

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 78997 / September 29, 2016

ADMINISTRATIVE PROCEEDING
File No. 3-17600

In the Matter of

**ALTAIR NANOTECHNOLOGIES,
INC.**

Respondent.

**ORDER INSTITUTING CEASE-
AND-DESIST PROCEEDINGS
PURSUANT TO SECTION 21C OF
THE SECURITIES EXCHANGE ACT
OF 1934, MAKING FINDINGS, AND
IMPOSING A CEASE-AND-DESIST
ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”), against Altair Nanotechnologies, Inc. (“Altair” 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 it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order (“Order”), as set forth below.¹

¹ Concurrent with this Order is the Order Instituting Administrative Proceedings Pursuant to Section 12(j) of the Securities Exchange Act of 1934, Making Findings, Accepting Settlement, Implementing Settlement, and Staying Proceedings to Implement Settlement entered against Altair on September 29, 2016.

III.

On the basis of this Order and Respondent's Offer, the Commission finds that:

Summary

1. This financial reporting matter arises from Altair's violations of the reporting and internal controls provisions of the Exchange Act. On September 4, 2014, Altair filed a Form 8-K reporting that its auditor, Crowe Horwath LLP, had resigned effective August 28, 2014 because it could not complete the audit for fiscal year 2013 due to material weaknesses in Altair's internal controls and procedures that Crowe Horwath had identified during the course of that audit. Additionally, the Form 8-K explained that Crowe Horwath had experienced substantial difficulty in obtaining auditable information on Altair's Chinese operations after it became an entity operating primarily in China by the end of 2013.

2. In a March 13, 2015 Form 8-K, Altair confirmed that the material weaknesses identified by Crowe Horwath had in fact existed in 2013, and therefore Altair's financial statements for the three and nine month periods ended September 30, 2013 should no longer be relied upon. Altair subsequently appointed Marcum LLP as its new auditor. To date, however, Altair has failed to file any restated financial statements or a Form 10-K for fiscal year 2013, nor has it filed any Forms 10-Q or Forms 10-K for fiscal years 2014, 2015, or 2016.

Respondent

3. Altair Nanotechnologies, Inc. (CIK No. 0001016546) is a Delaware corporation with principal executive offices in Reno, Nevada and Anderson, Indiana. Altair develops, manufactures and sells nano lithium titanate batteries and energy storage systems. Beginning in January 1997, Altair's common stock was registered pursuant to Section 12(g) of the Exchange Act and traded on the Nasdaq SmallCap Market.² Following NASDAQ's registration as a national securities exchange, Altair's common stock became registered under Section 12(b) of the Exchange Act on July 31, 2006. In September 2014, Altair filed a Form 25 voluntarily delisting and deregistering its stock under Section 12(b). Altair's common stock then reverted to its previous Section 12(g) registration and currently trades on the grey market (Ticker Symbol: ALTI).

Facts

4. In July 2011, Altair became majority owned by a subsidiary of a Hong Kong company. Altair subsequently announced plans to manufacture and sell products in China, and in the second quarter of 2012 it established two Chinese subsidiaries to facilitate those plans. In late 2013, Altair began to move its manufacturing and other operations from the United States to

² Altair's stock initially traded under the ticker symbol "ALTIF" but this was later changed to "ALTI." Although Altair's common stock generally traded on the Nasdaq SmallCap Market (now known as the Nasdaq Capital Market), from approximately January 1998 to September 2002 it traded on the Nasdaq National Market (now known as the Nasdaq Global Market).

China. By the end of 2013, Altair became an entity operating primarily in China, which caused a number of changes in management, including the positions of CEO and CFO.

