

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 77625 / April 14, 2016

INVESTMENT ADVISERS ACT OF 1940
Release No. 4368 / April 14, 2016

INVESTMENT COMPANY ACT OF 1940
Release No. 32073 / April 14, 2016

ADMINISTRATIVE PROCEEDING
File No. 3-16730

In the Matter of

REID S. JOHNSON

Respondent.

**ORDER MAKING FINDINGS AND
IMPOSING REMEDIAL SANCTIONS AND
A CEASE-AND-DESIST ORDER PURSUANT
TO SECTION 15(b) OF THE SECURITIES
EXCHANGE ACT OF 1934, SECTIONS
203(f) AND 203(k) OF THE INVESTMENT
ADVISERS ACT OF 1940, AND SECTION
9(b) OF THE INVESTMENT COMPANY
ACT OF 1940 AS TO REID S. JOHNSON**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest to enter this Order Making Findings and Imposing Remedial Sanctions and a Cease-and-Desist Order Pursuant to Section 15(b) of the Securities Exchange Act of 1934 (“Exchange Act”), Sections 203(f) and 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”), and Section 9(b) of the Investment Company Act of 1940 (“Investment Company Act”) against Reid S. Johnson (“Respondent” or “Johnson”). The Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Section 15(b) of the Exchange Act, Sections 203(f) and 203(k) of the Advisers Act, and Section 9(b) of the Investment Company Act was filed on August 6, 2015.

II.

Respondent has submitted an Offer of Settlement (“Offer”) which the Commission has determined to accept. As he did by stipulation dated November 5, 2015, Respondent admits the facts set forth in Section III below, acknowledges that his conduct violated the federal securities laws, admits the jurisdiction of the Commission over him and the subject matter of these

proceedings, and consents to the entry of this Order Making Findings and Imposing Remedial Sanctions and a Cease-and-Desist Order Pursuant to Section 15(b) of the Securities Exchange Act of 1934, Sections 203(f) and 203(k) of the Investment Advisers Act of 1940, and Section 9(b) of the Investment Company Act of 1940 (“Order”), as set forth below.

III.

On the basis of this Order and Respondent’s Offer, the Commission finds¹ that

Summary

1. This proceeding involves violations of Advisers Act provisions governing the Custody Rule (Section 206(4) of the Advisers Act and Rule 206(4)-2 thereunder), the Compliance Rule (Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder) and Form ADV filings (Section 207 of the Advisers Act) by The Planning Group of Scottsdale, LLC (“TPGS”), a former registered investment adviser, and its founder, sole owner, president, managing director, and chief compliance officer, Johnson.

2. From at least 2010 until it withdrew its registration with the Commission in March 2013, TPGS had custody of certain client funds and securities, including funds and securities of pooled investment vehicles whose managing members were entities owned and controlled by Johnson. TPGS and the managing members of the pooled investment vehicles (the “Managing Members”) functioned together with TPGS as a single integrated investment adviser, with the pooled investment vehicles among its advisory clients. TPGS violated the Custody Rule because it failed to accurately determine the securities over which it had custody; failed to ensure the securities were maintained by a qualified custodian; and failed to obtain adequate surprise examinations. Johnson willfully aided and abetted and caused these Custody Rule violations, as well as TPGS’s violations of the Compliance Rule, and TPGS and Johnson willfully made materially false representations in TPGS’s Forms ADV filed from 2010 through 2012.

Respondent

3. Reid S. Johnson resides in Scottsdale, Arizona. Johnson was the founder, sole owner, president, and managing director of TPGS, and the president and sole owner of former registered broker-dealer Meridian United Capital, LLC (“MUC”). Johnson also served as TPGS’s chief compliance officer in 2010, 2011 (excluding a period of approximately seven months during which another employee held this position) and 2012. Johnson holds Series 7, 24, 63 and 65 licenses. In October 2013, Johnson received a 45-day suspension from FINRA in connection with a private placement offering for which MUC acted as placement agent, where he was suspended for withdrawing \$300,000 from escrow before MUC had satisfied the minimum sales contingency for the offering.

