UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 102224 / January 17, 2025

INVESTMENT ADVISERS ACT OF 1940
Release No. 6825 / January 17, 2025

ADMINISTRATIVE PROCEEDING
File No. 3-22422

In the Matter of **LPL Financial LLC** **Respondent.**	**ORDER INSTITUTING ADMINISTRATIVE AND CEASE-AND-DESIST PROCEEDINGS, PURSUANT TO SECTIONS 15(b) AND 21C OF THE SECURITIES EXCHANGE ACT OF 1934 AND SECTION 203(e) 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 Section 203(e) of the Investment Advisers Act of 1940 ("Advisers Act"), against LPL Financial LLC ("LPL" 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 Section 203(e) 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 finds that:

Summary

1. From at least May 2019 through December 2023 (the "Relevant Period"), LPL Financial LLC ("LPL"), a dually registered investment adviser and broker-dealer, failed to follow its own anti-money laundering ("AML") policies and procedures ("AML Policies") regarding its Customer Identification Program ("CIP") and ongoing customer due diligence obligations.

2. Among other problems, LPL failed to properly verify new accounts; failed to timely close accounts that did not pass its CIP screening measures; and failed to close or restrict certain accounts, such as cannabis-related and foreign accounts, that were prohibited under LPL's AML Policies.

3. As a result of these failures, LPL willfully violated its obligations under Section 17(a) of the Exchange Act and Rule 17a-8 thereunder, which require broker-dealers to comply with reporting, recordkeeping, and record retention requirements in regulations implemented under the Bank Secrecy Act, including the customer identification program rule (31 C.F.R. § 1023.220, the "CIP Rule") and the ongoing customer due diligence requirements (31 C.F.R. § 1023.210(b)(5), "Ongoing CDD") of the AML program rule (31 C.F.R. § 1023.210, the "AML Program Rule").

Respondent

4. **LPL Financial LLC**, a California limited liability company with its principal office in Fort Mill, South Carolina, has been registered with the Commission as a broker-dealer since 1973 and an investment adviser since 1975. In 2021, LPL was subject to a settled Order with the Commission, which found LPL to have willfully violated Section 17(a) of the Exchange Act and Rule 17a-8 thereunder, and which ordered LPL to cease and desist from committing or causing any violations, and any future violations, of Section 17(a) and Rule 17a-8 of the Exchange Act; imposed a $750,000 penalty; and deemed disgorgement satisfied by LPL's payment of $3.3 million plus interest in a related private action. In May 2015 and October 2018, LPL was also subject to two FINRA actions involving certain AML program failures.

Background

5. On April 29, 2003, the Commission and the Treasury Department jointly issued the CIP Rule. The CIP Rule is designed to prevent use of the securities industry for money laundering and terrorist financing and requires broker-dealers to make and keep records related to the identification of its customers and to "establish, document, and maintain a written CIP appropriate for the broker-dealer's size and business…" 31 C.F.R. § 1023.220(a)(1). As part of its written CIP, a broker-dealer must generally collect, at a minimum, basic information about each of its customers, including each customer's name, date of birth, address, and identification number. 31 C.F.R. § 1023.220(a)(2)(i).

6. The CIP must include risk-based procedures for verifying the identity of each customer, to the extent reasonable and practicable, to enable the broker-dealer to form a reasonable belief that it knows the true identity of each customer. 31 C.F.R. § 1023.220(a)(2).

7. The broker-dealer's CIP also must include procedures for making and maintaining records of the customer's identifying information and its verification of the customer's identity. 31 C.F.R. § 1023.220(a)(3).

8. Under the Ongoing CDD requirements of the AML Program Rule for broker-dealers, broker-dealers must adopt "[a]ppropriate risk-based procedures for conducting ongoing customer due diligence," which include (but are not limited to) "[u]nderstanding the nature and purpose of customer relationships for the purpose of developing a customer risk profile" and "[c]onducting ongoing monitoring to identify and report suspicious transactions and, on a risk basis, to maintain and update customer information." 31 C.F.R. § 1023.210(b)(5).

9. Rule 17a-8, which was promulgated under Section 17(a) of the Exchange Act, requires broker-dealers to comply with the reporting, recordkeeping and record retention requirements in regulations implemented under the Bank Secrecy Act, including the CIP Rule and the Ongoing CDD requirements of the AML Program Rule.

Facts

10. According to the 2023 Form 10-K of LPL Financial Holdings Inc., the parent company of LPL, LPL and its affiliates serve the advisor-mediated marketplace as the nation's largest independent broker-dealer, an investment advisory firm, and a custodian. LPL is a broker-dealer that clears and settles customer transactions. As of November 2024, LPL had approximately 9,000 employees. As of September 2024, LPL had approximately 2.2 million customer brokerage accounts holding approximately $307 billion in value.

