

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

**Investment Advisers Act of 1940**  
**Release No. 4401 / May 27, 2016**

**Administrative Proceeding**  
**File No. 3-17264**

**In the Matter of**

**FEDERATED GLOBAL  
INVESTMENT MANAGEMENT  
CORP.,**

**Respondent.**

**ORDER INSTITUTING  
ADMINISTRATIVE AND CEASE-AND-  
DESIST PROCEEDINGS, PURSUANT  
TO SECTIONS 203(e) AND 203(k) OF  
THE INVESTMENT ADVISERS 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 203(e) and 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”) against Federated Global Investment Management Corp. (“FGIMC” or “Respondent”).

**II.**

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (“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 Administrative and Cease-and-Desist Proceedings Pursuant to Sections 203(e) and 203(k) of the Investment Advisers 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 FGIMC's Offer, the Commission finds<sup>1</sup> that:

#### Summary

1. This matter relates to FGIMC's failure to establish, maintain, and enforce written policies and procedures reasonably designed, taking into consideration the nature of its business, to prevent the misuse of material, nonpublic information in connection with FGIMC's use of outside consultants as part of its securities research and analysis activities.

2. From approximately 2001 to 2010 (the "relevant time period"), FGIMC was the sub-adviser to the Federated Kaufmann Funds, which included three diversified portfolios of Federated Equity Funds with a total of approximately \$9.8 billion in assets under management as of December 31, 2015 (the "Funds").<sup>2</sup> As the sub-adviser to the Funds, FGIMC received advisory fees and had responsibility for making investment decisions on behalf of the Funds.

3. During the relevant time period, in connection with its securities research and analysis activities, FGIMC made use of third-party consultants and research services, including one particular consultant ("Consultant"), who worked closely with FGIMC investment management professionals and periodically provided them analysis and buy, sell and hold recommendations with respect to pharmaceutical and biotechnology stocks for consideration for the Funds.

4. FGIMC had written policies and procedures regarding material nonpublic information, as well as policies and procedures addressing the personal trading activities of individuals who had access to confidential information regarding the Funds, such as the Funds' holdings and actual and potential trades by the Funds. However, FGIMC did not establish or maintain written policies or procedures for identifying outside consultants who – based on their functional roles and whether they had access to confidential information regarding the Funds – should be subject to oversight and controls carried out by its compliance department. As a result, FGIMC was unable to enforce fully the firm's written policies and procedures with respect to its use of and relationships with outside consultants to prevent the misuse of material nonpublic information and other confidential information.

5. The failures by FGIMC relating to its policies and procedures are most apparent when viewed in light of its relationship with Consultant.

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

<sup>2</sup> The three Funds are the Federated Kaufmann Fund, the Federated Kaufmann Small Cap Fund, and the Federated Kaufmann Large Cap Fund. In 2001, Federated Investors, Inc. ("Federated") acquired the Kaufmann Fund and that fund became the Federated Kaufmann Fund. In 2002, Federated launched the Federated Small Cap Fund and, in 2007, Federated launched the Federated Large Cap Fund. FGIMC has been the sub-adviser to the Federated Kaufmann Fund since its acquisition by Federated, and it has been the sub-adviser to the Federated Kaufmann Small Cap Fund and the Federated Kaufmann Large Cap Fund since those funds were established. Pursuant to sub-advisory agreements, during the relevant time period, FGIMC received advisory fees and had daily investment management and advisory responsibility for the Funds' assets.

6. Consultant had many years of experience as a portfolio manager and a securities analyst with a focus on pharmaceutical and biotechnology companies, including companies developing new and innovative drugs, conducting clinical drug trials, and/or seeking approval from the U.S. Food and Drug Administration (“FDA”) to market and sell their drugs. Consultant provided input with respect to recommendations for the Funds’ investments and potential investments in these types of companies.

7. During his time working with FGIMC, Consultant provided FGIMC investment management personnel with securities research and analysis regarding pharmaceutical and biotechnology companies, made buy, sell or hold recommendations regarding securities and, at times, organized and attended face-to-face meetings involving FGIMC personnel and executives of companies in the pharmaceutical and biotechnology industries.