¹ The findings herein are made pursuant to Respondent’s Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

Other Relevant Entities

4. TPGS is an Arizona limited liability company with its principal place of business at 8800 North Gainey Center Drive, Suite 176, Scottsdale, Arizona. It was founded by and is 100% owned by Johnson. TPGS registered with the Commission as an investment adviser in July 2006. In June 2012, Johnson sold TPGS's investment advisory business with respect to individual clients, but not with respect to the advisory business conducted through the Managing Members. TPGS filed a Form ADV-W to withdraw its registration with the Commission on March 28, 2013.

5. MUC is an Arizona limited liability company with its principal place of business at 8800 North Gainey Center Drive, Suite 176, Scottsdale, Arizona. MUC registered with the Commission as a broker-dealer in July 2002 under a different name; Johnson and a partner purchased the broker-dealer in June 2003 and renamed it MUC. Johnson became the sole owner of MUC in December 2011. MUC withdrew its registration with the Commission effective December 15, 2012.

6. Insured Private Equity I, LLC ("IPE"), was founded by Johnson to make investments in microcap and start-up companies and to acquire certain single premium immediate annuities and life insurance policies. IPE's managing member is Oak Canyon Capital, Inc. ("Oak Canyon"), which is solely owned by Johnson and operates out of the office at 8800 North Gainey Center Drive. From approximately June 2010 to June 2011, units of IPE were sold by MUC in a private placement offering. Fourteen of the fifteen investors in IPE – 93% – were TPGS advisory clients.

7. Eagle Creek Fund, LLC ("Eagle Creek Fund") was founded by Johnson to acquire Series A Preferred Stock in another company located in India. Eagle Creek Fund's managing member is Eagle Creek Management, LLC ("Eagle Creek Management"), which is solely owned by another entity, Strategic Global Partners, LLC, which is in turn co-owned and co-controlled by Johnson and one other individual. Eagle Creek Management operates out of the office at 8800 North Gainey Center Drive. From approximately July 2008 to January 2010, units of Eagle Creek Fund were sold by MUC in a private placement offering. All 97 investors in Eagle Creek Fund – 100% – were TPGS advisory clients.

8. The "Guaranteed Income Strategy" or "GIS3 Programs" were created by Johnson, and employed an insurance arbitrage strategy involving the purchase of a single premium immediate annuity ("SPIA") and a life insurance policy. The GIS3 Programs were securitized so that investors (besides the insured) could purchase units in an LLC pooled investment vehicle holding the SPIA and life insurance policy. At least twelve of the GIS3 Programs were in turn structured so that the LLC did not purchase the SPIA and life insurance policy directly, but purchased 100% ownership in a family limited liability limited partnership (LLLP) that held the SPIA and life insurance policy. The GIS3-LLLP Programs had as their managing member either Oak Canyon or Meridian Services, LLC ("Meridian Services"), another entity owned solely by Johnson that operates out of the office at 8800 North Gainey Center Drive. At least 118 of the 123 investors in the GIS3-LLLP Programs – 96% – were TPGS advisory clients.

9. The Investor A Trust dated January 6, 2009 (the “Investor A Trust”) was a family trust for a TPGS client. Johnson was the trustee of the Investor A Trust until at least April 4, 2011. The Investor A Trust invested in Eagle Creek Fund and other pooled investment vehicles as well as publicly-traded securities.

10. StarkSchenkein, LLP (“StarkSchenkein”) is a Colorado limited liability partnership headquartered in Denver, Colorado. StarkSchenkein was a full service public accounting firm that provides auditing and accounting, tax, business valuation and legal and business consulting services to a variety of clients including broker-dealers and public companies. StarkSchenkein registered with the PCAOB in 2003. StarkSchenkein was engaged to perform surprise examinations for TPGS for 2010, 2011 and 2012.

