

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

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 65838 / November 28, 2011**

**INVESTMENT ADVISERS ACT OF 1940**  
**Release No. 3325 / November 28, 2011**

**INVESTMENT COMPANY ACT OF 1940**  
**Release No. 29875 / November 28, 2011**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-14645**

**In the Matter of FELTL & COMPANY, INC., Respondent.**

**ORDER INSTITUTING ADMINISTRATIVE AND CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTION 15(b)(4) OF THE SECURITIES EXCHANGE ACT OF 1934, SECTIONS 203(e) 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 15(b)(4) of the Securities Exchange Act of 1934 ("Exchange Act"), 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 Feltl & Company, Inc. ("Feltl" or "Respondent").

**II.**

In anticipation of the institution of these proceedings, 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 Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Section 15(b)(4) of the Securities Exchange Act of 1934, Sections 203(e) 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 Respondent's Offer, the Commission finds<sup>1</sup> that

**Summary**

From February 2008 through March 2011, Feltl, a dually-registered broker-dealer and investment adviser, failed to adopt and implement comprehensive written compliance policies and procedures reasonably designed to prevent violations of the Advisers Act and its rules for its growing advisory business, as required by Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder. This failure resulted in Feltl engaging in hundreds of principal transactions with its advisory clients' accounts without

making the proper disclosures and obtaining consent in violation of Section 206(3) of the Advisers Act. It also resulted in Feltl charging undisclosed fees to its clients participating in Feltl's wrap fee program by charging both wrap fees and commissions in violation of Section 206(2) of the Advisers Act. In addition, Feltl neglected to adopt a Code of Ethics and collect the required securities disclosure reports from its staff, as required under Section 204A of the Advisers Act and Rule 204A-1 thereunder. Feltl's compliance breakdown was caused by its failure to invest necessary resources in the firm's advisory business as it changed and grew in relation to its brokerage business.

## **Respondent**

1. Feltl & Company, Inc., a dually-registered broker-dealer and investment adviser, was founded in June 2002 and is headquartered in Minneapolis, Minnesota with six branches in Minnesota and one in Missouri. It is owned by John C. Feltl and a trust controlled by his mother, Mary Joanne Feltl.

## **Background**

### **Overview of Feltl's Operations and Advisory Business**

2. Feltl has two primary business lines: Retail Sales and Equity Capital Markets.

3. Feltl's Retail Sales business encompasses Feltl's brokerage and investment advisory businesses. The brokerage business, which accounts for approximately 70% of Feltl's revenue, consists of 125 registered representatives and about 12,000 to 13,000 accounts holding close to \$1.2 billion in assets. Feltl's brokerage customers are primarily individuals or households, with some corporate accounts. The advisory business, which accounts for approximately 10% of Feltl's revenues, consists of twenty-eight investment advisory representatives, who are also registered representatives in Feltl's brokerage business. As of March 31, 2011, Feltl had 547 non-discretionary advisory accounts with \$107.8 million in assets under management ("AUM"). All advisory accounts are wrap fee accounts, which pay one bundled or "wrap" fee for advisory, execution, clearing and custodial services in the form of a percentage of the accounts' AUM.

4. Feltl's Equity Capital Markets business, which has approximately twenty-two employees, includes the firm's investment banking arm, institutional sales and research. It also includes the firm's market making segment, which makes a market in about eighty small- to mid-cap equities. Equity Capital Markets contributes about 10% to Feltl's revenues.

5. Initially, Feltl viewed its advisory business as an accommodation to brokerage customers who were active traders and preferred to pay one bundled, asset-based fee (versus multiple transaction-based fees) through Feltl's wrap fee program. Accordingly, while these accounts were advisory due to their asset-based, wrap fees, Feltl and its representatives treated them no differently than their brokerage accounts.

