

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

**SECURITIES EXCHANGE ACT OF 1934**

Release No. 56138 / July 26, 2007

**ACCOUNTING AND AUDITING ENFORCEMENT**

Release No. 2658 / July 26, 2007

**ADMINISTRATIVE PROCEEDING**

File No. 3-12712

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<b>In the Matter of</b>	:	
	:	<b>ORDER INSTITUTING CEASE-AND-</b>
	:	<b>DESIST PROCEEDINGS, MAKING</b>
<b>DELTA &amp; PINE LAND COMPANY</b>	:	<b>FINDINGS, AND IMPOSING A CEASE-</b>
	:	<b>AND-DESIST ORDER PURSUANT TO</b>
<b>and</b>	:	<b>SECTION 21C OF THE SECURITIES</b>
	:	<b>EXCHANGE ACT OF 1934</b>
<b>TURK DELTAPINE, INC.,</b>	:	
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	:	
<b>Respondents.</b>	:	
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**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 21C of the Securities Exchange Act of 1934 (the “Exchange Act”) against Delta & Pine Land Company (“Delta & Pine”) and Turk Deltapine, Inc. (“Turk Deltapine”) (collectively “Respondents”).

**II.**

In anticipation of the institution of these proceedings, Respondents have submitted Offers of Settlement (the “Offers”) that 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 Cease-and-Desist, Making Findings, and Imposing a Cease-and-Desist Order

Pursuant to Section 21C of the Securities and Exchange Act of 1934 ("Order"), as set forth below.<sup>1</sup>

### III.

On the basis of this Order and Respondents' Offers, the Commission finds<sup>2</sup> that:

#### A. Respondents

1. Respondent Delta & Pine is a Delaware corporation with its headquarters in Scott, Mississippi. Delta & Pine is primarily engaged in the breeding, production, conditioning and marketing of proprietary varieties of cotton planting seed. Delta & Pine conducts operations in a number of foreign jurisdictions, including Turkey. Delta & Pine's common stock was registered with the Commission pursuant to Section 12(b) of the Exchange Act and was traded on the New York Stock Exchange during the relevant time. Delta & Pine was acquired by Monsanto on June 1, 2007, subject to the terms of a settled Proposed Final Judgment that Monsanto and the Department of Justice filed on May 31, 2007, and, pursuant to the acquisition, its common stock was delisted and deregistered on June 5, 2007.
2. Respondent Turk Deltapine is a Delaware corporation with its headquarters in Scott, Mississippi. Turk Deltapine is a wholly-owned subsidiary of Delta & Pine and is engaged in the production and sale of cottonseed in Turkey, both for domestic consumption in Turkey and for export to other countries.

#### B. Facts

##### Summary

1. From 2001-2006, Turk Deltapine made payments valued at approximately \$43,000 (including cash, payment of travel and hotel expenses, air conditioners, computers, office furniture and refrigerators) to multiple officials of the Turkish Ministry of Agricultural and Rural Affairs ("MOA"). Turk Deltapine made the payments in order to obtain governmental reports and certifications that were necessary for Turk Deltapine to operate its business in Turkey. These payments, which assisted the Respondents in obtaining and retaining business, violated the anti-bribery provisions of the Foreign Corrupt Practices Act ("FCPA"). In addition, in connection with these improper payments, Delta & Pine failed to keep accurate books and records, and

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<sup>1</sup> In addition, the Commission has contemporaneously filed a complaint in the United States District Court for the District of Columbia charging Respondents with the violations set forth in this order and seeking a civil penalty. Without admitting or denying the Commission's allegations, Delta & Pine and Turk Deltapine have consented to the entry of a final judgment by the Court that would require Delta & Pine and Turk Deltapine to jointly and severally pay a \$300,000 civil penalty. See *SEC v. Delta & Pine Land Co.*, No. 1:07-cv-01352 (RWR) (D.D.C) (July 25, 2007).

