

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 8637 / December 1, 2005

SECURITIES EXCHANGE ACT OF 1934
Release No. 52861 / December 1, 2005

ADMINISTRATIVE PROCEEDING
FILE NO. 3-12115

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In the Matter of	:	ORDER INSTITUTING ADMINISTRATIVE
	:	AND CEASE-AND-DESIST PROCEEDINGS,
	:	MAKING FINDINGS, AND IMPOSING
American Express	:	REMEDIAL SANCTIONS AND A CEASE-
Financial Advisors Inc.	:	AND-DESIST ORDER PURSUANT TO
(now known as Ameriprise	:	SECTION 8A OF THE SECURITIES ACT OF
Financial Services, Inc.),	:	1933 AND SECTIONS 15(b) AND 21C OF THE
	:	SECURITIES EXCHANGE ACT OF 1934
	:	
Respondent.	:	
_____	:	

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”) and Sections 15(b) and 21C of the Securities Exchange Act of 1934 (“Exchange Act”) against American Express Financial Advisors Inc. (now known as Ameriprise Financial Services, Inc.) (“AEFA” 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, Respondent consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order Pursuant to Section 8A of

the Securities Act and Sections 15(b) and 21C of the Exchange Act (“Order”), as set forth below.

III.

On the basis of this Order and Respondent’s Offer, the Commission finds¹ that:

Respondent

1. AEFA², now known as Ameriprise Financial Services, Inc., is a Delaware corporation with headquarters located in Minneapolis, MN. AEFA has been registered with the Commission as a broker-dealer since 1971 and as an investment adviser since 1979. At all relevant times, AEFA has been a subsidiary of American Express Financial Corporation, now known as Ameriprise Financial, Inc. AEFA has over 10,000 registered representatives whom it calls “financial advisors” and more than 3,750 branch offices across the United States. AEFA operates the majority of its branch offices pursuant to franchise agreements.

Background

2. This matter arises from AEFA’s failure to adequately disclose certain material facts to its brokerage customers in the offer and sale of mutual fund shares and interests in college savings plans established under Section 529 of the Internal Revenue Code (“529 plans”). Specifically, AEFA did not adequately disclose to its brokerage customers information concerning revenue sharing agreements it had with certain mutual fund families.

3. Between January 2001 and August 2004, AEFA did not adequately disclose material information concerning its conflicts of interest in offering and selling shares of twenty-seven preferred mutual fund families whose affiliates made revenue sharing payments to AEFA in exchange for, among other things, inclusion on AEFA’s brokerage platform. Between April 2003 and August 2004, AEFA’s disclosures concerning these conflicts improved, but were still deficient in certain respects. From October 2003 to the present, AEFA also has not adequately disclosed certain material facts about its conflicts of interest in the offer and sale of interests in nine 529 plans concerning revenue sharing payments made to AEFA by affiliates of the nine fund families that administered the 529 plans.

AEFA’s Revenue Sharing Agreements

4. In approximately January 2001, AEFA created its Preferred Provider program which it used to promote twenty-seven mutual fund families. AEFA received substantial

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 As used herein, the name “AEFA” refers to American Express Financial Advisors Inc. and all predecessor and successor entities, including Ameriprise Financial Services, Inc.

payments, in the form of cash or “hard dollars,” paid directly from advisers or distributors affiliated with mutual fund companies. AEFA also received substantial payments in the form of directed brokerage commissions for distribution of mutual fund shares through “step-out” arrangements. In these instances, the advisers or distributors of certain mutual fund families instructed the brokerage firm or firms executing portfolio transactions for their mutual funds to “step out” of the transactions and direct a portion of the commissions for the transactions to AEFA for distribution of fund shares.

5. In June 2003, AEFA replaced the Preferred Provider program with the Select Group program through which it continued to receive substantial revenue sharing payments from affiliates of 29 mutual fund families.

6. Between January 2001 and the present, AEFA has received tens of millions of dollars each year in cash and non-cash revenue sharing payments from affiliates of the mutual fund families participating in the Preferred Provider and Select Group programs. These payments are in addition to standard sales loads, commissions, Rule 12b-1 fees, expense reimbursements and other fees for maintaining customer account information. Historically, with one exception, the fund families offered by AEFA through its brokerage platform have been either proprietary funds or funds of mutual fund families whose affiliates made revenue sharing payments to AEFA.

