4) The Percentage Parameters for Tier 1 NMS Stocks with a Reference Price less than \$0.75 shall be the lesser of (a) \$0.15 or (b) 75%.

(5) The Reference Price used for determining which Percentage Parameter shall be applicable during a trading day shall be based on the closing price of the NMS Stock on the Primary Listing Exchange on the previous trading day, or if no closing price exists, the last sale on the Primary Listing Exchange reported by the Processor.

II. Tier 2 NMS Stocks

(1) Tier 2 NMS Stocks shall include all NMS Stocks other than those in Tier 1, provided, however, that all rights and warrants are excluded from the Plan.

(2) The Percentage Parameters for Tier 2 NMS Stocks with a Reference Price more than \$3.00 shall be 10%.

(3) The Percentage Parameters for Tier 2 NMS Stocks with a Reference Price equal to \$0.75 and up to and including \$3.00 shall be 20%.

(4) The Percentage Parameters for Tier 2 NMS Stocks with a Reference Price less than \$0.75 shall be the lesser of (a) \$0.15 or (b) 75%.

(5) Notwithstanding the foregoing, the Percentage Parameters for a Tier 2 NMS Stock that is a leveraged ETP shall be the applicable Percentage Parameter set forth in clauses (2), (3), or (4) above, multiplied by the leverage ratio of such product.

(6) The Reference Price used for determining which Percentage Parameter shall be applicable during a trading day shall be based on the closing price of the NMS Stock on the

Primary Listing Exchange on the previous trading day, or if no closing price exists, the last sale on the Primary Listing Exchange reported by the Processor.

Appendix A – Schedule 1

Symbol	Name
AAVX	ETRACS Daily Short 1-Month S&P 500 VIX Futures ETN
AAXJ	iShares MSCI All Country Asia ex Japan Index Fund
ACWI	iShares MSCI ACWI Index Fund
ACWX	iShares MSCI ACWI ex US Index Fund
AGG	iShares Barclays Aggregate Bond Fund
AGZ	iShares Barclays Agency Bond Fund
ALD	WisdomTree Asia Local Debt Fund
AMJ	JPMorgan Alerian MLP Index ETN
AMLPL	Alerian MLP ETF
BAB	PowerShares Build America Bond Portfolio
BDG	PowerShares DB Base Metals Long ETN
BIK	SPDR S&P BRIC 40 ETF
BIL	SPDR Barclays Capital 1-3 Month T-Bill ETF
BIV	Vanguard Intermediate-Term Bond ETF
BKF	iShares MSCI BRIC Index Fund
BKLN	PowerShares Senior Loan Portfolio
BLV	Vanguard Long-Term Bond ETF
BND	Vanguard Total Bond Market ETF
BNO	United States Brent Oil Fund LP
BOND	Pimco Total Return ETF
BOS	PowerShares DB Base Metals Short ETN
BRF	Market Vectors Brazil Small-Cap ETF
BSV	Vanguard Short-Term Bond ETF
BWX	SPDR Barclays Capital International Treasury Bond ETF
BXDB	Barclays ETN+short B Leveraged ETN Linked to S&P 500
CEW	WisdomTree Dreyfus Emerging Currency Fund
CFT	iShares Barclays Credit Bond Fund
CIU	iShares Barclays Intermediate Credit Bond Fund
CLY	iShares 10+ Year Credit Bond Fund
CORN	Teucrium Corn Fund
CSJ	iShares Barclays 1-3 Year Credit Bond Fund
CVY	Guggenheim Multi-Asset Income ETF
CWB	SPDR Barclays Capital Convertible Securities ETF
CWI	SPDR MSCI ACWI ex-US ETF
CYB	WisdomTree Dreyfus Chinese Yuan Fund
DBA	PowerShares DB Agriculture Fund
DBB	PowerShares DB Base Metals Fund
DBC	PowerShares DB Commodity Index Tracking Fund

