

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 11020 / December 22, 2021

SECURITIES EXCHANGE ACT OF 1934
Release No. 93858 / December 22, 2021

INVESTMENT ADVISERS ACT OF 1940
Release No. 5935 / December 22, 2021

INVESTMENT COMPANY ACT OF 1940
Release No. 34447 / December 22, 2021

ADMINISTRATIVE PROCEEDING
File No. 3-20689

In the Matter of

**PEACHCAP TAX &
ADVISORY, LLC,
and
DAVID H. MILLER,**

Respondents.

**ORDER INSTITUTING ADMINISTRATIVE
AND CEASE-AND-DESIST PROCEEDINGS,
PURSUANT TO SECTION 8A OF THE
SECURITIES ACT OF 1933, 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,
MAKING FINDINGS, AND IMPOSING
REMEDIAL SANCTIONS AND A CEASE-
AND-DESIST ORDER**

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 Section 8A of the Securities Act of 1933 (“Securities Act”), Section 15(b) of the Securities Exchange Act of 1934 (“Exchange Act”), Sections 203(e), 203(f) 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 PeachCap Tax & Advisory, LLC (“PCTA”) and David H. Miller (“Miller”) (collectively, “Respondents”).

II.

In anticipation of the institution of these proceedings, Respondents have submitted Offers of Settlement (the “Offers”) 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 them and the subject matter of these proceedings, which are admitted, and except as provided herein in Section V as to Respondent Miller, Respondents consent to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings, Pursuant to Section 8A of the Securities Act of 1933, 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, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondents’ Offers, the Commission finds¹ that:

Summary

1. These proceedings arise from violations of the federal securities laws by Miller and his SEC-registered investment advisory firm, PCTA.

2. First, between May 2016 and October 2016, Miller offered and sold to certain of his advisory clients and others over \$4.6 million in limited partnership interests in The Pessego Long Short Fund, LP (the “Fund”), a hedge fund formed by Miller in April 2016. The Fund’s offering documents and other materials provided to prospective investors claimed that the Fund sought to “generate attractive risk-adjusted returns across all market environments while preserving capital,” and that the Fund “utilize[d] a fundamental long/short equity approach that targets a low net exposure as its principal investment strategy.” In reality, however, the Fund engaged in risky trading from the outset that was inconsistent with its stated objectives and strategies. Moreover, in soliciting investors, Miller recommended the Fund to certain PCTA advisory clients, including some clients for whom the Fund was an unsuitable investment. The Fund, which began trading in May 2016, lost more than 90 percent of its value before closing in December 2017.

3. Second, between May 2017 and June 2018, PCTA engaged in 492 principal trades with 6 advisory clients without providing the requisite transaction-specific notice or obtaining consent. PCTA also did not adopt and implement written compliance policies and procedures reasonably designed to prevent violations of the federal securities laws in connection with these principal trades.

4. Finally, PCTA did not adopt written compliance policies and procedures regarding volatility-linked exchange-traded products, which resulted in PCTA’s investment adviser

¹ 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.

representatives (“IARs”) using their discretionary authority over client accounts to buy and hold a complex leveraged exchange traded fund (“Leveraged ETF”) for retail clients for time periods that were inconsistent with the purpose of the product as described in its offering materials, subjecting its clients to unreasonable risk of loss.

Respondents

5. **PeachCap Tax & Advisory, LLC** is a Georgia limited liability company whose principal place of business is in Atlanta, Georgia. PCTA has been an SEC-registered investment adviser since March 1, 2016, and previously was registered with the State of Georgia. PeachCap, Inc. is the sole owner of PCTA, and David H. Miller holds an 81.15% ownership interest in, and is the Chief Executive Officer of, PeachCap, Inc. In its most recent Form ADV filed on July 12, 2021, PCTA reported total regulatory assets under management of \$102,922,124.

