

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 11092 / August 16, 2022

SECURITIES EXCHANGE ACT OF 1934
Release No. 95505 / August 16, 2022

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 4321 / August 16, 2022

ADMINISTRATIVE PROCEEDING
File No. 3-20963

In the Matter of

EAGLE BANCORP, INC.

Respondent.

**CORRECTED ORDER INSTITUTING
CEASE-AND-DESIST PROCEEDINGS,
PURSUANT TO SECTION 8A OF THE
SECURITIES ACT OF 1933 AND
SECTION 21C OF THE SECURITIES
EXCHANGE ACT OF 1934, MAKING
FINDINGS, AND IMPOSING A CEASE-
AND-DESIST ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”) and Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”), against Eagle Bancorp, Inc. (“Eagle” 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 Cease-and-Desist Proceedings, Pursuant to Section 8A of the Securities Act of 1933 and Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing 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

1. These proceedings concern material misstatements and omissions that Eagle, a Bethesda, Maryland-based bank holding company, made about related party loans extended by Eagle's principal subsidiary, EagleBank, to family trusts affiliated with Ronald D. Paul ("Paul"), Eagle's former Chairman, CEO, and President, and to other related parties.

2. From March 2015 through April 2018, Eagle failed to include these undisclosed loans – which were hundreds of millions of dollars in the aggregate and over twice the amounts it had publicly disclosed – in the related party loan balances included in its annual reports and proxy statements filed with the Commission. Both Commission regulations and U.S. Generally Accepted Accounting Principles ("GAAP") in effect during the relevant period required Eagle to disclose material related party transactions. Adequate disclosure of related party transactions is essential to enable investors to evaluate an issuer's corporate governance.

3. In addition, following a report by a short seller in December 2017 that alleged, among other things, that Eagle had made significant undisclosed loans to Paul's family trusts, Eagle and Paul falsely asserted that those loans were not related party loans and that Eagle was in compliance with all related party loan requirements. Specifically, Eagle immediately issued two separate press releases, one on the day of the short seller's report and another two days later, essentially denying the allegations and asserting that all relevant loans were in compliance with the law.

4. After the release of the short seller report, numerous Eagle investors inquired of Eagle and Paul about the nature and amount of these loans to Paul's family trusts, and whether they were or should be disclosed as related party loans. Despite being aware of these inquiries, and instead of undertaking a thorough and independent investigation of the short report's allegations, Eagle relied on Paul's false assertions about the facts necessary for an accurate analysis of whether the loans to Paul's family trusts were related party transactions that should have been disclosed.

5. In response to these direct questions from investors and securities analysts, in meetings and on phone calls, Paul falsely asserted that, due to certain facts about his relationship with the trusts, the loans were not related party transactions and that Eagle's related party loan disclosures were accurate. In January 2018, Paul learned from Eagle's primary regulator that it considered his family trusts to be related interests under applicable banking regulations.

6. In its 2017 annual report filed with the Commission on March 1, 2018, Eagle again omitted the loans to Paul's family trusts from its related party loan balances. While Eagle did disclose in that report the existence of loans to an unspecified trust "established by an executive

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.

officer and director,” it falsely stated that those loans were not related party loans. Eagle repeated these inaccurate disclosures in its proxy statement filed April 3, 2018.

7. In advance of filing its annual report for 2018, Eagle reassessed and enhanced its process for identifying and disclosing related party loans. In that annual report, filed with the Commission on March 1, 2019, Eagle finally disclosed the loans to Paul’s family trusts in its related party loan balances, and also reported previously-undisclosed related party loans to other Eagle directors and their families. As a result, Eagle revised and increased its related party loan balances to \$238 million as of December 31, 2017, from a previously-reported balance of \$61 million, and to \$138 million as of December 31, 2016, from a previously-reported balance of \$53 million.

8. Based on this conduct, and as described in further detail below, Eagle violated Sections 17(a)(2) and 17(a)(3) of the Securities Act and Sections 13(a), 13(b)(2)(A), 13(b)(2)(B), and 14(a) of the Exchange Act and Rules 12b-20, 13a-1 and 14a-9 thereunder.

Respondent

9. **Eagle**, a Maryland corporation based in Bethesda, Maryland, is a bank holding company for EagleBank. Its common stock is registered under Section 12(b) of the Exchange Act and trades on the NASDAQ Capital Market. During the relevant period, Eagle sold securities to the public pursuant to registration statements filed with the Commission.