6. The nature of Feltl's advisory business changed over time. In the fall of 2007, two advisory representatives moved to Feltl with a significant book of business that pushed Feltl's AUM over \$25 million. This caused Feltl to register as an investment adviser with the Commission in February 2008. By March 2011, Feltl's advisory business had evolved so that nine of the twenty-eight advisory representatives actively managed their clients' accounts on a non-discretionary basis. They accounted for \$84.2 million of AUM. The remaining nineteen representatives had accounts that were advisory due to the wrap fee feature. While Feltl's advisory representatives do not follow any prescribed investment strategy, their clients' assets are typically invested in mutual funds, ETFs and equity securities.

7. Feltl's Compliance Department consists of three individuals, the Chief Compliance Officer ("CCO"), a compliance officer and an administrative employee with some compliance responsibilities. The CCO, who began working for Feltl in August 2003, performs the majority of the compliance duties. During the relevant period, his oversight of the advisory accounts did not differ from his oversight of the brokerage accounts.

8. From 2008 through 2010, the CCO spent about 95% of his time on compliance-related issues for the brokerage business. In contrast, he spent less than 5% of his time on compliance-related issues for the advisory business.

9. The Commission's exam staff conducted two separate exams of Feltl's advisory business during the relevant period, the first in August 2009 and the second in June 2010. On December 9, 2010, the exam staff issued a deficiency letter to Feltl noting, among other things, Feltl's compliance failures and its failure to disclose and obtain client consent in transacting principal trades.

### **Feltl Failed to Adopt and Implement Written Compliance Policies and Procedures for its Advisory Business**

10. Effective October 5, 2004, Rule 206(4)-7, promulgated under Section 206(4) of the Advisers Act, requires that a registered investment adviser: (1) "[a]dopt and implement written policies and procedures reasonably designed to prevent violation" of the Advisers Act and its rules; (2) review the adequacy of the written policies and procedures and the effectiveness of their implementation on at least an annual basis; and (3) designate a CCO. While the Rule does not dictate the content of an adviser's compliance program, the Commission's adopting release on the Rule states that an adviser's manual should, at a minimum, address certain topics such as portfolio management processes, proprietary trading by the adviser and the valuation process of client assets to the extent that they are relevant to the adviser. See Compliance Programs of Investment Companies and Investment Advisers, Release Nos. IA-2204 and IC-26299; 68 F.R. 74714 (Dec. 24, 2003).

11. During the relevant time, Feltl maintained one compliance manual that encompassed both the brokerage and advisory businesses. The manual was an off-the-shelf manual purchased, customized and periodically updated. The firm essentially treated its brokerage and advisory accounts the same for compliance purposes.

12. Nothing aside from a four-page chapter at the end of the manual specifically addressed the advisory business. The chapter (and the rest of the manual) did not address all of the areas set forth in the Commission's adopting release on Rule 206(4)-7. See Rel. No. IA-2204 and IC-26299, 68 F.R. 74714. Feltl did not make any changes to the chapter relating to its advisory business between August 2003 and the March 2011. Additionally, Feltl did not conduct any sort of review regarding the sufficiency of the chapter at the time it registered as an adviser with the Commission in February 2008.

13. In its December 9, 2010 deficiency letter, the Commission exam staff noted that Feltl's compliance manual dated March 1, 2008 did not meet Rule 206(4)-7's requirements. Specifically, the staff noted that Feltl did not adequately address the following areas in its manual: (1) pre-trade disclosure and consent for principal trades with advisory clients; (2) monitoring and reviewing the execution of cross trades; (3) ensuring the accuracy of quarterly advisory fees; (4) ensuring best execution; and (5) monitoring bond pricing for trades executed through the bond desk.

14. After learning of Rule 206(4)-7's annual review requirement from the Commission's exam staff, Feltl conducted its first annual review in November 2010 and concluded that the entire compliance program for its advisory business needed to be revamped and revised. Before this, Feltl annually reviewed its overall compliance program using a FINRA checklist, but did not specifically look at its advisory policies.