A. LPL's Policies and Procedures for Identification and Verification of Account Holders

11. During the Relevant Period, when a customer opened a new brokerage account, LPL's AML Policies required LPL to collect certain information, including the account holder's a) full name; b) mailing address and residence address (or principal place of business for persons other than an individual); c) date of birth (for individuals); d) country of citizenship; and e) social security number or tax identification number (or, in the case of a non-resident alien, a passport number and the name of the country that issued the passport).

12. LPL sent the information that it obtained from customers to a third-party vendor to conduct an overnight screening process to help LPL determine whether it had obtained information sufficient to support a reasonable belief that it knew the customer's true identity. The vendor's screening provided LPL with a Customer Verification Index, which was based on the vendor's ability to independently confirm the customer's first and last name, address, date of birth, and social security number or tax identification number. The screening also flagged additional risk factors, such as whether the social security number had been reported as deceased or the address matched a prison address. If the screening failed to confirm key elements of the

customer's identity, or if it flagged certain risk factors, the account was deemed by LPL not to have passed CIP.

13. Throughout the Relevant Period, account restrictions were placed on accounts with unresolved CIP issues, as required by LPL's AML Policies. These restrictions included asset freezes, which prevented account holders from taking assets out of the account, and trading restrictions, which prevented account holders from trading in the account.

14. From at least May 2019 to December 17, 2020, LPL's AML Policies did not specify a timeframe for the account closure processes after a customer failed CIP verification. On December 18, 2020, LPL updated its AML Policies to specify that for accounts that had not passed CIP, if verification was still unsuccessful after 60 days, the account closure process should begin.

15. Throughout the Relevant Period, after an account was restricted, LPL's registered representatives could seek to resolve the CIP issues on behalf of the account holders. As part of this process, a registered representative could call the LPL service team, which was part of the Service, Trading, and Operations Department, to request that a service team member lift the restrictions on the account. Upon receiving this call from the registered representative, the service team member was supposed to triage the issue, perform research, and communicate to the registered representative the outstanding documentation needed to try to resolve the CIP failure. In practice, however, this restriction-lifting process was in numerous cases conducted while the service personnel team member was still on the call with the registered representative, lifting the restrictions without the CIP failure being resolved.

16. Several times during the Relevant Period, LPL's Internal Audit flagged LPL's restriction-lifting process as problematic. For example, a May 2019 email described a prior finding by LPL's Internal Audit that the current process "allows placing, lifting or editing of restrictions with no reporting or audit trail. There is not an effective way to capture reasons for restrictions being placed or modified and anyone with access can modify restrictions freely with no second check review. This can result in restrictions being removed in error allowing for unauthorized account activity." Nevertheless, the finding remained on the list of "past due" remediation items as late as February 1, 2022.

B. LPL's Failure to Follow Its AML Policies Regarding CIP

17. The CIP Rule requires LPL to "include procedures for making and maintaining a record of all information obtained under procedures implementing [LPL's CIP]." 31 C.F.R. § 1023.220(a)(3). The records are required to be retained for five years. 31 C.F.R. § 1023.220(a)(3)(ii).

18. LPL's AML Policies did not describe what CIP information should be retained or how to retain the screenings performed. Furthermore, there was not a consistent way to track the CIP information received by the service team when LPL registered representatives contacted them. Instead, service personnel used ad hoc methods to record CIP information received from the customers or the reasons why restrictions had been lifted. This information, when it was recorded, was typed by the service personnel into an internal LPL system connected with the

account. The notes were not maintained in any back-end system, and there were instances where the notes taken by the service personnel were vague or incomplete. The lack of a consistent approach led to failures to retain records as required by LPL's AML Policies.

19. The CIP Rule further requires broker-dealers to adopt "procedures for responding to circumstances in which the broker-dealer cannot form a reasonable belief that it knows the true identity of a customer," including a description of "[w]hen the broker-dealer should close an account after attempts to verify a customer's identity fail." 31 C.F.R. § 1023.220(a)(2)(iii)(C).

20. As noted above, from at least May 2019 to December 17, 2020, LPL's AML Policies stated that an account that failed CIP should be closed; however, LPL's AML Policies did not provide instructions for when or how this should occur. As a result, during this time period, accounts that had not passed CIP were not closed in violation of LPL's AML Policies. On December 18, 2020, LPL revised its AML Policies to specify that activity would be restricted on accounts that had not passed CIP. LPL personnel had 60 days to form a reasonable belief of the true identity of the account holder. If LPL collected information sufficient to establish reasonable belief, service personnel could lift the restrictions. After 60 days, if LPL still did not have information sufficient to form a reasonable belief of the true identity of the account holder, the account closure process should begin.

