

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 82383 / December 21, 2017

INVESTMENT ADVISERS ACT OF 1940
Release No. 4832 / December 21, 2017

ADMINISTRATIVE PROCEEDING
File No. 3-18319

In the Matter of

**PACKERLAND
BROKERAGE SERVICES,
INC., AND ATLAS CAPITAL
MANAGEMENT CORP.,**

Respondents.

**ORDER INSTITUTING ADMINISTRATIVE
AND CEASE-AND-DESIST PROCEEDINGS,
PURSUANT TO SECTION 15(b) OF THE
SECURITIES EXCHANGE ACT OF 1934
AND 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 Section 15(b) of the Securities Exchange Act of 1934 (“Exchange Act”) and Sections 203(e) and 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”), against Packerland Brokerage Services, Inc. (“Packerland”) and Atlas Capital Management, Corp. (“Atlas”) (collectively, “Respondents”).

II.

In anticipation of the institution of these proceedings, Respondents have submitted Offers of Settlement (“Offers”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over them and the subject matter of these proceedings, which are admitted, Respondents consent to the entry of this Order Instituting Administrative and Cease-And-Desist Proceedings, Pursuant to Section 15(b) of the Securities Exchange Act of 1934 and

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 Respondents’ Offers, the Commission finds that:

SUMMARY

1. This matter involves disclosure and best execution failures related to the selection of a particular class of mutual fund shares by Packerland, a dually-registered investment adviser and broker-dealer located in Green Bay, Wisconsin, and Atlas, a registered investment adviser located in Fort Wayne, Indiana, in their capacity as registered investment advisers. In soliciting individual advisory clients to invest in mutual fund strategies managed by Atlas, Packerland recommended the purchase of a certain class of mutual fund shares that imposed a 1% annual service fee, while failing to disclose that a lower-cost but otherwise identical share class was available. Packerland also did not disclose to its advisory clients that it had a financial conflict of interest because, in its capacity as a broker-dealer, Packerland received the annual service fee imposed on the higher-cost mutual fund shares.

In addition, Packerland’s Form ADV misrepresented that Packerland would disclose to clients all of its fees and any compensation it received for the sale of securities. In fact, it did not disclose its receipt of the annual service fee imposed on the higher-cost mutual fund shares. Packerland, in its capacity as an investment adviser, failed to implement policies or procedures reasonably designed to address the financial conflict of interest arising from its receipt of the annual service fee or the selection of mutual fund share classes.

Atlas generally did not directly communicate with the advisory clients solicited by Packerland, but was aware that it had purchased a more costly mutual fund share class for the clients when an identical, but lower-cost share class was available. As a result, from January 2012 through December 2015, Atlas failed to seek best execution for its clients by failing to purchase the less costly share class that was available for clients. Atlas also failed to implement reasonably designed policies or procedures governing the selection of mutual fund share classes for its clients.

RESPONDENTS

2. Packerland is a Wisconsin corporation with its principal place of business in Green Bay, Wisconsin. It has 117 investment advisory employees in six offices. Packerland has been registered with the Commission as an investment adviser since May 2012 and as a broker-dealer since 1994. As of December 31, 2016, Packerland had approximately \$238 million in assets under management (“AUM”) at Packerland, with an additional \$168.4 million in AUM at third-party investment advisers.

3. Atlas is an Indiana corporation with its principal place of business in Fort Wayne, Indiana. Atlas has been registered with the Commission as an investment adviser since 1994. It has six employees in its Fort Wayne, Indiana office. As of December 31, 2016, Atlas had approximately \$131 million in AUM.

FACTS

Packerland's and Atlas' Investment Advisory Businesses

4. From 2012 through 2015, Packerland's principal investment advisory service was to solicit individual clients to invest with third-party investment advisers who would manage investment portfolios on a discretionary basis. As of March 31, 2014, Packerland had placed \$203 million in AUM with several third-party investment advisers, and had \$138 million in AUM in non-discretionary accounts under its own management. Of the \$203 million in AUM with third-party investment advisers, Packerland's clients invested approximately \$116 million through Atlas. Packerland's client base consists primarily of unaccredited individual investors in Wisconsin.
5. During this time, Packerland acted in multiple capacities on behalf of its advisory clients, who were also its brokerage customers. Packerland acted as a solicitor by introducing clients to third-party investment advisers in exchange for a solicitor's fee of 50% of all advisory fees earned by the third-party investment advisers. Packerland also acted as an investment adviser to these clients and entered into separate advisory agreements with them in addition to the advisory agreements that the clients entered into with the third-party investment advisers. Packerland also entered into separate broker-dealer agreements with the clients, which enabled Packerland to collect 12b-1 distribution and service fees from the distributor on the mutual fund shares purchased by the clients.
6. From 2012 through 2015, Atlas executed trading strategies on behalf of its investment advisory clients on a discretionary basis, generally trading in shares of mutual funds. Atlas generally did not have personal contact with its clients and instead relied on solicitors to obtain the clients, prepare the paperwork to open the custodial accounts, select particular investment strategies, and maintain ongoing contact with the clients. Most of Atlas' clients, including nearly all of those obtained through Packerland, paid an annual fee of 2% of the total value of their total AUM with Atlas.

