

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES ACT OF 1933**  
**Release No. 9339 / July 18, 2012**

**INVESTMENT ADVISERS ACT OF 1940**  
**Release No. 3434 / July 18, 2012**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-14942**

**In the Matter of**

**DELAWARE ASSET  
ADVISERS and  
WEI (ALEX) WEI**

**Respondents.**

**ORDER INSTITUTING ADMINISTRATIVE  
AND CEASE-AND-DESIST PROCEEDINGS,  
PURSUANT TO SECTION 8A OF THE  
SECURITIES ACT OF 1933 AND SECTIONS  
203(e), 203(f), AND 203(k) OF THE  
INVESTMENT ADVISERS ACT OF 1940,  
MAKING FINDINGS, AND IMPOSING  
REMEDIAL SANCTIONS AND CEASE-AND-  
DESIST ORDERS**

**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 203(e) and 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”), against Delaware Asset Advisers (“DAA”) and Section 8A of the Securities Act, and Sections 203(f) and 203(k) of the Investment Advisers Act of 1940 against Wei (Alex) Wei (“Wei”) (collectively, “Respondents”).

**II.**

In anticipation of the institution of these proceedings, DAA has submitted an Offer of Settlement of Delaware Asset Advisers (“DAA Offer”), and Wei has submitted an Offer of Settlement of Wei (Alex) Wei (“Wei Offer”), both of 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 them and the subject matter of these proceedings, which are admitted, Respondents consent to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933 and Sections 203(e), 203(f), and 203(k) of the Investment Advisers Act of 1940, Making Findings, and Imposing Remedial Sanctions and Cease-and-Desist Orders (“Order”), as set forth below.

### III.

On the basis of this Order and Respondents' Offers, the Commission finds<sup>1</sup> that

#### Summary

1. This matter involves violations of federal securities laws by DAA, and Wei, who heads the Structured Credit Investment unit of DAA, in connection with the structuring, sales, and marketing of a \$1.6 billion collateralized debt obligation ("CDO") known as Delphinus CDO 2007-1 Ltd. ("Delphinus"), which closed on July 19, 2007. Wei and DAA ensured that Delphinus complied with certain conditions of closing, including the purchase of collateral assets equal to the amount required for Delphinus to be "fully ramped" and effective at closing. Delphinus received closing date ratings from Standard & Poor's Ratings Services ("S&P"), Moody's Ratings Services ("Moody's") and Fitch Ratings ("Fitch").

2. DAA was the collateral manager, while Wei was the portfolio manager employed by DAA and assigned to Delphinus. As portfolio manager, Wei undertook various responsibilities on behalf of DAA. Those responsibilities included obtaining Effective Date Rating Agency Confirmation ("RAC") letters for Delphinus and providing that RAC to the Delphinus trustee.

3. Obtaining RAC was crucial to Delphinus; if Delphinus failed to obtain RAC, Delphinus would have been required to divert money from the less senior Delphinus notes and to use that money to pay down the senior notes, starting with the most senior class. This was a situation that CDO portfolio managers tried to avoid, because it would reflect badly on them, and because it would likely reduce their monthly fees from the transaction.

4. Delphinus encountered difficulties when it sought RAC from S&P and Fitch. In an attempt to overcome these difficulties, Wei and DAA provided, and participated in providing, inaccurate information to S&P and to Wells Fargo Bank N.A. ("Wells Fargo"), Delphinus's trustee.

5. With respect to S&P, Wei and DAA made and allowed others to make inaccurate representations to S&P that Delphinus's effective date was August 6, 2007. Wei and DAA engaged in this conduct despite the fact that they knew or should have known: (a) that Delphinus was effective at closing on July 19, 2007, and (b) that the effective date could not be changed under the circumstances. S&P accepted these inaccurate representations and provided Delphinus with RAC on September 14, 2007.