Eagle’s Related Party Loan Disclosures

10. FASB Accounting Standards Codification Topic 850, “Related Party Disclosures” (“ASC 850”) requires companies to disclose in their financial statements material related party transactions. Related parties include management, directors, and their immediate family members, and “*other parties that can significantly influence the management or operating policies of the transacting parties* or that have an ownership interest in one of the transacting parties and can significantly influence the other to an extent that one or more of the transacting parties might be prevented from fully pursuing its own separate interests.” (emphasis added)

11. Rule 9-03 of Regulation S-X (“Rule 9-03”) requires bank holding companies to disclose the aggregate dollar amount of loans exceeding \$60,000 made to directors, executive officers or shareholders or to any associates of such persons, as long as the aggregate amount of such loans exceeds 5% of shareholders’ equity. “Associate” includes immediate family members, entities in which such person has at least 10% ownership, and trusts “for which such person serves as trustee or in a similar capacity.”

12. Before March 2019, Eagle’s related party loan disclosures were not in accordance with GAAP or Rule 9-03. The related party loan balances in Eagle’s financial statements and proxy statements did not include loans that EagleBank extended to a trust established by Paul for the benefit of his daughters, a trust established by Paul for the benefit of his siblings, nieces, and

nephews (“Trusts”), and entities in which the Trusts had a 10% or greater ownership interest (“Trust Loans”).

13. The Trust Loans were related party loans under ASC 850 since Paul could “significantly influence the management or operating policies” of the Trusts and EagleBank. Similarly, the Trust Loans were required to be disclosed under Rule 9-03 because Paul served the Trusts “in a similar capacity” as a trustee. During the relevant period, the trustee of the Trusts was Paul’s employee at his wholly-owned real estate development company. Pursuant to the Trusts’ formation documents, Paul retained various powers over the Trusts, including the authority to remove the trustee, with or without cause, and appoint a new trustee, and the power to swap assets out of the Trusts for assets of equal value. Paul and the Trusts had management agreements in place, under which Paul served as a manager of the Trusts. Pursuant to other agreements, Paul and his real estate development company were entitled to development, management, and administrative fees in connection with certain projects the Trusts owned. Paul also exercised control over the Trusts as a practical matter by routinely directing the Trusts to invest in real estate and other business ventures, take loans from Paul personally and from EagleBank, pay down those loans, and to make distributions to beneficiaries. Paul also served as a manager of certain entities owned by the Trusts that received loans from EagleBank. Paul engaged in these activities for his own personal gain, including as the owner or an agent of his real estate development company, and not as a director or officer of Eagle.

Eagle’s Failure to Classify the Trust Loans as Related Party Loans

14. Before March 2019, Eagle identified and reported related party loans in annual reports and proxy statements using the list of loans it classified as subject to Federal Reserve Regulation O. Regulation O governs loans to a bank’s executive officers, directors, and principal shareholders, and any entity controlled by such person, including any entity over which any such person has “the power to exercise a controlling influence over the management or policies.” 12 C.F.R § 215. Prior to the second quarter of 2018, Eagle had no separate process for identifying and reporting related party loans under ASC 850 and Rule 9-03. Nevertheless, under any of these rules, Eagle should have classified the Trust Loans as related party loans.

15. Prior to the second quarter of 2018, Eagle attempted to identify all Regulation O loans by sending an annual survey to its officers and directors, asking them to disclose all entities – including trusts – that they controlled, and all entities for which they had “the power to exercise a controlling influence over the management or policies.” As part of this process, Eagle officers and directors received annual Regulation O training and a separate memorandum with a primer on Regulation O.

16. In February 2014, Eagle sent out the annual Regulation O survey, as well as a list of entities disclosed in response to the prior year’s survey. At that time, Paul returned the questionnaire, striking a number of the entities owned by the Trusts. The Eagle employee responsible for administering the survey questioned the deletions, and Paul responded that “the owners are an entity whose members consist of an Irrevocable Trust for the benefit of my children and/or other family members. I have NO control, decision making for these entities.” This

statement was false because Paul did have control of and make decisions for the Trusts during all relevant times.

17. In each subsequent Regulation O survey, Paul failed to disclose to Eagle personnel the Trusts as entities that he controlled.

