UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-15057

In the Matter of

PETER SIRIS,

Respondent.

DIVISION OF ENFORCEMENT'S OPPOSITION TO RESPONDENT PETER SIRIS'S BRIEF IN SUPPORT OF NO BAR

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

Rules

I. INTRODUCTION

Respondent Peter Siris requests that the Commission review the administrative law judge's initial decision imposing collateral and penny stock bars following the entry of an antifraud injunction. The ALJ justly granted the Division of Enforcement's motion for summary disposition, and imposed necessary remedial sanctions in the public interest. The Division respectfully submits that the Commission should impose the same relief in the public interest.

An analysis of the *Steadman* factors compels the most stringent sanctions against Siris. The undisputed material facts demonstrate that Siris's wrongdoing was egregious and recurrent. Siris – an investment adviser and significant investor in and consultant to Chinese reverse merger companies – voluntarily consented to a permanent injunction against future violations of multiple provisions of the securities laws, including antifraud provisions. Siris's violations spanned several years and reaped nearly $600,000 in ill-gotten gains. His violations included double-digit instances of insider trading, fraud in a securities purchase agreement, and misrepresentations and omissions to investors in his funds, and non-fraud violations involving unregistered sales of securities, unregistered broker activity, and violations of Rule 105 of Regulation M. The number and substance of the antifraud charges against Siris, bolstered by his violations of several other securities laws, supports the conclusion that Siris acted with a high degree of scienter. Siris's desire to continue working in the securities industry and the resulting opportunities for future violations also weigh strongly in favor of the requested relief. Further, though the ALJ accepted Siris's assertions as true that he is remorseful and recognized the wrongful nature of his conduct, Siris's steadfast characterization of his insider trading as "ignorant mistakes" at least calls into question his true appreciation of his vast misconduct.

Siris's appeal fails to present any evidence sufficient to overcome the need for sanctions based on his unlawful conduct as set forth in the settled District Court action. Siris focuses his

lengthy brief on downplaying, if not outright denying, his illegal insider trading activities. But he essentially ignores his other, significant securities laws violations. In substance, Siris's principal argument in opposition to the need for sanctions is a collateral attack on legal elements established as part of the injunctive action. Despite agreeing not to contest the factual underpinning of the claims in the injunctive action, Siris continues to do precisely what he agreed not to do. Siris argues that material issues of fact exist as to whether he traded on material, non-public information. And he argues that his double-digit instances of insider trading were at most the result of negligence, not knowing or reckless conduct. In short, Siris flatly denies that he acted with *any* scienter.

Siris's argument collapses on itself upon even a cursory review of the District Court Complaint. The allegations of the Complaint establish that he traded on information that was both material and non-public. And Siris's pattern of insider trading belies his bald assertion that he lacked scienter. Siris repeated his so-called insider trading "mistakes" over and over, in a deceitful manner resulting in hundreds of thousands of dollars in ill-gotten gains.

Siris's remaining argument against the imposition of any sanctions overlooks the serious nature of the entirety of his misconduct. Siris proclaims that sanctions are unnecessary because of supposed corrective actions he has undertaken and because of his representation that in the future he would affirmatively agree to certain remedial sanctions, such as not serving as a portfolio manager or investment adviser to a managed account. This acknowledgment that the public interest requires, at the least, a partial investment adviser bar should not dissuade the Commission from imposing full bars. Siris's extensive misconduct demonstrates that he is unfit for the industry. The possibilities for future violations presented by any participation of Siris in the securities industry require nothing less than collateral and penny stock bars. The Commission should impose these sanctions to protect the public interest.

II. FACTS

A. The District Court Injunctive Action

On July 30, 2012, the Commission filed a settled civil injunctive action in the United States District Court for the Southern District of New York against investment adviser Siris and two entities he controls, captioned *SEC v. Siris,* 12-CV-5810 (S.D.N.Y.) (RA). The District Court Complaint (Div. Ex. A)[1] alleged pervasive misconduct. Specifically, the Complaint charged Siris with violations of Sections 5 and 17(a) of the Securities Act of 1933 ("Securities Act"), 15 U.S.C. §§ 77e and 77q(a), Sections 10(b) and 15(a) of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. §§ 78j(b) and 78o(a), and Rule 10b-5, 17 C.F.R. § 240.10b-5, thereunder, Rule 105 of Regulation M, 17 C.F.R. § 242.105, and Section 206(4) of the Investment Advisers Act of 1940 ("Advisers Act"), 15 U.S.C. § 80b-6(4), and Rule 206(4)-8, 17 C.F.R. § 275.206(4)-8, thereunder.

The Complaint set forth detailed factual allegations regarding Siris's misconduct. Pursuant to the District Court's Final Judgment and Siris's Consent to the entry of the Final Judgment, as described further below, such allegations are uncontested for the purposes of this administrative proceeding.

i. Background on Siris

Siris and/or his firms – who are significant investors and consultants in the Chinese reverse merger investment space – engaged in wide-ranging misconduct from 2007 to 2010. (Compl. ¶ 1.) Siris, the author of several books (including *Guerrilla Investing: Winning Strategies for Beating the Wall Street Professionals*) and former author of a monthly investment column for a New York-based publication (where he frequently wrote about companies in which

[1] The Division of Enforcement refers to the Exhibits attached to the Declaration of Osman E. Nawaz that the Division submitted with its Motion for Summary Disposition before the ALJ. The Division's Exhibits are referred to herein as "Div. Ex. __," and courtesy copies are provided with this opposition.

his funds invested), manages two New York-based funds, including one of the relatively few, and larger, funds dedicated to U.S. listed Chinese companies. As of year-end 2010, Siris's assets under management totaled approximately $160 million. (Compl. ¶ 2.)

ii. Antifraud and other violations surrounding China Yingxia

Siris and his firm Hua Mei 21st Century, LLC acted as paid consultants to numerous Chinese companies in which his funds invested, including China Yingxia International, Inc. ("China Yingxia"), a purported nutritional foods company. Hua Mei received both cash and shares – including shares received through a person directly or indirectly controlled by the issuer, in a transaction that operated as an end-run around the registration provisions of the securities laws, and which Siris sold for illicit proceeds of approximately $24,600 – for performing due diligence on China Yingxia. Siris raised over $2 million for an $8.7 million China Yingxia "PIPE" transaction during August 2007, in which Siris acted as an unregistered broker and received payment of $107,500 in transaction-based compensation. Siris reviewed and advised on China Yingxia's Commission filings, press releases, and hiring decisions, among other things. (Compl. ¶¶ 3, 32-47, 49-64.)

Siris knew that he could not trade China Yingxia while in possession of material, non-public information. During the time Siris worked and had a relationship of trust and confidence with China Yingxia, however, he received and traded on material, non-public information concerning China Yingxia. Specifically, on or around February 19, 2009, Siris learned of problems at China Yingxia directly from its chief executive officer, including that she had engaged in illegal fundraising activities in China, and that a China Yingxia factory had shut down. In response, Siris began selling hundreds of thousands of shares of China Yingxia stock, prior to any public disclosure by China Yingxia to investors in the U.S. via any press release consistent with the Company's typical practice concerning these issues that threatened to, and

indeed later did, shutter the Company. Siris learned additional material, non-public information during the late afternoon of March 3, 2009, when he received a draft press release and notice that China Yingxia planned publicly to disclose the problems. Siris increased his orders to sell over the next couple of days before China Yingxia issued its press release on March 6, 2009. In all, Siris, through his funds, sold 1,143,660 China Yingxia shares in a matter of weeks, for ill-gotten gains (profits and/or losses avoided) of approximately $172,000. (Compl. ¶¶ 4-5, 73-91.)

China Yingxia's stock price plummeted on March 9, 2009, the first trading day after it issued the press release of March 6, 2009. Its directors resigned and, within roughly a month, the chief financial officer also resigned, effectively ending China Yingxia's operations. Reports indicate that Chinese officials have sentenced the CEO to death for illegal fundraising activities, similar to a Ponzi scheme, involving Chinese citizens. (*Id.*)

Around the time of China Yingxia's collapse, Siris made material misrepresentations and omissions to investors in his funds concerning his dealings with China Yingxia. Siris wrote to his investors and placed blame on others he claimed were responsible for China Yingxia's Commission filings and key hiring decisions, among other things, and against whom he wanted to initiate legal action. Siris omitted from disclosure, however, his significant role in those very same tasks. Siris deprived his investors of information material to making investment decisions, including any decisions to redeem from Siris's funds. (Compl. ¶¶ 6, 92-100.)

iii. Insider trading ahead of ten confidential offerings

Siris also engaged in illegal insider trading ahead of ten offering announcements for other Chinese issuers from July 2009 to November 2010, resulting in a total of approximately $162,000 in ill-gotten gains. After expressly agreeing to go "over-the-wall" – being brought over-the-wall refers to Siris being given access to material, non-public confidential information on a securities offering after agreeing not to trade while in possession of the information – Siris

intentionally or recklessly disregarded the prohibition and traded ahead of the offering announcements, in breach of his duty not to trade on the information. After going over-the-wall, Siris and his funds were generally privy to information such as the name of the issuer doing the deal, anticipated and actual timing for closing, the book or list of investors involved in the offering, anticipated and actual pricing, and updates on other particulars of the deal. Upon announcement of the offerings or deals, the volume of trading in the issuers' securities increased considerably, and the price of the issuers' securities almost always declined significantly given, among other things, the dilutive effect of the offerings. (Compl. ¶¶ 7, 101-127.)

iv. Fraud in a securities purchase agreement

To induce at least one issuer to sell securities to his funds, Siris knowingly or recklessly made false representations in a securities purchase agreement that his funds had not engaged in any trading after being contacted in confidence about a particular deal, when in fact his funds had effected sales in that issuer's securities. (Compl. ¶¶ 8, 128-133.)

v. Other improper trading

Siris directed short sales in the securities of at least two Chinese companies in violation of restrictions prohibiting such sales prior to his funds' participation in firm commitment public offerings involving those companies. In connection therewith, Siris's funds made ill-gotten gains of approximately $127,000. (Compl. ¶¶ 9, 134-137.)

B. <u>The Entry of the District Court Injunction</u>

On September 18, 2012, the District Court entered a Final Judgment against Siris ("Judgment"), pursuant to a Consent dated July 6, 2012 executed by Siris ("Consent") (Judgment and Consent, Div. Ex. B), resolving the Commission's claims. The Judgment, which incorporated the Consent: (i) enjoined Siris and the two defendant entities he controls from violating the securities laws provisions referenced above; (ii) required him, on a joint and several

basis with the two defendant entities, to pay disgorgement of $592,942.39, plus $70,488.83 in pre-judgment interest, for a total of $663,431.22; and (iii) required Siris to pay a civil penalty of $464,011.93. (Judgment ¶¶ I-VIII.) In his Consent, Siris acknowledged that the District Court's entry of a permanent injunction may have collateral consequences, and he agreed that he "shall not be permitted [in this proceeding] to contest the factual allegations of the complaint in [the District Court] action." (Consent ¶ 9.) Siris also acknowledged that he "under[stood] and agree[d] to comply with the Commission's policy 'not to permit a defendant or respondent to consent to a judgment or order that imposes a sanction while denying the allegation in the Complaint or order for proceedings.'" (Consent ¶ 10, quoting 17 C.F.R. § 202.5.) Siris further agreed "not to take any action or to make or permit to be made any public statement denying, directly or indirectly, any allegation in the complaint or creating the impression that the complaint is without factual basis." (Consent ¶ 10.)

C. The Proceedings Before the ALJ, Initial Decision, and Siris's Petition for Review

i. Background

On September 28, 2012, the Order Instituting Proceedings ("OIP") was issued in this matter against Siris. The OIP required the ALJ to determine whether the OIP's allegations against Siris were true and what, if any, remedial action was appropriate in the public interest against Siris pursuant to Section 15(b) of the Exchange Act and Section 203(f) of the Advisers Act. On October 22, 2012, Siris filed an extensive answer to the OIP ("Answer") and attached, *inter alia*, an affidavit of Peter Siris. Siris's Answer and affidavit raised numerous issues and read similar to a brief in opposition to remedial sanctions. Rather than providing true evidence of mitigating factors, the documents largely challenged the Complaint's allegations and

attributed Siris's violations to "ignorant mistakes." Siris also professed recognition of the wrongful nature of his misconduct and assurances against future misconduct.

During a prehearing conference on November 5, 2012, ALJ Carol Fox Foelak granted both Siris and the Division leave to file motions for summary disposition. On November 16, 2012, the Division filed its Motion for Summary Disposition pursuant to Commission Rule of Practice 250, 17 C.F.R. § 201.250. Siris filed an Opposition to the Motion for Summary Disposition on December 14, 2012 and the Division submitted its Reply on December 21, 2012. Siris did not file any motion for summary disposition.

ii. Initial Decision

On December 31, 2012, the ALJ issued an initial decision granting the Division's motion and imposing collateral and penny stock bars against Siris. *In the Matter of Peter Siris*, Initial Decisions Release No. 477, 2012 SEC LEXIS 4075 (Dec. 31, 2012).[2] In ruling for the Division, the ALJ took official notice of the docket report and court's orders in *SEC v. Siris*, and based the initial decision on "(1) the Division's Motion for Summary Disposition; (2) Siris's Opposition; (3) the Division's Reply; and (4) Siris's Answer to the OIP." *Id.* at *2. The decision further stated:

> There is no genuine issue with regard to any fact that is material to this proceeding. All material facts that concern the activities for which Siris was enjoined were decided against him in the civil case on which this proceeding is based. Any other facts in his pleadings have been taken as true, pursuant to 17 C.F.R. § 201.250(a). All arguments and proposed findings and conclusions that are inconsistent with this decision were considered and rejected.