The Preferred Provider Program

7. In January 2001, AEFA created the Preferred Provider program, which was designed to promote the sale of preferred mutual fund families. AEFA required these mutual fund families to pay revenue sharing in order to gain access to the benefits of the Preferred Provider program. With the exception of one outside fund family and the AXP Funds, AEFA offered on its brokerage platform only mutual fund families whose affiliates paid revenue sharing.

8. The Preferred Provider program consisted of three sub-programs: (1) Strategic Partner program; (2) Preferred Partner program; and (3) Other Partner program. AEFA defined the Strategic Partners as mutual fund families whose affiliates paid maximum revenue sharing, provided marketing support to AEFA’s financial advisors and agreed to distribute AEFA products on their distribution channels. AEFA defined the Preferred Partners as mutual fund families whose affiliates paid maximum revenue sharing, provided marketing support to AEFA’s financial advisors, offered a broad range of mutual funds and had “good performance” ratings. Finally, AEFA defined the Other Partners as mutual fund families whose affiliates paid some revenue sharing, but received no special access to AEFA’s financial advisors.

9. For participation in the Preferred Provider program, AEFA required affiliates of the Strategic Partner and Preferred Partner mutual fund families to pay average revenue sharing at a target level of 15 basis points (“bps”)³ calculated as a percentage of a particular fund family’s total assets. AEFA required affiliates of the Other Partner

³ A “basis point” is one one-hundredth of one percent.

mutual fund families to pay average revenue sharing at a target level of 10 bps on total assets. At the request of the fund families, AEFA accepted the payment of directed brokerage commissions through “step-outs” from several mutual fund families that participated in the program in satisfaction of all or a portion of their revenue sharing obligations.

10. AEFA offered several benefits and incentives to the mutual fund families that participated in the Preferred Provider program. AEFA allowed both the Strategic Partner and Preferred Partner fund families to contact AEFA’s financial advisors through e-mail, telephone, private meetings and the distribution of sales literature. On occasion, affiliates of the Preferred Partner and Strategic Partner fund families paid for certain of the financial advisors’ marketing costs by co-sponsoring client marketing events for AEFA’s brokerage customers. AEFA also gave the Strategic Partners and Preferred Partners exclusive access to its financial advisors at conferences. At these conferences, Strategic Partner and Preferred Partner mutual fund families provided speakers who interacted with AEFA’s financial advisors and provided training on their products and investment strategies.

The Select Group Program

11. In June 2003, AEFA replaced the Preferred Provider program with the Select Group program, which is currently operating. The Select Group program consists of three sub-programs: (1) Select Group; (2) Associate Group; and (3) Other Group. Similar to the Preferred Provider program, with the exception of one outside fund family and AXP Funds, AEFA exclusively offers and sells mutual fund families on its brokerage platform whose affiliates pay revenue sharing as part of the Select Group program.

12. The Select Group consists of eleven non-proprietary fund families and the AXP Funds. In exchange for receiving revenue sharing payments at a target level of 25 bps on sales and 20 bps on assets as a percentage of total assets, AEFA gives members of the Select Group preferential marketing treatment.

13. AEFA permits participating fund families in the Select Group to contact and distribute sales literature to AEFA’s financial advisors and participate in AEFA’s conferences. AEFA also gives the Select Group fund families the opportunity to invite financial advisors to their due diligence meetings. Similar to the Preferred Provider program fund families, on occasion, affiliates of the Select Group fund families pay for certain of the financial advisors’ marketing costs by co-sponsoring client marketing events for AEFA’s brokerage customers.

14. The Associate Group consists of nine fund families whose affiliates make revenue sharing payments at a target level of 15 bps on assets as a percentage of total assets. AEFA receives lower revenue sharing on behalf of the Associate Group members than on behalf of Select Group members, and in return gives them less marketing access and visibility with AEFA’s financial advisors.

15. AEFA provides the Associate Group with access to its financial advisors, authorizes the Associate Group to contact and distribute sales literature to AEFA's financial advisors and permits the Associate Group to participate in AEFA's conferences.

16. AEFA collects from affiliates of the Other Group mutual fund families revenue sharing payments at a target level of approximately 10 bps on assets as a percentage of total assets. AEFA does not provide the Other Group with preferential marketing treatment.

**Financial Incentives Received By AEFA, Its Employees
And Its Financial Advisors**

17. AEFA provided financial incentives to its financial advisors to promote the sale of fund families that participated in the Preferred and Select Group programs over other mutual fund families whose affiliates did not pay revenue sharing, primarily through the reduction of ticket charges to the financial advisors for sales of the participating fund families.