21. In practice, even after revising the AML Policies, LPL did not have a process for initiating the account closure process for accounts that still had insufficient information about the identity of the account holders after 60 days. This led to thousands of accounts that had failed LPL's CIP but remained open after 60 days, in violation of LPL's AML Policies. For example, on October 12, 2022, LPL identified 7,356 accounts that had not passed CIP but were allowed to remain open past 60 days, despite the AML Policies' requirement to close such accounts after a 60-day period.

22. LPL's AML Policies required LPL to obtain information sufficient to form a reasonable belief of the true identity of the account holder before lifting restrictions on the account.

23. In a review of its practices, LPL found that LPL's service personnel lacked proper knowledge and training regarding CIP issues. In addition, service personnel often did not have the most up-to-date resource documents available, and thus their knowledge of LPL's CIP policy requirements was outdated. Moreover, there were limited oversight procedures for reviewing CIP-related restrictions to determine that the underlying CIP issue was truly resolved. As a result, LPL service personnel lifted restrictions despite not having adequately resolved the CIP issues for the account.

24. Because of LPL's CIP recordkeeping failures described above, LPL could not determine how many accounts had restrictions that were lifted improperly. However, during the Relevant Period, LPL conducted monthly CIP AML assurance reviews, which analyzed a sampling of restrictions that had been lifted. These monthly reviews routinely found instances where restrictions had been removed from accounts even though CIP risk factors had not been cleared. Despite the issues discovered in these reviews, LPL failed to address the underlying problems with the company's CIP.

25. As a result of the above, and in violation of its AML Policies, LPL failed to document accurately its CIP procedures.

C. LPL's Failure to Follow Its AML Policies Regarding the Closure of Prohibited Accounts

26. As further described below, LPL failed to close certain higher-risk accounts that its AML Policies had deemed prohibited.

27. As early as May 2019, LPL's AML Policies prohibited LPL from "doing business with any person or entity involved with marijuana [cannabis] production, distribution or other ancillary operations." The policy applied to "new accounts established for such entities or persons" and noted that "[e]xisting accounts that are discovered after the fact to be involved in such activities will be addressed on a case by case basis."

28. Despite the policy prohibiting doing business with any person or entity involved, either on a direct or ancillary basis, with cannabis production or distribution, LPL nevertheless permitted numerous cannabis-related accounts to be opened and remain open for years. As of February 2023, approximately 1,400 accounts holding approximately $350 million in assets were deemed inconsistent with LPL's AML Policies regarding cannabis-related businesses.

29. Since at least May 2019, LPL's AML Policies also prohibited opening or maintaining accounts with customers in certain foreign countries and directed employees to LPL's Foreign Accounts Policy for further guidance. The Foreign Accounts Policy, incorporated by reference into LPL's AML Policies, significantly limited the circumstances under which accounts in foreign jurisdictions could be opened or serviced, absent a formal exception.

30. The Foreign Accounts Policy designated only one country, Mexico, as an "open jurisdiction" where LPL financial professionals were permitted to solicit new business as well as service accounts. The policy provided a list of countries designated as "maintain jurisdictions" where existing accounts were allowed to be serviced, but financial professionals were prohibited from soliciting or establishing new business. All other countries were "closed jurisdictions" where accounts could not be opened or serviced, absent a formal exception.

31. In violation of its Foreign Accounts Policy, LPL opened and serviced accounts in "closed jurisdictions" and allowed numerous accounts to be opened in "maintain jurisdictions."

32. As early as 2019, LPL was aware of these violations of its Foreign Accounts Policy. LPL's Internal Audit issued a January 13, 2020 report with an overall rating of "Major Improvements Needed" regarding LPL's supervision of foreign accounts. The report noted that LPL "lacks the ability to monitor and manage the risk(s) associated with each Foreign Account, as well as the ability to implement an ongoing monitoring process" and that a "formal, standardized process for granting exceptions" to the Foreign Accounts Policy [had] not been established, documented and communicated." Nevertheless, in spite of these risks, "LPL continue[d] to service over 4000 [foreign accounts for customers residing] in 84 countries around the world, of which over 90% of U.S. Expatriates reside in Closed Jurisdictions."

33. Despite repeated internal audits and assessments noting the failures these areas, LPL continued to service cannabis accounts and foreign accounts in violation of LPL's AML Policies and Foreign Accounts Policy regarding these accounts.