Background on Mutual Fund Share Classes

7. Most mutual funds offer different share classes with varying fee structures, including, as in this case, Service Class shares and Investor Class shares. Service Class shares (similar to Class A shares), are available to all investors, but usually carry fees to cover fund distribution and shareholder service expenses pursuant to Section 12(b) of the Investment Company Act of 1940 ("Investment Company Act") and Rule 12b-1 thereunder ("12b-1 fees"). These fees are deducted from mutual fund assets on an ongoing basis and paid to

the fund's distributor, who passes them on to the broker-dealers whose customers own the shares.

8. Investor Class shares (often called "institutional shares"), by contrast, are available only to certain investors such as those who invest certain minimum amounts or through certain platforms. These shares have no 12b-1 fees. As a result, an individual who purchases shares of a given mutual fund without 12b-1 fees will pay lower fees over time and keep more of their investment returns than an investor who purchases shares with 12b-1 fees. Therefore, if an investor meets a mutual fund's criteria for purchasing shares without 12b-1 fees, it generally is in the investor's best interest to select that share class.
9. Packerland's and Atlas' clients opened accounts with a particular mutual fund distributor, and Atlas invested the clients' assets in the distributor's mutual fund shares. The distributor offered two types of accounts to the clients of investment advisers: "Service Class" and "Investor Class." The Service Class accounts exclusively transacted in Service Class shares, which were subject to a 1% annual service fee ("1% Service Class fee"), comprised of a 0.75% 12b-1 fee and a 0.25% shareholder service fee. The Investor Class accounts transacted in less-costly Investor Class shares that were not subject to the 1% Service Class fee or a separate 12b-1 or shareholder services fee. Because the type of account opened with the distributor dictated the type of share class that could be purchased, the selection of a particular account type was tantamount to the selection of a particular share class.

Packerland's Improper Selection of Service Class Shares

10. From at least January 2012 through December 2015, Packerland's investment advisory representatives ("IARs") solicited individual investors to use Atlas as a third-party money manager and investment adviser. Packerland's IARs met with the clients and informed them about Atlas' trading strategies, including which trading strategies were most suitable and the total amounts to be invested in each strategy. Packerland's IARs also informed the clients that Packerland and Atlas each receive 50% of the 2% AUM fee charged by Atlas.
11. Packerland helped each of the clients fill out an "Investment Advisory Agreement" with Atlas, which described Atlas' services, its compensation, and its solicitation arrangement with Packerland. The form also included descriptions of Atlas' different investment strategies. Packerland's IARs also worked with the clients to determine and fill in the dollar amounts and percentages of assets that the clients decided to allocate to particular investment strategies on the investment advisory agreement and sent it on to Atlas.
12. At the same time, the clients also executed Packerland's "Agreement for Investment Advisory Services with Third Party Money Manager" ("Advisory Services Agreement"), in which the clients retained Packerland and its "Investment Advisor Representative" as "a financial and investment advisor" to perform "investment advisory services" on a "non-discretionary basis." The Advisory Services Agreement stated that Atlas and any other "Third-Party Money Managers (Registered Investment Advisers – RIAs) generally provide investment management on a discretionary basis."

13. When discussing Atlas' trading strategies, Packerland's IARs recommended that clients open Service Class custodial accounts at the distributor and purchase the more expensive Service Class mutual fund shares, without disclosing that the distributor also offered an Investor Class account type and less expensive Investor Class share class in which the clients could invest. The distributor paid the 1% Service Class fee directly to Packerland in its capacity as a broker-dealer, which, in turn, paid at least 80% of the fee to its IARs. The IARs were also broker-dealer registered representatives of Packerland. The clients received no additional services or other benefits in exchange for the additional fees.