8. Because FGIMC did not establish or maintain policies or procedures for identifying whether outside consultants should be subject to its policies or procedures, including its Code of Ethics for Access Persons (“Code” or “Code of Ethics”), it was unable to enforce the Code and its other written policies and procedures as to outside consultants. As a result, during Consultant’s almost decade-long tenure, the firm’s senior management and compliance department were unaware that:

- a. While he was consulting for FGIMC, Consultant was also a member of the boards of directors of a number of publicly-traded biotechnology companies, and possessed material nonpublic information regarding those companies;
- b. The Funds held and traded the securities of four companies of which Consultant was a board member;
- c. At times, Consultant had access to nonpublic information regarding the Funds, including some of the Funds’ holdings and opinions of FGIMC investment management personnel regarding securities that the Funds held or were considering purchasing, in addition to Consultant’s own recommendations for the Funds; and
- d. At times, Consultant purchased and sold, in his personal brokerage accounts, the securities of the same pharmaceutical and biotechnology companies that the Funds held, sometimes in close proximity to trades by the Funds.

9. In approximately March 2010, FGIMC’s senior management and compliance department became aware, for the first time, of Consultant’s service on boards of public companies, including companies in which the Funds invested. Following an internal investigation into Consultant’s role, FGIMC terminated its relationship with Consultant in May 2010.

## Respondent

10. **Federated Global Investment Management Corp. or FGIMC** (SEC File No. 801-49470), a Delaware corporation with its principal place of business in New York City, has been registered with the Commission as an investment adviser since 1995. FGIMC is a subsidiary of FII Holdings, Inc., which is a wholly-owned subsidiary of Federated Investors, Inc., a publicly traded company that, together with its subsidiaries, is one of the largest investment managers in the United States with approximately \$363 billion in assets under management. FGIMC is and at all relevant times has been the sub-adviser to the Funds.

## Facts

### **FGIMC's Compliance Policies and Procedures**

11. During the relevant time period, FGIMC had several written policies and procedures relating to the treatment of material nonpublic information, including the Code of Ethics, a Policy on Trading and Confidentiality, Procedures Regarding Confidential Information (relating to the handling of material nonpublic information), and a Code of Business Conduct and Ethics.<sup>3</sup> FGIMC regularly conducted training for its employees on these written policies.

12. The various components of these written policies and procedures set forth the responsibilities and obligations of individuals subject to the policies and procedures who receive, may have access to, or possess information that is believed to be nonpublic and may be material. The policies and procedures contemplated that material nonpublic information may be received, among other things, as a result of research activities. The policies and procedures further set forth the responsibilities of the compliance department to enforce these policies and procedures to prevent the misuse of material nonpublic information.

13. The Code of Ethics, during the relevant time period, imposed obligations and restrictions on individuals designated as "Access Persons" by Federated's compliance department. During the relevant time period, "Access Person" was defined as "any person who participates in or who: (i) in connection with his or her duties, obtains or could obtain any information concerning recommendations on [securities including equities] being made by the investment adviser to any [Fund] or (ii) any person who has access to nonpublic information regarding any Fund's Purchase or Sale of Securities, or nonpublic information regarding the portfolio holdings of any [Fund]."

14. Under the Code of Ethics, "Access Person" also included any "Investment Person" and "Investment Personnel." These terms were defined in the Code of Ethics, in relevant part, as "(a) Access Persons with direct responsibility and authority to make investment decisions affecting the [Fund] (such as portfolio managers and Chief Investment Officers) and individuals who provide information and advice to such portfolio managers (such as Securities

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<sup>3</sup> The written policies and procedures adopted by FGIMC were also adopted by all of Federated's other investment adviser subsidiaries.

analysts); and (b) those who assist in executing investment decisions for the [Fund] (such as traders) and their related staff members.”<sup>4</sup>

15. For those individuals who were identified as “Access Persons” by the compliance department, the Code of Ethics imposed a number of obligations and restrictions. For example, the Code of Ethics required those subject to its terms to report personal securities holdings and to pre-clear personal trades, and it prohibited such persons from trading any security that the person knows, or should know, is being purchased or sold, or is being considered for purchase or sale, by the Funds. The Code of Ethics also prohibited “Research Analysts” from purchasing or selling a security for which there was an open “buy” or “sell” order and from purchasing or selling a security within seven days before or after a trade by the Funds in that security. The Code further prohibited “Investment Personnel” from trading a security within seven days after one or more of the Funds had open “buy” or “sell” orders and/or purchased or sold that security.

16. In addition, the Code of Ethics required “Access Persons” to disclose conflicts of interest and prohibited them from serving on outside boards without first obtaining written approval from a committee consisting of the Chief Compliance Officer, the General Counsel, the Chief Audit Executive and the Chief Risk Officer.

