

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933

Release No. 10561 / September 27, 2018

SECURITIES EXCHANGE ACT OF 1934

Release No. 84295 / September 27, 2018

ACCOUNTING AND AUDITING ENFORCEMENT RELEASE

Release No. 3989 / September 27, 2018

ADMINISTRATIVE PROCEEDING

File No. 3-18843

In the Matter of

**PETRÓLEO BRASILEIRO
S.A. – PETROBRAS,**

Respondent.

**ORDER INSTITUTING CEASE-AND-
DESIST PROCEEDINGS PURSUANT TO
SECTION 8A OF THE SECURITIES ACT
OF 1933 AND SECTION 21C OF THE
SECURITIES EXCHANGE ACT OF 1934,
MAKING FINDINGS, AND IMPOSING A
CEASE-AND-DESIST ORDER**

I.

The Securities and Exchange Commission (“Commission” or “SEC”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”) and Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”), against Petróleo Brasileiro S.A. – Petrobras (“Petrobras “ or “Respondent” or the “Company”).

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, Respondent admits the Commission’s jurisdiction over it and the subject matter of these proceedings and the findings set forth in paragraph 43, and consents to the entry of this Order Instituting Cease-and-Desist Proceedings, Pursuant to Section 8A of the Securities Act of 1933 and Section 21C of the Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order (the “Order”), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds that:

1. This matter relates to a massive corruption scheme, perpetrated by certain former senior executives of Petrobras—a Brazilian government-controlled oil and gas company—who were appointed by the Brazilian government and who conspired with Petrobras's largest contractors and suppliers, resulting in material misstatements and omissions by Petrobras.

2. From at least 2003 to April 2012, Petrobras engaged in a large-scale expansion of its infrastructure for producing oil and gas, a matter of significant interest to investors. During the same period, certain former senior Petrobras executives described in more detail below (the "Corrupt Executives") worked with Petrobras's largest contractors and suppliers to inflate the cost of Petrobras's infrastructure projects by billions of dollars. In return, the companies executing those projects paid billions of dollars in kickbacks that typically amounted to between 1% to 3% of the contract cost to the Corrupt Executives and conspiring politicians and political parties, including the Brazilian politicians to whom the Corrupt Executives owed their jobs at Petrobras. These same executives submitted misleading documents as part of Petrobras's internal process of preparing its filings with the SEC. The overcharges caused by the kickbacks resulted in an inflation of property, plant and equipment ("PP&E") in Petrobras's financial statements, including its fiscal year 2009 financial statements that were included in its Form 20-F.

3. The same executives also engaged in other bribery schemes with companies that sought to win contracts with Petrobras or to obtain better terms for those contracts. This scheme generated millions of dollars in bribes that the Corrupt Executives used for their own benefit and for the benefit of their political patrons.

4. Petrobras failed to detect and disclose these corruption schemes.

5. As a result of the Corrupt Executives' failure to implement Petrobras's internal controls, their exploitation of deficiencies in those controls, and their submission of false certifications in connection with Petrobras's internal process for preparing its SEC filings, Petrobras made material misstatements and omissions in filings made with the Commission and in documents relating to a \$69.9 billion global public offering of equity securities in 2010, which included approximately \$10 billion in American Depositary Shares ("ADSs") in the United States, and the purpose of which was to raise funds for Petrobras's ongoing expansion of its business.

Respondent

6. Petrobras is a Brazilian government-controlled oil and gas company headquartered in Rio de Janeiro, Brazil. The vast majority of the Company's shares trade either on the New York Stock Exchange in the form of ADSs or on the São Paulo Stock Exchange, with the Brazilian government directly owning approximately 50.26% of Petrobras's common shares with voting rights, and an additional 9.87% of its common shares controlled by the Brazilian Economic and Social Development Bank as of February 28, 2018. Petrobras's common and preferred stock is registered with the Commission pursuant to Section 12(b) of the

Exchange Act and currently trades on the New York Stock Exchange in the form of ADSs under the symbols “PBR” and “PBR.A,” respectively.

