

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

**SECURITIES ACT OF 1933**  
**Release No. 10639 / May 16, 2019**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 85880 / May 16, 2019**

**INVESTMENT ADVISERS ACT OF 1940**  
**Release No. 5236 / May 16, 2019**

**INVESTMENT COMPANY ACT OF 1940**  
**Release No. 33476 / May 16, 2019**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-15446**

**In the Matter of**

**J.S. OLIVER CAPITAL  
MANAGEMENT, L.P., and  
IAN O. MAUSNER**

**Respondents.**

**ORDER MAKING FINDINGS AND  
IMPOSING REMEDIAL SANCTIONS  
AND A CEASE-AND-DESIST ORDER  
PURSUANT TO SECTION 8A OF THE  
SECURITIES ACT OF 1933, SECTION  
21C 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**

**I.**

On August 30, 2013, the Securities and Exchange Commission (“Commission”) instituted public administrative and cease-and-desist proceedings in the *Matter of J.S. Oliver Capital Management, L.P., et al.*, AP File No. 3-15446 (“OIP”). Following an Initial Decision issued on August 5, 2014, the Commission issued an Opinion on June 17, 2016. Respondents appealed the Opinion to the United States Court of Appeals for the Ninth Circuit, which remanded the case to the Commission for rehearing pursuant to *Lucia v. SEC*, 138 S. Ct. 2044 (2018). The Commission deems it appropriate and in the public interest to enter this Order Making Findings and

Imposing Remedial Sanctions and a Cease-and-Desist Order Pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”), Section 21C 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”).

## II.

Respondents have 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 or the allegations in the OIP, 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, Respondents consent to the entry of this Order Making Findings and Imposing Remedial Sanctions and a Cease-and-Desist Order Pursuant to Section 8A of the Securities Act of 1933, Section 21C 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”), as set forth below.

Respondents recognize that, pursuant to *Lucia v. SEC*, 138 S. Ct. 2044, Respondents are entitled to a “new hearing” before “another ALJ (or the Commission itself).” *Id.* at 2055. Respondents have knowingly and voluntarily waived any claim or entitlement to such a new hearing before another administrative law judge (“ALJ”) or the Commission itself. Respondents also have knowingly and voluntarily waived any and all challenges to the administrative proceedings or any and all orders that were issued during or at the conclusion of these proceedings, whether before the ALJ, the Commission, or any court, based upon any alleged or actual defect in the appointment of any ALJ assigned to this case.

## III.

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

### SUMMARY

1. This proceeding involves misconduct by JS Oliver, a registered investment adviser, and its founder, president, head portfolio manager, and control person, Mausner, for engaging in two distinct schemes: fraudulent trade allocation by “cherry-picking” favorable trades for JS Oliver’s affiliated hedge fund clients to the detriment of other, unfavored client accounts, and misusing client commission credits called “soft dollars.”

2. From June 2008 to November 2009, JS Oliver and Mausner disproportionately allocated favorable trades to six client accounts, including four affiliated hedge funds, ultimately harming three unfavored clients by approximately \$10.7 million. Mausner financially benefitted

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<sup>1</sup> The findings herein are made pursuant to Respondents’ Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

from the cherry-picking scheme because he and his family were personally invested in the hedge funds, and he earned additional fees from one of the hedge funds based on the boost in its performance as a result of the cherry-picking.

3. From January 2009 through November 2011, JS Oliver and Mausner used over \$1.1 million in soft dollar credits in a manner not disclosed to clients. Soft dollar credits arise from the client commission arrangement between an investment adviser and the broker-dealer that handles the trades for the adviser. Generally, a client's investment assets are used to pay additional commissions – called “soft dollar credits” –that the broker-dealer sets aside as payment for legitimate research and brokerage expenses of the adviser. The Respondents' misuse of these soft dollar credits included: (1) \$329,265 paid to Mausner's ex-wife for amounts due pursuant to a divorce agreement; (2) \$300,000 in grossly inflated “rent” paid to a company Mausner owned, the majority of which was funneled directly to Mausner's personal bank account; (3) approximately \$480,000 paid to a company owned by a JS Oliver employee for purported outside research and analysis; and (4) nearly \$40,000 in payments for fees on Mausner's personal timeshare in New York, New York.