17. During the relevant time period, FGIMC did not establish or maintain written policies or procedures to enable the compliance department to identify whether particular consultants who were not employees should be designated as “Access Persons” under the Code of Ethics. As a result, FGIMC was unable to fully enforce its Code of Ethics, or any of its other policies, as to outside consultants, regardless of their functional roles and whether they had access to confidential information regarding the Funds. In late 2008, FGIMC expanded its definition of “Access Person” under the Code of Ethics to include any individual designated by the compliance department and stated that this may include “a Federated employee or temporary hire, vendor, service provider or other third party employee.” Despite this addition, FGIMC did not apply its Code of Ethics as to Consultant.

18. As between FGIMC and Consultant specifically, there was no written policy or agreement regarding the information that Consultant and FGIMC personnel could share with each other. Throughout the relevant time period, however, FGIMC personnel were subject to FGIMC’s policies and procedures, including policies and procedures relating to the treatment of material nonpublic information. In addition, FGIMC personnel and Consultant had a stated practice of refraining from substantively discussing, between FGIMC personnel and Consultant, the companies of which Consultant was a member of the board of directors. There were instances, however, in which FGIMC personnel sought Consultant’s assistance in scheduling meetings with executives of companies of which Consultant was a director.

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<sup>4</sup> The definition of “Access Person” in FGIMC’s Code of Ethics was broader than the definition contained in Rule 204A-1(e)(1)(i) which defines “Access Person” as: “(i) [a]ny of your supervised persons: (A) [w]ho has access to nonpublic information regarding any clients’ purchase or sale of securities, or nonpublic information regarding the portfolio holdings of any reportable fund, or (B) [w]ho is involved in making securities recommendations that are nonpublic.” Rule 204A-1(e)(1)(ii) further provides that “[i]f providing investment advice is your primary business, all of your directors, officers and partners are presumed to be access persons.”

19. The failures of FGIMC's policies and procedures are demonstrated by the role that Consultant was permitted to play at FGIMC for a period of nearly a decade without any oversight by the compliance department.

### **Consultant's General Role at FGIMC**

20. Consultant began consulting for FGIMC in 2001, but when he started in that role he already knew some of FGIMC's investment management personnel. In the late 1990s, Consultant had been a full-time employee of a predecessor to the adviser of the Funds and worked closely with some of the same FGIMC personnel with whom he later worked as a consultant. In his consulting role, from 2001 to 2010, Consultant worked primarily with three FGIMC personnel who were portfolio managers and analysts and comprised the team that was primarily responsible for making investment decisions regarding pharmaceutical and biotechnology stocks on behalf of the Funds (the "FGIMC Biotech Team").

21. From approximately 2001 until 2005, Consultant was paid for his services pursuant to an unwritten agreement. In 2005, Consultant, through a business entity, and an FGIMC affiliate entered a written consulting agreement ("Consulting Agreement") pursuant to which Consultant provided securities research services and received a monthly retainer of \$5,000, in addition to \$2,000 for each day spent on FGIMC business. Under the Consulting Agreement, Consultant was required to be available for telephone consultations on a daily basis, and was required to be available to travel for up to 30 days per year.

22. During the period from 2005 to 2010, Consultant received between approximately \$120,000 and \$188,000 annually for his consulting work for FGIMC.

23. Consultant worked closely with FGIMC, and had a functional role similar to a part-time employee. For example, between approximately January 2006 and May 2010, Consultant communicated with FGIMC via email or telephone frequently. This was in addition to regular in-person interactions between Consultant and FGIMC personnel.

### **Consultant's Role in FGIMC's Investment Decisions**

24. Consultant performed a number of different services for FGIMC. Among other things, he conducted research, analyzed pharmaceutical and biotechnology companies, prepared reports, scheduled and attended meetings with company executives, attended investor conferences on FGIMC's behalf, and made investment recommendations as to specific pharmaceutical and biotechnology stocks.

25. Consultant did not himself have authority to direct trading activity in the Funds, and all relevant trades in the Funds had to be authorized and directed by one or more members of the FGIMC Biotech Team. Consultant did, however, participate in discussions with members of the FGIMC Biotech Team regarding the merits of investing in specific companies and, at times, made specific recommendations to the FGIMC Biotech Team as to whether to buy, sell or hold pharmaceutical and biotechnology stocks in the Funds.

## **Consultant's Role in Face-to-Face Meetings with Pharmaceutical and Biotechnology Company Executives**

26. The FGIMC Biotech Team's and Consultant's methodology for analyzing pharmaceutical and biotechnology companies included making periodic trips to the offices or research and development facilities of such companies to meet with company executives.

27. Multiple times each year during the relevant time period, Consultant accompanied the FGIMC Biotech Team on trips throughout the United States to meet with executives of pharmaceutical and biotechnology companies. These trips typically spanned several days during which the group met with several different companies each day. Consultant also accompanied the FGIMC Biotech Team to investor conferences during which the group hosted meetings with company executives. These trips at times included meetings with executives of companies of which Consultant was a director, but Consultant did not attend those meetings. Consultant played an active role in the meetings that he attended.

