

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 87029 / September 19, 2019

INVESTMENT ADVISERS ACT OF 1940
Release No. 5356 / September 19, 2019

ADMINISTRATIVE PROCEEDING
File No. 3-19472

In the Matter of

SIGMA PLANNING CORP.,

Respondent.

ORDER INSTITUTING ADMINISTRATIVE AND CEASE-AND-DESIST PROCEEDINGS, PURSUANT TO SECTIONS 15(b) AND 21C 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 Sections 15(b) and 21C 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 Sigma Planning Corp. (“Sigma” or “Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Sections 15(b) and 21C 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 Respondent's Offer, the Commission finds¹ that:

SUMMARY

1. These proceedings arise out of breaches of fiduciary duty and failures to disclose by registered investment adviser Sigma in connection with its mutual fund share class selection practices and the fees it received pursuant to Rule 12b-1 under the Investment Company Act of 1940 ("12b-1 fees"), as well as its receipt of revenue-sharing payments and its failure to register as a broker-dealer. First, from at least January 1, 2013 through March 1, 2017 (the "Relevant 12b-1 Period"), Sigma purchased, recommended, or held for advisory clients mutual fund share classes that charged 12b-1 fees instead of lower-cost share classes of the same funds for which advisory clients were eligible. Sigma received 12b-1 fees directly from a third-party clearing broker (the "Clearing Broker") in connection with these investments. Sigma failed to disclose in its Forms ADV or otherwise the conflicts of interest related to: (a) its receipt of 12b-1 fees, and (b) its selection of mutual fund share classes that pay such fees.² By investing advisory clients in more expensive share classes when lower-cost share classes of the same funds were available, Sigma violated its duty to seek best execution. Because Sigma engaged in brokerage activities without ever registering as a broker-dealer and received the 12b-1 fees directly, it also acted as an unregistered broker-dealer.

2. Second, from at least January 1, 2013 through March 31, 2018 (the "Relevant Chargeable Asset Period"), Sigma had a separate asset-based fee agreement with its Clearing Broker, pursuant to which Sigma paid the Clearing Broker a fee on certain assets, known as "chargeable assets." The agreement provided that lower-cost mutual fund shares that did not carry a 12b-1 fee were included in chargeable assets, while more expensive 12b-1 fee-paying mutual fund shares were not. By investing clients in share classes that paid 12b-1 fees, not only did Sigma receive a portion of that 12b-1 fee from the Clearing Broker, it also avoided paying an asset-based fee to the Clearing Broker. Sigma failed to disclose this conflict of interest in its Form ADV filings or elsewhere.

3. Third, during the Relevant 12b-1 Period, Sigma also failed to disclose to its advisory clients that its affiliated broker-dealers received revenue-sharing payments pursuant to tiered sponsorship agreements with various alternative investment sponsors. Sigma's investment adviser representatives, who were also registered representatives of Sigma's affiliated broker-dealers, sold these products to Sigma's advisory clients.

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.

² Sigma was not eligible to self-report pursuant to the Division of Enforcement's Share Class Selection Disclosure Initiative announced in February 2018 because the Division contacted it about the disclosure violations before the initiative was announced.

4. Finally, Sigma failed to adopt and implement written policies and procedures reasonably designed to prevent violations of the Advisers Act and the rules thereunder in connection with its mutual fund share class selection practices and revenue-sharing arrangements.

5. As a result of the conduct described above, Sigma willfully violated Sections 206(2) and 206(4) of the Advisers Act and Rule 206(4)-7 thereunder, and Section 15(a) of the Exchange Act.

RESPONDENT

6. **Sigma Planning Corporation (“Sigma”)**, a Michigan corporation with its principal place of business in Ann Arbor, Michigan, has been registered with the Commission as an investment adviser since 1984. Sigma is under common ownership and control with two registered broker-dealer affiliates. Sigma provides advisory services through over 700 Investment Adviser Representatives (“IARs”), many of whom are also registered representatives of Sigma’s affiliated broker-dealers. In its Form ADV filed on March 28, 2019, Sigma reported regulatory assets under management of approximately \$3.6 billion, most of which are associated with discretionary client accounts.