6. **David H. Miller** is the majority owner and Chief Executive Officer of PeachCap, Inc., the entity that owns PCTA. Miller is, and at all times relevant hereto was, an IAR of PCTA, and a registered representative of PeachCap Securities, Inc. (“PeachCap Securities”), a registered broker-dealer affiliated with PCTA. During the time period relevant to this Order, Miller controlled PCTA’s operations and, from approximately March 2016 through April 2017, Miller served as PCTA’s Chief Compliance Officer. Miller held a controlling interest in, and served as the Co-Chief Investment Officer of The Pessego Funds, LLC, the general partner of the Fund, and was the sole manager designated in its operating agreement. Miller holds Series 7, 24, 27 and 66 licenses. Miller resides in Duluth, Georgia and is 40 years old.

Other Relevant Entities

7. **The Pessego Funds, LLC (the “General Partner”)** was a Georgia limited liability company whose principal place of business was in Atlanta, Georgia. The General Partner was the Fund’s general partner and was entitled to a 2% annual management fee plus a 20% performance fee on the Fund’s profits. Miller held a 76.8% ownership interest in the General Partner; three other individuals who formed the Fund with Miller held the remaining interests. Under the terms of the operating agreement of the General Partner, Miller was its sole manager. The General Partner was administratively dissolved in 2020.

8. **The Pessego Long Short Fund, LP** was a Delaware limited partnership whose principal place of business was in Atlanta, Georgia. Miller formed the Fund in April 2016 to operate as a private investment partnership. The General Partner closed the Fund in December 2017.

Background

The Fund

9. Miller created the Fund in April 2016. Miller was the first investor in the Fund, investing \$500,000 of his own money. As the Fund’s sole limited partner at the time, Miller was obligated to pay, or reimburse the General Partner for, the Fund’s initial start-up expenses.

Under the terms of the Fund's limited partnership agreement, these start-up expenses were to be amortized and charged to the capital accounts of all of the limited partners, on a monthly basis over a period of sixty (60) months, meaning that Miller could defray the start-up expenses by bringing in additional investors.

10. After making his initial investment, Miller delegated responsibility for overseeing the Fund's daily operations to the Fund's other Co-Chief Investment Officer. As a result, Miller did not make investment decisions for the Fund, did not direct the Fund's day-to-day trading, and did not calculate the Fund's performance.

11. Beginning in May 2016, Miller began to solicit his and PCTA's advisory clients and others to invest in the Fund. Between May and October 2016, the Fund raised more than \$4.6 million in investments from 21 investors, 17 of whom were advisory clients of PCTA and Miller.

12. Miller caused prospective investors to be sent a Confidential Private Placement Memorandum ("PPM") for the Fund, which contained material misrepresentations and omissions. The PPM stated that the Fund's investment objective was to "seek to generate attractive risk-adjusted returns across all market environments while preserving capital" by using "a fundamental long/short equity approach that targets a low net exposure as its principal investment strategy." From its inception, however, the Fund consistently engaged in various high-risk trading strategies that were inconsistent with its stated objectives and principal investment strategy.

13. Although the PPM gave the General Partner discretion to change the investment objectives and strategy of the Fund upon prior notice to investors, the General Partner, which was controlled by Miller, never provided notice of such a change to prospective or existing investors. In addition, Miller used the PPM for the entire period during which he solicited investors even though the Fund was never managed in a manner consistent with its stated objectives and strategies.

14. In September 2016, Miller used a "tear sheet" containing information about the Fund to solicit two prospective investors, both of whom subsequently invested in the Fund. The tear sheet contained material misrepresentations and omissions similar to those in the PPM regarding the Fund's trading strategy and objectives. The tear sheet also misrepresented the Fund's performance by omitting data from May 2016, during which the Fund experienced losses, from its cumulative performance and overstating the Fund's gains from June 2016 through August 2016. Finally, the tear sheet misrepresented that the Fund managers had outperformed the S&P 500 over the preceding ten years in a separate account that they managed.