### **RESPONDENTS**

4. **J.S. Oliver Capital Management, L.P.** (“JS Oliver”) was a California limited partnership with its principal place of business in San Diego, California. JS Oliver registered with the Commission as an investment adviser in 2004 through June 17, 2016. JS Oliver provided investment advice to separate client accounts and was the investment manager of four affiliated hedge funds: J.S. Oliver Investment Partners I, L.P.; J.S. Oliver Offshore Investments, Ltd.; J.S. Oliver Investment Partners II, L.P. (collectively referred to as “JS Partner Funds”); and J.S. Oliver Concentrated Growth Fund (“CGF” and with JS Partner Funds, “JS Oliver Funds”).

5. **Ian O. Mausner**, (“Mausner”) was JS Oliver's founder, president, head portfolio manager, and sole control person. Mausner was responsible for the management of JS Oliver's business. Mausner was the chief compliance officer of JS Oliver from June 2008 through June 2011. Mausner held series 3, 5, 15, 17, 24, 63, and 65 securities licenses, and from 1985 through 2004 was a registered representative with several registered broker dealers.

#### **A. JS Oliver and Mausner Engaged in a Fraudulent Cherry-Picking Scheme Causing Approximately \$10.7 Million in Harm to Three Clients**

6. From at least June 2008 through November 2009, JS Oliver and Mausner disproportionately allocated profitable equity trades (including buys and sells) to six client accounts to the detriment of three clients. The favored accounts in the cherry-picking scheme included the JS Oliver Funds. JS Oliver's clients who were disfavored in the cherry-picking scheme were a widowed client (“Client A”), a profit sharing plan (“Client B”), and a charitable foundation (“Client C”).

7. In perpetrating the cherry-picking scheme, Mausner made block trades in omnibus accounts at various broker-dealers. The block trades were reported to JS Oliver's prime broker and then Mausner allocated the shares among the client accounts through the prime

broker's online platform. Mausner often delayed allocating trades until after the close of trading or the following day, allowing him to determine which securities had appreciated or declined in value.

8. Mausner's cherry-picking strategy was two-fold. His primary methodology was to allocate disproportionately to the favored accounts the trades that increased in value during the day, and allocate to the disfavored accounts the trades that decreased in value during the day. In addition, when there were multiple trades in a single security over the course of the day, Mausner allocated the most favorably priced trades to the favored accounts.

9. By disproportionately allocating the more favorable trades to the favored accounts through this cherry-picking scheme, Mausner inflicted approximately \$10.7 million in total harm on Clients A, B and C.

10. Mausner formed CGF in June 2008 and relied on the profits generated by his cherry-picking scheme to boost CGF's performance. He then marketed by mass emails to current and prospective investors CGF's positive monthly returns and made a "strong" recommendation for investments in CGF. For example, in a November 2008 email, Mausner touted that CGF had gained almost 13% when the S&P declined almost 17% during the same period.

11. JS Oliver and Mausner profited at their clients' expense from the cherry-picking scheme. Mausner and his family were investors in some of the JS Oliver Funds that were the favored accounts. For CGF in particular, as of December 31, 2008, the aggregate value of Mausner's and his related-party entities' investments accounted for \$1.4 million of the \$7.9 million invested in CGF. In addition, for 2008, CGF paid JS Oliver over \$212,000 in performance fees.

12. JS Oliver's trade allocation practices were contrary to its representations to clients and its written policies and procedures. JS Oliver's client agreements provided that it would treat clients fairly when allocating investment opportunities among clients, specifically stating that JS Oliver did not have an "obligation to purchase or sell for the [client's account] . . . any security that [JS Oliver] . . . may purchase or sell for themselves or for any other clients, so long as it is the Manager's policy and practice, to the extent practicable, to allocate investment opportunities to [the client account] over time on a fair and equitable basis relative to other clients of the Manager." Specifically, JS Oliver's written policies and procedures provided that allocations among client accounts would be completed "in a manner that is fair and equitable to all clients, generally meaning in proportion to account assets or targeted percentage levels ...."

#### **B. JS Oliver and Mausner Engaged in a Fraudulent Soft Dollar Scheme**

13. From January 2009 through November 2011, JS Oliver misused over \$1.1 million in soft dollar credits that were accrued from trading commissions paid by JS Oliver clients. JS Oliver accumulated and used soft dollar credits primarily at a single broker-dealer (the "Soft-Dollar Broker") through equity and options trading for client accounts, including the JS Oliver Funds and some of its individual client accounts, including Clients A, B and C discussed above.