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<sup>1</sup> The findings herein are made pursuant to Respondents' Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

6. With respect to Wells Fargo, Wei and DAA learned that Fitch was not going to provide RAC, and was planning to put five classes of Delphinus notes on Ratings Watch Negative. Before Fitch could place those notes on Ratings Watch Negative, Wei printed out computer screen shots of Fitch's closing date ratings of Delphinus, and a DAA employee faxed them to Wells Fargo. The cover sheet for that fax read: "Confirmation for Fitch Ratings for All Classes of Delphinus 2007-1." Wells Fargo relied upon this inaccurate information to conclude that RAC had been received from Fitch.

### **Respondents**

7. **Delaware Asset Advisers** is a series of Delaware Management Business Trust ("DMBT"), a statutory trust organized under the Delaware Statutory Trust Act. DMBT is an investment adviser registered with the Commission. DAA provides investment advisory services to private CDOs that are sold to large institutional investors. DAA is based in Philadelphia, Pennsylvania. DAA served as the collateral manager for the Delphinus transaction; following the closing DAA became the portfolio manager. During the relevant period, DMBT was a subsidiary of Delaware Management Holdings, Inc.

8. **Wei (Alex) Wei**, Ph.D., is Senior Vice President, Head of Structured Credit Investment, and Chief Quantitative Analyst for DAA. In that capacity, Wei managed DAA's CDO portfolio management business. Wei holds a Ph.D. in physics.

### **Relevant Entity**

9. **Mizuho Securities USA Inc.** ("Mizuho"), a Delaware Corporation, is an indirect, majority-owned subsidiary of Mizuho Financial Group, Inc., a holding company headquartered in Tokyo, Japan. Mizuho is registered as a broker-dealer with the Commission. Mizuho was responsible for the structuring, sales and marketing of the Delphinus CDO.

### **Background**

10. The Delphinus CDO was a \$1.6 billion CDO whose collateral was comprised of mostly mezzanine sub-prime Residential Mortgage-Backed Securities ("RMBS") and CDOs of RMBS, in the form of both cash bonds and synthetic securities (credit default swaps). Like all CDOs, Delphinus was a legal entity that was designed to do two basic activities: (1) hold a portfolio of assets, and (2) issue certain interest-bearing liabilities, that is, securities, to investors. The stream of income required to pay interest to the investors who purchased the CDO's securities was to be generated by interest payments from the CDO's asset portfolio. The money to return the investors' principal was to be generated from repayments of principal from the CDO's asset portfolio.

11. Creation of a CDO generally required participation or assistance from a number of entities: an investment bank, a collateral manager, an accounting firm, a trustee, at least two rating agencies, and often, a sponsor. The collateral manager's role was to pick the assets to be held in the CDO's asset portfolio. The accounting firm's role was to provide independent certifications of

compliance with certain aspects of the CDO's indenture and other governing documents. The trustee's role was to act on behalf of the CDO, receive the CDO's asset portfolio upon the closing of the transaction, to receive monies generated by that portfolio and distribute those monies to holders of the CDO's securities on the payment dates.

12. The rating agencies' role was to issue ratings on the securities sold by the CDO. In essence, those ratings were the rating agencies' predictions about whether the CDO's assets would provide enough money to pay the investors who purchased the CDO's securities. Ratings were key to successfully selling securities issued by the CDO because many potential investors, such as insurance companies or pension funds, could only invest in securities that were rated at a certain level.

13. Ratings were typically issued in two parts – initial ratings were assigned at closing, and those ratings were to be confirmed as of the deal's effective date, which usually meant the first date on which the portfolio's collateral was fully ramped, or purchased. At both closing and the effective date, the independent accountant was to certify that the collateral met certain tests set forth in the indenture. Some CDOs, including Delphinus, were required by the indenture to be fully-ramped, or effective, at closing. The Delphinus indenture required as a condition of closing, that the issuer purchase or enter agreements to purchase, as evidenced by a trade confirmation, collateral assets having an aggregate principal balance of \$1,600,113,711.44, which was equal to the expected effective date balance. Thus, the terms of the indenture required that Delphinus be fully ramped as a condition of closing, and therefore the CDO would also be effective at closing. In such cases the accountants could certify both the closing and effective date procedures in a single letter.

