

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 76897 / January 14, 2016

INVESTMENT ADVISERS ACT OF 1940
Release No. 4314 / January 14, 2016

ADMINISTRATIVE PROCEEDING
File No. 3-17051

In the Matter of

**EVERHART FINANCIAL
GROUP, INC., RICHARD
SCOTT EVERHART, AND
MATTHEW JAMES ROMEO,**

Respondents.

**ORDER INSTITUTING
ADMINISTRATIVE AND CEASE-AND-
DESIST PROCEEDINGS PURSUANT TO
SECTIONS 203(e), 203(f), AND 203(k) OF
THE INVESTMENT ADVISERS ACT OF
1940 AND SECTION 15(b)(6) OF THE
SECURITIES EXCHANGE ACT OF 1934,
MAKING FINDINGS, AND IMPOSING
REMEDIAL SANCTIONS AND A CEASE-
AND-DESIST ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Sections 203(e), 203(f) and 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”) and Section 15(b)(6) of the Securities Exchange Act of 1934 (“Exchange Act”) against Everhart Financial Group, Inc. (“EFG”), Richard Scott Everhart (“Everhart”), and Matthew James Romeo (“Romeo”) (collectively “Respondents”).

II.

In anticipation of the institution of these proceedings, Respondents have submitted Offers of Settlement (the “Offers”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over them and the subject matter of these proceedings, which are admitted, and except as provided herein in Section V, Respondents consent to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Sections 203(e), 203(f), and 203(k) of the Investment Advisers Act of 1940 and Section 15(b)(6) of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (“Order”), as set forth below.

III.

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

SUMMARY

1. Since 2010, EFG, a registered investment adviser, has principally invested its clients in the mutual funds offered by a single family of mutual funds (the "Mutual Fund Complex"). This Mutual Fund Complex offers two share classes to investment advisers and the only meaningful difference between them is that one share class charges "12b-1 fees" and the other does not.² Despite significantly higher fees, some adviser representatives at EFG nearly always invested non-retirement individual advisory accounts in shares that charged a 12b-1 fee, which was paid to EFG's principal owners, who also were licensed registered representatives of a registered broker-dealer. Receipt of 12b-1 fees not only created a conflict of interest that was not adequately disclosed to EFG's clients, but favoring 12b-1 funds over others was inconsistent with EFG's duty to seek best execution for its clients. In addition, EFG had several compliance failures, including the lack of annual compliance reviews for several years, and also issued insufficient disclosures regarding the receipt of 12b-1 fees. As a result, EFG violated Sections 204, 206(2), 206(4), and 207 of the Advisers Act and Rules 204-3(a), 204-3(b)(1) and (2), and 206(4)-7 thereunder. Likewise, EFG's president and majority owner – Everhart – violated or caused violations of Sections 204, 206(2), and 206(4) of the Advisers Act and Rules 204-3(a), 204-3(b)(1) and (2), and 206(4)-7 thereunder and EFG's Chief Operating Officer and minority owner – Romeo – violated or caused violations of Sections 204, 206(2), and 207 of the Advisers Act and Rules 204-3(a) and 204-3(b)(1) and (2) thereunder.

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

² Many mutual funds offer different share classes with varying fee structures, including, "Investor" shares and so-called "Institutional" shares. Investor shares are available to the general public, but usually carry what are known as "12b-1" fees to cover fund distribution and shareholder service expenses pursuant to Section 12(b) of the Investment Company Act of 1940 and Rule 12b-1 thereunder. These fees are deducted from mutual fund assets on an ongoing basis and are paid to the fund's distributor. In turn, these fees are passed on to the broker-dealers and registered representatives whose customers own the shares. Institutional shares, by contrast, are available only to certain investors, primarily depending on the amount invested and those who invest through registered investment advisers. These shares have no up-front or deferred sales charges and often do not have a 12b-1 fee. As a result, an investor who purchases Institutional shares of a mutual fund will pay lower fees over time – and keep more of his investment returns – than an investor who owns Investor shares of the same fund.