Integration of TPGS and the Managing Members

11. TPGS and the three Managing Members of the pooled investment vehicles – Oak Canyon, Eagle Creek Management, and Meridian Services – operated as a single integrated investment adviser, with the pooled investment vehicles as clients. They had significant ownership overlap, operational overlap, capitalization overlap, and advisory overlap. In addition, TPGS and the Managing Members did not conduct themselves as separate entities in dealing with outside parties and failed to observe corporate formalities.

12. TPGS and the Managing Members had ownership overlap and were under common control. Johnson, the owner, president and managing director of TPGS, owned and controlled 100% of Oak Canyon and Meridian Services and 50% of Eagle Creek Management (through Strategic Global Partners).

13. TPGS and the Managing Members also had operational overlap. TPGS and the Managing Members had overlapping management (aside from the co-owner of Eagle Creek Management), and had multiple employees in common. In addition, TPGS and the Managing Members all operated out of a shared physical location at 8800 North Gainey Center Drive, using the same physical infrastructure and equipment, including computers and computer servers. TPGS paid the rent for the 8800 North Gainey Center Drive offices.

14. Additionally, TPGS and the Managing Members had capitalization overlap. Oak Canyon and Meridian Services transferred funds to TPGS, where these funds were commingled with TPGS’s funds and used to pay operating expenses. TPGS did not reimburse Oak Canyon or Meridian Services for the transferred funds. Johnson also made some of TPGS’s employees his co-signatories on bank accounts belonging to Oak Canyon and Meridian Services. Similarly, TPGS paid for some of Eagle Creek Fund’s offering expenses. In addition, TPGS loaned money to Eagle Creek Management’s owner, Strategic Global Partners (“SGP”), for SGP’s operating expenses. As of at least December 31, 2011, SGP had not repaid these loans. Separately, on its books, TPGS reclassified almost \$142,000 that it had apparently loaned to SGP as a reduction in the amount that TPGS owed to other “related parties.” Also, the employees who worked for TPGS and the Managing Members were paid by TPGS.

15. TPGS and the Managing Members also had advisory overlap. Johnson provided investment advice on behalf of both TPGS and the Managing Members. Another employee of TPGS was the manager of Meridian Services, in addition to Johnson, and provided investment advice on behalf of Meridian Services. Johnson and TPGS also advised TPGS clients to invest in the pooled investment vehicles. Almost all of the investors in the pooled investment vehicles were TPGS advisory clients.

16. Furthermore, TPGS and the Managing Members did not conduct themselves as separate entities in dealing with outside parties. Johnson and other employees of TPGS used TPGS's email to conduct business on behalf of the Managing Members and sent correspondence to GIS3-LLLP investors on TPGS's letterhead (as opposed to Oak Canyon's or Meridian Services' letterhead). In addition, TPGS informed StarkSchenkein that it advised the pooled investment vehicles, and TPGS, as opposed to the Managing Members, signed the surprise examination engagement letters with StarkSchenkein.

17. Lastly, TPGS and the Managing Members failed to observe corporate formalities. They were all under Johnson's common control and had no separate boards of directors. In addition, there were no policies and procedures in place to keep these entities separate, or to protect investment advisory information for one of these entities from disclosure to the others. To the contrary, all of TPGS's employees, who also worked for the Managing Members, had unlimited access to servers shared by TPGS and the Managing Members. Johnson had access to investment information for all of these entities whenever he made an investment decision for any of them.

18. Because TPGS and the Managing Members of the pooled investment vehicles were operating together as a single integrated investment adviser, TPGS was required to follow the requirements of the Advisers Act with respect to the pooled investment vehicles, which were its clients.

TPGS Had Custody Over Advisory Clients' Funds and Securities

19. TPGS, operating with the Managing Members as a single integrated investment adviser, had custody over funds and securities of its advisory clients, IPE, Eagle Creek Fund, and GIS3-LLLP Programs.

20. The funds raised in the IPE offering were used to make investments in several companies, based on decisions made by Johnson.

21. Some securities purchased by IPE were held in a brokerage account at a third party registered broker-dealer; Johnson, in his capacity as owner and manager of Oak Canyon, had authority to obtain possession of the funds and securities in that account.

