

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

**INVESTMENT COMPANY ACT OF 1940**  
**Release No. 31066 / June 2, 2014**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-15898**

**In the Matter of**

**Christopher B. Ruffle,**

**Respondent.**

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

**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Sections 9(b) and 9(f) of the Investment Company Act of 1940 (“Investment Company Act”) against Christopher B. Ruffle (“Ruffle” or “Respondent”).

**II.**

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over him and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Sections 9(b) and 9(f) of the Investment Company Act of 1940, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (“Order”), as set forth below.

### III.

On the basis of this Order and Respondent's Offer, the Commission finds<sup>1</sup> that:

#### Summary

This case involves a prohibited joint transaction orchestrated by the UK-based Martin Currie group of institutional investment managers. In April 2009, in the midst of the financial crisis, Martin Currie used its U.S.-registered investment company client, The China Fund, Inc. (the "China Fund"), to invest in a convertible bond transaction which directly benefited another Martin Currie client, a hedge fund called the Martin Currie China Hedge Fund L.P. (the "Hedge Fund"). The Hedge Fund, an affiliated person of the China Fund, had previously acquired significant, and largely illiquid, exposure (in the form of bonds) to a single Chinese company and required liquidity to satisfy mounting redemption requests from its investors.

Ruffle, a portfolio manager and head of Martin Currie's China operations, negotiated the convertible bond transaction and, together with others at Martin Currie, caused the China Fund to invest in convertible bonds issued by a subsidiary of this Chinese company. The Chinese company used 44% of the investment proceeds to redeem a substantial portion of the preexisting bonds held by the Hedge Fund, thereby alleviating the Hedge Fund's liquidity concerns.

The convertible bond transaction turned out to be a poor investment for the China Fund. In November 2010, the board of the China Fund wrote down the value of the unlisted convertible bonds to zero. In April 2011, the China Fund eventually sold the convertible bonds for 55% of their face value.

By structuring a convertible bond investment by the China Fund which directly benefited the Hedge Fund without a Commission order, Ruffle willfully aided and abetted and caused a violation of the joint transaction provision of the Investment Company Act.

#### Respondent

**Christopher B. Ruffle** ("Ruffle"), 55, was formerly the lead portfolio manager for the China Fund, the Hedge Fund, and other clients of Martin Currie. Ruffle joined Martin Currie in 1994 as a member of the emerging markets team and, starting in 2002, headed the firm's China operations in Shanghai. Effective July 2011, Ruffle ceased performing portfolio management functions for clients of Martin Currie and is no longer associated with Martin Currie. Ruffle, who resides in Shanghai, is currently the co-owner of Open Door Capital Advisors (US), LLC, a registered investment adviser with its office in San Francisco.

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<sup>1</sup> The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

## Other Relevant Entities

1. **Martin Currie Ltd.** (“Martin Currie”) is a company organized under the laws of Scotland and headquartered in Edinburgh, Scotland. Martin Currie wholly owns Martin Currie Inc. (“MCI”) and Martin Currie Investment Management Ltd. (“MCIM”), investment advisers registered with the Commission. MCIM and MCI operate from the same offices and share common employees. MCI served as adviser to the China Fund and during the relevant period, managed approximately \$6.3 billion in assets. MCIM served as adviser to the Hedge Fund and during the relevant period, managed approximately \$11.4 billion in assets.

2. **The China Fund, Inc.** (“China Fund”) is a corporation organized under the laws of Maryland and is a closed-end investment company registered with the Commission. The China Fund’s shares are listed on the NYSE under the symbol CHN. MCI was the investment manager to the China Fund’s portfolio of listed and unlisted securities during the relevant time period.

3. **Martin Currie China Hedge Fund L.P.** (“Hedge Fund”) was a limited partnership organized under the laws of Bermuda and was a private fund managed by MCIM. U.S. investors invested in the Hedge Fund through, among other things, a U.S. private feeder fund known as MC Absolute Return China Fund LLC, a Delaware limited liability company.