14. Under its soft dollar arrangement with JS Oliver, the Soft-Dollar Broker agreed to give JS Oliver a soft dollar credit of typically \$0.0225 for every \$0.03 of brokerage commissions generated per share by JS Oliver clients' equity trades; soft dollar credits for option trades varied. The trading (which included both buying and selling securities) that generated the soft dollar credits at issue was conducted on behalf of the JS Oliver Funds and some of its separately managed client accounts. JS Oliver, through the Soft-Dollar Broker, used soft dollar credits for expenses that fell both within and outside the safe harbor provided in Section 28(e) of the Exchange Act for the use of commission credits for certain research and brokerage expenses.

15. JS Oliver disclosed allowable uses of soft dollar credits in its Form ADV and in the offering memoranda for the JS Oliver Funds. Each of these documents had language disclosing that soft dollars may be used for research and brokerage payments under Section 28(e). The Form ADV, Part II, Items 12 and 13, filed March 30, 2007 and March 3, 2009 ("Forms ADV, Part II"), and the offering memoranda contained additional soft dollar disclosures as follows.

- The Form ADV (which JS Oliver offered and/or provided to clients and prospective clients), filed March 30, 2007, provided that soft dollars may be used for "expenses of and travel to professional and industry conferences and hardware and software used in the General Partner's administrative activities ... [and] may even include such 'overhead' expenses as telephone charges, legal and accounting expenses of the Investment Manager or General Partner and office services, equipment and supplies." In its Form ADV, Part II, filed March 3, 2009, JS Oliver amended this disclosure to reflect that it may use soft dollars earned from trading in the hedge funds, with no disclosure provided for the use of soft dollars generated from trading in its separately managed clients' accounts. JS Oliver did not change any language concerning the allowed uses of soft dollars to include additional permissible uses for soft dollars consistent with how it was actually using soft dollars.
- For the JS Partner Funds, the disclosures in the offering memoranda provided that soft dollars may be used for "expenses of and travel to professional and industry conferences and hardware and software used in the General Partner's administrative activities ... [and] may even include such 'overhead' expenses as telephone charges, legal and accounting expenses of the Investment Manager or General Partner and office services, equipment and supplies."
- For CGF, the disclosures in the offering memorandum provided, in relevant part, that soft dollars may be used for "evaluating potential investment opportunities (including travel, meals and lodging related to such evaluation) ... and may even include such 'overhead' expenses as office rent, salaries, benefits and other compensation of employees or of consultants to the Investment Manager ...."

16. JS Oliver provided the Soft-Dollar Broker's soft dollar department only with the CGF offering memorandum to support requests for reimbursement and payments using soft dollar

credits, even though JS Oliver also earned soft-dollar credits through the trades of individual clients and the JS Partners Funds.

**(i) JS Oliver and Mausner Used Soft Dollars To Pay Mausner's Personal Obligation to His Ex-Wife Pursuant to a Divorce Agreement**

17. In May 2009, JS Oliver requested that the Soft-Dollar Broker reimburse JS Oliver \$329,365 using soft dollar credits for a payment to Mausner's ex-wife based on Mausner's misrepresentations that the payment was employee compensation. In reality, JS Oliver paid the funds to Mausner's ex-wife pursuant to the Mausners' divorce agreement.

18. When requesting the reimbursement from the Soft-Dollar Broker using soft dollar credits for JS Oliver's payment to Mausner's ex-wife, Mausner misrepresented the nature of the payment. Among other things, Mausner sent an email to the Soft-Dollar Broker misrepresenting that he intended to keep his ex-wife on JS Oliver's payroll and that she had remained an employee of JS Oliver since 2005. These statements were false. In particular, Mausner's ex-wife was not under any obligation to perform work for JS Oliver as of December 31, 2006 and, in fact, she did not do any work at JS Oliver in exchange for the payment.

19. Mausner also emailed to the Soft-Dollar Broker a document on JS Oliver's letterhead with an excerpt from a purported contract between JS Oliver and Mausner's ex-wife. Before sending the document, however, Mausner caused the language to be materially altered to hide that the payout was Mausner's personal obligation. These alterations included misrepresenting that the excerpt was from a contract between JS Oliver and Mausner's ex-wife when the excerpt came from the Mausners' divorce agreement. Mausner also caused the deletion from the excerpt items covered by the \$329,365 lump sum payment that were clearly personal in nature, including the Mausners' country club membership, nanny, weekly housekeeper, and the ex-wife's assistant. In June 2009, the Soft-Dollar Broker reimbursed JS Oliver the \$329,365 using soft dollar credits.

