

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

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 64241 / April 7, 2011**

**INVESTMENT ADVISERS ACT OF 1940**  
**Release No. 3185 / April 7, 2011**

**INVESTMENT COMPANY ACT OF 1940**  
**Release No. 29626 / April 7, 2011**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-14329**

**In the Matter of**

**DELTA GLOBAL  
ADVISORS, INC. AND  
CHARLES P. HANLON,**

**Respondents.**

**ORDER INSTITUTING  
ADMINISTRATIVE AND CEASE-  
AND-DESIST PROCEEDINGS  
PURSUANT TO SECTION 15(b) OF  
THE SECURITIES EXCHANGE ACT  
OF 1934, SECTIONS 203(e), 203(f), AND  
203(k) OF THE INVESTMENT  
ADVISERS ACT OF 1940, AND  
SECTION 9(b) OF THE INVESTMENT  
COMPANY ACT OF 1940 AND  
NOTICE OF HEARING**

**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 203(e) and 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”) and Section 9(b) of the Investment Company Act of 1940 (“Investment Company Act”) against Delta Global Advisors, Inc. (“Delta”) and Section 15(b) of the Securities Exchange Act of 1934 (“Exchange Act”), Sections 203(f) and 203(k) of the Advisers Act, and Section 9(b) of the Investment Company Act against Charles P. Hanlon (“Hanlon”, and together with Delta, “Respondents”).

## II.

After an investigation, the Division of Enforcement alleges that:

### **SUMMARY**

1. This proceeding involves numerous materially misleading statements and omissions by Delta, an investment adviser registered with the Commission, and Hanlon, Delta's principal and control person. During the relevant period, Delta misrepresented to existing and prospective investors its eligibility for Commission registration, including that it served as an investment adviser to a registered investment company and managed as much as \$1.5 billion. In fact, Delta did not advise any such client and had at times no more than \$9 million under management. These misrepresentations vastly exaggerated the significance and status of the firm. Moreover, Delta failed to disclose its poor financial condition, a default judgment entered against it in a breach of fiduciary duty lawsuit brought by a client, and that Hanlon had been the subject of disciplinary action by the Financial Industry Regulatory Authority ("FINRA"). As a result of these misleading statements and omissions, Delta appeared to be operationally sound and much larger and more established than it really was.

2. Although Hanlon represented to Commission examination staff that Delta would disclose its poor financial condition to clients, Delta never did so. In addition, even after Commission examination staff asked Delta to correct its Form ADV to accurately reflect its assets under management and deregister, Delta continued to misrepresent its assets under management and did not withdraw its registration.

### **RESPONDENTS**

3. **Delta** is a California corporation based in Huntington Beach, California that registered with the Commission as an investment adviser on July 10, 2006. Hanlon wholly owns Delta. In 2009, Delta was providing discretionary advisory services to 209 accounts belonging to individuals, pension and profit-sharing plans, trusts, and corporations.

4. **Hanlon** is Delta's founder, president, and sole control person. At all relevant times, Hanlon was responsible for the management of Delta's business. From January 2005 through February 2007, Hanlon was associated with a registered broker-dealer, Delta Equity Services Corporation. FINRA suspended Hanlon from all registration capacities on June 29, 2010 for violating FINRA rules for failing to comply with an arbitration award.

### **RESPONDENTS MISREPRESENTED DELTA'S STATUS AS AN INVESTMENT ADVISER TO A REGISTERED INVESTMENT COMPANY AND ITS ASSETS UNDER MANAGEMENT**

5. Between 2006 and 2008, Delta and Hanlon filed materially false Forms ADV that vastly exaggerated the significance and status of the firm. Specifically, Delta

falsely claimed that it was eligible for registration with the Commission, that it served as an investment adviser to a registered investment company, and that it managed assets far in excess of its actual assets under management.

6. From September 1, 2006 through March 27, 2008, Delta's Form ADV filings claimed that the firm was eligible for investment adviser registration with the Commission because it served as the investment adviser to a registered investment company. During the relevant time period, Delta had entered into several consulting agreements with the sponsor of unit investment trusts (the "trusts"), which were registered under the Investment Company Act.<sup>1</sup> Pursuant to the consulting agreements, Delta assisted the sponsor in selecting a portfolio of securities for the trusts and received a one-time fee for these services. While Delta served as an investment adviser to the trusts' sponsor for the limited period in which Delta advised on selection of securities for the trusts, Delta did not have an advisory contract with the registered investment company. Thus, contrary to what it represented in its Form ADV filings, Delta was not acting as an investment adviser to a registered investment company (the trusts) and Delta was not eligible for registration on that basis.