34. As a result of the above, and in violation of LPL's AML Policies and Foreign Accounts Policy, LPL failed to document accurately its Ongoing CDD procedures.

Violations

35. As a result of the conduct described above, LPL willfully[1] violated Section 17(a) of the Exchange Act and Rule 17a-8 thereunder.

LPL's Remedial Efforts

36. In determining to accept the Offer, the Commission considered remedial acts undertaken by LPL and cooperation afforded the Commission staff.

37. In early 2023, after the Commission staff began its investigation and contacted LPL regarding these issues, LPL retained a third-party compliance consultant ("Compliance Consultant") to conduct a review and assessment of its policies, procedures, and practices related to CIP and customer due diligence, and to provide findings and recommendations to LPL (the "Compliance Review"). The Compliance Consultant identified numerous issues with the relevant policies, procedures, and practices related to LPL's CIP and customer due diligence (the "Findings") and provided recommendations to LPL for each. LPL has taken steps to execute the Compliance Consultant's recommendations.

38. LPL has also made changes to its leadership and organization since the start of the Commission's investigation, including the appointment of new personnel in key legal and compliance roles. LPL has also increased resources allocated to its compliance program, including specifically in relation to its AML program.

Undertakings

Respondent has undertaken to:

39. Continue its retention of the Compliance Consultant to conduct a comprehensive review of LPL's CIP and customer due diligence ("CDD") policies and procedures. LPL shall exclusively bear all costs, including compensation and expenses, associated with the retention of the Compliance Consultant.

40. LPL shall require that, within forty-five (45) days after completion of the comprehensive review of LPL's CIP and CDD policies and procedures, the Compliance Consultant shall submit a detailed written report of its findings (the "Interim Report") to LPL and the Commission staff. LPL shall require that the Interim Report include a description of the

[1] "Willfully," for purposes of imposing relief under Section 15(b) of the Exchange Act and Section 203(e) of the Advisers Act, "'means no more than that the person charged with the duty knows what he is doing.'" *See 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)).

review performed, the names of the individuals who performed the review, the conclusions reached, and the Compliance Consultant's recommendations for changes in or improvements to LPL's CIP and CDD policies and procedures, and a summary of the plan prepared by LPL for implementing the recommended changes in or improvements to LPL's policies and procedures. If the Compliance Consultant's December 2023 report meets the requirements outlined in paragraphs 39 and 40, it may be re-submitted as the Interim Report. In this event, LPL shall require that the Interim Report be re-submitted within forty-five (45) days after entry of this Order.

41. LPL shall adopt all recommendations contained in the Interim Report within two-hundred (200) days of the date of submission of the Interim Report; provided, however, that within thirty (30) days after the date of submission of the Interim Report, LPL shall in writing advise the Compliance Consultant and the Commission staff of any recommendations that LPL considers to be unduly burdensome, impractical, or inappropriate. With respect to any recommendation LPL considers to be unduly burdensome, impractical, or inappropriate, LPL need not adopt that recommendation at that time but shall propose in writing an alternative policy, procedure, or system designed to achieve the same objective or purpose.

42. As to any recommendation in the Interim Report on which LPL and the Compliance Consultant do not agree, LPL shall attempt in good faith to reach an agreement with the Compliance Consultant on an alternative proposal within sixty (60) days after the date of submission of the Interim Report. Within fifteen (15) days after the conclusion of the discussion and evaluation by LPL and the Compliance Consultant, LPL shall require that the Compliance Consultant inform LPL and the Commission staff in writing of the Compliance Consultant's final determination concerning any recommendation objected to by LPL. LPL shall abide by the determinations of the Compliance Consultant and, within one hundred forty (140) days after final agreement between LPL and the Compliance Consultant or final determination of the Compliance Consultant, whichever occurs first, LPL shall adopt and implement all of the recommendations that the Compliance Consultant deems appropriate.

43. One-Year Evaluation: LPL shall require the Compliance Consultant to assess LPL's CIP and CDD programs, commencing one year after submission of the Interim Report required by Paragraph 40 above. LPL shall require this review to evaluate LPL's performance in its CIP and CDD programs. Within 90 days after initiating this review, LPL shall require the Compliance Consultant to submit a report (the "One-Year Report") to LPL and the Commission staff and shall ensure that the One-Year Report includes an updated assessment of LPL's policies and procedures with regard to its CIP and CDD programs, including but not limited to any changes implemented in connection with the Interim Report. LPL shall require that the One-Year Report include a description of the review performed, the names of the individuals who performed the review, the conclusions reached, the Compliance Consultant's recommendations for changes in or improvements to LPL's CIP and CDD policies and procedures, and a summary of the plan prepared by LPL for implementing the recommended changes in or improvements to LPL's policies and procedures.