5. Altair's transfer of operations from the United States to China also resulted in changes to its financial reporting practices. Altair began incorporating financial data for its Chinese operations into consolidated financial statements in the second quarter of 2012. The financial data was generated using Chinese generally accepted accounting principles and maintained on a separate, Chinese language electronic accounting system located in China, and had to be converted to the English language and United States generally accepted accounting principles for inclusion in Altair's consolidated financial statements. Altair's CFO and accounting staff did not have access to the Chinese accounting system until late 2015, and thus had to rely first on a Chinese-based accounting firm, and then the employees of Altair's Chinese subsidiaries, to obtain the data from that system.

6. On September 4, 2014, Altair filed a Form 8-K reporting that its auditor, Crowe Horwath LLP, had resigned effective August 28, 2014. The Form 8-K explained that Crowe Horwath had determined that it could not complete Altair's audit for fiscal year 2013 due to material weaknesses in Altair's internal controls and procedures that Crowe Horwath had identified during the course of its work on that audit. These weaknesses related to changes in Altair's management and to Altair's financial reporting and recordkeeping practices that had resulted from Altair's transfer of operations from the United States to China.

7. Specifically, Crowe Horwath found that:

- (1) Altair experienced significant executive management and accounting level turnover in 2013 which led to a lack of segregation of duties throughout Altair and resulted in a lack of controls to perform a timely review of transactions at an appropriate level of precision;
- (2) Altair did not implement adequate procedures and controls over the 2013 year-end financial close and reporting process to ensure timely filings in compliance with its financial reporting requirements;
- (3) Altair did not implement adequate procedures and controls to appropriately evaluate routine and non-routine transactions, and as a result, did not detect material misstatements that were identified by Crowe Horwath during its audit process;
- (4) Altair did not implement adequate procedures and controls to ensure accurate and timely communication with its subsidiaries in China, and as a result, led to material misstatements that were identified by Crowe Horwath during its audit process; and
- (5) Altair did not implement adequate procedures and controls to ensure the completeness and accuracy of its consolidated financial statements and related subsequent events.

8. In a March 13, 2015 Form 8-K, Altair reported that management had analyzed the internal control issues and material weaknesses identified by Crowe Horwath. Management's analysis concluded that there was "factual support that such issues and weaknesses existed in 2013" therefore "the financial statements for the three and nine month periods ended September 30, 2013," as presented on Altair's Form 10-Q for the third quarter of 2013, filed November 19, 2013, should no longer be relied upon. Altair also reported that management was in the process of hiring a new auditor and taking other measures to ensure that the Form 10-K for fiscal year 2013 and the financial reports for fiscal year 2014 could be completed as soon as possible.

9. On April 7, 2015, Altair announced that it had appointed Marcum LLP as its new auditor and engaged Marcum to conduct audits for fiscal years 2013 and 2014. Altair later engaged Marcum to conduct an audit for fiscal year 2015 as well.

10. Altair's last filed periodic report containing financial statements was its quarterly report on Form 10-Q for the quarterly period ended September 30, 2013. Since then, Altair has not filed any reports including quarterly reports on Form 10-Q for periods following September 30, 2013, and annual reports on Form 10-K for the year ended December 31, 2013, and years ended thereafter.

Violations

11. As a result of the conduct described above, Altair violated Section 13(a) of the Exchange Act and Rules 13a-1 and 13a-13 thereunder, which require every issuer of a security registered pursuant to Section 12 of the Exchange Act file with the Commission information, documents, and annual and quarterly reports as the Commission may require, on the appropriate forms and within the period specified on the form.

12. As a result of the conduct described above, Altair violated Section 13(b)(2)(B) of the Exchange Act, which requires every issuer of a security registered pursuant to Section 12 of the Exchange Act to, among other things, devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles.

Undertakings

Respondent Altair has undertaken to:

13. By no later than 5:30 p.m. ET on November 15, 2016, file with the Commission the following filings (the "Filings"):

- (1) a Form 10-K containing financial results for the yearly and quarterly periods set forth in Attachment A hereto;
- (2) a Form 10-Q for the quarterly period ended March 31, 2016;
- (3) a Form 10-Q for the quarterly period ended June 30, 2016; and

- (4) a Form 10-Q for the quarterly period ended September 30, 2016.