Symbol	Name
DBE	PowerShares DB Energy Fund
DBO	PowerShares DB Oil Fund
DBP	PowerShares DB Precious Metals Fund
DBV	PowerShares DB G10 Currency Harvest Fund
DEM	WisdomTree Emerging Markets Equity Income Fund
DGL	PowerShares DB Gold Fund
DGS	WisdomTree Emerging Markets SmallCap Dividend Fund
DGZ	PowerShares DB Gold Short ETN
DHS	WisdomTree Equity Income Fund
DIA	SPDR Dow Jones Industrial Average ETF Trust
DJCI	E-TRACS UBS AG Dow Jones-UBS Commodity Index Total Return ETN
DJP	iPath Dow Jones-UBS Commodity Index Total Return ETN
DLN	WisdomTree LargeCap Dividend Fund
DOG	ProShares Short Dow30
DON	WisdomTree MidCap Dividend Fund
DOO	WisdomTree International Dividend Ex-Financials Fund
DTN	WisdomTree Dividend Ex-Financials Fund
DVY	iShares Dow Jones Select Dividend Index Fund
DWM	WisdomTree DEFA Fund
DWX	SPDR S&P International Dividend ETF
DXJ	WisdomTree Japan Hedged Equity Fund
ECH	iShares MSCI Chile Investable Market Index Fund
ECON	EGShares Emerging Markets Consumer ETF
EDIV	SPDR S&P Emerging Markets Dividend ETF
EDV	Vanguard Extended Duration Treasury ETF
EEB	Guggenheim BRIC ETF
EEM	iShares MSCI Emerging Markets Index Fund
EFA	iShares MSCI EAFE Index Fund
EFG	iShares MSCI EAFE Growth Index
EFV	iShares MSCI EAFE Value Index
EFZ	ProShares Short MSCI EAFE
EIDO	iSHARES MSCI Indonesia Investable Market Index Fund
ELD	WisdomTree Emerging Markets Local Debt Fund
ELR	SPDR Dow Jones Large Cap ETF
EMB	iShares JPMorgan USD Emerging Markets Bond Fund
EMLC	Market Vectors Emerging Markets Local Currency Bond ETF
EMM	SPDR Dow Jones Mid Cap ETF
EPHE	iShares MSCI Philippines Investable Market Index Fund

Symbol	Name
EPI	WisdomTree India Earnings Fund
EPP	iShares MSCI Pacific ex-Japan Index Fund
EPU	iShares MSCI All Peru Capped Index Fund
ERUS	iShares MSCI Russia Capped Index Fund
EUM	ProShares Short MSCI Emerging Markets
EWA	iShares MSCI Australia Index Fund
EWC	iShares MSCI Canada Index Fund
EWD	iShares MSCI Sweden Index Fund
EWG	iShares MSCI Germany Index Fund
EWH	iShares MSCI Hong Kong Index Fund
EWI	iShares MSCI Italy Index Fund
EWJ	iShares MSCI Japan Index Fund
EWL	iShares MSCI Switzerland Index Fund
EWM	iShares MSCI Malaysia Index Fund
EWP	iShares MSCI Spain Index Fund
EWQ	iShares MSCI France Index Fund
EWS	iShares MSCI Singapore Index Fund
EWT	iShares MSCI Taiwan Index Fund
EWU	iShares MSCI United Kingdom Index Fund
EWV	iShares MSCI Mexico Investable Market Index Fund
EWX	SPDR S&P Emerging Markets SmallCap ETF
EWY	iShares MSCI South Korea Index Fund
EWZ	iShares MSCI Brazil Index Fund
EZA	iShares MSCI South Africa Index Fund
EZU	iShares MSCI EMU Index Fund
FBT	First Trust NYSE Arca Biotechnology Index Fund
FCG	First Trust ISE-Revere Natural Gas Index Fund
FDL	First Trust Morningstar Dividend Leaders Index
FDN	First Trust Dow Jones Internet Index Fund
FEX	First Trust Large Cap Core AlphaDEX Fund
FEZ	SPDR EURO STOXX 50 ETF
FGD	First Trust DJ Global Select Dividend Index Fund
FLAT	iPath US Treasury Flatteners ETN
FNX	First Trust Mid Cap Core AlphaDEX Fund
FRI	First Trust S&P REIT Index Fund
FVD	First Trust Value Line Dividend Index Fund
FXA	CurrencyShares Australian Dollar Trust
FXB	CurrencyShares British Pound Sterling Trust
FXC	CurrencyShares Canadian Dollar Trust