18. Beginning in the fall of 2000, AEFA started requiring many of its financial advisors to pay ticket charges for sales of non-proprietary mutual fund transactions. These ticket charges ranged from \$15 to \$85 per transaction for sales of non-proprietary mutual funds.⁴ From this time through June 30, 2003, AEFA did not assess ticket charges on sales of its proprietary funds. Starting in January 2001, AEFA waived portions of the ticket charges for all fund families participating in the Preferred Provider program. From January 1, 2001 to June 30, 2003, AEFA waived several million dollars in ticket charge expenses for the sale of Preferred and Strategic Partner fund families.

19. In addition, in approximately August 2002, AEFA offered the fund families participating in its Preferred Provider program the opportunity to subsidize financial advisors' ticket charges for sales of their mutual funds. Affiliates of two fund families agreed to subsidize ticket charges relating to all sales of their mutual funds. At this time, sales of these two fund families significantly increased. The affiliates of these two fund families stopped subsidizing ticket charges for sales of their mutual funds in June 2003 when the Select Group program was formed.

20. Beginning with the creation of the Select Group program in June 2003, AEFA, pursuant to the terms of the Select Group program agreements, began waiving or reducing ticket charges in connection with certain transactions.

21. Ticket charges under both the Preferred Provider and Select Group programs promoted the sale of mutual fund families whose affiliates paid the highest revenue sharing. Affiliates of the Preferred Provider and Select Group fund families paid the highest revenue sharing and thus these fund families received the benefit of the lowest ticket charges per transaction.

⁴ For systematic investments, AEFA's ticket charges were significantly lower, starting at \$2.50 per transaction.

22. AEFA also imposed higher ticket charges for sales of fund families whose affiliates did not pay revenue sharing. For example, in 2002, AEFA increased the ticket charges for transactions in one non-proprietary fund family whose affiliates did not pay cash or non-cash revenue sharing by increasing the ticket charge for transactions in this fund family to \$85 per transaction. Historically, this fund family was one of the top selling non-proprietary fund families at AEFA. Although AEFA disclosed that it may charge its financial advisors between \$0 and \$85 per transaction, AEFA did not disclose that only sales of this particular fund family were subject to a ticket charge as high as \$85. After AEFA increased the ticket charge on this fund family, its sales significantly decreased.

AEFA Did Not Adequately Disclose Its Revenue Sharing Programs To Its Customers

23. AEFA did not make adequate disclosures to its brokerage customers relating to its receipt of revenue sharing payments from the inception of the program through approximately August 2004. Instead, AEFA relied on incomplete disclosures in its brokerage application, in some of its brochures and in the prospectuses and Statements of Additional Information (“SAIs”) of the mutual fund families that participated in the Preferred Provider and Select Group programs to disclose its revenue sharing practices. Although the mutual fund families’ prospectuses and SAIs contained various disclosures concerning payments to broker-dealers distributing their funds, many of these documents did not adequately disclose the source and the amount of the revenue sharing payments to AEFA and the dimensions of the resulting conflicts of interest.

24. None of the disclosures made by the participating mutual fund families indicated that many of AEFA’s financial advisors were given financial incentives of paying reduced or no ticket charges for the sale of Preferred, Strategic, Select and Associate fund families at AEFA or that those financial advisors did not receive similar incentives for the sales of fund families that did not pay revenue sharing.

25. Moreover, these disclosures did not disclose the conflict of interest created by AEFA’s selection of mutual fund families for participation in its distribution system based in part on the financial incentives provided to AEFA, including in some cases, the receipt of payments for distribution of fund shares through “step-outs.” Until 2004, none of AEFA’s disclosures adequately described the conflict of interest created by the varying levels of access that fund families had to AEFA’s distribution system, based in part on the varying levels of revenue sharing paid on behalf of these preferred fund families.

26. In April 2003, AEFA began disclosing that it assessed different ticket charges to different classes of mutual fund families in its financial advisory services brochure (“ADV Brochure”). AEFA also began disclosing in its ADV Brochure that AEFA’s financial advisors have financial incentives for selling certain select mutual funds, including paying different or no ticket charges for sales of certain mutual funds and the general ranges of the ticket charges. Prior to this disclosure, AEFA did not disclose

AEFA's and its financial advisors' conflicts of interests related to sales of certain mutual fund families.