18. As a result, Eagle did not classify the Trust Loans as Regulation O loans, and also omitted the Trust Loans from the related party loan balances in its annual reports and proxy statements.

19. Eagle's accounting department was not involved in the Regulation O survey process, and prior to December 2017, was unaware of the Trust Loans. Eagle's independent auditor was also unaware of these loans prior to December 2017. Each year, the independent auditor requested a list of Eagle's related party loans. In response to this request, Eagle provided a list of Regulation O loans, which omitted the Trust Loans.

20. During its audit of Eagle's 2015 financial statements, Eagle's independent auditor became aware that Eagle leased office space in a commercial property managed by Paul's separate property management business from an entity in which a Trust also had a 51% interest. The auditor advised that Eagle should disclose the lease as a related party transaction in its financial statements, and Eagle did so. When preparing Eagle's annual reports to be filed with the Commission each year thereafter, Eagle's accounting department contacted Paul to confirm the substance of the related party lease disclosure. Despite knowledge of this recurring disclosure of the lease as a related party transaction, Paul did not disclose the Trust Loans to Eagle's accounting department or its independent auditor. Given that neither the accounting department nor the independent auditor knew of the existence of the Trust Loans, neither party was in a position to ask Paul about those loans.

Eagle's Disclosure Failures in Annual Reports and Proxy Statements Filed in 2015-2017

21. Eagle's failure to include the Trust Loans in the total balances of related party loans was in contravention of GAAP and Rule 9-03, and rendered its disclosures misleading by understating the total balances of Eagle's loans to related parties.

22. In its 2014 annual report, filed on March 2, 2015, Eagle reported total related party loan balances at December 31, 2014 of \$17.1 million. In doing so, Eagle failed to include approximately \$24.8 million of Trust Loans.

23. In its 2015 annual report, filed on February 29, 2016, and its 2016 proxy statement filed on April 1, 2016, Eagle reported total related party loans balances at December 31, 2015 of \$29.9 million. In doing so, Eagle failed to include approximately \$37.3 million of Trust Loans.

24. In its 2016 annual report, filed on March 1, 2017, and its 2017 proxy statement filed on April 3, 2017, Eagle reported total related party loan balances at December 31, 2016 of \$52.6 million. In doing so, Eagle failed to include approximately \$72.7 million of Trust Loans.

Eagle's Misleading Responses to the December 2017 Short Report

25. On December 1, 2017, a short-selling research firm published a report, alleging, among other things, that Eagle had made large, undisclosed loans financing Paul's real estate ventures. The report identified several Trust Loans, explaining that they were "structured so that Eagle makes loans to LLCs owned by [a] Trust, an entity created by [Paul] for the benefit of his family ... and the properties held by the trust appear to be controlled by Paul as an extension of [his wholly-owned real estate development company]."

26. Following the release of the report, Eagle's stock price dropped by more than 24%, to close at \$49.95 on December 1, 2017, from a \$66.15 closing price the prior trading day.

27. On December 1, 2017, the same day that the short seller's report was published, Eagle issued a press release, subsequently filed with the Commission on Form 8-K, titled, "Eagle Bancorp, Inc. Denies Allegations In Deceptive and Misleading Report." In the press release, "Eagle categorically reject[ed] the assertions and implications" in the short report. Specifically addressing the allegations regarding undisclosed loans to entities related to Paul, the release stated:

All Loans Referenced in the Piece Fully Meet Legal Requirements. The only credit issued by Eagle to the identified executive was a line of credit in case of an overdraft; the line never was used and has not been funded. Eagle takes seriously its obligation to comply with all applicable laws and regulations, including Regulation O. Its compliance is regularly examined internally, and is also examined by agency regulators. Contrary to the misrepresentations by [the short seller], the loans identified in the piece were not made to the identified executive, and, in any event, were approved and disclosed (where required) in compliance with Regulation O.

28. Two days later, on Sunday, December 3, 2017, Eagle issued another press release, subsequently filed with the Commission on Form 8-K: "Eagle Bancorp Rebutts Claims of Internal Control Weaknesses and Alerts Shareholders and Customers to be Wary of Unscrupulous Short Seller Tactics," which stated:

There are required disclosures of loans to insiders (as defined in Regulation O), both in annual filings with the Securities and Exchange Commission and in quarterly Bank regulatory reports. The filings by the Company have always been complete, receiving the attention of monthly Board meetings, the Bank's Compliance team, the internal Disclosure Controls Committee and the Audit Committee of the Board. In addition, there are external independent auditor reviews. In all such cases, the loans are made on market-rate, not preferential, rates and terms. The Bank treats

insider and related party loans exactly the same as borrowers who have no director or officer relationship with the Bank. . . .