44. LPL shall adopt all recommendations contained in the One-Year Report within one hundred eighty (180) days of the date of the One-Year Report; provided, however, that within thirty (30) days after the date of the Report, LPL shall in writing advise the Compliance

Consultant and the Commission staff of any recommendations that LPL considers to be unduly burdensome, impractical, or inappropriate. With respect to any recommendation LPL considers to be unduly burdensome, impractical, or inappropriate, LPL need not adopt that recommendation at that time but shall propose in writing an alternative policy, procedure, or system designed to achieve the same objective or purpose.

45. As to any recommendation in the One-Year Report on which LPL and the Compliance Consultant do not agree, LPL shall attempt in good faith to reach an agreement with the Compliance Consultant on an alternative proposal within sixty (60) days after the date of the One-Year Report. Within fifteen (15) days after the conclusion of the discussion and evaluation by LPL and the Compliance Consultant, LPL shall require that the Compliance Consultant inform LPL and the Commission staff in writing of the Compliance Consultant's final determination concerning any recommendation objected to by LPL. LPL shall abide by the determinations of the Compliance Consultant and, within one hundred twenty (120) days after final agreement between LPL and the Compliance Consultant or final determination of the Compliance Consultant, whichever occurs first, LPL shall adopt and implement all of the recommendations that the Compliance Consultant deems appropriate.

46. Within thirty (30) days of LPL's adoption of all the recommendations in the One-Year Report that the Compliance Consultant deems appropriate, LPL shall require the Compliance Consultant to submit a written final report to LPL and the Commission staff (the "Final Report"). The Final Report will (1) describe how LPL has adopted and implemented the Compliance Consultant's recommendations, if any, from the Interim Report and One-Year Report; (2) describe details of any areas where LPL has not adequately adopted and implemented its recommendations, if any; and (3) include a statement from the Compliance Consultant on whether there are remaining gaps between LPL's CIP and CDD policies, and LPL's implementation thereof, and applicable federal securities laws related to CIP and CDD programs that have been identified.

47. LPL shall cooperate fully with the Compliance Consultant and shall provide the Compliance Consultant with access to its files, books, records, and personnel as reasonably requested by the Compliance Consultant. For the period of the engagement, LPL shall not have the authority to terminate the Compliance Consultant or substitute another compliance consultant for the Compliance Consultant without the prior written approval of the Commission staff.

48. The reports by the Compliance Consultant will likely include confidential financial, proprietary, competitive business or commercial information. Public disclosure of the reports could discourage cooperation, impede pending or potential government investigations, or undermine the objectives of the reporting requirement. For these reasons, among others, the reports and the contents thereof are intended to remain and shall remain non-public, except (1) pursuant to court order, (2) as agreed to by the parties in writing, (3) to the extent that the Commission determines in its sole discretion that disclosure would be in furtherance of the Commission's discharge of its duties and responsibilities, or (4) as otherwise required by law.

49. LPL undertakes to certify, in writing, compliance with the undertakings set forth above. The certification shall identify the undertakings, 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 Respondent agrees to provide such evidence. The certification and supporting material shall be submitted to Stacy Bogert, Associate Director, Division of Enforcement, Securities and Exchange Commission, 100 F Street NE, Washington, D.C. 20549, with a copy to the Office of Chief Counsel of the Enforcement Division, no later than sixty (60) days from the date of the completion of the undertakings.

50. LPL shall preserve for a period of not less than six (6) years from the end of the fiscal year last used, the first two years in an easily accessible place, any record of its compliance with the undertakings set forth herein.

51. For good cause shown, the Commission staff may extend any of the procedural dates relating to the undertakings. Deadlines for procedural dates shall be counted in calendar days, except that if the last day falls on a weekend or federal holiday, the next business day shall be considered to be the last day.

IV.

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

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

A. Respondent LPL cease and desist from committing or causing any violations and any future violations of Section 17(a) of the Securities Exchange Act and Rule 17a-8 thereunder.

B. Respondent LPL is censured.

C. Respondent LPL shall, within 14 days of the entry of this Order, pay a civil money penalty of $18,000,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. §3717.

Payment must be made in one of the following ways:

(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 LPL 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 Stacy Bogert, Associate Director, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549.

D. 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, it 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 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.

E. Respondent shall comply with the undertakings described in paragraphs 39 – 51 above.

By the Commission.

Vanessa A. Countryman
Secretary