Symbol	Name
FXD	First Trust Consumer Discretionary AlphaDEX Fund
FXE	CurrencyShares Euro Trust
FXF	CurrencyShares Swiss Franc Trust
FXG	First Trust Consumer Staples AlphaDEX Fund
FXH	First Trust Health Care AlphaDEX Fund
FXI	iShares FTSE China 25 Index Fund
FXL	First Trust Technology AlphaDEX Fund
FXU	First Trust Utilities AlphaDEX Fund
FXY	CurrencyShares Japanese Yen Trust
FXZ	First Trust Materials AlphaDEX Fund
GAZ	iPath Dow Jones-UBS Natural Gas Subindex Total Return ETN
GCC	GreenHaven Continuous Commodity Index Fund
GDX	Market Vectors Gold Miners ETF
GDXJ	Market Vectors Junior Gold Miners ETF
GIY	Guggenheim Enhanced Core Bond ETF
GLD	SPDR Gold Shares
GMF	SPDR S&P Emerging Asia Pacific ETF
GNR	SPDR S&P Global Natural Resources ETF
GOVT	iShares Barclays U.S. Treasury Bond Fund
GSG	iShares S&P GSCI Commodity Indexed Trust
GSP	iPath GSCI Total Return Index ETN
GSY	Guggenheim Enhanced Short Duration Bond ETF
GVI	iShares Barclays Intermediate Government/Credit Bond Fund
GWX	SPDR S&P International Small Cap ETF
GXC	SPDR S&P China ETF
GXG	Global X FTSE Colombia 20 ETF
HAO	Guggenheim China Small Cap ETF
HDGE	Active Bear ETF/The
HDV	iShares High Dividend Equity Fund
HYD	Market Vectors High Yield Municipal Index ETF
HYG	iShares iBoxx \$ High Yield Corporate Bond Fund
HYS	PIMCO 0-5 Year High Yield Corporate Bond Index Fund
IAU	iShares Gold Trust
IBB	iShares Nasdaq Biotechnology Index Fund
ICF	iShares Cohen & Steers Realty Majors Index Fund
ICI	iPath Optimized Currency Carry ETN
IDU	iShares Dow Jones US Utilities Sector Index Fund
IDV	iShares Dow Jones International Select Dividend Index Fund
IDX	Market Vectors Indonesia Index ETF

Symbol	Name
IEF	iShares Barclays 7-10 Year Treasury Bond Fund
IEI	iShares Barclays 3-7 Year Treasury Bond Fund
IEO	iShares Dow Jones US Oil & Gas Exploration & Production Index Fund
IEV	iShares S&P Europe 350 Index Fund
IEZ	iShares Dow Jones US Oil Equipment & Services Index Fund
IGE	iShares S&P North American Natural Resources Sector Index Fund
IGF	iShares S&P Global Infrastructure Index Fund
IGOV	iShares S&P/Citigroup International Treasury Bond Fund
IGS	ProShares Short Investment Grade Corporate
IGV	iShares S&P North American Technology-Software Index Fund
IHE	iShares Dow Jones US Pharmaceuticals Index Fund
IHF	iShares Dow Jones US Healthcare Providers Index Fund
IHI	iShares Dow Jones US Medical Devices Index Fund
IJH	iShares S&P MidCap 400 Index Fund
IJJ	iShares S&P MidCap 400/BARRA Value Index Fund
IJK	iShares S&P MidCap 400 Growth Index Fund
IJR	iShares S&P SmallCap 600 Index Fund
IJS	iShares S&P SmallCap 600 Value Index Fund
IJT	iShares S&P SmallCap 600/BARRA Growth Index Fund
ILF	iShares S&P Latin America 40 Index Fund
INDA	iShares MSCI India Index Fund
INDY	iShares S&P India Nifty 50 Index Fund
INP	iPath MSCI India Index ETN
IOO	iShares S&P Global 100 Index Fund
IPE	SPDR Barclays Capital TIPS ETF
ITB	iShares Dow Jones US Home Construction Index Fund
ITM	Market Vectors Intermediate Municipal ETF
IVE	iShares S&P 500 Value Index Fund
IVOO	Vanguard S&P Mid-Cap 400 ETF
IVOP	iPath Inverse S&P 500 VIX Short-Term Futures™ ETN II
IVV	iShares S&P 500 Index Fund/US
IVW	iShares S&P 500 Growth Index Fund
IWB	iShares Russell 1000 Index Fund
IWC	iShares Russell Microcap Index Fund
IWD	iShares Russell 1000 Value Index Fund
IWF	iShares Russell 1000 Growth Index Fund
IWM	iShares Russell 2000 Index Fund
IWN	iShares Russell 2000 Value Index Fund
IWO	iShares Russell 2000 Growth Index Fund