Id. at *5.

[2] The collateral and penny stock bars referenced herein refer to the sanctions imposed in the ALJ's initial decision that, respectively, barred Siris from associating with a broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization, and barred him from participating in a penny stock offering.

In assessing the Division's requested relief, the ALJ made findings of fact, including noting Siris's corrective actions, and found that Siris's conduct was egregious and recurrent. In deciding to impose sanctions, the ALJ stated "[a]t a minimum, a reckless degree of scienter is a necessary element of his violations of the antifraud provisions of the Exchange Act. While Siris is remorseful and articulates recognition of the wrongful nature of his conduct, he also blames others." *Id.* at *11-12. The ALJ further stated that "Respondent's previous occupation, if he were allowed to continue it in the future, would present opportunities for future violations. The violations are recent. The degree of harm to investors and the marketplace is indicated in the $464,011.93 civil penalty that Siris was ordered to pay and the $592,942.39 in disgorgement that he and co-defendants were ordered to pay. Further, as the Commission has often emphasized, the public interest determination extends beyond consideration of the particular investors affected by a respondent's conduct -- Siris and the outside investors in the Funds -- to the public-at-large, the welfare of investors as a class, and standards of conduct in the securities business generally." *Id.* at *12-13 (citations omitted). Finally, the ALJ rejected Siris's request to participate in winding down his managed funds, and held that collateral and penny stock "[b]ars are also necessary for the purpose of deterrence." *Id.* at *13 (citation omitted).

iii. Siris's Petition for Review

On January 18, 2013, Siris filed a Petition for Review, which the Commission granted on February 22, 2013. Siris's Petition asserts that the ALJ ignored that debarment was not necessary in light of Siris's corrective efforts and supposed demonstrated willingness to accept certain remedial sanctions, including not acting as a portfolio manager or having investment discretion on behalf of investors. (Petition at 2.) Siris further asserts that the ALJ ignored that the record establishes material issues of fact concerning, among others, "(1) whether there was material nonpublic information, (2) whether Siris understood that he was in possession of

material nonpublic information and, if so, (3) whether Siris intended to trade on it." (Petition at 3.) The Petition continues that the "record does not show egregious misconduct or a high degree of scienter. Rather, the facts show negligence, not purposeful or reckless misconduct requiring a bar." (Petition at 4.) Finally, the Petition argues that the initial decision raises an important policy issue, namely, whether a respondent in a follow-on proceeding should automatically be barred from the securities industry without regard to the record. (Petition at 5.)

III. ARGUMENT

Based on its own *de novo* review,[3] the Commission should affirm the initial decision and impose the same sanctions. The ALJ's order barring Siris was properly based on well-settled law. In determining whether administrative sanctions are in the public interest, the Commission considers the factors enumerated in *Steadman v. SEC*, 603 F.2d 1126, 1140 (5th Cir. 1979), *aff'd on other grounds*, 450 U.S. 91 (1981): "the egregiousness of the respondent's actions, the isolated or recurrent nature of the infraction, the degree of scienter involved, the sincerity of the respondent's assurances against future violations, the respondent's recognition of the wrongful nature of his conduct, and the likelihood that the respondent's occupation will present opportunities for future violations." *In the Matter of Gary Kornman*, Advisers Act Rel. No. 2840, 2009 SEC LEXIS 367, at *22 (Feb. 13, 2009) (Commission Opinion) (citations omitted). The inquiry is a flexible one and no one factor is dispositive. *Id.*

As explained below, the undisputed material facts support the ALJ's decision that Siris's conduct warrants the imposition of collateral and penny stock bars. Siris's grand attempt to

[3] The Commission reviews decisions granting summary disposition *de novo*. *See* 17 C.F.R. § 201.411(a) ("The Commission may affirm, reverse, modify, set aside or remand for further proceedings, in whole or in part, an initial decision by a hearing officer and may make any findings or conclusions that in its judgment are proper and on the basis of the record.").

minimize his misconduct and his supposed corrective actions do not outweigh the public interest concerns that strongly militate in favor of barring Siris from the securities industry.

A. The Undisputed Material Facts Compel Collateral and Penny Stock Bars

The injunction entered against Siris by the District Court provides a sufficient basis for imposing the requested sanctions. And the Commission may impose the sanctions on Siris under Exchange Act Section 15(b)(6)[4] and Advisers Act Section 203(f). Siris does not deny that he has been enjoined from violating numerous provisions of the securities laws, including the antifraud provisions. Siris does not deny that he acted as an investment adviser or that, for a portion of the time in which Siris engaged in the conduct underlying the Complaint, Siris also acted as an unregistered securities broker. And Siris does not deny that China Yingxia (which was an unlisted stock that traded below five dollars per share) was a penny stock. (Answer at 3-6.) Based on an analysis of the *Steadman* factors, the Commission should reach the same conclusion as the ALJ did and impose the same sanctions as were imposed in the initial decision.

i. Siris's actions were egregious, repeated over a substantial period of time, and done with a high degree of scienter

Siris's violations, when viewed as a whole, support the conclusion that his conduct was egregious, recurrent, and done with a high degree of scienter. Based on the nature of Siris's antifraud violations themselves, his conduct was egregious. And Siris's violations were obviously recurrent as exhibited by the sheer scale of his misconduct and the length of time in which he engaged in such violations. Finally, the allegations of the Complaint demonstrate that Siris acted with a high degree of scienter. Siris's consent injunction concerns *three different types*

[4] While Siris was not associated with a registered broker-dealer, based on his conduct in acting as an unregistered broker-dealer, he is subject to a bar from association with a broker or dealer pursuant to Section 15(b) of the Exchange Act. *See, e.g., In the Matter of Matthew Gagnon*, Exchange Act Rel. No. 67544, 2012 SEC LEXIS 2391, at *4 (July 31, 2012).

of securities fraud, not to mention violations of several other securities laws provisions. The fraud includes insider trading, misrepresentations and omissions in a securities purchase agreement, and misrepresentations and omissions to investors in his funds. Moreover, Siris engaged in two different types of insider trading. First, Siris engaged in serial insider trading ahead of announcements of *ten* confidential offerings in breach of his duty not to trade on information he learned about the issuers conducting the offerings. Second, in breach of his duty of trust and confidence established as a result of his consulting relationship, Siris traded while in possession of material, non-public information concerning China Yingxia.

Siris's repeated insider trading ahead of the offerings alone illustrates the egregious nature of his conduct and evinces a high degree of scienter. Each of the ten deals Siris traded ahead of involved at least an oral agreement not to trade on the information or reveal such confidential information concerning the offerings. In addition, four of the offerings involved a placement agent that sent Siris confirmatory emails after the oral solicitation stating:

> The existence of the proposed transaction ... is highly confidential. Your firm has agreed to maintain in confidence the Confidential Information .... You and any other representatives of your firm to whom the Confidential Information has been disclosed further agreed not to transact in the securities ... until such time the Confidential Information is publicly announced.

(*E.g.*, Compl. ¶ 110.)

Further, Siris executed a Master Acknowledgement Agreement with this same placement agent, providing, among other things, that receipt of confidential information "will restrict [Siris's] ability to trade in ... the Issuer." (Compl. ¶ 108.) Also, for one other offering, Siris responded by email to a different placement agent confirming various restrictions, including that he "would not 'engage in market transactions relating to [the issuer's] securities or effect any other securities transactions in such securities

until [a specified time] (by which such Confidential Information shall have been publicly disclosed ...).'" (Compl. ¶ 124.)

Despite the clear restrictions and his express agreements, Siris acted in a dishonest manner. Brushing aside his word, Siris breached his duty and traded in the securities of *ten* issuers on the basis of material, non-public information. In several instances, Siris made representations that he disregarded within minutes of being solicited. (*E.g.*, Compl. ¶ 118.)

Even if Siris's misconduct only involved his extensive trading ahead of the offerings, which it clearly does not, the public interest would still compel the Division's requested relief. *See, e.g., In the Matter of Robert Bruce Lohman*, Exchange Act Rel. No. 48092, Advisers Act Rel. No. 2141, 2003 SEC LEXIS 1521, at *16 (June 26, 2003) (citations omitted) (Commission opinion imposing bar based on insider trading despite the respondent having a clean disciplinary record; "[i]nsider trading constitutes clear defiance and betrayal of basic responsibilities of honesty and fairness to the investing public"); *see also U.S. v. O'Hagan*, 521 U.S. 642, 654 (U.S. 1997) (trading on misappropriated information "constitutes fraud akin to embezzlement"). Indeed, Siris wrote about the pitfalls of insider trading in columns for a New York-based publication, and counseled others to avoid insider trading. (Compl. ¶¶ 74-75.) Siris knew he could not trade while in possession of material, non-public information, but did so anyway on numerous occasions. These were not technical violations of law. Rather, Siris's conduct was egregious, repeated over a substantial period of time, and reflects that he acted knowingly or, at a minimum, with a severely reckless degree of scienter.

Regardless, Siris's antifraud violations extend beyond his trading ahead of the offerings, to include additional insider trading in the securities of a consulting client, fraud in a securities purchase agreement, and misrepresentations and omissions to investors in his funds. The weight of these antifraud violations and the resulting public interest concerns are overwhelming.

Further, Siris committed a number of other violations that merit the most severe sanctions to protect investors. That is, these other violations, standing apart from Siris's violations of the antifraud provisions, weigh in favor of barring Siris. Siris committed these other violations in an egregious manner. For example, although violations of Section 5 of the Securities Act do not require scienter, Siris engaged in unregistered sales of securities in a deceitful way. To obtain a legal opinion under Rule 144, Siris falsely represented to China Yingxia's counsel that he provided services to China Yingxia's CEO's father, when in fact he had not. (Compl. ¶¶ 40-41.)

ii. Siris Has the Opportunity for Future Violations

The fact that Siris desires to remain in the securities industry, in an occupation that will give him opportunities for future violations, also supports the imposition of collateral and penny stock bars. Despite his stated intention not to manage others' money, Siris claims that he "wants the opportunity to work in the industry as a securities analyst." (Brief at 42-43.) This *Steadman* factor weighs in favor of barring Siris. *See In the Matter of Jeffrey Gibson*, Exchange Act Rel. No. 57266, Advisers Act Rel. No. 2700, 2008 SEC LEXIS 236, at *17-18 (Feb. 4, 2008) (Commission Opinion) ("We believe [respondent's] twenty-five year career in the securities industry and professional credentials suggest that [respondent] would, if permitted, continue to work in the securities industries, and that, in doing so, would be presented with further opportunities to engage in misconduct."), *petition for review denied*, 561 F.3d 548 (6th Cir. 2009). Absent the important additional layer of protection afforded by the requested relief, Siris would be free to continue in the securities industry, which creates a serious risk to the investing public.

iii. The remaining *Steadman* factors do not outweigh the public interest concerns militating in favor of the requested relief

Siris's alleged lack of scienter and apparent belief that his conduct did not "hurt the investing public" (Brief at 36) are "troubling indications of a failure to appreciate the seriousness of his violation[s]." *In the Matter of James Dawson*, Advisers Act Rel. No. 3057, 2010 SEC LEXIS 2561, at *18 (July 23, 2010) (Commission Opinion). While before the ALJ Siris professed a sincere assurance against future violations and acknowledged the wrongfulness of his misconduct, and the ALJ noted the same in the initial decision,[5] significant doubt as to those representations exists in light of the positions taken in his papers. And his wholesale attempt to explain away virtually each and every instance of his insider trading through collateral attacks, particularly after having agreed not to do so in this proceeding, undermines any assurances he makes.

Indeed, despite Siris's assertion that his "sincerity cannot fairly be doubted" (Brief at 41), Siris's efforts to minimize his misconduct at least call into question his appreciation of his wrongdoing. Siris goes to great lengths to downplay his misconduct.[6] Siris, among other things, contends that his conduct did not "resemble purposeful insider trading" (Brief at 33) – as if insider trading ahead of ten offerings and in the securities of one consulting client somehow qualifies as a lesser grade of insider trading. Siris further tries to distinguish the authority cited by the Division by essentially arguing that his widespread misconduct committed over a three-year period that generated over half-a-million dollars in ill-gotten gains was not that bad because

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[5] The ALJ, in the Initial Decision at *12, observed that Siris "blames others" for his misconduct.

[6] *See, e.g.,* Brief at 1: "Siris acknowledged his ignorant mistakes;" Brief at 33: "none of Siris's trades remotely resemble insider trading that merits a bar;" Brief at 36: "The mistakes Siris made primarily involved Offerings;" Brief at 40: "the facts show negligence, not purposeful or reckless misconduct requiring a bar;" Brief at 42: "To be sure, some of Siris's conduct was negligent, which is serious. But, it is not egregious or fraught with scienter that requires debarment in the public interest."

Siris's conduct was really the result of "ignorant mistakes." It seems that, based on his various assertions, Siris does not possess a true appreciation of his misconduct.

