

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

**SECURITIES ACT OF 1933**  
**Release No. 10448 / December 22, 2017**

**INVESTMENT ADVISERS ACT OF 1940**  
**Release No. 4833 / December 22, 2017**

**INVESTMENT COMPANY ACT OF 1940**  
**Release No. 32951 / December 22, 2017**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-18320**

**In the Matter of**

**Team Financial Asset  
Management, LLC, Team  
Financial Managers, Inc., and  
James L. Dailey,**

**Respondents.**

**ORDER INSTITUTING ADMINISTRATIVE  
AND CEASE-AND-DESIST PROCEEDINGS  
PURSUANT TO SECTION 8A OF THE  
SECURITIES ACT OF 1933, SECTIONS  
203(e), 203(f) AND 203(k) OF THE  
INVESTMENT ADVISERS ACT OF 1940,  
AND SECTIONS 9(b) AND 9(f) OF THE  
INVESTMENT COMPANY ACT OF 1940,  
MAKING FINDINGS, AND IMPOSING  
REMEDIAL SANCTIONS AND A CEASE-  
AND-DESIST ORDER**

**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”), Sections 203(e), 203(f) and 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”), and Sections 9(b) and 9(f) of the Investment Company Act of 1940 (“Investment Company Act”) against Team Financial Asset Management, LLC (“TFAM”), Team Financial Managers, Inc. (“TFM”), and James L. Dailey (“Dailey”) (“Respondents”).

**II.**

In anticipation of the institution of these proceedings, Respondents have 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 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 Section 8A of the Securities Act, Sections 203(e), 203(f), and 203(k) of the Advisers Act, and Sections 9(b) and 9(f) of the Investment Company Act, 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’ Offer, the Commission finds that:

#### Summary

1. These proceedings arise from misrepresentations and omissions by TFAM, a registered investment adviser, and Dailey, TFAM’s owner and managing member, concerning material changes in the investment strategy of the TEAM Asset Strategy Fund (the “TEAM Fund”), TFAM’s only client, that led to catastrophic losses and the ultimate collapse of the fund.

2. The TEAM Fund was a series of the Valued Advisers Trust (“VAT”), a registered investment company, and Dailey was the TEAM Fund’s portfolio manager. At the TEAM Fund’s inception in December 2009, Dailey modeled the TEAM Fund’s investment strategy after the “Global Macro Strategy” that he had employed since August 2003 in advising separately managed accounts for TFM, an affiliated registered investment adviser, which Dailey co-owned. But beginning in February 2012, Dailey began implementing a more aggressive investment strategy in the TEAM Fund, including large amounts of derivatives trading for speculative purposes and short selling, which significantly increased the fund’s risk profile. The TEAM Fund suffered losses of 22% in fiscal year 2012 and 80% in fiscal year 2013, and liquidated in November 2013.

3. TFAM and Dailey made misrepresentations and failed to disclose the change in investment strategy and related risks to investors, prospective investors, and the VAT Board of Trustees. In particular, the TEAM Fund’s prospectuses did not disclose the fund’s use of derivatives and short selling as principal investment strategies or the expenses associated with short selling. Additionally, the fund did not adequately disclose the principal risks of investing in the fund caused by these principal investment strategies. In its annual report to shareholders for the fiscal year ending October 31, 2012, the TEAM Fund did not adequately discuss its derivatives trading and short selling in the Management’s Discussion of Fund Performance section of the report. TFAM’s Form ADV filings in 2012 and 2013 were misleading because they inaccurately stated that the risks associated with each type of specific security recommended by TFAM for the TEAM Fund were disclosed in the fund’s prospectus.

4. In addition, as TFM’s portfolio manager, Dailey directed TFM’s separately managed accounts to invest in the TEAM Fund and used his discretionary authority to keep them invested in the fund. TFM and Dailey breached their fiduciary duties by keeping TFM clients invested in the TEAM Fund in order to keep the fund operating while attempting to recover the fund’s financial losses long after it was clear that the fund was failing and could not recover.

## Respondents

5. **Team Financial Asset Management, LLC**, which was headquartered in Harrisburg, Pennsylvania, was registered with the Commission as an investment adviser from September 2009 until it voluntarily terminated its registration in February 2014. TFAM was created to provide investment advisory services to the TEAM Fund.