15. In September 2016, Miller also used a 25-page presentation entitled "The Pessego Funds," in connection with soliciting investments from prospective and existing investors. Like the PPM and the tear sheet, the presentation misrepresented that the Fund's objective was to "[g]enerate attractive risk-adjusted returns across all market environments while preserving capital," and that the Fund engaged in a "fundamental long/short equity approach targeting a low net exposure." In fact, since its inception the Fund had not been following the approach

described in the presentation. In addition, the presentation misrepresented that the Fund limited the size of its long positions to 5% of its holdings and used “pre-determined exit points to protect assets” when the market declined. In fact, the Fund frequently held single long positions exceeding 50% of its capital, and it did not use “pre-determined exit points.”

16. Miller also did not disclose to some of his and PCTA’s advisory clients that, as the first investor in the Fund, Miller was obligated to pay the Fund’s start-up expenses, which created a conflict of interest for Miller in recommending the Fund because he could recoup a portion of the start-up expenses by bringing in additional investors. The Fund’s organizational documents provided that start-up expenses would be shared equally among the limited partners over a 60-month period, and thus Miller’s personal share of those expenses declined as the number of limited partners rose. Subsequently, after the Fund had begun to experience substantial losses, Miller solicited additional investments from some of these clients and again did not disclose that he was an investor in the Fund and that the Fund required additional investments to provide it – and Miller – a better chance of recovering their losses.

17. Several of PCTA’s and Miller’s advisory clients who invested in the Fund based on Miller’s recommendation – including the three largest investors in the Fund – had limited knowledge of investing, limited investment experience, conservative investment objectives, and/or a low risk tolerance. An investment in the Fund was unsuitable for these clients.

18. As the General Partner’s manager and Co-Chief Investment Officer, Miller had access to information concerning the Fund’s trading and performance. Despite this access, Miller did not adequately review the Fund’s trading or obtain other information necessary to determine the accuracy – at the time he was soliciting Fund investors and recommending the Fund to his clients – of the statements in the PPM, tear sheet, or presentation.

19. The Fund incurred substantial trading losses throughout its existence, and was closed by the General Partner in December 2017 after losing over 90% of its value. Because of the Fund’s poor performance, Fund investors – including Miller – lost the majority of their investments in the Fund, Miller did not recoup the Fund start-up expenses, and the General Partner voluntarily waived all fees to which it was entitled.

Principal Trades

20. Between May 1, 2017 and June 17, 2018, PCTA engaged in 492 trades in its own account with 6 advisory clients, which were effected through PCTA’s affiliated broker-dealer, PeachCap Securities. PCTA did not provide written disclosure to, or obtain consent from, the affected clients before completing these principal trades.

21. PCTA did not adopt and implement written policies and procedures reasonably designed to satisfy the written disclosure and client consent requirements in connection with principal trades. Specifically, PCTA did not have any policies and procedures addressing principal trades, and although PCTA’s policies and procedures called for PCTA to fully disclose all material facts regarding any potential conflicts of interest to clients and prospective clients, PCTA did not follow these policies and procedures in regard to the principal trades.

Policies and Procedures Regarding Volatility-Linked Products

22. At Miller’s direction, beginning on July 11, 2016, PCTA purchased approximately \$2.8 million in shares of ProShares Ultra VIX Short-Term Futures ETF (“UVXY”) for 343 discretionary advisory client accounts and held the positions for at least 25 days, subjecting its clients to unreasonable risk of loss. PCTA purchased UVXY for all but its most risk-averse advisory clients.

23. UVXY, a Leveraged ETF that was listed on NYSE Arca Equities, Inc. during the relevant period,² provides leveraged exposure to the S&P 500 VIX Short-Term Futures Index, a market volatility index comprising VIX futures contracts. During the relevant period, UVXY sought to achieve twice the returns of the index for a single day, but not for any other period. UVXY’s prospectus contained multiple warnings about the risks of investing in UVXY for more than a single day and without daily monitoring.

