

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 2761 / July 30, 2008

INVESTMENT COMPANY ACT OF 1940
Release No. 28344 / July 30, 2008

ADMINISTRATIVE PROCEEDING
File No. 3-13107

In the Matter of

**Pax World Management
Corp.,**

Respondent.

**ORDER INSTITUTING
ADMINISTRATIVE AND CEASE-
AND-DESIST PROCEEDINGS,
MAKING FINDINGS, AND IMPOSING
REMEDIAL SANCTIONS AND A
CEASE-AND-DESIST ORDER
PURSUANT TO SECTIONS 203(e)
AND 203(k) OF THE INVESTMENT
ADVISERS ACT OF 1940 AND
SECTIONS 9(b) AND 9(f) OF THE
INVESTMENT COMPANY ACT OF
1940**

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 against Pax World Management Corp. ("Pax World" or "Respondent") pursuant to Sections 203(e) and 203(k) of the Investment Advisers Act of 1940 ("Advisers Act"), and Sections 9(b) and 9(f) of the Investment Company Act of 1940 ("Investment Company Act").

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, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order Pursuant to

Sections 203(e) and 203(k) of the Investment Advisers Act of 1940 and Sections 9(b) and 9(f) of the Investment Company Act of 1940 ("Order"), as set forth below.

III.

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

A. Summary

1. At all relevant times, investment adviser Pax World represented to investors and to the boards of the mutual funds it advised (the "Pax World Funds" or the "Funds") that it complied with various "socially responsible investing" ("SRI") restrictions, including, among other things, that it would not purchase for the Funds securities issued by companies that derived revenue from the manufacture of weapons, alcohol, tobacco or gambling products. Pax World acted contrary to these representations and violated the Funds' SRI restrictions from 2001 through 2005 when it purchased for the Pax World Growth and High Yield Funds ten securities that these Funds' SRI restrictions prohibited them from buying, including securities of companies that: (1) derived revenue from the manufacture of alcohol and/or gambling products; (2) derived more than 5% of their revenue from contracts with the U.S. Department of Defense; and (3) failed to satisfy the Funds' environmental or labor standards. During this period, Pax World also failed to consistently follow its own SRI-related policies and procedures with respect to these two funds that required that all securities be screened by Pax World's Social Research Department prior to purchase to ensure compliance with the SRI disclosures. In addition, during this period, Pax World did not consistently adhere to other SRI-related policies and procedures, including continuously monitoring fund holdings. As a result of conduct during the period from 2001 through 2005, the Pax World Funds held at least one prohibited security at all times from 2001 through early 2006.

B. Respondent

2. **Pax World** (SEC File No. 801-8517) is a private Delaware corporation with its headquarters in Portsmouth, New Hampshire. Pax World has been an investment adviser registered with the Commission since 1972 and provides investment advisory services to the four Pax World Funds, each of which is an investment company registered with the Commission.

C. Other Relevant Entities

3. **Pax World Funds** included at all relevant times the Pax World Balanced Fund (established in 1971), the Pax World Growth Fund (established in 1997), the Pax World High Yield Fund (established in 1999) and the Pax World Money Market Fund

¹ The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

(established in 1998). At all relevant times, each of the Funds was a Delaware corporation headquartered in Portsmouth, New Hampshire, and each is an investment company registered with the Commission. In 2005, the Balanced Fund had approximately \$1.9 billion, the Growth Fund approximately \$100 million and the High Yield Fund approximately \$70 million in assets under management.

D. Facts

Pax World's Socially Responsible Investment Products

4. Pax World provides investment advisory services to Pax World Funds. At all relevant times, the Funds offered what are often referred to as SRI investment products. In addition, Pax World prepared and filed with the Commission the prospectuses, statements of additional information ("SAIs"), and other filings on behalf of each of the Funds.

5. At all relevant times, Pax World described SRI as integrating personal and social values into investment decisions. SRI mutual funds typically have investment restrictions which exclude investments in companies that derive revenue from certain activities identified in the funds' prospectuses and SAIs. SRI mutual funds determine a company's compliance with their stated SRI restrictions by researching and analyzing the company's activities. This process is known as "screening." One of the primary services Pax World provides to the Funds is to screen companies and perform other services relating to the Funds' compliance with their SRI restrictions.