Packerland's Inadequate Disclosures

14. In soliciting clients for Atlas, Packerland's IARs provided clients with Packerland's Advisory Services Agreement and Atlas' Investment Advisory Agreement, which disclosed that clients would pay a 2% AUM fee to Atlas and that Atlas would share 50% of that fee with Packerland as a solicitor's fee. Neither form disclosed that Packerland would receive an additional 1% fee paid from the distributor of the mutual fund directly to Packerland. Packerland's IARs also had clients execute a "Letter of Understanding" form that, among other things, stated that all fees relating to the third-party manager and custodian had been explained, and that the client had received all required disclosure documents. The Letter of Understanding included a "selected share class" disclosure section, along with a space in which share class and fees could be disclosed. However, Packerland's IARs did not disclose Packerland's receipt of the 1% Service Class fee on this form until February 2015 at the earliest.
15. Packerland's senior staff responsible for reviewing disclosures and compliance matters began discussing whether the 1% Service Class fee needed to be disclosed in approximately November 2013, but they did not take action to ensure disclosure of the Service Class fee to clients until January 2015.
16. On January 30, 2015, based on a recommendation by its senior staff, Packerland emailed a newsletter to all of its IARs in which it notified them that they were required to disclose the 1% Service Class fee in writing on the Letter of Understanding going forward. Starting in February 2015, Packerland's IARs began writing "service class 1%" in the mutual fund share class section of the Letter of Understanding. Packerland, however, never informed clients of its financial conflict of interest in recommending the purchase of Service Class shares that paid Packerland a 1% fee, when a lower-cost share class was available.
17. As a registered investment adviser, Packerland transmitted its Form ADV to its clients each year. Packerland represented in its Form ADV filings that: "All fees are fully disclosed to the client prior to execution and acceptance of any [C]lient [A]greement" for its "Investment Advisory Services Third Party Investment Adviser Selection Program." However, until February 2015, this statement was false and misleading because Packerland did not disclose to clients its receipt of the 1% Service Class fee.

18. In February 2016, after the Commission's staff informed Packerland of the share class issues, Packerland stopped recommending that clients open Service Class accounts and converted existing accounts to Investor Class accounts.

Packerland's Failure to Implement Reasonably Designed Compliance Policies and Procedures

19. Packerland, in its capacity as an investment adviser, did not implement written policies and procedures reasonably designed to disclose to clients all compensation it received from the clients' purchases of mutual fund shares and conflicts of interest. Packerland did not inform its clients of additional costs, such as 1% Service Class fees, that were incurred by individual clients as a result of purchasing particular mutual fund share classes and the firm's conflict of interest. Packerland had a policy that required conflicts of interest to be disclosed to clients, but this policy was not adequately implemented because clients were not informed of the financial conflicts arising from its receipt of compensation from mutual funds as a registered broker-dealer based on the investments made by its advisory clients.

Atlas' Failure to Purchase a Less Costly Mutual Fund Share Class for Clients

20. Atlas' Vice-President, who was responsible for communicating with Packerland and other advisers about Atlas' investment strategies, informed Packerland that Atlas executed several of its investment strategies by clients opening accounts at a distributor and Atlas purchasing the distributor's mutual fund shares. During the period from June 2011 through March 2012, a Packerland IAR discussed the differences between the distributor's Service Class and Investor Class accounts with Atlas' Vice-President. They discussed that the distributor's Service Class accounts charged an additional 1% Service Class fee, and that Packerland's IARs, who were also registered representatives at Packerland, were eligible to receive the fee. They did not, however, discuss whether advisory clients should purchase the less costly Investor Class shares. Packerland's IARs subsequently directed nearly all clients to open Service Class accounts at the distributor.
21. Atlas did not take any steps to review which of the mutual funds' share classes it had purchased for the clients it obtained through Packerland. By July of 2014, the clients who engaged Atlas through Packerland owned approximately \$22 million of the mutual fund's Service Class shares through the distributor's Service Class accounts, which accounted for approximately 11% of Atlas' total client AUM of \$208.5 million.
22. In November 2014, Atlas' President/CCO and its Vice-President received fee reconciliation information from the distributor showing that nearly all of the clients referred by Packerland had opened Service Class accounts at the distributor and purchased the mutual fund's Service Class shares. At that time, however, neither of them considered that the mutual fund also offered less costly Investor Class shares through the distributor's Investor Class accounts without these additional fees or whether Atlas should purchase these lower-cost shares for the clients going forward. Consequently, Atlas continued to buy the more costly Service Class shares for its clients.

23. In early 2016, after the Commission’s examinations staff informed Atlas of the share class discrepancy, Atlas stopped making investments for clients in Service Class shares and directed Packerland and other broker-dealers to convert all of the clients’ Service Class accounts to Investor Class accounts. Atlas has not sold any other Service Class shares to clients since this time.