RESPONDENTS

2. EFG is an Ohio corporation with its principal place of business in Dublin, Ohio. EFG registered with the Commission as an investment adviser in December 1995. As of December 31, 2014, EFG reported \$250 million of assets under management.

3. Richard Scott Everhart, age 48, is a resident of Dublin Ohio. He is the founder and majority owner of EFG and currently serves as its President. Everhart was EFG's Chief Compliance Officer from July 1995 through November 2014. He is also an investment adviser representative ("IAR") of EFG since starting the company. Everhart holds Series 6, 7, 26, 63, and 65 licenses and since January 2009, he has been a registered representative of a broker-dealer ("Broker") that is registered with the Commission.

4. Matthew James Romeo, age 37, is a resident of Dublin, Ohio. He joined EFG in 1999 and is a minority owner. Romeo has been an IAR at EFG throughout the relevant time period. Romeo officially became Chief Operating Officer in 2012 and Chief Compliance Officer in November 2014. He holds Series 7, 24, 53, 63, and 65 licenses and has been a registered representative of the Broker since 2004.

FACTS

Background on EFG

5. Everhart founded EFG in 1995. EFG provides investment advice and financial planning to non-high net worth individuals and, with only a few exceptions, recommends mutual funds to non-retirement advisory clients. EFG is compensated for providing advisory services with a fee based on a percentage of a client's assets under management. EFG's IARs, who are also licensed representatives of a registered broker-dealer, also receive 12b-1 fees from EFG's clients' investments in mutual funds.

6. Initially, Everhart was responsible for finding and developing client relationships, preparing marketing materials, compliance, and selecting and implementing investment strategies. As EFG's business grew, Everhart hired new employees and investment adviser representatives. This included Romeo, who joined as an intern in 1999.

7. Over time, Romeo took on other jobs, such as administrative support and account manager, and in 2005, he took on the duties – but not the title – of Chief Operating Officer. In recognition of Romeo's increased responsibilities, he purchased an interest in EFG in 2007 and is currently the second largest shareholder in the company. Everhart formally named Romeo as Chief Operating Officer in 2012.

8. Everhart was also EFG's Chief Compliance Officer from 1995 until November 2014 when he promoted Romeo to that position. Although Everhart was EFG's Chief Compliance

Officer, during the relevant period Romeo oversaw, among other things, the annual update to EFG's Form ADV and Form ADV Part 2A ("Brochure") and was responsible for distributing these updates to clients. Romeo, with Everhart's approval, also signed EFG's Forms ADV since 2010. Even though Romeo has been responsible for EFG's day-to-day management since 2005, Everhart is the ultimate authority at EFG and oversees its entire operations.

9. In addition to their other duties, Everhart and Romeo are IARs of EFG and advise clients about investments and receive compensation. Everhart and Romeo not only develop investment strategies for their clients, but also identify and recommend specific investments. For non-retirement individual advisory clients, Everhart and Romeo nearly always bought shares offered by the Mutual Fund Complex that carry a 12b-1 fee.

10. All of EFG's IARs are registered representatives of the Broker, which acts as an introducing broker for EFG's clients. The Broker also provides various back-office and administrative services for EFG that include preparing client account statements and mailing mutual fund prospectuses.

EFG's Compliance Program

11. EFG and Everhart did not perform required annual compliance reviews from 2008 through 2011 and in 2013 and 2014. Although the Broker did periodic inspections, these reviews were limited to EFG's contractual obligations with the Broker and focused on EFG's employees who are registered representatives of the Broker. These examinations did not cover EFG's overall advisory business and therefore were inadequate under the Advisers Act compliance rule, which requires that registered investment advisers such as EFG "[r]eview, no less frequently than annually, the adequacy of the policies and procedures [reasonably designed to prevent violations of the Advisers Act and its rules] and the effectiveness of their implementation."