15. In April 2011, in response to the Commission staff's exams and investigation, Feltl adopted a new and separate compliance manual for its advisory business. Additionally, in June 2011, Feltl transferred all of its advisory accounts to a new clearing platform separate from its brokerage accounts. Among other things, the new platform provides new reporting functions for the compliance department and formalizes account opening processes.

### **Feltl Engaged in Hundreds of Principal Transactions without Making Required Disclosures and Obtaining Client Consent**

16. Between January 2008 and March 2011, Feltl knowingly engaged in approximately 1,634 principal transactions with its advisory accounts (the "Relevant Principal Transactions"). Feltl failed to disclose in writing the principal nature of the transactions and obtain client consent before the trades were completed. Although Feltl's trade confirmations identified the transactions as "principal," they contained no other information about the capacity in which Feltl was acting or the clients' ability to withhold consent.

17. The vast majority of principal transactions – or 1,141 of the 1,634 total transactions – were in securities in which Feltl made a market. No mark-ups or mark-downs were charged on these transactions and some, but not all, were riskless.

18. The rest of the principal transactions were attributable to initial public offerings that Feltl was either underwriting ("proprietary IPOs") or that were available to Feltl's clients based on Feltl's relationship with its clearing firm ("syndicate IPOs"). Feltl received revenue in the form of a sales credit in connection with each of these transactions. For example, if the sales credit was \$.50 and the share price was \$10, Feltl charged the client \$10, but only sent \$9.50 to the issuer.

19. Feltl executed twenty transactions in proprietary IPOs and 473 transactions in syndicate IPOs on behalf of advisory clients, receiving revenues of \$96,143 from the transactions.

20. The principal transactions resulted from Feltl's failure to maintain sufficient compliance policies and procedures regarding its advisory business. Had Feltl's compliance manual properly addressed the requirements of Section 206(3) of the Advisers Act, the firm likely would have properly disclosed the principal nature of the transactions to its clients and obtained their consent before completing the transactions.

21. In April 2010, in response to a summary of findings from the August 2009 Commission exam, Feltl made changes to its trade execution procedures to ensure that advisory trades in securities for which Feltl made a market were no longer made on a principal basis.

### **Feltl Charged Undisclosed Fees to Wrap Fee Clients**

22. Between January 2008 and early June 2011, Feltl charged undisclosed fees on its client accounts by charging commissions of \$46,384 in addition to wrap fees on 1,073 transactions (the "Relevant Overcharged Transactions"). Because the advisory accounts were part of the wrap fee program, Feltl should have charged only the asset-based, wrap fees absent additional disclosure. Therefore, the commission charges were duplicative and violated Section 206(2) of the Advisers Act.

23. Feltl's overcharges resulted from advisory representatives improperly entering commission amounts in the wrong fields in Feltl's system so that Feltl's exception reports did not detect the billing errors. Had Feltl maintained sufficient compliance procedures relating to its advisory billing process, it would have likely caught the overcharges.

24. Feltl alerted the Commission staff to the duplicative billing issue during the course of its investigation.

### **Feltl Failed to Adopt a Code of Ethics and Collect Required Employee Reports**

25. Effective January 7, 2005, Rule 204A-1, promulgated under Section 204A of the Advisers Act, requires that a registered investment adviser establish, maintain and enforce a written code of ethics that includes: (1) a standard of business conduct reflecting the adviser's and its supervised persons' fiduciary obligations; (2) the requirement that all staff comply with the federal securities laws; (3) requirements that access persons submit for review a securities transaction report on a quarterly basis and a securities holdings report upon hiring and then at least annually thereafter, and submit for pre-approval any purchase of securities in an initial public offering or limited offering; (4) the requirement that supervised persons report any code violations to the CCO; and (5) the requirement that the code

and any amendments are provided to supervised persons and the supervised persons provide a written acknowledgement of their receipt.