4. **Jackin International Holdings** (“Jackin”) is a company organized under the laws of Bermuda and located in Hong Kong, China. Jackin’s stock is listed on the Hong Kong Stock Exchange (“HKSE”) under the code 630. Jackin changed its name to Guojin Resources Holdings Ltd. in November 2010 and now operates under the name AMCO Ltd. Jackin conducts its printer cartridge recycling business through a chain of wholly-owned subsidiaries including Ugent Holdings Ltd. (“Ugent”) and Afex International (HK) Ltd. (“Afex”).

## Facts

### **A. Ruffle’s Role as Head of Martin Currie’s China Operations**

5. The China Fund, Hedge Fund, and other clients of Martin Currie made similar investments in China under the direction of Ruffle, who, starting in 2002, headed the firm’s China operations from Shanghai. Ruffle was later joined by PM-2, another portfolio manager who assisted Ruffle in managing the firm’s Chinese investments.

6. In 2006, in order to retain Ruffle’s services at the firm, Martin Currie entered into a joint venture with Heartland Capital Management Ltd. (“Heartland”), a company formed by Ruffle and PM-2.<sup>2</sup> Ruffle owned 70% of Heartland (with PM-2 owning the

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<sup>2</sup> Through an employee-sharing or “secondment” arrangement, Ruffle and PM-2 were engaged by Martin Currie to serve as portfolio managers for the China Fund and Hedge Fund, respectively, along with other

remaining 30%), which received 50% of the fee revenues earned by Martin Currie for the investments Ruffle and PM-2 managed on assets raised after the establishment of the joint venture and 15% for the assets originating before the joint venture.

7. During the relevant time period, Ruffle oversaw one-third of Martin Currie's total assets under management and reported directly to the firm's chief executive officer in Edinburgh, bypassing the normal chain of command that applied to all other investment managers. Ruffle, however, remained subject to the oversight of Martin Currie's compliance, legal, and risk functions.

8. In addition, during the relevant time period, Ruffle was involved in Martin Currie's and the China Fund's application to the Commission for an order under Rule 17d-1 under the Investment Company Act to allow the China Fund to co-invest in unlisted Chinese companies with certain other accounts managed by Martin Currie, which the application described as including private funds.

#### **B. Summary of the Hedge Fund's Equity and Bond Investments in Jackin**

9. This case arises from a series of investments by Martin Currie clients in Jackin, a Chinese company engaged primarily in the printer cartridge recycling business. Jackin held this business through a chain of wholly-owned subsidiaries, including Ugent and Afex. Commencing in 1997 and during the 2000s, certain clients managed by MCIM and Ruffle made investments in various parts of Jackin's capital structure, including the transactions described below.

10. The Hedge Fund purchased equity shares in Jackin in 2003 and remained a shareholder until mid-2010. In June 2007, Ruffle caused the Hedge Fund to purchase bonds from Jackin for a principal amount of HK\$78 million (\$10 million) that bore a coupon rate of 10% and matured in 2010 (the "Jackin 10% Bond(s)"). These bonds were secured by equity shares of Afex, Jackin's operations subsidiary, and also included detachable warrants that were convertible into Jackin stock. This was the first-ever bond and unlisted investment by the Hedge Fund.

#### **C. Heightened Concerns Over the Hedge Fund's Jackin Investments**

11. As the global financial crises deepened in 2008, the Hedge Fund faced a significant increase in redemption requests by investors, including U.S. investors. To meet those requests, Ruffle began selling down the liquid portion of the fund's portfolio. Those sales impacted the Hedge Fund's relative exposure to the illiquid securities that remained in its portfolio.

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accounts. At all relevant times, Ruffle and PM-2 were associated persons of Martin Currie and were subject to Martin Currie's policies and procedures.