6. **Team Financial Managers, Inc.**, which was headquartered in Harrisburg, Pennsylvania, was registered with the Commission as an investment adviser from April 2002 until it voluntarily terminated its registration in December 2013.

7. **James L. Dailey**, age 42, was a co-owner and the portfolio manager of TFM. He was also the owner and managing member of TFAM. Dailey was also the portfolio manager of the TEAM Fund.

## Other Relevant Entities

8. **Team Asset Strategy Fund** is a now defunct open-end, non-diversified investment company that was a series of the Valued Advisers Trust.

9. **Valued Advisers Trust** is a Delaware statutory trust headquartered in Indianapolis, Indiana and has been registered with the Commission as an open-end management investment company since 2008.

## Background

10. In 2003, while working at TFM as the sole portfolio manager, Dailey began developing an investment strategy he called the "Global Macro Strategy." The Global Macro Strategy was designed to navigate what Dailey expected to be a 15 to 20-year period of very low stock market returns, particularly in the United States, coupled with a bull market in commodities during the same period. In furtherance of this strategy, Dailey invested the TFM clients in a portfolio of mutual funds, ETFs, and a small number of individual stocks. As result of Dailey's strategy, TFM's clients had returns gross of fees of approximately 13% in 2008 and 2009 during the financial crisis.

11. In 2009, Dailey decided to start a mutual fund that would also employ the Global Macro Strategy. Dailey believed that a mutual fund would allow him to effectively implement the Global Macro Strategy through techniques that were not possible or cost effective in TFM's discretionary, separately managed accounts (such as short term trading, foreign exchange trading, and increased trading in individual stocks).

12. In September 2009, Dailey formed a new adviser, TFAM, to advise the mutual fund, known as the TEAM Fund. Dailey was TFAM's owner and managing member, and as the TEAM Fund's portfolio manager, he made all investment decisions for the TEAM Fund.

### **Initial Operation of the TEAM Fund**

13. Dailey established the TEAM Fund as an open-end series of VAT, a registered management investment company. VAT, through an affiliated fund administrator, offers a “turnkey investment company” platform for advisers that want to manage small to mid-size mutual funds without having to administer the day-to-day operations of a fund, including corporate governance and regulatory compliance.

14. VAT’s fund administrator as well as the VAT Board provide compliance oversight for advisers managing mutual funds on VAT’s platform, but each adviser is required to maintain its own compliance program. Compliance oversight of the advisers primarily involves reviewing the advisers’ compliance programs, including their policies and procedures, and monitoring the advisers’ portfolios to ensure compliance with any limitations set forth in the prospectus.

15. During the relevant time, VAT had policies and procedures concerning advisers who engaged in derivatives transactions. These policies and procedures delegated to the investment adviser for each series the responsibility to create policies and procedures regarding derivatives specific to the adviser’s operations for adoption and implementation. VAT’s policies and procedures required advisers (like TFAM) to maintain policies and procedures describing, among other things, the risk management and internal controls implemented to monitor and control for derivatives related risks, the process for assessing risks and ensuring that controls are commensurate with the risks, and the implementation of procedures addressing risks associated with derivatives trading. But, Dailey, on behalf of TFAM, never provided any derivatives policies and procedures to the TEAM Fund and the VAT Board for adoption and implementation. This caused VAT and the TEAM Fund to fail to adopt and implement policies and procedures regarding derivatives.

16. The TEAM Fund’s original December 2009 prospectus included an appendix titled “Adviser’s Prior Performance,” which had a table setting forth the performance returns for the TEAM Financial Global Macro Total Return Composite since 2004. Because the TEAM Fund was new, TFM’s historical returns were used to provide a performance history for the Global Macro Strategy that Dailey intended to use in managing the TEAM Fund.

17. The prospectus’ appendix stated that “[t]he Fund will be managed in a manner that is substantially similar to the manner in which these discretionary advisory accounts are managed.”

18. Prior to the launch of the TEAM Fund, Dailey reviewed and approved the prospectus and Statement of Additional Information (“SAI”), which were drafted by VAT’s counsel, as well as all subsequent changes to these documents.