Irrespective, Siris's alleged sincere assurances against future violations and supposed acknowledgement of the wrongfulness of his misconduct do not outweigh the other *Steadman* factors. *See, e.g., Gibson v. SEC*, 561 F.3d 548, 555 (6th Cir. 2009) (denying petition for review and affirming Commission's imposition of a bar; "As to the fourth and fifth [*Steadman*]factors, the Commission stated that '[w]hile we do not dispute Gibson's assertions regarding his acknowledgment of wrongdoing and his assurances against future misconduct, those assertions do not overcome the other factors that indicate the gravity of the threat to investors that Gibson would present if he were permitted to remain in the securities industry.'"). Similarly, Siris's supposed corrective actions and other alleged facts in mitigation are not extraordinary and do not outweigh the public interest concerns presented by his continued presence in the securities industry. Siris demonstrated his proclivity for violating a multitude of securities laws over an extended period of time. The only foolproof preventive measure that is appropriate here is to bar Siris from the industry. *See, e.g., In the Matter of Michael Studer*, Exchange Act Rel. No. 50411, 2004 SEC LEXIS 2135, at *14 (Sept. 20, 2004) (respondent claimed that he did not understand he engaged in any wrongdoing and admitted only that he made "mistakes in judgment;" in upholding a bar, the Commission opined that "there is a significant risk that his continued presence in the securities business will give rise to further violations, despite his assurances to the contrary").

Finally, the bars against Siris will have a deterrent effect. Indeed, the Commission "considers the extent to which the sanction will have a deterrent effect." *In the Matter of Schield Mgmt. Co.*, Exchange Act Rel. No. 53201, Advisers Act Rel. No. 2477, 2006 SEC LEXIS 195, at *35 (Jan. 31, 2006) (Commission opinion barring investment adviser after consent injunction). In

this case, declining to impose the collateral and penny stock bars likely would have far-reaching implications and operate antithetical to the mission of protecting investors.

B. Siris Has Not Raised Any Issues of Material Fact Precluding Summary Disposition

Nothing in Siris's papers, which largely rehash the same arguments he unsuccessfully made below, is sufficient to overcome the conclusion that the fraudulent activities presented in the settled District Court action merit bars. The injunction entered against Siris by the District Court provides sufficient basis for imposing the requested sanctions. In follow-on proceedings involving a respondent enjoined from violating the antifraud provisions, like here, the Commission has stated time and again that "ordinarily, and in the absence of evidence to the contrary, it will be in the public interest" to bar such respondent from the industry. *See, e.g., In the Matter of Marshall Melton*, Exchange Act Rel. No. 48228, Advisers Act Rel. No. 2151, 2003 SEC LEXIS 1767, at *29-30 (July 25, 2003).

i. Siris offers no contrary evidence to support his contention that a bar is not in the public interest

Siris's main arguments in support of no sanctions rest on (a) Siris's assertion that his misconduct resulted from "ignorant mistakes," as explained by his version of the facts that led to his insider trading violations,[7] and (b) various corrective actions and certain proposed modified relief that does not entirely prohibit him from continuing in the securities industry.

Siris does not argue that his degree of culpability was low because of a small level of scienter; he instead argues that he lacked *any* scienter. Siris asserts that the "facts and circumstances" surrounding his insider trading violations, not just the facts alleged in the

[7] Siris had every opportunity to present his version of the facts to a fact finder, but he opted not to. He voluntarily and knowingly waived any right to contest the allegations of the Complaint in this proceeding by consenting to the entry of the Judgment. The Commission should reject his belated - and violative of what he expressly agreed not to do when he signed the Consent - effort to contest the facts alleged in the Complaint.

Complaint, "demonstrate that Siris's conduct was negligent -- not egregious or undertaken with scienter." (Brief at 3.) Siris goes on to quote from an inapposite statement in *Steadman* that, "the respondent's state of mind is highly relevant in determining the remedy to impose. It would be a gross abuse of discretion to bar an investment adviser from the industry on the basis of isolated negligent violations." (Brief at 5.) The Commission should resist Siris's efforts to cast his immense, serial wrongdoing in a benign light. The facts and circumstances as put forth by Siris largely run counter to the allegations of the Complaint. As the Complaint's allegations make clear, Siris's violations were not isolated nor simply the result of negligence. Quite the contrary, Siris's violations were long-running, expansive, and done with scienter.

Despite his unfounded assertions, Siris's many violations of the securities laws as alleged in the Complaint include scienter-based claims, such as his extensive insider trading (not to mention his misrepresentations and omissions in a securities purchase agreement). Siris's Consent forbids him from making what is actually an illogical argument that one of the required elements for his illegal insider trading, scienter, was totally lacking.[8] Further, it is difficult to

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[8] Siris cannot dispute the allegations of the Complaint, which include his scienter and the materiality of the information on which he traded. *See, e.g., In the Matter of Marshall Melton,* 2003 SEC LEXIS 1767, at *29-30 ("Defendants in Commission injunctive actions must understand that, if the Commission institutes an administrative proceeding against them based on an injunction to which they consented after issuance of this opinion, they may not dispute the factual allegations of the injunctive complaint in the administrative proceeding.").

Further, contrary to Siris's statement that the Division contends that Siris must be mute at all times in this proceeding (Brief at 39), the Division simply submits that Siris should honor the Consent that he voluntarily signed. As one illustration of Siris's continued efforts to minimize his misconduct, Siris, an experienced investor and frequent participant in confidential offerings, claims in his Brief that for one offering he did not understand he was restricted in trading. (Brief at 16.) Siris selectively quotes from the solicitation email, leaving out the portion of the email that stated, "you agree not to use the information presented in connection with any investment outside the nature and scope of the proposed investment opportunity [detailed within the email]." Further, Siris also argued before the ALJ that the information on which he traded was not material. Here, though less forcefully than he did before the ALJ, Siris continues to allude to a lack of materiality. For example, Siris argues in his Brief concerning insider trading in China Yingxia that "it is also hard to see that the final press release issued on March 6, 2009 materially impacted China Yingxia's stock price, which declined from 10¢ on March 5 to 8¢ on March 6, 2009." (Brief at 13.) The

understand how Siris can plausibly claim his conduct was merely attributable to mistake in light of his sophistication and the repeated nature of his "mistakes" that demonstrate *at least* recklessness.

In any event, Siris's conduct demonstrates a pattern of illegal insider trading both in advance of news concerning one of his consulting clients (during late February and early March 2009) and ahead of *ten* confidential securities offerings (spanning the period from July 2009 to November 2010). The facts as alleged in the Complaint did not involve just one instance of insider trading, nor even two instances, rather, the Complaint alleged double-digit instances of insider trading that generated hundreds of thousands of dollars in illicit gains. The Complaint further charged Siris with additional violations of the antifraud provisions of the securities laws. And the Complaint leveled a number of other non-fraud charges against Siris. Siris's systematic insider trading violations, bolstered by these other violations, contradicts his assertion that he lacked scienter, and instead demonstrate that he acted with a high degree of scienter in violating the securities laws. Indeed, the record establishes that Siris's conduct was much worse than merely negligence; the record establishes that Siris acted with a high degree of scienter.

ii. Siris's proposed relief and supposed corrective actions do not tip the scales in his favor

Siris's bald assertion that "there is no realistic prospect for future violations" (Brief at 39) is belied by the fact that "opportunities for dishonesty recur constantly in the securities business." *See In the Matter of David Netzer Korem*, Initial Decisions Rel. No. 427, 2011 SEC LEXIS 2717, at *13-14 (Aug. 5, 2011) (citation omitted). Siris has stated his intention to continue working in the securities industry as an analyst. (Brief at 42-43.) Further, Siris's

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District Court Complaint alleges, however, that "after issuance of the press release, China Yingxia's stock price ultimately collapsed, going from $.08 on March 6 to $.025 on March 9 [the first full trading day after the release]." (Compl. ¶ 89.)

proposed agreement not to serve as a portfolio manager or investment adviser to a managed account does not militate in favor of not imposing any bar. By simply preventing Siris from operating in one area does not ensure the protection of investors, particularly when Siris's misconduct demonstrates a pattern of misconduct across a broad spectrum.

Likewise, the supposed corrective actions by Siris including, among others, no longer participating in offerings, no longer consulting for Chinese companies, appointing a compliance person, and consulting with outside counsel (Answer at 1-2, Brief at 1-2) – even assuming that he will continue to adhere to them once this proceeding has concluded – do not ensure the protection of investors. Further, the sanctions against Siris in the District Court action do not obviate the need for relief here. The Commission recently rejected this argument in its Opinion in *In the Matter of Vladimir Bugarski*, Exchange Act Rel. No. 66842, 2012 SEC LEXIS 1267, at *17-18 (Apr. 20, 2012). Specifically, respondents argued "that the 'imposition of additional remedial action against [them] would be simply adding to the severe sanctions that have already been imposed' and therefore would not be in the public interest." *Id.* at *17. In rejecting the argument, the Commission reasoned that the District Court sanctions, while severe, "simply underscore the seriousness of Respondents' misconduct." *Id.* at *17-18. The Commission should reach the same conclusion here.

Finally, Siris's supposed policy argument – that he was automatically barred without regard to the entire record – overlooks both *Melton* and the actual record in this case. *Melton* announced the Commission's refined and expanded policy in proceedings such as this one: "We believe that an antifraud injunction can, in the first instance, indicate the appropriateness in the public interest of revocation of registration or a suspension or bar from participation in the securities industry. Of course, respondents have the opportunity to demonstrate that, notwithstanding the antifraud injunction, the public interest does not support revocation,

suspension, or a bar." *In the Matter of Marshall Melton,* 2003 SEC LEXIS 1767, at *22-30. Here, Siris was not automatically barred. Instead, he was ably represented before the ALJ, and raised numerous arguments against being barred. For example, Siris raised virtually the same argument below that he now makes concerning his supposed corrective actions, which the ALJ expressly noted. The crux of Siris's other arguments below, like here, ran afoul of *Melton* and amounted to improper collateral attacks on fundamental legal elements of his insider trading violations. But, importantly, Siris offered no contrary evidence below, nor does he here, sufficient to outweigh the public interest concerns that militate decidedly in favor of imposing collateral and penny stock bars.

IV. CONCLUSION

For the reasons explained herein, the Division respectfully submits that Siris should be 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 penny stock.

Dated: April 24, 2013

Respectfully submitted,

DIVISION OF ENFORCEMENT

By: _____

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UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-15057

In the Matter of **PETER SIRIS,** **Respondent.**	**DECLARATION OF OSMAN E. NAWAZ IN SUPPORT OF DIVISION OF ENFORCEMENT'S MOTION FOR SUMMARY DISPOSITION AGAINST RESPONDENT PETER SIRIS**

I, Osman E Nawaz, declare:

1. I am an attorney admitted to practice before the Colorado Supreme Court and all the Courts of Colorado as well as the United States District Court for the District of Colorado. I am presently employed as Senior Counsel for the Division of Enforcement at the New York Regional Office of the U.S. Securities and Exchange Commission, 3 World Financial Center, Suite 400, New York, NY 10281 Telephone: (212) 336-0169.

2. I have personal and first hand knowledge of the facts set forth in this Declaration and, if called and sworn as a witness, could and would competently testify thereto.

3. In 2010, I was assigned to an investigation *In the Matter of China Yingxia International, Inc.* (NY-8279), and the later work on a case entitled: *SEC v. Siris,* Case No. 12-CV-5810 (S.D.N.Y.) (RA). On July 30, 2012, the Commission filed its Complaint for violations of the federal securities laws against Defendant Peter Siris, among others. A true and correct copy of the Complaint is attached to this Declaration as Exhibit A and is hereby incorporated by this reference.

4. On July 30, 2012, the Commission filed a Final Judgment and Consent of Defendant Siris. On September 18, 2012, the District court entered Judgment. A true and correct copy of the Judgment, which incorporates the Consent, is attached hereto as Exhibit B, and is hereby incorporated by this reference.

This Court is respectfully requested to take official notice of the above described documents pursuant to Rule 323 of the Commission's Rules of Practice [17 C.F.R. § 201.323].

Executed at New York, New York, on November 16, 2012.

I declare under the penalty of perjury that the foregoing is true and correct.

Osman E. Nawaz

Exhibit A

ANDREW M. CALAMARI
ACTING REGIONAL DIRECTOR

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Tel: (212) 336-1100

JUDGE ABRAMS

12 CV 5810

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

-against-

PETER SIRIS,
GUERRILLA CAPITAL MANAGEMENT, LLC,
and
HUA MEI 21st CENTURY, LLC,

Defendants.

COMPLAINT

Plaintiff Securities and Exchange Commission ("Commission"), for its Complaint against defendants Peter Siris ("Siris"), Guerrilla Capital Management, LLC ("Guerrilla Capital"), and Hua Mei 21st Century, LLC ("Hua Mei") (collectively, "Defendants"), alleges as follows:

SUMMARY OF ALLEGATIONS

1. The Commission brings this action against investment adviser Peter Siris, his investment management firm, Guerrilla Capital, and a firm Siris formed in 2006 to provide consulting services to U.S. listed Chinese companies, Hua Mei, for repeated violations of the federal securities laws. Defendants Siris, Guerrilla Capital, and/or Hua Mei – who are significant investors and consultants in the Chinese reverse merger investment space – engaged in wide-ranging misconduct from 2007 to 2010, including improper sales of unregistered

securities, unregistered broker-dealer activity, illegal insider trading, material misrepresentations and omissions, and trading in violation of certain short-selling restrictions.