Symbol	Name
IWP	iShares Russell Midcap Growth Index Fund
IWR	iShares Russell Midcap Index Fund
IWS	iShares Russell Midcap Value Index Fund
IWV	iShares Russell 3000 Index Fund
IWW	iShares Russell 3000 Value Index Fund
IWY	iShares Russell Top 200 Growth Index Fund
IWZ	iShares Russell 3000 Growth Index Fund
IXC	iShares S&P Global Energy Sector Index Fund
IXG	iShares S&P Global Financials Sector Index Fund
IXJ	iShares S&P Global Healthcare Sector Index Fund
IXN	iShares S&P Global Technology Sector Index Fund
IXP	iShares S&P Global Telecommunications Sector Index Fund
IYC	iShares Dow Jones US Consumer Services Sector Index Fund
IYE	iShares Dow Jones US Energy Sector Index Fund
IYF	iShares Dow Jones US Financial Sector Index Fund
IYG	iShares Dow Jones US Financial Services Index Fund
IYH	iShares Dow Jones US Healthcare Sector Index Fund
IYJ	iShares Dow Jones US Industrial Sector Index Fund
IYK	iShares Dow Jones US Consumer Goods Sector Index Fund
IYM	iShares Dow Jones US Basic Materials Sector Index Fund
IYR	iShares Dow Jones US Real Estate Index Fund
IYT	iShares Dow Jones Transportation Average Index Fund
IYW	iShares Dow Jones US Technology Sector Index Fund
IYY	iShares Dow Jones US Index Fund
IYZ	iShares Dow Jones US Telecommunications Sector Index Fund
JJC	iPath Dow Jones-UBS Copper Subindex Total Return ETN
JJG	iPath Dow Jones-UBS Grains Subindex Total Return ETN
JNK	SPDR Barclays Capital High Yield Bond ETF
JXI	iShares S&P Global Utilities Sector Index Fund
JYN	iPath JPY/USD Exchange Rate ETN
KBE	SPDR S&P Bank ETF
KBWB	PowerShares KBW Bank Portfolio
KIE	SPDR S&P Insurance ETF
KOL	Market Vectors Coal ETF
KRE	SPDR S&P Regional Banking ETF
KXI	iShares S&P Global Consumer Staples Sector Index Fund
LAG	SPDR Barclays Capital Aggregate Bond ETF
LQD	iShares iBoxx Investment Grade Corporate Bond Fund
LTPZ	PIMCO 15+ Year US TIPS Index Fund