RELATED PARTY

7. **Sigma Financial Corporation (“SFC”)**, a Michigan corporation based in Ann Arbor, Michigan, is a registered broker-dealer that is under common ownership and control with Sigma.

FACTS

8. During the Relevant Chargeable Asset Period, Sigma provided advisory services to its clients through two programs: (i) a wrap fee program, for which clients paid Sigma an all-inclusive fee for asset management and trade execution, and (ii) a non-wrap program, for which clients paid for execution costs in addition to investment advisory fees.

Mutual Fund Share Class Selection

9. Mutual funds typically offer investors different types of shares or “classes.” Each share class represents an interest in the same portfolio of securities with the same investment objective. The primary difference among the share classes is the fee structure.

10. For example, some mutual fund share classes charge 12b-1 fees to cover fund distribution and sometimes shareholder service expenses. These recurring fees, which are included in a mutual fund’s total annual fund operating expenses, vary by share class, but typically range from 25 to 100 basis points. They are deducted from the mutual fund’s assets on an ongoing basis and paid to the fund’s distributor or principal underwriter, which generally remits the 12b-1 fees to the broker-dealer that distributed or sold the shares. In Sigma’s case, the Clearing Broker remitted a portion of the 12b-1 fees paid on such shares directly to Sigma.

11. Many mutual funds also offer share classes that do not charge 12b-1 fees (e.g., “Institutional class” or “Class I” shares (collectively, “Class I shares”)).³ An investor who holds Class I shares of a mutual fund will usually pay lower total annual fund operating expenses over time – and thus will almost always earn higher returns – than one who holds a share class of the same fund that charges 12b-1 fees. Therefore, if a mutual fund offers a Class I share, and an investor is eligible to own it, it is often, though not always, better for the investor to purchase or hold the Class I share.

12. Pursuant to the representation letter between Sigma and the Clearing Broker (the “12b-1 Representation Letter”), which was in effect through April 2018, the Clearing Broker paid Sigma 40 percent of the 12b-1 fees that its advisory clients paid in connection with eligible mutual fund investments. During the Relevant 12b-1 Period, Sigma advised certain advisory clients to purchase or hold⁴ mutual fund share classes that charged 12b-1 fees when lower-cost share classes of those same funds were available to those clients. As a result, Sigma received 12b-1 fees that it would not have collected had it invested those clients in available lower-cost share classes. Sigma did not share any portion of the 12b-1 fees with its affiliates or IARs.

Unregistered Broker-Dealer Activity

13. During the Relevant Chargeable Asset Period, Sigma acted as an unregistered broker-dealer. Sigma received transaction-based compensation from the Clearing Broker in the form of 12b-1 compensation paid directly to Sigma. In the 12b-1 Representation Letter, Sigma represented that its affiliate, SFC, was entitled to “payment for sales or distribution related compensation” and that SFC was “performing the functions described in the funds’ prospectus that entitle our BD to the [12b-1 payments]. . . .” Despite the plain language of the 12b-1 Representation Letter, in fact, Sigma, and not SFC, performed these functions and the Clearing Broker paid all of the eligible 12b-1 compensation directly to Sigma. Sigma never registered with the Commission as a broker or dealer, nor did it qualify for any of the exemptions from registration as a broker-dealer under Section 15(a) of the Exchange Act.

Asset-Based Fees Avoided

14. In October 2010, Sigma entered into an Asset-Based Fee Agreement with its Clearing Broker for custody and brokerage services. Under the agreement, Sigma paid its Clearing Broker a range of fees based on a sliding scale of assets, calculated at the account level (the “Asset-Based Fee”). Lower-cost mutual fund shares that did not carry a 12b-1 fee were considered “chargeable assets” that were included in the calculation of the Asset-Based Fee. Conversely, more expensive mutual fund share classes that carried a 12b-1 fee were excluded from the calculation of the Asset-Based Fee.

³ Share classes that do not charge 12b-1 fees also go by a variety of other names in the mutual fund industry, such as “Class F2,” “Class Y” and “Class Z” shares. As used in this Order, the term “Class I shares” refers generically to share classes that do not charge 12b-1 fees.

⁴ In many cases, mutual funds permit certain advisory clients who hold shares in classes charging 12b-1 fees to convert those shares to Class I shares without cost or tax consequences to the client.