28. Consultant was typically responsible for scheduling and confirming meetings with company executives on FGIMC's behalf. As a part of these efforts, Consultant at times obtained nonpublic information regarding some of the Funds' up-to-date holdings from FGIMC personnel. If the Funds were shareholders of a company, the FGIMC Biotech Team and Consultant were more likely to schedule a face-to-face meeting with its executives.

29. Consultant regularly prepared for and participated in the question-and-answer sessions during the meetings. Members of the FGIMC Biotech Team considered him to be knowledgeable and skilled at interviewing company executives.

30. After meeting with company executives, Consultant and members of the FGIMC Biotech Team shared their respective thoughts, opinions and concerns regarding the meetings that they attended and the related companies. Consultant and members of the FGIMC Biotech Team at times discussed, among other things, the competence of the companies' executives, the markets for the companies' developmental drugs and whether they were likely to obtain FDA approval, the companies' respective competitors, and the companies' overall prospects for future success. In some instances after these meetings, one or more members of the FGIMC Biotech Team, who had authority to direct trading in the Funds, shared with Consultant their plans to buy, sell or hold the companies' securities in the Funds.

31. Consultant, at times, made recommendations about whether the Funds should buy, sell or hold the securities of the companies with whose executives he and members of the FGIMC Biotech Team had had face-to-face meetings. In connection with making such recommendations, Consultant at times received nonpublic information regarding some of the Funds' holdings, including its holdings of specific securities. In at least one instance, Consultant provided FGIMC personnel with specific recommendations to buy, sell or hold the securities of 28 companies whose executives were among those that Consultant and members of the FGIMC Biotech Team had recently met. FGIMC did not, however, always follow Consultant's recommendations.

## **Consultant's Personal Trading**

32. Given that Consultant had access at times to nonpublic information concerning FGIMC's recommendations with respect to the Funds, the Funds' holdings, and transactions in the Funds, and that Consultant provided FGIMC personnel with his own recommendations and advice, Consultant should have been an "Access Person" as defined in, and made subject to the provisions of, the Code of Ethics. Among other things, had he been so identified, Consultant would have been subject to restrictions on his personal securities trading activities, including requirements to report his holdings, to pre-clear his trades, and to refrain from trading the same securities as the Funds during "blackout periods" which were in effect for seven days before and after trades by the Funds.

33. As a result of FGIMC's failure to identify Consultant as an "Access Person" and subject him to the firm's Code of Ethics, Consultant was not required to pre-clear his securities trades and was not subjected to "blackout periods" that were established based on the Funds' trading.

34. Consultant at times traded, in his personal brokerage accounts, the same pharmaceutical and biotechnology stocks that the Funds traded, sometimes during "blackout periods." At times, Consultant traded in his personal brokerage accounts shortly after attending meetings with the FGIMC Biotech Team and pharmaceutical and biotechnology company executives.

### **The Funds Were Shareholders of Four Different Companies of Which Consultant Was a Director.**

35. During the relevant time period, Consultant was also a member of the boards of directors of a number of publicly-traded biotechnology companies. In this capacity, Consultant possessed material nonpublic information regarding the companies for which he served as a director, including information regarding actual and estimated sales and revenue figures, strategic plans such as actual and potential mergers and acquisitions, and the status of and results relating to confidential clinical trials involving developmental drugs that had not yet been approved by the FDA.

36. In some instances, in addition to serving as a director, Consultant was also a member of the boards' audit committees.

37. Between approximately 2005 and May 2010, while Consultant was both consulting for FGIMC and serving as a public-company board member, the Funds were shareholders of, and traded the securities of, four different companies of which Consultant was a board member.

38. The FGIMC personnel with whom Consultant worked knew that Consultant was a member of multiple public company boards and that the Funds were shareholders of four companies of which he was a board member.



39. While Consultant was working for FGIMC, its senior management and compliance department were not aware that Consultant held any public company board seats or that he possessed material nonpublic information about such companies.

40. During the relevant time period, FGIMC had procedures to restrict the Funds from trading in the securities of companies in circumstances where FGIMC investment personnel received nonpublic information regarding such companies by listing such companies on the firm's "restricted list." Under FGIMC's Procedures Regarding Confidential Information (Chinese Wall Procedures), if an investment person received nonpublic information regarding an issuer, there was a procedure for determining whether that issuer should be placed on the firm's "restricted list."