22. Paper stock certificates for other securities purchased by IPE were kept in a lockbox, which was in turn kept for a time in a locked file cabinet set aside for IPE at the office at 8800 North Gainey Center Drive. In or around August 2012, Johnson moved the lockbox to his personal residence. Johnson was the only person with a key to the lockbox.

23. The funds raised in the Eagle Creek Fund offering were used to purchase Series A Preferred Stock in an Indian company, which in turn acquired property in India. The stock certificates Eagle Creek Fund received for its Series A Preferred Stock were kept in a locked storage facility in Scottsdale, Arizona where office documents for TPGS were stored. Johnson was the only person with a key to the storage facility.

24. The funds raised in each GIS3-LLLP Program were held in an account specific to each Program at a bank. Johnson, in his capacity as owner and manager of Oak Canyon or Meridian Services, had authority to obtain possession of the funds in each such account. These funds were used to acquire the ownership interest of family partnership LLLPs that held SPIAs and life insurance policies.

25. The Investor A Trust held funds and securities in a brokerage account at a third party registered broker-dealer. The Investor A Trust was an advisory client of TPGS. Johnson, in his capacity as trustee for the Investor A Trust, had the authority to obtain possession of the money and securities in the brokerage account.

Johnson Willfully Aided and Abetted and Caused TPGS's Violations of the Custody Rule During 2010-2012

26. Johnson, TPGS's chief compliance officer during a majority of the time from 2010 through 2012, did not have any formal training regarding the Custody Rule, nor did he have the familiarity with the Custody Rule that would be expected of a compliance professional.

27. TPGS did not take any action to comply with the 2009 amendments to the Custody Rule until late 2010. At that time, TPGS concluded that it had custody over, and had to obtain a surprise examination of, assets belonging to IPE, Eagle Creek Fund, the GIS3 Programs (including the GIS3-LLLP Programs) and the Investor A Trust.

28. In early 2011, TPGS engaged StarkSchenkein to perform a surprise examination for 2010 (the "2010 surprise examination") that would include IPE, Eagle Creek Fund, the GIS3-LLLP Programs, and the Investor A Trust.

29. TPGS engaged StarkSchenkein a second time later in 2011 to perform a surprise examination for 2011 (the "2011 surprise examination").

30. TPGS engaged StarkSchenkein a third time in late 2012 – after Johnson sold TPGS's individual client investment advisory business in June 2012, but before TPGS withdrew its investment adviser registration – to perform a surprise examination for 2012 (the "2012 surprise examination"). The 2012 surprise examination was never completed.

31. Between 2010 and 2012, TPGS violated the Custody Rule in several respects. First, TPGS failed to determine accurately which client securities were subject to the Custody Rule. TPGS failed to recognize that the securities purchased by IPE and Eagle Creek Fund fell within the scope of the Custody Rule.

32. Second, in 2010, 2011 and 2012, TPGS failed to ensure that client securities were maintained by a qualified custodian. For example: (1) paper stock certificates for certain securities purchased by IPE were maintained at the office at 8800 North Gainey Center Drive, and subsequently at Johnson's home; and (2) paper stock certificates for securities purchased by Eagle Creek Fund were maintained at a Scottsdale, Arizona storage facility.

33. Third, in 2010, 2011 and 2012, TPGS did not adequately obtain independent verification (a/k/a "surprise examination") of custody of client funds and securities by an independent public accountant pursuant to an appropriate engagement letter, with respect to the IPE, Eagle Creek Fund, and GIS3-LLLP Programs and the Investor A Trust. For example: (1) the engagement letters for StarkSchenkein for the 2010 and 2011 surprise examinations, (a) omitted required language regarding StarkSchenkein's obligation to file a Certificate on Form ADV-E within 120 days of the commencement of the surprise examination, to notify the Commission within one business day of any material discrepancies found during the surprise examination, and to file a Form ADV-E and statement within four business days after termination of work on the surprise examination, and (b) improperly disclosed the dates that StarkSchenkein planned to commence the surprise examinations; and (2) the engagement letter for the 2012 surprise examination lacked necessary language concerning tasks that StarkSchenkein was required to perform.