14. CDO indentures also generally required that following the effective date, the issuer (or the trustee on the issuer's behalf) was to obtain confirmation from the rating agencies that as of the effective date, the initial ratings had not been reduced or withdrawn; this effective date rating agency confirmation ("RAC") would be based on the actual as-purchased collateral pool. In particular, the Delphinus indenture required "[a] Confirmation from each Rating Agency (which must be written in the case of S&P) notifying the Issuer within 30 Days after the Effective Date, or such later date that such Rating Agency may determine, that it has not reduced or withdrawn the rating assigned by it to any Class of Notes on the Closing Date. . . ." A failure to obtain effective date ratings confirmations typically required the CDO to switch from a pro-rata payment where all investors received their expected quarterly payouts, to a sequential payoff, which would divert all of the money from junior noteholders and the equity investors to pay off noteholders in order of seniority, until rating agencies could confirm the ratings on the notes.

### **Effective Date Misconduct**

15. Delphinus was structured and marketed by Mizuho. Wells Fargo served as the trustee for the Delphinus transaction. Wei was the DAA portfolio manager primarily responsible for the Delphinus transaction. Among other responsibilities, Wei selected assets to be held by Delphinus.

16. Pursuant to instructions from Mizuho, Wei and DAA ensured that all collateral to be held by Delphinus was purchased before Delphinus's closing date of July 19, 2007. The completion of the purchase of assets was known as being "fully ramped." Wei and DAA knew that Delphinus was fully ramped on July 17, 2007, when the last collateral bond was purchased.

17. Under the terms of the indenture, the amount of assets Delphinus was required to have at closing was \$1,600,113,711.44. Also under the indenture, Delphinus's effective date was to be the date upon which it held assets totaling \$1,600,113,711.44. Thus, Delphinus was designed to have its closing date and effective date be the same date.

18. On July 19, 2007, Delphinus closed and the notes issued by Delphinus were assigned closing date ratings by S&P, Moody's, and Fitch. Under the terms of the indenture, effective date RAC from S&P and Fitch was required for Delphinus to pay under the anticipated priority of payments hierarchy that included the junior-most noteholders and equity investors.

19. On July 31, 2007, in accordance with the terms of the indenture and at the prompting of Wei and DAA, Wells Fargo submitted a request for RAC by means of an email to S&P and Fitch announcing that Delphinus was fully ramped pursuant to the terms of the indenture.

20. Wells Fargo's emailed request for RAC was accompanied by two attachments. The first attachment was an Accountant's Certificate which, among other things, certified that Delphinus met all of the effective date tests set forth in the indenture. The Accountant's Certificate also attached an asset portfolio and described that portfolio as both the closing date and effective date portfolio. The Accountant's Certificate repeatedly referred to the closing date being July 19, 2007, and the effective date also being July 19, 2007. The second attachment was a spreadsheet showing the July 19, 2007 collateral pool created by Wells Fargo.

21. On July 31, 2007, an S&P analyst who received the request for RAC pointed out that the spreadsheet accompanying the request for RAC did not total \$1.6 billion. Wei and DAA confirmed both that (a) the Delphinus portfolio was ready to go effective; and (b) that Delphinus had reached the covenanted par amount of \$1.6 billion. In addition to assuring the S&P analyst that Delphinus was fully ramped, Wei and DAA also assisted in correcting the trustee's spreadsheet.

