

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

**INVESTMENT ADVISERS ACT OF 1940**  
**Release No. 3283 / September 20 2011**

**INVESTMENT COMPANY ACT OF 1940**  
**Release No. 29796 / September 20, 2011**

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

**In the Matter of**

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

**Respondents.**

**ORDER 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 SECTION 9(b) OF  
THE INVESTMENT COMPANY ACT OF 1940  
AS TO DELTA GLOBAL ADVISORS, INC.**

**I.**

On April 7, 2011, the Securities and Exchange Commission (“Commission”) instituted proceedings 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” or “Respondent”).

**II.**

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 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 Section 9(b)

of the Investment Company Act of 1940 as to Delta Global Advisors, Inc. (“Order”), as set forth below.

### III.

On the basis of this Order and Respondent’s Offer, the Commission finds<sup>1</sup> that:

#### SUMMARY

1. This proceeding involved numerous materially misleading statements and omissions by Delta, an investment adviser registered with the Commission, and Charles P. Hanlon (“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 suspended 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.

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<sup>1</sup> 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.

## BACKGROUND

### **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>2</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.

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<sup>2</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.

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,' 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 Section 203A of the Advisers Act for having improperly registered with the Commission.

17. As a result of the conduct described above, Delta 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 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 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.

**IV.**

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

Accordingly, pursuant to Sections 203(e) and 203(k) of the Advisers Act, and Section 9(b) of the Investment Company Act, it is hereby ORDERED that:

A. Respondent Delta shall cease and desist from committing or causing any violations and any future violations of Sections 203A, 206(1), 206(2), 206(4), and 207 of the Advisers Act and Rule 206(4)-1(a)(5) promulgated thereunder.

B. The registration of Respondent Delta as an investment adviser be, and hereby is, revoked.

By the Commission.

Elizabeth M. Murphy  
Secretary