Our internal controls are strong and all required disclosures, including loans to insiders, have been met. . . .

The allegations intimated last Friday by the short seller . . . that Eagle's pricing, underwriting, internal controls and/or its disclosures are somehow lacking are totally unfounded.

29. In a letter written by Paul and others to EagleBank customers dated December 4, 2017, and subsequently filed with the Commission on Form 8-K, Eagle stated that: "The short seller alleged that EagleBank and its directors and officers acted improperly in making loans to insiders. EagleBank categorically rejects this deceptive and misleading allegation. . . . Any loans subject to Regulation O (the regulation that addresses the rules and processes for making loans to insiders) have been made, approved and disclosed in compliance with that regulation."

30. These statements were either materially false or misleading. As discussed, Eagle's failure to include the Trust Loans in the total balances of related party loans was in contravention of GAAP and Rule 9-03, and rendered its disclosures from 2015-2017 misleading by understating the total balances of Eagle's loans to related parties. Furthermore, the majority of the loans referenced in the short seller report itself were loans that should have been included in Eagle's prior related party loan disclosures, but were not. Instead of undertaking a thorough and independent investigation of the short report's allegations, Eagle relied on Paul's false assertions about the facts necessary for an accurate analysis of whether the Trust Loans were related party transactions that should have been disclosed.

31. On December 4, 2017, the first trading day after the short report was published and after Eagle's press releases were issued, Eagle's stock price rebounded 13%.

32. Following the release of the short report, in December 2017, numerous investors and analysts contacted Eagle to inquire as to the accuracy of the allegations in the report. Among other things, investors and analysts asked about the amount of Eagle's Regulation O or related party loans and whether the Trust Loans should be classified as such. In calls and meetings with investors and analysts, Paul falsely asserted that the Trust Loans were not related party loans, because he did not control or make any decisions for the Trusts, which he knew was untrue. In these calls and meetings, Paul also falsely asserted that Eagle's related party loan disclosures were complete. Paul also gave interviews to several media outlets, asserting that the short report was "100 percent false."

Eagle Made Material Misstatements and Omissions in Its 2017 Annual Report

33. In a January 31, 2018 meeting, examiners from the Federal Reserve Bank of Richmond ("FRB") advised Paul and Eagle that the Trusts were related interests of Paul because he had the ability to replace the trustee and swap assets of the Trusts at will, and therefore the Trust

Loans were in violation of Regulation O. Eagle understood that if the Trust Loans were subject to Regulation O, then they also would need to be disclosed as related party loans in Eagle's financial statements.

34. Paul and Eagle were aware that Eagle's independent auditor contacted FRB examiners to discuss the Regulation O status of the Trust Loans with the FRB examiners, and that the examiners would not discuss the issue since it related to a pending examination. However, no one from Eagle told the independent auditor that the FRB had determined that the Trust Loans were Regulation O loans. A March 1, 2018 management representation letter to the independent auditor, signed by Paul, stated: "We have not received information from [the FRB] that could have a material impact on the financial statements, particularly as it relates to the determination of related parties. . . There have been no . . . Violations or possible violations of laws or regulations."

35. In February 2018, Eagle's independent auditor determined that the Trust Loans should be disclosed as related party transactions in Eagle's financial statements because Paul had the ability to exercise significant influence over the Trusts due to his employment of the trustee. The independent auditor also concluded that Eagle's failure to disclose these loans previously was a significant deficiency in its internal controls over financial reporting.

36. The independent auditor discussed its conclusions at a February 27, 2018 Audit Committee meeting involving Paul, other Eagle officers and employees, and Eagle's outside counsel. Eagle and its outside counsel disagreed with the auditor's conclusions, and stated their belief that "because there is a separate trustee responsible for management of the trust, and distributions, if any, to the named beneficiaries are completely discretionary with the trustee, the relationship was not a related party."

37. As a compromise, Eagle agreed to disclose in the annual report the existence of loans to an unspecified trust created by an unspecified officer and director, while not classifying them as related party loans.

