

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 55196 / January 30, 2007

Omnibus Order Directing the Appointment of Tax Administrator in
Administrative Proceedings that Establish Distribution Funds

The Commission's orders in administrative proceedings may lead to the payment of disgorgement and/or penalties for distribution. Such distribution funds may create qualified settlement funds ("QSFs") under Treasury Regulation Section 1.468B-1(c) and have a variety of tax-related obligations. The Division of Enforcement ("Division") has determined that Damasco and Associates ("Damasco"), a certified public accounting firm located in San Francisco, California, is best suited to act as tax administrator for the QSFs for calendar year 2007 in such administrative proceedings.

Accordingly,

IT IS ORDERED that:

- A. Pursuant to the Commission's Rules on Fair Fund and Disgorgement Plans (17 CFR §§ 201.1101, *et seq.*), Damasco is appointed as the tax administrator (the "Tax Administrator"), when requested by staff in 2007 in those administrative proceedings where distribution funds have been established. Damasco will have the limited authority and power to: (1) act as the administrator for tax purposes for each QSF; (2) prepare, sign, and file the necessary tax returns and tax-related documents for the QSFs; (3) make the tax payments on behalf of the QSFs; (4) obtain the necessary tax-related documents and identifiers, such as an employee identification number, on behalf of the QSFs; (5) perform other tax-related and reporting duties on behalf of the QSFs as required by Department of the Treasury regulations relating to QSF administrators; and (6) communicate on behalf of the QSFs on matters set forth in this paragraph.
- B. The Tax Administrator will, from time to time, have custody or control of monies transferred to the Tax Administrator to make tax payments.

Therefore, the Tax Administrator, before taking possession of those monies, will obtain through insurance and through a bond, pursuant to the 2007 Letter Agreement executed between the Commission and the Tax Administrator, coverage against misappropriation (including, but not limited to, negligence) of monies by the Tax Administrator.

C. The Tax Administrator shall submit, at least 30 days prior to any date on which a tax payment is required on behalf of any QSF or as soon as is practicable, documentation showing the amount necessary to satisfy the tax liability of each QSF as well as all other documents supporting such amount, to the following.

1. Where the Respondent has agreed to pay the taxes of the QSF, the Tax Administrator shall submit the documentation to the Respondent, with a copy to: the Commission staff member assigned to the relevant proceeding; the Division Director or a Division's Deputy Director as designated by the Division Director ("Designated Deputy Director"); and the Office of the Secretary. The Respondent shall pay the amount of the documented taxes to the Tax Administrator by check or wire transfer. The Tax Administrator, in turn, shall be responsible for paying the taxes to the Internal Revenue Service ("IRS") and the relevant state taxing authority, if any, on behalf of the QSF. The Tax Administrator shall provide to the Commission staff member assigned to the proceeding, to the Designated Deputy Director and to the Office of the Secretary written confirmation of the payment of the taxes.

2. Where the money in the QSF is held by an escrow agent, the Tax Administrator shall submit the documentation to the escrow agent, with a copy to: the Commission staff member assigned to the relevant proceeding; the Designated Deputy Director; and the Office of the Secretary. The escrow agent is authorized to pay the amount of the documented taxes to the Tax Administrator by check or wire transfer from the QSF. Such tax payments shall come first from any earnings or interest in the QSF, and second, if necessary, from the principal of the QSF. The Tax Administrator, in turn, shall be responsible for paying the taxes to the IRS and the relevant state taxing authority, if any, on behalf of the QSF. The Tax Administrator shall provide to the Commission staff member assigned to the proceeding, the Designated Deputy Director and to the Office of the Secretary written confirmation of the payment of the taxes.

3. In all other proceedings, the Tax Administrator shall submit the documentation to the Office of Financial Management ("OFM"),

Securities and Exchange Commission, Operations Center, 6432 General Green Way, Stop 0-3, Alexandria, VA 22312, with a copy to: the Commission staff member assigned to the relevant proceeding; the Designated Deputy Director; and the Office of the Secretary. Upon approval to disburse by the Designated Deputy Director, the Commission shall disburse to the Tax Administrator, by check or wire transfer from the QSF, the amount of the taxes as calculated and documented by the Tax Administrator. Such tax payments shall come first from any earnings or interest in the QSF, and second, if necessary, from the principal of the QSF. The Tax Administrator, in turn, shall be responsible for paying the taxes to the IRS and the relevant state taxing authority, if any, on behalf of the QSF. The Tax Administrator shall provide written confirmation to the Commission staff member assigned to the proceeding, to the Designated Deputy Director and to the Office of the Secretary of the payment of the taxes.

- D. The Tax Administrator shall comply with all reporting requirements applicable to a QSF as defined in Treasury Regulations Section 1.468B-1(a), as amended, and shall file on a timely basis all required federal, state, and local tax returns, and shall contemporaneously provide copies of such filings to the assigned Commission staff member and the Designated Deputy Director. A list of assigned staff will be provided to the Tax Administrator.
- E. The Tax Administrator shall keep records and bill each QSF for the services provided to it, pursuant to the 2007 Letter Agreement executed between the Commission and the Tax Administrator. Each bill shall be reviewed by the Designated Deputy Director.

1. In the proceedings in which the Respondent has agreed to pay for the expenses of the QSF, the Tax Administrator will submit the bill to the Respondent for payment by check or wire transfer.

2. Where the money in the QSF is held by an escrow agent, the Tax Administrator will submit the bill to the Designated Deputy Director for approval. For bills totaling an amount less than or equal to \$10,000 per case per tax filing per quarter, the Designated Deputy Director is hereby delegated limited authority to approve the bill for payment where the services have been performed and billed according to the terms of the Tax Administrator's Letter Agreement with the Commission. For bills totaling an amount greater than \$10,000 per case per tax filing per quarter, the Commission staff assigned to the proceeding must seek Commission

approval for payment. After receiving the approval to pay the Tax Administrator's bill, the escrow agent is authorized to pay the bill of the Tax Administrator by check or wire transfer from the QSF. Payment shall come first from any earnings or interest in the QSF, and second, if necessary, from the principal of the QSF.

3. In all other proceedings, the Tax Administrator will submit the bill to the Designated Deputy Director. After receiving approval to pay the Tax Administrator's bill (which approval shall be as described in paragraph E.2., above), the Commission shall pay the bill of the Tax Administrator by check or wire transfer from the QSF. Payment shall come first from any earnings or interest in the QSF, and second, if necessary, from the principal of the QSF.

In all proceedings, the fees billed shall be as agreed upon in the Tax Administrator's Letter Agreement with the Commission, as executed by the Secretary of the Commission on behalf of the Commission.

IT IS ORDERED that, pursuant to Section 4A of the Securities Exchange Act of 1934 (15 U.S.C. § 78d-1), the Designated Deputy Director are delegated the continuing limited authority as set-forth in paragraphs E.2. and E.3., above, to approve the payment of the Tax Administrator's fees and expenses as well as the authority to approve the disbursement of QSF tax payments based on the calculations of the Tax Administrator.

IT IS FURTHER ORDERED that the Secretary of the Commission shall, upon request by the staff, issue orders that appoint Damasco during calendar year 2007 as the Tax Administrator in administrative proceedings and that authorize the Designated Deputy Director to disburse the QSF tax payments that are approved by the Designated Deputy Director as calculated by the Tax Administrator.

By the Commission

Nancy M. Morris
Secretary