Best Execution and EFG's Disclosures Regarding 12b-1 Fees

12. All new EFG advisory clients sign an Investment Advisory Agreement ("IAA"). There were two versions of the IAA from 2010 through January 2014. Both versions disclosed the client's advisory fee. However, the client agreement used from 2010 through mid-2013 did not disclose 12b-1 fees. The agreement also did not disclose the conflicts of interest that are created by EFG's IARs' receipt of 12b-1 fees. There is also no mention about Everhart's and Romeo's practice of nearly always investing non-retirement advisory clients in share classes that generate 12b-1 fees ultimately paid to Everhart and Romeo.

13. EFG updated its client agreement in mid-2013. The revised version informs clients that "[EFG] and investment adviser representatives of EFG receive 12b-1 fees from certain mutual funds that are purchased by clients [EFG] will conduct due diligence regarding its fiduciary duties to clients before recommending any mutual fund that will pay 12b-1 fees." EFG, however, never did any due diligence when selecting a mutual fund share class, as it nearly always selected

shares that charged 12b-1 fees. EFG’s “due diligence” was limited to picking a mutual fund and not a particular share class of that fund.

14. EFG revised its client agreement in January 2014 as a result of an SEC examination. For the first time, EFG notified clients that “[f]unds that include 12b-1 fees represent a conflict of interest.” The revised agreement also stated that EFG’s representatives “may receive 12b-1 fees from certain mutual funds. . . . Receiving 12(b)-1 fees represents an incentive for a registered representative to recommend funds with 12(b)-1 fees or with higher 12(b)-1 fees than funds with no fees or lower fees.”

15. In addition to the IAA, new and existing clients receive a portfolio illustration which outlines a proposed investment strategy. This document summarizes a portfolio of investments and lists the fees and expenses for each mutual fund share class, including 12b-1 fees if charged by that fund class. The report does not compare different mutual fund share classes or list the fees and expenses associated with other share classes of the same fund. The portfolio illustration also includes Morningstar reports for selected mutual funds. These single-page reports describe, among other things, the mutual fund’s investment strategy, performance, holdings, and fees. The portfolio illustration summarizes only those share classes EFG recommends – EFG does not provide clients with information for other share classes of the same mutual fund in which EFG clients will invest. Everhart, and Romeo did not inform their non-retirement individual advisory clients that they nearly always purchase mutual fund shares that charge a 12b-1 fee and do not discuss cheaper alternative share classes.

16. Section 206 of the Advisers Act imposes on investment advisers a fiduciary duty to act for the benefit of their clients. That duty includes, among other things, an obligation to seek best execution for client transactions – *i.e.*, “to seek the most favorable terms reasonably available under the circumstances.” *In the Matter of Fidelity Management Research Company*, Investment Advisers Act Rel. No. 2713 (March 5, 2008) (*citing* Interpretive Release Concerning the Scope of Section 28(e) of the Securities Exchange Act of 1934, Exchange Act Rel. No. 23170, (Apr. 23, 1986). The Commission has stated in settled enforcement actions that an investment adviser failed to seek best execution when it caused a client to purchase a more expensive share class when a less expensive class was available.³ Although EFG’s non-retirement advisory clients were eligible to purchase institutional shares from the Mutual Fund Complex, Everhart and Romeo nearly always recommended a mutual fund share class that charged a 12b-1 fee. By not choosing mutual fund share classes with a view to minimizing transactional and ongoing costs, and by failing to disclose that best execution would not be sought for mutual funds with multiple share classes available, Everhart and Romeo failed to seek best execution on behalf of their individual advisory clients.

³ See *In the Matter of Manarin Investment Counsel, Ltd.*, Investment Advisers Act Rel. No. 3686 (October 2, 2013) (settled matter) and *In the Matter of Pekin Singer Strauss Asset Management Inc.*, Investment Advisers Act Rel. No. 4126 (June 23, 2015) (settled matter).