34. Fourth, the 2010 surprise examination was not conducted during that calendar year; StarkSchenkein was not retained until 2011 and performed the work for the examination in 2011, not 2010.

35. As TPGS's founder, owner, president, and managing director during 2010-2012, and its chief compliance officer during the majority of the period, Johnson, through his conduct, willfully aided and abetted and caused TPGS's violations of the Custody Rule.

36. Johnson knew, or was reckless in not knowing, that his conduct would substantially assist TPGS's violations of the Custody Rule, and knew, or should have known, that his conduct would cause these violations.

TPGS Lacked Adequate Compliance Policies and Procedures Regarding Custody

37. In 2010, TPGS had a written compliance manual entitled "2010 Compliance Supervisory Guidelines Manual" (the "Compliance Manual"). The Compliance Manual included a section entitled "Custody" that discussed Custody Rule requirements, but did not address the 2009 amendments to the Custody Rule, effective March 12, 2010.

38. The Compliance Manual's discussion of the Custody Rule failed to reflect the fact that the 2009 amendments made annual surprise examinations mandatory for all advisers subject to the Custody Rule (with some narrow exceptions). In addition, the definition of "custody" omitted the description contained in the 2009 amendments to the Custody Rule, that an adviser has custody "if a related person holds, directly or indirectly, client funds or securities, or has any authority to obtain possession of them, in connection with advisory services [it] provide[s] to clients."

39. As TPGS's founder, owner, president, and managing director during 2010-2012, and its chief compliance officer during the majority of this time period, Johnson, through his conduct, willfully aided and abetted and caused TPGS's violations of the Compliance Rule.

40. Johnson knew, or was reckless in not knowing, that his conduct would substantially assist TPGS's violations of the Compliance Rule, and knew, or should have known, that his conduct would cause these violations.

Johnson Made False Representations on TPGS's Forms ADV Filed in 2010, 2011 and 2012

41. TPGS filed Forms ADV on March 30, 2010, on March 30, 2011 and March 31, 2011 (collectively, the "2011 Forms ADV") and on March 31, 2012.

42. In Item 9, entitled "Custody," of Part I of the 2010 Form ADV, the 2011 Forms ADV, and the 2012 Form ADV, TPGS falsely represented that it did not have custody of any of its advisory clients' cash or bank accounts or any of its advisory clients' securities.

43. In the 2011 Forms ADV, TPGS falsely represented that an independent public accountant prepared an internal control report with respect to custodial services. No internal control report was ever prepared.

44. In addition, in the 2011 and 2012 Forms ADV, TPGS falsely represented that Oak Canyon and Meridian Services were mere "administrative services" firms, when in fact they provided advisory services to IPE and the GIS3-LLLP Programs.

45. In the 2012 Form ADV, TPGS also falsely represented that Oak Canyon and Meridian Services were not managing members of pooled investment vehicles; falsely represented that Eagle Creek Fund was a sponsor or syndicator, rather than a pooled investment vehicle, and failed to include any reference to Eagle Creek Fund's Managing Member, Eagle Creek Management; and falsely identified Oak Canyon, Meridian Services, and Eagle Creek Fund as qualified custodians even though they were not.

46. Johnson, as TPGS's founder, owner, president, and managing director during 2010-2012 and its chief compliance officer during the majority of this time period, and as a signatory of the 2010 Form ADV, the March 30, 2011 Form ADV, and the 2012 Form ADV, with ultimate authority over all the Forms ADV, willfully misrepresented and omitted these material facts from TPGS's Forms ADV in 2010, 2011 and 2012.

47. The misrepresentations and omissions regarding the Custody Rule were material, because they were required disclosures in Form ADV.

Violations

48. As a result of the conduct described above, Respondent willfully aided and abetted and caused TPGS's violation of Section 206(4) of the Advisers Act and Rule 206(4)-2 promulgated thereunder, which make it a fraudulent, deceptive or manipulative act for any registered investment adviser to have custody of clients' funds or securities unless the adviser, among other things: (1) maintains client funds and securities with a qualified custodian; and (2) obtains an annual surprise examination.

