UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 10651 / June 20, 2019

SECURITIES EXCHANGE ACT OF 1934
Release No. 86164 / June 20, 2019

INVESTMENT COMPANY ACT OF 1940
Release No. 33514 / June 20, 2019

ADMINISTRATIVE PROCEEDING
File No. 3-19210

In the Matter of **BENJAMIN H. GORDON** **Respondent.**	**ORDER INSTITUTING ADMINISTRATIVE AND CEASE-AND-DESIST PROCEEDINGS, PURSUANT TO SECTION 8A OF THE SECURITIES ACT OF 1933, SECTIONS 15(b) AND 21C OF THE SECURITIES EXCHANGE ACT OF 1934, AND SECTION 9(b) 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 15(b) and 21C of the Securities Exchange Act of 1934 ("Exchange Act"), and Section 9(b) of the Investment Company Act of 1940 ("Investment Company Act") against Benjamin H. Gordon ("Gordon" or "Respondent").

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the "Offer") which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission's jurisdiction over him and the subject matter of these proceedings, which are admitted, and except as provided herein in Section V**,** Respondent consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings, Pursuant to Section 8A of the Securities Act of 1933, Sections 15(b) and 21C of the Securities Exchange Act

of 1934, and Section 9(b) of the Investment Company 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 Respondent's Offer, the Commission finds[1] that:

Summary

1. These proceedings arise out of Cambridge Capital Acquisition Corp.'s ("Cambridge") merger with Ability Computer & Software Industries, Ltd. ("Ability") in December 2015. Respondent Gordon formed Cambridge in October 2013 as a "special purpose acquisition company," or "SPAC," for the purpose of finding and acquiring a target company. Cambridge raised about $81 million in a public offering in December 2013. These funds were held in trust to fund an acquisition of a target company. Under the SPAC terms, Cambridge was required to return that capital if it did not close a merger with a target company by December 2015. In June 2015, Cambridge identified Ability, an Israeli company that sells cellular interception technology to police and military agencies, as a potential SPAC target. The proposed merger was presented to and approved by the Cambridge shareholders on December 22, 2015, and the merger closed the following day.

2. Before the shareholder vote, Cambridge, Gordon, Ability, its CEO and co-founder, Anatoly Hurgin, and others held investor roadshows in September and November 2015 to convince the Cambridge shareholders and potential investors to vote in favor of the merger. In early December 2015, Cambridge also provided shareholders with a final proxy statement soliciting their approval of the merger. Cambridge publicly filed the proxy materials—the proxy statement and the roadshow materials—with the Commission in submissions signed by Gordon. While Ability provided the information that was presented in the roadshow PowerPoint slides and in parts of the proxy statement that related to Ability, Gordon reviewed and approved these materials for filing.

3. During the November 2015 roadshow, Ability told investors that it had a new "game changing" product called "ULIN," and Hurgin claimed his company owned ULIN. The proxy statement similarly referred to "[o]ur ULIN" product. Unbeknownst to Gordon at the time, Ability did not own ULIN and was obligated to share half of any ULIN sales revenue with the real owner. The proxy materials also contained a revenue forecast, which the investors were told was achievable given Ability's backlog of customer orders and its pipeline of possible future orders. The proxy materials also touted Ability's deal with a Latin American police agency, the company's largest customer, as further proof of its ability to meet its forecasts. However, the vast majority of Ability's claimed backlog of customer orders was not backed by purchase orders, and were only verbal agreements with customers. Moreover, most of the backlog of orders was with the Latin American police agency, through a third-party agent, and those orders were mainly oral agreements with police management who had been terminated. None of this was disclosed to investors during the November 2015 roadshow or in the proxy statement.

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

4. Gordon did not exercise reasonable care in ensuring the accuracy of these proxy materials, which Cambridge filed with the Commission and which were provided to the Cambridge shareholders. The proxy statement specifically stated that Cambridge had "conduct[ed] a thorough due diligence review" of Ability. However, Gordon and his company had not conducted additional third-party due diligence on ULIN, its ownership, or the revised backlog and pipeline figure presented in the November 2015 roadshow. Gordon also negligently failed to provide investors complete and accurate information about Ability's backlog of orders and its prospects with its largest customer, the Latin American police agency.