<sup>2</sup> The findings herein are made pursuant to Respondents' Offers of Settlement and are not binding on any other person or entity in this or any other proceeding.

failed to have effective internal controls. Accordingly, Delta & Pine violated the books and records and internal controls provisions of the FCPA.

### **Turk Deltapine's Payments to Turkish Officials**

2. Turk Deltapine contracts annually with a number of Turkish farmers to grow seed on their farms for Turk Deltapine. The Turkish farmers own the seed until it is sold to Turk Deltapine. Inspectors from provincial offices of MOA inspect the fields to determine the spacing and size of the fields, and to estimate their anticipated production. The inspections are time-sensitive, in that they must occur while the cotton crop is in the field and before more than one-third of the cotton bolls open. Upon completion of the inspection, MOA inspectors are required to complete inspection reports. The inspections and inspection reports must be completed before Turk Deltapine can purchase the cotton seeds from Turkish farmers. In a number of cases, MOA inspectors receiving payments from Turk Deltapine did not actually inspect the fields prior to completing inspection reports, as they were required to do.
3. Turk Deltapine also was required to obtain certifications from laboratories authorized by MOA to perform tests required by the Organisation for Economic Cooperation and Development ("OECD") for quality and to confirm the absence of certain characteristics. Turk Deltapine also needed another certificate from MOA's plant protection office to export seed for sale. In order to obtain these certifications, inspectors from MOA obtain samples of the seed from Turk Deltapine facilities. The sampling officials collect samples from each lot of seed and seal the sample in an official envelope before sending the seed to laboratories for testing and certification. During the process of sampling and preparing the seed for transmission to laboratories, the sampling officials are required to certify that the seed samples have been properly chemically treated and bagged. These MOA certifications must be completed before Turk Deltapine is permitted to sell its seeds in Turkey or export the seeds to other countries. In a number of cases, MOA officials providing the certifications, and who received payments from Turk Deltapine, did not comply with regulations concerning the chemical treatment and bagging of seed.
4. Prior to May 2004, payments to MOA officials were made in part using revenue generated from the sale of Turk Deltapine waste products and products from waste allowance. These sales, and the payments to MOA officials made from the proceeds of those sales, were not recorded in Respondents' books, records, and accounts. In addition, some payments to MOA officials were recorded in Turk Deltapine's books, records, and accounts as "Porter Fees" paid to non-existent persons.

### **Delta & Pine Learns of Turk Deltapine's Payments but the Payments Continue**

5. In May 2004, Delta & Pine officers in the United States learned that Turk Deltapine was making payments to MOA officials. Delta & Pine reviewed the circumstances of the payments, but did not receive all facts concerning those payments from Turk Deltapine employees.

6. Instead of halting the payments, Delta & Pine permitted the payments to continue using the following procedure in consultation with Turk Deltapine employees. Rather than Turk Deltapine making the payments directly to MOA employees, Turk Deltapine arranged to have the payments made by a chemical company supplier to Turk Deltapine. Turk Deltapine employees estimated the annual amount of payments that would be made to MOA employees, and arranged to have the chemical company pay those amounts to MOA employees. The chemical company, in turn, would include those sums, plus a 10 percent fee for handling the transactions, in its invoices for chemicals supplied to Turk Deltapine. The payments to MOA officials made after May 2004 therefore similarly were not recorded in the books, records, and accounts of Turk Deltapine or Delta & Pine. Moreover, in setting out this procedure, an internal Delta & Pine memorandum noted that there were “no effective controls to put in place to monitor this process.”
7. Turk Deltapine’s payments to MOA officials did not cease until 2006, when the payments came to light in connection with due diligence being performed by a potential acquirer of Delta & Pine.

### **C. Legal Analysis**

Section 30A of the Exchange Act prohibits issuers, and certain other persons including agents of issuers, from, among other things, making improper payments to foreign officials for the purpose of influencing their decisions in order to obtain or retain business. Exchange Act Section 13(b)(2)(A) requires public companies to make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the issuer; and Exchange Act Section 13(b)(2)(B) requires such companies to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that: (i) transactions are executed in accordance with management’s general or specific authorization; and (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles or any other criteria applicable to such statements, and to maintain accountability for assets. 15 U.S.C. §§ 78m(b)(2)(A) and 78m(b)(2)(B).