17. New clients did not get EFG's Brochure. EFG also did not provide existing clients with an annual update to its Brochure or a summary statement of material changes. Instead, EFG sent a notice to clients informing them that a new Brochure was available and offered to send it to them.

18. EFG prepared and filed a Brochure in March 2011.⁴ Items 5.E and 14.A of the Brochure require advisers to disclose fees they receive from the sale of mutual funds and compensation paid by third-parties for providing investment advisory services to clients, as well as the resulting conflicts and how the advisers address them. EFG's March 2011 Brochure informs clients that EFG and its IARs "may receive 12b-1 distribution fees" from mutual funds in connection with a client's investments and that these payments are in addition to EFG's advisory fees. However, there is no discussion about any conflicts of interest or Everhart's and Romeo's practice to invest certain clients in share classes that charge 12b-1 fees when corresponding share classes without such fees were available. EFG updated its Brochure in March 2012 and included the same language about 12b-1 fees as the prior version. This Brochure, however, was never filed on the Investment Adviser Registry Depository ("IARD") system.⁵

19. According to EFG, its Brochure was next updated on November 26, 2013 and from March 2012 until November 2013, EFG relied on its March 2012 filing. The IARD system, however, reflects that a Brochure signed by Romeo was filed on June 30, 2013. The June 2013 Brochure does not mention 12b-1 fees at all and omits language regarding 12b-1 payments that was in prior versions.

20. EFG's November 2013 Brochure does not discuss 12b-1 fees. There is no disclosure about 12b-1 fees paid to EFG's IARs and the attendant conflicts of interest created by these payments. In addition, there is still no disclosure about Everhart's and Romeo's practice of investing in share classes that charge 12b-1 fees when there are corresponding share classes available that do not.

21. EFG corrected its 12b-1 disclosures in March 2014 when it updated its Brochure in response to an SEC examination. For the first time, EFG disclosed its conflict of interest in its IARs' receipt of 12b-1 fees. The Brochure states: EFG's representatives "may recommend load or no-load mutual funds that charge [clients] 12(b)-1 fee" and they receive a portion of these 12(b)-1 fees." Clients are now told that these payments "could represent an incentive for [EFG] or your [IAR] to recommend mutual funds with 12(b)-1 fees or higher 12(b)-1 fees over mutual funds with no 12(b)-1 fees or lower 12(b)-1 fees and therefore creates a conflict of interest."

⁴ Form ADV was amended in 2010, requiring most Commission-registered advisers to file and start using client disclosure brochures that met the requirements of new Part 2A in 2011.

⁵ IARD is an electronic filing system that facilitates investment adviser registration and the public disclosure of information regarding investment adviser firms.

VIOLATIONS OF LAW

22. Section 206(2) of the Advisers Act makes it unlawful for an adviser to use means or instrumentality of interstate commerce to engage in any transaction, practice, or course of business that operates as a fraud or deceit upon any client or prospective client. Scienter is not required to establish a violation of Section 206(2), but rather may rest on a finding of negligence. *SEC v. Steadman*, 967 F.2d 636, 643 n.5 (D.C. Cir. 1992) (citing *SEC v. Capital Gains Research Bureau, Inc.*, 375 U.S. 180, 194-95 (1963)). As a result of the conduct described above, EFG, Everhart, and Romeo willfully⁶ violated Section 206(2).

23. Section 207 of the Advisers Act, among other things, makes it unlawful for a person “willfully to omit to state ... material fact[s]” in registration applications and reports filed with the Commission. As a result of the conduct described above, EFG and Romeo willfully violated Section 207 of the Advisers Act.

24. Section 206(4) of the Advisers Act makes it “unlawful for any investment adviser ... to engage in any act, practice, or course of business which is fraudulent, deceptive, or manipulative.” Rule 206(4)-7 under the Advisers Act requires registered investment advisers to, among other things, “[r]eview, no less frequently than annually, the adequacy” of written “policies and procedures, reasonably designed to prevent violation” of the Advisers Act and its rules. As a result of the conduct described above, EFG willfully violated Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder and Everhart caused these violations by EFG.