Atlas’ Failure to Implement Reasonably Designed Compliance Policies and Procedures

24. Atlas did not implement written policies and procedures reasonably designed for the firm to seek best execution in purchases of mutual fund shares for clients. Atlas had a best execution policy to execute securities transactions “in such a manner that the client’s total cost or proceeds in each transaction is the most favorable considering all of the relevant circumstances.” Atlas’ policies and procedures also provided that if a fund charged a transaction fee (i.e., a load), a “reasonable determination” needed to be made that a fund charging transaction fees “was superior to similar fund(s) without transaction fees and that the amount of the transaction fee was comparable (i.e., need not be the lowest) to the fees charged by other similar broker dealers.” However, it did not implement any procedures to address the evaluation of annual fees or expenses associated with the respective share classes of a fund, including 12b-1 and service fees.

VIOLATIONS

25. As a result of the conduct described above, Packerland and Atlas each willfully¹ violated Section 206(2) of the Advisers Act, which prohibits investment advisers from engaging “in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client.” A violation of Section 206(2) may rest on a finding of negligence. *SEC v. Steadman*, 967 F.2d 636, 643 n.5 (D.C. Cir. 1992). Proof of scienter is not required to establish a violation of Section 206(2) of the Advisers Act. *Id.*
26. As a result of the conduct described above, Packerland 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.”
27. As a result of the conduct described above, Packerland and Atlas each willfully violated Section 206(4) of the Advisers Act and Rule 206(4)-7 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.

¹ 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)).

Packerland's Remedial Efforts

In determining to accept the Offer, the Commission considered remedial acts promptly undertaken by Respondent Packerland, including its revision of its internal compliance policies and procedures and implementation of new compliance training for its employees.

Atlas' Remedial Efforts

In determining to accept the Offer, the Commission considered remedial acts promptly undertaken by Respondent Atlas, including its revision of its internal compliance policies and procedures and implementation of new compliance training for its employees.

Undertaking

Respondents have undertaken to inform their clients of this Order within ninety days after the entry of this Order.

In determining to accept the Offer, the Commission considered this undertaking.

IV.

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

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

- A. Respondent Packerland cease and desist from committing or causing any violations and any future violations of Sections 206(2), 206(4) and 207 of the Advisers Act and Rule 206(4)-7 promulgated thereunder;
- B. Respondent Packerland is censured;
- C. Respondent Atlas cease and desist from committing or causing any violations and any future violations of Sections 206(2) and 206(4) of the Advisers Act and Rule 206(4)-7 promulgated thereunder;
- D. Respondent Atlas is censured;
- E. Respondent Packerland shall pay disgorgement, prejudgment interest, and a civil penalty, as follows:
 - 1. Respondent Packerland shall pay disgorgement of \$432,949.80, and prejudgment interest of \$23,937, pursuant to the provisions of this Subsection E.

2. Respondent Packerland shall pay a civil penalty of \$80,000, pursuant to the provisions of this subsection E.
3. Within 60 days of the entry of this Order, Respondent Packerland shall deposit \$172,824 of the disgorgement into an escrow account acceptable to the Commission staff, and within 90 days of the entry of this Order, Packerland shall deposit \$260,125.80 of the disgorgement into the same escrow account (“the Distribution Fund”). Respondent Packerland shall provide the Commission staff with evidence of each deposit in a form acceptable to the Commission staff.
4. Within 365 days from the entry of this Order, Respondent Packerland shall pay a total of \$103,937, consisting of \$23,937 of prejudgment interest and a \$80,000 civil money penalty, 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 must be made in one of the following ways:
 - a. Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
 - b. 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
 - c. 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 MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Packerland 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 Anne C. McKinley, Assistant Director, Division of Enforcement, Securities and Exchange Commission, 175 W. Jackson Blvd., Suite 1450, Chicago, IL 60604.

5. If any payment is not made by the date the payment is required by this Order, the entire outstanding balance of disgorgement, prejudgment interest, and civil penalties, plus any additional interest accrued pursuant to SEC Rule of Practice 600 and/or pursuant to 31 U.S.C. 3717, shall be due and payable immediately, without further application.