26. Feltl did not develop a written code of ethics specific to its advisory business until June 2010, during the course of a Commission exam. It implemented the code in March 2011 around the same time it adopted its compliance manual for its advisory business. While the CCO collected and reviewed account statements and trade confirmations for advisory representatives' personal accounts held outside of Feltl, and reviewed advisory representatives' personal trades in Feltl accounts on a daily basis, Feltl did not require the representatives to submit annual holdings reports to its compliance department before March 2011.

## **Violations**

27. As a result of the conduct described above, Feltl willfully violated Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder, which require that a registered investment adviser: (1) adopt and implement written policies and procedures reasonably designed to prevent violations of the Advisers Act and its rules; and (2) review at least annually its written policies and procedures and the effectiveness of their implementation.

28. As a result of the conduct described above, Feltl willfully violated Section 206(3) of the Advisers Act, which prohibits an investment adviser, acting as principal for its own account, from knowingly selling securities to or purchasing securities from the adviser's clients without disclosing to such clients in writing before the completion of such transactions the capacity in which the adviser is acting and obtaining the consent of the clients to such transactions.

29. As a result of the conduct described above, Feltl willfully violated Section 206(2) of the Advisers Act, which prohibits an investment adviser from engaging in any transaction, practice or course of business which operates as a fraud or deceit upon any client or prospective client, in that Feltl charged undisclosed fees on its advisory client accounts that participated in Feltl's wrap fee program by charging both wrap fees and commissions without disclosing such duplicative billing.

30. As a result of the conduct described above, Feltl willfully violated Section 204A of the Advisers Act and Rule 204A-1, which require that a registered investment adviser maintain and enforce a written code of ethics that at a minimum includes provisions requiring: (1) access persons to submit for review a securities transaction report on a quarterly basis and a securities holdings report upon hiring and then at least annually thereafter; and (2) to provide the code and any amendments to supervised persons and to collect from such persons written acknowledgement of their receipt.

## **Feltl's Remedial Efforts**

31. In determining to accept the Offer, the Commission considered remedial acts promptly undertaken by Feltl and cooperation afforded the Commission staff.

## **Undertakings**

32. Respondent undertakes to take the following actions.

33. Independent Compliance Consultant. With respect to the retention of an independent compliance consultant, Respondent has agreed to the following undertakings:

- a. Feltl shall retain, within thirty (30) days of the entry of this Order, the services of an independent compliance consultant (the "Independent Consultant") that is not unacceptable to the Commission staff. The Independent Consultant's compensation and expenses shall be borne exclusively by Feltl.

b. Feltl shall require that the Independent Consultant conduct during the first quarter of 2012 and the first quarter of 2013 comprehensive reviews of Feltl's supervisory, compliance, and other policies and procedures reasonably designed to detect and prevent breaches of fiduciary duty and federal securities law violations by Feltl and its employees (the "Reviews"), including: (1) conflicts and other compliance factors creating risk exposure for Feltl and its advisory clients in light of Feltl's particular operations; (2) Feltl's policies and procedures required by Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder, including policies and procedures designed to detect and prevent fee overcharges to advisory clients; (3) Feltl's policies and procedures designed to detect and prevent violations of the disclosure and consent requirements of Section 206(3) of the Advisers Act to the extent that Feltl engages in principal trades with advisory clients; and (4) the adequacy of Feltl's written code of ethics and Feltl's compliance with the requirements of Section 204A of the Advisers Act and Rule 204A-1 thereunder.

c. Feltl shall provide to the Commission staff, within thirty (30) days of retaining the Independent Consultant, a copy of an engagement letter detailing the Independent Consultant's responsibilities, which shall include the Reviews to be made by the Independent Consultant as described in this Order.

d. Feltl shall require that, within forty-five (45) days from the end of the applicable quarterly period, the Independent Consultant shall submit a written and dated report of its findings to Feltl and to the Commission staff (the "Report"). Feltl shall require that each Report include a description of the review performed, the names of the individuals who performed the review, the conclusions reached, the Independent Consultant's recommendations for changes in or improvements to Feltl's policies and procedures and/or disclosures to clients, and a procedure for implementing the recommended changes in or improvements to Feltl's policies and procedures and/or disclosures.