49. As a result of the conduct described above, Respondent willfully aided and abetted and caused TPGS's violation of Section 206(4) of the Advisers Act and Rule 206(4)-7 promulgated thereunder, which require investment advisers to adopt and implement written policies and procedures reasonably designed to prevent violations of the Advisers Act and its rules.

50. As a result of the conduct described above, Respondent willfully violated Section 207 of the Advisers Act, which makes it "unlawful for any person willfully to make any untrue statement of a material fact in any registration application or report filed with the Commission . . . or willfully to omit to state in any such application or report any material fact which is required to be stated therein."

Undertakings

In determining whether to accept the Offer, the Commission has considered these undertakings.

1. Prior to submitting any reapplication for association, Johnson shall complete thirty (30) hours of compliance training relating to the Advisers Act.

2. Johnson shall certify, in writing, compliance with the undertaking set forth above. The certification shall identify the undertaking, 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 Johnson agrees to provide such evidence. The certification and supporting material shall be submitted to Victoria Levin, Assistant Regional Director, Enforcement, Securities and Exchange Commission, Los Angeles Regional Office, 444 South Flower St., Suite 900, Los Angeles, CA 90071, or such other address as the Commission staff may provide, with a copy to the Office of Chief Counsel of the Enforcement Division, no later than sixty (60) days from the date of the completion of all of the undertakings.

IV.

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

Accordingly, pursuant to Sections 15(b) of the Exchange Act, Sections 203(f) and 203(k) of the Advisers Act, and Section 9(b) of the Investment Company Act, it is hereby ORDERED that:

A. Respondent Johnson cease and desist from committing or causing any violations and any future violations of Sections 206(4) and 207 of the Advisers Act and Rules 206(4)-2 and 206(4)-7 promulgated thereunder.

B. Respondent Johnson be, and hereby is:

barred from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization;

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; and

barred from participating in any offering of a penny stock, including: acting as a promoter, finder, consultant, agent or other person who engages in activities with a broker, dealer or issuer for purposes of the issuance or trading in any penny stock, or inducing or attempting to induce the purchase or sale of any penny stock;

with the right to apply for reentry after one (1) year to the appropriate self-regulatory organization, or if there is none, to the Commission.

C. Any reapplication for association by the Respondent will be subject to the applicable laws and regulations governing the reentry process, and reentry may be conditioned upon a number of factors, including, but not limited to, the satisfaction of any or all of the following: (a) any disgorgement ordered against the Respondent, whether or not the Commission has fully or partially waived payment of such disgorgement; (b) any arbitration award related to the conduct that served as the basis for the Commission order; (c) any self-regulatory organization arbitration award to a customer, whether or not related to the conduct that served as the basis for the Commission order; and (d) any restitution order by a self-regulatory organization, whether or not related to the conduct that served as the basis for the Commission order.

D. Respondent Johnson shall pay a civil money penalty in the amount of \$45,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). Payment shall be made in the following installments: (1) \$12,500 within 10 days of entry of the Order; and (5) \$32,500 within 364 days of entry of the Order. If any payment is not made by the date the payment is required by this Order, the entire outstanding balance of civil penalties, plus any additional interest accrued pursuant to 31 U.S.C. 3717, shall be due and payable immediately, without further application. 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
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Johnson 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 Victoria Levin, Assistant Regional Director, Enforcement, Securities and Exchange Commission, Los Angeles Regional Office, 444 South Flower St., Suite 900, Los Angeles, CA 90071.

E. 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, Respondent agrees that in any Related Investor Action he shall not argue that he is entitled to, nor shall he 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, Respondent agrees that he 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.

F. Respondent Johnson shall comply with the undertakings enumerated in Section III above.

V.

It is further Ordered that, 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 Respondent, and further, any debt for disgorgement, prejudgment interest, civil penalty or other

amounts due by Respondent 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 Respondent 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