Pax World's SRI Disclosures

6. At all relevant times, the Pax World Funds' principal SRI restrictions prohibited investments in companies that derived revenue from the manufacture of weapons, weapons-related products, alcohol, tobacco or gambling and investments in companies that engaged in "military activities." These restrictions (commonly referred to by Pax World as "exclusions") applied to each of the Funds' investments, not only at the time of purchase but throughout the entire period the portfolios held them and could only be changed by a vote of the Funds' shareholders. Pax World described these and other of the Funds' SRI restrictions in the Funds' prospectuses and SAIs. For example, SAIs during the relevant period stated:

The ethical investment policy of each Fund is to exclude from its portfolio securities of (i) companies engaged in military activities, (ii) companies appearing on the United States Department of Defense list of 100 largest contractors (a copy of which may be obtained from the Office of the Secretary, Department of Defense, Washington, D.C. 20301) if five percent (5%) or more of the gross sales of such companies derived from contracts with the United States Department of Defense, (iii) other companies contracting with the United States Department of Defense if five percent (5%) or more of the gross sales of such companies are derived from contracts with the United States Department of Defense, and (iv)

companies that derive revenue from the manufacture of liquor, tobacco and/or gambling products.

The SAIs also stated:

The Funds' policy is to invest in securities of companies producing goods and services that improve the quality of life, and that are not, to any degree, engaged in manufacturing defense or weapons-related products or companies that derive revenue from the manufacture of tobacco, liquor and/or gambling products.

For over 33 years, we've subjected potential investments to rigid social- and environmental- responsibility screens in addition to rigorous financial scrutiny.

Pax World's SRI Screening Policies

7. Pax World's Social Research Department was responsible for developing social screening policies and procedures, screening potential investments for compliance with the Funds' SRI restrictions before Pax World purchased the investments and monitoring portfolios for ongoing SRI compliance.

8. Pax World's SRI policies and procedures required that portfolio managers purchase only securities that the Social Research Department had screened for compliance with the Funds' SRI restrictions and approved for purchase.

9. During the relevant period, Pax World authorized its portfolio managers to purchase only securities that were approved in advance by the Social Research Department. This requirement was designed to ensure that its securities purchases complied with the Funds' SRI restrictions. Pax World disclosed this policy to the Funds' boards during the period.

Pax World Purchased or Held Securities Prohibited by Fund SRI Restrictions

10. From 2001 through 2005 ("the relevant period"), Pax World purchased ten prohibited securities for the Growth and High Yield Fund portfolios. Seven prohibited securities were purchased in the Growth Fund; three were purchased in the High Yield fund. Three of the prohibited securities violated Fund SRI restrictions because the companies that issued them derived revenue from the manufacture of alcohol and/or gambling products; three violated Fund SRI restrictions because the companies that issued them derived more than 5% of their revenue from contracts with the U.S. Department of Defense; and four failed to satisfy the Funds' environmental or labor standards.

11. At the time of purchase, six of the ten prohibited securities were listed by the Social Research Department as having been issued by companies that failed their most recent screen. The remaining four prohibited securities failed the Social Research Department's screen when it became aware of the purchases and subsequently screened

the security. Examples of prohibited securities Pax World held during the relevant period included:

- a) In 2003, Pax World purchased for the Growth Fund securities issued by an oil and gas exploration company that had failed its three most recent screens. Pax World's Social Research Department's list of approved investments reflected the failed screens and indicated that this company's securities were a prohibited investment.
- b) In 2004, Pax World purchased for the High Yield Fund securities issued by a conglomerate primarily engaged in the shipping industry but which derived revenue from gambling and the manufacture of liquor. This purchase violated the Funds' exclusionary screens prohibiting investments in companies that derived any revenue from gambling or the manufacture of liquor.