24. During the relevant period, PCTA did not adopt written policies and procedures reasonably designed to prevent violations of the Advisers Act and its rules regarding the suitability of recommending investments in Leveraged ETFs like UVXY and other volatility-linked exchange-traded products for PCTA’s retail advisory clients, even though it knew that PCTA’s IARs were using their discretion to invest in UVXY on behalf of retail advisory clients.

25. Without the benefit of firm training or guidance from policies and procedures, PCTA’s IARs utilized UVXY in a manner that was inconsistent with the purpose of the product as described in UVXY’s prospectus, including the risks associated with treating UVXY as a buy-and-hold investment. The lack of such policies and procedures resulted in PCTA exposing its clients to excessive risk of loss.

26. Because of his involvement in the decision to purchase UVXY in client accounts and his responsibility for developing and implementing PCTA’s compliance program during the time period of the UVXY trading, Miller was responsible for ensuring that PCTA had written policies and procedures to ensure that IARs understood volatility-linked exchange-traded products before recommending them to advisory clients and to ensure that such products were suitable investments for those clients.

Violations

27. As a result of the conduct described above, Miller willfully³ violated Section 17(a)(3) of the Securities Act, which prohibits “any transaction, practice, or course of business

² UVXY currently is listed on the Cboe BZX Exchange, Inc.

³ “Willfully,” for purposes of imposing relief under Section 15(b) of the Exchange Act, Sections 203(e) and (f) of the Advisers Act, and Section 9(b) of the Investment Company Act, “means no more than that the person charged with the duty 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.” *Tager v. SEC*, 344 F.2d 5, 8 (2d Cir. 1965).

which operates or would operate as a fraud or deceit upon the purchaser” in connection with the offer or sale of securities.

28. As a result of the conduct described above, Miller and PCTA willfully violated, and Miller caused PCTA’s violations of, Section 206(2) of the Advisers Act, which makes it unlawful for any investment adviser, directly or indirectly, to “engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client.” Scierer is not required to establish a violation of Section 206(2), but rather a violation may rest on a finding of negligence. *SEC v. Steadman*, 967 F.2d 636, 643 n.5 (D.C. Cir. 1992) (citing *SEC v. Capital Gains Research Bureau, Inc.*, 375 U.S. 180, 194-95 (1963)).

29. As a result of the conduct described above, Miller willfully violated, and caused the General Partner to violate, Section 206(4) of the Advisers Act and Rule 206(4)-8 thereunder, which make it unlawful for any investment adviser to a pooled investment vehicle to “[m]ake any untrue statement of a material fact or to omit to state a material fact necessary to make the statements made, in the light of the circumstances under which they were made, not misleading, to any investor or prospective investor in the pooled investment vehicle” or “engage in any act, practice, or course of business that is fraudulent, deceptive, or manipulative with respect to any investor or prospective investor in the pooled investment vehicle.”

30. As a result of the conduct described above, PCTA willfully violated Section 206(3) of the Advisers Act, which prohibits an investment adviser from executing securities transactions with a client on a principal basis without disclosing to such client in writing, before the completion of such transaction, the capacity in which it is acting and obtaining the consent of the client to such transaction.

31. As a result of the conduct described above, PCTA willfully violated, and Miller caused PCTA’s violations of, Section 206(4) of the Advisers Act and Rule 206(4)-7, which require that investment advisers registered or required to be registered with the Commission, among other things, adopt and implement written policies and procedures reasonably designed to prevent violations of the Advisers Act and the rules promulgated thereunder.

Disgorgement

32. The disgorgement and prejudgment interest ordered in Section IV.G is consistent with equitable principles and does not exceed Respondent PCTA’s net profits from its violations and will be distributed to harmed investors, if feasible. The Commission will hold funds paid pursuant to Section IV.G in an account at the United States Treasury pending a decision whether the Commission in its discretion will seek to distribute funds. If a distribution is determined feasible and the Commission makes a distribution, upon approval of the distribution final accounting by the Commission, any amounts remaining that are infeasible to return to investors, and any amounts returned to the Commission in the future that are infeasible to return to investors, may be transferred to the general fund of the U.S. Treasury, subject to Section 21F(g)(3) of the Exchange Act.