As detailed above, Turk Deltapine, as agent for Delta & Pine, made numerous improper payments to MOA inspectors, with the purpose and effect of influencing their decisions in order to obtain or retain business. Throughout the relevant period, MOA inspectors were foreign officials within the meaning of the FCPA, and MOA was an instrumentality of a foreign government within the meaning of the FCPA. Turk Deltapine therefore violated the anti-bribery provisions of Exchange Act Section 30A. Moreover, in connection with these payments, Delta & Pine failed to make and keep accurate books, records, and accounts as required by Exchange Act Section 13(b)(2)(A). Finally, and as evidenced by the extent and duration of the improper payments to foreign officials, and the improper recording of these payments in its subsidiary’s books and records, Delta & Pine failed to devise and maintain an effective system of internal controls to prevent these violations of the FCPA, as required by Exchange Act Section 13(b)(2)(B).

#### IV.

As a result of the conduct described above, Delta & Pine violated Section 13(b)(2)(A) of the Exchange Act, 15 U.S.C. § 78m(b)(2)(A), which requires issuers to make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the issuer; and Section 13(b)(2)(B) of the Exchange Act, 15 U.S.C. § 78m(b)(2)(B), which requires issuers to devise and maintain a system of internal accounting controls sufficient to provide the reasonable assurances set forth in that statute.

As a result of the conduct described above, Turk Deltapine violated Section 30A of the Exchange Act, 15 U.S.C. § 78dd-1, which provides that it is unlawful for an agent of an issuer corruptly to give, promise to give, or authorize the giving of anything of value to any foreign official for purposes of (i) influencing any act or decision of such foreign official in his official capacity, (ii) inducing such foreign official to do or omit to do any act in violation of the lawful duty of such official, or (iii) securing any improper advantage, in order to assist such issuer in obtaining or retaining business for or with, or directing business to, any person.

Based on the foregoing, the Commission finds that Turk Deltapine violated Exchange Act Section 30A and Delta & Pine violated Exchange Act Sections 13(b)(2)(A) and 13(b)(2)(B).

#### V.

Respondent Delta & Pine has undertaken to:

1. Retain, through Delta & Pine's Board of Directors, within 60 days after the entry of this order, an independent consultant ("Independent Consultant"), not unacceptable to the staff of the Commission, to review and evaluate Delta & Pine's internal controls, record-keeping, and financial reporting policies and procedures as they relate to its compliance with the books and records, internal accounting controls, and anti-bribery provisions of the FCPA, codified at Sections 13(b)(2)(A), 13(b)(2)(B) and 30A of the Exchange Act [15 U.S.C. §§ 78m(b)(2)(A) & (B) and 78dd-1]. Delta & Pine shall cooperate fully with the Independent Consultant and shall provide the Independent Consultant with access to its files, books, records, and personnel as reasonably requested for the review;
2. Require that the Independent Consultant issue a report, within sixty (60) days after being retained, summarizing the review and recommending policies and procedures reasonably designed to ensure compliance with the federal securities laws as they relate to the FCPA. Simultaneously with providing that report to Delta & Pine's Board of Directors, Delta & Pine shall require that the Independent Consultant contemporaneously transmit a copy to Kenneth R. Lench, Assistant Director, Division of Enforcement, Securities and Exchange Commission, 100 F Street, N.E., Washington, D.C. 20549-6041;