2. Siris, an author of several books (including *Guerrilla Investing: Winning Strategies for Beating the Wall Street Professionals*) and former author of a monthly investment column for a New York-based publication (where he frequently wrote about companies in which his funds invested), manages two New York-based funds, including one of the relatively few, and larger, funds dedicated to U.S. listed Chinese companies. As of year-end 2010, Siris's assets under management totaled approximately $160 million.

3. Siris and his firm Hua Mei acted as paid consultants to numerous Chinese companies in which his funds invested, including China Yingxia International, Inc. ("China Yingxia" or the "Company"), a purported nutritional foods company and one of the many Chinese companies in recent years that have gained access to the U.S. capital markets via reverse merger. Hua Mei received both cash and shares – including shares received through a person directly or indirectly controlled by the issuer, in a transaction that operated as an end-run around registration provisions of the federal securities laws, and which Siris sold for illicit proceeds of approximately $24,600 – for performing due diligence on China Yingxia; raising over $2 million for an $8.7 million China Yingxia "PIPE" transaction, in which Siris acted as an unregistered broker and received payment of $107,500 in transaction-based compensation; and reviewing and advising on Commission filings, press releases, and hiring decisions, among other things.

4. During the time Siris worked and had a relationship of trust and confidence with China Yingxia, he received and traded on material, non-public information concerning the Company. Specifically, on or around February 19, 2009, Siris learned of problems at China Yingxia directly from the Company's chief executive officer, including that she had engaged in

illegal fundraising activities in China, and that a Company factory had shut down. In response, Siris began selling hundreds of thousands of shares of China Yingxia stock prior to any public disclosure by China Yingxia concerning these issues that threatened to, and indeed later did, shutter the Company. Siris learned additional material, non-public information during the late afternoon of March 3, 2009, when he received a draft press release and notice that China Yingxia planned to publicly disclose the problems. Siris increased his orders to sell over the next couple of days before China Yingxia issued its press release publicly disclosing the problems on March 6, 2009. In all, Siris, through his funds, sold 1,143,660 China Yingxia shares in a matter of weeks, for ill-gotten gains (profits and/or losses avoided) of approximately $172,000.

5. China Yingxia's stock price plummeted on the first trading day after it issued the press release of March 6, 2009. The Company's directors resigned that same day and, within roughly a month, the chief financial officer also resigned, effectively ending China Yingxia's operations. Reports indicate that Chinese officials have sentenced the Company's CEO to death for illegal fundraising activities, similar to a Ponzi scheme, involving Chinese citizens.

6. Around the time of China Yingxia's collapse, Siris made material misrepresentations and omissions to investors in his funds concerning his dealings with China Yingxia. Siris wrote to his investors and placed blame on others he claimed were responsible for the Company's Commission filings and key hiring decisions, among other things, and against whom he wanted to initiate legal action. Siris omitted from disclosure, however, his significant role in those very same tasks.

7. Siris also engaged in illegal insider trading ahead of ten offering announcements for other Chinese issuers, resulting in a total of approximately $162,000 in ill-gotten gains. After

expressly agreeing to go "over-the-wall," which included a prohibition on trading, Siris traded ahead of the offering announcements, in breach of his duty not to trade on such information.

8. Further, to induce at least one issuer to sell securities to his funds, Siris falsely represented in a securities purchase agreement that his funds had not engaged in any trading after being contacted in confidence about a particular deal, when in fact his funds had effected sales in that issuer's securities.

9. Finally, Siris directed short sales in the securities of at least two Chinese companies in violation of restrictions prohibiting such sales prior to his funds' participation in firm commitment public offerings involving those two companies. In connection therewith, Siris's funds made ill-gotten gains of approximately $127,000.

SECURITIES LAWS VIOLATIONS

10. By virtue of the foregoing conduct and as further alleged herein, Defendants Siris, Guerrilla Capital, and/or Hua Mei violated Sections 5(a), 5(c), and 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §§ 77e(a) and (c), and 77q(a)],Sections 10(b) and 15(a) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §§ 78j(b) and 78o(a)], and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5], Rule 105 of Regulation M [17 C.F.R. § 242.105], and Section 206(4) of the Investment Advisers Act of 1940 ("Advisers Act") [15 U.S.C. § 80b-6(4)], and Rule 206(4)-8 thereunder [17 C.F.R. § 275.206(4)-8].

11. Unless permanently restrained and enjoined, Defendants will again engage in the acts, practices, transactions, and courses of business set forth in this Complaint and in acts, practices, transactions and courses of business of similar type and object.

12. In addition to injunctive relief, the Commission seeks a final judgment ordering disgorgement of ill-gotten gains plus prejudgment interest, civil money penalties, and such equitable and other relief as the Court deems just, appropriate, or necessary.

JURISDICTION AND VENUE

13. The Commission brings this action pursuant to Sections 20(b) and 20(d) of the Securities Act [15 U.S.C. §§ 77t(b) and 77t(d)], Sections 21(d) and 21A of the Exchange Act [15 U.S.C. §§ 78u(d) and 78u-1], and Sections 209(d) and 209(e) of the Advisers Act [15 U.S.C. §§ 80b-9(d) and (e)].

14. This Court has jurisdiction over this action pursuant to Sections 20(b), 20(d), and 22(a) of the Securities Act [15 U.S.C. §§ 77t(b), 77t(b), and 77v(a)], Sections 21(d), 21(e), 21A, and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e), 78u-1, and 78aa], Sections 209(d), 209(e), and 214(a) of the Advisers Act [15 U.S.C. §§ 80b-9(d), (e) and 80b-14], and 28 U.S.C. § 1331.

15. Venue in this District is proper because Defendants reside, and certain of the transactions, acts, practices, and/or courses of business occurred, within the Southern District of New York. In addition, there are material witnesses who reside, and have their principal places of business, within the Southern District of New York.

16. Defendants, directly or indirectly, made use of the means or instruments of transportation or communication in, or the instrumentalities of, interstate commerce, or of the mails, or of any facility of any national securities exchange, as described in this Complaint.

DEFENDANTS

17. **Peter Siris**, age 68, resides in New York, New York, and manages the investment funds Guerrilla Partners, LP ("Guerrilla Partners") and Hua Mei 21st Century Partners, LP ("Hua

Mei Partners"). Siris, through his two funds, invests heavily in U.S. listed Chinese companies. Siris formerly held series 7 and 63 securities licenses, and was last a registered representative of a broker-dealer in 1997. Siris is not registered with the Commission in any capacity.

18. **Guerrilla Capital Management, LLC** is a limited liability company organized under the laws of Delaware and headquartered in New York, New York. It is the management company for the funds associated with Siris, Guerrilla Partners and Hua Mei Partners. It is not registered with the Commission in any capacity.

19. **Hua Mei 21st Century, LLC** is a limited liability company organized under the laws of Delaware with offices in New York and Beijing, China. It is a sub-advisor to Guerrilla Capital and reportedly provides consulting services to Chinese companies. It is not registered with the Commission in any capacity.

OTHER RELEVANT ENTITIES

20. **Guerrilla Partners, LP** is a limited partnership organized under the laws of Delaware that operates as an investment fund. It is not registered with the Commission in any capacity.

21. **Hua Mei 21st Century Partners, LP** is a limited partnership organized under the laws of Delaware that operates as an investment fund focusing on investments in U.S. listed Chinese companies. It is not registered with the Commission in any capacity.

22. **Guerrilla Advisors, LLC** is a Delaware limited liability company controlled in part by Siris, and is the general partner to Guerrilla Partners and Hua Mei Partners. It is not registered with the Commission in any capacity.

23. **China Yingxia International, Inc.** was a Florida corporation headquartered in Harbin, China with purported operations in China. China Yingxia's stock was quoted on the

OTC Link (formerly "Pink Sheets") operated by OTC Markets Group, Inc. under the symbol "CYXI." On February 2, 2012, the Commission instituted administrative proceedings pursuant to Section 12(j) of the Exchange Act against China Yingxia, as the Company had not filed any periodic reports with the Commission since late 2008. By an Order dated March 7, 2012, each class of China Yingxia's registered securities was revoked.

FACTS

I. Background on China Yingxia

24. China Yingxia entered the U.S. capital markets via reverse merger in May 2006 with assistance from a father-and-son team that has brought multiple Chinese companies public. The father, Individual A, operated a consulting firm specializing in work with Chinese companies ("Consulting Firm"), while the son, Individual B, was president of a registered broker-dealer based in New York, New York ("Broker-Dealer"). Although Individual A was not registered as a broker, nor was he associated with any registered broker-dealer, he controlled many of the activities of the Broker-Dealer, and held himself out to the public as chairman of the Broker-Dealer.

25. From 2006 to 2009, China Yingxia purported to be a nutritional health food business with operations in Harbin, China. After the China Yingxia reverse merger, Individuals A and B maintained an integral role with China Yingxia, acting as *de facto* management. Among other things, they recommended and facilitated the hiring of service providers (including lawyers, auditors, and investor relations firms) as well as China Yingxia's CFO and U.S.-based directors; organized and participated in board meetings; managed the Company's public filings; and controlled part of its finances. (In light of their role with China Yingxia, Individuals A and B are also referred to below as the "Company Representatives.")

II. China Yingxia's First Capital Raise and Introduction of Defendant Siris

26. By early 2007, China Yingxia sought to raise several million dollars purportedly for working capital and other corporate purposes, including purchasing materials related to a soybean production line. The Company Representatives led the efforts on behalf of China Yingxia, and hired an investor relations firm to coordinate road show presentations and the initial introduction of potential investors.

27. In April 2007, China Yingxia held its road show in New York City, meeting with various fund managers, including Siris, and others that often invested in Chinese companies. Siris, in turn, introduced one of his associates to the Company.

28. After conducting due diligence and making the determination to invest, Siris and his associate negotiated investment terms with the Company Representatives for Siris and his associate to invest in China Yingxia through a PIPE transaction. (A "PIPE" – or private investment in public equity – refers to a private placement of securities of an already-public company.) In July 2007, Siris and his associate invested a total of $2 million, with Siris investing $1.5 million on behalf of his two funds. China Yingxia announced the completion of its first PIPE on July 16, 2007.

III. Transfer of Shares to Hua Mei from China Yingxia's CEO's Father In Violation of Registration Requirements

a. Background on Section 5 of the Securities Act

29. Sections 5(a) and 5(c) of the Securities Act make it unlawful for any person, directly or indirectly, to use the mails or other means of interstate commerce to sell or to offer to sell a security for which a registration statement is not filed or not in effect, absent an available exemption.

30. Section 4(1) of the Securities Act provides an exemption from the registration requirements of Section 5 for those who are not underwriters, issuers, or dealers. Section 2(a)(11) of the Securities Act defines "underwriters" as any person who has purchased from an issuer with a view to, or offers or sells for an issuer in connection with, the distribution of any security, or participates, or has a direct or indirect participation in any such undertaking, or participates or has a participation in the direct or indirect underwriting of any such undertaking. The term "issuer" includes any person directly or indirectly controlling or controlled by, or any person under direct or indirect common control with, the issuer.

31. Rule 144 of the Securities Act provides a "safe harbor" exemption permitting the public resale of restricted and control securities (control securities are securities held by an affiliate of the issuing company; an affiliate is a shareholder, such as a director or large shareholder, in a relationship of control with the issuer) when, among other things, the selling security holder has held the securities for a specified period of time. During the relevant period, a selling security holder must have held the security for one year before qualifying for a Rule 144 safe harbor, absent any permissible "tacking." Tacking generally allows a holder of restricted securities to combine the separate holding periods of previous owners (except for previous owners who are affiliates of or in a relationship of control with the issuer) to satisfy the holding period requirement.

b. Siris and Hua Mei Violated the Registration Requirements of the Securities Laws

32. After receiving restricted shares from a person directly or indirectly controlled by the Company, and without holding those shares for the requisite time period, nor being able permissibly to tack any holding periods of previous owners, Siris and Hua Mei improperly sold unregistered securities that Hua Mei received from China Yingxia.

33. The Company Representatives negotiated to pay Siris and his associate, the lead investors, for the due diligence they conducted in connection with their investments in the July 2007 PIPE. The due diligence was used in later efforts to sell China Yingxia to other potential investors in a subsequent PIPE transaction.

34. The Company Representatives arranged sham agreements in which they transferred China Yingxia shares to Siris and his associate but made it appear as though the shares were coming from a shareholder allegedly to reimburse Siris and his associate for services performed for the shareholder. In fact, the sham agreements were simply a means for China Yingxia to provide Hua Mei with shares believed to be immediately eligible for sale because, if the Company had issued the shares directly to Hua Mei, the shares would have been restricted stock subject to holding period and other requirements for resale.

35. In early July 2007, Siris's firm, Hua Mei, entered into a consulting agreement with an unnamed and, at the time, unknown shareholder of China Yingxia, purportedly to compensate Siris for the due diligence that was conducted relating to his funds' investment in China Yingxia (the "Agreement"). Siris's associate entered into a substantially identical agreement.

36. The Agreement provided for payment to Hua Mei of 175,000 restricted shares from the unnamed shareholder of China Yingxia that had been previously issued in connection with the Company's May 2006 reverse merger. The Agreement did not contain any information concerning the services Hua Mei provided. The Company Representatives negotiated and facilitated execution of the Agreement, and later assisted with transferring the shares to Hua Mei.