e. Feltl shall adopt all recommendations contained in each Report within sixty (60) days of the applicable Report; provided, however, that within forty-five (45) days after the date of the applicable Report, Feltl shall in writing advise the Independent Consultant and the Commission staff of any recommendations that Feltl considers to be unduly burdensome, impractical, or inappropriate. With respect to any recommendation that Feltl considers unduly burdensome, impractical or inappropriate, Feltl 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.

f. As to any recommendation with respect to Feltl's policies and procedures on which Feltl and the Independent Consultant do not agree, Feltl and the Independent Consultant shall attempt in good faith to reach an agreement within sixty (60) days after the date of the applicable Report. Within fifteen (15) days after the conclusion of the discussion and evaluation by Feltl and the Independent Consultant, Feltl shall require that the Independent Consultant inform Feltl and the Commission staff in writing of the Independent Consultant's final determination concerning any recommendation that Feltl considers to be unduly burdensome, impractical, or inappropriate. Feltl shall abide by the determinations of the Independent Consultant and, within sixty (60) days after final agreement between Feltl and the Independent Consultant or final determination by the Independent Consultant, whichever occurs first, Feltl shall adopt and implement all of the recommendations that the Independent Consultant deems appropriate.

g. Within ninety (90) days of Feltl's adoption of all of the recommendations in a Report that the Independent Consultant deems appropriate, as determined pursuant to the procedures set forth herein, Feltl shall certify in writing to the Independent Consultant and the Commission staff that Feltl has adopted and implemented all of the Independent Consultant's recommendations in the applicable Report. Unless otherwise directed by the Commission staff, all Reports, certifications, and other documents required to be provided to the Commission staff shall be sent to Paul Montoya, Assistant Regional Director, Asset Management Unit, Chicago Regional Office, Securities and Exchange Commission, 175 W. Jackson Blvd., Suite 900, Chicago, Illinois, 60604, or such other address as the Commission staff may provide.

h. Feltl shall cooperate fully with the Independent Consultant and shall provide the Independent Consultant with access to such of their files, books, records, and personnel as are reasonably requested by the Independent Consultant for review.

i. To ensure the independence of the Independent Consultant, Feltl: (1) shall not have the authority to terminate the Independent Consultant or substitute another independent compliance consultant for the initial Independent Consultant, without the prior written approval of the Commission staff; and (2) shall compensate the Independent Consultant and persons engaged to assist the Independent Consultant for services rendered pursuant to this Order at their reasonable and customary rates.

j. Feltl shall require the Independent Consultant to enter into an agreement that provides that for the period of engagement and for a period of two (2) years from completion of the engagement, the Independent Consultant shall not enter into any employment, consultant, attorney-client, auditing or other professional relationship with Feltl, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such. The agreement will also provide that the Independent Consultant will require that any firm with which the Independent Consultant is affiliated or of which the Independent Consultant is a member, and any person engaged to assist the Independent Consultant in the performance of the Independent Consultant's 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 Feltl, 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 (2) years after the engagement.

34. Recordkeeping. Feltl shall preserve for a period of not less than six (6) years from the end of the fiscal year last used, the first two (2) years in an easily accessible place, any record of Feltl's compliance with the undertakings set forth in this Order.

35. Notice to Advisory Clients. Within ten (10) days of the entry of this Order, Feltl shall post prominently on its principal website a summary of this Order in a form and location acceptable to the Commission staff, with a hyperlink to the entire Order. Feltl shall maintain the posting and hyperlink on Feltl's website for a period of twelve (12) months from the entry of this Order. Within thirty (30) days of the entry of this Order, Feltl shall provide a copy of the Order to each of Feltl's existing advisory clients as of the entry of this Order via mail, e-mail, or such other method as may be acceptable to the Commission staff, together with a cover letter in a form not unacceptable to the Commission staff. Furthermore, for a period of twelve (12) months from the entry of this Order, to the extent that Feltl is required to deliver a brochure to a client and/or prospective client pursuant to Rule 204-3 of the Advisers Act, Feltl shall also provide a copy of this Order to such client and/or prospective client at the same time that Feltl delivers the brochure.