Respondents' Remedial Efforts

33. In determining to accept the Offers, the Commission considered remedial acts promptly undertaken by Respondents. In particular, PCTA revised and enhanced its policies and procedures, including with respect to principal trades; and limited Miller's powers with respect to, and involvement in, PCTA's operations.

Undertakings

Respondents have undertaken the following:

34. Within fifteen (15) days of the date of this Order, Respondents shall engage, at their own expense, an independent monitor (the "Monitor") not unacceptable to the Commission staff to:

- a. oversee Miller's activities in connection with his divestment of his interest in PeachCap, Inc., or PeachCap, Inc.'s divestment of PCTA and PeachCap Securities (together, the "Regulated Entities"), including Miller's adherence to Section IV.B of this Order;
- b. promptly report to the Commission staff any actual or potential noncompliance by Miller with the provisions of Sections IV.B and IV.E.iv-vi of this Order;
- c. submit to the Commission staff a monthly report summarizing the status of Miller's divestment of his interest in PeachCap, Inc. or PeachCap, Inc.'s divestment of the Regulated Entities; and
- d. no later than the earlier of one hundred and ninety-five (195) after the entry of this Order or fifteen (15) days after the completion of Miller's divestment of his interest in PeachCap, Inc. or PeachCap, Inc.'s divestment of the Regulated Entities, submit to the Commission staff a report summarizing the status of the divestment(s), along with copies of all agreements entered into in connection therewith.

35. Within fifteen (15) days of retaining the Monitor, Respondents shall provide the Commission staff a copy of an engagement letter with the Monitor detailing the Monitor's responsibilities, which shall include the responsibilities set forth in this Order.

36. Respondents shall require the Monitor to enter into an agreement that provides that, for the period of engagement and for a period of two years from completion of the engagement, the Monitor shall not enter into any employment, consultant, attorney-client, auditing or other professional relationship with Respondents, or any of their present or former affiliates, directors, officers, employees, or agents acting in their capacity. The agreement also will provide that the Monitor 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 Monitor in performance of his/her duties under this Order shall not, without prior written consent of the Commission staff, enter into any employment, consultant, attorney-client, auditing or other professional relationship with Respondents, 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.

37. The reports by the Monitor will likely include confidential financial, proprietary, competitive business or commercial information. Public disclosure of the reports could discourage cooperation, impede pending or potential government investigations or undermine the objectives of the reporting requirement. For these reasons, among others, the reports and the contents thereof are intended to remain and shall remain non-public, except (1) pursuant to court order, (2) as agreed to by the parties in writing, (3) to the extent that the Commission determines in its sole discretion that disclosure would be in furtherance of the Commission's discharge of its duties and responsibilities, or (4) is otherwise required by law.

38. Respondents shall retain the Monitor until the earlier of two hundred and ten (210) days after the entry of this Order or thirty (30) days after the completion of Miller's divestment of his interest in PeachCap, Inc. or PeachCap, Inc.'s divestment of the Regulated Entities.

39. Respondents shall fully cooperate with the Monitor and shall provide, or Miller shall cause PeachCap, Inc. to provide, the Monitor with access to any and all of its files, books, records, information, and personnel as reasonably requested by the Monitor in connection with the fulfillment of his/her duties set forth herein.

40. Each Respondent shall certify in writing compliance with the undertakings set forth above. The certifications shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Commission staff may make reasonable requests for further evidence of compliance, and Respondents agree to provide such evidence. The certifications and supporting material shall be submitted to Thomas Bosch, Assistant Regional Director, Division of Enforcement, with a copy to the Office of Chief Counsel of the Enforcement Division, no later than the earlier of one hundred and ninety-five (195) days after the entry of this Order or thirty (30) days after the completion of Miller's divestment of his interest in PeachCap, Inc. or PeachCap, Inc.'s divestment of the Regulated Entities.