Each of the Filings shall be made in accordance with the technical and substantive requirements for EDGAR documents, and in accordance with the requirements of Section 13(a) of the Exchange Act and rules and regulations thereunder. If Altair makes each of the Filings by no later than 5:30 p.m. ET on November 15, 2016, and the Division of Enforcement does not notify Altair of a deficiency pursuant to paragraph 14(1) below, the Division of Enforcement shall notify the Office of the Secretary of the Commission of Altair's compliance with the undertaking set forth in this paragraph, and the Section 12(j) proceeding shall be terminated in accordance with the Order Instituting Administrative Proceedings Pursuant to Section 12(j) of the Securities Exchange Act of 1934, Making Findings, Accepting Settlement, Implementing Settlement, and Staying Proceedings to Implement Settlement entered against Altair on September 29, 2016, via entry of an Order Terminating Administrative Proceedings Pursuant to Section 12(j) of the Securities Exchange Act of 1934.

14. If Altair makes each of the Filings by 5:30 p.m. ET on November 15, 2016, but the Division of Enforcement concludes, in consultation with the Division of Corporation Finance and any other appropriate staff, that any of the Filings fails to comply with the undertaking set forth in paragraph 13 above:

- (1) The Division of Enforcement will notify Altair within 30 calendar days following the date of the Filings (or, if the last day of the period falls on a weekend or federal holiday, on the first business day immediately thereafter) of the nature of the deficiency or deficiencies in the Filings;
- (2) Altair will then have 14 calendar days following this notification (or, if the last day of the period falls on a weekend or federal holiday, on the first business day immediately thereafter) to remedy any identified deficiency or deficiencies in the Filings and resubmit the Filings;
- (3) If Altair fails to resubmit the Filings pursuant to paragraph 14(2) above, or if Altair resubmits such Filings and the Division of Enforcement concludes, in consultation with the Division of Corporation Finance and any other appropriate staff, that any such Filings fail to remedy the identified deficiency or deficiencies, the Division of Enforcement shall notify the Office of the Secretary of the Commission and Altair of its conclusion within 30 calendar days following this failure (or, if the last day of the period falls on a weekend or federal holiday, on the first business day immediately thereafter), and the registration of each class of Altair's securities registered pursuant to Exchange Act Section 12 will be revoked pursuant to Exchange Act Section 12(j) in accordance with the Order Instituting Administrative Proceedings Pursuant to Section 12(j) of the Securities Exchange Act of 1934, Making Findings, Accepting Settlement, Implementing Settlement, and Staying Proceedings to Implement

Settlement entered against Altair on September 29, 2016, via entry of an Order Making Findings and Revoking Registration of Securities Pursuant to Section 12(j) of the Securities Exchange Act of 1934;

- (4) If Altair resubmits its Filings pursuant to paragraph 14(2) above, and the Division of Enforcement does not advise Altair within 30 calendar days following the date of the resubmitted Filings (or, if the last day of the period falls on a weekend or federal holiday, on the first business day immediately thereafter) of the nature of any deficiency or deficiencies in the Filings, then the Division of Enforcement shall notify the Office of the Secretary of the Commission of its conclusion and the Section 12(j) proceeding shall be terminated in accordance with the Order Instituting Administrative Proceedings Pursuant to Section 12(j) of the Securities Exchange Act of 1934, Making Findings, Accepting Settlement, Implementing Settlement, and Staying Proceedings to Implement Settlement entered against Altair on September 29, 2016, via entry of an Order Terminating Administrative Proceedings Pursuant to Section 12(j) of the Securities Exchange Act of 1934.

IV.

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

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 21C of the Exchange Act, Respondent Altair cease and desist from committing or causing any violations and any future violations of Sections 13(a) and 13(b)(2)(B) of the Exchange Act and Rules 13a-1 and 13a-13 thereunder.

