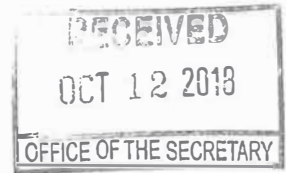


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**UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION**

**ADMINISTRATIVE PROCEEDING  
File No. 3-15783**



**In the Matter of**

**CLAYTON T. MARSHALL**

**Respondent.**

**UNOPPOSED MOTION TO THE  
COMMISSION TO TERMINATE  
ADDITIONAL PROCEEDINGS  
TO DETERMINE CIVIL  
PENALTIES**

The Division of Enforcement hereby moves the Commission to terminate additional proceedings in that were to determine what, if any, civil penalties against Respondent Clayton T. Marshall (“Marshall”) are in the public interest. In support of its Motion, the Division states as follows:

In December 2013, Marshall entered into a cooperation agreement with the Division. Then, in February 2014, Marshall made an offer to the Commission to in which he agreed to be ordered to cease and desist from certain violations, be barred under Rule 102(e) of the Commission’s Rules of Practice, and postpone determination of civil penalties. Thereafter, on March 11, 2014, Public Administrative and Cease-And Desist Proceedings were instituted against Marshall pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”), Sections 4C and 21C of the Securities Exchange Act of 1934 (“Exchange Act”), and Rule 102(e) of the Commission’s Rules of Practice. Rel. Nos. 33-9557; 34-72688. In that Order Instituting Proceedings (“OIP”), the Commission entered the consented to relief and postponed additional proceedings to determine the amount of civil penalties against Marshall until after conclusion of a related civil injunctive action. *Id.* at Sections IV.; V.D. On August 1, 2018, *SEC v. AgFeed*

*Industries Inc., et al.*, 3:14-cv-00663 (M.D. Tenn.), was resolved as to all defendants with the dismissal, without prejudice, of the remaining defendants, who are located in China, for failure to serve them.

### BACKGROUND

Marshall joined AgFeed Industries, Inc. (“AgFeed”) in September, 2010 as a divisional Chief Financial Officer (“CFO”) and was CFO of AgFeed from July 2011, until August 2012, when he left to become the CFO of a privately-held company. Marshall has a bachelor’s degree in accounting, but is not a CPA.

Before Marshall was the CFO of AgFeed, the company reported fictitious revenues from its China operations. In or about June 2011, Marshall learned of fraud allegations in two of the five Chinese regions where AgFeed maintained operations. Marshall subsequently learned that information was discovered relating to the maintenance of two sets of accounting books in AgFeed’s China operations and that, following a review of its fixed assets, AgFeed was unable to substantiate its asset values. Thereafter, Marshall did not ensure that appropriate action was taken to determine whether AgFeed’s current or prior financial statements were accurate. After Marshall became CFO on July 15, 2011, he signed one Form 10-Q filed by AgFeed on August 9, 2011, and an associated management representation letter to the company’s independent auditor.

On December 19, 2011, AgFeed disclosed that “financial accounting staff and management based in China engaged in accounting improprieties during 2009 and 2010 and the first two quarters of 2011.” The company also disclosed that its 2009 and 2010 audited financials, and its first and second quarter 2011 unaudited financials, should not be relied on and should be restated.

## TERMINATION OF PROCEEDINGS TO DETERMINE CIVIL PENALTIES

Marshall agreed to additional proceedings in this matter to determine what, if any, civil penalties pursuant to Section 8A(g) of the Securities Act and Section 21B(a) of the Exchange Act are in the public interest. The Division requests that the Commission terminate the additional proceedings against Marshall.

In December 2013, Marshall entered into a cooperation agreement with the Division that required him to provide full, truthful and continuing cooperation in the investigation and any resulting proceedings. The Division is satisfied that he has fulfilled his obligations under the cooperation agreement.

In addition, Marshall accepted responsibility for his wrongdoing concerning AgFeed by consenting to an administrative cease-and-desist order (1) directing him to cease and desist from committing or causing any violations and any future violations of Section 17(a) of the Securities Act based on his willful violations of Sections 17(a)(2) and 17(a)(3) of the Securities Act, Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act, and Rules 13a-13, 13a-14, 13b2-1, 13b2-2 and 12b-20 thereunder; and (2) denying him the privilege of appearing or practicing before the Commission as an accountant, with the right to reapply for reinstatement after five years. Prior to his involvement in AgFeed, Marshall had no disciplinary history.

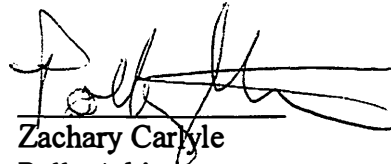
Due to Marshall's fulfillment of the terms of the cooperation agreement, the Division requests that the Commission terminate the additional proceedings to determine what amount of civil penalties are appropriate against him.

Respondent has informed the Division that he concurs in this request.

WHEREFORE, the Division respectfully requests that the Commission terminate the additional proceedings in this matter that were to determine what, if any, civil penalties are appropriate against Respondent Marshall.

Dated: October 10, 2018.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Polly Atkinson', written over a horizontal line.

Zachary Carlyle  
Polly Atkinson  
Division of Enforcement  
Securities and Exchange Commission  
Denver Regional Office  
1961 Stout Street, Ste. 1700  
Denver, CO 80294

**CERTIFICATE OF SERVICE**

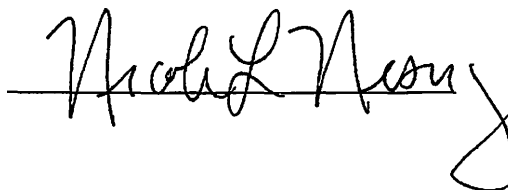
I hereby certify that a true copy of the Division of Enforcement's Motion to the Commission to Terminate Additional Proceedings to Determine Civil Penalties was served on the following in the manner indicated below:

Securities and Exchange Commission  
Brent Fields, Secretary  
100 F Street, N.E.  
Mail Stop 1090  
Washington, D.C. 20549  
(By Facsimile and original and three copies by UPS)

Hon. Judge Cameron Elliot  
Administrative Law Judge  
100 F Street, N.E.  
Mail Stop 2557  
Washington, D.C. 20549  
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A handwritten signature in black ink, appearing to read "Michael MacPhail", written over a horizontal line.