Symbol	Name
LWC	SPDR Barclays Capital Long Term Corporate BondETF
MBB	iShares Barclays MBS Bond Fund
MBG	SPDR Barclays Capital Mortgage Backed Bond ETF
MCHI	iShares MSCI China Index Fund
MDY	SPDR S&P MidCap 400 ETF Trust
MGC	Vanguard Mega Cap 300 ETF
MGK	Vanguard Mega Cap 300 Growth ETF
MINT	PIMCO Enhanced Short Maturity Strategy Fund
MLPI	UBS E-TRACS Alerian MLP Infrastructure ETN
MLPN	Credit Suisse Cushing 30 MLP Index ETN
MOO	Market Vectors Agribusiness ETF
MUB	iShares S&P National Municipal Bond Fund
MXI	iShares S&P Global Materials Sector Index Fund
MYX	ProShares Short MidCap 400
NKY	MAXIS Nikkei 225 Index Fund ETF
OEF	iShares S&P 100 Index Fund
OIH	Market Vectors Oil Service ETF
OIL	iPath Goldman Sachs Crude Oil Total Return Index ETN
PALL	ETFS Physical Palladium Shares
PBJ	Powershares Dynamic Food & Beverage Portfolio
PCEF	PowerShares CEF Income Composite Portfolio
PCY	PowerShares Emerging Markets Sovereign Debt Portfolio
PDP	Powershares DWA Technical Leaders Portfolio
PEY	PowerShares High Yield Equity Dividend Achievers Portfolio
PFF	iShares S&P US Preferred Stock Index Fund
PFM	PowerShares Dividend Achievers Portfolio
PGF	PowerShares Financial Preferred Portfolio
PGX	PowerShares Preferred Portfolio
PHB	PowerShares Fundamental High Yield Corporate Bond Portfolio
PHO	PowerShares Water Resources Portfolio
PHYS	Sprott Physical Gold Trust
PID	PowerShares International Dividend Achievers Portfolio
PIE	PowerShares DWA Emerging Markets Technical Leaders Portfolio
PIN	PowerShares India Portfolio
PJP	Powershares Dynamic Pharmaceuticals Portfolio
PLW	PowerShares 1-30 Laddered Treasury Portfolio
PPH	Market Vectors Pharmaceutical ETF
PPLT	ETFS Platinum Trust
PRF	Powershares FTSE RAFI US 1000 Portfolio

Symbol	Name
PRFZ	PowerShares FTSE RAFI US 1500 Small-Mid Portfolio
PSLV	Sprott Physical Silver Trust
PSP	PowerShares Global Listed Private Equity Portfolio
PSQ	ProShares Short QQQ
PVI	PowerShares VRDO Tax Free Weekly Portfolio
PXH	PowerShares FTSE RAFI Emerging Markets Portfolio
PZA	PowerShares Insured National Municipal Bond Portfolio
QQQ	Powershares QQQ Trust Series 1
REM	iShares FTSE NAREIT Mortgage Plus Capped Index Fund
REMX	Market Vectors Rare Earth/Strategic Metals ETF
REZ	iShares FTSE NAREIT Residential Plus Capped Index Fund
RFG	Guggenheim S&P Midcap 400 Pure Growth ETF
RJA	ELEMENTS Linked to the Rogers International Commodity Index - Agri Tot Return
RJI	ELEMENTS Linked to the Rogers International Commodity Index - Total Return
RJN	ELEMENTS Linked to the Rogers International Commodity Index - Energy To Return
RJZ	ELEMENTS Linked to the Rogers International Commodity Index - Metals Tot Return
RPG	Guggenheim S&P 500 Pure Growth ETF
RSP	Guggenheim S&P 500 Equal Weight ETF
RSX	Market Vectors Russia ETF
RTH	Market Vectors Retail ETF
RWM	ProShares Short Russell2000
RWO	SPDR Dow Jones Global Real Estate ETF
RWR	SPDR Dow Jones REIT ETF
RWX	SPDR Dow Jones International Real Estate ETF
RYH	Guggenheim S&P 500 Equal Weight Healthcare ETF
SAGG	Direxion Daily Total Bond Market Bear 1x Shares
SCHA	Schwab US Small-Cap ETF
SCHB	Schwab US Broad Market ETF
SCHD	Schwab US Dividend Equity ETF
SCHE	Schwab Emerging Markets Equity ETF
SCHF	Schwab International Equity ETF
SCHG	Schwab U.S. Large-Cap Growth ETF
SCHH	Schwab U.S. REIT ETF
SCHM	Schwab U.S. Mid-Cap ETF
SCHO	Schwab Short-Term U.S. Treasury ETF
SCHP	Schwab U.S. TIPs ETF