12. By the end of August 2008, the Hedge Fund's total exposure to Jackin (both equity and bonds) stood at about 14% of its net assets. In October 2008, Jackin needed an additional infusion of cash and Ruffle directed the Hedge Fund to purchase more bonds from Jackin, this time with a coupon rate of 15% and a principal amount of HK\$31.2 million (\$4 million) (the "Jackin 15% Bond(s)").<sup>3</sup>

13. These bond purchases increased the Hedge Fund's total investment in Jackin to \$17 million at a time when the fund's net assets had fallen to about \$92 million, due to the market downturn. As a result, the Hedge Fund's total exposure to Jackin reached about 18.5% of its portfolio, close to the fund's 20% exposure limit to any one issuer.

14. The Hedge Fund also faced severe liquidity issues due to mounting investor redemption requests as a result of the financial crisis. In November 2008, Martin Currie employees in Edinburgh became alarmed about the Hedge Fund's situation and raised with Ruffle their concerns about the fund's liquidity and exposure to Jackin. Later that month, the Hedge Fund's board gave instructions to the firm and Ruffle to "significantly" reduce the Hedge Fund's illiquid exposure to Jackin, preferably by the time of the next board meeting, in mid-February 2009.

#### **D. The China Fund's Involvement in "Project Ink"**

15. During this time, Ruffle had already been involved in negotiating a transaction in which an independent private equity fund would lead a consortium of investors in purchasing 100% of the equity of Jackin's subsidiary, Ugent, the holding company of Afex. Those negotiations began in July 2008. As contemplated, the China Fund would be a minority participant in the consortium.

16. The proposed deal, named "Project Ink," called for the repayment of the Jackin 10% Bonds held by the Hedge Fund, which were secured by the shares of Afex. Thus, the deal was considered by Ruffle to be an "exit strategy" out of the Hedge Fund's bond investment in Jackin. Any investment in Ugent necessarily required a release of the Hedge Fund's lien – acquired through the Jackin 10% Bonds – over the shares of Ugent's operating subsidiary, Afex. Only the redemption of those Jackin bonds would enable that release. In other words, because the Jackin 10% Bonds had a lien over Afex's shares, the repayment of those bonds was a necessary component of the contemplated transaction. But because the transaction would have involved the China Fund in reducing the Hedge Fund's exposure to Jackin, the deal proposed a conflict of interest between the two clients and would have been a prohibited joint arrangement absent a Commission order.

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<sup>3</sup> These bonds were secured by a personal guarantee from Jackin's chairman/managing director, who also held over 20% of Jackin's equity.

## **E. Edinburgh’s “Working Group”**

17. In response to the significant concerns of the Hedge Fund’s board regarding the fund’s illiquid exposure to Jackin, an internal “working group” (the “Working Group”) was formed at Martin Currie’s headquarters in Edinburgh to explore options for reducing that exposure. The Working Group consisted of senior Martin Currie officials who oversaw Martin Currie’s China operations and its risk, legal, and compliance functions. Ruffle was not part of the Working Group.

18. On December 1, 2008, the Working Group convened in Edinburgh to discuss the risks posed by the Hedge Fund’s concentration in Jackin and the significant redemption requests, which, if eventually paid, would exacerbate that concentration. The Working Group discussed Project Ink as a possible “exit strategy” and the China Fund’s involvement in the contemplated deal. Although considered a viable “exit strategy,” there were concerns that the Project Ink transaction would not address the Hedge Fund’s pressing liquidity problems as it was slated to close in March 2009, after the fund’s redemptions came due in January/February. As such, the group also discussed directly crossing the Jackin bonds to other Martin Currie clients, including the China Fund. The group’s immediate reaction to any involvement by the China Fund was negative due to “affiliation rules.”

19. The next day, the Working Group reached the consensus that the China Fund’s involvement – either in Project Ink or a direct purchase of the Jackin bonds – did not pass the Working Group’s collective “smell test” because of the conflict of interest. On December 3, 2008, on the eve of the China Fund’s regularly scheduled board meeting, a member of the Working Group emailed Ruffle, PM-2, and Martin Currie’s client services director on the need to obtain a conflict waiver from the China Fund’s board if Project Ink was to proceed, noting that the deal “may not be able to go ahead due to affiliation rules” that the China Fund must abide by and that “we will need to run this by CHN’s legal counsel for approval.”