36. Deadlines. For good cause shown, the Commission staff may extend any of the procedural dates relating to the 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 to be the last day.

37. Certifications of Compliance by Respondents. Feltl shall certify, in writing, compliance with its undertakings set forth above. The certification 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 Feltl agrees to provide such evidence. The certification and supporting material shall be submitted to Paul Montoya, Assistant Regional Director, Asset Management Unit, Chicago Regional Office, Securities and Exchange Commission, 175 W. Jackson Blvd., Suite 900, Chicago, Illinois, 60604, or such other address as the Commission staff may provide, with a copy to the Office of Chief Counsel of the Enforcement Division, no later than sixty (60) days from the date of the completion of the undertakings.

#### IV.

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

Accordingly, pursuant to Section 15(b)(4) of the Exchange Act, 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. Feltl cease and desist from committing or causing any violations and any future violations of Sections 204A, 206(2), 206(3), and 206(4) of the Advisers Act and Rules 204A-1 and 206(4)-7 promulgated thereunder.

B. Feltl is censured.

C. Feltl shall pay disgorgement and prejudgment interest as follows:

(1) Feltl shall pay disgorgement of \$142,527 and prejudgment interest of \$10,645, consistent with the provisions of this Subsection C. Within ten (10) days of the entry of this Order, Feltl shall deposit the full amount of the disgorgement (the "Disgorgement Fund") into an escrow account acceptable to the Commission staff and Feltl shall provide the Commission staff with evidence of such deposit in a form acceptable to the Commission staff. In addition, within ten (10) days of the entry of this Order, Feltl shall pay the full amount of the prejudgment interest to the Commission for transmittal to the United States Treasury, in the manner provided in paragraph (5) below of Subsection C. If timely deposit of the Disgorgement Fund or timely payment of the prejudgment interest is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600.

(2) Feltl shall be responsible for administering the Disgorgement Fund. Feltl shall pay applicable portions of the Disgorgement Fund to affected current and former advisory clients who engaged in the Relevant Principal Transactions and the Relevant Overcharged Transactions, pursuant to a disbursement calculation (the "Calculation") that has been submitted to, reviewed and approved by the Commission staff in accordance with this Subsection C. If the total amount otherwise payable to a client is less than \$20.00, Feltl shall instead pay such amount to the Commission for transmittal to the United States Treasury as provided in this Subsection C.

(3) Feltl shall, within sixty (60) days from the entry of this Order, submit a proposed Calculation to the Commission staff for its review and approval that identifies, at a minimum: (i) the name and account number of each affected advisory client; (ii) the exact amount of the payment to be made to such client; and (iii) a description of the Relevant Principal Transactions or Relevant Overcharged Transactions to which the client's payment relates. Feltl also shall provide to the Commission staff such additional information and supporting documentation relating to the Relevant Principal Transactions and the Relevant Overcharged Transactions as the Commission staff may request for the purpose of its review. No portion of the Disgorgement Fund shall be paid to any client account directly or indirectly in the name of or for the benefit of Feltl. In the event of one or more objections by the Commission staff to Feltl's proposed Calculation and/or any of its information or supporting documentation, Feltl shall submit a revised Calculation for the review and approval of the Commission staff and/or additional information or supporting documentation within ten (10) days of the date that Feltl is notified of the objection, which revised Calculation shall be subject to all of the provisions of this Subsection C.

(4) Feltl shall complete the transmission of all amounts otherwise payable to affected advisory clients pursuant to a Calculation approved by the Commission staff within one hundred and twenty (120) days of the entry of this Order, unless such time period is extended as provided in paragraph (9) of this Subsection C.