Symbol	Name
SCHR	Schwab Intermediate-Term U.S. Treasury ETF
SCHV	Schwab U.S. Large-Cap Value ETF
SCHX	Schwab US Large-Cap ETF
SCHZ	Schwab U.S. Aggregate Bond ETF
SCPB	SPDR Barclays Capital Short Term Corporate Bond ETF
SCZ	iShares MSCI EAFE Small Cap Index Fund
SDY	SPDR S&P Dividend ETF
SEF	ProShares Short Financials
SGG	iPath Dow Jones-UBS Sugar Subindex Total Return ETN
SGOL	ETFS Gold Trust
SH	ProShares Short S&P500
SHM	SPDR Nuveen Barclays Capital Short Term Municipal Bond ETF
SHV	iShares Barclays Short Treasury Bond Fund
SHY	iShares Barclays 1-3 Year Treasury Bond Fund
SIL	Global X Silver Miners ETF
SIVR	ETFS Physical Silver Shares
SJB	ProShares Short High Yield
SJNK	SPDR Barclays Capital Short Term High Yield Bond ETF
SLV	iShares Silver Trust
SLX	Market Vectors Steel Index Fund
SMH	Market Vectors Semiconductor ETF
SOXX	iShares PHLX SOX Semiconductor Sector Index Fund
SPLV	PowerShares S&P 500 Low Volatility Portfolio
SPY	SPDR S&P 500 ETF Trust
SPYG	SPDR S&P 500 Growth ETF
SPYV	SPDR S&P 500 Value ETF
STIP	iShares Barclays 0-5 Year TIPS Bond Fund
STPP	iPath US Treasury Steepener ETN
STPZ	PIMCO 1-5 Year US TIPS Index Fund
SUB	iShares S&P Short Term National AMT-Free Municipal Bond Fund
SVXY	ProShares Short VIX Short-Term Futures ETF
TAN	Guggenheim Solar ETF
TBF	ProShares Short 20+ Year Treasury
TBX	ProShares Short 7-10 Treasury
TFI	SPDR Nuveen Barclays Capital Municipal Bond ETF
THD	iShares MSCI Thailand Index Fund
TIP	iShares Barclays TIPS Bond Fund
TLH	iShares Barclays 10-20 Year Treasury Bond Fund
TLT	iShares Barclays 20+ Year Treasury Bond Fund

Symbol	Name
TUR	iShares MSCI Turkey Index Fund
UDN	PowerShares DB US Dollar Index Bearish Fund
UGA	United States Gasoline Fund LP
UNG	United States Natural Gas Fund LP
URA	Global X Uranium ETF
USCI	United States Commodity Index Fund
USL	United States 12 Month Oil Fund LP
USO	United States Oil Fund LP
UUP	PowerShares DB US Dollar Index Bullish Fund
VAW	Vanguard Materials ETF
VB	Vanguard Small-Cap ETF
VBK	Vanguard Small-Cap Growth ETF
VBR	Vanguard Small-Cap Value ETF
VCIT	Vanguard Intermediate-Term Corporate Bond ETF
VCLT	Vanguard Long-Term Corporate Bond ETF
VCR	Vanguard Consumer Discretionary ETF
VCSH	Vanguard Short-Term Corporate Bond ETF
VDC	Vanguard Consumer Staples ETF
VDE	Vanguard Energy ETF
VEA	Vanguard MSCI EAFE ETF
VEU	Vanguard FTSE All-World ex-US ETF
VFH	Vanguard Financials ETF
VGK	Vanguard MSCI European ETF
VGT	Vanguard Information Technology ETF
VHT	Vanguard Health Care ETF
VIG	Vanguard Dividend Appreciation ETF
VIIX	VelocityShares VIX Short Term ETN
VIOO	Vanguard S&P Small-Cap 600 ETF
VIS	Vanguard Industrials ETF
VIXM	ProShares VIX Mid-Term Futures ETF
VIXY	ProShares VIX Short-Term Futures ETF
VMBS	Vanguard Mortgage-Backed Securities ETF
VNM	Market Vectors Vietnam ETF
VNQ	Vanguard REIT ETF
VO	Vanguard Mid-Cap ETF
VOE	Vanguard Mid-Cap Value Index Fund/Closed-end
VONE	Vanguard Russell 1000
VONG	Vanguard Russell 1000 Growth ETF
VONV	Vanguard Russell 1000 Value