22. On August 24, 2007, the S&P analyst sent an email to Wei raising questions about Delphinus's effective date, the Accountant's Certificate, and the make-up of the closing date collateral pool. The S&P analyst specifically asked whether there was a mistake in dating the Accountant's Certificate, because the Certificate stated that Delphinus's closing date and its effective date were the same: July 19, 2007. Wei knew or should have known that Delphinus: (a) was fully ramped on July 17, 2007, and (b) was effective at closing on July 19, 2007. Wei also knew or should have known that July 19 was the effective date for Delphinus pursuant to the terms of the indenture. Rather than reply to the S&P analyst's question by stating that the Accountant's Certificate was correct, and that Delphinus's effective date was July 19, 2007, Wei sought direction from Mizuho. He then acquiesced in Mizuho's request to tell S&P that Delphinus's effective date was changed to August 6, 2007. Wei knew or should have known that S&P was

being misled when he agreed to tell S&P that the effective date for purposes of S&P's effective date RAC analysis of Delphinus was August 6, 2007.

23. In addition, an employee of DAA instructed the trustee to prepare a collateral spreadsheet for S&P using August 6, 2007 as the effective date for the Delphinus transaction. The total notional amount of the collateral pool on August 6 was the same as the total notional amount of the collateral pool on July 19. The composition was different by a few bonds amounting to \$15 million. This is so because on August 1, 2007 DAA had Delphinus sell a \$15 million credit card receivables bond, and had Delphinus purchase a total of \$15 million assets issued by, or referencing, a certain mezzanine CDO security. In all other respects, the bonds comprising the Delphinus investment portfolio had not changed since July 19. The spreadsheet the trustee prepared at DAA's request, and with DAA's assistance, reflected the exchange of the credit card bond for the mezzanine CDO securities.

24. On August 24, 2007, Wei and DAA were informed by Mizuho that a new Accountant's Certificate would be prepared using August 6, 2007 as the Delphinus effective date, and incorporating the August 6, 2007 collateral portfolio that included the mezzanine CDO securities purchased after Delphinus closed. On August 27, 2007, Wei consented to the creation of a new Accountant's Certificate using August 6, 2007 as Delphinus's effective date. On August 31, 2007, Wei received a copy of the new Accountant's Certificate with August 6, 2007 as the effective date and on September 5, 2007, DAA and Wei approved sending the new certificate to S&P.

25. Wei knew or should have known that the second Accountant's Certificate was inaccurate regarding the date Delphinus became effective. He further knew or should have known that in connection with its procedures to determine whether to give Delphinus a RAC letter, S&P was being misled into believing that Delphinus was not effective at closing on July 19, but instead was effective on August 6, 2007. On September 14, 2007, S&P issued the effective date RAC letter to Delphinus, based on the assumed effective date of August 6, 2007.

### **The Failed Attempt to Obtain RAC from Fitch**

26. On September 6, 2007, the day after the second Accountant's Certificate and trustee's portfolio were submitted to S&P, Wei and DAA turned their attention to obtaining a RAC letter from Fitch. In a series of emails on September 6, 2007, an employee of DAA determined that Fitch had been sent the first Accountant's Certificate and the trustee's portfolio, showing July 19, 2007 as both the closing and effective date. Wei and DAA made no effort to supply Fitch with the second Accountant's Certificate and trustee's portfolio.

27. On September 11 and September 17, 2007, Wei sent emails to Mizuho requesting updates about the Fitch RAC process. On September 24, 2007, Wei communicated with Fitch and learned that there were "issues" with obtaining a RAC letter from Fitch. On September 26, 2007, Wei had a telephone call with a Fitch analyst in which Fitch stated that it would not issue effective date RAC for the Delphinus notes, and that Fitch intended to put five classes of the Delphinus notes on Ratings Watch Negative. Wei also received, via email, a draft copy of a press release that

Fitch stated that it intended to publish, which was to announce the Ratings Watch Negative status for five classes of Delphinus notes.

