

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 53279A / February 14, 2006

Omnibus Order Directing the Appointment of Tax Administrator in
Administrative Proceedings that Establish Distribution Funds

In an administrative proceeding, the Commission may require a respondent to pay disgorgement and/or penalties and order that certain of the funds collected be distributed through a Fair Fund or disgorgement fund. The Division of Enforcement (“Division”) has recommended that Damasco and Associates (“Damasco”), a certified public accounting firm located in San Francisco, California, be appointed to serve as tax administrator for calendar year 2006 when requested by staff for all distribution funds established in administrative proceedings where the distribution fund may incur tax-related obligations as a Qualified Settlement Fund (“QSF”) under the Department of the Treasury Regulation Section 1.468B-1(c).

Accordingly,

IT IS ORDERED that:

- A. Pursuant to the Commission’s Rules on Fair Fund and Disgorgement Plans (17 CFR §§ 201.1100, *et seq.*), Damasco is appointed as the tax administrator (the “Tax Administrator”), when requested by staff during calendar year 2006 in those administrative proceedings where distribution funds have been established. Damasco will have the limited authority and power to: (1) act as the administrator for tax purposes for each QSF; (2) prepare, sign, and file the necessary tax returns and tax-related documents for the QSFs; (3) make the tax payments on behalf of the QSFs; (4) obtain the necessary tax-related documents and identifiers, such as an employer identification number, on behalf of the QSFs; (5) perform other tax-related and reporting duties on behalf of the QSFs as required by Department of the Treasury regulations relating to QSF administrators; and (6) communicate on behalf of the QSFs on matters set forth in this paragraph.

- B. The Tax Administrator will, from time to time, have custody or control of monies transferred to the Tax Administrator to make tax payments. Therefore, the Tax Administrator, before taking possession of those monies, will obtain through insurance and through a bond, pursuant to the 2006 Letter Agreement executed between the Commission and the Tax Administrator, coverage against misappropriation of monies by the Tax Administrator.
- C. The Tax Administrator shall submit, at least 30 days prior to any date on which a tax payment is required on behalf of any QSF or as soon as is practicable, documentation showing the amount necessary to satisfy the tax liability of each QSF as well as all other documents supporting such amount, to the following:
1. In proceedings where a respondent has agreed to pay the taxes owed by a QSF, the Tax Administrator shall submit the documentation to the respondent, with a copy to: the Commission staff member assigned to the relevant proceeding; the Division's Deputy Directors; and the Office of the Secretary. In accordance with the relevant prior Commission order(s) and/or any agreement(s) with a respondent, the respondent shall pay the amount of the documented taxes to the Tax Administrator by check or wire transfer. The Tax Administrator, in turn, shall be responsible for paying the taxes to the Internal Revenue Service ("IRS") and the relevant state taxing authority, if any, on behalf of the QSF. The Tax Administrator shall provide written confirmation of the payment of the taxes to the Commission staff member assigned to the proceeding, the Division's Deputy Directors and the Office of the Secretary.
 2. In proceedings where the money in a QSF is held by an escrow agent, the Tax Administrator shall submit the documentation to the escrow agent, with a copy to: the Commission staff member assigned to the relevant proceeding, the Division's Deputy Directors, and the Office of the Secretary. In accordance with the terms of the escrow or relevant prior Commission order(s), the escrow agent is authorized to pay the amount of the documented taxes to the Tax Administrator by check or wire transfer from the QSF. Such tax payments shall come first from any earnings or interest in the QSF, and second, if necessary, from the principal of the QSF. The Tax Administrator, in turn, shall be responsible for paying the taxes to the IRS and the relevant state taxing authority,

if any, on behalf of the QSF. The Tax Administrator shall provide written confirmation of the payment of the taxes to the Commission staff member assigned to the proceeding, the Division's Deputy Directors and to the Office of the Secretary.

3. In all other proceedings, the Tax Administrator shall submit the documentation to the Office of Financial Management ("OFM"), Securities and Exchange Commission, Operations Center, 6432 General Green Way, Stop 0-3, Alexandria, VA 22312, with a copy to: the Commission staff member assigned to the relevant proceeding, the Division's Deputy Directors, and the Office of the Secretary. Upon approval to disburse by a Division Deputy Director, the Commission will disburse to the Tax Administrator, by check or wire transfer from the QSF, the amount of the taxes as calculated and documented by the Tax Administrator. Such tax payments shall come first from any earnings or interest in the QSF, and second, if necessary, from the principal of the QSF. The Tax Administrator, in turn, shall be responsible for paying the taxes to the IRS and the relevant state taxing authority, if any, on behalf of the QSF. The Tax Administrator shall provide written confirmation of the payment of the taxes to the Commission staff member assigned to the proceeding, to the Division's Deputy Directors and to the Office of the Secretary.

- D. The Tax Administrator shall comply with all reporting requirements applicable to a QSF as defined in Treasury Regulation Section 1.468B-1(a), as amended, and shall file on a timely basis all required federal, state, and local tax returns, and shall contemporaneously provide copies of such filings to the assigned Commission staff member and the Division's Deputy Directors. A list of assigned staff will be provided to the Tax Administrator.
- E. The Tax Administrator shall keep records and bill each QSF for the services provided to it, pursuant to the 2006 Letter Agreement executed between the Commission and the Tax Administrator. Each bill shall be reviewed by a Division Deputy Director.
 - 1. In the proceedings in which a respondent has agreed to pay for the expenses of the QSF, the Tax Administrator will submit the bill to the respondent for payment by check or wire transfer.
 - 2. In the proceedings in which the money in a QSF is held by an

escrow agent, the Tax Administrator will submit its bill to a Division Deputy Director for approval. For bills totaling an amount less than or equal to \$10,000 per administrative proceeding per tax filing per quarter, either of the Division's Deputy Directors is hereby delegated limited authority to approve the bill for payment where the services have been performed and billed according to the terms of the Tax Administrator's Letter Agreement with the Commission. For bills totaling an amount greater than \$10,000 per administrative proceeding per tax filing per quarter, the Commission staff assigned to the proceeding must seek Commission approval for payment. After receiving the approval to pay the Tax Administrator's bill, the escrow agent is authorized to pay the bill of the Tax Administrator by check or wire transfer from the QSF.

3. In all other proceedings, the Tax Administrator will submit its bill to a Division Deputy Director. After receiving approval to pay the Tax Administrator's bill (which approval shall be as described in paragraph E.2., above), the Commission will pay the bill of the Tax Administrator by check or wire transfer from the QSF.

In all proceedings, the fees billed shall be as agreed upon in the Tax Administrator's Letter Agreement with the Commission. Payment shall come first from any earnings or interest in the QSF, and second, if necessary, from the principal of the QSF.

IT IS ORDERED that, pursuant to Section 4A of the Securities Exchange Act of 1934 (15 U.S.C. § 78d-1), the Division's Deputy Directors are delegated the limited authority as set forth in paragraphs E.2. and E.3., above, to approve the payment of the Tax Administrator's fees and expenses as well as the authority to approve the disbursement of QSF tax payments based on the calculations of the Tax Administrator. While each of the Division's Deputy Directors are delegated the authority to approve the tax payments and Tax Administrator's fees and expenses, any one may exercise that authority.

IT IS FURTHER ORDERED that the Secretary of the Commission shall, upon request by the staff, issue orders that appoint Damasco during calendar year 2006 as the Tax Administrator in administrative proceedings.

By the Commission

Nancy M. Morris
Secretary