25. Section 204 of the Advisers Act requires investment advisers to “make and disseminate” reports as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors. Rule 204-3 of the Advisers Act requires registered investment advisers to “deliver a brochure and one or more brochure supplements to each client or prospective client that contains all information required by Part 2 of Form ADV.” Advisers Act Rule 204-3(a). For new clients, advisers must deliver its current brochure “before or at the time” the adviser enters into an advisory agreement with the client. Advisers Act Rule 204-3(b)(1). And, as part of the annual amendment process, Rule 204-3(b)(2) requires that if there are material changes to the Brochure, the adviser must deliver either a “current brochure” or a summary of these changes and “an offer” to provide clients a copy of the Brochure. As a result of the conduct described above, EFG willfully violated Section 204 of the Advisers Act and Rules 204-3(a) and 204-3(b)(1) and (2) thereunder and Everhart and Romeo caused these violations by EFG.

⁶ 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)). There is no requirement that the actor “also be aware that he is violating one of the Rules or Acts.” *Id.* (quoting *Gearhart & Otis, Inc. v. SEC*, 348 F.2d 798, 803 (D.C. Cir. 1965)).

RESPONDENTS' REMEDIAL EFFORTS

26. In determining to accept the Offers, the Commission considered remedial acts promptly undertaken by Respondents and cooperation afforded the Commission staff.

UNDERTAKINGS

Respondent EFG has undertaken to:

27. Independent Compliance Consultant. With respect to the retention of an independent compliance consultant, EFG has agreed to the following undertakings:

a. EFG shall retain, within ninety (90) days of the entry of this Order, the services of an independent compliance consultant (the "Independent Consultant") that is not unacceptable to the Commission staff. The Independent Consultant's compensation and expenses shall be borne exclusively by EFG.

b. EFG shall provide to the Commission staff, within ninety (90) days of the entry of this Order, a copy of the engagement letter detailing the Independent Consultant's responsibilities, which shall include comprehensive compliance reviews as described below in this Order. EFG shall require that the Independent Consultant conduct by the end of the fourth quarter of 2016 and again at the end of the fourth quarter of 2017 a comprehensive review of EFG's supervisory, compliance, and other policies and procedures reasonably designed to prevent violations of the federal securities laws by EFG and its employees.

c. EFG shall require that, within forty-five (45) days from the end of the applicable quarterly period, the Independent Consultant shall submit a written and detailed report of its findings to EFG and to the Commission staff (the "Report"). EFG shall require that each Report include a description of the review performed, the names of the individuals who performed the review, the conclusions reached, the Independent Consultant's recommendations for changes in or improvements to EFG's policies and procedures and/or disclosures to clients, and a procedure for implementing the recommended changes in or improvements to EFG's policies and procedures and/or disclosures.

d. EFG shall adopt all recommendations contained in each Report within sixty (60) days of the applicable Report; provided, however, that within forty-five (45) days after the date of the applicable Report, EFG shall in writing advise the Independent Consultant and the Commission staff of any recommendations that EFG considers to be unduly burdensome, impractical, or inappropriate. With respect to any recommendation that EFG considers unduly burdensome, impractical or inappropriate, EFG need not adopt that recommendation at that time but shall propose in writing an alternative policy, procedure or system designed to achieve the same objective or purpose.

e. As to any recommendation with respect to EFG's policies and procedures on which EFG and the Independent Consultant do not agree, EFG and the Independent Consultant shall attempt in good faith to reach an agreement within sixty (60) days after the date of the applicable Report. Within fifteen (15) days after the conclusion of the discussion and evaluation by EFG and the Independent Consultant, EFG shall require that the Independent Consultant inform EFG and the Commission staff in writing of the Independent Consultant's final determination concerning any recommendation that EFG considers to be unduly burdensome, impractical, or inappropriate. EFG shall abide by the determinations of the Independent Consultant and, within sixty (60) days after final agreement between EFG and the Independent Consultant or final determination by the Independent Consultant, whichever occurs first, EFG shall adopt and implement all of the recommendations that the Independent Consultant deems appropriate.