38. In its 2017 annual report, filed on March 1, 2018, Eagle reported total related party loan balances at December 31, 2017 of \$60.9 million. In doing so, Eagle failed to include approximately \$89.6 million of Trust Loans.

39. In a paragraph below the related party loan balances, Eagle stated:

The Bank has made an aggregate of \$4.0 million of loans to a trust with an *independent third party trustee*, established by an executive officer and director, of which the children of such executive officer and director are discretionary beneficiaries, and *over which such individuals have no investment or operational authority*, and an aggregate of \$65.6 million of loans to entities in which the trust has an ownership interest in excess of 10%, which the Company *does not consider to be related party transactions*. (emphasis added)

40. This description was misleading for several reasons. First, the disclosure characterized the trustee as an “independent third party,” without specifying that the trustee was Paul’s employee and close friend, and that Paul had the unilateral right to remove the trustee without cause. Second, in many instances, Paul in fact exercised investment and operational authority over the Trust. Third, because Paul exercised investment and operational authority over the Trusts, the Trust Loans were related party transactions.

41. While Eagle’s 2017 annual report stated that the loans to an unspecified trust were *not* related party transactions, the same document disclosed a lease for office space in a commercial property managed by Paul’s separate property management business from an entity in which a Trust also had a 51% interest as a related party transaction. Specifically, the annual report identified lease payments to “a limited liability company in which a trust for the benefit of an executive officer’s children has a 51% interest” as related party transactions. The independent auditor informed Eagle about this discrepancy before the annual report was filed, but it was not resolved.

Eagle Repeats Misstatements and Omissions in its 2018 Proxy Statement

42. On March 2, 2018, the day after Eagle filed its 2017 annual report, Eagle started treating at least one of the Trust Loans as a Regulation O loan in its internal systems. This change was made in response to FRB examiners, who expressed concerns to Eagle that the Trust Loans were subject to Regulation O.

43. Despite this internal reclassification of a Trust Loan as a Regulation O loan, Eagle’s 2018 proxy statement, filed on April 3, 2018, did not disclose the Trust Loans as related party loans:

The maximum aggregate amount of loans (including lines of credit) to officers, directors and affiliates of the Company and their related interests during the year ended December 31, 2017 amounted to \$85 million, representing approximately 8.9% of the Company’s total shareholders’ equity at December 31, 2017. . . . The Bank has made an aggregate of \$4.0 million of loans to a trust with an independent third party trustee, established by an executive officer and director, of which the children of such executive officer and director are discretionary beneficiaries, and over which such individuals have no investment or operational authority, and an aggregate of \$65.6 million of loans to entities in which the trust has an ownership interest in excess of 10%, which the Company does not consider to be related party transactions.

Eagle Discloses Revised Related Party Loan Balances in its 2018 Annual Report

44. In May 2018, Eagle received the final joint examination report from the FRB and a state regulator, which found that Paul had “a controlling influence over the management of the trusts” and “[a]s a result of his control, both trusts are deemed related interests of CEO [] and are subject to Regulation O.”

45. During the second quarter of 2018, Eagle began developing a new, enhanced process to identify and disclose all related party transactions in its financial statements and filings with the Commission. This process no longer relied exclusively on Regulation O, but was designed to identify related party transactions under all applicable rules, including ASC 850 and Rule 9-03.

46. As a result of this improved process, Eagle identified additional related party loans, including loans to an entity in which a director was a trustee, loans to an entity in which a director had an ownership interest exceeding 10%, and loans to an entity in which a director’s son had an ownership interest exceeding 10%.

47. In its 2018 annual report, filed on March 1, 2019, Eagle included the Trust Loans, as well as loans identified as a result of its process improvements, in its related party loan balances. Eagle disclosed an increase in the outstanding related party loan balances to \$238 million as of December 31, 2017, from a previously-reported balance of \$61 million, and to \$138 million as of December 31, 2016, from a previously-reported balance of \$53 million.

Eagle’s False Books and Records and Inadequate Internal Controls

48. During the relevant period, Eagle’s books and records understated its related party loan balances for the reasons discussed above. Furthermore, during the relevant period, Eagle’s internal controls were insufficient to prevent these misstatements. Specifically, Eagle’s process for identifying related party loans relied on the wrong definition of “related party” – Regulation O instead of ASC 850 and Rule 9-03 – and heavily and unreasonably relied on Eagle’s officers and directors understanding and correctly reporting all related parties that met that technical definition.