19. TFAM earned fees for providing investment advice to the TEAM Fund. Pursuant to the investment advisory agreement, the TEAM Fund paid TFAM an advisory fee at the annual rate of 1.25% of assets under management. In addition, TFAM agreed to waive or limit fees and

to assume other expenses of the TEAM Fund so that total annual fund operating expenses did not exceed 1.95%.

20. Following the formation of the TEAM Fund, Dailey directed each of TFM's separately managed accounts to invest 15% of their holdings in the TEAM Fund. At the time of the TEAM Fund's launch, investments by TFM clients represented nearly all, or 91.8%, of the investments in the fund.

21. The TEAM Fund had returns of 15.10% during its first calendar year, 2010. But in 2011, its performance declined and the fund had losses of 5.18%. During these years, the TEAM Fund primarily invested in individual stocks, REITs, ETFs, ETNs, and some options and forward currency contracts.

### **Dailey Changed the TEAM Fund's Investment Strategy**

22. Towards the end of 2011, Dailey decided that, based on his forecasted increase in market volatility, including the probability of a recession and a more moderate cyclical bear market in stocks, coupled with the relative spread in returns between stocks and commodities, he would invest the TEAM Fund more heavily in derivatives (including for speculative purposes) to continue to successfully implement his Global Macro Strategy.

23. Dailey began trading extensively in futures and options while continuing to trade in forward currency contracts. During the 2012 fiscal second quarter, ending April 30, 2012, Dailey invested 73.8% of the fund's Net Asset Value ("NAV"), based on notional exposure, in futures and options as of the end of the quarter.<sup>1</sup> Through October 2012, Dailey's use of derivatives further increased, and represented an average of 103.93% of the TEAM Fund's NAV. Prior to April 2012, Dailey's use of derivatives had been limited to options and forward currency contracts, and was never more than 11.68% of the NAV.<sup>2</sup> This increase in the aggregate derivatives' exposure significantly increased the risk profile of the fund.<sup>3</sup>

24. Dailey continued to increase the TEAM Fund's use of options throughout 2013, even as the market value of the portfolio continued to decline. During the first three quarters of

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<sup>1</sup> Derivatives may be broadly described as instruments or contracts whose value is based upon, or derived from, some reference asset, such as stocks, bonds, or currencies. Many derivatives involve leverage in that they enable a fund to participate in gains and losses on an amount of reference assets that exceeds the fund's investment, while also imposing a conditional or unconditional obligation on the fund to make a payment or deliver assets to a counterparty. For that reason, the maximum loss on such a derivative, or its notional exposure, can be greater than a fund's NAV. Some of the derivatives employed by the TEAM Fund involved the use of leverage, whereby a small amount of invested money can control a large position and thus can magnify gains and losses.

<sup>2</sup> The percentages of the fund's NAV set forth represent the notional exposure of the derivative instruments.

<sup>3</sup> The calculations of derivatives exposure do not include foreign currency contracts as they settle on a daily basis and they were not included in the TEAM Fund's balance sheet.

fiscal year 2013, Dailey was spending approximately 29.5% of the TEAM Fund's NAV on a quarterly basis on *premiums* to purchase options.

25. In addition to derivatives trading, during the 2012 fiscal fourth quarter, ending October 31, 2012, without any disclosure to investors, or the VAT Board, Dailey began selling short equity securities in massive amounts. Between the 2012 and 2013 fiscal fourth quarters, ending October 31, on average, 34% of the value of the TEAM Fund's net assets were sold short.<sup>4</sup>

26. These changes in investment strategy and in particular, the increased use of derivatives, contributed to significant losses for the TEAM Fund in 2012 and 2013. In fiscal year 2012, the TEAM Fund lost approximately 22%. Of the \$16.6 million loss in net assets, \$10.5 million or 63% was due to derivatives trading.

27. In fiscal year 2013, the TEAM Fund lost approximately 80% – plummeting from approximately \$60 million in net assets to only \$4.8 million. Approximately \$20.5 million of this decrease in assets resulted from shareholder redemptions and approximately \$34.67 resulted from investment losses. Of the \$34.67 million loss, \$24.9 million or 72% was due to derivatives trading.