12. Pax World's failure to follow its own policies requiring that it purchase only securities that the Social Research Department had approved for purchase resulted in the Growth and High Yield Funds' holding prohibited securities. Overall, Pax World failed to screen, prior to purchase, 41 of the 495 securities purchased for the Growth and High Yield Funds during the relevant period, or approximately 8% of all new security purchases for these two funds.

13. During the relevant period, 24 of the 150 securities Pax World purchased for the Growth Fund were purchased without first obtaining Social Research Department approval for the purchase, of which seven were the excluded securities referenced above. The other 17 complied with Pax World's SRI restrictions but had not been screened before the purchase. This reflects a failure to comply with Pax World's SRI policies and procedures in connection with approximately 16% of the Growth Fund's new securities purchases, representing from 3% to 8% of the Fund's net assets under management.

14. During the relevant period, 17 of the 345 securities Pax World purchased for the High Yield Fund were purchased without first obtaining Social Research Department approval for the purchase, of which three were the excluded securities referenced above. The other 14 complied with Pax World's SRI restrictions but had not been screened before the purchase. This reflects a failure to comply with Pax World's SRI policies and procedures in connection with approximately 5% of the High Yield Fund's new securities purchases, representing approximately 2% of the Fund's net assets under management.

15. In addition, from at least 2004 until early 2006, due to Pax World's failure to adhere to its SRI policies, two Pax World Funds held securities issued by a company that derived revenue from the manufacture of weapons-related products and that had been on the approved list at the time of initial purchase. Pax World did not divest the holding until early 2006.

Pax World Failed to Continuously Monitor the Funds' Portfolios

16. Although during the relevant period the Funds' SAIs stated that Pax World continuously monitored fund portfolios for compliance with the Funds' SRI restrictions, Pax World had no policy or procedure for continuously monitoring the portfolios until 2004. Before 2004, the Social Research Department reviewed portfolio holdings for ongoing compliance with the Funds' SRI restrictions as time permitted. Nevertheless, in a letter included in the Funds' 2001 annual report, Pax World reported to shareholders on the Social Research Department's "regularly scheduled reviews of all of the Funds' holdings." Pax World's failure to continuously monitor or regularly review Fund portfolios put compliance with the Funds' SRI restrictions at risk.

17. In October 2004, Pax World adopted a policy that the Social Research Department screen every holding at least every six months. Thereafter, the Company did not consistently comply with this policy. In addition, until late 2005, Pax World permitted portfolio managers to add to existing holdings whether or not the holding had been screened within the six-month period as required under the policy.

Pax World's Divestment Policies

18. In addition to screening investments, the Social Research Department was responsible for ensuring that portfolio holdings that fell out of compliance with the Funds' SRI restrictions for whatever reason (e.g., a merger or acquisition) were divested. Pax World's SRI policies required that any holding that fell out of compliance with the Funds' SRI restrictions be sold within six months of the date the holding was found to be noncompliant. In particular, the SAIs stated:

If it is determined after the initial purchase by a Fund that a company's activities fall within the exclusion described above, (either by acquisition, merger or otherwise), the securities of that company will be eliminated from the Fund's portfolio as soon thereafter as possible taking into consideration (i) any gain or loss which may be realized from such elimination, (ii) the tax implications of such elimination, (iii) market timing, and the like. In no event, however, will that security be retained longer than six (6) months from the time the Fund learns of the divestment qualification. This requirement may cause a Fund to dispose of a security at a time when it may be disadvantageous to do so.

19. Pax World made no distinction between securities found to be noncompliant as of the initial purchase or those that fell out of compliance with the Funds' SRI guidelines after the initial purchase. Thus, a portfolio manager could – and did – purchase a security either without having the company screened first or after the company failed a screen (in either case in violation of the Funds' SRI restrictions) and then hold the stock for up to six months.

Impact on Portfolio Holdings

20. As a result of the conduct set forth in paragraphs 11 through 20 above, the Pax World Funds held at least one prohibited security at all times from 2001 through early 2006.