15. The Asset-Based Fee Agreement presented an additional conflict of interest for Sigma because it presented an additional benefit – in the form of a reduced Asset-Based Fee – to Sigma for investing its clients in more expensive mutual fund share classes. From January 1, 2013 through March 31, 2018, in addition to receiving 40% of the 12b-1 fees that advisory clients paid on such chargeable assets, Sigma avoided paying Asset-Based Fees it would have had to pay had it invested clients in lower-cost share classes.

Tiered Sponsorship Agreement Payments

16. Beginning in at least 2012, SFC and Sigma’s other affiliated broker-dealer entered into “tiered sponsorship” agreements with certain alternative investment product sponsors. Pursuant to these agreements, the sponsors paid the affiliated broker-dealers revenue sharing, in the form of a flat fee that was not disclosed by Sigma to its advisory clients, in return for certain benefits, such as the opportunity to make presentations to registered representatives at conferences and other marketing opportunities.

17. Sigma and its IARs invested certain advisory clients in these alternative investment products without disclosing the revenue sharing paid to Sigma’s affiliated broker-dealers by the product’s sponsor.

Undisclosed Conflicts of Interest

18. As an investment adviser, Sigma was obligated to fully disclose all material facts to its advisory clients, including any conflicts of interest between itself and its advisory clients that could affect the advisory relationship and how those conflicts could impact advice Sigma provided its clients. Sigma was required to give its clients sufficient information so that they could understand the conflicts of interest of Sigma concerning its advice about investing in the different classes of mutual funds, and have a basis on which they could consent to or reject such conflicted transactions.

19. During the Relevant 12b-1 Period, Sigma failed to disclose in its Form ADV filings or otherwise its conflicts of interest related to: (a) its receipt of 12b-1 fees, (b) its selection of mutual fund share classes that paid such fees, and (c) its affiliated broker-dealers’ receipt of revenue-sharing payments in connection with the Tiered Sponsorship products sold to Sigma’s advisory clients.

20. In addition, during the Relevant Chargeable Asset Period, Sigma failed to disclose the conflict of interest arising from the Asset-Based Fee Agreement, which allowed Sigma to avoid paying Asset-Based Fees it would have had to pay had it invested advisory clients in lower-cost share classes.

Duty of Best Execution Violations

21. Section 206 of the Advisers Act imposes on investment advisers a fiduciary duty to act for the benefit of their clients. That duty includes, among other things, an obligation to seek best execution for client transactions – *i.e.*, “to seek the most favorable terms reasonably available under the circumstances.” *Interpretive Release Concerning the Scope of Section 28(e) of the Securities Exchange Act of 1934 and Related Matters*, Exchange Act Rel. No. 23170 (Apr. 23,

1986) (stating that money managers, as fiduciaries to their clients, have an obligation to “execute securities transactions for clients in such a manner that the client’s total cost or proceeds in each transaction is the most favorable under the circumstances”). By causing certain advisory clients to invest in fund share classes that charged 12b-1 fees when such clients were otherwise eligible for lower-cost share classes, and by failing to disclose to its clients that best execution might not be sought for purchases of mutual funds with multiple available share classes, Sigma violated its duty to seek best execution for those transactions.

Compliance Deficiencies

22. During the Relevant 12b-1 and Chargeable Asset Periods, Sigma failed to adopt and implement written policies and procedures reasonably designed to prevent violations of the Advisers Act, and the rules thereunder, in connection with its mutual fund share class selection practices and revenue-sharing agreements. After the commencement of the Commission’s investigation, Sigma updated its policies and procedures.

VIOLATIONS

23. As a result of the conduct described above, Sigma willfully⁵ violated Section 206(2) of the Advisers Act, which makes it unlawful for an adviser, directly or indirectly, to “engage in any transaction, practice, or course of business that operates as a fraud or deceit upon any client or prospective client.” Scierter is not required to establish a violation of Section 206(2), but rather may rest on a finding of negligence. *SEC v. Steadman*, 967 F.2d 636, 643 n.5 (D.C. Cir. 1992) (citing *SEC v. Capital Gains Research Bureau, Inc.*, 375 U.S. 180, 194-95 (1963)).