37. On August 1, 2007, almost one month after execution of the Agreement, the Company Representatives identified the unnamed shareholder, who was supposedly the

counterparty to the Agreement. The counterparty, the previously unnamed shareholder and source of the 175,000 shares, was in fact the father of China Yingxia's CEO. The father of China Yingxia's CEO was a person directly or indirectly controlled by the issuer, China Yingxia. The CEO's father's restricted shares were transferred to Hua Mei at the apparent direction of the Company. Further, the CEO's father apparently was not reimbursed by the Company for his shares.

38. In the same communication identifying the unnamed shareholder, the Company Representatives provided instructions for obtaining a legal opinion under Rule 144 to lift the restrictions on the 175,000 shares, and thus render the shares freely tradeable.

39. Although the Company Representatives knew that no services were provided to the previously unnamed shareholder – as they had only identified the CEO's father as a party to the Agreement on August 1, 2007, after the services had been rendered – Individual B relayed advice to Siris that "if the shares were received as compensation for work done for the Company then [counsel] could not give the 144 legal opinion to lift the restriction, but if the shares were compensatoin [sic] for work done for the shareholder, then this is none [sic] issue." Individual B further advised Siris to send Company counsel "a simple e-mail saying that the shares were transferred by a non-affiliate of the [C]ompany in exchange for services rendered for THAT shareholder, not to the Company."

40. On August 17, 2007, Siris sent an email to China Yingxia's counsel falsely stating the following:

> We received these shares from [the CEO's father] in exchange for consulting services rendered to [the CEO's father] in China. [The CEO's father] has owned these shares of China Yingxia for more than one year. I am informed he is not an affiliate of the [C]ompany. The services we provided were to [the CEO's father] and not to the [C]ompany.

41. In fact, neither Siris nor his related entities rendered any services to the CEO's father. In reality, the services were rendered to China Yingxia.

42. Based on Siris's representations and other paperwork, Company counsel sent China Yingxia's transfer agent a letter stating, "[s]uch shares were issued pursuant to a consulting agreement ... with [the CEO's father] ... please transfer the shares as requested."

43. As a result, Hua Mei received "free-trading" shares of China Yingxia that should have been restricted and ineligible for immediate public resale.

44. Siris, on behalf of Hua Mei, began selling the shares on August 14, 2007 and continued selling shares through November 15, 2007.

45. At the time of Hua Mei's sales, although the restricted shares had been held by the CEO's father for more than one year, they were not eligible for immediate resale. The CEO's father could not legitimately rely on any exemption from registration of such securities given his relationship to the Company. The CEO's father was an "issuer" as that term is defined within the definition of "underwriter" in Section 2(a)(11) of the Securities Act. Those who received shares from him received restricted shares, and were deemed "underwriters" upon the sale of such shares. Moreover, Hua Mei did not meet the requirements for sale under Rule 144, and the transaction to compensate Hua Mei, as arranged by China Yingxia representatives, operated to evade the registration requirements of the Securities Act.

46. In all, Siris, on behalf of Hua Mei, sold 8,600 shares of China Yingxia stock that should have been restricted from resale for proceeds of approximately $24,600.

47. There was no registration statement in effect for the shares that Siris sold on Hua Mei's behalf from August 14 to November 15, 2007, and Hua Mei was not entitled to any exemption from registration when selling the unregistered shares during this time period.

IV. Siris Acted as an Unregistered Broker During China Yingxia's Second PIPE Transaction

48. Section 15(a)(1) of the Exchange Act prohibits a broker or dealer from effecting any transaction in, or inducing or attempting to induce the purchase or sale of, any security unless the broker or dealer is registered with the Commission. Section 3(a)(4) of the Exchange Act defines a "broker" as any person who is engaged in the business of effecting transactions in securities for the account of others.

49. Siris – who, during the relevant period, was not registered as a broker or dealer, nor was he associated with any registered broker-dealer – acted as an unregistered broker in connection with China Yingxia's second capital raise by, among other things, raising over $2 million worth of investments in exchange for transaction-based compensation.

50. With Siris's assistance, the Company embarked on a second PIPE transaction shortly after closing the first round of financing. The Company Representatives engaged Siris, and two other so-called "consultants," to help with the second financing in exchange for commissions of approximately 5% of the amount of money each introduced to China Yingxia.

51. Siris participated at key points in the chain of distribution of China Yingxia's securities. The Company held a meeting with potential investors in July 2007 at a shared conference room in Siris's office building. Siris circulated a Company PowerPoint to other fund managers and friends, informed them that he had conducted due diligence, and stated that the Company had a strong commitment to the quality of its products. In addition, Siris responded to questions from interested investors.

52. Siris also wrote concerning the PIPE that "[w]e will take indications of interest ... next week and expect to close the deal immediately thereafter." Siris also noted that many

people wanted to invest in the deal. Siris initially directed others to contact him if interested, but later directed interested investors to contact the official placement agent, the Broker-Dealer.

53. Further, Siris received drafts of the offering documents for his review and comment. He also communicated with the official placement agent, the Broker-Dealer, concerning interested investors.

54. Siris also communicated with one of the other "consultants" that was assisting China Yingxia in raising money.

55. For instance, the other "consultant" emailed Siris on July 12, 2007 stating: "I thought the book was closed ... How big do you want to make this deal? You want me to make one more call and get another few million?"

56. Siris responded as if he were in charge of the deal: "The book is closed. Don't get any more."

57. In other communications, the same "consultant" pressed Siris to close the deal quickly. Siris responded: "This is my deal. I have been working on it longer than you have. I have people who I promised would be involved. I also told them they could get a second chance to meet management."

58. On August 9, 2007, China Yingxia announced the completion of the second round of financing whereby it sold $8,725,130 worth of restricted securities to 20 investors. Virtually all of the 20 investors were introduced to China Yingxia through Siris and the two other "consultants" rather than through the official placement agent.

59. After the PIPE closed in August 2007 and the amount raised became clear, Siris contacted Company Representatives concerning payment. Siris emailed Individual B stating

"[y]our father indicated that we are due our share of money from the fund raise. He quoted a specific amount. I am curious how and when we handle this?"

60. In response, the Company Representatives and Siris facilitated the execution of a backdated consulting agreement between Individual A's Consulting Firm and Hua Mei.

61. The agreement, in an attempt to conceal the true nature of the services provided, concerned supposed "strategic consulting services," and stated that Hua Mei would provide the Consulting Firm with certain services, including "assisting the company in press releases, conference calls, etc.; communicating with investors, accompanying investors to visit the facilities of the [Consulting Firm's] clients; and providing other consulting assistance."

62. Despite the stated services in the consulting agreement, Siris, through Hua Mei, in fact received transaction-based fees for raising money for China Yingxia and not for providing consulting services.

63. In total, Siris introduced seven investors and $2,150,000 worth of investments to China Yingxia through the August 2007 PIPE. In return, Hua Mei received payment of $107,500, which equaled exactly 5% of the amount of investments Siris introduced to China Yingxia. The Consulting Firm paid Hua Mei by check with a memo line stating "CYXI finance commission" with funds from the August 2007 PIPE.

64. No disclosures were made to potential or actual investors concerning payments to the three so-called consultants, including Siris, for assisting the Company raise money through its August 2007 PIPE.

V. Siris and Hua Mei Maintained Consulting Relationships with China Yingxia

65. After the August 2007 PIPE closed, Siris continued his consulting work with China Yingxia. Siris also maintained similar consulting relationships with other companies in which his funds invested.

66. Facilitated by the Company Representatives, Siris, on behalf of Hua Mei, entered into a third consulting agreement dated July 4, 2007 with an unidentified "China Yingxia International Inc., shareholder" for a term of 12 months. Pursuant to this agreement, Hua Mei would receive roughly $4,000 per month for "strategic consulting services," including assisting in press releases, communicating with investors in the private placement, accompanying investors to visit China Yingxia, and translation and other services.

67. Although the term of the third agreement ran for one year, and payment was not made for the entire 12 month term, Siris and Hua Mei provided guidance to the Company beyond the stated term continuing through its demise in March 2009. Indeed, Siris maintained a fiduciary or other relationship of trust and confidence relating to the Company from the time he began work with the Company until it ceased operation.

68. Siris and Hua Mei performed a broad range of services for China Yingxia beyond those listed in any agreement. As part of their work, Siris reviewed China Yingxia's Commission filings, including its quarterly financial statements on Forms 10-Q. Siris provided comments to one of the Company Representatives, who drafted the filings on behalf of the Company.

69. Siris's comments on Company matters carried considerable weight. For example, on November 13, 2007, Siris wrote:

> I ... would urge everyone to delay the [quarterly earnings] call by a few days- even the [Form 10-Q] filing by a day or two- to make sure these are the right

numbers and that we have a good explanation for them. I would also like to have a call with management discussing these numbers before the conference call.

70. One day later, the Company filed with the Commission a Form 12b-25 Notification of Late Filing for its Form 10-Q.

71. In addition to reviewing the Company's Commission filings, Siris provided guidance to the Company on key hiring and other business decisions. Siris recommended and facilitated the hiring of the Company's CFO in June 2008. Siris also made recommendations for director positions, and the Company Representatives vetted and cleared candidates through Siris. Further, Siris had multiple conference calls or communications with the Company's CEO, including for the purpose of providing advice on how the Company should best present itself to the public.

72. While Siris generally disclosed the existence of Hua Mei's consulting relationships to investors in his funds, without typically identifying the specific companies he worked for, only some of the "consulting" services that Hua Mei provided were disclosed to investors. Various materials given to investors indicated that Hua Mei helped find additional investors, and provided investor relations, investment banking, and risk management and corporate governance services. Hua Mei failed to disclose, however, that it provided drafting assistance for press releases and Commission filings, translation services, management preparation in advance of conference calls, and officer recommendations.

VI. Siris Repeatedly Engaged in Insider Trading in China Yingxia Stock

73. During the relevant period, Siris owed a fiduciary duty to China Yingxia and its shareholders due to, among other things, his consulting relationship and course of dealings with the Company. Siris had access to China Yingxia's material, non-public information, such as the Company's financial picture, key hiring decisions, and operational matters. In violation of this

duty, Siris repeatedly traded the securities of China Yingxia while in possession of material, non-public information.

74. Siris knew that he could not trade China Yingxia while in possession of material, non-public information. For instance, as part of his work for a New York-based publication, in addition to writing about companies in which his funds invested, including China Yingxia, Siris authored several articles concerning the pitfalls of insider trading.

75. Further, Siris once advised Individual B not to share certain information with an investor concerning the CFO hiring decision for China Yingxia – which information was regularly provided to Siris – absent a non-disclosure agreement to avoid "the risk of passing on inside information."

76. After China Yingxia eventually retained a CFO in June 2008, based on Siris's recommendation, the CFO frequently sought Siris's input on Company matters.

77. The CFO understood Siris to be an advisor to the Company. At one point in late 2008, the CFO asked Siris whether he wanted to review a draft of the current Form 10-Q before it was filed with the Commission. The CFO did this because he understood from the Company Representatives that Siris had signed a non-disclosure agreement with the Company.

78. China Yingxia, through its management and the Company Representatives, kept Siris intimately informed about Company matters. Indeed, Siris was copied on numerous confidential, internal Company emails from 2007 through 2009.

79. By mid-February 2009, various issues began to reemerge concerning suspected illegal fundraising activity by the CEO. Allegations concerning the CEO had previously been identified by one of Siris's analysts in July 2008. By early 2009, the CEO had reportedly gone into hiding as Chinese nationals she had taken "loans" from started to demand repayment. Due

to his relationship with the Company, the CEO personally wrote Siris a letter, dated February 17, 2009, which was translated from Chinese to English roughly a day or two later.

80. The CEO wrote to Siris: "I would like to tell you the truth about current rumor and the current situation . . . ." The CEO then disclosed to Siris the illegal fundraising, and "some drastic behavior" by Chinese nationals that caused business disruptions, preventing employees from going to work. The CEO ended her letter to Siris asking for his advice and recommendation.

81. From the CEO's letter, Siris had possession of material, non-public information directly from the CEO confirming her illegal activities and the status of the Company's operations. At this point in time, China Yingxia had not made any public disclosure or disseminated information to investors in the U.S. via any press release consistent with the Company's typical practice.

82. Siris nevertheless began to sell shares on February 19, 2009, shortly after receipt of the CEO's personal letter to him. In particular, as set forth in the following chart, from February 19 through March 2, 2009, Siris sold 628,660 shares of China Yingxia and avoided losses of approximately $130,516.30 (using the closing price on March 9, 2009, the first trading day after China Yingxia publicly disclosed its problems in the March 6 press release). During this period, Siris's trading accounted for between 34% and 80% of the stock's volume:

Date	Order Qty	Executed Qty	Average Price	Volume	Ill-Gotten Gains
2/19/09	75,000	65,000	.36	34%	$21,775.00
2/23/09	140,000	83,000	.26	64%	$19,505.00
2/24/09	730,000	120,000	.24	34%	$25,800.00
2/25/09	160,000	105,000	.22	67%	$20,475.00
2/26/09	168,200	117,800	.21	63%	$21,793.00
2/27/09	190,000	127,860	.18	37%	$19,818.30
3/02/09	10,000	10,000	.16	80%	$1,350.00
Total:		628,660			$130,516.30

83. Siris received new material, non-public information on March 3, 2009. On this date, Siris learned that China Yingxia planned to issue a press release informing the investing public of problems at the Company affecting its ability to continue operations, among other things. Before this time, China Yingxia remained quiet, without issuing any release about the events surrounding the CEO's activities or closure of a Company-owned facility.