28. Wei made efforts that evening and the next morning to have representatives of Fitch and the trustee speak to each other by phone, but he failed to ensure that they actually did so. Wei never communicated to the Delphinus trustee that Fitch was placing five classes of Delphinus notes on Rating Watch Negative, and would not issue effective date RAC for Delphinus.

29. Instead, on the morning of September 27, 2007, Wei emailed his Fitch website log-in information to a DAA employee, and directed that the DAA employee ask the trustee to log in to the Fitch website and print out the Delphinus ratings “first thing.” Ultimately, Wei printed out screen shots of Fitch’s website and Bloomberg’s website showing the closing date Fitch ratings for Delphinus, and an employee at DAA faxed those screen shots to the trustee. The cover sheet for that fax read, “Confirmation for Fitch Ratings for All Classes of Delphinus 2007-1.”

30. Later that morning, Fitch issued a press release (consistent with the draft provided to Wei the day before) announcing its Ratings Watch Negative determinations for the five classes of Delphinus notes. Following receipt of the S&P RAC letter and the DAA fax purporting to be a confirmation of the Fitch ratings for Delphinus, the trustee determined that Delphinus satisfied the conditions of the indenture to receive RAC letters from the rating agencies. On October 11, 2007, the date of the first Delphinus distribution, the trustee paid Delphinus investors. The trustee failed to follow provisions of the indenture which were intended to protect the most senior noteholders against losses in the event of a rating agency confirmation failure.

### Violations

31. Section 206(2) of the Advisers Act prohibits investment advisers from “engage[ing] in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client.” Section 206(2) of the Advisers Act imposes a fiduciary duty on investment advisers obligating them to disclose all material information to their client. *SEC v. Capital Gains Research Bureau, Inc.*, 375 U.S. 180, 194-97 (1963). Proof of scienter is not required to establish a violation of Section 206(2), but rather may rest on a finding of simple negligence. *SEC v. Steadman*, 967 F.2d 636, 643 n.5 (D.C. Cir. 1992) (citing *Capital Gains*, 375 U.S. at 194-95.) See also *SEC v. Wash. Inv. Network*, 475 F.2d 392, 396 (D.C. Cir. 2007). Negligence is sufficient to establish liability for causing a primary violation that does not require scienter. *In the Matter of KPMG Peat Marwick LLP*, Admin. Proc. No. 3-9500 (2001).

32. Sections 17(a)(2) and (3) of the Securities Act prohibit fraud in the offer or sale of securities. Section 17(a)(2) prohibits any person from “obtain[ing] 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.” Section 17(a)(3) prohibits any person from “engag[ing] in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.”

33. Scienter is not required under Sections 17(a)(2) and (3) where proof of negligence is sufficient. *Aaron v. SEC*, 446 U.S. 680, 696-97 (1980); *SEC v. First Jersey Secs., Inc.*, 101 F.3d

1450, 1466-67 (2d Cir. 1996); *SEC v. Merchant Capital, LLC*, 483 F.3d 747, 766 (11<sup>th</sup> Cir. 2007); *Weiss v. SEC*, 468 F.3d 849, 855 (D.C. Cir. 2006); *SEC v. Espuelus*, 579 F. Supp. 2d 461, 472 (S.D.N.Y. 2008). The relevant standard of care under the negligence-based provisions of Section 17(a) is “reasonable prudence” for which industry standards are a relevant but non-determinative factor. *See, e.g., SEC v. GLT Dain Rauscher, Inc.*, 254 F.3d 852, 853 (9<sup>th</sup> Cir. 2001) (“We hold that the standard of care for an underwriter of municipal offerings is one of reasonable prudence, for which the industry standard is one factor to be considered, but it is not the determinative factor”).

34. As a result of the negligent conduct described above, DAA willfully<sup>2</sup> violated Section 206(2) of Advisers Act and Sections 17(a)(2) and (a)(3) of the Securities Act and Wei willfully violated Sections 17(a)(2) and (a)(3) of the Securities Act and caused DAA’s violations of Section 206(2) of Advisers Act.