24. As a result of the conduct described above, Sigma willfully violated Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder, which require a registered investment adviser to, among other things, “[a]dopt and implement written policies and procedures reasonably designed to prevent violation” of the Advisers Act and its rules.

25. As a result of the conduct above, Sigma willfully violated Section 15(a)(1) of the Exchange Act, which requires a “broker” to be registered with the Commission in order “to induce or attempt to induce the purchase or sale of any security (other than an exempted security or commercial paper, bankers’ acceptances, or commercial bills)” while making use of the mails or any means or instrumentality of interstate commerce. Section 3(a)(4) of the Exchange Act defines a “broker” as any person, other than a bank, “engaged in the business of effecting transactions in securities for the account of others.”

⁵ “Willfully,” for purposes of imposing relief under Section 203(e) of the Advisers Act and Section 15(b) of the Exchange Act, “means no more than 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.” *Tager v. SEC*, 344 F.2d 5, 8 (2d Cir. 1965).

UNDERTAKINGS

26. Respondent has undertaken to:
- a. Notice to Affected Clients. Within thirty (30) days of the entry of this Order, notify Affected Clients of the settlement terms of this Order in a clear and conspicuous fashion.
 - b. Certification of Compliance by Respondent. Respondent shall certify, in writing, compliance with the undertakings set forth above. The certification shall identify the undertaking, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Commission staff may make reasonable requests for further evidence of compliance, and Respondents agree to provide such evidence. The certification and supporting material shall be submitted to Corey A. Schuster, Assistant Director, Asset Management Unit, Securities and Exchange Commission, 100 F Street, N.E., Washington, DC, 20549, or such other address as the Commission staff may provide, with a copy to the Office of Chief Counsel of the Enforcement Division, 100 F Street, N.E., Washington, DC 20549, no later than sixty (60) days from the date of the completion of the undertakings.

IV.

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

Accordingly, pursuant to Sections 15(b) and 21C of the Exchange Act and Sections 203(e) and 203(k) of the Advisers Act, it is hereby ORDERED that:

- A. Respondent shall 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 thereunder, and Section 15(a) of the Exchange Act.
- B. Respondent is censured.
- C. Respondent shall pay disgorgement, prejudgment interest, and a civil monetary penalty, totaling \$2,546,718, to compensate advisory clients that were affected by the conduct detailed in Paragraphs 9 through 15 of this Order (the Affected Clients), as follows:
 - (i) Respondent shall pay disgorgement of \$1,920,809, prejudgment interest of \$225,909, and a civil penalty in the amount of \$400,000, for a total of \$2,546,718, consistent with the provisions of this Subsection C.
 - (ii) Within ten (10) days of the issuance of this Order, Respondent shall deposit \$2,546,718 of disgorgement, prejudgment interest and penalty (the "Fair Fund"), less monies already distributed to Affected Clients, into an escrow account at a financial institution not unacceptable to the Commission staff

and Respondent shall provide the Commission staff with evidence of such deposit in a form acceptable to the Commission staff. If timely payment into the escrow account is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600 [17 C.F.R. § 201.600] and 31 U.S.C. § 3717.

- (iii) Respondent shall be responsible for administering the Fair Fund and may hire a professional to assist it in the administration of the distribution. The costs and expenses of administering the Fair Fund, including any such professional services, shall be borne by Respondent and shall not be paid out of the Fair Fund.
- (iv) Respondent shall pay from the Fair Fund to each Affected Client an amount representing the combined pro rata 12b-1 fees received by Sigma during the Relevant 12b-1 Period and the pro rata Asset-Based Fees that Sigma avoided paying based on the purchase by the Affected Client during the Relevant Chargeable Asset Period, less any monies already distributed. No portion of the Fair Fund shall be paid to any Affected Client account in which Respondent or any of its current or former officers, directors, IARs, or registered representatives, or any of their family members, has a financial interest.
- (v) Respondent shall, within ninety (90) days of the entry of this Order, submit a proposed disbursement calculation (the “Calculation”) to the Commission staff for review and approval. At or around the time of submission of the proposed Calculation to the staff, Respondent, along with any third-parties or professionals retained by Respondent to assist in formulating the methodology for its Calculation and/or administration of the Distribution, shall make themselves available for a conference call with the Commission staff to explain the methodology used in preparing the proposed Calculation and its implementation, and to provide the staff with an opportunity to ask questions. Respondent also shall provide to the Commission staff such additional information and supporting documentation, including but not limited to proof of any payments already made to Affected Clients, 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 the proposed Calculation or any of its information or supporting documentation, Respondent shall submit a revised Calculation for the review and approval of the Commission staff or additional information or supporting documentation within ten (10) days of the date that the Commission staff notifies Respondent of the objection. The revised Calculation shall be subject to all of the provisions of Subsection C.
- (vi) After the Calculation has been approved by the Commission staff, Respondent shall submit a payment file (the “Payment File”) for review and acceptance by the Commission staff demonstrating the application of the methodology to each Affected Client. The Payment File should identify, at a