7. From March 7, 2007 through July 6, 2008, Delta's Form ADV filings improperly included the trusts' assets as Delta's advisory assets under management, even though Delta did not provide continuous and regular supervision of the trusts' assets. The inclusion of the trusts' assets vastly overstated the firm's reported size: in four separate filings Delta claimed to manage between \$656 million and \$1.49 billion in assets. In fact, during this period, Delta's assets under management dropped to as low as \$9 million.

8. For nearly every period reflected in Delta's Form ADV filings, Delta did not have \$25 million or more in advisory assets under management and therefore was not eligible for registration on that basis. In addition, as of June 30, 2009 (the date of its most recent Form ADV filing), Delta did not have \$25 million or more in advisory assets under management.

9. Delta similarly misrepresented its assets under management through its website. Delta's website included a section containing articles from Bloomberg, Reuters, and other news sources quoting Delta's employees, including Hanlon. Many of these articles falsely stated that Delta had assets under management of \$1 billion or more. For example, Delta's website included a January 23, 2009 Bloomberg article that stated: "Everybody wants to buy gold, and these have been very healthily subscribed issues,"

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<sup>1</sup> Section 4(2) of the Investment Company Act defines a UIT as "an investment company, which (A) is organized under a trust indenture, contract of custodianship or agency, or similar instrument, (B) does not have a board of directors, and (C) issues only redeemable securities . . ." Typically, these trusts do not have corporate officers, or an investment adviser. These trusts generally do not actively trade their investment portfolios – that is, a unit investment trust buys a relatively fixed portfolio of securities (for example, five, ten, or twenty specific stocks or bonds), and holds them with little or no change for the life of the trust.

Michael Pento, who helps oversee \$1.5 billion at Delta Global Advisors . . . said in an interview.” Similarly, a March 2, 2009 Bloomberg article on Delta’s website stated: ““Silver’s woken up recently, but it isn’t flying yet,” said Chip Hanlon, president of Delta Global Advisors Inc. in Huntington Beach, California, which manages \$1 billion.”

10. At the time Delta filed its Forms ADV and posted articles to its website, Hanlon knew or was reckless in not knowing that the representations made about assets under management and providing advisory services to a registered investment company were materially false. In addition, even after Hanlon was advised by an investment advisory compliance firm and Commission staff that Delta was not acting as an investment adviser to a registered investment company and that it should not consider the trusts’ assets as Delta’s assets under management, Delta and Hanlon continued to post additional articles on Delta’s website that included the trusts’ assets as its assets under management.

11. In its July 7, 2008 Form ADV filing, Delta excluded the trusts’ assets from its assets under management and no longer indicated that it provided investment advisory services to a registered investment company. In this filing, Delta indicated that it had \$26 million in assets under management, but this was false. At that time Delta only had \$16 million in assets under management.

12. Commission examination staff brought this matter to Hanlon’s attention and, on March 31, 2009, Delta amended its Form ADV to reflect \$16 million in assets under management, which was well below the \$25 million threshold for registration. Only one day before Delta was required to file a Form ADV-W withdrawing its registration, Delta amended its Form ADV once again to reflect \$26 million in assets under management. Hanlon admitted to Commission examination staff that Delta included \$10 million in “hopeful” assets in this Form ADV filing as assets under management. Without these additional “hopeful” assets, Delta would not have been eligible for registration as an investment adviser. However, even after Commission examination staff requested that Delta correct its Form ADV and deregister, Delta continued to misrepresent its assets under management and did not withdraw its registration.

**RESPONDENTS FAILED TO MAKE REQUIRED DISCLOSURES ABOUT DELTA’S POOR FINANCIAL CONDITION AND HANLON’S DISCIPLINARY HISTORY**

13. In August 2009, Delta’s financial condition was seriously impaired because it had minimal liquid assets and several overdue bills. On November 13, 2009, Delta informed Commission examination staff by letter that it was “in the process of communicating with all clients on this matter and will have completed this process by December 9, 2009.” However, contrary to Delta’s representations, Hanlon never disclosed Delta’s financial condition to any clients.

14. On June 28, 2010, a default judgment was entered against Delta and Hanlon in a lawsuit filed by one of Delta’s clients relating to Delta’s advisory services. The lawsuit alleged breach of fiduciary duty, negligence, failure to supervise, negligent

misrepresentation, and breach of contract, all relating to Hanlon and Delta's activities as investment advisers. Among other things, the plaintiff claimed that Delta and Hanlon (i) did not follow plaintiff's investment guidelines and objectives, and (ii) failed to disclose certain conflicts of interest. The judgment ordered Delta and Hanlon to pay \$353,706 in damages. Neither Delta nor Hanlon has satisfied the judgment. In addition, Delta did not disclose the existence of this judgment to Delta's clients or its precarious financial condition as a result of the unsatisfied judgment, even though it was required to do so.