(5) If Feltl does not distribute or return any portion of the Disgorgement Fund for any reason, including an inability to locate an affected advisory client or any factors beyond Feltl's control, or if Feltl has not transferred any portion of the Disgorgement Fund to a client because that client is due less than \$20.00, Feltl shall transfer any such undistributed funds to the Commission for transmittal to the United States Treasury after the final accounting provided for in this Subsection C is approved by the Commission. Any such payment shall be: (i) made by wire transfer, United States postal money order, certified check, bank cashier's check or bank money order; (ii) made payable to the Securities and Exchange Commission; (iii) hand-delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, 100 F St., N.E., Stop 6042, Washington, DC 20549; and (iv) submitted under cover letter that identifies Feltl as a Respondent in these proceedings, and the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to Paul Montoya, Assistant Regional Director, Asset Management Unit, Chicago Regional Office, Securities and Exchange Commission, 175 W. Jackson Blvd., Suite 900, Chicago, Illinois, 60604, or such other address as the Commission staff may provide.

(6) Feltl shall be responsible for any and all tax compliance responsibilities associated with the Disgorgement Fund and may retain any professional services necessary. The costs and expenses of any such professional services shall be borne by Feltl and shall not be paid out of the Disgorgement Fund.

(7) Within two hundred and ten (210) days after the date of entry of this Order, Feltl shall submit to the Commission staff for its approval a final accounting and certification of the disposition of the Disgorgement Fund, which final accounting and certification shall be in a format to be provided by the Commission staff. The final accounting and certification shall include, but not be limited to: (i) the amount paid to each payee; (ii) the date of each payment; (iii) the check number or other identifier of money transferred; (iv) the date and amount of any returned payment; (v) a description of any effort to locate a prospective payee whose payment was returned or to whom payment was not made for any reason; (vi) any amounts to be forwarded to the Commission for transfer to the United States Treasury; and (vii) an affirmation that the amounts paid to the affected advisory clients represent a fair and reasonable calculation of the compensation received by Feltl from January 2008 through June 2011 with respect to the Relevant Principal Transactions and the Relevant Overcharged Transactions. Feltl shall submit proof and supporting documentation of such payment (whether in the form of fee credits, cancelled checks, or otherwise) in a form acceptable to the Commission staff and under a cover letter that identifies Feltl as a Respondent in these proceedings and the file number of these proceedings to Paul Montoya, Assistant Regional Director, Asset Management Unit, Chicago Regional Office, Securities and Exchange Commission, 175 W. Jackson Blvd., Suite 900, Chicago, Illinois, 60604, or such other address the Commission staff may provide. Feltl shall provide any and all supporting documentation for the accounting and certification to the Commission staff upon its request and shall cooperate with any additional requests by the Commission staff in connection with the accounting and certification.

(8) After Feltl has submitted the final accounting to the Commission staff, the staff shall submit the final accounting to the Commission for approval and shall request Commission approval to send any remaining amount to the United States Treasury.

(9) The Commission staff may extend any of the procedural dates set forth in this Subsection C for good cause shown. Deadlines for dates relating to the Disgorgement Fund 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 to be the last day.

D. Feltl shall, within ten (10) days of the entry of this Order, pay a civil money penalty in the amount of \$50,000 to the United States Treasury. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717. Such payment shall be: (1) made by wire transfer, United States postal money order, certified check, bank cashier's check or bank money

order; (2) made payable to the Securities and Exchange Commission; (3) hand-delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, 100 F St., N.E., Stop 6042, Washington, DC 20549; and (4) submitted under cover letter that identifies Feltl as a Respondent in these proceedings, and the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to Robert Kaplan, Co-Chief, Asset Management Unit, Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549, or such other address as the Commission staff may provide.

E. Feltl shall comply with the undertakings enumerated in Section III, paragraphs 32 through 37 above.

By the Commission.

Elizabeth M. Murphy  
Secretary

### **Footnotes**

1 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.