#### **TFM Clients Remained Invested in the TEAM Fund as the Fund Declined**

28. Despite the TEAM Fund's deteriorating performance, Dailey used his discretionary authority to keep TFM's separately managed accounts invested in the TEAM Fund throughout 2012 and 2013. Dailey kept TFM's clients invested in the fund even as it decreased in value and other investors were pulling their investments in order to attempt to realize economies of scale to minimize fund expenses.

29. TFM's clients initially made up nearly all of the investors in the TEAM Fund. But after a strong 2010, other investors acquired shares representing more than half the assets in the TEAM Fund. However, as the TEAM Fund declined, these investors began exiting the fund.

30. By December 31, 2012, and until the TEAM Fund closed, investments by TFM clients once again represented a large majority of the investments in the fund (nearly 75%). Dailey knew that the TEAM Fund and TFAM could not continue to exist without TFM's clients' investments.

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<sup>4</sup> Short selling involves a sale of a security that the seller does not own or a sale that is consummated by the delivery of a security borrowed by, or for the account of, the seller. 17 CFR 242.200(a). In order to deliver the security to the purchaser, the short seller may borrow the security and later close out the position by purchasing equivalent securities on the open market. In general, short selling is used to, among other things, profit from an expected downward price movement. See Exchange Act Release No. 56212 (Aug. 7, 2007), 72 FR 45544 n.1 (Aug. 14, 2007). There are risks of potential losses if either the price of buying the security rises or the cost of the securities loan increases.

31. By May 2013, TFAM's monthly expenses for operating the TEAM Fund exceeded the advisory fees it was earning. Dailey used TFM's profits from its advisory fees to cover TFAM's monthly expenses in an effort to keep the TEAM Fund afloat and stave off the fund's closure. But the monthly amounts that TFM paid steadily increased, and by November 2013, TFM could no longer bear the expense, and the TEAM Fund closed.

**TFAM Did Not Adequately Disclose the TEAM Fund's Change  
in Investment Strategy to the Board or Investors**

*Omissions to the Board*

32. In December 2011, Dailey sought permission from the VAT Board of Trustees to revise the investment strategies and risk disclosures in the TEAM Fund registration statement. In particular, Dailey requested that enhancements be made to permit the TEAM Fund to use options, futures, and forwards for "speculative purposes." As a result of Dailey's request, the TEAM Fund's prospectus and SAI, filed on February 28, 2012, were amended to reflect this change. Dailey reviewed and approved the changes to these documents.

33. However, Dailey did not fully disclose that derivatives trading was a principal investment strategy, nor did he disclose the significant risks of this trading. Moreover, he never disclosed his intention to engage in significant short selling.

34. As time went on, and the TEAM Fund increased its use of these derivative products and exposed more and more of the fund's assets to greater leverage risks, Dailey did not disclose these changes to the VAT Board or investors. Dailey's Board presentations did not include a fulsome discussion of Dailey's use of derivatives, the risk profile of the TEAM Fund, or his use of short selling. In addition, the quarterly reports and materials provided to the VAT Board gave little information regarding Dailey's changed principal investment strategies.

35. As a result of these failures, Dailey did not adequately inform the Board of material changes to the TEAM Fund's primary investment strategies and the significant impact of these changes on the primary risks of investing in the fund.

*The 2012 and 2013 Prospectuses Contained Material Misstatements and Omissions*

36. The 2012 and 2013 prospectuses did not fully disclose the TEAM Fund's use of derivatives as a principal investment strategy. Despite the extensive use of derivatives during the time frame detailed above, the summary section of the prospectuses discussing principal investment strategies provided only that the TEAM Fund "may use derivatives, primarily options, futures and foreign currency transactions (e.g., foreign currency swaps, futures and forwards), as tools in the management of portfolio assets. The Fund may use such derivatives to hedge various investments for risk management, obtain market exposure, and for speculative purposes." These prospectuses made no disclosure about the significant changes in the fund's investment strategies implemented by Dailey to make derivatives trading and short selling the primary tools of the fund.

37. The 2012 and 2013 prospectuses also did not adequately disclose the principal risks of investing in the TEAM Fund due to TFAM's derivatives trading. The principal risks section provided that "The value of derivatives may rise or fall more rapidly than other investments. For some derivatives, it is possible to lose more than the amount invested in the derivative." The prospectuses did not disclose the extent of the risk presented by the TEAM Fund's use of derivatives.