5. The December 2015 merger, once approved by the Cambridge shareholders, resulted in the formation of a new public company called Ability Inc., which trades on the Nasdaq Capital Market (symbol: ABIL). Months after the merger was approved and consummated, Ability disclosed that it did not own ULIN and Ability reported a precipitous drop in revenue.

Respondent

6. **Benjamin H. Gordon**, age 45, was the CEO, secretary, treasurer, and a board member of Cambridge prior to the merger with Ability Inc. After the merger, Gordon was an Ability Inc. board member until December 2016. Gordon resides in Palm Beach, Florida. Since 2002 to the present, Gordon has been the owner and president of BG Strategic Advisors LLC ("BGSA"), a SEC-registered broker-dealer since 2003 (CRD #124448). Since 2008 to the present, Gordon has held Series 7 and 24 licenses, and been a registered representative with BGSA (CRD #5622898).

Related Entities and Individuals

7. **Cambridge Capital Acquisition Corp.**, incorporated in Delaware, was a West Palm Beach, Florida-based company that was formed for the purpose of acquiring a business. Cambridge, through a wholly-owned subsidiary, merged with Ability in December 2015. After the merger, the surviving public company was renamed Ability Inc. Prior to the merger, Cambridge's common stock was registered with the Commission pursuant to Exchange Act Section 12(b), and traded on the Nasdaq Capital Market (symbol: CAMB).

8. **Ability Inc.**, incorporated in the Cayman Islands, is a Tel Aviv, Israel-based holding company that sells interception, decryption, cyber, and geolocation products related to cell phone and satellite communications through its wholly-owned subsidiary, Ability. Its products are used by security and intelligence agencies, military forces, law enforcement, and homeland security agencies. Ability Inc. is a foreign private issuer whose common stock is registered with the Commission pursuant to Exchange Act Section 12(b) and trades on the on the Nasdaq Capital Market (symbol: ABIL).

9. **Ability Computer & Software Industries, Ltd.**, prior to the merger with Cambridge in December 2015, was a private Tel Aviv, Israel-based company. After the merger, Ability became Ability Inc.'s wholly-owned subsidiary.

10. **Anatoly Hurgin**, age 60, was Ability's co-founder, co-owner, and CEO, and is Ability Inc.'s co-controlling shareholder, CEO, and chairman of the board. Hurgin resides in Caesarea, Israel, holds no securities licenses, and has never been registered with the Commission in any capacity.

11. **Alexander Vladimir Aurovsky**, age 66, was Ability's co-founder, co-owner, and chief technology officer ("CTO"), and is Ability Inc.'s co-controlling shareholder, CTO, and a board member. Aurovsky resides in Ramat Gan, Israel, holds no securities licenses, and has never been registered with the Commission in any capacity.

Facts

Formation of the SPAC, Cambridge

12. Special purpose acquisition companies, or "SPACs," are companies formed specifically to acquire a yet-to-be identified company. SPACs usually raise capital for the acquisition through an initial public offering ("IPO"), and that capital is held in trust for a specific period of time, often 18 to 24 months. SPACs typically offer the IPO investors some guaranteed payment for holding their capital during the trust period, as well as warrants for the stock of the company that is acquired.

13. Gordon formed Cambridge as a SPAC in October 2013, and retained a third-party investment bank and underwriter for the IPO, which took place in December 2013. Cambridge publicly traded on the Nasdaq Capital Market. Cambridge raised approximately $81 million in the IPO, which was placed into a trust account to fund the acquisition of a target company. Gordon invested money in the SPAC deal through equity investments and loans, and he ultimately opted to convert the loans into equity in lieu of a cash repayment.