3. Adopt all recommendations in the report of the Independent Consultant; provided, however, that within sixty (60) days after the Independent Consultant serves that report, Delta & Pine shall in writing advise the Independent Consultant and the Commission of any recommendations that it considers to be unduly burdensome, impractical, or costly. With respect to any recommendation that Delta & Pine considers unduly burdensome, impractical or costly, Delta & Pine need not adopt that recommendation at that time but shall propose in writing an alternative policy, procedure or system designed to achieve the same objective or purpose. As to any recommendation on which Delta & Pine and the Independent Consultant do not agree, such parties shall attempt in good faith to reach an agreement within sixty (60) days after Delta & Pine serves the written advice. In the event Delta & Pine and the Independent Consultant are unable to agree on an alternative proposal, Delta & Pine will abide by the determinations of the Independent Consultant;
  
4. Require the Independent Consultant to undertake a review, which shall be completed within one year of the entry of this order, of Delta & Pine's policies and procedures regarding compliance with the federal securities laws as they relate to the FCPA. During the review of Delta & Pine's compliance program, the Independent Consultant shall (i) certify that Delta & Pine's policies and procedures are appropriately designed to accomplish their goals, (ii) monitor Delta & Pine's implementation and compliance with the policies and procedures, and (iii) report on the Independent Consultant's findings as to the effectiveness of the policies and procedures to Delta & Pine's Audit Committee. Should the Independent Consultant, during this period, determine that there is a reasonable likelihood that corrupt payments have been offered, promised, paid, or authorized by any Delta & Pine entity, including agents, consultants, and joint ventures, shareholders acting on Delta & Pine's behalf, and contractors and sub-contractors working directly or indirectly for Delta & Pine, the Consultant shall promptly report such payments to Delta & Pine's Audit Committee, and Delta & Pine shall then be obligated to promptly report the same to the staff of the Commission at the address listed above. Should Delta & Pine fail to make such disclosure, the Independent Consultant shall independently disclose its findings to the staff of the Commission, at the address listed above. Further, the Independent Consultant shall disclose to the staff of the Commission in the event that Delta & Pine, or its officers, employees, consultants, agents, and joint ventures, or shareholders acting on Delta & Pine's behalf, or contractors or sub-contractors working directly or indirectly for Delta & Pine refuse to provide information necessary for the performance of the Independent Consultant's responsibilities. Delta & Pine agrees that it will not take any action to retaliate against the Independent Consultant for such disclosures. During the period, Delta & Pine shall immediately disclose to the staff of the Commission, at the address listed above, any information of which it learns that suggests there is a reasonable likelihood that corrupt payments were offered, promised, paid, or authorized by any Delta & Pine entity, including agents, consultants, and joint ventures, shareholders working on Delta & Pine's behalf, and contractors or sub-contractors working directly or indirectly for Delta & Pine; and

5. Require the Independent Consultant to enter into an agreement with Delta & Pine that provides that for the period of engagement and for a period of two years from completion of the engagement, the Independent Consultant shall not enter into any employment, consultant, attorney-client, auditing or other professional relationship with Delta & Pine, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity. The agreement will also provide that the Independent Consultant will require that any firm with which he/she is affiliated or of which he/she is a member, and any person engaged to assist the Independent Consultant in performance of his/her duties under this Order shall not, without prior written consent of the Securities and Exchange Commission's Division of Enforcement, enter into any employment, consultant, attorney-client, auditing or other professional relationship with Delta & Pine, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such for the period of the engagement and for a period of two years after the engagement.
6. These undertakings shall be binding upon any acquirer or successor in interest to Delta & Pine or substantially all of Delta & Pine's assets and liabilities or business.
7. For good cause shown, the Commission's staff may extend any of the procedural dates set forth above.

## VI.

Accordingly, IT IS HEREBY ORDERED, pursuant to Section 21C of the Exchange Act, that:

- (i) Respondent Delta & Pine cease and desist from committing or causing any violations and any future violations of Exchange Act Sections 13(b)(2)(A) and 13(b)(2)(B);
- (ii) Respondent Turk Deltapine cease and desist from committing or causing any violations and any future violations of Exchange Act Section 30A; and
- (ii) Delta & Pine comply with the undertaking set forth in Section V above.

By the Commission.

Nancy Morris  
Secretary