### **Undertakings**

Wei undertakes to provide to the Commission, within thirty (30) days after the end of the six (6) month suspension period described below, an affidavit that he has complied fully with the sanctions described in Section IV.E. below.

### **IV.**

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

Accordingly, pursuant to Section 8A of the Securities Act and Sections 203(e), 203(f), and 203(k) of the Advisers Act, it is hereby ORDERED that:

- A. Respondent Wei shall cease and desist from committing or causing any violations and any future violations of Sections 17(a)(2) and (a)(3) of the Securities Act and Section 206(2) of the Advisers Act.
- B. Respondent DAA shall cease and desist from committing or causing any violations and any future violations of Sections 17(a)(2) and (a)(3) of the Securities Act and Section 206(2) of the Advisers Act.
- C. Respondent DAA shall, within ten (10) days of the entry of this Order, pay disgorgement of \$2,228,372, prejudgment interest of \$357,776, and a civil money penalty of \$2,228,372 to the Securities and Exchange Commission. If timely payment

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<sup>2</sup> A willful violation of the securities laws means merely ““that the person charged with the duty knows what he is doing.”” *Wonsover v. SEC*, 205 F.3d 408, 414 (D.C. Cir. 2000) (quoting *Hughes v. SEC*, 174 F.2d 969, 977 (D.C. Cir. 1949)). There is no requirement that the actor ““also be aware that he is violating one of the Rules or Acts.”” *Id.* (quoting *Gearhart & Otis, Inc. v. SEC*, 348 F.2d 798, 803 (D.C. Cir. 1965))

- is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600. Payment shall be: (A) made by wire transfer, United States postal money order, certified check, bank cashier's check, bank money order, or by credit or debit card via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; (B) made payable to the Securities and Exchange Commission; (C) hand-delivered or mailed to Enterprise Services Center, Accounts Receivable Branch, 6500 South MacArthur Boulevard, Oklahoma City, Oklahoma 73169; and (D) submitted under cover letter that identifies Delaware Asset Advisers as 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 Kenneth R. Lench, Chief of the Structured and New Products Unit, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE, Mail Stop -6013 SP1, Washington, DC 20549.
- D. Respondent Wei shall, within ten (10) days of the entry of this Order, pay a civil money penalty of \$50,000 to the Securities and Exchange Commission. If timely payment is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600. Payment shall be: (A) made by wire transfer, United States postal money order, certified check, bank cashier's check, bank money order, or by credit or debit card via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; (B) made payable to the Securities and Exchange Commission; (C) hand-delivered or mailed to Enterprise Services Center, Accounts Receivable Branch, 6500 South MacArthur Boulevard, Oklahoma City, Oklahoma 73169; and (D) submitted under cover letter that identifies Wei (Alex) Wei as 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 Kenneth R. Lench, Chief of the Structured and New Products Unit, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE, Mail Stop -6013 SP1, Washington, DC 20549.
- E. Respondent Wei be, and hereby is, suspended from association with any investment adviser for a period of six (6) months, effective on the second Monday following the entry of this Order.
- F. Pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended, a Fair Fund is created for the disgorgement, interest and penalties referenced in paragraphs IV.C. and IV.D., above. The foregoing payments may be combined in a single Fair Fund for distribution to injured investors. Additional monies paid by any defendant or respondent in a related proceeding arising from the underlying conduct also may be added to this Fair Fund for distribution. 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, Respondents agree that in any Related Investor Action, they shall not argue that they are entitled to, nor shall they benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondents' payments of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action

grants such a Penalty Offset, Respondents agree that they 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 paragraph, a "Related Investor Action" means a private damages action brought against Respondent DAA or Respondent Wei (or both) 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.

G. Respondent Wei shall comply with the Undertakings above.

By the Commission.

Elizabeth M. Murphy  
Secretary