f. Within ninety (90) days of EFG's adoption of all of the recommendations in a Report that the Independent Consultant deems appropriate, as determined pursuant to the procedures set forth herein, EFG shall certify in writing to the Independent Consultant and the Commission staff that EFG has adopted and implemented all of the Independent Consultant's recommendations in the applicable Report. Unless otherwise directed by the Commission staff, all Reports, certifications, and other documents required to be provided to the Commission staff shall be sent to Paul Montoya, Assistant Regional Director, Asset Management Unit, Chicago Regional Office, Securities and Exchange Commission, 175 W. Jackson Blvd., Suite 900, Chicago, IL, 60604, or such other address as the Commission staff may provide.

g. EFG shall cooperate fully with the Independent Consultant and shall provide the Independent Consultant with access to such of its files, books, records, and personnel as are reasonably requested by the Independent Consultant for review.

h. To ensure the independence of the Independent Consultant, EFG:

- (1) Shall not have the authority to terminate the Independent Consultant or substitute another independent compliance consultant for the initial Independent Consultant, without the prior written approval of the Commission staff; and
- (2) Shall compensate the Independent Consultant and persons engaged to assist the Independent Consultant for services rendered pursuant to this Order at their reasonable and customary rates.

i. EFG shall require the Independent Consultant to enter into an agreement that provides that for the period of engagement and for a period of two (2) years from completion of the engagement, the Independent Consultant shall not enter into any employment, consultant, attorney-client, auditing or other professional relationship with EFG, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such. The agreement will also provide that the Independent

Consultant will require that any firm with which the Independent Consultant is affiliated or of which the Independent Consultant is a member, and any person engaged to assist the Independent Consultant in the performance of the Independent Consultant's duties under this Order shall not, without prior written consent of the Commission staff, enter into any employment, consultant, attorney-client, auditing or other professional relationship with EFG, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such for the period of the engagement and for a period of two (2) years after the engagement.

28. Recordkeeping. EFG shall preserve for a period of not less than six (6) years from the end of the fiscal year last used, the first two (2) years in an easily accessible place, any record of EFG's compliance with the undertakings set forth in this Order.

29. Separation of Chief Compliance Officer From Other Officer Positions. Within thirty (30) days of the entry of this Order, EFG shall designate someone other than Everhart and Romeo to be its Chief Compliance Officer. Given the particular conduct described herein, for a period of five (5) years from the entry of this Order, the person EFG designates as Chief Compliance Officer shall not simultaneously hold any other officer position at EFG while serving as Chief Compliance Officer.

30. Compliance Training. Within one year of entry of this Order, EFG shall require its Chief Compliance Officer to complete thirty (30) hours of compliance training relating to the Advisers Act.

31. Notice to Advisory Clients. Within thirty (30) days of the entry of this Order, EFG shall provide a copy of the Order to each of EFG's existing advisory clients as of the entry of this Order via mail, e-mail, or such other method as may be acceptable to the Commission staff, together with a cover letter in a form not unacceptable to the Commission staff. For a period of one (1) year from the entry of this Order, EFG shall provide a copy of the Order to all of its prospective clients.

32. Deadlines. For good cause shown, the Commission staff may extend any of the procedural dates relating to the undertakings. Deadlines for procedural dates shall be counted in calendar days, except that if the last day falls on a weekend or federal holiday, the next business day shall be considered to be the last day.

33. Certifications of Compliance by Respondents. EFG shall certify, in writing, compliance with its undertakings set forth above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Commission staff may make reasonable requests for further evidence of compliance, and EFG agrees to provide such evidence. The certification and supporting material shall be submitted to Paul Montoya, Assistant Regional Director, Asset Management Unit, Chicago Regional Office, Securities and Exchange Commission, 175 W.