7. On September 29, 2010, Petrobras issued common and preferred shares, including in the form of ADSs, in a global public offering in Brazil and an international offering, which included a registered offering in the United States. (the “2010 Offering”). The total amount of global equity issued in the 2010 offering was approximately \$69.9 billion, including approximately \$10 billion in ADSs.

Other Relevant Persons

8. **Executive 1**, a resident and citizen of Brazil, was the head of Petrobras’s Downstream Division from approximately 2004 to 2012 and a member of the Company’s Executive Board.

9. **Executive 2**, a resident and citizen of Brazil, was a high-ranking manager in Petrobras’s Services Division (later reorganized as the Engineering Division). From approximately 2004 to 2011, he reported to the Services/ Engineering Officer.

10. **Executive 3**, a resident and citizen of Brazil, was the head of Petrobras’s International Division from approximately 2004 to 2008 and a member of the Company’s Executive Board. After 2008, he was Chief Financial Officer of a Petrobras subsidiary.

11. **Executive 4**, a resident and citizen of Brazil, was the head of Petrobras’s Services/Engineering Division from approximately 2004 to 2012 and a member of the Company’s Executive Board.

12. **Executive 5**, a resident and citizen of Brazil, was the head of Petrobras’s International Division and a member of the Company’s Executive Board from approximately 2008 to 2012.

Corruption at Petrobras

13. Petrobras is overseen by a board of directors, which has the authority to hire and fire Petrobras’s division directors and other senior officers of its subsidiaries. The Brazilian government has historically appointed a super-majority of the members of this board. From at least 2003 to April 2012, prominent Brazilian politicians abused this power by appointing people of their choosing to specific executive positions, and demanding recompense from the appointees. The appointees and their co-conspirators engaged in corruption schemes that benefited themselves and their political patrons, including by diverting billions of dollars from overpriced contracts for infrastructure projects. Executive 1, Executive 2, Executive 3, Executive 4, and Executive 5 were among such appointees.

14. The Corrupt Executives who engaged in the scheme were in three of the Company’s five operating divisions: the Downstream Division, the International Division, and the Services Division.

15. The Corrupt Executives all have been convicted in Brazil of crimes related to their participation in the corruption at Petrobras. Each of the Corrupt Executives, among other things, failed to implement internal controls, and in some instances, described below, falsified the Company's books and records. The Corrupt Executives carried out the scheme in the following two ways:

A. Corruption in Petrobras's Procurement Process

16. Between approximately 2004 and 2012, some of the Corrupt Executives conspired with Brazil's large construction companies to rig hundreds of Petrobras bids in exchange for kickbacks, a portion of which they received and a portion of which was paid to politicians and political parties in Brazil including those to whom the Corrupt Executives owed their jobs.

17. In particular, the Corrupt Executives conspired with these companies to implement a cartel. The Corrupt Executives secretly ensured that the cartel companies would be selected to participate in bidding rounds for goods and services contracts with Petrobras and that they would secure contracts with Petrobras. The Corrupt Executives facilitated this by giving the cartel inside information; manipulating the bidding process for the benefit of those companies; voting to approve contracts that did not conform to Petrobras's procurement rules; and finding ways to influence the bidding process so specific companies in the cartel would win. The Corrupt Executives also helped the companies inflate the cost of Petrobras projects.

18. Pursuant to this scheme, the companies overcharged Petrobras under construction contracts and contracts to provide goods and services, and used the overpayment to fund the bribes to the Corrupt Executives and conspiring politicians and political parties. The bribes, which typically amounted to between 1% to 3% of the contract payments, ensured the continued success of their scheme. A portion of the kickbacks was shared with the Corrupt Executives' political patrons in Brazil. The corruption also caused misstatements in Petrobras's books and records because Petrobras recorded all payments made to contractors, a percentage of which was used for bribes, as money spent to acquire and improve assets.