41. For good cause shown, the Commission staff may extend any of the procedural dates relating to these undertakings. Deadlines for procedural dates shall be counted in calendar days, except that if the last day falls on a weekend or federal holiday, the next business day shall be considered the last day.

IV.

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

Accordingly, pursuant to Section 8A of the Securities Act, Section 15(b) of the Exchange Act, Sections 203(e), 203(f) and 203(k) of the Advisers Act, and Section 9(b) of the Investment Company Act, it is hereby ORDERED that:

- A. Respondent PCTA cease and desist from committing or causing any violations or future violations of Sections 206(2), 206(3), and 206(4) of the Advisers Act and Rule 206(4)-7 thereunder.
- B. Respondent Miller cease and desist from committing or causing any violations or future violations of Sections 206(2) and 206(4) of the Advisers Act and Rules 206(4)-7 and 206(4)-8 thereunder, and Section 17(a)(3) of the Securities Act.
- C. Respondents shall comply with the undertakings set forth in Section III above.
- D. Respondent PCTA is censured.
- E. Respondent Miller be, and hereby is:
- i. barred from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical ratings organization;
 - ii. prohibited from serving or acting as an employee, officer, director, member of an advisory board, investment adviser or depositor of, or principal underwriter for, a registered investment company or affiliated person of such investment adviser, depositor, or principal underwriter;
 - iii. barred from participating in any offering of a penny stock, including: acting as a promoter, finder, consultant, agent or other person who engages in activities with a broker, dealer or issuer for purposes of the issuance or trading in any penny stock, or inducing or attempting to induce the purchase or sale of any penny stock;
 - iv. provided, however, that with respect to the bar provided for above in Subsection IV.E.i, during the period ending 180 days from the date of this Order (the “Divestment Period”), Miller may continue to engage in activities that are limited solely towards Miller’s divestment of his interest in PeachCap, Inc. and/or PeachCap, Inc.’s divestment of the Regulated Entities;
 - v. provided further, that during the Divestment Period, Miller shall not perform or have responsibility over any of the activities of the Regulated Entities, and Miller shall not: provide any investment advice or other advice to any client or prospective client of the Regulated Entities; communicate with any client or prospective client of the Regulated Entities without the advance approval of the Monitor; perform or have responsibility for any compliance or supervisory duties of the Regulated Entities; or exercise any control over the assets of any client of the Regulated Entities;
 - vi. provided further, that Miller shall not receive any compensation, including any salary, bonus, or fees, either directly or indirectly, from the Regulated

Entities, except that Miller, through his ownership interest in PeachCap, Inc., may receive proceeds from the sale(s) of PeachCap, Inc. or PeachCap, Inc.'s sale of the Regulated Entities; and

- vii. for the avoidance of doubt, the Divestment Period provided in the preceding Section IV.E.iv shall cease to be operative at the earliest of any of the following events: (a) PCTA's and/or Miller's failure to comply with any of the undertakings set forth in Section III above; (b) Miller's failure to comply with the conditions set forth in Sections IV.E.iv-vi above; (c) Miller's failure to timely pay the civil money penalty imposed by this Order in accordance with the schedule set forth in this Order; (d) the completion of Miller's divestment of his ownership interest in PeachCap, Inc. or PeachCap, Inc.'s divestment of the Regulated Entities; or (e) the expiration of the Divestment Period.

F. Any reapplication for association by Miller will be subject to the applicable laws and regulations governing the reentry process, and reentry may be conditioned upon a number of factors, including, but not limited to, compliance with the Commission's order and payment of any or all of the following: (a) any disgorgement or civil penalties ordered by a Court against Miller in any action brought by the Commission; (b) any disgorgement amounts ordered against the Miller for which the Commission waived payment; (c) any arbitration award related to the conduct that served as the basis for the Commission order; (d) any self-regulatory organization arbitration award to a customer, whether or not related to the conduct that served as the basis for the Commission order; and (e) any restitution order by a self-regulatory organization, whether or not related to the conduct that served as the basis for the Commission order.