84. On March 3, 2009, the CFO emailed the Company Representatives, a director, and Siris stating "many investors are asking what happened with the company. Should we issue a press release...." Siris encouraged the CFO to issue a press release and keep shareholders informed. Later that day, the CFO circulated a draft press release to the Company Representatives, a director, Siris, and a new attorney for the Company.

85. Siris responded in all-capital letters, "PLEASE REMOVE ME FROM ALL DISTRIBUTION LISTS."

86. This was the first time Siris asked to be removed from any internal emails, having been closely involved in the tasks of the Company and receiving internal Company communications since 2007, including draft press releases, without any such response.

87. One day after notice that the Company planned to issue a press release, Siris increased the size of his orders to sell. Between receipt of the draft press release in the late afternoon on March 3, 2009 and its issuance on March 6, 2009, Siris sold hundreds of thousands of shares. Then, he suddenly stopped all trading in China Yingxia.

88. Despite his sales from February 19 to March 6, 2009, which represented most of the sales Siris directed in China Yingxia throughout his entire relationship with the Company, Siris did not trade again from March 6 – when the press release was issued – until almost three weeks later on March 25, 2009.

89. After issuance of the press release, China Yingxia's stock price ultimately collapsed, going from $.08 on March 6 to $.025 on March 9, on increased volume of 607,484 shares, up from 173,600 shares on March 6. Siris's trading after first learning China Yingxia planned to issue a press release, set forth below, yielded his funds additional ill-gotten gains of approximately $41,925.

Date	Order Qty.	Executed Qty.	Average Price	Volume	Ill-Gotten Gains
3/4/09	205,000	200,000	.13	44%	$21,000.00
3/5/09	235,000	180,000	.10	36%	$13,500.00
3/6/09	170,000	135,000	.08	78%	$7,425.00
Total:		515,000			$41,925.00

90. Siris directed the sales in China Yingxia, while in possession of material, non-public information, from February 19 to March 6, 2009, in breach of a fiduciary or other relationship of trust and confidence.

91. As a result of this illegal insider trading, Siris's funds obtained ill-gotten gains of approximately $172,441.30.

VII. Siris Made Various Misrepresentations and Omitted Material Information In Communications with His Investors Concerning China Yingxia

92. Around the time of China Yingxia's downfall, Siris wrote in his monthly letter to investors, dated March 3, 2009, that the funds encountered a "serious fundamental problem" with China Yingxia.

93. Siris wrote in general terms about the CEO's illegal fundraising, but stated there "is reason to believe a restructuring can be achieved" given that China Yingxia's management "is very prominent" in China. Further, Siris wrote that:

> "We have visited this company on many occasions... There is a real business here, with exceptional products...." Siris continued, however, "[w]e are in the process of taking legal action against the company, its management, its Directors, the investment bankers, the lawyers, and auditors. We believe the existence of

> these loans, which existed prior to our financing, is material ... In addition, ***the investment banker continued to handle the SEC filings, hired the CFO, and selected directors. We believe the bankers have significant liability."*** (Emphasis added.)

94. Siris's statements concerning the investment banker's role were misleading because they did not disclose Siris's leading role in those very same activities.

95. Further, Siris omitted from the letter material information concerning his own role as a paid consultant and dealings with China Yingxia, including the receipt of stock for supposedly conducting due diligence on the Company; that Siris himself had aided the Company in its Commission filings and played a leading role in the selection of the CFO and directors; and, further, that he had information concerning the CEO's suspected illegal conduct as early as July 2008, when one of his analysts reported on allegations of such conduct.

96. One day later, on March 4, 2009, Siris sent an email to select investors in China Yingxia, including three investors in his Hua Mei Partners fund. He wrote, among other things, that:

> "Over the past few weeks" we have become concerned about China Yingxia. The CEO told "us she owes ... about $1.3 million [in loans]. However, we have not ascertained whether this number is correct. Information on a website in Chinese has indicated the amount could be significantly higher. ... It is ... possible she is running a Madoff like Ponzi scheme. For all we know, she could have accounted for the money as 'sales' and 'earnings.' ... There is a real business. The question is what are the real numbers?"

97. Siris again indicated that he wanted to take legal action against China Yingxia, the investment bankers, the auditors, and "anyone else we can find." Further, Siris wrote that:

> ***The investment bankers*** are in a particularly vulnerable position ... after raising money, they continued to work with the company. ***They actually wrote and filed the financial documents. They hired the CFO and the consultant. The consultant is the sister of the auditor. So there are a lot of issues here.*** (Emphasis added.)

98. Siris again made no mention of his role with the Company's Commission filings, the hiring of the CFO, prior knowledge of the consultant's relationship to the auditor, or generally his role with China Yingxia.

99. Siris deprived his investors of information concerning his role with the now-failed Company and gave the false and misleading impression that others should be sued for the very conduct in which Siris himself engaged.

100. The misrepresentations and omissions in the March 2009 communications were material in that reasonable investors, in making their investment decisions, including any decisions to redeem, would find it important that Siris had been involved with China Yingxia's filings and hiring decisions, among other things.

VIII. Siris and Guerrilla Capital Engaged in Extensive Insider Trading Before Public Announcement of Ten Confidential Deals

101. Siris and Guerrilla Capital engaged in unlawful insider trading in connection with ten confidential securities offerings by selling or selling short the issuers' securities prior to the public announcement of the offerings.

102. Upon announcement of the offerings or deals, the volume of trading in the issuers' securities increased considerably, and the price of the issuers' securities upon announcement almost always declined significantly given, among other things, the dilutive effect of the offerings.

103. Despite agreeing to maintain the offering information in confidence and not to trade on the information, Siris breached his duty and traded the securities of the issuers from July 2009 to December 2010. The trades were made while in possession of material, non-public information concerning the offerings. Siris's funds generated substantial ill-gotten gains (profits and/or losses avoided) of approximately $161,213.51 as a result of the illegal trading.

104. For the ten offerings, Siris was confidentially solicited by phone and brought "over-the-wall" by four different placement agents, underwriters, or broker-dealers. (Being brought "over-the-wall" refers to Siris being given access to material, non-public confidential information on a securities offering after agreeing not to trade while in possession of the information.)

105. "Broker-Dealer A" solicited Siris in connection with four offerings. "Broker-Dealer B" solicited Siris in connection with four offerings. "Broker-Dealer C" and "Broker-Dealer D" each solicited Siris and/or Guerrilla Capital in connection with one offering.

106. Underwriters, placement agents, broker-dealers, and others frequently solicited Siris and his funds to participate in securities offerings involving Chinese companies, including PIPEs, registered direct or other confidentially marketed public offerings. (Registered direct offerings and confidentially marketed public offerings are different than traditional PIPEs, in that, they both involve the offering of shares previously registered under an existing and effective registration statement.)

107. The ten deals involved confidential solicitations done by phone wherein Siris agreed to go "over-the-wall" with certain restrictions for a specific period of time. In general, Siris agreed not to share the information he received with anyone nor trade on the information from the time of going "over-the-wall" until the public announcement of the offering or deal. After going "over-the-wall," Siris and his funds were generally privy to information such as the name of the issuer doing the deal, anticipated and actual timing for closing, the book or list of investors involved in the offering, anticipated and actual pricing, and updates on other particulars of the deals. Siris was also generally given the opportunity to meet with management for the various companies, which he did on at least one occasion.

a. Siris and Guerrilla Capital Engaged in Insider Trading on Four Deals Involving Broker-Dealer A

108. In March 2005, Siris executed a Master Acknowledgement Agreement with Broker-Dealer A providing, among other things, that receipt of confidential information "will restrict [Siris's] ability to trade in ... the Issuer."

109. On July 2, 2009, Broker-Dealer A confidentially solicited Siris by phone and brought him "over-the-wall" concerning a registered direct or confidentially marketed public offering for China Green Agriculture, Inc. ("China Green"). Consistent with the practice of the salesperson that solicited Siris on many of the Broker-Dealer A offerings, he informed Siris that Broker-Dealer A was working on a confidential transaction and, if disclosed, Siris would be "restricted" in that issuer's name. The restrictions would include no trading in the issuer's securities and no discussion of the transaction with others until the deal was publicly announced.

110. After obtaining Siris's oral agreement to be restricted, Broker-Dealer A shared the name of the issuer doing the deal, China Green, and then sent Siris a confirmatory email stating:

> The existence of the proposed transaction by China Green Agriculture, Inc is highly confidential. Your firm has agreed to maintain in confidence the Confidential Information, and ... You and any other representatives of your firm to whom the Confidential Information has been disclosed further agreed not to transact in the securities of China Green Agriculture, Inc ... until such time the Confidential Information is publicly announced.

111. Days after being restricted, on July 16 and 17, 2009, Siris used the information he received and directed sales of a total of 39,200 shares of China Green.

112. The offering was publicly announced on July 21, 2009, and the stock price significantly declined following the announcement. Siris's funds participated in the offering, buying shares at a discount to the market price.

113. Siris's funds made ill-gotten gains of approximately $25,621.98.

114. Having received material, non-public information concerning China Green after expressly agreeing to maintain that information in confidence and not to trade on it or discuss it with others, Siris and Guerrilla Capital owed a fiduciary or other duty of trust or confidence to China Green and/or its agents.

115. Siris and Guerrilla Capital breached that duty of trust or confidence by trading while in possession of material, non-public information relating to the China Green deal.

116. The same salesperson at Broker-Dealer A solicited Siris for three other offerings and followed the same procedure as described above, including obtaining an express oral agreement from Siris and thereafter sending Siris written confirmations.

117. On July 20, 2009, Broker-Dealer A confidentially solicited and brought Siris "over-the-wall" concerning a registered direct or confidentially marketed public offering for Harbin Electric, Inc. Siris directed sales of 6,900 shares on July 21, 22, and 24, 2009. The offering was publicly announced on July 30, 2009. Siris's funds participated in the offering, buying shares at a discount to the market price. One of Siris's funds made ill-gotten gains of approximately $5,639.39.

118. On December 9, 2009, Broker-Dealer A confidentially solicited Siris and brought him "over-the-wall" concerning a registered direct or confidentially marketed public offering for Yongye International, Inc. at 10:55 am EST. Minutes after solicitation, Siris directed sales of 21,900 shares. The offering was publicly announced on December 17, 2009. Siris's funds participated in the offering, buying shares at a discount to the market price. Siris's funds made ill-gotten gains of approximately $32,258.70.

119. On February 10, 2010, Broker-Dealer A confidentially solicited Siris and brought him "over-the-wall" concerning a registered direct or confidentially marketed public offering for

Sutor Technology Group, Ltd. From February 11, 2010 through March 4, 2010, Siris directed sales of 157,233 shares. The offering was publicly announced on March 5, 2010. Siris's funds made ill-gotten gains of approximately $46,000.

b. Siris and Guerrilla Capital Engaged in Insider Trading on Four Deals Involving Broker-Dealer B

120. Broker-Dealer B solicited Siris in connection with four offerings. Broker-Dealer B generally only verbally brought potential investors "over-the-wall" via telephone conversations and did not send written confirmations of the relevant trading restrictions. For one deal, however, Broker-Dealer B also sent a confirmatory email to which Siris responded and confirmed the restrictions in writing.

121. On December 4, 2009, Broker-Dealer B confidentially solicited Siris and brought him "over-the-wall" concerning a PIPE for Gulf Resources, Inc. On December 9 and 10, 2009, Siris directed short sales of 18,100 shares. On December 11, 2009, the offering was publicly announced. Siris's funds participated in the offering, buying shares at a discount to the market price. Siris's funds made ill-gotten gains of approximately $10,439.36.

122. On December 7, 2009, Broker-Dealer B confidentially solicited Siris and brought him "over-the-wall" concerning a registered direct or confidentially marketed public offering for Universal Travel Group, Inc. On December 9 and 10, 2009, Siris directed short sales and sales of 7,300 shares. The offering was publicly announced on December 10, 2009, after Siris's sales at issue. Siris's funds participated in the offering, buying shares at a discount to the market price. Siris's funds made ill-gotten gains of approximately $9,882.30.

123. On February 1, 2010, Broker-Dealer B confidentially solicited Siris and brought him "over-the-wall" concerning a registered direct or confidentially marketed public offering for Puda Coal, Inc. ("Puda Coal"). On February 4 and 11, 2010, Siris directed short sales of 6,000

shares. The offering was publicly announced on February 12, 2010. Siris's funds participated in the offering, buying shares at a discount to the market price. Siris's funds made ill-gotten gains of approximately $1,440 on the February 4 sales (the February 11 sales also violated Rule 105 of Regulation M, and are discussed below).