27. In August 2003, with the implementation of the Select Group program, AEFA disclosed in its brokerage applications that, in exchange for certain benefits, such as broader access to AEFA's financial advisors, affiliates of certain fund families in the Select Group program are required to pay AEFA for participation in the program by sharing with AEFA a portion of the revenue generated from the sales of fund shares. AEFA also disclosed that certain fund families in the Select Group program have the ability to provide AEFA's financial advisors with educational and training materials and sales and product support and that ticket charges may be eliminated on sales of certain funds participating in the Select Group program. AEFA disclosed that these factors may lead a financial advisor to recommend a fund family from the Select Group over another fund family. However, AEFA did not disclose that it received significant amounts of revenue sharing payments on behalf of the Associate Group or the Other Group or the source and amount of the payments made on behalf of any fund families participating in the Select Group program.

28. In April 2004, AEFA further expanded the disclosures in one of its brochures, "An Investor's Guide to Purchasing Mutual Funds Through American Express Financial Advisors," to list all of the mutual fund families on behalf of whom AEFA received revenue sharing payments, including the Select Group, Associate Group and Other Group fund families, and the maximum amount of revenue sharing AEFA received on behalf of these fund families. In August 2004, AEFA disclosed all of this information in its ADV Brochure, brokerage application, brokerage customer account statements and confirmations.

AEFA's 529 College Savings Plan Sales And Disclosures

29. Since 2001, AEFA has offered and sold interests in 529 college savings plans to its customers. Offers and sales of interests in 529 plans are municipal securities transactions.

30. AEFA currently has selling agreements with 9 mutual fund companies to sell interests in 529 plans that they administer. AEFA promotes only the 529 plans of the Select Group program fund families that offer 529 plans and whose affiliates pay AEFA revenue sharing.

31. From October 2003 to the present, AEFA has not disclosed in confirmations of its sales of interests in 529 plans, the revenue sharing payments that AEFA receives from the sale of 529 plans. Starting in November 2004, AEFA began disclosing the financial incentives it receives from the sale of interests in 529 plans in its brochure *An Investor's Guide to Purchasing 529 Plans Through AEFA Financial Advisors*.

32. Based on the conduct described above, AEFA willfully⁵ violated:

a. Section 17(a)(2) of the Securities Act, which provides that it is “unlawful for any person in the offer or sale of any securities . . . by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly . . . to obtain 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;”

b. Rule 10b-10 under the Exchange Act, which provides in pertinent part that it is “unlawful for any broker or dealer to effect for or with an account of a customer any transaction in, or to induce the purchase or sale by such customer of, any security . . . unless such broker or dealer, at or before completion of such transaction, gives or sends to such customer written notification disclosing . . . the source and amount of any other remuneration received or to be received by the broker in connection with the transaction;” and

c. Section 15B(c)(1) of the Exchange Act, which provides that “[n]o broker, dealer, or municipal securities dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any municipal security in contravention of any rule of the [Municipal Securities Rulemaking] Board.”

33. By virtue of its sales of interests in 529 college savings plans, as described above, AEFA violated Municipal Securities Rulemaking Board (“MSRB”) Rule G-15, which requires a broker or dealer to send or give a written confirmation to its customer, at or before the completion of a municipal securities transaction, that discloses, among other things, either: “(A) the source and amount of any remuneration received or to be received . . . by the broker [or] dealer . . . in connection with the transaction from any person other than the customer, or (B) a statement indicating whether any such remuneration has been or will be received and that the source and amount of such other remuneration will be furnished upon written request of the customer.”

Undertakings

34. AEFA undertakes the following⁶:

a. AEFA shall place and maintain on the mutual fund page of its public website within 15 days of the date of entry of this Order disclosures regarding its Select Group program to include: (i) the existence of the program; (ii) the mutual

⁵ “Willfully” as used in this Order means intentionally committing the act which constitutes the violations. See Wonsover v. SEC, 205 F.3d 408, 414 (D.C. Cir. 2000); Tager v. SEC, 344 F.2d 5, 8 (2d Cir. 1965). There is no requirement that the actor also be aware that he is violating one of the Rules or Acts.