19. One representative example of this scheme involved the construction of the Abreu e Lima Refinery in the Brazilian Northeast state of Pernambuco ("RNEST"). In or about 2005, Petrobras announced its intention to complete RNEST in 2011. In March 2007, Executive 1 obtained Executive Board authorization to accelerate the completion deadline to 2010.

20. Because the RNEST project involved multiple biddings, which required the participation of a higher number of contractors, Executive 1, Executive 2, and Executive 4 ensured that certain companies were invited to RNEST biddings. Executive 2 also shared with the cartel the final and confidential list of contractors that would be invited for the RNEST bidding processes in advance of the invitations. The list of invited contractors facilitated the cartel's coordination and rigging of the RNEST bidding processes.

21. In exchange, the winning company paid hundreds of millions of dollars – up to approximately 3% of the contract value – to Executive 1, Executive 2, and Executive 4, as well as to politicians and political parties in Brazil.

B. Other Bribery Schemes

22. The Corrupt Executives also engaged in bribery schemes with companies that sought to win contracts with Petrobras or to obtain better terms for those contracts. For example, from 2003-2014, Executive 4 took millions of dollars in bribes from two Brazilian companies in return for granting and inflating contracts for the outsourcing of Petrobras services.

23. Another example involves Petrobras's purchase of a Texas oil refinery in 2006 from a Belgium company, which had acquired the refinery for \$42.5 million in 2005. Executive 1 knew that the equipment and structures of the refinery had deteriorated, that the oil it produced did not meet Petrobras's needs, and that it would require a massive overhaul to fix the physical condition of the refinery. Nevertheless, he recommended that Petrobras purchase the refinery. In return, he received a \$2.5 million bribe, which he used for his personal benefit and passed on a portion to his political patron.

24. The Corrupt Executives perpetrated this bribery scheme for years and received millions in bribes during the relevant period.

Petrobras Reported Inflated Assets in its Financial Statements Filed with the SEC

25. Petrobras includes its financial statements in the Company's annual report on Form 20-F. The Company's Form 20-F for the 2009 fiscal year, filed with the Commission in May 2010, reported the carrying amount of the Company's PP&E. Because that carrying amount included the kickbacks from the corruption scheme at Petrobras, the reported PP&E figures were overstated. Petrobras continued to report inflated figures for its PP&E in its SEC filings until its Form 6-K for the quarter ending September 30, 2014 was filed on April 23, 2015. At that time, Petrobras wrote off \$2.527 billion of capitalized costs representing estimated overpayment amounts attributable to the kickbacks that inflated PP&E during the existence of the scheme described above.

Other Misstatements and Omissions in Petrobras's Financial Statements and Forms 20-F

26. The Form 20-F for fiscal year 2009 and subsequent Forms 20-F through fiscal year 2013 also contained various misstatements and omissions about Petrobras's assets, the integrity of its management, and its relationships with the Brazilian government and its major contractors and suppliers. For example:

- a. Petrobras disclosed that its executives were disinterested in Petrobras transactions, even though the senior executives received bribes and kickbacks in connection with most major contracts, and some received a percentage of those contracts in return for corrupting the procurement process.
- b. Petrobras disclosed that its officers and directors were selected based on their qualifications, knowledge, and specialization in their respective areas, when in fact many, including the Corrupt Executives, were hired or promoted based on a corrupt system of political patronage.

- c. Petrobras described the Brazilian government's influence over the Company as a legitimate influence of any government owner, without disclosing the patronage scheme.
- d. In the Management Discussion & Analysis section, Petrobras listed the typical risks and trends of a large, state-owned oil company, but failed to disclose the specific risks and trends associated with the corruption of its senior management and major projects.
- e. Petrobras described that its internal controls were effective, despite the deficiencies that the Corrupt Executives exploited, leading to abuse of Petrobras's procurement practices, improper payment of billions of dollars originating from Petrobras accounts, and erroneous capitalization of those payments in Petrobras's books and records.