124. On November 23, 2010, Broker-Dealer B again confidentially solicited Siris and brought him "over-the-wall" concerning a registered direct or confidentially marketed public offering for Puda Coal. Broker-Dealer B sent Siris a confirmatory email for this deal, which Siris responded to confirming the various restrictions, including that he would not "engage in market transactions relating to Puda Coal securities or effect any other transactions in such securities until 9:30 am E[S]T on December 8th, 2010 (by which time such Confidential Information shall have been publicly disclosed ...)." On December 7, 2010, Siris directed sales of 3,900 shares of Puda Coal. The offering was publicly announced on December 8, 2010. Siris's funds participated in the offering, buying shares at a discount to the market price. Siris's funds made ill-gotten gains of approximately $13,102.98.

c. Siris and Guerrilla Capital Engaged in Insider Trading in One Deal Involving Broker-Dealer C

125. On April 28, 2010, Broker-Dealer C confidentially solicited Siris orally and in a confirmatory email and brought him "over-the-wall" concerning a registered direct or confidentially marketed public offering for China Agritech, Inc. At 9:47 am EST – which was within two minutes of the email transmission from Broker-Dealer C at 9:45 am EST confirming restrictions – Siris began directing short sales, which totaled 4,800 shares. The offering was publicly announced later that same day, at 6:30 pm EST. Siris's funds participated in the offering, buying shares at a discount to the market price. Siris's funds made ill-gotten gains of approximately $8,448.

d. Siris and Guerrilla Capital Engaged in Insider Trading on One Deal Involving Broker-Dealer D

126. On July 30, 2010, Broker-Dealer D confidentially solicited Guerrilla Capital orally and in a confirmatory email and brought it "over-the-wall" concerning a registered direct or confidentially marketed public offering for HQS Sustainable Maritime Industries, Inc. Broker-Dealer D sent Guerrilla Capital an email stating "[p]lease be aware that you have received certain material, non-public information ... we hereby confirm your agreement to treat as confidential the Information ... and not to use the Information ... or trade on it." On August 6, 2010, Siris directed sales of 6,000 shares. The offering was publicly announced on August 10, 2010. Siris's funds made ill-gotten gains of approximately $8,380.80.

127. Siris directed trades in the ten issuers identified herein as alleged above with knowledge of the impending offering announcements, after expressly agreeing to trading restrictions that he intentionally or recklessly disregarded.

IX. Siris Made Materially False Representations in a Securities Purchase Agreement

128. In connection with at least one securities offering, Siris made materially false representations to Universal Travel to induce the issuer to sell its securities to Siris's funds.

129. Broker-Dealer B confidentially solicited and brought Siris "over-the-wall" no later than December 7, 2009. At such time, Siris agreed to be restricted from, among other things, trading the securities of Universal Travel until public announcement of the offering.

130. Two days after going "over-the-wall," on December 9, 2009, Siris directed short sales of 7,000 shares of Universal Travel. On the afternoon of December 9, Siris signed a securities purchase agreement ("SPA"), which stated:

> The Investor [Siris] represents that ***since the date on which the Placement Agent first contacted such Investor about the Offering*** **[December 7, 2009]**, ***Investor has not engaged in any purchases or sales of the securities of the Company***

(including, without limitation, any Short Sales (as defined below) involving the Company's securities. Each Investor covenants that it will not engage in any purchases or sales of the securities of the Company (including Short Sales) ***prior to the time the transactions contemplated by this Agreement are publicly disclosed.*** (Emphasis added.)

131. The following morning after signing the SPA, on December 10, 2009, Siris directed additional sales of 300 shares of Universal Travel before the public announcement of the offering.

132. In all, Siris directed short sales and/or sales of 7,300 shares for ill-gotten gains of approximately $9,882.30 (as described above in § VIII.b.), after being contacted about the offering and in advance of its public announcement. Siris's funds participated in the December 2009 offering for Universal Travel.

133. Siris knowingly or recklessly made and disregarded the representations made to Universal Travel as he directed trades in Universal Travel, including short sales, contrary to the representations made in the SPA.

X. Siris Violated Rule 105 of Regulation M

134. Since October 9, 2007, Rule 105 of Regulation M prohibits any person who made a short sale during the restricted period, generally the five business days before pricing of a securities offering, from purchasing *any* securities of that issuer in a follow-on and/or secondary offering done on a firm commitment basis.

135. Siris directed trades in the five-day restricted period in violation of Rule 105 in connection with at least two follow-on offerings done on a firm commitment basis: Smartheat, Inc. ("Smartheat") and Puda Coal.

a. Smartheat, Inc.

136. On September 18, 2009, Siris, for his funds, purchased 50,000 shares of Smartheat at $9.00 per share in a publicly marketed firm commitment follow-on offering. During the five business days before pricing of this offering, which occurred after the close of the market on September 17, 2009, Siris's funds sold short 25,000 shares of Smartheat at prices between $9.91 and $10 per share. In violation of Rule 105, Siris's funds realized a profit of approximately $24,247.50 from the illicit trading, and $73,500 from "overage" shares, consisting of the 25,000 shares not sold short during the restricted period but purchased in the offering.

b. Puda Coal, Inc.

137. On February 12, 2010, Siris, for his funds, purchased 180,000 shares of Puda Coal at $4.75 per share in a confidentially marketed firm commitment follow-on offering. Puda Coal's underwriter, Broker-Dealer B, confidentially solicited and brought Siris "over-the-wall" in connection with the offering on February 1, 2010. Although Siris's funds sold short a total of 6,000 shares in the days leading up to the announcement and after being brought "over-the-wall" on February 1, 2010, during the five business days before pricing of this offering, which occurred before the market opened on February 12, 2010, Siris's funds sold short 3,600 shares of Puda Coal at $5.68 per share. In violation of Rule 105, Siris's funds realized a profit of approximately $3,340.08 from the illicit trading (this conduct also constituted illegal insider trading; however, disgorgement of such ill-gotten gains are included here), and $26,100 from "overage" shares purchased in the offering.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF
Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder
(Against Siris and Guerrilla Capital)

138. Paragraphs 1 through 137 are realleged and incorporated by reference as though fully set forth herein.

139. Defendants Siris and Guerrilla Capital purchased and sold securities of issuers, while in possession of material, non-public information, in breach of a duty or relationship of trust and/or confidence that was owed directly, indirectly, or derivatively, to the sources of the material, non-public information. Defendants Siris and Guerrilla Capital breached duties of trust and/or confidence established by agreement, by history, pattern, or practice of sharing confidences, and by the sensitive nature of the professional services rendered. Defendant Siris also knowingly or recklessly made material misrepresentations with respect to trading in connection with the purchase of Universal Travel securities.

140. Defendants Siris and Guerrilla Capital, directly or indirectly, with scienter, by use of the means or instrumentalities of interstate commerce, or by use of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of securities: (a) employed devices, schemes, or artifices to defraud; (b) made untrue statements of material fact or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or (c) engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit.

141. By reason of the foregoing, defendants Siris and Guerrilla Capital violated, and unless enjoined will again violate, Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder.

SECOND CLAIM FOR RELIEF
Violations of Section 17(a) of the Securities Act
(Against Siris and Guerrilla Capital)

142. Paragraphs 1 through 137 are realleged and incorporated by reference as though fully set forth herein.

143. Defendants Siris and Guerrilla Capital sold securities of issuers, while in possession of material, non-public information, in breach of a duty or relationship of trust and/or confidence that was owed directly, indirectly, or derivatively, to the sources of the material, non-public information. Defendants Siris and Guerrilla Capital breached duties of trust and/or confidence established by agreement, by history, pattern, or practice of sharing confidences, and by the sensitive nature of the professional services rendered.

144. Defendants Siris and Guerrilla Capital, directly or indirectly, with scienter, by use of the means or instruments of transportation or communication in interstate commerce or by use of the mails, in the offer or sale of securities: (1) employed devices, schemes, or artifices to defraud; (2) obtained money or property by means of untrue statements of material fact or omissions to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or (3) engaged in transactions, practices, or courses of business which operated or would operate as a fraud or deceit.

145. By reason of the foregoing, defendants Siris and Guerrilla Capital have violated, and unless enjoined will again violate, Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

THIRD CLAIM FOR RELIEF
Violation of Section 206(4) of the Advisers Act and Rule 206(4)-8 Thereunder
(Against Siris)

146. Paragraphs 1 through 137 are realleged and incorporated as though fully set forth herein.

147. At all relevant times, Siris operated as an investment adviser as defined by Section 202(a)(11) of the Advisers Act [15 U.S.C. § 80b-2(a)(11)], and served in that capacity with respect to his clients and investors.

148. Defendant Siris, while acting as an investment adviser to pooled investment vehicles, by use of the mails or any means or instrumentalities of interstate commerce, directly or indirectly, made untrue statements of material fact or omitted to state a material fact necessary to make the statements made, in light of the circumstances under which they were made, not misleading, to an investor or prospective investor in the pooled investment vehicles or otherwise engaged in acts, practices, or courses of business that are fraudulent, deceptive, or manipulative with respect to an investor or prospective investor in the pooled investment vehicles.

149. By reason of the foregoing, defendant Siris violated, and unless enjoined will again violate, Section 206(4) of the Advisers Act [15 U.S.C. § 80b-6(4)] and Rule 206(4)-8 thereunder [17 C.F.R. § 275.206(4)-8].

FOURTH CLAIM FOR RELIEF
Violation of Rule 105 of Regulation M of the Exchange Act
(Against Siris and Guerrilla Capital)

150. Paragraphs 1 through 137 are realleged and incorporated by reference, as though fully set forth herein.

151. In connection with two offerings of securities for cash pursuant to a registration statement filed under the Securities Act, defendants Siris and Guerrilla Capital, on behalf of Siris's

funds, directed short sales of securities that were the subject of offerings of equity securities for cash pursuant to a registration statement or a notification on Form 1-A or Form 1-E filed under the Securities Act during the Rule 105 restricted period, and purchased the offered securities from an underwriter or broker or dealer participating in the offering.

152. By reason of the foregoing, defendants Siris and Guerrilla Capital violated, and unless enjoined will again violate, Rule 105 of Regulation M [17 C.F.R. § 242.105].

FIFTH CLAIM FOR RELIEF
Violation of Section 15(a) of the Exchange Act
(Against Siris)

153. Paragraphs 1 through 137 are realleged and incorporated as though fully set forth herein.

154. Defendant Siris, by use of the mails or any means or instrumentality of interstate commerce, effected transactions in, or induced or attempted to induce the purchase or sale of, securities when he was not registered with the Commission as a broker or dealer or associated with an entity registered with the Commission as a broker or dealer.

155. By reason of the foregoing, defendant Siris violated, and unless enjoined will again violate, Section 15(a) of the Exchange Act [15 U.S.C. § 78o(a)].

SIXTH CLAIM FOR RELIEF
Violations of Section 5(a) and 5(c) of the Securities Act
(Against Siris and Hua Mei)

156. Paragraphs 1 through 137 are realleged and incorporated as though fully set forth herein.

157. Defendants Siris and Hua Mei, from August 14, 2007 to November 15, 2007, directly or indirectly, made use of the means or instruments of transportation or communication

in interstate commerce or of the mails, to sell securities without a registration statement being in effect as to those securities.

158. By reason of the foregoing, defendants Siris and Hua Mei violated, and unless enjoined will again violate, Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. § 77e(a) and (c)].

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court enter a Final Judgment:

(a) Permanently enjoining defendants Siris and Guerrilla Capital from violating Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder, Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], and Rule 105 of Regulation M [17 C.F.R. § 242.105]; defendants Siris and Hua Mei from violating Sections 5(a) and (c) of the Securities Act [15 U.S.C. § 77e(a) and (c)]; and defendant Siris from violating Section 206(4) of the Advisers Act [15 U.S.C. § 80b-6(4)] and Rule 206(4)-8 thereunder [17 C.F.R. § 275.206(4)-8], and Section 15(a) of the Exchange Act [15 U.S.C. § 78o(a)];

(b) Ordering Defendants, jointly and severally, to pay disgorgement, together with prejudgment interest;

(c) Ordering defendant Siris to pay civil penalties under Sections 21(d)(3) and 21A of the Exchange Act [15 U.S.C. §§ 78u(d)(3) and 78u-1], Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], and Section 209(e) of the Advisers Act [15 U.S.C. § 80-b(9)(e)] for violations of the federal securities laws; and

(d) Granting any additional relief the Court deems just, appropriate, or necessary.

Dated: New York, New York
July 30, 2012

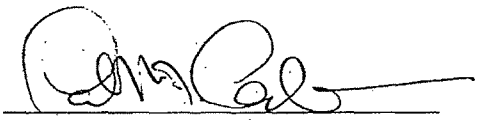

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Exhibit B

12 civ. 5810

#12,164

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

-against-

PETER SIRIS,
GUERRILLA CAPITAL MANAGEMENT, LLC,
and
HUA MEI 21st CENTURY, LLC,

Defendants.