14. Under the terms of the SPAC IPO, if Cambridge did not consummate a business combination with another company within 24 months from the IPO, then the capital held in trust would be released back to the Cambridge shareholders, with 1% interest. Also, after it was determined who the potential merger candidate would be, the merger would be presented to the Cambridge shareholders by proxy statement for a shareholder vote. The Cambridge shareholders that voted in favor of the merger would become shareholders in the newly formed public company and receive warrants to purchase additional shares at a set price in the new public company. Cambridge shareholders who did not want to invest in the merger candidate could elect to redeem their shares, receiving warrants and a return of their original investment in the SPAC with a 1% profit.

Ability Identified as an Acquisition Target

15. Gordon and Cambridge needed to find and close a shareholder-approved merger with a target company by the 24-month deadline in December 2015, or Cambridge would have to return the $81 million in capital to the SPAC investors.

16. In or around June 2015, a third-party underwriting firm working with Cambridge identified Ability as a potential acquisition target. Ability was a Tel Aviv, Israel-based business that sold cell phone and satellite interception products. It was co-founded and co-owned by two

individuals, Hurgin and Aurovsky. It primarily sold its products through resellers and agents who then sold the products to end-user government agencies.

17. Prior to Cambridge and Ability executing a merger agreement in September 2015, Cambridge conducted due diligence on Ability. To help in that process, Cambridge retained several professional firms to: (i) provide guidance on how to package and market information to potential investors; (ii) produce a "quality of earnings" report that analyzed Ability's revenues and expenses (the "Quality of Earnings Report"); (iii) study, among other things, Ability's technology, products, industry and market potential; (iv) prepare a market research report; (v) conduct a background check on Ability's principals, Hurgin and Aurovsky; and (vi) issue a fairness opinion that would be provided to the shareholders in connection with the vote to approve the merger (the "Fairness Opinion"). Cambridge and their professionals relied on information provided by Ability in conducting this due diligence.

18. Cambridge and Ability executed a merger agreement dated September 6, 2015. Under the terms of that agreement, if the merger was approved by the shareholders, Ability would receive about $19 million of the capital consideration being paid by Cambridge. Hurgin and Aurovsky were to receive $9,075,000 each, and $11,850,000 was to be placed in an escrow account at an Israeli bank for their benefit, which they could access two years after the merger by tendering a set number of Ability shares.

19. Although Gordon and Cambridge had raised $81 million in the SPAC IPO, Cambridge estimated that about $50 million would be necessary to close the Ability deal. That capital would come from existing SPAC shareholders or new investors (in SPAC mergers, initial IPO investors sometimes redeem their investment, and retain only the warrants, rather than remain with the investment). Therefore, Gordon, Hurgin, and Aurovsky needed to convince current shareholders or new investors with about $50 million invested in the SPAC to vote for the merger.

Ability's Initial Revenue Forecast, Backlog, and Pipeline

20. In or about August 2015, Ability's revenue forecast for FY 2016 was about $110 million. Two drivers of the forecast were the amount of customer orders Ability had in place—the "backlog"—and possible future orders for the coming period—the "pipeline." A key component of Ability's backlog of customer orders was its arrangement with a Latin American police agency. This agency was Ability's largest customer, accounting for 63% of Ability's revenues in FY 2013, 31% of its revenues in FY 2014, and 68% of its revenues for the first three quarters of FY 2015. About 80% of Ability's backlog revenue for the last two quarters of 2015 and all of FY 2016 was from this one customer.

21. In or about August 2015, Ability's revenue forecast, backlog, and pipeline were provided to Cambridge and the two firms preparing the Fairness Opinion and the Quality of Earnings Report. The Fairness Opinion incorrectly stated that Ability's stated backlog of orders of $65.7 million was backed by signed purchase orders. The Fairness Opinion stated that this was according to Ability management. The Fairness Opinion was attached to the proxy statement that was filed with the Commission and provided to investors. But the Quality of Earnings Report found that only 34% of the $65.7 million backlog was backed by purchase orders. The Quality of Earnings Report, however, was not included with any of the proxy materials filed with the

Commission or delivered to the shareholders voting on the merger. The Quality of Earnings Report was issued on August 13, 2015 and all of the underlying information and data for the report was provided by Ability. Similarly, the Fairness Opinion was issued on September 1, 2015 and made clear that it had relied on Ability's management representations and had not conducted its own due diligence review.