49. In March 2019, shortly after the filing of its 2018 annual report, Paul retired from Eagle, citing health reasons. As part of the December 31, 2019 audit, Eagle’s independent auditor identified a material weakness in Eagle’s internal control over financial reporting “resulting from tone at the top issues that contributed to a control environment that was insufficiently tailored to the culture of deference afforded to” Paul. Subsequently, as part of the December 31, 2020 audit, Eagle’s independent auditor found that “[a]s of December 31, 2020, the enhanced controls are operating effectively and the deficiencies that contributed to the Material Weakness [identified in the 2019 audit] have been fully and effectively remediated.”

Violations

50. As a result of the conduct described above, Eagle violated Sections 17(a)(2) and 17(a)(3) of the Securities Act, which prohibit any person from directly or indirectly obtaining money or property by means of any untrue statement of material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading, or engaging in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser, in the offer or sale of securities. A violation of these provisions does not require scienter and may rest on a finding of negligence.

51. As a result of the conduct described above, Eagle violated Section 13(a) of the Exchange Act and Rule 13a-1 thereunder, which require issuers with securities registered under Section 12 of the Exchange Act to file annual, current, and quarterly reports with the Commission containing such information as the Commission's rules may require. Eagle also violated Rule 12b-20 of the Exchange Act, which requires an issuer to include in a statement or report filed with the Commission any information necessary to make the required statements in the filing not materially misleading. A violation of these reporting provisions does not require scienter.

52. As a result of the conduct described above, Eagle violated Section 13(b)(2)(A) of the Exchange Act, which requires issuers with securities registered under Section 12 of the Exchange Act to make and keep books, records, and accounts which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of assets of the issuer. Scienter is not an element of the books and records provision.

53. As a result of the conduct described above, Eagle violated Section 13(b)(2)(B) of the Exchange Act, which requires issuers with securities registered under Section 12 of the Exchange Act to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurance that, among other things, transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP. Scienter is not an element of the internal accounting control provisions.

54. As a result of the conduct described above, Eagle violated Section 14(a) of the Exchange Act and Rule 14a-9 thereunder. Section 14(a) of the Exchange Act makes it unlawful to solicit any proxy in respect of securities registered under Section 12 of the Exchange Act in contravention of such rules and regulations as the Commission may prescribe. Rule 14a-9 prohibits the use of proxy statements containing materially false or misleading statements or materially misleading omissions. No showing of scienter is required to establish a violation of Section 14(a) of the Exchange Act or Rule 14a-9 thereunder.

Disgorgement and Civil Penalties

The disgorgement and prejudgment interest ordered in paragraph IV.B, *infra*, is consistent with equitable principles and does not exceed Respondent's net profits from its violations and will be distributed to harmed investors to the extent feasible. The Commission

will hold funds paid pursuant to paragraph IV.B in an account at the United States Treasury pending 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.

IV.

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

Accordingly, pursuant to Sections 8A of the Securities Act and Section 21C of the Exchange Act, it is hereby ORDERED that:

A. Respondent Eagle cease and desist from committing or causing any violations and any future violations of Sections 17(a)(2) and 17(a)(3) of the Securities Act, Sections 13(a), 13(b)(2)(A), 13(b)(2)(B), and 14(a) of the Exchange Act, and Rules 12b-20, 13a-1, and 14a-9 thereunder.

B. Respondent Eagle shall, within 10 days of the entry of this Order, pay disgorgement of \$2,600,000, prejudgment interest of \$750,493, and a civil money penalty in the amount of \$10,000,000 to the Securities and Exchange Commission. If timely payment of disgorgement and prejudgment interest is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600, and, if timely payment of a civil money penalty 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 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 Eagle 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 Kevin Guerrero, Assistant Director, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549.

C. Pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, a Fair Fund is created for the disgorgement, prejudgment interest, and penalties referenced in paragraph IV.B above. This Fair Fund may be combined with any fund established for the benefit of harmed investors in *SEC v. Ronald D. Paul*, 22-cv-06985 (S.D.N.Y.). 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, Respondent agrees that in any Related Investor Action, it shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of 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, Respondent agrees that it 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 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.

By the Commission.

Vanessa A. Countryman
Secretary