FINAL JUDGMENT AS TO DEFENDANTS PETER SIRIS, GUERRILLA CAPITAL MANAGEMENT, LLC, AND HUA MEI 21st CENTURY, LLC

The Securities and Exchange Commission having filed a Complaint and Defendants Peter Siris ("Siris"), Guerrilla Capital Management, LLC ("Guerrilla Capital"), and Hua Mei 21st Century, LLC ("Hua Mei") ("Defendants"), having entered a general appearance; consented to the Court's jurisdiction over Defendants and the subject matter of this action; consented to entry of this Final Judgment without admitting or denying the allegations of the Complaint (except as to jurisdiction); waived findings of fact and conclusions of law; and waived any right to appeal from this Final Judgment:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that defendants Siris and Guerrilla Capital and their agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") [15

U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

(a) to employ any device, scheme, or artifice to defraud;

(b) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or

(c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

II.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that defendants Siris and Guerrilla Capital and their agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating Section 17(a) of the Securities Act of 1933 (the "Securities Act") [15 U.S.C. § 77q(a)] in the offer or sale of any security by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly:

(a) to employ any device, scheme, or artifice to defraud;

(b) to obtain money or property by means of any untrue statement of a material fact or any omission of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or

(c) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

III.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that defendant Siris and his agents, servants, employees, attorneys, and all persons in active concert or participation with him who receives actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating Section 206(4) of the Advisers Act [15 U.S.C. § 80b-6(4)] and Rule 206(4)-8 thereunder [17 C.F.R. § 275.206(4)-8], while acting as an investment adviser to any pooled investment vehicle, by use of the mails or any means or instrumentalities of interstate commerce, directly or indirectly, to employ any device, scheme, or artifice to defraud any client or prospective client, to make any untrue statement of a material fact or to omit to state a material fact necessary to make the statements made, in light of the circumstances under which they were made, not misleading, to any investor or prospective investor in the pooled investment vehicle, or otherwise engage in any act, practice, or course of business that is fraudulent, deceptive, or manipulative with respect to any investor or prospective investor in the pooled investment vehicle.

IV.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that defendants Siris and Guerrilla Capital and their agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating Rule 105 of Regulation M [17 C.F.R. § 242.105] to sell short any security that is the subject of an offering of equity securities for cash pursuant to a registration statement or a notification on Form 1-A or Form

1-E filed under the Securities Act, and purchase the offered security from an underwriter or broker or dealer participating in the offering if such short sale was effected during the Rule 105 restricted period.

V.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that defendant Siris and his agents, servants, employees, attorneys, and all persons in active concert or participation with him who receives actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating Section 15(a) of the Exchange Act [15 U.S.C. § 78o(a)] to make use of the mails or any means or instrumentality of interstate commerce to effect transactions in, or to induce or attempt to induce the purchase or sale of, any security unless such broker or dealer is registered with the Commission as such or associated with an entity registered with the Commission as a broker or dealer.

VI.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that defendants Siris and Hua Mei and their agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating Section 5 of the Securities Act [15 U.S.C. § 77e] by, directly or indirectly, in the absence of any applicable exemption:

(a) Unless a registration statement is in effect as to a security, making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such security through the use or medium of any prospectus or otherwise;

(b) Unless a registration statement is in effect as to a security, carrying or causing to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any such security for the purpose of sale or for delivery after sale; or

(c) Making 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 through the use or medium of any prospectus or otherwise any security, unless a registration statement has been filed with the Commission as to such security, or while the registration statement is the subject of a refusal order or stop order or (prior to the effective date of the registration statement) any public proceeding or examination under Section 8 of the Securities Act [15 U.S.C. § 77h].

VII.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendants are liable on a joint and several basis for disgorgement of $592,942.39, representing profits gained and/or losses avoided as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of $70,488.83. Defendants shall satisfy this obligation by paying $663,431.22, as provided in and pursuant to the terms of the payment schedule set forth in paragraph IX below after entry of this Final Judgment.

VIII.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that defendant Siris shall pay a civil penalty in the amount of $464,011.93 to the Securities and Exchange Commission pursuant to Sections 21(d)(3) and 21A of the Exchange Act [15 U.S.C. §§ 78u(d)(3) and 78u-1], Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], and Section 209(e) of the Advisers Act

[15 U.S.C. § 80-b(9)(e)]. Defendant Siris shall make this payment as provided in and pursuant to the terms of the payment schedule set forth in paragraph IX below after entry of this Final Judgment.

IX.

Defendants Peter Siris, Guerrilla Capital Management, LLC, and Hua Mei 21st Century, LLC shall pay the total of disgorgement and prejudgment interest, and penalty (to be paid by Peter Siris) due of $1,127,443.15 in two installments to the Commission according to the following schedule: (1) $400,000.00, within 14 days of entry of this Final Judgment; and (2) $727,443.15, within 90 days of entry of this Final Judgment.

Defendants may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request. Payment may also be made directly from a bank account via Pay.gov through the SEC website at http://www.sec.gov/about/offices/ofm.htm. Defendants may also pay by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission, which shall be delivered or mailed to

Enterprise Services Center
Accounts Receivable Branch
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

and shall be accompanied by a letter identifying the case title, civil action number, and name of this Court; Peter Siris, Guerrilla Capital Management, LLC, and Hua Mei 21st Century, LLC as defendants in this action; and specifying that payment is made pursuant to this Final Judgment.

Defendants shall simultaneously transmit photocopies of evidence of payment and case identifying information to the Commission's counsel in this action. By making this payment, Defendants relinquish all legal and equitable right, title, and interest in such funds and no part of

the funds shall be returned to Defendants. The Commission shall send the funds paid pursuant to this Final Judgment to the United States Treasury.

Payments shall be deemed made on the date they are received by the Commission and shall be applied first to post judgment interest, which accrues pursuant to 28 U.S.C. § 1961 on any unpaid amounts due after the entry of Final Judgment. Prior to making the final payment set forth herein, defendants Peter Siris, Guerrilla Capital Management, LLC, and/or Hua Mei 21st Century, LLC shall contact the staff of the Commission for the amount due for the final payment.

The Commission may enforce the Court's judgment for disgorgement and prejudgment interest by moving for civil contempt (and/or through other collection procedures authorized by law) at any time after 14 days following entry of this Final Judgment. Defendants shall pay post judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.

If Defendants Peter Siris, Guerrilla Capital Management, LLC, and/or Hua Mei 21st Century, LLC fail to make any payment by the date agreed and/or in the amount agreed according to the schedule set forth above, all outstanding payments under this Final Judgment, including post-judgment interest, minus any payments made, shall become due and payable immediately at the discretion of the staff of the Commission without further application to the Court.

X.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

CONSENT OF DEFENDANTS PETER SIRIS, GUERRILLA CAPITAL MANAGEMENT, LLC, AND HUA MEI 21ST CENTURY, LLC

1. Defendants Peter Siris, Guerrilla Capital Management, LLC, and Hua Mei 21st Century, LLC, waive service of a summons and the complaint in this action, enter a general appearance, and admit the Court's jurisdiction over Defendants and over the subject matter of this action.

2. Without admitting or denying the allegations of the complaint (except as to personal and subject matter jurisdiction, which Defendants admit), Defendants hereby consent to the entry of the final judgment in the form attached hereto (the "Final Judgment") and incorporated by reference herein, which, among other things:

(a) permanently restrains and enjoins defendants Siris and Guerrilla Capital from violating Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5], Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77q(a)(1)], and Rule 105 of Regulation M [17 C.F.R. § 242.105]; defendants Siris and Hua Mei from violating Section 5(a) and Section 5(c) of the Securities Act [15 U.S.C. § 77e(a) and (c)]; and defendant Siris from violating Section 206(4) of the Investment Advisers Act of 1940 ("Advisers Act") [15 U.S.C. § 80b-6(4)] and Rule 206(4)-8 thereunder [17 C.F.R. § 275.206(4)-8], and Section 15(a) of the Exchange Act [15 U.S.C. § 78o(a)];

(b) orders Defendants, on a joint and several basis, to pay disgorgement in the amount of $592,942.39, plus prejudgment interest thereon in the amount of $70,488.83; and

(c) orders defendant Siris to pay a civil penalty in the amount of $464,011.93 under Section 21(d)(3) and 21A of the Exchange Act [15 U.S.C. §§ 78u(d)(3) and 78u-1], Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], and Section 209(e) of the Advisers Act [15 U.S.C. § 80-b(9)(e)].

3. Defendant Siris agrees that he shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source, including but not limited to payment made pursuant to any insurance policy, with regard to any civil penalty amount that defendant Siris pays pursuant to the Final Judgment, regardless of whether such penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors. Defendant Siris further agrees that he shall not claim, assert, or apply for a tax deduction or tax credit with regard to any federal, state, or local tax for any penalty amounts that defendant Siris pays pursuant to the Final Judgment, regardless of whether such penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors.

3. Defendants waive the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure.

4. Defendants waive the right, if any, to a jury trial and to appeal from the entry of the Final Judgment.

5. Defendants enter into this Consent voluntarily and represent that no threats, offers, promises, or inducements of any kind have been made by the Commission or any member, officer, employee, agent, or representative of the Commission to induce Defendants to enter into this Consent.

6. Defendants agree that this Consent shall be incorporated into the Final Judgment with the same force and effect as if fully set forth therein.

7. Defendants will not oppose the enforcement of the Final Judgment on the ground, if any exists, that it fails to comply with Rule 65(d) of the Federal Rules of Civil Procedure, and hereby waive any objection based thereon.

8. Defendants waive service of the Final Judgment and agree that entry of the Final Judgment by the Court and filing with the Clerk of the Court will constitute notice to Defendants of its terms and conditions. Defendants further agree to provide counsel for the Commission, within thirty days after the Final Judgment is filed with the Clerk of the Court, with an affidavit or declaration stating that Defendants have received and read a copy of the Final Judgment.

9. Consistent with 17 C.F.R. § 202.5(f), this Consent resolves only the claims asserted against Defendants in this civil proceeding. Defendants acknowledge that no promise or representation has been made by the Commission or any member, officer, employee, agent, or representative of the Commission with regard to any criminal liability that may have arisen or may arise from the facts underlying this action or immunity from any such criminal liability. Defendants waive any claim of Double Jeopardy based upon the settlement of this proceeding, including the imposition of any remedy or civil penalty herein. Defendants further acknowledge that the Court's entry of a permanent injunction may have collateral consequences under federal or state law and the rules and regulations of self-regulatory organizations, licensing boards, and other regulatory organizations. Such collateral consequences include, but are not limited to, a statutory disqualification with respect to membership or participation in, or association with a member of, a self-regulatory organization. This statutory disqualification has consequences that are separate from any sanction imposed in an administrative proceeding. In addition, in any disciplinary proceeding before the Commission based on the entry of the injunction in this

action, Defendants understand that they shall not be permitted to contest the factual allegations of the complaint in this action.

10. Defendants understand and agree to comply with the Commission's policy "not to permit a defendant or respondent to consent to a judgment or order that imposes a sanction while denying the allegations in the complaint or order for proceedings." 17 C.F.R. § 202.5. In compliance with this policy, Defendants agree: (i) not to take any action or to make or permit to be made any public statement denying, directly or indirectly, any allegation in the complaint or creating the impression that the complaint is without factual basis; and (ii) that upon the filing of this Consent, Defendants hereby withdraw any papers filed in this action to the extent that they deny any allegation in the complaint. If Defendants breach this agreement, the Commission may petition the Court to vacate the Final Judgment and restore this action to its active docket. Nothing in this paragraph affects Defendants': (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which the Commission is not a party.

11. Defendants hereby waive any rights under the Equal Access to Justice Act, the Small Business Regulatory Enforcement Fairness Act of 1996, or any other provision of law to seek from the United States, or any agency, or any official of the United States acting in his or her official capacity, directly or indirectly, reimbursement of attorney's fees or other fees, expenses, or costs expended by Defendants to defend against this action. For these purposes, Defendants agree that Defendants are not the prevailing party in this action since the parties have reached a good faith settlement.

12. 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, Defendants (i) agree 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) appoint Defendants' undersigned attorney as agent to receive service of such notices and subpoenas; (iv) with respect to such notices and subpoenas, waive 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 Defendants' travel, lodging, and subsistence expenses at the then-prevailing U.S. Government per diem rates; and (v) consent to personal jurisdiction over Defendants in any United States District Court for purposes of enforcing any such subpoena.

13. Defendants agree that the Commission may present the Final Judgment to the Court for signature and entry without further notice.

14. Defendants agree that this Court shall retain jurisdiction over this matter for the purpose of enforcing the terms of the Final Judgment.

Dated: July 6, 2012

PETER SIRIS

On July 6, 2012, Peter Siris, a person known to me, personally appeared before me and acknowledged executing the foregoing Consent.

Sheena Wong Shue
Notary Public
Commission expires: 12/19/15

SHEENA PATRICE WONG SHUE
Notary Public, State of New York
Qualified in Kings County
No. 01WO6253490
My Commission Expires 12/19/15

Dated: July 6, 2012

GUERRILLA CAPITAL MANAGEMENT, LLC
HUA MEI 21ST CENTURY, LLC

By: Peter Siris
Title: Managing Director
Address: 405 Lexington Ave
New York, NY, 10174

SHEENA PATRICE WONG SHUE
Notary Public, State of New York
Qualified in Kings County
No. 01WO6253480
My Commission Expires 12/19/ 15

On July 6, 2012, Peter Siris, a person known to me, personally appeared before me and acknowledged executing the foregoing Consent with full authority to do so on behalf of Guerrilla Capital Management, LLC, and Hua Mei 21st Century, LLC, as their Managing Director.

Sheena Wong Shue
Notary Public
Commission expires:

Approved as to form:

M. William Munno
M. William Munno, Esq.
Seward & Kissel LLP
One Battery Park Plaza
New York, NY 10004
(212) 574-1200
Attorney for Defendants Peter Siris,
Guerrilla Capital Management, LLC, and Hua Mei 21st Century, LLC

SO ORDERED:
Dated September 18, 2012

United States District Judge

Ronnie Abrams
United States District Judge
Southern District of New York