41. As a result of FGIMC's failure to identify Consultant as someone who should have been made subject to the firm's policies and procedures, Consultant was not required to report his service on outside boards to FGIMC, FGIMC did not evaluate such service for potential conflicts, and FGIMC did not undertake any review of whether the companies of which Consultant was a director should be placed on FGIMC's "restricted list." Accordingly, even though during periods Consultant possessed material nonpublic information about the companies on whose boards he served, Consultant's possession of such information did not result in FGIMC restricting trading in such companies' securities until March 2010 when FGIMC's senior management and compliance department became aware of Consultant's service on boards of such companies.

#### **Consultant Was Not Made Subject To FGIMC's Code of Ethics**

42. During the relevant time period, although the nature of FGIMC's business involved the use of outside consultants, FGIMC did not establish or maintain written policies or procedures to identify whether consultants, contractors or others who were not employees should be subject to the Code of Ethics or its other policies and, as a result, FGIMC failed to enforce its written policies as to the consultants that it used, including Consultant.

43. If FGIMC had established and maintained a written policy or procedure to enable the compliance department to identify outside consultants who met the definition of "Access Person" based on their functional roles and whether they had access to confidential information regarding the Funds, and had thus been able to enforce its Code of Ethics and other procedures as to outside consultants, Consultant would not have been permitted to:

- a. Serve as a public company director without obtaining the written approval of a committee consisting of the firm's Chief Compliance Officer, the General Counsel, the Chief Audit Executive and the Chief Risk Officer, as set forth in the Code of Ethics;
- b. Provide FGIMC's investment management personnel with recommendations and advice regarding actual and potential transactions by the Funds and, at times, have access to nonpublic information regarding some of the Funds' holdings and some

actual and potential transactions by the Funds without being subject to the Code of Ethics; or

- c. Trade securities in his personal brokerage accounts – including some of the same securities that the Funds were trading – without any oversight by FGIMC including reporting and pre-clearance requirements and a requirement to refrain from trading during “blackout periods” of seven days before and after Fund trades.

### **Violations**

44. As a result of the conduct described above, FGIMC willfully violated Section 204A of the Advisers Act.<sup>5</sup> Section 204A requires investment advisers registered with the Commission to establish, maintain, and enforce written policies and procedures reasonably designed, taking into consideration the nature of such investment adviser’s business, to prevent the misuse of material, nonpublic information by such investment adviser or any person associated with such investment adviser in violation of the Advisers Act or the Securities Exchange Act of 1934 (“Exchange Act”) or the rules or regulations thereunder.

45. Taking into consideration the fact that FGIMC utilized third-party consultants, including Consultant, in connection with its work researching and analyzing securities in order to make investment decisions with respect to the Funds, as well as the nature of the securities research, analysis and other services that Consultant provided, FGIMC’s written policies and procedures were not reasonably designed to prevent the misuse of material, nonpublic information with respect to outside consultants, including Consultant.

### **FGIMC’s Remedial Efforts**

46. In determining to accept the Offer, the Commission considered remedial acts undertaken by FGIMC. In particular, after Consultant was identified as serving on boards of companies and having access to and possession of material, nonpublic information, but prior to the resolution of this proceeding, FGIMC, among other things, (a) terminated the Consulting Agreement with Consultant in May 2010, prior to notification by the Commission staff of any investigation into this matter, (b) conducted an independent review of FGIMC’s use of Consultant and trading by the Funds in the securities of companies of which Consultant served as a board member, and (c) adopted policies and procedures that allowed for FGIMC to determine whether third-party consultants used by FGIMC had access to or were in possession of material, nonpublic information.

## **IV.**

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

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<sup>5</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)). 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)).

Accordingly, pursuant to Sections 203(e) and 203(k) of the Advisers Act, it is hereby ORDERED that:

A. Respondent FGIMC cease and desist from committing or causing any violations and any future violations of Section 204A of the Advisers Act.

B. Respondent FGIMC is censured.

C. Respondent FGIMC shall, within ten days of the entry of this Order, pay a civil money penalty in the amount of \$1,500,000, to the Securities and Exchange Commission to transfer to the U.S. Treasury. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. 3717 and SEC Rule of Practice 600. Payment must be made in one of the following ways:

- 1) Respondent FGIMC may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- 2) Respondent FGIMC 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 FGIMC 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 FGIMC as the 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 Joseph G. Sansone, Co- Chief, Market Abuse Unit, Division of Enforcement, Securities and Exchange Commission, New York Regional Office, Brookfield Place, 200 Vesey Street, Suite 400, New York, NY 10281-1022.

By the Commission.

Brent J. Fields  
Secretary