minimum: (1) the name of each Affected Client, (2) the exact amount of the payment to be made (or which has been made) from the Fair Fund to each Affected Client, (3) the amount of payments already made to any Affected Client, and (4) the amount of any *de minimis* threshold to be applied. An amount of \$10 or less shall be considered *de minimis* and shall not be paid to such Affected Client, but rather shall be distributed *pro rata* to Affected Clients that are owed greater than \$10 as determined by the Calculation.

- (vii) Respondent shall complete the disbursement of all amounts payable to Affected Clients within ninety (90) days of the date the Commission staff approves and accepts the Payment File, unless such time period is extended as provided in Paragraph (xi) of this Subsection C.
- (viii) If Respondent is unable to distribute or return any portion of the Fair Fund for any reason, including an inability to locate an Affected Client or any factors beyond Respondent's control, Respondent 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 Exchange Act, pursuant to the instructions set forth in Subsection D, below, when the distribution of funds is complete and before the final accounting provided for in Paragraph (x) of this Subsection C is submitted to the Commission staff.
- (ix) A Fair Fund is a Qualified Settlement Fund ("QSF") under Section 468(B) of the Internal Revenue Code of 1986, as amended, and 26 C.F.R. §§ 1.468B.1-1.468B.5. Respondent shall be responsible for any and all tax compliance responsibilities associated with the Fair Fund, including but not limited to tax obligations resulting from the Fair Fund's status as a QSF and the Foreign Account Tax Compliance Act ("FATCA"), and may retain any professional services necessary. The costs and expenses of tax compliance, including any such professional services, shall be borne by Respondent and shall not be paid out of the Fair Fund.
- (x) Within 150 days after Respondent completes the distribution of all amounts payable to Affected Clients, Respondent shall return all undistributed funds to the Commission. The Respondent shall then submit to the Commission staff a final accounting and certification of the disposition of the Fair 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 has made payments from the Fair Fund to Affected Clients in accordance with the Calculation approved by the Commission staff and the

Payment File approved and accepted by the Commission staff. The final accounting and certification shall be submitted under a cover letter that identifies Respondent in these proceedings and the file number of these proceedings to Corey Schuster, Assistant Director, Asset Management Unit, Securities and Exchange Commission, 100 F Street, N.E., Washington, DC 20549-5010A, or such other address the Commission staff may provide. 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.

- (xi) The Commission staff may extend any of the procedural dates set forth in Paragraphs (ii) to (x) of this Subsection C for good cause shown. Deadlines for dates relating to the Fair Fund shall be counted in calendar days, except if the last day falls on a weekend or federal holiday, the next business day shall be considered the last day.
- (xii) Pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended, a Fair Fund is created for the \$2,546,718 in disgorgement, prejudgment interest and penalty paid by Respondent pursuant to this Order. 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, Respondent shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that it shall, within thirty (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.

D. Payments to the Commission must be made in one of the following ways:

- (i) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (ii) 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
- (iii) 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 Sigma Planning Corp. as the Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Corey Schuster, Assistant Director, Asset Management Unit, Securities and Exchange Commission, 100 F Street, N.E., Washington, DC 20549-5010A.

E. Respondent shall comply with the undertaking enumerated in Section III, paragraph 26, above.

By the Commission.

Vanessa A. Countryman
Secretary