The Investor Roadshows

22. In September and October 2015, Gordon, Cambridge, Hurgin, Ability, and others conducted a roadshow in the United States. At the end of the roadshow, Cambridge had not yet raised the funds it needed to close the deal. Among potential investors' concerns were the reliability of Ability's financial forecasts and Ability's lack of recurring revenue. In early November 2015, Gordon stated in an email that Cambridge had approximately 20 business days to raise $50 million from investors.

23. In late November 2015 and early December 2015, Gordon, Cambridge, Hurgin, Ability, and others conducted a second roadshow. As part of this roadshow, they presented a PowerPoint to prospective investors. Ability provided the information presented in the PowerPoint that related to Ability, and Gordon reviewed and approved it for filing with the Commission. Cambridge filed copies of the PowerPoint and the transcript of the roadshow presentation with the Commission pursuant to Exchange Act Rule 14a-12 as additional proxy materials in November 2015. Gordon signed Forms 8-K that included the PowerPoint and the transcript.

24. In the roadshow presentation, Hurgin told investors that Ability had developed its own interception product for mobile devices called Ultimate Interceptor or "ULIN." According to a transcript of the roadshow presentation, Hurgin touted ULIN as a "game changer" and that "today we are Ability the only owner for this technology." The roadshow PowerPoint similarly stated that ULIN was a "game changing" product that was "[d]eveloped in house," that "[f]irst orders" were "expected in 1Q 2016," and that ULIN was "based on a recurring revenue model."

25. In addition, the roadshow PowerPoint stated that Ability's FY 2016 revenue forecast was $108 million. In support of this revenue forecast, the PowerPoint included a $148 million backlog and pipeline revenue figure, which was much higher than the amounts presented in the earlier roadshows. This figure included $40 million in revenue from the projected sales of two ULIN products. Hurgin told investors that the company estimated it would recognize about $100 million in revenues for FY 2016 from this $148 million, based on the probability of securing the orders. This $100 million approximately matched and supported Ability's $108 million revenue forecast for FY 2016.

26. Gordon emailed the November 2015 PowerPoint presentation to investors and highlighted in the body of his emails Ability's $148 million backlog and pipeline figure and the new ULIN product. He also sent internet links to the draft proxy statement filed with the Commission, and a video of Gordon and Hurgin presenting the PowerPoint slides at the roadshow.

The Proxy Statement

27. On December 2, 2015, the Form S-4 filed with the Commission, which included the proxy statement for the proposed merger (the "Proxy Statement"), was declared effective. Gordon signed the Form S-4, and reviewed and approved the content of the attached and incorporated Proxy Statement. The Fairness Opinion and the merger agreement between the companies were attached to the Proxy Statement. Cambridge had supplied all information in the Proxy Statement that related to Cambridge, and Ability had supplied all information that related to Ability.

28. The Proxy Statement stated that Cambridge conducted a "thorough due diligence review of Ability's operations, which included reviewing Ability's management, products, earnings and historical financial performance, new product development process and backlog, sales pipeline and backlog, market perception and reputation, financial controls and oversight and discussions with suppliers and customers."

29. The Proxy Statement contained several representations about ULIN and Ability's forecasts and prospects. In the "Business of Ability" section, the proxy stated that "[o]ur ULIN (Ultimate Interceptor) was introduced in November 2015." The "Estimates Furnished by Ability to Cambridge" section provided a FY 2016 forecast of $108 million in revenue. Also, the MD&A section stated that the "significant increase in revenues" in the first three quarters of 2015 "was attributable to Ability's increased focus on the Latin American market and completion of four large projects with a federal law enforcement agency in the region of which two projects ($8.1 million each) for fixed interception systems and two other projects of portable interception systems ($10.7 million and $8.3 million)." It further stated that "Ability believes future projects in this region are likely to continue."

The Misleading Proxy Materials

30. The November 2015 roadshow materials and the Proxy Statement, which were publicly filed with the Commission in submissions signed by Gordon, contained misleading statements and omissions.