Symbol	Name
VOO	Vanguard S&P 500 ETF
VOOG	Vanguard S&P 500 Growth ETF
VOOV	Vanguard S&P 500 Value ETF
VOT	Vanguard Mid-Cap Growth Index Fund/Closed-end
VOX	Vanguard Telecommunication Services ETF
VPL	Vanguard MSCI Pacific ETF
VPU	Vanguard Utilities ETF
VQT	Barclays ETN+ ETNs Linked to the S&P 500 Dynamic VEQTORTM Total Return Index
VSS	Vanguard FTSE All World ex-US Small-Cap ETF
VT	Vanguard Total World Stock Index Fund ETF
VTHR	Vanguard Russell 3000
VTI	Vanguard Total Stock Market ETF
VTV	Vanguard Value ETF
VTWG	Vanguard Russell 2000 Growth
VTWO	Vanguard Russell 2000
VTWV	Vanguard Russell 2000 Value
VUG	Vanguard Growth ETF
VV	Vanguard Large-Cap ETF
VWO	Vanguard MSCI Emerging Markets ETF
VXAA	ETRACS 1-Month S&P 500 VIX Futures ETN
VXEE	ETRACS 5-Month S&P 500 VIX Futures ETN
VXF	Vanguard Extended Market ETF
VXUS	Vanguard Total International Stock ETF
VXX	iPATH S&P 500 VIX Short-Term Futures ETN
VXZ	iPATH S&P 500 VIX Mid-Term Futures ETN
VYM	Vanguard High Dividend Yield ETF
VZZB	iPath Long Enhanced S&P 500 VIX Mid-Term FuturesTM ETN II
WDTI	WisdomTree Managed Futures Strategy Fund
WIP	SPDR DB International Government Inflation-Protected Bond ETF
XBI	SPDR S&P Biotech ETF
XES	SPDR S&P Oil & Gas Equipment & Services ETF
XHB	SPDR S&P Homebuilders ETF
XIV	VelocityShares Daily Inverse VIX Short Term ETN
XLB	Materials Select Sector SPDR Fund
XLE	Energy Select Sector SPDR Fund
XLF	Financial Select Sector SPDR Fund
XLG	Guggenheim Russell Top 50 ETF
XLI	Industrial Select Sector SPDR Fund

Symbol	Name
XLK	Technology Select Sector SPDR Fund
XLP	Consumer Staples Select Sector SPDR Fund
XLU	Utilities Select Sector SPDR Fund
XLV	Health Care Select Sector SPDR Fund
XLY	Consumer Discretionary Select Sector SPDR Fund
XME	SPDR S&P Metals & Mining ETF
XOP	SPDR S&P Oil & Gas Exploration & Production ETF
XPH	SPDR S&P Pharmaceuticals ETF
XRT	SPDR S&P Retail ETF
XSD	SPDR S&P Semiconductor ETF
XXV	iPath Inverse S&P 500 VIX Short-Term Futures ETN
ZROZ	PIMCO 25+ Year Zero Coupon US Treasury Index Fund

Appendix B – Data

Unless otherwise specified, the following data shall be collected and transmitted to the SEC in an agreed-upon format on a monthly basis, to be provided 30 calendar days following month end. Unless otherwise specified, the Primary Listing Exchanges shall be responsible for collecting and transmitting the data to the SEC. Data collected in connection with Sections II(E) – (G) below shall be transmitted to the SEC with a request for confidential treatment under the Freedom of Information Act, 5 U.S.C. 552, and the SEC's rules and regulations thereunder.