15. In June 2010, a FINRA arbitration panel ordered Hanlon to pay compensatory damages of \$272,290 and \$5,500 in fees arising from a complaint against him alleging breach of contract, slander, and fraud. Hanlon failed to comply with this arbitration award and consequently on June 29, 2010 FINRA suspended Hanlon from acting in any registered capacity. Delta did not disclose this disciplinary action to its clients, even though it was required to do so.

## **VIOLATIONS**

16. As a result of the conduct described above, Delta willfully violated, and Hanlon willfully aided, abetted, and caused Delta's violations of, Section 203A of the Advisers Act for having improperly registered with the Commission.

17. As a result of the conduct described above, Delta and Hanlon willfully violated Sections 206(1) and 206(2) of the Advisers Act by employing devices, schemes or artifices to defraud clients or engaging in transactions, practices or courses of business that defrauded clients or prospective clients.

18. As a result of the conduct described above, Delta and Hanlon willfully violated Section 207 of the Advisers Act by making untrue statements of a material fact in registration applications or reports Delta filed with the Commission and willfully omitting to state in such applications or reports material facts which were required to be stated therein.

19. As a result of the conduct described above, Delta willfully violated, and Hanlon willfully aided, abetted, and caused Delta's violations of, Section 206(4) of the Advisers Act and Rules 206(4)-1(a)(5) and 206(4)-4(a)(1) and (2) thereunder by engaging in the following acts, practices or courses of business which were fraudulent, deceptive or manipulative: (a) publishing, circulating or distributing advertisements that contained untrue statements of material facts, or that were otherwise false or misleading; (b) failing to disclose to clients or prospective clients all material facts regarding the financial condition of the adviser that are reasonably likely to impair the adviser's ability to meet its contractual commitments to clients; and (c) failing to disclose a legal or disciplinary event that is material to an evaluation of the adviser's integrity or ability to meet contractual commitments to clients.

### III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate in the public interest that public administrative and cease-and-desist proceedings be instituted to determine:

A. Whether the allegations set forth in Section II hereof are true and, in connection therewith, to afford Respondents an opportunity to establish any defenses to such allegations;

B. What, if any, remedial action is appropriate in the public interest against Respondent Hanlon pursuant to Section 15(b) of the Exchange Act;

C. What, if any, remedial action is appropriate in the public interest against Respondent Hanlon pursuant to Section 203(f) of the Advisers Act including, but not limited to, civil penalties pursuant to Section 203(i) of the Advisers Act;

D. What, if any, remedial action is appropriate in the public interest against Respondent Delta pursuant to Section 203(e) of the Advisers Act including, but not limited to, civil penalties pursuant to Section 203(i) of the Advisers Act;

E. What, if any, remedial action is appropriate in the public interest against Respondents pursuant to Section 9(b) of the Investment Company Act; and

F. Whether, pursuant to Section 203(k) of the Advisers Act, Respondents should be ordered to cease and desist from committing or causing violations of and any future violations of Sections 203A, 206(1), 206(2), 206(4), and 207 of the Advisers Act and Rules 206(4)-1(a)(5) and 206(4)-4(a)(1) and (2) thereunder.

### IV.

IT IS ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened not earlier than 30 days and not later than 60 days from service of this Order at a time and place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice, 17 C.F.R. § 201.110.

IT IS FURTHER ORDERED that Respondents shall file an Answer to the allegations contained in this Order within twenty (20) days after service of this Order, as provided by Rule 220 of the Commission's Rules of Practice, 17 C.F.R. § 201.220.

If Respondents fail to file the directed answer, or fail to appear at a hearing after being duly notified, the Respondents may be deemed in default and the proceedings may be determined against them upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f) and 310 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f) and 201.310.

This Order shall be served forthwith upon Respondents personally or by certified mail.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 300 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

By the Commission.

Elizabeth M. Murphy  
Secretary

## Service List

Rule 141 of the Commission's Rules of Practice provides that the Secretary, or another duly authorized officer of the Commission, shall serve a copy of the Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Section 15(b) of the Securities Exchange Act of 1934, Sections 203(e), 203(f), and 203(k) of the Investment Advisers Act of 1940, and Section 9(b) of the Investment Company Act of 1940 ("Order"), on the Respondents and their legal agent.

The attached Order has been sent to the following parties and other persons entitled to notice:

Honorable Brenda P. Murray  
Chief Administrative Law Judge  
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