31. These proxy materials were materially false and misleading with respect to their claims about the ULIN product. Despite what these materials claimed or suggested, Ability did not own ULIN. It was only a reseller of ULIN under an undisclosed reseller agreement with the real owner of the product. Hurgin had not disclosed this reseller agreement to Cambridge and Gordon. Under the reseller agreement, Ability could only keep 50% of the revenues from ULIN sales. In addition, if Ability failed to sell $10 million worth of ULIN in a given year, the owner was entitled to a 15% penalty on any shortfall. There was no disclosure in any of the proxy materials that Ability did not own ULIN, that it sold the product through a reseller arrangement, or that the terms of that agreement required Ability to share its sales revenue with the ULIN owner. Gordon did not become aware of this reseller agreement until May 2016, when it was publicly disclosed in Ability's fiscal year 2015 Form 20-F.

32. The $148 million backlog and pipeline revenue figure and the $108 million revenue forecast for FY 2016 in the proxy materials were also misleading. These figures included sales of ULIN products without disclosing the reseller agreement or Ability's obligation to share half of ULIN revenues. The proxy materials also did not disclose that the pipeline and backlog revenue included about $22 million in backlog orders from the Latin American police agency and that they were based only on verbal agreements with police management who had been terminated. Instead, the shareholders were provided with a Fairness Opinion, attached to the Proxy Statement, that stated that all of Ability's backlog was backed by signed purchase orders. The Quality of Earnings Report, which accurately found that the majority of the backlog had no purchase orders, was not provided to shareholders. As a result, the backlog and pipeline figure and the revenue forecast were misleading.

33. The proxy materials also contained materially misleading representations and omissions about Ability's business with the Latin American police agency. According to Ability, by the end of October 2015, over 80% of Ability's backlog of orders for the remainder of 2015 and all of FY 2016 was from that agency. Yet there were no purchase orders in place for over 70% of those orders; the orders were instead based on verbal agreements. None of this was disclosed in the proxy materials. Instead the November 2015 roadshow touted the prospects with the police agency and the Proxy Statement touted Ability's "four large projects" with the "Latin American" "law enforcement agency," and stated that Ability "believes future projects in this region are likely to continue."

34. In addition, the claim that Cambridge had conducted "thorough due diligence" was false and misleading. The Proxy Statement did not disclose that Cambridge had not conducted additional third-party due diligence on ULIN, its ownership, or the $148 million backlog and pipeline figure that was presented in the November 2015 roadshow.

Shareholder Approval of the Cambridge-Ability Merger

35. The shareholder vote to approve the merger took place on December 22, 2015. A majority of the Cambridge shareholders voted to approve the deal, and on December 23, 2015, the merger was consummated and Ability Inc. became the new surviving public company.

36. After the merger closed, Ability Inc. had a significant decline in revenue and incurred net losses. For example, for FY 2016, Ability Inc. only recognized about $16.5 million in revenues (as compared to $52 million in FY 2015), and had about $8.1 million in net losses. For FY 2017, Ability Inc. recognized only about $3 million in revenues, and had about $9.1 million in net losses. For the first through third quarters of 2018, Ability Inc. had only $437,000 in revenues, and incurred about $8 million in net losses. Also, Ability never recognized as revenue the majority of the 2015 and 2016 backlog orders from the Latin American police agency.

37. On May 2, 2016, approximately five months after the close of the Cambridge-Ability merger, Ability Inc. filed its 2015 annual report with the Commission on Form 20-F. This was the first time that Ability disclosed that it did not own ULIN and that it had a reseller arrangement with the product's owner. The 2015 annual report and accompanying press release were filed before the market opened on Monday, May 2, 2016. Ability Inc.'s stock price dropped about 33% from the prior trading day.

Gordon's Negligent Conduct

38. Gordon negligently failed to take reasonable steps to ensure that the Cambridge shareholders were provided with material and accurate information concerning Ability's prospects. Cambridge represented in the Proxy Statement it had conducted "thorough due diligence" on Ability, including its products, backlog, and pipeline. Cambridge and Gordon, however, did not disclose to investors that they had not conducted additional third-party diligence on ULIN, its ownership, or the backlog and pipeline revenue figure presented in the November 2015 roadshow.