20. JS Oliver and Mausner did not disclose in the March 3, 2009 Form ADV, Part II, Items 12 and 13, and JS Oliver Funds' offering memoranda that they would use soft dollar credits to pay Mausner's ex-wife pursuant to the Mausners' divorce agreement.

**(ii) JS Oliver and Mausner Used Soft Dollars to Pay Inflated Rent Payments to a Company Mausner Owned**

21. JS Oliver used a portion of Mausner's personal residence to conduct its business. Through February 2009, JS Oliver paid \$6,000 in rent to a company Mausner owned, which in turn paid approximately \$5,445 to the bank for the monthly mortgage payment. Mausner controlled the amount of the rent charged to JS Oliver. Beginning in January 2009, JS Oliver requested that the Soft-Dollar Broker use soft dollars to pay JS Oliver's rent.

22. Once the Soft-Dollar Broker started paying the rent in early 2009, JS Oliver claimed that the monthly rent was \$10,000. Then, in July 2009, JS Oliver instructed the Soft-

Dollar Broker to pay \$15,000 per month in rent using soft dollars. Thus, in a span of only a few months, Mausner increased the rent from \$6,000 to \$15,000 – a 150% increase.

23. Mausner had no basis to increase JS Oliver’s rent other than to personally enrich himself. Beginning in May 2009, Mausner transferred the amount in excess of the mortgage payment from his company’s bank account to his personal bank account.

24. In 2009 and 2010, the Soft-Dollar Broker paid Mausner’s company a total of \$300,000 in rent payments using JS Oliver’s soft dollar credits, of which Mausner received over \$200,000.

25. The disclosures in the Forms ADV, Part II, and JS Partner Funds’ offering memoranda did not provide that JS Oliver could use soft dollars to pay rent. A reasonable client or investor would not have known that JS Oliver would pay rent on a property that Mausner also used for personal purposes, paid inflated rent on that personal property, and that the principal could divert soft dollars for his personal use.

**(iii) JS Oliver and Mausner Used Soft Dollars Improperly To Pay an Employee**

26. In 2009 and 2010, JS Oliver used soft dollar credits to pay an employee approximately \$480,000 for purported research pursuant to the safe harbor of Section 28(e) of the Exchange Act. JS Oliver misrepresented to two soft dollar brokers that the employee’s company was an outside research firm that provided research analysis to JS Oliver.

27. The payments to the employee’s company did not fall within the Section 28(e) safe harbor and were actually salary and a bonus to the employee, who was not an outside research analyst but rather a full-time JS Oliver employee. The employee had previously worked for JS Oliver from its inception in 2004 through May 2008, after which the employee worked at a different firm for six months. In January 2009, the employee returned to JS Oliver and resumed their prior duties at the firm.

28. The Forms ADV, Part II, and the JS Partner Funds’ offering memoranda did not disclose that soft dollars could be used to pay employee salaries or other compensation.

**(iv) JS Oliver and Mausner Used Soft Dollars to Pay Maintenance Fees on Mausner’s Personal Timeshare Property**

29. Mausner’s family trust owned a timeshare in New York, New York. In 2009, JS Oliver submitted two invoices to the Soft-Dollar Broker for payment of “maintenance fee” and “back-up reserve” expenses on the timeshare totaling almost \$40,000. The invoices characterized the purpose of the expenses as evaluating “potential investment opportunities, including travel.”

30. With respect to travel expenses, the Forms ADV and JS Partner Funds’ offering memoranda provided for the use of soft dollars to reimburse travel expenses related to conferences

only. Thus, on the face of the invoices, the soft dollar use was contrary to the Forms ADV and JS Partner Funds' offering memoranda.

31. Moreover, these expenses were not for travel because they were fees and expenses for Mausner's personal timeshare. This use of soft dollars was not disclosed to JS Oliver's clients or investors in the JS Oliver Funds.

### **C. JS Oliver Failed to Maintain Required Books and Records**

32. From May 2008 through June 2009, JS Oliver failed to maintain a memorandum of each order it gave for the purchase or sale of any security.

33. JS Oliver failed to maintain originals of Mausner's email messages, which reflected the recipients of the emails, promoted CGF's performance, and contained his "strong" recommendation that the recipients invest in CGF. In particular, JS Oliver failed to retain emails showing the blind carbon copy recipients of the emails.