27. Certain of the Corrupt Executives facilitated these misstatements by providing false information as part of Petrobras's internal process of preparing SEC filings.

28. For example, Executive 4 and Executive 5 certified that the Company's Form 20-F for the fiscal year 2009 did not contain materially false or misleading statements with respect to the areas for which these Executives were responsible, and that the information contained therein was accurate. Executive 4 and Executive 5 did not disclose the existence of, or their participation in, the corruption and bribery scheme.

29. Executive 1, Executive 4, and Executive 5 also provided internal control attestations for the 2009 fiscal year, certifying that they had reviewed the Petrobras internal controls under their responsibility and deemed them effective.

30. Executive 1, Executive 4, and Executive 5 also submitted Director and Officer ("D&O") questionnaires for the 2009 fiscal year solicited by Petrobras as part of the process of preparing Petrobras's Form 20-F for fiscal year 2009. Among other things, the questionnaire asked executives to provide information about any related party transactions. Executives 1, 4, and 5 failed to disclose their participation in the corruption and bribery schemes.

31. Executive 3 signed false and misleading representation letters to the Company's independent auditors on behalf of a Petrobras subsidiary whose financials were also included in the Company's Form 20-F for fiscal year 2009.

32. The Corrupt Executives' false certifications and representations led to the inclusion of false statements in the financial statements for the 2009 fiscal year and related Form 20-F, which were filed with the Commission on May 19, 2010, and incorporated by reference in the 2010 Offering documents.

33. Petrobras's Forms 20-F for fiscal years 2009-2013 included materially false and misleading information.

34. In its 2010 Offering, Petrobras issued global equity totaling approximately \$69.9 billion, including approximately \$10 billion in ADSs.

Petrobras Did Not Devise and Maintain A Sufficient System of Internal Accounting Controls

35. During the existence of the scheme described above, the Company did not maintain a system of internal accounting controls sufficient to provide reasonable assurances that transactions were recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles.

36. Despite operating in a country with a well-known history of corruption in its business and politics, Petrobras did not require employees to receive anti-corruption, anti-fraud, or compliance training. Instead, it left those matters to the discretion of individual managers like Executive 1 and Executive 4. Petrobras also did not devise any policies to prevent political interference, such as policies providing guidance and restrictions on interactions with politicians. Furthermore, despite its obligations under the Audit Committee's charter, approved on December 2005, Petrobras did not have a Chief Compliance Officer or a typical compliance function until November 2014.

37. Petrobras's procurement policies and procedures were also deficient in certain respects. The same executives had the authority to both award and approve contracts. They also could approve the amendment of contracts without review from the legal department, which only reviewed such amendments at the request of the Division Directors promoting the contracts. Although Petrobras had a detailed procurement manual, senior management consistently approved and permitted bidding and contracting outside those procedures. Bids were often conducted by *ad hoc* committees, whose membership was not controlled by corporate policy, resulting in the inclusion of inexperienced, low-ranking members who were subject to influence by executives with an interest in the outcome.

38. With respect to filling senior positions, Petrobras did not have a formal process for vetting people nominated to those posts, and did not conduct integrity screenings of its senior executives.

39. The Corrupt Executives failed to implement internal controls, exploited deficiencies in the Company's internal accounting controls, and submitted false documents in connection with Petrobras's internal process for preparing its SEC filings, resulting in both inflation of PP&E and false and misleading disclosures about the corruption scheme in Forms 20-F.

Legal Standards and Violations

40. As a result of the conduct described above, Petrobras violated Sections 17(a)(2) and 17(a)(3) of the Securities Act, which prohibit, in the offer or sale of any security (a) obtaining money or property by means of any untrue statement of a material fact or any omission of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, and (b) engaging in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser. No scienter is necessary to establish violations of Sections 17(a)(2) and 17(a)(3) of the Securities Act. *Aaron v. SEC*, 446 U.S. 680, 697 (1980).

