UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 3537 / January 29, 2013

ADMINISTRATIVE PROCEEDING
File No. 3-15190

IN THE MATTER OF IMC ASSET MANAGEMENT, INC., RESPONDENT.

ORDER INSTITUTING ADMINISTRATIVE AND CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTIONS 203(e) AND 203(k) OF THE INVESTMENT ADVISERS 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 Sections 203(e) and 203(k) of the Investment Advisers Act of 1940 ("Advisers Act") against IMC Asset Management, Inc. ("IMCAM" 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 Sections 203(e) and 203(k) of the Investment Advisers 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 finds1 that:

Summary

IMCAM failed to adopt and implement written policies and procedures that were reasonably designed to prevent violations of Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder ("Compliance Rule"). For fourteen months – from April 2009 through June 2010 – registered investment adviser IMCAM employed a compliance officer who performed virtually no compliance-related functions. In addition, for more than three years – from October 2007 through December 2010 – IMCAM's written policies and procedures addressed primarily activities at its predecessor entity's registered broker-dealer, and were not reasonably designed for the registered adviser. In addition, IMCAM failed to annually review the adequacy of its policies and procedures.

Respondent

1. IMC Asset Management, Inc. ("IMCAM"), formerly Faxtor, Inc. ("Faxtor"), is a registered investment adviser located in New York, New York. From May 2008 to May 2009, Faxtor was dually registered with the Commission as a broker-dealer and an investment adviser. On March 31, 2009, Faxtor filed a Form BDW to withdraw its registration as a brokerdealer; its withdrawal became effective on May 30, 2009. Faxtor subsequently changed its name to IMC Asset Management, Inc. According to its Form ADV amendment filed on October 16, 2012, IMCAM managed regulatory assets totaling approximately $108.6 million for two accounts. IMCAM serves as a sub-adviser to the funds that are managed by its foreign parent, IMC Asset Management, B.V. ("IMC BV"), and has no additional clients. During the

relevant time, IMCAM provided discretionary investment management services to collateralized debt obligations and two offshore pooled investment vehicles and had approximately ten employees.

Background

2. Effective October 5, 2004, Rule 206(4)-7, promulgated under Section 206(4) of the Advisers Act, requires, among other things, 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 the adequacy of the written policies and procedures and the effectiveness of their implementation on at least an annual basis.

IMCAM Disregarded Its Compliance Responsibilities

3. In April 2009, IMCAM appointed a new Chief Compliance Officer ("CCO"), following the departure of the firm's then-CCO. The new CCO, who had been hired as a Portfolio Manager, had never been a compliance officer previously and had no formal compliance training. Despite his appointment in April 2009, the new CCO performed virtually no compliance-related functions until June 2010.

4. During the period from October 2007 through December 2010, IMCAM did not adopt or implement written compliance policies and procedures reasonably designed to prevent violations of the Advisers Act or the rules thereunder. During that period, the firm's only written policies and procedures consisted of "Written Supervisory Procedures" ("WSPs") designed primarily to address IMCAM's predecessor's broker-dealer activities, which did not apply to IMCAM's advisory business and, as of May 2009, when Faxtor's withdrawal from registration as a broker-dealer became effective, which no longer applied at all to the firm. The WSPs had been adopted by IMCAM's predecessor, Faxtor, and contained minimal written policies and procedures relating to an advisory business. The policies and procedures that did relate to the firm's investment advisory business did not adequately address all of the material components of the firm's advisory business.

5. In addition, from the time it registered with the Commission in October 2007 until December 2010, IMCAM failed to conduct an annual review of its policies and procedures, as required by the Advisers Act. IMCAM purportedly conducted a "compliance visit" in May 2009, which occurred twenty months after IMCAM registered, but that visit was not adequately documented and was ineffectual. For example, IMCAM's then-CCO, even though he had been appointed in April 2009, did not participate in the 2009 visit, did not recall the visit and was unaware of the results of the visit.

Examination and Subsequent Conduct

6. The Commission's examination staff conducted an examination in November 2010 and notified IMCAM of numerous deficiencies regarding its compliance program. The exam staff issued a deficiency letter on March 10, 2011.

7. In November 2010 as a result of the staff's examination, IMCAM performed a compliance review and prepared a "Compliance Review Report" for the period covering July 2009 through December 2010. In December 2010, with the assistance of an outside compliance consultant, IMCAM revised its written compliance policies and procedures to address IMCAM's advisory-related activities. In February and March 2011, IMCAM implemented recommendations contained in the December 2010 Compliance Review Report, including hiring a new CCO and utilizing its outside firm to monitor trading by employees in personal brokerage accounts.

8. In July 2012, however, IMCAM terminated its CCO and hired a new outside compliance consultant to conduct a compliance review. IMCAM also designated a current employee to be the firm's CCO; however, this individual has minimal compliance experience or training.

9. In September 2012, IMCAM formalized an agreement with its new outside compliance consultant to render compliance services on a monthly basis and assist the current CCO in carrying out her compliance duties. The service includes a weekly on site visit by a senior compliance consultant.

Violations

10. As a result of the conduct described above, IMCAM willfully2 violated Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder, which requires, among other things, 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.

Undertakings

Respondent IMCAM has undertaken the following:

11. **CCO Training.** IMCAM shall require that its current CCO complete by December 31, 2013 comprehensive training concerning the Advisers Act's compliance requirements.

12. **Retain Services of Compliance Consultant.** IMCAM has retained, and shall continue to retain, at its expense, the services of an outside compliance consultant to render compliance services for a period of at least two years from the entry of this Order. IMCAM shall provide to the Commission staff, within thirty (30) days of the entry of this Order, a copy of the engagement letter detailing the outside compliance consultant's responsibilities, which shall include comprehensive annual compliance reviews. To the extent the outside compliance consultant already has made recommendations for changes in or improvements to IMCAM's policies and procedures and/or disclosure to clients, IMCAM shall adopt and implement all such recommendations

13. **Certification of Compliance by Respondent.** IMCAM shall certify, in writing, compliance with the 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 IMCAM agrees to provide such evidence. The certification and supporting material shall be submitted to Valerie A. Szczepanik, Assistant Director, Asset Management Unit, Securities and Exchange Commission, 3 World Financial Center, Suite 400, New York, New York 10281-1022, 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 IMCAM's Offer. Accordingly, pursuant to Sections 203(e) and 203(k) of the Advisers Act, it is hereby ORDERED that:

A. Respondent IMCAM cease and desist from committing or causing any violations and any future violations of Section 206(4) of the Advisers Act and Rule 206(4)-7 promulgated thereunder.

B. Respondent IMCAM is censured.

C. Respondent IMCAM shall, within ten (10) days of the entry of this Order, pay a civil money penalty in the amount of $30,000 to the United States Treasury. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. 3717. Payment must be made in one of the following ways:

(1) 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

(2) 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 IMC Asset Management, Inc., 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 Bruce Karpati, Chief, Asset Management Unit, Securities and Exchange Commission, 3 World Financial Center, Suite 400, New York, New York 10281-1022.

D. IMC shall comply with the undertakings enumerated in Section III, paragraphs 11 to 13 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.

2 A willful violation of the securities laws means merely "'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.'" Id. (quoting Gearhart & Otis, Inc. v. SEC, 348 F.2d 798, 803 (D.C. Cir. 1965)).