⁶ The undertakings and sanctions set forth herein shall be binding upon all successors to Respondent, and any affiliate of Respondent to the extent the matters described herein (including the disclosure or collection of revenue sharing payments for Respondent) are delegated to such affiliate.

fund families participating in the program; (iii) the amount of revenue sharing payments that AEFA receives from each of the program's fund families in connection with the fund families' participation in the program based on a reasonable estimate from historical experience, expressed in basis points or dollars; (iv) the total amount of revenue sharing payments (expressed in dollars) that AEFA receives annually, starting with the amount received in 2004 and updated each year thereafter; and (v) the source of such payments (fund assets, adviser, distributor, underwriter, etc.).

b. AEFA shall place and maintain on the college savings program portion of its public website within 15 days of the date of entry of this Order disclosures regarding its Select Group program to include: (i) the existence of the program; (ii) an identification of the Select Group program fund families that pay AEFA revenue sharing for sales of 529 plans; (iii) the amount of revenue sharing payments that AEFA receives from each of these fund families based on a reasonable estimate from historical experience, expressed in basis points or dollars; (iv) the total amount of revenue sharing payments (expressed in dollars) that AEFA receives annually, starting with the amount received in 2004 and updated each year thereafter; and (v) the source of such payments (fund assets, adviser, distributor, underwriter, etc.).

c. AEFA shall send the information contained in paragraphs a. and b. above: (i) to its current customers beginning 120 days following the date of entry of this Order in the customers' next statement issued by AEFA, or in a stand-alone mailing to 529 plan customers for whom AEFA does not send regular statements; and (ii) to new customers upon the opening of an account.

d. AEFA shall devise and implement by December 31, 2005 a policy and set of procedures reasonably designed to ensure that AEFA is complying with its disclosure obligations under this Order, the federal securities laws and the MSRB rules. The policy and procedures shall also ensure that all statements made on AEFA's public website, in its ADV brochure and in any other documents provided to customers comply with this Order, the federal securities laws and the MSRB rules and are otherwise not misleading.

e. AEFA shall devise and implement by December 31, 2005 a policy and set of procedures to conduct comprehensive reviews of all prospectuses and SAIs issued by the Select Group program fund families on a regular basis reasonably designed to ensure that AEFA is in compliance with this Order, the federal securities laws and the MSRB rules.

f. AEFA shall devise and implement by December 31, 2005 a policy and set of procedures for training its financial advisors regarding the disclosure of financial incentives that AEFA and its financial advisors receive from each of the Select Group program fund families.

g. At least once every year, starting in 2005, AEFA shall make presentations to its Board of Directors (or any committee designated by the Board of Directors to perform similar functions) including an overview of AEFA's revenue sharing arrangements, the policies and procedures AEFA is required to devise and implement under this Order, any material changes to these policies and procedures, the amount of revenue sharing AEFA has received during that year and whether AEFA's receipt and disclosure of revenue sharing payments are in compliance with this Order, the federal securities laws and the MSRB rules.

35. *Independent Distribution Consultant.* AEFA shall retain, within 60 days of the date of entry of this Order, the services of an Independent Distribution Consultant not unacceptable to the staff of the Commission. AEFA shall exclusively bear all costs, including compensation and expenses, associated with the retention of the Independent Distribution Consultant. AEFA shall cooperate fully with the Independent Distribution Consultant and shall provide the Independent Distribution Consultant with access to its files, books, records, and personnel as reasonably requested for his or her review. AEFA shall develop a Distribution Plan for the distribution of all of the disgorgement and civil penalties ordered in Section IV.C. below, and any interest or earnings thereon, in accordance with a methodology developed in consultation with the Independent Distribution Consultant and acceptable to the staff of the Commission. The Distribution Plan shall address how the monetary sums attributable to AEFA's receipt of revenue sharing shall be distributed to benefit customers of AEFA that purchased mutual fund families from the Preferred Provider and Select Group programs between January 1, 2001 and August 31, 2004.

a. AEFA shall submit the Distribution Plan to the Independent Consultant and the staff of the Commission no more than 120 days after the date of entry of this Order.

b. The Distribution Plan shall be binding unless, within 180 days after the date of entry of this Order, the staff of the Commission advises AEFA and the Independent Distribution Consultant, in writing, of any determination or calculation from the Distribution Plan that it considers to be inappropriate and states in writing the reasons for considering such determination or calculation inappropriate.

c. With respect to any determination or calculation with which AEFA, the Independent Distribution Consultant or the staff of the Commission do not agree, such parties shall attempt in good faith to reach an agreement within 210 days of the date of entry of this Order. In the event that AEFA, the Independent Distribution Consultant and the staff of the Commission are unable to agree on an alternative determination or calculation, the determinations and calculations of the Independent Distribution Consultant shall be binding.