41. As a result of the conduct described above, Petrobras violated Section 13(a) of the Exchange Act and Rules 13a-1 and 12b-20 thereunder, which require every issuer of a security registered pursuant to Section 12 of the Exchange Act to file with the Commission annual reports as the Commission may require, and mandate that these reports contain such further material information as may be necessary to make the required statements not misleading. No scienter is necessary to establish a violation of Section 13(a). *SEC v. Wills*, 472 F. Supp. 1250, 1268 (D.D.C. 1978).

42. As a result of the conduct described above, Petrobras violated Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act, which require reporting companies to make and keep books, records, and accounts which, in reasonable detail, accurately and fairly reflect their transactions and dispositions of their assets, and to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles. No scienter is necessary to establish violations of Sections 13(b)(2)(A) and 13(b)(2)(B). *SEC v. World Wide Coin Investments*, 567 F. Supp. 724, 749-51 (N.D. Ga. 1983).

Non Prosecution Agreement

43. The Company is entering into a non-prosecution agreement with the Department of Justice that specifically acknowledges and accepts responsibility for criminal conduct relating to certain findings in the Order.

Petrobras's Cooperation and Remedial Action

44. In determining to accept the Offer, the Commission considered remedial acts promptly undertaken by Petrobras and significant cooperation afforded to the Commission staff. After learning of the corruption and bribery scheme described above, Petrobras immediately cooperated with the Brazilian authorities' investigation, and has served as an Assistant to the Prosecution in 51 proceedings in Brazil. Petrobras conducted a thorough and timely internal investigation and identified significant documents for the Commission staff, translating them from Portuguese. Petrobras also provided summaries of the investigation's findings and assisted in other SEC investigations.

45. The Commission also took into consideration other significant remedial steps taken by Petrobras, including (i) amending the Company's bylaws; (ii) replacing the Board of Directors and Executive Board; (iii) limiting individual decision-making authority; (iv) creating several statutory senior manager committees tasked with reviewing, assessing, and making recommendations on matters subject to Executive Board review; (v) enhancing the Company's compliance policies and procedures; (vi) enhancing the Company's Compliance Function, including creating the Division of Governance and Compliance; (vii) providing more extensive compliance training and communications to employees; (viii) creating a new Disciplinary Committee; (ix) enhancing the Company's policies and procedures related to confidential reporting and investigations; (x) enhancing measures to ensure the Company's operations are insulated from improper political interference; (xi) enhancing controls related to procurement and contracting, including requiring enhanced integrity due diligence for prospective contractors;

and (xii) implementing a work program to mitigate the material weaknesses identified by the Company's independent auditors in 2015, which since have been eliminated in the independent auditors' 2017 report.

IV.

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

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 8A of the Securities Act and Section 21C of the Exchange Act, Respondent cease and desist from committing or causing any violations and any future violations of Sections 17(a)(2) and 17(a)(3) of the Securities Act, and Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act and Rules 13a-1 and 12b-20 thereunder.

B. Respondent shall, within one year of the date of this Order, pay to the Commission disgorgement of \$711,000,000 plus prejudgment interest of \$222,473,797, for a total payment of \$933,473,797. The amount of this obligation shall be reduced and deemed satisfied by the amount of any payment by Respondent to the class action Settlement Fund in the matter of In re Petrobras Securities Litigation, No. 14-cv-9662 (S.D.N.Y.), up to and including the entire amount of this obligation. Upon good cause shown, the Commission staff may, in its discretion, extend by up to an additional year the one-year period within which Petrobras must make payments to the class action Settlement Fund to satisfy its obligation pursuant to this Order.