20. As Ruffle would not be participating in the China Fund’s board meeting,<sup>4</sup> Ruffle then forwarded the email he had received from the member of the Working Group to PM-2. Ruffle noted that Martin Currie was now questioning whether the China Fund could make the investment due to “affiliation rules” and directed PM-2 to disclose that two MCIM clients held equity stakes in Jackin. Ruffle did not instruct PM-2 to disclose to the board the fact that Project Ink resulted in the redemption of the Jackin 10% Bonds held by the Hedge Fund.

## **F. The China Fund’s December 4, 2008 Board Meeting**

21. The China Fund board briefing on December 4, 2008, was flawed in design and execution. Despite the importance of obtaining a conflict waiver for Project Ink and Martin

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<sup>4</sup> Given their residencies in Shanghai, Ruffle and PM-2 alternated their attendance for the quarterly board meetings of the China Fund. It was PM-2’s scheduled turn to attend the meeting on December 4, 2008, which was held in North Carolina.

Currie's fiduciary obligation to make full disclosure, Martin Currie failed to send any employees with adequate knowledge of the facts and circumstances. The only Martin Currie employees at the meeting were PM-2 and a client services director, neither of whom had as full a grasp of the Hedge Fund's problems and the conflicts presented by the Project Ink transaction as Ruffle and the Working Group. Nonetheless, neither Ruffle nor any members of the Working Group participated in the board briefing, even by telephone.

22. In preparation for the board meeting, a "pipeline" report describing Project Ink was included in the board's materials. That report, which was drafted by Ruffle, stated that Jackin would use the investment proceeds for "working capital for business expansion;" however, it failed to disclose that some of those proceeds would be used to redeem the Jackin 10% Bonds held by the Hedge Fund.

23. There was also a brief discussion of Project Ink by PM-2 at the board meeting, but PM-2 only mentioned the Hedge Fund's preexisting equity interest in Jackin, as instructed by Ruffle, not the redemption of the Jackin 10% Bonds, which was the reason Martin Currie was purportedly seeking a conflict waiver. As a result of the Hedge Fund's preexisting equity interests in Jackin, the China Fund's board provided a conflict waiver for Project Ink, an equity transaction, conditioned on the approval of its outside lawyer ("Lawyer A"). The board instructed Lawyer A to further discuss the deal with PM-2 and review the relevant deal documents.

24. Accordingly, the next morning, Lawyer A received Project Ink's term sheet and Memorandum of Understanding (MOU). These documents did not specifically disclose that the China Fund's investment in Project Ink involved the redemption of the Jackin 10% Bonds held by the China Fund's affiliate, the Hedge Fund. Later that same morning, PM-2 and Lawyer A briefly discussed Project Ink over breakfast, but PM-2 did not mention the redemption of the Jackin bonds.

25. On December 8, 2008, Lawyer A emailed his approval of Project Ink to Ruffle, PM-2, and other employees of Martin Currie, including a key member of the Working Group who knew about the conflict of interest. Lawyer A's recitation of the facts in the email upon which he based his approval of the transaction made clear his lack of awareness of the redemption of the Hedge Fund's Jackin 10% Bonds. Lawyer A concluded his email with the following condition: "This conclusion is based on my understanding of the transaction. . . . Please let me know if I have misunderstood any of the facts or mischaracterized any of the factors." No one, including Ruffle and the key member of the Working Group, corrected Lawyer A's misunderstanding or forwarded his email to others in the Working Group.

### **G. The Ugent Convertible Bond Transaction**

26. In January 2009, Project Ink collapsed because the private equity fund that led the consortium decided to withdraw. At this point, Ruffle negotiated a new deal involving only the China Fund investing in Jackin's subsidiary, Ugent. The new deal contemplated that the China Fund itself would buy HK\$177 million (\$22.8 million) in Ugent bonds that were

convertible to common shares representing approximately 30% of Ugent. Ugent would then loan 44% of the investment proceeds (\$10 million) to its parent, Jackin, to redeem the Hedge Fund's Jackin 10% Bonds in full, as was contemplated in Project Ink. The convertible bond deal would also enable Jackin to service its debt payments to the Hedge Fund on the Jackin 15% Bonds.