### **VIOLATIONS**

34. As a result of the conduct described above, JS Oliver and Mausner willfully violated Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, which prohibit fraudulent conduct in the offer and sale of securities and in connection with the purchase or sale of securities.

35. As a result of the conduct described above, JS Oliver and Mausner willfully violated Sections 206(1), 206(2), and 206(4) of the Advisers Act and Rule 206(4)-8 promulgated thereunder, which prohibit fraudulent conduct by an investment adviser.

36. As a result of the conduct described above, JS Oliver willfully violated, and Mausner willfully aided and abetted and caused JS Oliver's violations of, Section 204 of the Advisers Act and Rule 204-1(a)(2) promulgated thereunder, which require investment advisers that use the mails or any means or instrumentality of interstate commerce in connection with their business to update their Form ADV annually, and to amend Part II of the Form ADV promptly, if information therein becomes materially inaccurate.

37. As a result of the conduct described above, JS Oliver willfully violated, and Mausner willfully aided and abetted and caused JS Oliver's violations of, Section 204 of the Advisers Act and Rule 204-2(a)(3) promulgated thereunder, which requires, among other things, that a registered investment adviser make and keep true, accurate and current records relating to its business including a memorandum of each order given by the investment adviser for the purchase or sale of any security.

38. As a result of the conduct described above, JS Oliver willfully violated, and Mausner willfully aided and abetted and caused JS Oliver's violations of, Section 204 of the Advisers Act and Rule 204-2(a)(7) promulgated thereunder, which requires that a registered investment adviser maintain originals of all written communications the investment adviser sends



relating to “any recommendation made or proposed to be made and any advice given or proposed to be given.”

39. As a result of the conduct described above, JS Oliver willfully violated, and Mausner willfully aided and abetted and caused violations of, Section 206(4) of the Advisers Act and Rule 206(4)-7 promulgated thereunder, which requires, among other things, that registered investment advisers adopt and implement written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and its rules.

40. As a result of the conduct described above, JS Oliver and Mausner willfully violated Section 207 of the Advisers Act, which makes it “unlawful for any person willfully to make any untrue statement of a material fact in any registration application or report filed with the Commission . . . or willfully to omit to state in any such application or report any material fact which is required to be stated therein.”

#### IV.

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

Accordingly, pursuant to Section 8A of the Securities Act, Section 21C 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. Respondents JS Oliver and Mausner shall cease and desist from committing or causing any violations and any future violations of Section 17(a) of the Securities Act; Section 10(b) of the Exchange Act and Rule 10b-5 thereunder; and Sections 204, 206(1), 206(2), 206(4), and 207 of the Advisers Act, and Rules 204-1(a)(2), 204-2(a)(3) and 7, 206(4)-7, and 206(4)-8 thereunder.

B. Respondent Mausner be, and hereby is:

barred from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization;

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.

C. Any reapplication for association by Respondent Mausner 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, the satisfaction of any or all of the following: (a) any disgorgement ordered against Respondent, whether or not the Commission has fully or partially waived payment of such disgorgement; (b) any arbitration award related to the

conduct that served as the basis for the Commission order; (c) 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 (d) any restitution order by a self-regulatory organization, whether or not related to the conduct that served as the basis for the Commission order.

D. Mausner shall pay disgorgement of \$669,965.00 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, for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). Payments shall be made in the following installments:

- (1) payment of \$230,965, which shall be placed in escrow and paid to the Commission within 10 days of the date of this Order;
- (2) payment of \$133,334 to be made 365 days from the date of this Order;
- (3) payment of \$133,333 to be made 730 days from the date of this Order; and
- (4) payment of \$172,333 to be made 1,095 days from the date of this Order.

If Respondent 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 pursuant to SEC Rule of Practice 600, 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.

E. Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent 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) Respondent 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 Mausner 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 John B. Bulgozdy, Senior Trial Counsel, Securities and Exchange Commission, 444 S. Flower Street, Suite 900, Los Angeles, CA 90071.

F. 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 penalty, Respondents agrees 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 Respondents' payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondents agree 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 Respondents 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.

G. The investment adviser registration of Respondent J.S. Oliver Capital Management, L.P., is revoked.

## 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, that the findings in the Order are true and admitted by Respondent Mausner, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent Mausner under the 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 Mausner 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 Countryman  
Acting Secretary