38. The 2012 and 2013 prospectuses further did not disclose that the TEAM Fund would engage in selling securities short, the costs of short selling, or any risks relating to selling securities short.

39. Given the extent to which Dailey engaged in selling securities short, such trading was a principal investment strategy of the TEAM Fund that should have been disclosed in the prospectuses, and the risks and costs of such selling should have been disclosed.

40. The 2012 prospectus also contained misstatements relating to the relationship between the TFM accounts and the TEAM Fund. The prospectus repeated an appendix from the initial prospectus titled "Adviser's Prior Performance," which had a table setting forth the performance returns for the TEAM Financial Global Total Return Composite for the period 2004 through 2011. The composite represented the returns of TFM's discretionary client accounts. The appendix contained language comparing the TEAM Fund to the composite:

The Fund is managed in a manner that is substantially similar to the manner in which these discretionary advisory accounts are managed. The investment objectives, strategies and policies of the discretionary advisory accounts are substantially similar to those of the Fund.

41. Because of the more aggressive investment strategy adopted by Dailey in the TEAM Fund beginning in February 2012, the investment strategies and policies of the discretionary advisory accounts were no longer "substantially similar" to those of the TEAM Fund. While TFM's separately managed accounts remained invested in mutual funds, ETFs, and a small number of individual stocks, the TEAM Fund was heavily investing in futures, forwards, and options, and was engaged in heavy short selling.

42. The significant divergence in the investment strategies employed by TFM and TFAM beginning in 2012 is reflected in the difference between the returns of the Team Financial Global Total Return Composite and the TEAM Fund in 2012 and 2013. While their returns were fairly comparable in 2010 and 2011, the TEAM Fund had returns of -31.89% and -59.49% in 2012 and 2013, respectively, compared to TFM's returns of -5.68% and -25.91% (which returns included investments in the TEAM Fund).<sup>5</sup>

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<sup>5</sup> The 2012 returns are for the calendar year. The 2013 returns are for the period from January 1, 2013 through July 31, 2013 as TFM did not calculate returns for the Global Total Return Composite after this date.

*The 2012 Annual Report Contained Material Misstatements and Omissions*

43. Form N-CSR, prepared by TFAM for the TEAM Fund dated October 31, 2012 and filed January 9, 2013, did not adequately discuss the fund's derivatives trading and short selling in the Management's Discussion of Fund Performance section of the report.

44. Like the prospectuses, the Annual Report did not disclose the significant changes in making derivatives trading and short selling the fund's principal investment strategies. In discussing the TEAM Fund's use of derivatives, the Annual Report stated that "As disclosed in the Fund's prospectus, we may deploy various derivative instruments for both hedging and speculative purposes."

45. The Form N-1A instructions, under Management's Discussion of Fund Performance, require disclosure of "the factors that materially affected the [f]und's performance during the most recent completed fiscal year, including the relevant market conditions and the investment strategies and techniques used by the [f]und's investment adviser." A "strategy" is defined as including "any policy, practice, or technique used by the [f]und to achieve its investment objectives."

46. In describing the TEAM Fund's strategy, the Annual Report provided that "The scope of the use of derivatives is varied within the Fund's strategy depending on our assessment of the market climate." The TEAM Fund failed to fully disclose its investment strategy and its use of derivatives trading and short selling in the Annual Report, which was drafted by Dailey.

*The 2012 and 2013 Forms ADV Contained Material Misstatements and Omissions*

47. As a registered investment adviser, TFAM was required to file a Form ADV with the Commission. Form ADV consists of two main parts. Part 1 is a questionnaire that is filed with the Commission. Part 2, often referred to as the "brochure" portion of the Form, is the narrative portion that is provided to advisory clients.

48. Registered investment advisers like TFAM are required to amend Form ADV at least annually, within 90 days of the end of their fiscal year, and "promptly" whenever information in the brochure portion of the Form becomes "materially inaccurate."

49. From March 2010 through its annual filing in February 2013, TFAM filed four Forms ADV. TFAM filed Forms ADV on March 9, 2010, March 28, 2011, and March 27, 2012, prior to changing its investment strategy. Starting in the second quarter of 2012, TFAM began adopting a more aggressive investment strategy for the TEAM Fund. TFAM filed a Form ADV on February 27, 2013.