I. Summary Statistics

A. Frequency with which NMS Stocks enter a Limit State. Such summary data shall be broken down as follows:

1. Partition stocks by category
 - a. Tier 1 non-ETP issues > \$3.00
 - b. Tier 1 non-ETP issues $\geq$ \$0.75 and $\leq$ \$3.00
 - c. Tier 1 non-ETP issues < \$0.75
 - d. Tier 1 non-leveraged ETPs in each of above categories
 - e. Tier 1 leveraged ETPs in each of above categories
 - f. Tier 2 non-ETPs in each of above categories
 - g. Tier 2 non-leveraged ETPs in each of above categories
 - h. Tier 2 leveraged ETPs in each of above categories
2. Partition by time of day
 - a. Opening (prior to 9:45 am ET)
 - b. Regular (between 9:45 am ET and 3:35 pm ET)
 - c. Closing (after 3:35 pm ET)
 - d. Within five minutes of a Trading Pause re-open or IPO open

3. Track reasons for entering a Limit State, such as:
 - a. Liquidity gap –price reverts from a Limit State Quotation and returns to trading within the Price Bands
 - b. Broken trades
 - c. Primary Listing Exchange manually declares a Trading Pause pursuant to Section (VII)(2) of the Plan
 - d. Other

B. Determine (1), (2) and (3) for when a Trading Pause has been declared for an NMS Stock pursuant to the Plan.

II. **Raw Data** (all Participants, except A-E, which are for the Primary Listing Exchanges only)

A. Record of every Straddle State.

1. Ticker, date, time entered, time exited, flag for ending with Limit State, flag for ending with manual override.
2. Pipe delimited with field names as first record.

B. Record of every Price Band

1. Ticker, date, time at beginning of Price Band, Upper Price Band, Lower Price Band
2. Pipe delimited with field names as first record

C. Record of every Limit State

1. Ticker, date, time entered, time exited, flag for halt
2. Pipe delimited with field names as first record

D. Record of every Trading Pause or halt

1. Ticker, date, time entered, time exited, type of halt (i.e., regulatory halt; non-regulatory halt, Trading Pause pursuant to the Plan, other)
2. Pipe delimited with field names as first record

E. Data set or orders entered into reopening auctions during halts or Trading Pauses

1. Arrivals, Changes, Cancels, # shares, limit/market, side, Limit State side

2. Pipe delimited with field name as first record

F. Data set of order events received during Limit States

G. Summary data on order flow of arrivals and cancellations for each 15-second period for discrete time periods and sample stocks to be determined by the SEC in subsequent data requests. Must indicate side(s) of Limit State.

1. Market/marketable sell orders arrivals and executions
 - a. Count
 - b. Shares
 - c. Shares executed
2. Market/marketable buy orders arrivals and executions
 - a. Count
 - b. Shares
 - c. Shares executed
3. Count arriving, volume arriving and shares executing in limit sell orders above NBBO mid-point
4. Count arriving, volume arriving and shares executing in limit sell orders $\leq$ NBBO mid-point (non-marketable)
5. Count arriving, volume arriving and shares executing in limit buy orders above NBBO mid-point (non-marketable)
6. Count arriving, volume arriving and shares executing in limit buy orders below NBBO mid-point
7. Count and volume arriving of limit sell orders priced at or above $\text{NBBO} + \$0.05$
8. Count and volume arriving of limit buy orders priced at or below $\text{NBBO} - \$0.05$
9. Count and volume of (iii-viii) for cancels
10. Include: ticker, date, time at start, time of Limit State, data item fields, last sale prior to 1-minute period (null if no trades today), range during 15-second period, last trade during 15-second period

III. At least two months prior to the end of the Pilot Period, all Participants shall provide to the SEC assessments relating to impact of the Plan and calibration of the Percentage Parameters as follows:

- A. Assess the statistical and economic impact on limit order book of approaching Price Bands.
- B. Assess the statistical and economic impact of the Price Bands on erroneous trades.
- C. Assess the statistical and economic impact of the appropriateness of the Percentage Parameters used for the Price Bands.
- D. Assess whether the Limit State is the appropriate length to allow for liquidity replenishment when a Limit State is reached because of a temporary liquidity gap.
- E. Evaluate concerns from the options markets regarding the statistical and economic impact of Limit States on liquidity and market quality in the options markets. (Participants that operate options exchange should also prepare such assessment reports.)
- F. Assess whether the process for entering a Limit State should be adjusted and whether Straddle States are problematic.
- G. Assess whether the process for exiting a Limit State should be adjusted.
- H. Assess whether the Trading Pauses are too long or short and whether the reopening procedures should be adjusted.