d. Within 225 days of the date of entry of this Order, AEFA shall submit the Distribution Plan for the administration and distribution of disgorgement and

penalty funds pursuant to Rule 1101 [17 C.F.R. § 201.1101] of the Commission's Rules Regarding Disgorgement and Fair Fund Plans. Following a Commission order approving a final plan of disgorgement, as provided in Rule 1104 [17 C.F.R. § 201.1104] of the Commission's Rules Regarding Disgorgement and Fair Fund Plans, AEFA shall require the Independent Distribution Consultant, with AEFA, to take all necessary and appropriate steps to administer the final plan for distribution of disgorgement and penalty funds.

e. To ensure the independence of the Independent Distribution Consultant, AEFA: (i) shall not have the authority to terminate the Independent Distribution Consultant, without the prior written approval of the Commission's staff; (ii) shall compensate the Independent Distribution Consultant and persons engaged to assist the Independent Distribution Consultant for services rendered pursuant to this Order at their reasonable and customary rates; and (iii) shall not be in and shall not have an attorney-client relationship with the Independent Distribution Consultant and shall not seek to invoke the attorney-client privilege or any other doctrine or privilege to prevent the Independent Distribution Consultant from transmitting any information, reports or documents to the Commission or the Commission's staff.

f. AEFA shall require that the Independent Distribution Consultant, for the period of the engagement and for a period of two years from completion of the engagement, not enter into any employment, consultant, attorney-client, auditing or other professional relationship with AEFA, or any of its present or former affiliates, parent companies, directors, officers, employees, or agents acting in their capacity as such, provided, however, that notwithstanding the foregoing the Independent Distribution Consultant may serve as Independent Distribution Consultant pursuant to the Order Instituting Administrative and Cease-and-Desist Proceedings, Making Findings and Imposing Remedial Sanctions and a Cease-and-Desist Order in the matter of American Express Financial Corporation. AEFA shall require that any firm with which the Independent Distribution Consultant is affiliated in performance of his or her duties under the Order not, without prior written consent of a majority of the independent Trustees or Directors and the staff of the Commission, enter into any employment, consultant, attorney-client, auditing or other professional relationship with AEFA, or any of its present or former affiliates, parent companies, directors, officers, employees, or agents acting in their capacity as such for the period of the engagement and for a period of two years after the engagement.

36. For good cause shown, and upon a timely application from AEFA or the Independent Distribution Consultant, the Commission's staff may extend any of the procedural dates set forth above.

IV.

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

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

- A. AEFA is censured.
- B. AEFA shall cease and desist from committing or causing any violations and any future violations of Section 17(a)(2) of the Securities Act, Section 15B(c)(1) of the Exchange Act and Rule 10b-10 thereunder and MSRB Rule G-15.
- C. IT IS FURTHER ORDERED that:
 1. AEFA shall, within 60 days of the entry of this Order, pay disgorgement plus prejudgment interest in the total amount of \$15 million ("Disgorgement"). AEFA also shall, within 60 days of the entry of this Order, pay a civil monetary penalty in the amount of \$15 million ("Penalties"). Such payments shall be: (A) made by United States postal money order, certified check, bank cashier's check or bank money order; (B) made payable to the Securities and Exchange Commission; (C) hand-delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Alexandria, Stop 0-3, VA 22312; and (D) submitted under cover letter that identifies AEFA as a Respondent in these proceedings, the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to Merri Jo Gillette, Division of Enforcement, Securities and Exchange Commission, 175 West Jackson Blvd., Suite 900, Chicago, Illinois 60604.
 2. There shall be, pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, a Fair Fund established for the funds described in Section C. Regardless of whether any such Fair Fund distribution is made, amounts ordered to be paid as 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, AEFA agrees that it shall not, after offset or reduction in any Related Investor Action based on AEFA's payment of disgorgement in this action, further benefit by offset or reduction of any part of AEFA's payment of Penalties in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, AEFA agrees that it 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 United States Treasury or to a Fair Fund, as the Commission directs. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the Penalties imposed in this proceeding. For purposes of this

paragraph, a “Related Investor Action” means a private damages action brought against AEFA 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. AEFA shall comply with the undertakings enumerated in Section III. 34 through 36.

By the Commission.

Jonathan G. Katz
Secretary