Jackson Blvd., Suite 900, Chicago, IL, 60604, or such other address as the Commission staff may provide, with a copy to the Office of Chief Counsel of the Enforcement Division, 100 F Street, NE Washington, DC 20549, no later than sixty (60) days from the date of the completion of the undertakings.

IV.

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

Accordingly, pursuant to Sections 203(e), 203(f) and 203(k) of the Advisers Act and Section 15(b)(6) of the Exchange Act, it is hereby ORDERED that:

A. Respondent EFG cease and desist from committing or causing any violations and any future violations of Sections 204, 206(2), 206(4), and 207 of the Advisers Act and Rules 204-3(a), 204-3(b)(1) and (2), and 206(4)-7 thereunder.

B. Respondent Everhart cease and desist from committing or causing any violations and any future violations of Sections 204, 206(2), and 206(4) of the Advisers Act and Rules 204-3(a), 204-3(b)(1) and (2), and 206(4)-7 thereunder.

C. Respondent Romeo cease and desist from committing or causing any violations and any future violations of Sections 204, 206(2), 207 of the Advisers Act and Rules 204-3(a) and 204-3(b)(1) and (2) thereunder.

D. Respondents EFG, Everhart, and Romeo are censured.

E. Respondent EFG shall comply with the undertakings enumerated in Section III, paragraphs 27 to 33 above.

F. Respondents EFG, Everhart, and Romeo on a joint and several basis shall, within fourteen (14) days of the entry of this Order, pay total disgorgement of \$201,985.66 and prejudgment interest of \$23,422.66 to the Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600. Payment must be made in one of the following ways:

- (1) Respondents may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondents 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) Respondents 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
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying EFG, Everhart, and Romeo as Respondents in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Paul Montoya, Assistant Regional Director, Asset Management Unit, Chicago Regional Office, Securities and Exchange Commission, 175 W. Jackson Blvd., Suite 900, Chicago, IL, 60604.

G. Respondent EFG shall, within fourteen (14) days of the entry of this Order, pay a civil penalty in the total amount of \$80,000 to the Commission to the Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). 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 EFG may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent EFG 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 EFG 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
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying EFG as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Paul Montoya, Assistant Regional Director,

Asset Management Unit, Chicago Regional Office, Securities and Exchange Commission, 175 W. Jackson Blvd., Suite 900, Chicago, IL, 60604.

H. Respondent Everhart shall, within fourteen (14) days of the entry of this Order, pay a civil penalty in the total amount of \$40,000 to the Commission to the Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). 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 Everhart may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent Everhart 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 Everhart 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
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Everhart as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Paul Montoya, Assistant Regional Director, Asset Management Unit, Chicago Regional Office, Securities and Exchange Commission, 175 W. Jackson Blvd., Suite 900, Chicago, IL, 60604.

I. Respondent Romeo shall, within fourteen (14) days of the entry of this Order, pay a civil penalty in the total amount of \$20,000 to the Commission. 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 Romeo may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;

- (2) Respondent Romeo 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 Romeo 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
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Romeo as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Paul Montoya, Assistant Regional Director, Asset Management Unit, Chicago Regional Office, Securities and Exchange Commission, 175 W. Jackson Blvd., Suite 900, Chicago, IL, 60604.

J. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondents agree that in any Related Investor Action, they shall not argue that they are entitled to, nor shall they benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondents agree that they shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

V.

It is further Ordered that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. §523, the findings in this Order are true and admitted by Respondents Everhart and Romeo, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondents Everhart and Romeo under this Order or any other judgment, order, consent order, decree or settlement agreement entered in connection with

this proceeding, is a debt for the violation by Respondents Everhart and Romeo of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. §523(a)(19).

By the Commission.

Brent J. Fields
Secretary