B. Respondent Altair shall comply with the undertakings enumerated in Section III above; provided, however, that solely for the purpose of complying with those undertakings, Altair shall not be deemed to have violated Section 13(a) of the Exchange Act and Rules 13a-1 and 13a-13 thereunder.

C. Respondent Altair shall, within 10 days of the entry of this Order, pay a civil money penalty in the amount of \$250,000 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). 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
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Altair 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 A. Levin, Assistant Regional Director, Division of Enforcement, Securities and Exchange Commission, Los Angeles Regional Office, 444 South Flower Street, Suite 900, Los Angeles, California 90071.

D. 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 Altair agrees that in any Related Investor Action, it shall not argue that it is entitled to, nor shall it 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 Altair agrees that it 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.

By the Commission.

Brent J. Fields
Secretary

ATTACHMENT A

Yearly Financial Statements

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

FINANCIAL STATEMENTS:

Consolidated Balance Sheets, December 31, 2015, 2014, 2013 and 2012

Consolidated Statements of Operations for Each of the Years in the Period Ended December 31, 2015, 2014, 2013 and 2012

Consolidated Statements of Stockholders' (Deficit) Equity for Each of the Years in the Period Ended December 31, 2015, 2014, 2013 and 2012

Consolidated Statements of Cash Flows for Each of the Years in the Period Ended December 31, 2015, 2014, 2013 and 2012

Notes to Consolidated Financial Statements

Quarterly Condensed Financial Statements and Notes to Condensed Financial Statements

QUARTERLY FINANCIAL STATEMENTS: - with footnote comparing each quarter and prior period side by side

Condensed Consolidated Balance Sheet as of September 30, 2015 (unaudited) and December 31, 2014

Unaudited Condensed Consolidated Statements of Operations for the three months and nine months ended September 30, 2015 and 2014

Unaudited Condensed Consolidated Statements of Cash Flows for the nine months ended September 30, 2015 and 2014

Condensed Consolidated Balance Sheet as of June 30, 2015 (unaudited) and December 31, 2014

Unaudited Condensed Consolidated Statements of Operations for the three months and six months ended June 30, 2015 and 2014

Unaudited Condensed Consolidated Statements of Cash Flows for the six months ended June 30, 2015 and 2014

Condensed Consolidated Balance Sheet as of March 31, 2015 (unaudited) and December 31, 2014

Unaudited Condensed Consolidated Statements of Operations for the three months ended March 31, 2015 and 2014

Unaudited Condensed Consolidated Statements of Cash Flows for the three months ended March 31, 2015 and 2014

Condensed Consolidated Balance Sheet as of September 30, 2014 (unaudited) and December 31, 2013

Unaudited Condensed Consolidated Statements of Operations for the three and nine months ended September 30, 2014 and 2013

Unaudited Condensed Consolidated Statements of Cash Flows for the nine months ended September 30, 2014 and 2013

Condensed Consolidated Balance Sheet as of June 30, 2014 (unaudited) and December 31, 2013

Unaudited Condensed Consolidated Statements of Operations for the three and six months ended June 30, 2014 and 2013

Unaudited Condensed Consolidated Statements of Cash Flows for the six months ended June 30, 2014 and 2013

Condensed Consolidated Balance Sheet as of March 31, 2014 (unaudited) and December 31, 2013

Unaudited Condensed Consolidated Statements of Operations for the three months ended March 31, 2014 and 2013

Unaudited Condensed Consolidated Statements of Cash Flows for the three months ended March 31, 2014 and 2013

Condensed Consolidated Balance Sheet as of September 30, 2013 (unaudited) and December 31, 2012

Unaudited Condensed Consolidated Statements of Operations for the three and nine months ended September 30, 2013 and 2012

Unaudited Condensed Consolidated Statements of Cash Flows for the nine months ended September 30, 2013 and 2012

Unaudited Notes to Condensed Consolidated Financial Statements