C. If the resulting payments made by Petrobras to the class action Settlement Fund total less than \$933,473,797 as a result of an appeal or other modification to the class action, Petrobras shall, within one hundred eighty (180) days of the expiration of the required payment period referenced in IV.B. above, pay to the Commission the difference remaining from the outstanding amount ordered herein. The Commission will hold the disgorgement and prejudgment interest funds paid pursuant to this paragraph in an SEC-designated account at the United States Treasury pending a decision whether the Commission, in its discretion, will seek to distribute funds, or transfer them for the benefit of the claimants in the class action. If timely payment is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600.

D. Respondent shall, within one year of the date of this Order, pay a penalty in the amount of \$853,200,000 to the Commission in connection with this Order and as described in the non-prosecution agreement with the Department of Justice referenced in paragraph 43. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. §3717. Respondent shall receive a dollar-for-dollar credit up to (a) \$682,560,000 of any payment made in agreement with the Brazilian authorities as described in the non-prosecution agreement with the Department of Justice referenced in paragraph 43; and (b) \$85,320,000 of any payment required by the Respondent's resolution with the United States Department of Justice in connection with the non-prosecution agreement referenced in paragraph 43. If Respondent pays less than \$682,560,000 in agreement with the Brazilian authorities as described in sub-paragraph IV.D.(a), above, Respondent shall receive a dollar-for-dollar credit of up to half the amount that is unpaid

under that sub-paragraph (a), up to a maximum credit of \$341,280,000, for each dollar that Respondent pays to the U.S. Department of Justice in connection with the non-prosecution agreement referenced in paragraph 43; such credit shall be in addition to any credit under sub-paragraph IV.D.(b), above. Should any amount described in sub-paragraph IV.D.(a), above, be returned to Respondent, or any subsidiary of Respondent, or any entity that Respondent owns or controls, that amount will not be credited as an offset to Respondent's penalty obligation under sub-paragraph (a) and shall be due and payable to the Commission within ten days of its return, or within one year of the date of this Order, whichever is later, provided, however, that Respondent shall receive a dollar-for-dollar credit of up to half the returned amount for each dollar of that returned amount that Respondent pays to the U.S. Department of Justice in connection with the non-prosecution agreement referenced in paragraph 43; such credit shall be in addition to any credit under sub-paragraph IV.D.(b), above.

E. Payment pursuant to this Order 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 Petrobras 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 Alka Patel, Division of Enforcement, Securities and Exchange Commission, 444 S. Flower Street, Los Angeles, CA 90071.

F. Pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended, a Fair Fund is created for the disgorgement, pre-judgment interest and penalties referenced in Section IV.B-D. above for distribution to harmed investors. Regardless of whether any such Fair Fund distribution is made, 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 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 civil penalty imposed in this proceeding. For purposes of this Section, 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. Nothing in this paragraph limits Petrobras's resolution with the Brazilian authorities described in paragraph IV.D.(a), above.

G. The Commission will appoint a Fund Administrator who will develop a distribution plan (the "Plan"). The Plan will include a methodology to identify and compensate investors affected by Respondent's conduct described herein. The Fund Administrator will administer the Plan in accordance with the Commission Rules on Fair Fund and Disgorgement Plans. Respondent shall be responsible for any and all costs of the Fund Administrator associated with developing and administering the Plan. Respondent shall also be responsible for any and all tax compliance obligations associated with the Fair Fund. The costs and expenses of any such tax compliance obligations, including the payment of the fees of a tax administrator and any taxes, penalties, and interest due, shall be borne by Respondent and shall not be paid out of the Fair Fund. Any amount remaining in the Fair Fund after all distributions have been made and costs have been paid shall be transmitted to the Commission for transfer to the U.S. Treasury in accordance with Section 21F(g)(3) of the Exchange Act. Under no circumstances shall any part of the Fair Fund be returned to Respondent.

By the Commission.

Brent J. Fields
Secretary