27. Although the China Fund was now investing alone in a completely new transaction (convertible bonds, not equity), Martin Currie and Ruffle did not seek additional approval or a conflict waiver from the China Fund's board or another opinion from Lawyer A.

#### **H. The China Fund's March 26, 2009 Board Meeting**

28. The next quarterly board meeting of the China Fund took place in New York on March 26, 2009. Ruffle attended the meeting as did Lawyer A. As part of the board's meeting materials, Ruffle drafted a "pipeline" report for the Ugent convertible bond transaction. That report stated that the China Fund "will buy a convertible bond [from Ugent], to provide working capital for business expansion," but again omitted the fact that 44% of the proceeds would be used to redeem the Jackin 10% Bonds. Although this was the last board meeting prior to the Ugent deal closing, Ruffle failed to disclose the redemption of the Jackin 10% Bonds at the meeting.

29. At the end of the meeting, the China Fund's board agreed to escrow approximately \$22.8 million to complete the investment and authorized Ruffle and Martin Currie to proceed with the Ugent convertible bond transaction.

#### **I. The Ugent Transaction Closes**

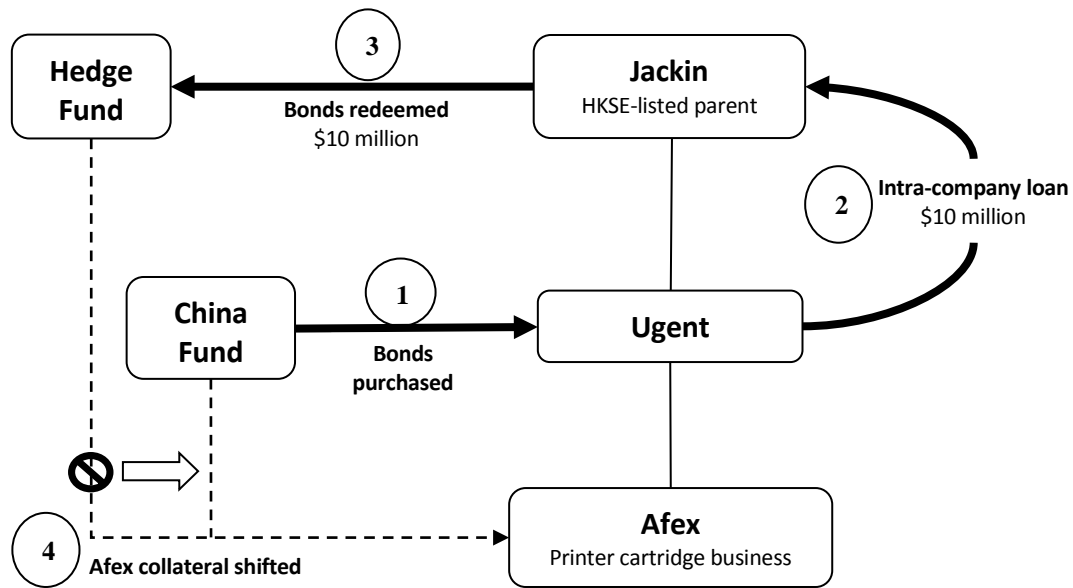
30. The Ugent convertible bond transaction closed on April 6, 2009. The China Fund purchased the Ugent bonds for \$22.8 million. Pursuant to the subscription agreement, Ugent loaned \$10 million to its parent, Jackin, which then redeemed at par the Jackin 10% Bonds held by the Hedge Fund, thereby alleviating the Hedge Fund's liquidity and exposure concerns. Moreover, the remaining \$12.8 million in China Fund proceeds provided working capital to Jackin, which was used in part to make debt service payments to the benefit of the Hedge Fund and the other MCIM-managed account that continued to hold Jackin bonds and stock.