G. Respondent PCTA shall, within fifteen (15) days of the entry of this Order, pay disgorgement of \$3,054.74 and prejudgment interest of \$759.35 to the Securities and Exchange Commission. The Commission will hold funds paid pursuant to this paragraph in an account at the United States Treasury pending a decision whether the Commission, in its discretion, will seek to distribute funds or, transfer them to the general fund of the United States Treasury, subject to Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600.

H. Respondent PCTA shall pay a civil money penalty of \$135,000 to the Securities and Exchange Commission. Payment shall be made in the following installments: (1) \$27,000 within fifteen (15) days of the entry of this Order; and (2) \$27,000 on or before each of the following dates: March 15, 2022, June 15, 2022, September 15, 2022, and the earlier of December 15, 2022 or 360 days following the entry of this Order. Payments shall be applied first to post order interest, which accrues pursuant to 31 U.S.C. § 3717. Prior to making the final payment set forth herein, Respondent PCTA shall contact the staff of the Commission for the amount due. The Commission may distribute civil money penalties collected in this proceeding if, in its discretion, the Commission orders the establishment of a Fair Fund pursuant to 15 U.S.C. § 7246, Section 308(a) of the Sarbanes-Oxley Act of 2002. The Commission will hold funds paid pursuant to this paragraph in an account at the United States Treasury pending a decision whether the Commission, in its discretion, will seek to distribute funds or, subject to Exchange Act Section 21F(g)(3),

transfer them to the general fund of the United States Treasury. If Respondent PCTA fails to make any payment by the date agreed and/or in the amount agreed according to the schedule set forth above, all outstanding payments under this Order, including post-order interest, minus any payments made, shall become due and payable immediately at the discretion of the staff of the Commission without further application to the Commission.

I. Respondent Miller shall pay a civil money penalty in the amount of \$65,000 to the Securities and Exchange Commission. Payment shall be made in the following installments: (1) \$13,000 within fifteen (15) days of the entry of this Order; and (2) \$13,000 on or before each of the following dates: March 15, 2022, June 15, 2022, September 15, 2022, and the earlier of December 15, 2022 or 360 days following the entry of this Order. Payments shall be applied first to post order interest, which accrues pursuant to 31 U.S.C. § 3717. Prior to making the final payment set forth herein, Respondent Miller shall contact the staff of the Commission for the amount due. The Commission may distribute civil money penalties collected in this proceeding if, in its discretion, the Commission orders the establishment of a Fair Fund pursuant to 15 U.S.C. § 7246, Section 308(a) of the Sarbanes-Oxley Act of 2002. The Commission will hold funds paid pursuant to this paragraph in an account at the United States Treasury pending a decision whether the Commission, in its discretion, will seek to distribute funds or, subject to Exchange Act Section 21F(g)(3), transfer them to the general fund of the United States Treasury. If Respondent Miller fails to make any payment by the date agreed and/or in the amount agreed according to the schedule set forth above, all outstanding payments under this Order, including post-order interest, minus any payments made, shall become due and payable immediately at the discretion of the staff of the Commission without further application to the Commission.

Payment must be made in one of the following ways:

- (1) Respondents may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondents may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondents may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Respondent's name as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Justin C. Jeffries,

Division of Enforcement, Atlanta Regional Office, Securities and Exchange Commission, 950 East Paces Ferry Road NE, Suite 900, Atlanta, GA, 30326.

J. Regardless of whether the Commission in its discretion orders the creation of a Fair Fund for the penalties ordered in this proceeding, amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalties, Respondents agree that in any Related Investor Action, they shall not argue that they are entitled to, nor shall they benefit by, offset or reduction of any award of compensatory damages by the amount of any part of either Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondents agrees that they shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against either Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

V.

It is further Ordered that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. § 523, the findings in this Order are true and admitted by Respondent Miller, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent Miller under this Order or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Respondent Miller of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. § 523(a)(19).

By the Commission.

Vanessa A. Countryman
Secretary