Pax World Failed to Report SRI Noncompliance to the Growth and High Yield Fund Boards

21. Pax World reported on SRI issues to the Funds' boards at each quarterly board meeting during the relevant period, but it never disclosed that Pax World had in ten instances purchased prohibited securities or that these non-complying purchases were primarily a result of Pax World purchasing stocks for the Growth and High Yield Funds without Social Research Department approval.

22. Pax World's reports to the Boards included information about SRI divestments – that is, situations in which the Funds sold a security because it did not comply with the Funds' SRI restrictions. Most of these SRI divestments involved securities that initially complied with Pax World's SRI policies but fell out of compliance during the period the securities were in the portfolios, thus triggering the need to divest the security.

23. In some cases, the SRI divestments Pax World reported to the boards involved situations in which Pax World purchased prohibited securities in the first instance. However, in reporting these SRI divestments, Pax World failed to disclose to the boards that these securities were initially purchased at a time when they failed to comply with the Funds' SRI restrictions.

24. In addition, Pax World did not disclose to the Fund boards or to investors that it was not continuously monitoring fund portfolios as stated by the Funds' SAIs.

Pax World's Subsequent Remedial Actions

25. Beginning in 2005 Pax World undertook additional efforts to comply with the Funds' SRI restrictions. In particular, Pax World: (1) replaced its (a) senior management, (b) the High Yield and Growth Fund portfolio managers, (c) director of social research, and (d) chief compliance officer; (2) developed and distributed a new compliance manual addressing SRI and other compliance issues; and (3) implemented new computer software for SRI compliance.

Violations

26. As a result of the conduct described above, Respondent Pax World willfully violated Section 206(2) of the Advisers Act in that it engaged in transactions, practices or courses of business which operated or would operate as a fraud or deceit

upon clients or prospective clients.² Specifically, Pax World failed to adhere to the SRI restrictions set forth in the prospectuses, SAIs and other published material Pax World prepared and filed on behalf of the Funds, and it failed to comply with its own internal SRI screening and periodic review policies which had been disclosed to the Fund boards.

27. As a result of the conduct described above, Pax World caused violations of Section 13(a)(3) of the Investment Company Act by the Pax World Growth Fund and the Pax World High Yield Fund in that it caused the Funds' deviation from the Funds' SRI investment policy that was changeable only if authorized by shareholder vote and their deviation from policies recited in their respective registration statements pursuant to Section 8(b)(3) of the Investment Company Act.

28. As a result of the conduct described above, Pax World willfully violated Section 34(b) of the Investment Company Act in that it made untrue statements of material fact in a registration statement, application, report, account, record, or other document filed or transmitted pursuant to the Investment Company Act, or omitted to state therein, any fact necessary in order to prevent the statements made therein, in the light of the circumstances under which they were made, from being materially misleading. Specifically, Pax World misrepresented that it adhered to the SRI restrictions set forth in the prospectuses, SAIs and other published material Pax World prepared and filed on behalf of the Funds.

Respondent's Cooperation and Remedial Acts

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

IV.

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

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 203(k) of the Advisers Act, and Section 9(f) of the Investment Company Act, Respondent shall cease and desist from committing or causing any violations and any future violations of Section 206(2) of the Advisers Act, and Sections 13(a)(3) and 34(b) of the Investment Company Act.

² A willful violation of the securities laws means merely “that the person charged with the violation 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)).

B. Pursuant to Section 203(e) of the Advisers Act, Respondent is hereby censured.

C. Respondent shall, within 10 days of the entry of this Order, pay a civil money penalty in the amount of \$500,000 to the United States Treasury. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. 3717. Such payment shall be: (A) made by United States postal money order, certified check, bank cashier's check or bank money order; (B) made payable to the Securities and Exchange Commission; (C) hand-delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Stop 0-3, Alexandria, VA 22312; and (D) submitted under cover letter that identifies Pax World Management Corp. as a Respondent in these proceedings, the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to John T. Dugan, Associate Regional Director, Securities and Exchange Commission, 33 Arch Street, 23rd Floor, Boston, MA 02210.

By the Commission.

Florence E. Harmon
Acting Secretary