39. Gordon was aware of sufficient information that should have reasonably required him to make more fulsome disclosures to the shareholders about the lack of additional third-party due diligence on ULIN and the revised backlog and pipeline. Although Ability never informed Gordon about the existence of the reseller agreement for ULIN, Hurgin told Gordon that Ability had "development partners" related to ULIN and that these partners had a small revenue share in any ULIN sales. He was also aware of the Quality of Earnings Report and an Ability spreadsheet that showed that a substantial portion of Ability's backlog was not backed by purchase orders.

40. Also, by at least early November 2015—before the second roadshow and the proxy vote—Gordon had learned that managers at the Latin American police agency, who had orally agreed to purchase Ability's products, had been terminated from their positions. Gordon also knew that a significant amount of the backlog that had no purchase orders was with this Latin American police agency. Gordon failed to take reasonable steps to ensure that these important facts were disclosed to all shareholders.

Violations

41. As a result of the conduct described above, Gordon willfully[2] violated Section 17(a)(2) of the Securities Act, which prohibits any person in the offer or sale of any securities from obtaining money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

42. As a result of the conduct described above, Gordon willfully violated Section 14(a) of the Exchange Act and Rule 14a-9 thereunder, which prohibit making materially false or misleading statements or omissions in connection with the solicitation of a proxy.

[2] 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)).

IV.

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

Accordingly, pursuant to Section 8A of the Securities Act, Sections 15(b) and 21C of the Exchange Act, and Section 9(b) of the Investment Company Act, it is hereby ORDERED that:

A. Respondent Gordon shall cease and desist from committing or causing any violations and any future violations of Section 17(a)(2) of the Securities Act and Section 14(a) of the Exchange Act and Rule 14a-9 thereunder.

B. Respondent Gordon be, and hereby is suspended for a period of 12 months from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization; from serving or acting as an employee, officer, director, member of an advisory board, investment adviser or depositor of, or principal underwriter for, a registered investment company or affiliated person of such investment adviser, depositor, or principal underwriter; and from participating in any offering of a penny stock, including: acting as a promoter, finder, consultant, agent or other person who engages in activities with a broker, dealer or issuer for purposes of the issuance or trading in any penny stock, or inducing or attempting to induce the purchase or sale of any penny stock, effective on the second Monday following the entry of this Order.

C. Respondent Gordon shall, within 14 days of the entry of this Order, pay a civil money penalty in the amount of $100,000 to the Securities and Exchange Commission. The Commission will hold funds paid pursuant to this paragraph in an account at the United States Treasury pending a decision in a related district court action against Ability Inc., Ability Computer & Software Industries, Ltd., Anatoly Hurgin, and Alexander Vladimir Aurovsky to establish a fair fund pursuant to 15 U.S. C. § 7246, Section 308(a) of the Sarbanes-Oxley Act of 2002, so that any disgorgement, prejudgment interest, and civil money penalties may be distributed to harmed investors. If the fair fund is established in the related district court action, the Commission will transfer the funds collected herein to the district court to be added to the fair fund for distribution as ordered by that court. If the court in the related district court action does not establish a fair fund, the civil money penalties paid herein will be transferred to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. §3717.

Payment must be made in one of the following ways:

(1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;

(2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at http://www.sec.gov/about/offices/ofm.htm; or

(3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Benjamin H. Gordon 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 Michele W. Layne, Regional Director, Division of Enforcement, Securities and Exchange Commission, 444 South Flower Street, Suite 900, Los Angeles, California, 90071.

D. Regardless of whether the Commission in its discretion orders the creation of a Fair Fund for the penalties ordered in this proceeding, amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, he shall not argue that he is entitled to, nor shall he benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that he shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

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, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent under this Order or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Respondent of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. §523(a)(19).

By the Commission.

Vanessa A. Countryman
Acting Secretary