6. Respondent Packerland shall be responsible for administering the Distribution Fund and may hire a professional to assist them in the administration of the distribution. Respondent Packerland shall pay from the Distribution Fund to each current and former client account that held Service Class shares at any time during the period July 1, 2012 through January 31, 2015 (the “Relevant Period”) (collectively, the “affected client accounts”), an amount representing the full amount of each affected shareholder account’s Service Class fees paid during the Relevant Period, pursuant to a disbursement calculation (the “Calculation”) that will be submitted to, reviewed, and approved by the Commission staff in accordance with this Subsection E. Such calculation shall be subject to a de minimis threshold, as described in paragraph 7., below. No portion of the Distribution Fund shall be paid to any affected client account in which Respondent Packerland, or any of its officers, directors, sales representatives or their spouses, has a financial interest.
7. Respondent Packerland shall, within 30 days from the date of this Order, submit a proposed Calculation to the Commission staff for its review and approval that identifies, at a minimum, (i) the name of each affected client account, (ii) the exact amount of the payment to be made from the Distribution Fund to each affected client account, and (iii) the amount of any de minimis threshold to be applied. Respondent Packerland also shall provide to the Commission staff such additional information and supporting documentation as the Commission staff may request for the purpose of its review. In the event of one or more objections by the Commission staff to Respondent Packerland’s proposed Calculation or any of its information or supporting documentation, Respondent Packerland shall submit a revised Calculation for the review and approval of the Commission staff or additional information or supporting documentation within 10 days of the date that Respondent Packerland is notified of the objection, which revised Calculation shall be subject to all of the provisions of this Subsection E.
8. Respondent Packerland shall disburse all amounts payable to affected client accounts after the Commission staff approves the calculation and within 90 days of the date that Respondent Packerland completes its payments as required by paragraph 3 above, unless such time period is extended as provided in Paragraph 12 of this Subsection E.
9. If Respondent Packerland is unable to distribute or return any portion of the Distribution Fund for any reason, including an inability to locate an affected shareholder account or a beneficial owner in an affected shareholder account or any factors beyond Respondent Packerland’s control, Respondent Packerland shall transfer any such undistributed funds to the Commission for transmittal to the United States Treasury in accordance with Section 21F(g)(3) of the Securities Exchange Act of 1934 after the final accounting provided for in Paragraph 11 of this Subsection E is submitted to the Commission staff. Payment must be made in one of the following ways:

- a. Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- b. 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
- c. 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 Packerland 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 Anne C. McKinley, Assistant Director, Division of Enforcement, Securities and Exchange Commission, 175 W. Jackson Blvd., Suite 1450, Chicago, IL 60604

10. Respondent Packerland shall be responsible for any and all tax compliance responsibilities associated with the Distribution Fund and may retain any professional services necessary. The costs and expenses of any such professional services shall be borne by Respondent Packerland and shall not be paid out of the Distribution Fund.
11. Within 150 days after Respondent Packerland completes the disbursement of all amounts payable to affected client accounts, Respondent shall submit to the Commission staff a final accounting and certification of the disposition of the Distribution Fund for Commission approval, which final accounting and certification shall be in a format to be provided by the Commission staff. The final accounting and certification shall include, but not be limited to: (1) the amount paid to each payee; (2) the date of each payment; (3) the check number or other identifier of money transferred; (4) the amount of any returned payment and the date received; (5) a description of any effort to locate a prospective payee whose payment was returned or to whom payment was not made for any reason; (6) the total amount, if any, to be forwarded to the Commission for transfer to the United States Treasury; and (7) an affirmation that Respondent Packerland has made payments from the Distribution Fund to affected shareholder accounts in accordance with the Calculation approved by the Commission staff. Respondent Packerland shall submit proof and supporting documentation of such payment (whether in the form of electronic payments or cancelled checks) in a form acceptable to the Commission staff under a cover letter that identifies Packerland as a Respondent and the file number of these proceedings to Anne C. McKinley, Assistant Director, Division of Enforcement, Securities and Exchange Commission, 175 W. Jackson Blvd., Suite

1450, Chicago, IL 60604. Respondent shall provide any and all supporting documentation for the accounting and certification to the Commission staff upon its request and shall cooperate with any additional requests by the Commission staff in connection with the accounting and certification.

12. The Commission staff may extend any of the procedural dates set forth in this Subsection E for good cause shown. Deadlines for dates relating to the Distribution Fund shall be counted in calendar days, except that if the last day falls on a weekend or federal holiday the next business day shall be considered to be the last day.

F. Respondent Atlas shall, within 60 days of the entry of this Order, pay a civil money penalty in the amount of \$80,000 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:

- a. Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- b. 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
- c. 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 Atlas 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 Anne C. McKinley, Assistant Director, Division of Enforcement, Securities and Exchange Commission, 175 W. Jackson Blvd., Suite 1450, Chicago, IL 60604.

G. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondents agree that in any Related Investor Action, they shall not argue that they are entitled to, nor shall they benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondents' payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondents agree that they shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the

Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against a 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