31. As illustrated below, this deal was, in effect, a structured crossing transaction in which the China Fund transferred \$10 million in cash to the Hedge Fund, an affiliated client, through Jackin:<sup>5</sup>

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<sup>5</sup> In Step 1 of the diagram, the China Fund purchased the Ugent convertible bonds. In Step 2, Ugent instantaneously transferred to Jackin, via an intra-company loan, \$10 million of the China Fund's investment proceeds. As Step 3 illustrates, Jackin immediately used the \$10 million to redeem the Hedge Fund's Jackin 10% Bonds. Step 4 shows the movement of collateral. The Hedge Fund's bonds had been secured by equity shares of Afex, Jackin/Ugent's operations subsidiary. Upon redemption of the Jackin 10% Bonds, the Afex collateral was transferred to serve as security for the Ugent convertible bonds held by the China Fund.





32. In October 2010, 19 months after the convertible bond transaction closed, the China Fund’s board determined to write down the value of the Ugent bonds by 50% of their face value. In November 2010, the China Fund’s board wrote down the value of the Ugent bonds to zero. Ultimately, in April 2011, the China Fund sold the Ugent Bonds for 55% of their face value.

### Violations

#### **A. Investment Company Act Joint Transaction and Arrangement Provision – Section 17(d) and Rule 17d-1 Thereunder**

33. Section 17(d) of the Investment Company Act prohibits any affiliated person of a registered investment company or any affiliated person of such affiliated person (or each, an “affiliate”), acting as principal, from effecting any transaction in which such registered investment company is a joint or a joint and several participant with such affiliate in contravention of such rules and regulations as the Commission may prescribe. Section 17(d) is intended to limit or prevent participation by such registered company on a basis different from or less advantageous than that of another participant. Rule 17d-1 under the Investment Company Act prohibits any such affiliate from participating in any joint enterprise, other joint arrangement, or profit-sharing plan (a “joint arrangement”) unless it obtains a Commission order.

34. Ruffle willfully<sup>6</sup> aided and abetted and caused violations of Section 17(d) of the Investment Company Act and Rule 17d-1 by causing the Hedge Fund, an affiliate of the China Fund, to participate in a joint arrangement with the China Fund without a Commission order when he knew that the transaction involved the redemption of the Jackin 10% Bonds and knew (or was reckless in not knowing) that the transaction raised affiliation concerns.

#### IV.

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

Accordingly, pursuant to Sections 9(b) and 9(f) of the Investment Company Act, it is hereby ORDERED that:

A. Respondent Ruffle cease and desist from committing or causing any violations and any future violations of Section 17(d) of the Investment Company Act and Rule 17d-1 thereunder.

B. Respondent Ruffle is prohibited from serving or acting as an employee, officer, director, member of an advisory board, investment adviser or depositor of, or principal underwriter for, a registered investment company or affiliated person of such investment adviser, depositor, or principal underwriter for a period of twelve (12) months, effective on the second Monday following the entry of this Order.

C. Respondent Ruffle shall, within ten (10) days of the entry of this Order, pay a civil money penalty in the amount of \$150,000 to the United States Treasury. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. 3717. Payment must be made in one of the following ways:

1. Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
2. Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
3. Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

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

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<sup>6</sup> A willful violation of the securities laws means merely "that the person charged with the duty knows what he is doing." *Wonsover v. SEC*, 205 F.3d 408, 414 (D.C. Cir. 2000) (quoting *Hughes v. SEC*, 174 F.2d 969, 977 (D.C. Cir. 1949)).

Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Christopher B. Ruffle as Respondent in these proceedings, the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to Jeffrey B. Finnell, Assistant Director, Asset Management Unit, Division of Enforcement, Securities and Exchange Commission, 100 F Street, NE, Mail Stop 5010, Washington, DC 20549-5010.

By the Commission.

Jill M. Peterson  
Assistant Secretary