50. The brochure portion of each of the Forms ADV contained a section titled "Methods of Analysis, Investment Strategies and Risk of Loss." The "Risk of Loss" subsection stated that the "risks associated with each type of security are further disclosed in the Fund's prospectus." In the 2012 and 2013 Forms ADV, this section is identical to the 2011 Form ADV.

51. During 2012 and 2013, TFAM made material changes in the investment strategies of the TEAM Fund that resulted in heightened risk of loss. However, TFAM did not update its 2012 Form ADV or revise the disclosure in its 2013 Form ADV to update the references to the prospectus.

### Violations

52. As a result of the negligent conduct described above, TFAM and Dailey willfully<sup>6</sup> violated Section 204(a) of the Advisers Act and Rule 204-1(a) promulgated thereunder, which incorporates by reference the instructions to Form ADV and therefore requires that Form ADV be amended when “information provided in [the] brochure becomes materially inaccurate.”

53. As a result of the negligent conduct described above, TFAM, TFM, and Dailey willfully violated Section 206(2) of the Advisers Act, which prohibits fraudulent conduct by an investment adviser by engaging in transactions, practices or courses of business that defrauded clients or prospective clients.

54. As a result of the negligent conduct described above, TFAM and Dailey willfully violated Section 206(4) of the Advisers Act and Rule 206(4)-8 thereunder, which prohibit fraudulent conduct by advisers to “pooled investment vehicles” with respect to investors or prospective investors in these pools.

55. As a result of the negligent conduct described above, TFAM and Dailey 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.”

56. As a result of the negligent conduct described above, TFAM and Dailey willfully violated Sections 17(a)(2) and 17(a)(3) of the Securities Act which prohibit, in the offer or sale of securities, obtaining money or property by means of untrue statements of material fact or material omissions or engaging in transactions, practices or courses of business that defrauded purchasers.

57. As a result of the negligent conduct described above, TFAM and Dailey caused VAT’s violations of Section 34(b) of the Investment Company Act, which prohibits any person from making any untrue statement of a material fact or omitting to state any fact necessary in order to prevent the statements made, in the light of the circumstances under which they were made, from being materially misleading in any report filed pursuant to the Investment Company Act.

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

58. As a result of the negligent conduct described above, TFAM caused VAT's and the TEAM Fund's violations of Rule 38a-1 under the Investment Company Act, which requires a registered investment company to adopt and implement written policies and procedures reasonably designed to prevent violations of the federal securities laws, including policies and procedures that provide for the oversight of compliance by the fund's investment adviser.

#### IV.

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

Accordingly, pursuant to Section 8A of the Securities Act, Sections 203(e), 203(f) and 203(k) of the Advisers Act, and Sections 9(b) and 9(f) of the Investment Company Act, it is hereby ORDERED that:

A. Respondents TFAM and Dailey cease and desist from committing or causing any violations and any future violations of Sections 204(a), 206(4), and 207 of the Advisers Act and Rules 204-1(a) and 206(4)-8 thereunder, Sections 17(a)(2) and 17(a)(3) of the Securities Act, and Section 34(b) of the Investment Company Act.

B. Respondents TFAM, TFM, and Dailey cease and desist from committing or causing any violations and any future violations of Section 206(2) of the Advisers Act.

C. Respondent TFAM cease and desist from committing or causing any violations and any future violations of Rule 38a-1 of the Investment Company Act.

D. Respondents TFAM and TFM are censured.

E. Respondent Dailey 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; and

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.

F. Any reapplication for association by Respondent Dailey 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 Respondent Dailey, 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.

G. Respondent Dailey shall, within 10 days of the entry of this Order, pay disgorgement of \$65,062, prejudgment interest of \$6,277, and a civil money penalty in the amount of \$130,000 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 of disgorgement and prejudgment interest is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600. If timely payment of a civil money penalty 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 Dailey may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent Dailey 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 Dailey 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 Dailey 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 Kelly L. Gibson, Associate Regional Director, Philadelphia Regional Office, Securities and Exchange Commission, 1617 JFK Boulevard, Suite 520, Philadelphia, PA 19103.

H. 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 Dailey 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 Dailey'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 Dailey 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 Dailey 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 Respondent Dailey, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent Dailey 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 Dailey 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